Proposed Opening and Closing of parts of Fultz Boulevard
File DAOC 4/2001 [c/r DAS 30/88]

2. The Standing Policy Committee on Property and Development has been advised that Sun-X Properties Ltd. has applied to close the portion of Fultz Boulevard shown as "proposed closing" on Misc. Plan No. 11375. The closing, if approved, would necessitate the dedication of land for a turnaround area at the terminus of the north/south leg of Fultz Boulevard, shown as "proposed opening" on Misc. Plan No. 11375.

Fultz Boulevard was created in 1990 by Development Agreement DAS 30/88, an application to subdivide and rezone the adjacent lands. The north/south portion of the street has been paved; the east/west portion of the street has not. There are underground services in the east/west portion of the street.

The Development Agreement prepared under File DAS 30/88 contains a clause stating that no building permit would be issued for Lot 2, Block 1, Plan No. 26133 until the Developer had undertaken the installation of the roadway and the balance of the services in the east/west portion of the street and provided a second access either through the property to the east to Waverley Street or north to Henlow Bay.

On June 20, 2001, Council adopted the recommendation of its Standing Policy Committee on Property and Development and approved an amendment to Development Agreement AG 44/79 to allow Sun-X Properties Ltd., the owner of Lot 2, Block 1, Plan No. 26133, to obtain a building permit to construct on the site without constructing the east/west portion of Fultz Boulevard adjacent to the property.

Council's approval of the amendment was subject to Sun-X Properties Ltd. constructing a larger temporary asphalt turnaround at the south end of the street, installing any additional hydrants on the site as required by the Fire Paramedic Service, and posting security in the full amount of the estimated cost of constructing the surface improvements in Fultz Boulevard and a secondary egress north to Henlow Bay.

The Administrative Coordinating Group considered the closing application on January 9, 2002, and recommended that the proposed closing of Fultz Boulevard not be supported at this time. If Waverley Holdings' property to the east of the east terminus of Fultz Boulevard is developed in accordance with the plan approved by Council on August 9, 1995, the subject portion of Fultz Boulevard would serve as an access to Waverley Holdings' land. If Waverley Holdings' land is developed without a street from Waverley Street connecting to the subject portion of Fultz Boulevard then the subject portion of Fultz Boulevard could be closed and a requirement for a roadway across Goodyear Tire's land to Henlow Bay could be deleted.

The property holdings and the location of the requirement for a roadway across Goodyear Tire's land to Henlow Bay referred to in the Administrative Coordinating Group Report recommendation are illustrated on Misc. Plan No. 11375/1.

Sun-X Properties Ltd. has not applied to close Fultz Boulevard because it wishes to acquire the property. Sun-X Properties Ltd. is seeking the release of its obligations to construct the east/west leg of Fultz Boulevard and the secondary access from Henlow Bay, when and if these streets are required. As noted

in the recommendation of the Administrative Coordinating Group, the ultimate disposition of Fultz Boulevard and the secondary access are contingent of the future development of the Waverley Holdings property to the east. Until Waverley Holdings develops this land and the configuration of the streets, if any, in this development is known, the Administrative Coordinating Group cannot support the proposed closing.

The Transportation Division of the Public Works Department advised that:

1. The closing would leave the north/south portion of Fultz Boulevard as a long cul-de-sac, over a railway line, which can be blocked periodically thereby preventing access to the abutting properties.

2. The closing does not take into account the development potential and need for access to the Waverley Holdings property to the east.

3. The Transportation Division's approval of the amendment to the Development Agreement allowing Sun-X Properties Ltd. to obtain a building permit to construct on the site without constructing the east/west portion of Fultz Boulevard and the secondary access from Henlow Bay was given with the understanding that the Developer would be responsible for these improvements in the future.

Sun-X Properties Ltd. offered to create a parcel of land for a turnaround area at the east terminus of Fultz Boulevard. Title to the land required for the turnaround would remain in the applicant's possession until it was required to be dedicated as street (i.e. when and if a street in the Waverley Holdings property connecting to it was created). The Transportation Division, Public Works Department, has stated that this turnaround would only benefit Sun-X Properties Ltd. by creating a second point of access to its property. The offer is of no benefit to the City or the adjacent property owner, and the Transportation Division, Public Works Department, recommended that the offer be rejected.

The Water and Waste Department was also opposed to the closing. The Department maintains a watermain, land drainage sewer and wastewater sewer in this right-of-way.

The Geomatics Branch of the Planning, Property and Development Department advised that this street should only be closed if Sun-X Properties Ltd. commits to its purchase.

The Planning, Property and Development Department recommended that the Assiniboia Community Committee not approve the proposed opening and closing.

