Minute 117
Report - Standing Policy Committee on Property and Development - November 29, 2005

Item No. 31 Land Exchange - Shore Street and Bison Drive
File FI-2.4.4.1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the exchange of lands between the City and Myles Kraut be approved as follows:

   A. Myles Kraut to receive title to the City-owned properties identified as Parcels "B" and "C" on Misc. Plan No. 12551/1.

   B. The City to receive title to the property identified as Parcels "A" and "D" on Misc. Plan No. 12551/1, all in accordance with the terms and conditions of the Offer to Purchase dated November 15, 2004, and subject to such additional terms and conditions that the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development - November 29, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 29, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Exchange of Lands located at Shore Street and Bison Drive
Riel Community
St. Norbert Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: November 17, 2005

Recommendation(s):

1. That the proposed exchange of lands between the City and Myles Kraut be approved as follows:

    a) Myles Kraut to receive title to the City-owned properties identified as Parcels "B" and "C" on Misc. Plan No. 12551/1, and

    b) The City receive title to the property identified as Parcels "A" and "D" on Misc. Plan No. 12551/1, all in accordance with the terms and conditions of the attached Offer to Purchase dated November 15, 2004, and subject to such additional terms and conditions that the Director of Planning, Property and Development Department and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT SUMMARY

Key Issues:

- The Planning, Property and Development Department have concluded its negotiations for an exchange of lands located at Shore Street and Bison Drive.
- Approval by Council for the proposed exchange is required.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- The City's standard terms and conditions of sale include provisions to protect the City's interests in the event that environmental contamination is discovered.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

-

REASON FOR THE REPORT:

The Planning, Property and Development Department have concluded its negotiations for an exchange of lands located at Shore Street and Bison Drive. Approval by Council for the proposed exchange is required.

HISTORY:

On April 13, 2005, Mr. Myles Kraut applied for a subdivision and rezoning of his land located on the east side of Shore Street, north of Lee Boulevard (DASZ 18/05). The subject land is located on the north boundary of the Fairfield Park Local Improvement District. Mr. Kraut intends on developing a 12-unit student-housing complex.

On April 27, 2005, the Administrative Coordinating Group recommended that the application be laid over to allow the applicant to amend the plan as follows:

1. By including a cul-du-sac turnaround at the southeast corner of the site.
2. By including the remainder of Shore Street (to be closed) within the plan.
3. By providing a 9m widening along Bison Drive.

It was further recommended that access to the site be via Shore Street (i.e., access to Bison Drive to be terminated).

The Planning, Property and Development Department recommended that approval of DASZ 18/05 be subject to the Developer amending its plan by shifting the proposed cul-de-sac turnaround northerly approximately 11m to accommodate the conversion of Lot 16, Block 6, Plan 1991 into a rectangular building lot in the future (see Misc. Plan No. 12551/1). In addition, approval of the amended plan was subject to the Developer entering into a Servicing Agreement.

In May of 2005, the Developer made an application to close Shore Street identified as "Proposed Closing" on the attached Misc. Plan No. 12551 for incorporation into DASZ 18/2005. DASZ 18/2005 as amended will re-open the portion of Shore Street adjoining the area required for a turnaround (Parcel D) and will also widen Bison Drive, as shown on Misc. Plan No. 12551/1.

On September 28, 2005, Council concurred in the recommendation of the Standing Policy Committee on Property and Development to close Shore Street as shown on 12551 and to the subdivision and rezoning of the subject land, DASZ 18/2005.

DISCUSSION:

On August 22, 2005, Mr. Kraut contacted the Planning, Property and Development Department requesting an exchange of land in order to fulfill the requirements of DASZ 18/2005.

The Planning, Property and Development Department have concluded its negotiations with Mr. Kraut for the exchange of the lands in accordance with the terms and conditions as set out in the

attached Offer to Purchase dated November 2, 2005. Briefly, the proposed exchange of lands identified on Misc. Plan No. 12551/1 provides for the following:

1. The Applicant will acquire Parcel B from the City, which will form part of its overall development. The City acquired this property in 1992 by way of Tax Sale.
2. The Applicant will acquire Parcel C from the City (subject to Council enactment of the necessary by-law to affect the closing). The applicant will be using this area for parking as part of his proposed condominium development.
3. The City will acquire Parcel A from the Applicant for the widening of Bison Drive.
4. The City will acquire Parcel D from the Applicant for the turnaround area at Shore Street.

