Minute No. 221
Report - Standing Policy Committee on Property and Development - January 31, 2006

Item No. 13 Acquisition - Part of 901-929 Shaftesbury Boulevard
File FI-2(31)

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 acquisition of part of 901 and 929 Shaftesbury Boulevard shown as "Proposed Widening" on Misc. Plan No. 9396/11 be approved at a purchase price of $254,100.00 and in accordance with the terms and conditions specified in Schedule "A" to the report of the Director of Planning, Property and Development dated January 23, 2006.

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

Minutes - Executive Policy Committee – February 15, 2006

Report - Standing Policy Committee on Property and Development – January 31, 2006

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 January 31, 2006, 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 Acquisition of Part of 901-929 Shaftesbury Boulevard from All Seniors Living Centers Ltd. or Nominee for a Future Grade Separation at the CNR Mainline**

For submission to: Standing Policy Committee on Property and Development

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

Report date: January 23, 2006

Recommendation(s):

1. That the proposed acquisition of part of 901 & 929 Shaftesbury Boulevard shown as "Proposed Widening" on Misc. Plan No. 9396/11 be approved at a purchase price of $254,100.00 and in accordance with the terms and conditions as specified on the attached Schedule "A".
2. That all 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 subject property, shown as "Proposed Widening" on the attached Misc. Plan No. 9396/1, is required in order to protect a proposal to construct a grade separation of Shaftesbury Boulevard with the CNR mainline in the future.

- The total property acquisition comprises of a land area of 1.7342 acres of which the City is purchasing 1.484 acres and approximately 0.25 acres is being dedicated at no cost to the City pursuant to Council's approval of the development application.

- On April 6, 2000, the Standing Policy Committee on Property and Development directed that a proposed purchase by the City would be considered only when the owner submits a bona fide development application in accordance with a community-approved plan.

- On June 19, 2002, Council approved the previous owner's development application DASZ 2/2002. The time limit has since been extended to June 19, 2006, and a new property owner is taking steps to proceed with DASZ 2/2002 under ZAA 14/05 (to substitute and replace the previously proposed development agreement in order to permit a 3 story condominium building with 153 residential units).

- The Planning, Property and Development Department's Real Estate Division has estimated the current market value of the vacant land according to its most profitable use and subject to the development parameters approved by Council.

Implications of the Recommendation(s):

General implications:

	None
X	**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):

- This proposed acquisition would ensure that a necessary parcel of land remains undeveloped and available for a proposed future grade separation.

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- No environmental contamination is expected; however, the terms and conditions, of this proposed property acquisition, protect the City's interests in this regard.

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):

- The Public Works Department advises that adequate funds are available in its capital project account no. 1833000100.

REASON FOR THE REPORT:

The new property owner is proceeding with DASZ 2/2002 (proposed to be amended by ZAA 14/05) and wishes to complete an associated sale to the City as previously negotiated with the former owner. Council approval of the proposed terms and conditions of acquisition is required.

HISTORY:

On May 2, 1995, the Standing Policy Committee on Public Works concurred that negotiations be undertaken to acquire the property that would be required for a future grade separation, subject to the owner entering into a development agreement for the development of the remaining property.

On April 6, 2002, the Standing Policy Committee on Public Works considered the matter of this proposed acquisition. The Administration was instructed that at such time as the property owner submits a bona fide development proposal, the Administration shall assess the amount of value that the property requirement would have contributed to the development and, following discussions with the applicant, shall report back with an appropriate recommendation.

On June 19, 2002, Council approved development application DASZ 2/2002 with a condition, among others, that the applicant's proposed plan of subdivision be amended to provide for the future grade separation. Council subsequently extended the time limit for enactment of the necessary Subdivision and Zoning By-law under DASZ 2/2002 to June 19, 2006.

The Planning, Property and Development Department advised the previous owner that it can recommend to Council an acquisition of 1.484 acres of the 8.733 acre site under DASZ 2/2002 (Council approved from A.5 to RM-L) for a future grade separation only if and when he is prepared to register his Plan of Subdivision. All Seniors Living Centers Ltd. has purchased the 8.733 acres, is proceeding with DASZ 2/2002 under ZAA 14/05 (to substitute and replace the previously proposed development agreement in order to permit a 3 story condominium building with 153 residential units) and wishes to complete the sale previously negotiated with the former owner.