On February 19, 2002, the Assiniboia Community Committee considered report dated January 18, 2002, from the Real Property Officer, Planning, Property and Development Department, which recommended that the proposed opening and closing not be approved. The Community Committee

did not concur with the administrative recommendations and recommended approval of the opening and closing with conditions (as set out below).

The Standing Policy Committee on Property and Development recommends:

I. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the opening and closing in accordance with Misc. Plan No. 11375 (Attachment "A"), subject to the following conditions:

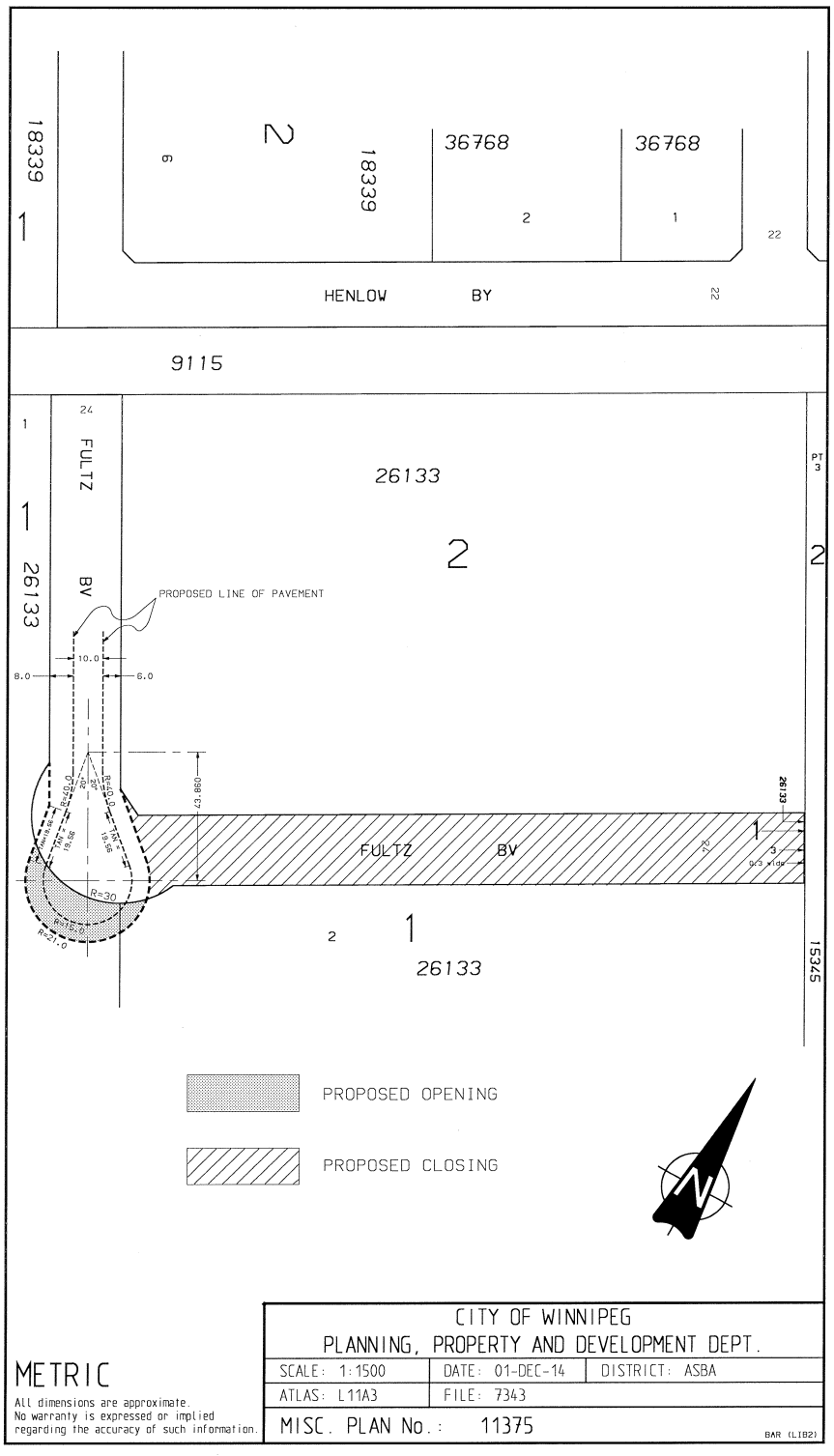
   A. That the applicant be required to purchase the closed street.

   B. That the purchase of the street be subject to the provision of easements for the Water and Waste Department's plant, including a future watermain loop, and to any other utility easement requirements.