In addition, a number of easement requirements are identified as part of this overall development. These easement requirements form part of the Offer to Purchase document.

The Planning, Property and Development Department support the exchange of lands with Mr. Kraut for the following reasons:

a) Inclusion of the subject property in the application to rezone and subdivide the adjoining property provides for efficient use of the land.
b) Council has approved the Applicant's subdivision and rezoning at this location.
c) The proposed exchange of lands (value for value) sale price is supported by an internal appraisal report.

Financial Impact Statement

Date: November 14, 2005

COMMENTS:

Since the proposed land exchange involves properties of equal value, there are no financial implications associated with the recommendations in this report.

"Original signed by"
Mike McGinn, CA
Manager of Finance

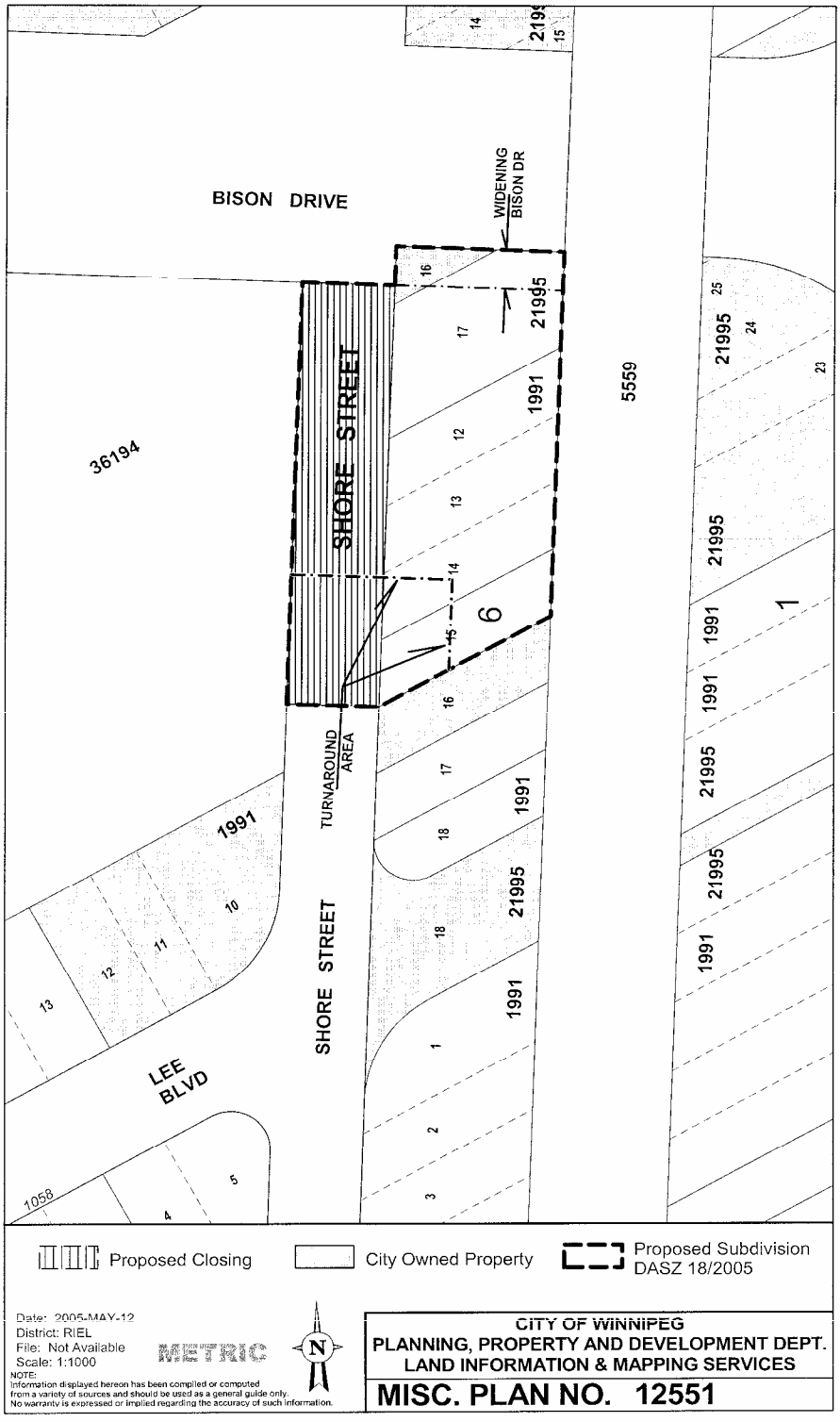
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

