

**ROAD CLOSURE AND LAND USE AMENDMENT  
BELTLINE (WARD 8)  
ROAD RIGHT-OF-WAY (ADJACENT 1304 - 17 AVENUE SW)  
BYLAWS 1C2018 AND 8D2018**

**MAP 16C**

**EXECUTIVE SUMMARY**

This application is to close a portion of undesignated road right-of-way adjoining 1304 - 17 Avenue SW. This closure results in the need for redesignation to the Centre City Commercial Corridor District (CC-COR), in alignment with the original lands for development held by the applicant. The lands were transferred back to the owner in 2016 February.

The area to be closed was dedicated by the applicant to accommodate future road and boulevard improvements required by The City, as part of the approval of Development Permit DP1986-0560. City Council has determined such lands are no longer required for such purposes and has directed Administration to work with the pertinent landowners in returning its ownership to their appropriate origins.

**PREVIOUS COUNCIL DIRECTION**

At the 2001 November 12 Combined Meeting of Council, Bylaw 30P2001 was approved which deleted the right-of-way setback requirements from Bylaw 2P80 in five inner-city areas, including 17 Avenue South from 14 Street West to Macleod Trail SE.

At the 2009 January 12 Combined meeting of Council, a motion arising by Alderman Mar directed Administration, with respect to Report CPC2009-08, "to prepare a report for a City initiated redesignation of surplus road rights-of-way on 17 Avenue SW from Macleod Trail West to approximately 14 Street SW.

This report was received by Council on 2011 June 13 where the following directions were adopted:

"That Council:

1. Direct Administration, where possible, to dispose of the right-of-way setback areas identified in Bylaw 2P80, for the lands along 17 Avenue S from Macleod Trail to 14 Street SW by:
  - a. Selling City owned surplus road right-of-way or remnant parcels; and/or
  - b. Discharging any caveats or restrictive covenants in favour of the City; at the time of a land use redesignation or development permit application; (Note: a. and b. above are collectively called the "City interests").
2. Direct Administration to dispose of The City's interests only if The City interests are not required for a municipal purpose and are in accordance with the objectives of the 17 Avenue SW Urban Design Strategy, the Real Property Bylaw 52M2009 and other applicable City policies;

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- 3. Direct Administration to undertake dispositions on an owner-initiated basis with the owner responsible for any road closure and redesignation costs, and any applicable survey costs. The consideration for the City interest being disposed of to be at either fair market value or at a nominal cost, depending on the method of the original taking (dedication, subdivision or purchase by the City) and;
- 4. Direct Administration to flag the appropriate parcels on the City's internal software system (POSSE) and;
- 5. Direct Administration to assist applicants in a timely fashion in achieving a preliminary assessment from all relevant Business Units to determine whether the City's interest in a setback is available for disposition, prior to the submission of a land use or development permit application."

<b>ADMINISTRATION RECOMMENDATION</b>	2017 November 02
That Calgary Planning Commission recommends <b>APPROVAL</b> of the proposed Road Closure and Land Use Amendment.	
<b>RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION</b>	
That Council hold a Public Hearing on Bylaws 1C2018 and 8D2018; and	
1. <b>ADOPT</b> the proposed closure of 0.016 hectares ± (0.034 acres ±) of road (Plan 1711977, Area A and B) adjacent to 1304 - 17 Avenue SW, in accordance with Administration's recommendation; and	
2. Give three readings to the proposed Closure Bylaw 1C2018.	
3. <b>ADOPT</b> the proposed redesignation of 0.016 hectares ± (0.034 acres ±) of closed road (Plan 1711977, Area A and B) adjacent to 1304 - 17 Avenue SW from Undesignated Road Right-of-Way to Centre City – Commercial Corridor District (CC-COR), in accordance with Administration's recommendation; and	
4. Give three readings to the proposed Bylaw 8D2018.	

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**REASON FOR RECOMMENDATION:**

The application complies with all directions previously set by Council, subject to conditions (APPENDIX II). The redesignation of the closed road right-of-way is to accommodate future redevelopment of the subject site.