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

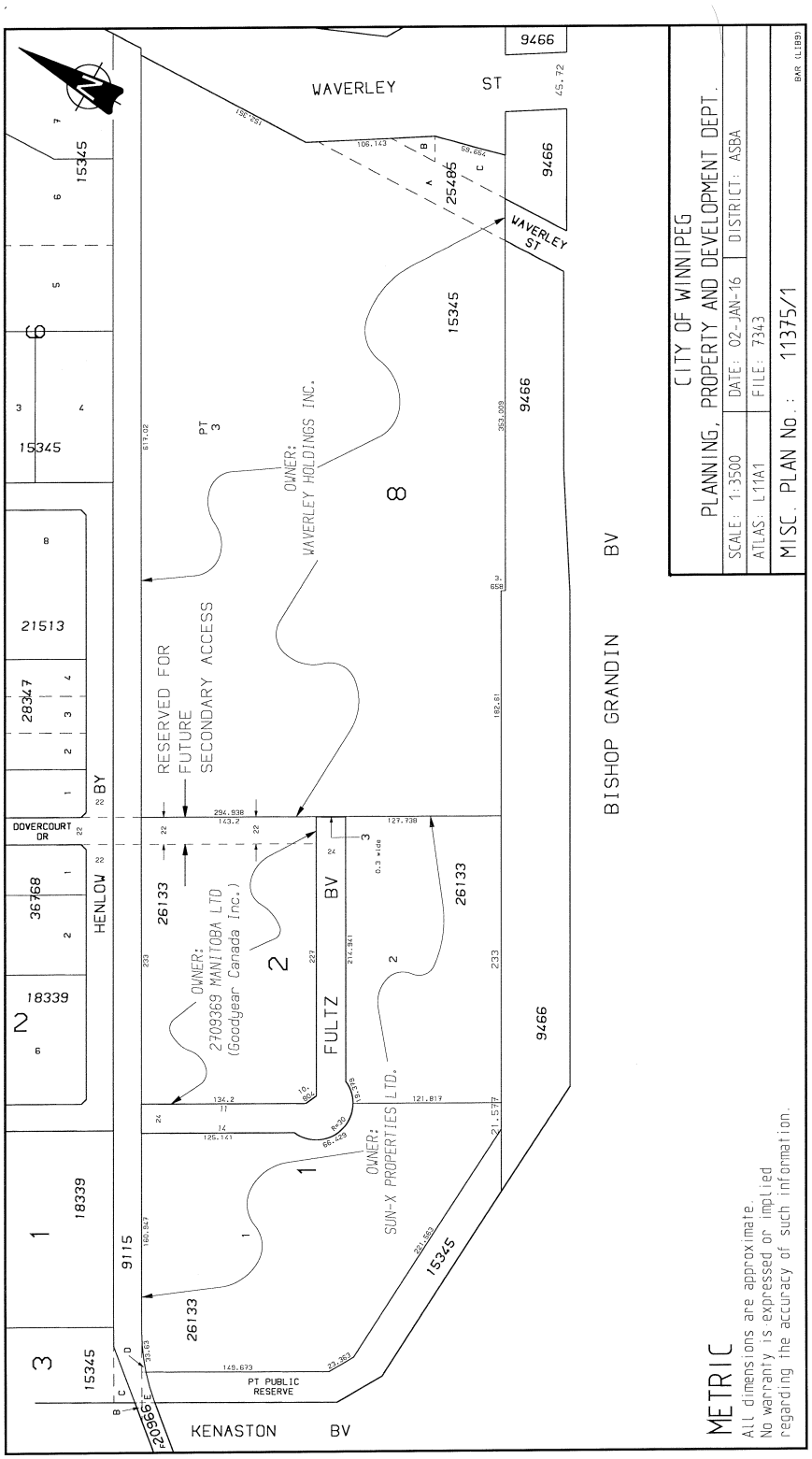
Copies of the documents referred to in the above clause are on file in the office of the City Clerk.

Attachment "A" referred to in Clause 2 of the Report of the Standing Policy Committee on Property and Development dated March 5, 2002



SCHEDULE "A"
TO THE REPORT TO THE ASSINIBOIA COMMUNITY COMMITTEE
FOR FILE NO. DAOC 4/01 DATED JANUARY 18, 2002

Attachment “B” referred to in Clause 2 of the Report of the Standing Policy Committee on Property and Development dated March 5, 2002



SCHEDULE “B”
TO THE REPORT TO THE ASSINIBOIA COMMUNITY COMMITTEE
FOR FILE NO. DAOC 4/01 DATED JANUARY 18, 2002