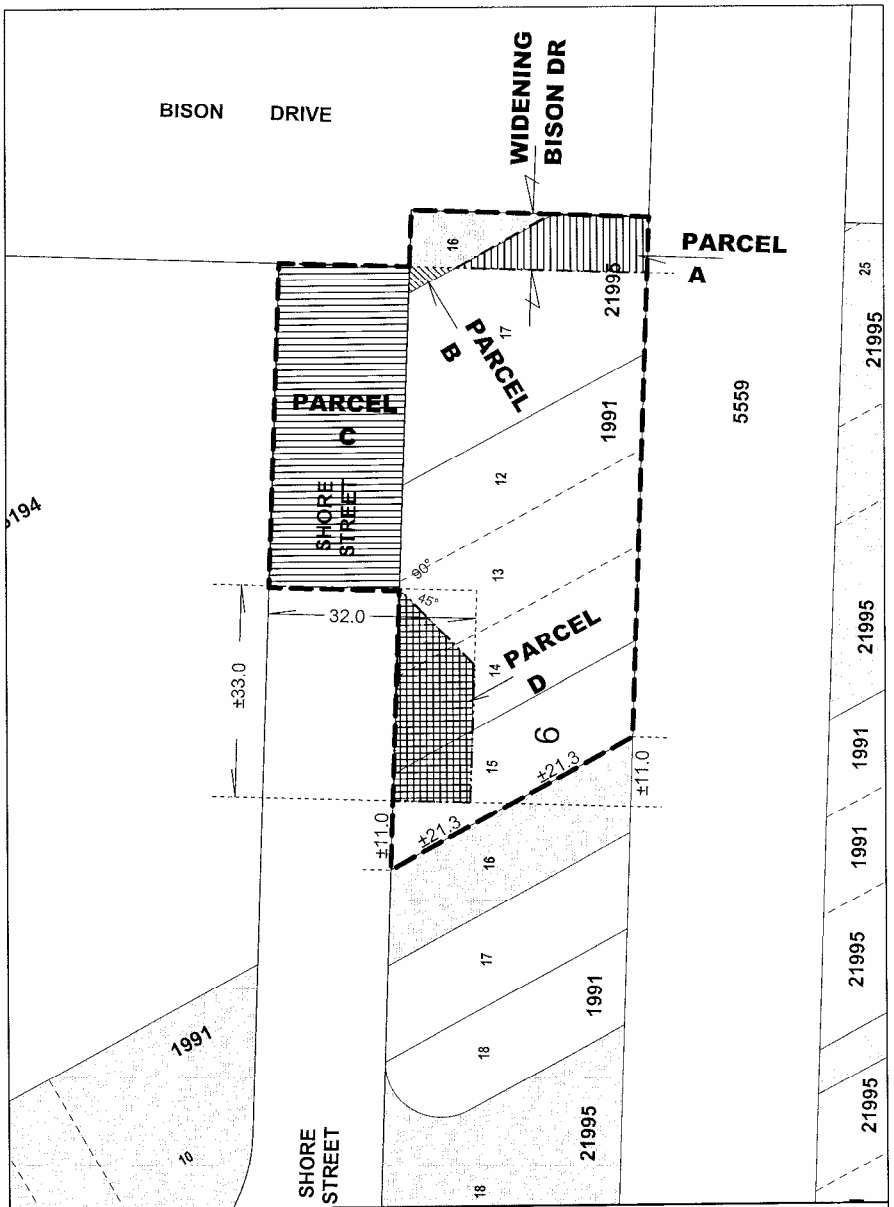
No consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Joedi Pruden
PPD Files #: 6731/1 & 6731/2

Document name: o:\reports directive\real estate\sales\(jp)bison-shore.doc


BISON DRIVE
WIDENING BISON DR
SHORE STREET
36194
5559
21995
1991
6
1
TURNAROUND AREA
SHORE STREET
LEE BLVD
1058
Proposed Closing
City Owned Property
Proposed Subdivision DASZ 18/2005
Date: 2005-MAY-12
District: RIEL
File: Not Available
Scale: 1:1000
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12551



