**Minute No. 399**
**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016**

**Item No. 8 Expropriation of Lands – Waverley Street at CN Mainline (Rivers) Grade Separation**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development Committee and adopted the following:

1. That the Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land interests herein identified and required by the City for the Waverley Street at CN Mainline (Rivers) Grade Separation Project (herein called "Project").

2. Subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of The Expropriation Act.

3. Subject to Council's confirmation of the proposed expropriation, that the lands required to be opened for public right-of-way, created as parcels, or taken for easement purposes, as required for the project, be approved by Council, including: (a) the lands the City cannot expropriate as identified in Schedule "B" and (b) lands owned by the City and Private owners identified in Schedules "A" and "C".

4. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street openings as required for the Project.

5. That authority be delegated to the Chief Administrative Officer to approve any temporary construction easements required for the Project.

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016**

COUNCIL DECISION (continued):

6. That the Proper Officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of any buildings, execution of any necessary documents and preparation of any necessary by-laws and any intermediary steps that may be required to have the lands opened for public right-of-way, created as parcels, or taken for easement purposes.

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016**

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 8, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 7, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

# ADMINISTRATIVE REPORT

**Title:** Expropriation of Lands – Waverley Street at CN Mainline (Rivers) Grade Separation

**Critical Path:** Standing Policy Committee on Property and Development, Heritage and Downtown Development - Executive Policy Committee - Council

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| J. Zabudney | J. Kiernan | M. Ruta | D. McNeil |

## RECOMMENDATIONS

1. That the Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land interests herein identified and required by the City for the Waverley Street at CN Mainline (Rivers) Grade Separation Project (herein called “Project”).

2. Subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of The Expropriation Act.

3. Subject to Council’s confirmation of the proposed expropriation, that the lands required to be opened for public right-of-way, created as parcels, or taken for easement purposes, as required for the project, be approved by Council, including: (a) the lands the City cannot expropriate as identified in Schedule “B” and (b) lands owned by the City and Private owners identified in Schedules “A” and “C”.

4. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street openings as required for the Project.

5. That authority be delegated to the Chief Administrative Officer to approve any temporary construction easements required for the Project.

6. That the Proper Officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of any buildings, execution of any necessary documents and preparation of any necessary by-laws and any intermediary steps that may be required to have the lands opened for public right-of-way, created as parcels, or taken for easement purposes.

## REASON FOR THE REPORT

Council approval is required for the City to expropriate land. Council's authorization to expropriate is required immediately to ensure that the City is in legal possession of all land interests for preconstruction to take place in 2016.

The subject properties or interest required therein, identified as Holdings # 1a, 2, 3, 5, 6, 9, 10, 11, 12, 13, 17, 18, 19 and 20, are needed for the works required for the Project.

Council approval is required for the proposed street openings.

## EXECUTIVE SUMMARY

The Project includes replacement of the existing at-grade railway crossing of Waverley Street at the CN Mainline (Rivers Subdivision Mile 3.89) with an underpass grade separation along with reconstruction of Waverley Street between Taylor Avenue and Wilkes Avenue/Hurst Way, rehabilitation of Waverley Street between Taylor Avenue and Grant Avenue, and twinning of Taylor Avenue between Waverley Street and Lindsay Street. Further project benefits include improvements to road safety, mobility, and sustainability with geometric/capacity improvements to all the intersections as well as improvements to active transportation within the Project area. A map of the Project limits and the detour is included as Appendix A.

In order to achieve the Project timelines, Consulting Engineering Services commenced in early 2016 and the required property will need to be acquired in 2016 so that construction can commence by January 2017. The construction will be mostly completed by October 2019.

## IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, human resources or financial implications associated with this report. While there are no direct financial implications associated with the initiation of expropriation proceedings, doing so will ensure that the City will acquire the property and incur settlement and ancillary costs. Such costs are not reasonably estimable at this time.

## HISTORY/DISCUSSION

- The 2013 Capital Budget adopted on January 29, 2013, included $1.2 million for the Project to undertake a preliminary design study and public consultation.

- On April 30, 2014, following a public competitive process, a contract pursuant to RFP No. 66-2014 was awarded to Dillon Consulting Limited to undertake a preliminary design study and public consultation for the Project.

- The preliminary design study identified all the land requirements for the Project. The Planning, Property and Development Department has carried out appraisals for all of the identified Land.