DISCUSSION:

On June 19, 2002, Council approved the previous property owners' application DASZ 2/2002, subject to certain conditions, and, on May 28, 2003, Council concurred with amendments recommended by the Standing Policy Committee on Property and Development. The previous owner indicated that he either may proceed to develop the property himself or may sell to a developer. All Seniors Living Centers Ltd. has made a conditional purchase of the "Schlamp" property shown on Misc. Plan No. 9396/11 and is proceeding with an application to develop it under ZAA 14/05 (to substitute and replace the previously proposed development agreement in

order to permit a 3 story condominium building with 153 residential units). The new owner or its nominee wishes to complete the proposed sale of the land required by the City.
The City is purchasing 1.484 acres and 0.25 acres is being dedicated at no cost to the City pursuant to Council's approval of the development application, resulting in the total acquisition of 1.7342 acres.

The Transportation Planning Branch of the Public Works Department confirmed in June of 2003, and again on January 19, 2006, that this property is needed to protect a proposal to construct a grade separation of Shaftesbury Boulevard with the CNR mainline in the future.

The 0.25 acre portion of the 1.7342 acre "Proposed Widening" is being dedicated at no cost to the City pursuant to Council's approval of the development application under DASZ 2/2002. The proposed purchase price for the remainder is justified on the basis of its most profitable use, i.e. as part of a multiple-family site. However, the development charges that would need to be incurred in respect of the subject 1.484 acres in order to realize the current market price have been logically deducted. The proposed purchase price discussed previously with the former owner has been increased in the current proposal to reflect the significant changes in market conditions of the past several years. The Planning, Property and Development Department are of the opinion that this proposed price is fair and well supported by the market evidence.

Financial Impact Statement

Date: January 19, 2006

Project Name:

Proposed Acquisition of part of 901-929 Shaftesbury Boulevard from All Seniors Living Centers Ltd. or nominee for a Future Grade Separation at the CNR Mainline

First Year of Program 2006

	2006	2007	2008	2009	2010
Capital					
Capital Expenditures Required	$ 261,723	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	261,723	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ 23,555	$ 23,555	$ 23,555	$ 23,555
Less: Incremental Revenue/Recovery	7,623	-	-	-	-
Net Cost/(Benefit)	$ (7,623)	$ 23,555	$ 23,555	$ 23,555	$ 23,555
Less: Existing Budget Amounts	(7,623)	23,555	23,555	23,555	23,555
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

Capital expenditures consist of the $254,100 purchase price, a 2% short-term financing charge of $5,082, and a 1% corporate administration fee of $2,541 for a total of $261,723. The short-term financing & administration fee are recorded as recoveries in the Corporate Finance Department's current budget. Direct costs in 2007 onward represent debt & finance costs charged to Public Works' current budget.

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

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

Transportation Planning Branch, Public Works Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Vic Mikolayenko
PPD File #: 7908 V-3

Document name: o:\reports directive\real estate\acquisition\(vm)schlampacquisition.doc

Schedule "A"

March 30, 2004

Proposed terms and conditions for the purchase and sale of that portion of the land located at 901&909 Shaftesbury Boulevard, shown as **"PROPOSED WIDENING"** on the attached Misc. Plan No. 9396/11.

1. **THE PROPOSAL OUTLINED HEREIN IS CONDITIONAL UPON OBTAINING THE FINAL APPROVAL OF THE CITY OF WINNIPEG COUNCIL OR ITS DELEGATED AUTHORITY.**

2. An all-inclusive purchase price of **TWO HUNDRED AND FIFTY-FOUR THOUSAND, ONE HUNDRED ($254,100.00) DOLLARS** for the subject property shown as **"PROPOSED WIDENING"** on the attached Misc. Plan No. 9396/11.

3. It is hereby agreed and understood that the "PROPOSED WIDENING" referred to herein includes a 16' wide strip of land along the full length of the "SCHLAMP PROPERTY" as also shown on the said Misc. Plan No. 9396/11, which strip of land is required to be dedicated and legally opened as street right-of-way at no cost to the City pursuant to Council's approval of development application DASZ 2/2002.

4. The subject property to be conveyed by the vendors to the City free and clear of any liens, encumbrances, easements or leasehold interests except any public utilities thereon.

5. The subject property to be in compliance with all existing building codes, zoning restrictions, by-laws, fire regulations and free from any outstanding work orders whatsoever; the vendors to supply evidence of compliance as the City may reasonably request.

6. The date for vacant possession – free of leasehold interest – payment of the purchase price and adjustment of taxes, to be within 90 days following the vendor's registration of a Plan of Subdivision, to be prepared in accordance with Winnipeg City Council's approval of DASZ 2/2002, in the Winnipeg Land Titles Office or such other date as may be determined by mutual agreement.