City Owned Property

PARCEL B - Proposed Sale
Area: ±15.6 m² (±168.4 ft²)

PARCEL C - Proposed Closing and Sale
Area: ±1029.1 m² (±11077.1 ft²)

Proposed Subdivision
DASZ 18/2005

PARCEL A - Applicant's Property required for widening of Bison Drive
Area: ±197.0 m² (±2120 ft²)

PARCEL D - Applicant's Property required for Turnaround
Area: ±329 m² (±3541.7 ft²)

METRIC

Date: 2005-SEPT-16
District: RIEL
File: 6731/2
Scale: 1:750

NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.

N W E S

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES

MISC. PLAN NO. 12551/1

Kraut
File: 6731/2

OFFER TO PURCHASE

Subject to Council enactment of the necessary by-law to effect the legal closing of a portion of Shore Street, shown as "Proposed Closing and Sale" on the attached Misc. Plan 12551/1, the Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City"), the following lands: -

Parcels B and C (as shown on Misc. Plan No. 12551/1, attached hereto).

(hereinafter called the "Lands")

for the sum of $1.00 cash, the receipt of which is hereby acknowledged.

1. (1) The purchase price is payable as follows:

(a) By payment of $1.00 cash as noted above; and

(b) By the transfer at no cost to the City, of the real property which property is shown as "Applicants Property" Parcels A and D on Misc. Plan No. 12551/1 attached hereto, and which is free and clear of encumbrances and restrictions, on the date of closing, possession and adjustments as set out in Clause 3(1) herein.

And upon the following terms and conditions:

2. The payment of $1.00 as set out in clause 1(1) herein shall be applied to the purchase price if the sale is approved by the City's Standing Policy Committee on Property and Development and/or Council (in the event that Council approval is required), herein after called the "Date of Approval".

3. (1) The date of closing, possession and adjustments shall be sixty (60) days following the date of approval or earlier as mutually agreed to.

(2) The Purchaser agrees to pay as an adjustment an amount equal to the total of such taxes, rates and charges which would have been levied or charged against the Lands as though the Lands had been entered on the assessment rolls of the City as privately owned and subject to taxation, which adjustment shall be calculated from the date of adjustments to and including the last day of the current taxation year.

(3) The Purchaser shall pay interest in lawful money of Canada on all monies remaining outstanding and payable to the City as of the date of adjustments, which interest shall be calculated at the rate per annum equivalent to the prime lending rate in force by the City's Banker at the date of adjustments plus one (1%) percent, computed from the date of adjustments to and including the date all such monies and interest as aforesaid have been fully paid to the City.

4. Goods and Services Tax

(1) The Purchaser agrees to pay to the City all Goods and Services Tax applicable on the sale of the Lands or, if the Purchaser is a registrant under the Goods and Services Tax Legislation, the Purchaser shall advise the City in writing of its registration number. The Goods and Services Tax is to be paid, or the registration number provided, to the City within ten (10) days from date of notice of the approval of the sale by the City.

(2) If the Purchaser fails to pay the Goods and Services Tax or fails to provide its registration number as prescribed in sub-clause (1) of this Clause, the Purchaser agrees that all of the Purchaser's rights and interests in respect of the Lands shall, at the City's sole discretion, be fully ended without notice or any formality and all monies paid to the City by the Purchaser shall be retained by the City free from every claim.

5. The Purchaser will obtain possession of the Lands at the Purchaser's own expense, which includes, without limiting the generality of the foregoing, obtaining their own Surveyor's Building Location Certificates, Surveyor's Staking Certificates and Zoning Memorandum and in connection therewith acknowledges and is aware that the City does not provide Declarations of Possession.

6. The Purchaser acknowledges that in submitting this Offer to Purchase, the Purchaser relies entirely upon personal inspection of the Lands, independent of any representation made by or on behalf of the City. Any error or discrepancy in the description or in the dimensions of the Lands as contained herein shall not entitle the Purchaser to any compensation in respect thereof nor shall it entitle the Purchaser to the cancellation of this Offer to Purchase.