- The City, the Province of Manitoba and the Government of Canada are working toward finalizing funding agreements with respect to Provincial and Federal funding contributions to the Project. At the current time, the City has "approval-in-principle" letters from the Federal Government (January 20, 2016) and Provincial Government (January 15, 2016). These letters allow the City to commence with the Project.

- At its February 24, 2016 meeting, Council approved that a new 2016 capital project in the amount of $155,082,000 be included in the 2016 capital budget for the Project.

- Also at its meeting of February 24, 2016, Council concurred in the administrative recommendation that in the interest of meeting the project timeline, authority be delegated to the Chief Administrative Officer to negotiate and award a single source contract for consulting engineering services to Dillon Consulting Limited to undertake detailed design, contract administration, and post construction services for the Project.

- On February 24, 2016, Council authorized the Director of Planning, Property and Development to negotiate the acquisition of land required for the Project. The City will be required to expropriate 10 partial takings, 3 easements and 3 construction easements from private land owners.

- The Project will also include the acquisition of land from Canadian National Railway as shown on the attached Misc. Plan 14823/1 and from Manitoba Hydro as shown on the attached Misc. Plan No. 14798/1.

- The City's Real Estate Division has initiated contact, in writing, with all private property owners whose lands are required for the Project. Due to the very aggressive timelines of this Project, without the use of expropriation, it is highly unlikely that all private land interests will be acquired in time to allow for pre-construction to commence in 2016.

- Therefore, The Public Works Department and the Planning, Property and Development Department concur that it would be in the City's best interest to immediately initiate expropriation proceedings to ensure all land interests that are subject to expropriation are acquired in sufficient time to allow for preconstruction work to commence in 2016.

- In the meantime, the Real Estate Division will continue its efforts to negotiate the acquisition of the required land interests for the private property owners.

## FINANCIAL IMPACT

**Financial Impact Statement** **Date:** May 18, 2016

**Project Name:**

**Expropriation of Lands – Waverley Street at CN Mainline (Rivers) Grade Separation**

**COMMENTS:**

While there are no direct financial implications associated with the initiation of expropriation proceedings, doing so will ensure that the City will acquire the property and incur settlement and ancillary costs. Such costs are not reasonably estimable at this time.

*"Original Signed By"*
Mike McGinn, CA
Manager of Finance

## CONSULTATION

Legal Services Department (as to legal issues)