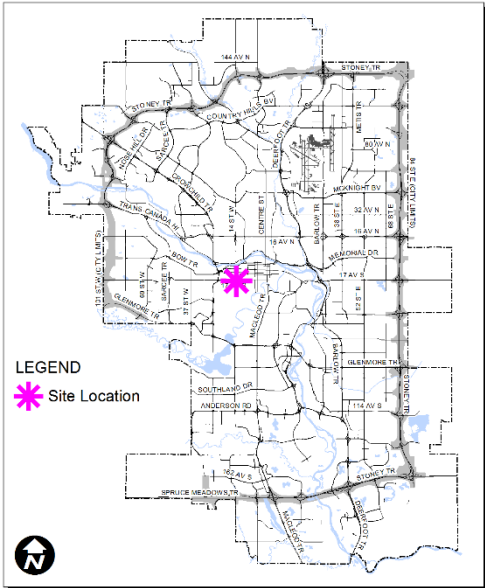
**ATTACHMENTS**

1. Proposed Bylaw 1C2018
2. Proposed Bylaw 8D2018

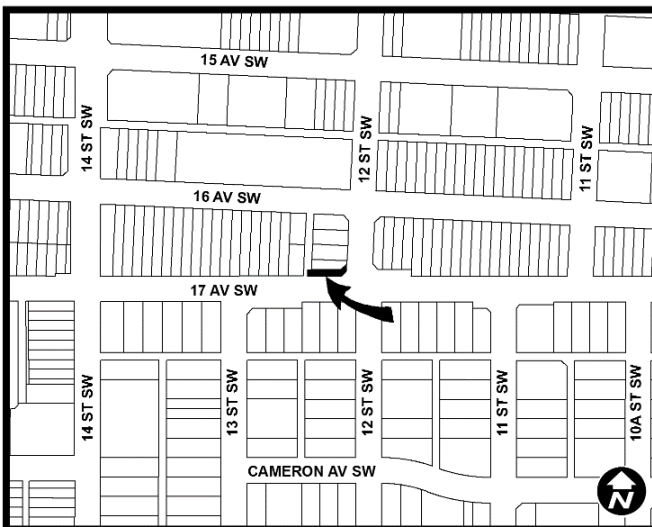
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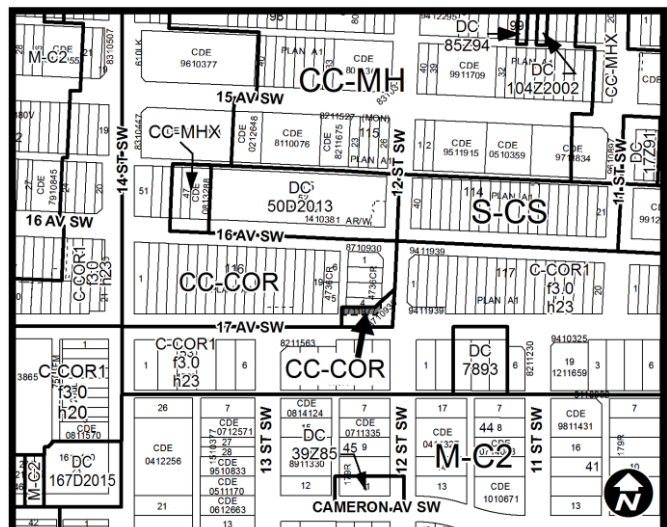
LOCATION MAPS



Road Closure Map



Land Use Amendment Map



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**ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION**

1. Recommend that Council **ADOPT**, by bylaw, the proposed closure of 0.016 hectares  $\pm$  (0.034 acres  $\pm$ ) of road (Plan 1711977, Area A and B) adjacent to 1304 - 17 Avenue SW, with conditions (APPENDIX II).

**Moved by: A. Palmiere**

**Carried: 7 – 0**

2. Recommend that Council **ADOPT**, by bylaw, the proposed redesignation of 0.016 hectares  $\pm$  (0.034 acres  $\pm$ ) of closed road (Plan 1711977, Area A and B) adjacent to 1304 - 17 Avenue SW from Undesignated Road Right-of-Way to Centre City – Commercial Corridor District (CC-COR).

**Moved by: A. Palmiere**

**Carried: 7 – 0**

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**Applicant:**

Atlas Development

**Landowner:**

Opus Properties Corporation

**PLANNING EVALUATION**

This application seeks to close a portion of undeveloped road right-of-way adjoining 1304 17 Avenue SW, and redesignate the closed portion from Undesignated Road Right-of-Way to Centre City Commercial Corridor District (CC-COR).

**SITE CONTEXT**

The subject area was dedicated to The City in 1986 as part of the approval of Development Permit DP1986-0560. On 2001 November 12, City Council approved Bylaw 30P2001 which deleted the right-of-way setback requirements from Land Use Bylaw 2P80 for several areas, including 17 Avenue S from 14 Street SW to Macleod Trail SE. At the 2011 June 13 Council Meeting, a motion was passed (E2011-06) regarding the surplus bylaw setbacks along 17 Avenue S that would allow dispositions on an owner-initiated basis, either at fair market value or at a nominal cost, depending on the method of the original taking.

The adjoining parcel (1304 – 17 Avenue SW, Wendy's Restaurant) is projected to consolidate with the proposed closure area upon redevelopment. An Encroachment Agreement was executed as part of the original Development Permit DP1986-0560 (New Restaurant, freestanding pylon sign and outdoor patio). This agreement is no longer required since this setback area now returns to the adjoining parcel as part of the original development, and is to be disposed (Proposed Road Closure Conditions – APPENDIX II). The solarium encroaching along 17 Avenue SW will sit wholly within private property upon this road closure.