7. It is agreed that no representation, warranty, collateral agreement or condition affecting this offer or the land is expressed herein. The City does not warrant the quality, condition or sufficiency of the Lands for any use or purpose. The Lands are deemed to be taken by the Purchaser in an "as is" condition and at the Purchaser's own risk and with all faults and imperfections whatsoever. The Purchaser agrees with the City that the application of "Buyer Beware" shall apply to the offer in the strictest meaning.

8. All existing improvements (if any) in or on the said Lands shall remain as part of the freehold.

9. The Purchaser will accept Title to the Lands subject to all exceptions, reservations and encumbrances expressed or implied in the City's Title.

10. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Lands, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than sixty (60) days from the Date of Approval, but in any event, prior to closing;

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 10; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 10;

(4) indemnify and save harmless the City from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said Lands to the City for its own use, at no cost to the City.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Lands and documentation to that effect is produced to the City within sixty (60) days following the Date of Approval, but in any event, prior to closing, the City, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date, PROVIDED that the Applicant shall have first satisfied all conditions of this Clause 10.

AND FURTHER if the City has not been advised of any non-compliance of the Lands to Provincial Environmental standards within sixty (60) days from the Date of Approval, but in any event, prior to closing, the Purchaser agrees to complete its purchase as herein contemplated and to indemnify the City against any and all claims arising from or in any way connected with the existence of contaminants of any kind at the Lands.

11. (1) The Purchaser agrees that the sale of the Lands shall be subject to any easement which may be required by a public utility, including, but not limited to Manitoba Hydro, MTS Allstream Inc., Centra Gas Manitoba Inc., or The City of Winnipeg, and/or any of their respective successors and/or other utilities, for the maintenance of existing and future facilites together with the right to enter upon the Lands at any time, with or without equipment for said purposes and subject to the owner covenanting not to erect or cause to be erected upon the easement area any building or structure without the prior written consent of the utility or The City of Winnipeg requiring such easement.

(2) Without limiting the generality of the foregoing, the sale of the Lands shall be subject to the following, namely:

i) a 12 metre easement in favour of the City of Winnipeg for the maintenance of a watermain located on the eastern portion of the existing Shore Street

ii) a 3.1 metre easement in favour of MTS Allstream Inc. for the construction and maintenance of an existing and or future facility located along the front of the proposed lot 1 (DASZ 18/05)

iii) a 6 metre easement over the easterly portion of Shore Avenue in favour of Centra Gas Manitoba Inc.

iv) an easement in favour of Manitoba Hydro, MTS Allstream Inc. and Shaw Cable

(3) Any removal or relocation of a public utilities existing facility as a result of the proposed subdivision will be at the expense of the developer and/or customer.

(4) The Purchaser to enter into agreements satisfactory to the said utilities or The City of Winnipeg.

(5) The Purchaser acknowledges that the City may grant the easement before the Transfer of Land issues.

12. In consideration of the sale of the Lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

(1) The Purchaser shall at its sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared a Plan of Survey to effect the said sale of the Lands, suitable for registration at the Winnipeg Land Titles Office, and other such documentation as may be required.

(2) This agreement shall run with the Lands and the Purchaser's adjoining property and shall bind the Purchaser, its successors and assigns and its successors in title.

(3) The Purchaser to pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

(4) The Purchaser shall remove at its sole cost, effort and expense, the existing Shore Street connection to Bison Drive, grade the Bison Drive ditch in the vicinity of the removal of the street connection and close the existing median opening on Bison Drive at Shore Street. These works are to include restoration of the curb and median landscaping and all works are to be as determined by and to the satisfaction of the City's Director of Public Works Department. These requirements will be incorporated into a Servicing Agreement pursuant to the application to subdivide and rezone.

(5) The sale of the Lands does not include the pre-payment of the Trunk Service Rate charges.

13. No commission is payable by the City on the sale of the Lands.

14. No current legal survey was made of the property to determine if there are any encroachments from adjoining lands.

15. The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety which is composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

16. The sale of the Lands to the Purchaser shall be subject to the provisions of the By-laws of the City of Winnipeg and all amendments thereto. Furthermore, the Purchaser acknowledges and understands that its proposed use and development of the Lands may require applications for re-zoning, variances or conditional uses, amendments to Plan Winnipeg, which applications, resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

17. Upon approval of the sale by the City, the Purchaser agrees to make application to the City Assessor (in form set out in Exhibit "A" attached) to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the Lands.