Public Works Department

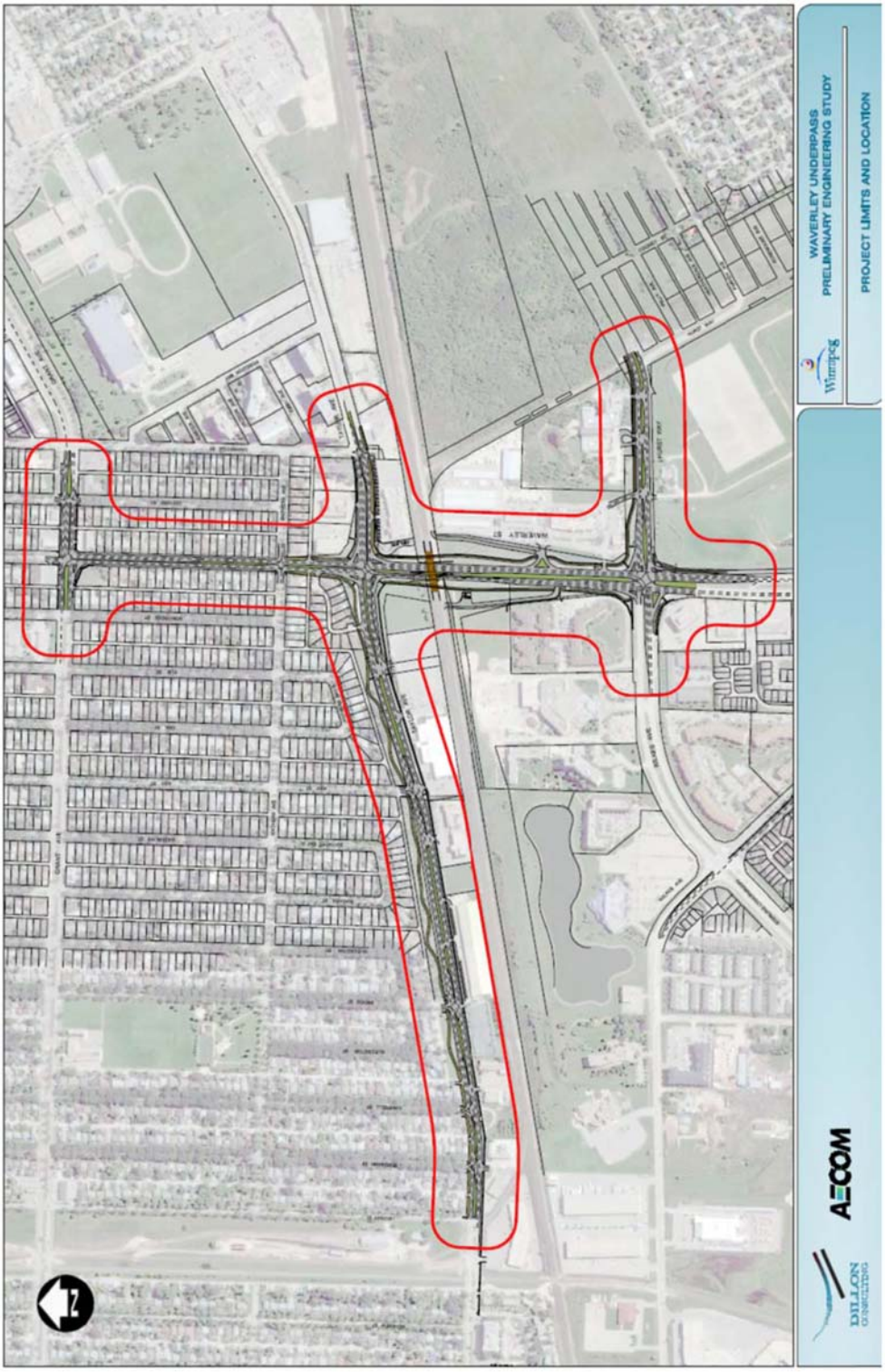
## OURWINNIPEG POLICY ALIGNMENT

The Project and the required expropriations are consistent with the Transportation Master Plan. The Project aligns with Key Directions for the entire City.

## SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate
Prepared by: Joedi Pruden, Senior Negotiator
Date: May 18, 2016
File Name: o:\reports directive\real estate\acquisition\(jp)expropriation waverley street at cn mainline.doc

**Appendix A**


WAVERLEY UNDERPASS
PRELIMINARY ENGINEERING STUDY
PROJECT LIMITS AND LOCATION
AECOM
DILLON CONSULTING

## Schedule "A"

**Holding # 1A**

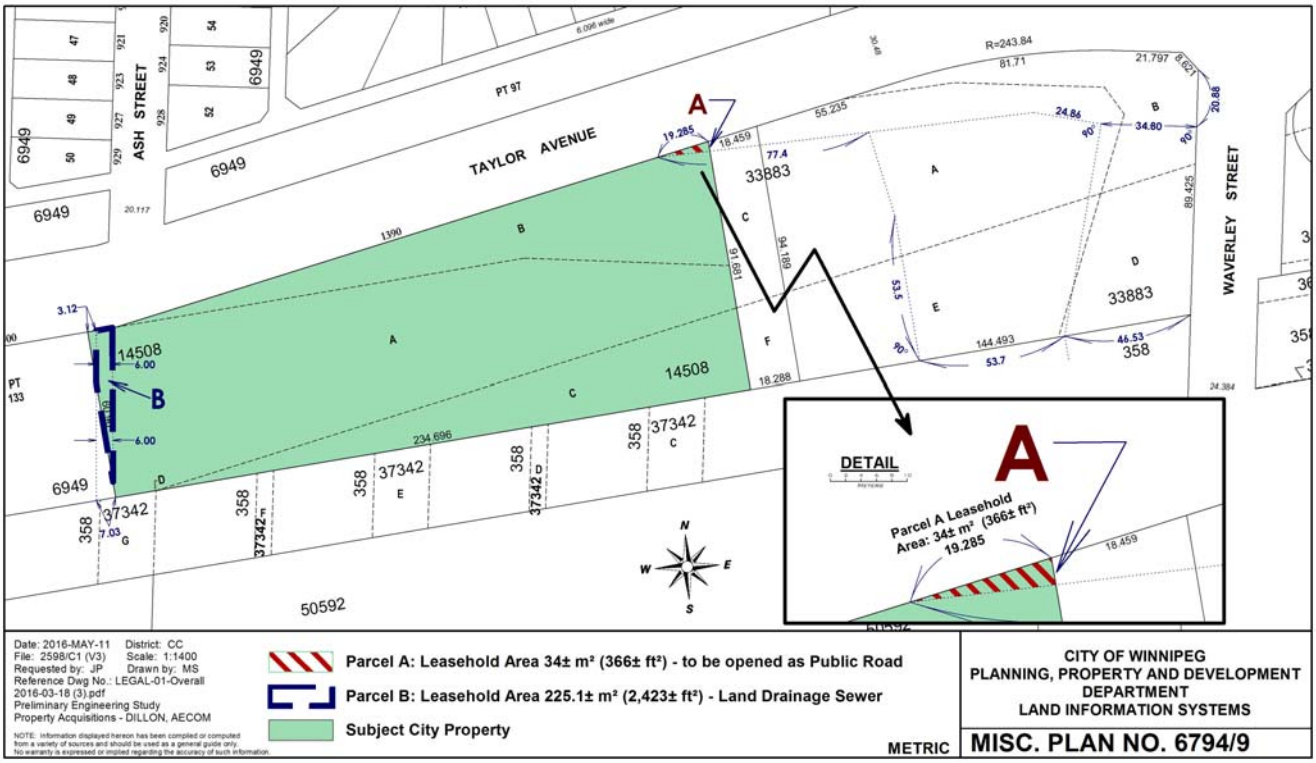
Location: 1390 Taylor Avenue
Legal Description: Parcels A, B, C, and D Plan 14508
Certificate of Title: 1869645 Reh-fit's Leasehold Interest
Zoning: M1
Property: City of Winnipeg owned property, require part taking of registered leasehold interest by Manitoba Cardiac Institute (Reh-fit) Inc.