7. Any professional fees, including but not limited to: legal fees, disbursements, commissions, appraisal or consulting fees and all applicable G.S.T. charges incurred by the vendors with respect to the sale of the subject property shall be the sole responsibility of the vendors unless specifically noted otherwise herein.

8. The vendors shall supply copies of any environmental studies undertaken on the subject property.

9. The vendors will permit the City at its discretion and expense, before the possession date, to conduct or have conducted on its behalf an Environmental Site Assessment together with any soil testing and analysis required.

10. The vendors declare that to the best of his/her/its knowledge and belief:

    a) the subject property complies with all applicable environmental laws, regulations and bylaws;

b) there are no outstanding governmental orders or requests for information;
c) there are no existing, pending or threatened actions of an environmental nature;
d) there are no waste disposal sites on the property, nor has the property ever been used as a landfill or waste disposal site, or for temporary storage of special wastes on an interim basis pending treatment or disposal.

11. The vendors further acknowledge and accept that should the City determine that there are environmental concerns or contamination, it may elect to cancel the proposed purchase.

12. The subject property, until possession is delivered to the City, shall remain at the risk and responsibility of the vendors. In the event of substantial damage to the subject property prior to possession being delivered, the City may elect to accept the proceeds of any insurance on the property and complete the purchase or alternatively, cancel the purchase.

13. The vendors shall not remove any topsoil or allow any dumping on the subject property.

14. The City to grant the owners of 901 Shaftesbury Boulevard access for ingress and egress purposes to the existing residential house, the location of such access to be as currently exists. The access agreement to be for a nominal amount and upon such terms and conditions as the Director of the Planning, Property and Development Department and the City Solicitor may require; said access agreement will remain in effect until either development occurs on the owners' remaining land or the grade separation is constructed, whichever occurs first. In the event the grade separation occurs first, the City will relocate the owners' access to a location to be determined at that time.

15. If it is determined that there are man-made improvements within the subject property, the City will at its discretion, either:
    a) leave the improvements where they are presently located and formalize an encroachment agreement allowing them to remain, or;
    b) reimburse the vendors for the cost of relocating the improvements, said costs to be the lowest of at least three quotations to be obtained by the vendors for this work and to be submitted to the City for approval prior to commencement of the work.

16. The vendors agree not to claim compensation from the City in the event of a grade separation at Wilkes Avenue/CNR Rivers Main Line and Shaftesbury Boulevard should a subway or overhead bridge be constructed. The vendors further agree they will not oppose such a grade separation. This is applicable to any heirs, executors, administrators, successors and assigns of the vendors.

17. The vendors acknowledge that a local improvement tax is imposed upon their property, including the subject property, for a land drainage sewer, and the vendors further agree that their remaining property will continue to be subject to the said local improvement tax in full.

18. The vendors agree to enter into an appropriate purchase and sale agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor; it is further acknowledged that the purchase and sale agreement will be filed as a caveat against the vendors' Titles.

19. The vendors agree that the subject property will not be conveyed, disposed of or encumbered in any manner whatsoever, save and except for financing in respect of the property, which shall be discharged in respect of the City's interest in the property as contemplated hereunder at the time that the aforesaid purchase and sale agreement is executed by the parties, and except subject to this agreement.

20. The vendors agree to consent on a Real Owner Application form to add The City of Winnipeg as the Real Owner of the subject property to the Assessment Rolls of the City.

21. The vendors agree to declare whether or not he/she/it is a "Registrant" for the purposes of the "Goods and Services Tax" and if so, to provide his/her/its G.S.T. Registration number.

22. The City will self-assess any Goods and Services Tax that it may owe on this transaction. Its G.S.T. Registration No. is R121682967.

1272272 Ontario Limited, the undersigned, which is entitled to be the registered owner, hereby agrees to convey to the City, the property identified as "PROPOSED WIDENING" on the attached Misc. Plan No. 9396/11, in accordance with the terms and conditions outlined above.