18. Time shall be of the essence of this Offer.

19. The Purchaser will not file any caveat or other encumbrance against the Lands before the transfer of the Lands to the Purchaser.

20. The word "Purchaser" shall have a plural meaning in the event that more than one party is making this offer, and the masculine shall mean the feminine or neuter as the case may be.

21. The Purchaser agrees that the City may register Caveat/s against the Lands to ensure the performance of the covenants on the part of the Purchaser herein set forth and the Purchaser agrees to grant and does hereby grant to the City an interest in the Lands according to the tenor of this agreement.

22. The full, true and correct name of the Purchaser is as follows:

Myles Dean Kraut, 30 Ramsgate Bay, Winnipeg MB R3P0V4
Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) 884582560RT0001

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 2nd day of November 20 05

Witness Purchaser

Alanna Littman Myles Kraut
Witness Purchaser

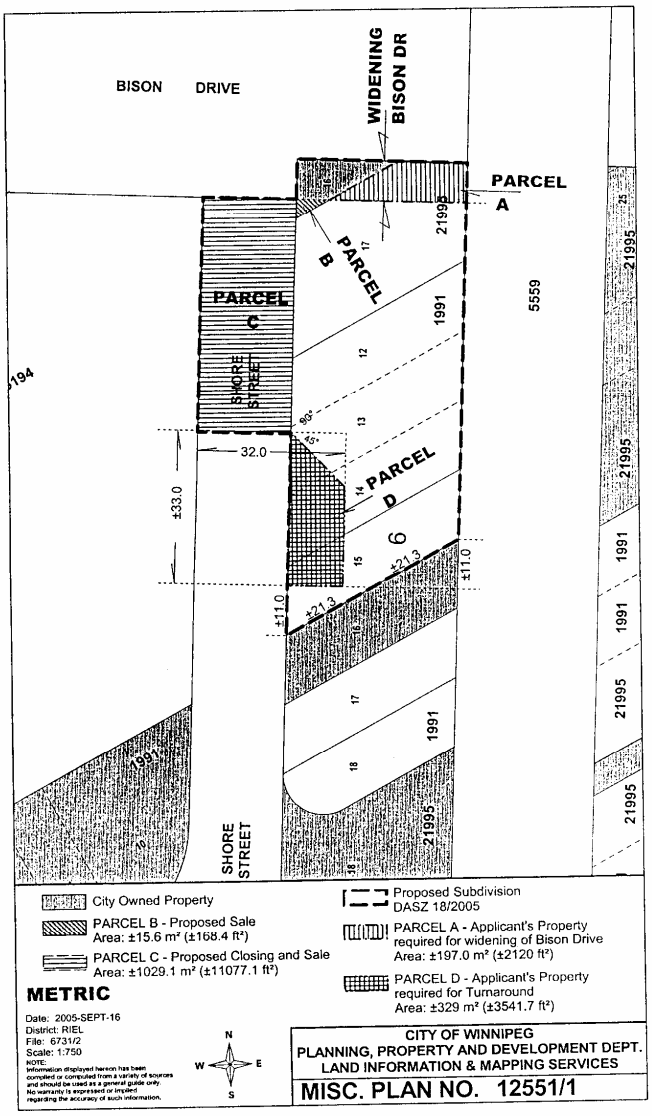
THE CITY OF WINNIPEG

Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details: Approved as to form:

_____ _____

Planning, Property and Development for City Solicitor/Manager of Legal Services


BISON DRIVE
WIDENING BISON DR
PARCEL A
PARCEL B
PARCEL C
PARCEL D
SHORE STREET
SHORE STREET
5559
21995
1991
32.0
±33.0
±11.0
±21.3
City Owned Property
PARCEL B - Proposed Sale
Area: ±15.6 m² (±168.4 ft²)
PARCEL C - Proposed Closing and Sale
Area: ±1029.1 m² (±11077.1 ft²)
Proposed Subdivision
DASZ 18/2005
PARCEL A - Applicant's Property required for widening of Bison Drive
Area: ±197.0 m² (±2120 ft²)
PARCEL D - Applicant's Property required for Turnaround
Area: ±329 m² (±3541.7 ft²)
METRIC
Date: 2005-SEPT-16
District: RIEL
File: 6731/2
Scale: 1:750
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
N
W
E
S
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12551/1