1. "Parcel A", shown as Leasehold Area on Misc. Plan 6794/9: 34+/- m2 (366+/-ft2) to be opened as Public Road.

2. "Parcel B" shown as Leasehold Area on Misc. Plan 6794/9: 225.1+/-m2 (2423 +/-ft2) for a permanent easement for Land Drainage Sewer.

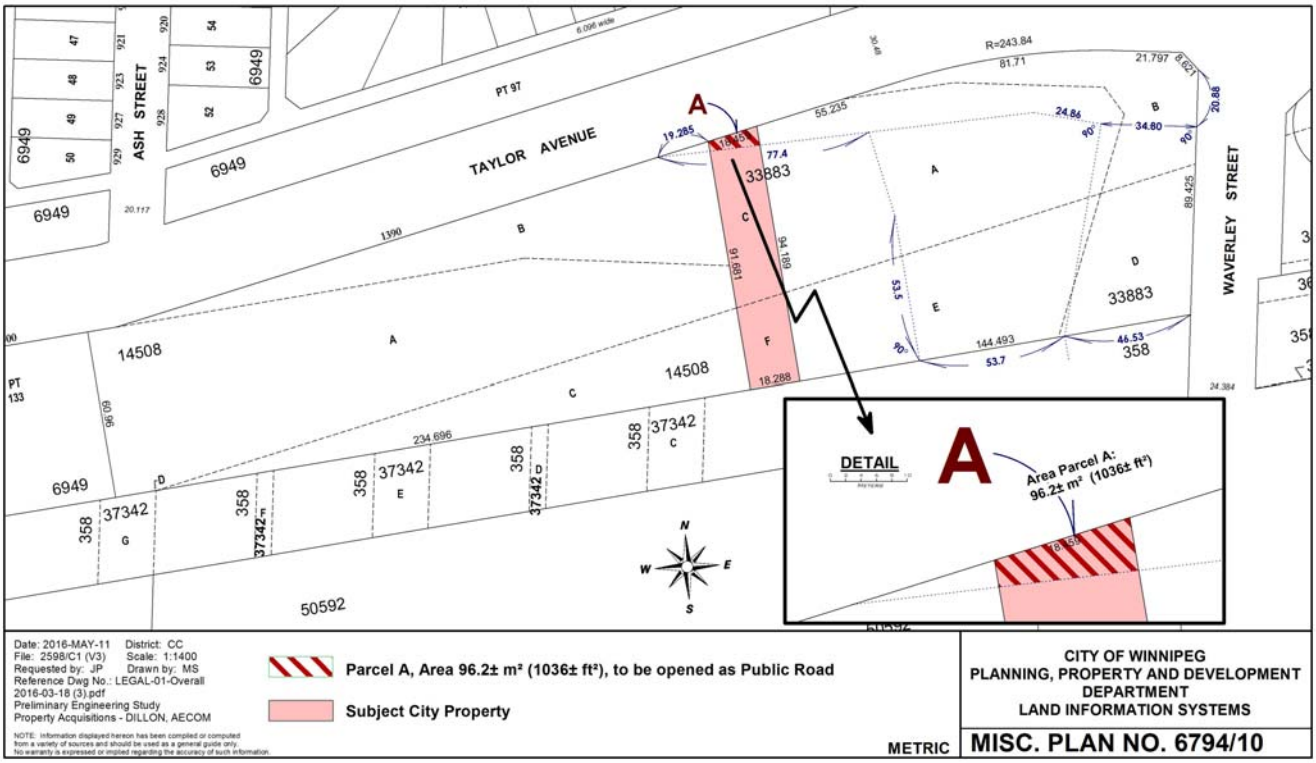
Description: Part of Reh-fit's parking area.