The City's Transportation Department has advised that the redevelopment along 17 Avenue SW should have adequate sidewalk area and that the closure not impede pedestrian movement within the public realm.

**PUBLIC ENGAGEMENT**

**Community Association Comments**

The Beltline Neighbourhoods Association was circulated. Comments received (Appendix III) expressed concerns regarding the redevelopment of 17 Avenue SW and the potential negative impact of the road closure for the public realm. The Transportation Department has advised that the redevelopment of 17 Avenue SW is to have adequate sidewalk area and that the closure not impede pedestrian movement within the public realm.

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**APPENDIX I**

**APPLICANT'S SUBMISSION**

Historically there was a 5.182 metre (17 foot) setback on both sides of 17<sup>th</sup> Avenue SW from Macleod Trail SE to 37<sup>th</sup> Street SW. The purpose of the setback was to allow for the widening of 17<sup>th</sup> Avenue as a cross town major road along with appropriate boulevard improvements.

In 1986, as part of a development permit approval (DP1986-0560) for the adjacent lands, 1304 — 17<sup>th</sup> Avenue SW, the bylaw setback lands were required to be dedicated and were dedicated under Plan #8710930. An encroachment agreement was entered into to allow for the "atrium" portion of the building to encroach into a portion of the dedicated Road Right of Way until such time as the City provided notice that the lands were required for the intended purpose of a road widening. Such notice was never provided by the City thus the encroachment agreement remains in place along with the now 30 year old atrium.

In 2001, under Bylaw 30P2001, City Council deleted the required 5.182 metre setback bylaw for 17<sup>h</sup> Avenue as it had been icing understood that should the City act on the historical direction to widen 17<sup>th</sup> Avenue it would totally destroy the vibrancy of the inner city neighbourhood. Regardless of that understanding any development permit that was applied for, prior to 2001, the City took the bylaw setback lands when development permit applications were made.

In 2011, Council passed a motion (E2011-06) regarding the surplus bylaw setbacks along 17<sup>th</sup> Avenue which motion, among other things, directed "Administration to undertake dispositions on an owner-initiated basis ... either at fair market value or at a nominal cost, depending on the method of the original taking".

The development located on the adjacent lands needs an exterior and interior upgrading and thus the reason for this application to allow for these improvements to take place on a contiguous parcel of land.

The landowner is working with Real Estate and Development Services on restoring the dedicated lands to the original land owner.

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**APPENDIX II**

**PROPOSED ROAD CLOSURE CONDITIONS**

1. That all costs associated with the closure be borne by the applicant.
2. That protection/relocation of any utilities be at the applicant's expense and to the appropriate standards;
3. That utility easements/utility Right-of-Way plans be provided as required and be registered concurrently with the subdivision and to the satisfaction of the Development Authority, City Solicitor, Enmax, Telus Communications.
4. The Encroachment Agreement with The City registered on title, be disposed as it is no longer applicable, as The City no longer owns this area.



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APPENDIX III

LETTERS SUBMITTED



June 27, 2017

The City of Calgary  
Planning, Development & Assessment  
Municipal Building  
800 Macleod Trail SE  
Calgary, AB T2P 2M5

ATTN: Bonnie Tremblay, File Manager

RE: LOC2017-0159 – 1304 17 Avenue SW – Road Closure with Designation

Dear Bonnie,

I am writing this letter on behalf of the Beltline Neighbourhoods Association (BNA) to convey our comments pertaining to the 'road closure' application for a portion of the 17 Avenue SW right-of-way adjacent to 1304 17 Avenue SW. The BNA is concerned that, if not satisfactorily addressed, the application could result in a negative outcome for the public realm at this location.

Specifically, we are concerned that the applicant has not directly acknowledged the importance of maintaining an ample setback along 17 Avenue as a means to ensure that the public realm is protected. If the applicant were to re-acquire the portion of the ROW indicated on their application (currently used as sidewalk), then the pedestrian environment could potentially be impacted. As there are no minimum setbacks required for CC-COR districts facing 17 Avenue, a future building could be built to the new property line, leaving only 3m of public right-of-way available for a sidewalk. We believe that this would be detrimental to the public realm on 17th.

If the road closure is approved, then the BNA would be interested to know how the City intends to address this issue. Our preference would be for a public access easement to be placed on this portion of their property so that we can be assured that sidewalk widths won't be negatively impacted in the future.

Thank you for giving the BNA an opportunity to provide a comment.

Sincerely,



Tyson Bolduc  
Director of Planning