Dec 21/05
Date

Signing authority for 1272272 Ontario Limited

83265 8744 RT0001
GST Registrant Number

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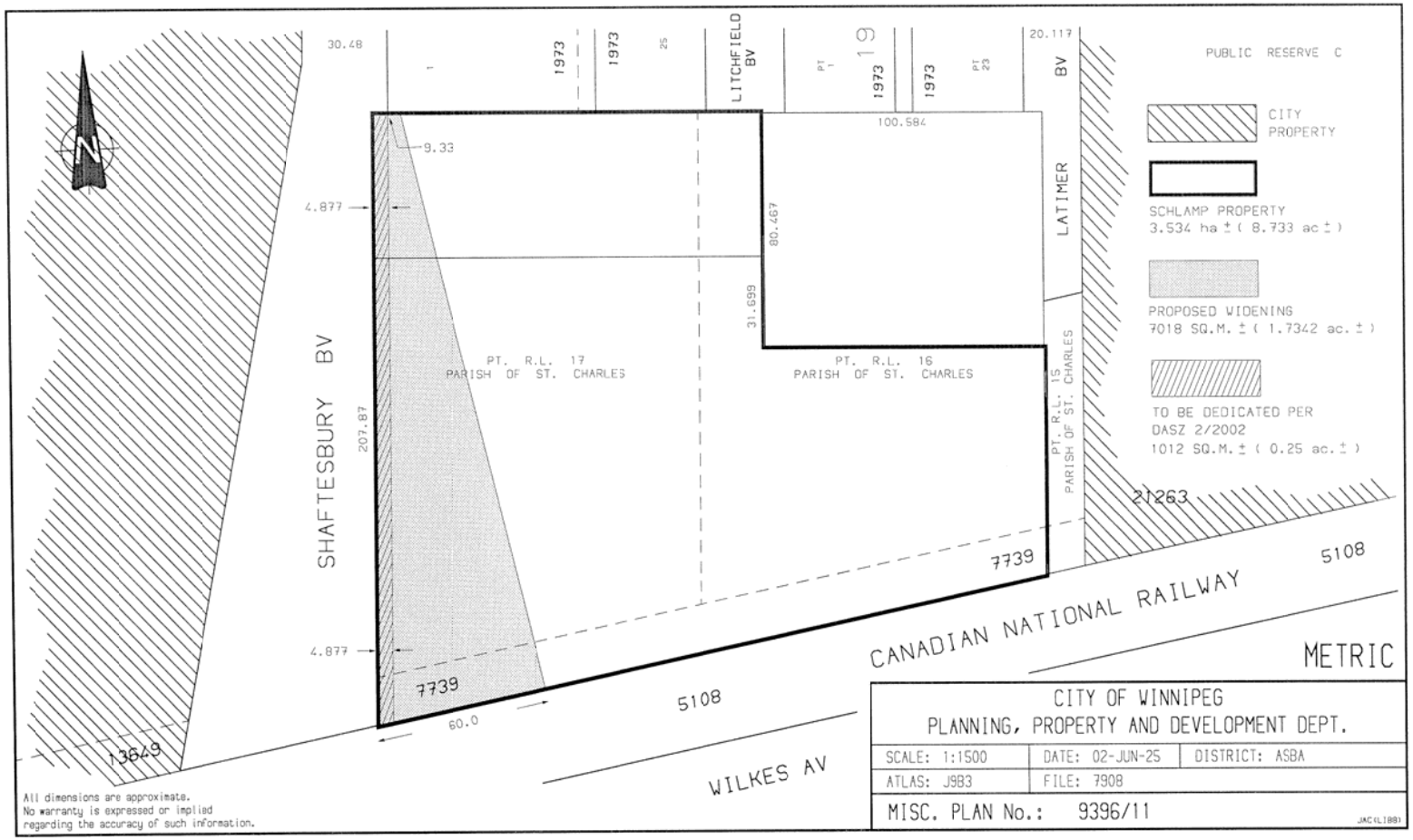
PUBLIC RESERVE C
CITY PROPERTY
SCHLAMP PROPERTY
3.534 ha ± (8.733 ac ±)
PROPOSED WIDENING
7018 SQ.M. ± (1.7342 ac. ±)
TO BE DEDICATED PER
DASZ 2/2002
1012 SQ.M. ± (0.25 ac. ±)
SHAFTESBURY BV
LITCHFIELD BV
LATIMER BV
PT. R.L. 17
PARISH OF ST. CHARLES
PT. R.L. 16
PARISH OF ST. CHARLES
PT. R.L. 15
PARISH OF ST. CHARLES
CANADIAN NATIONAL RAILWAY
WILKES AV
METRIC
30.48
20.117
100.584
9.33
4.877
4.877
80.467
31.699
207.87
60.0
1973
1973
1973
1973
25
19
7739
7739
5108
5108
21263
13649
All dimensions are approximate.
No warranty is expressed or implied
regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1500
DATE: 02-JUN-25
DISTRICT: ASBA
ATLAS: J9B3
FILE: 7908
MISC. PLAN No.: 9396/11
JAC(LIBB)