(1)



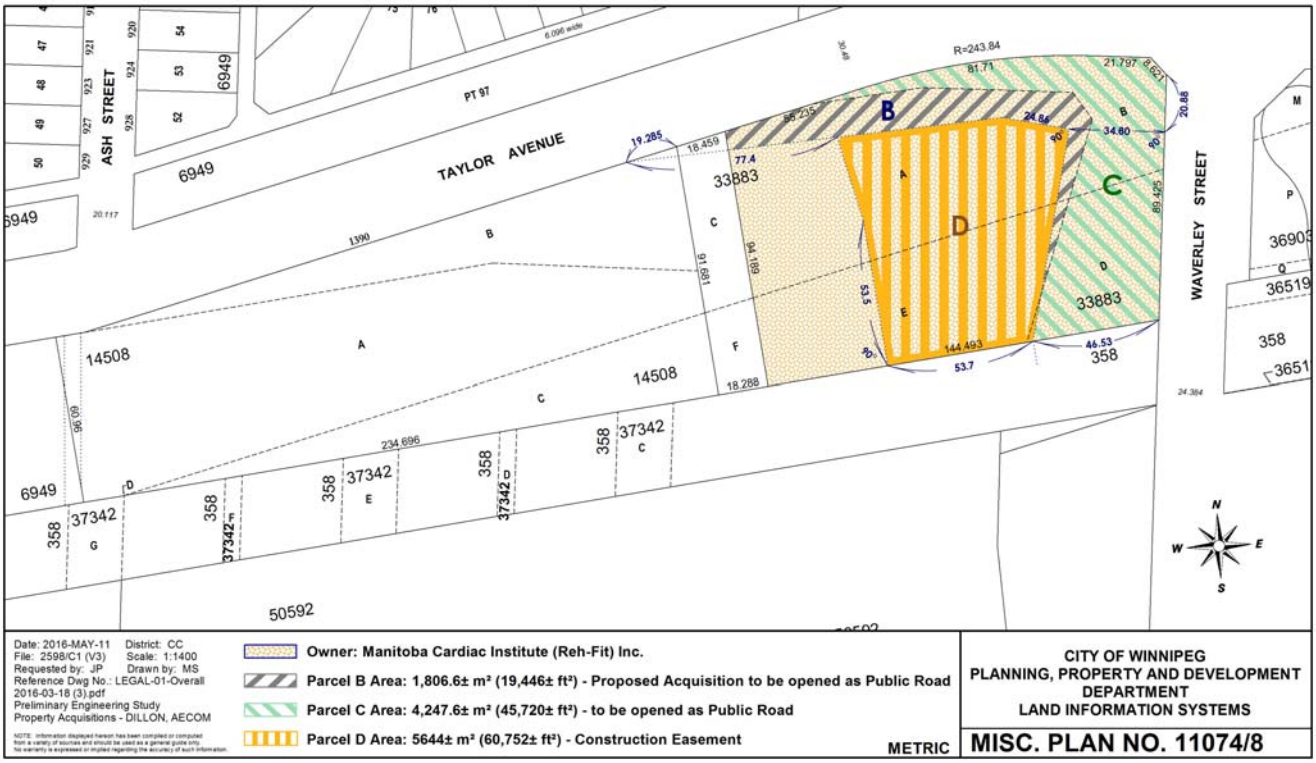
**Holding #2**

| | |
|---|---|
| Location: | 1390 Taylor Avenue |
| Legal Description: | Parcels C and F, Plan 33883 |
| Certificate of Title: | 1463688 |
| Zoning: | M1 |
| Property: | City of Winnipeg owned property, require part taking of lease interest by Manitoba Cardiac Institute (Reh-fit) Inc. 96.2+/-m2 (1,036+/- sq. ft.) shown as Parcel A on Misc. Plan 6794/10 to be opened as Public Road. |
| Description: | Part of Reh-fit's parking area, currently landscaped (sod). Nearby approach will be removed/altered |



**Holding #3**

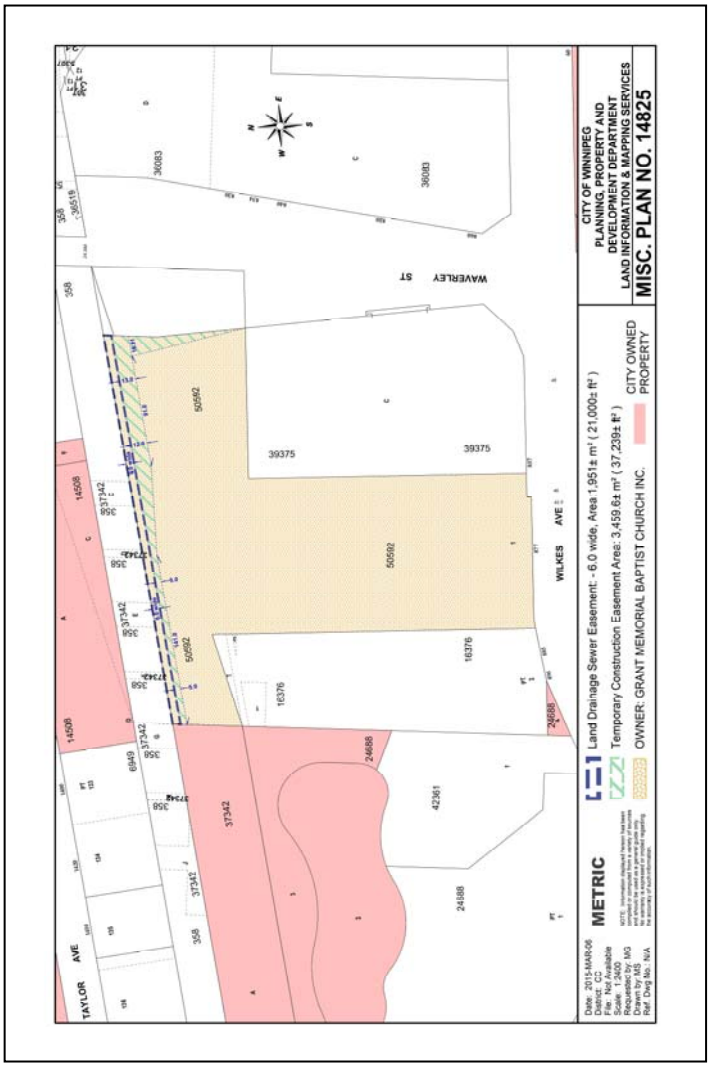
| | |
|---|---|
| Location: | 1390 Taylor Avenue |
| Legal Description: | Parcels A, B, D and E, Plan 33883 WLTO |
| Certificate of Title: | 2215623 |
| Zoning: | M1 |
| Property: | 1. Part Taking – 1,806.6m2±, (19,446 ft2±); shown as "**Parcel B** Area: 1806.6+/-m2 (19,446+/-ft2) – Proposed Acquisition to be opened as Public Road" on Misc. Plan 11074/7. This Parcel is to be taken as a Parcel of land and opened as Public Road at a future date. |
| | 2. Construction Easement – 5,644 m2±, (60,752 ft2±); shown as "**Parcel D** Area: 5644 +/-m2 (60,752 ft2) – Construction Easement" on Misc. Plan 11074/7 for an easement for construction purposes for the project. |
| Description: | Part of Reh-fit's parking area, currently landscaped. Nearby approach will be removed/altered. |



Subject to confirmation of the expropriation by Council, the City will be exercising its option to acquire Parcel C as identified on the above Misc. Plan 11074/7 as "**Parcel C** Area:4,247.6 +/-m2 (45,720 +/- ft2)- Area under Caveat to be transferred to City" as part of a Purchase and Sale Agreement registered on Certificate of Title 2215623. This is to be opened as public road.

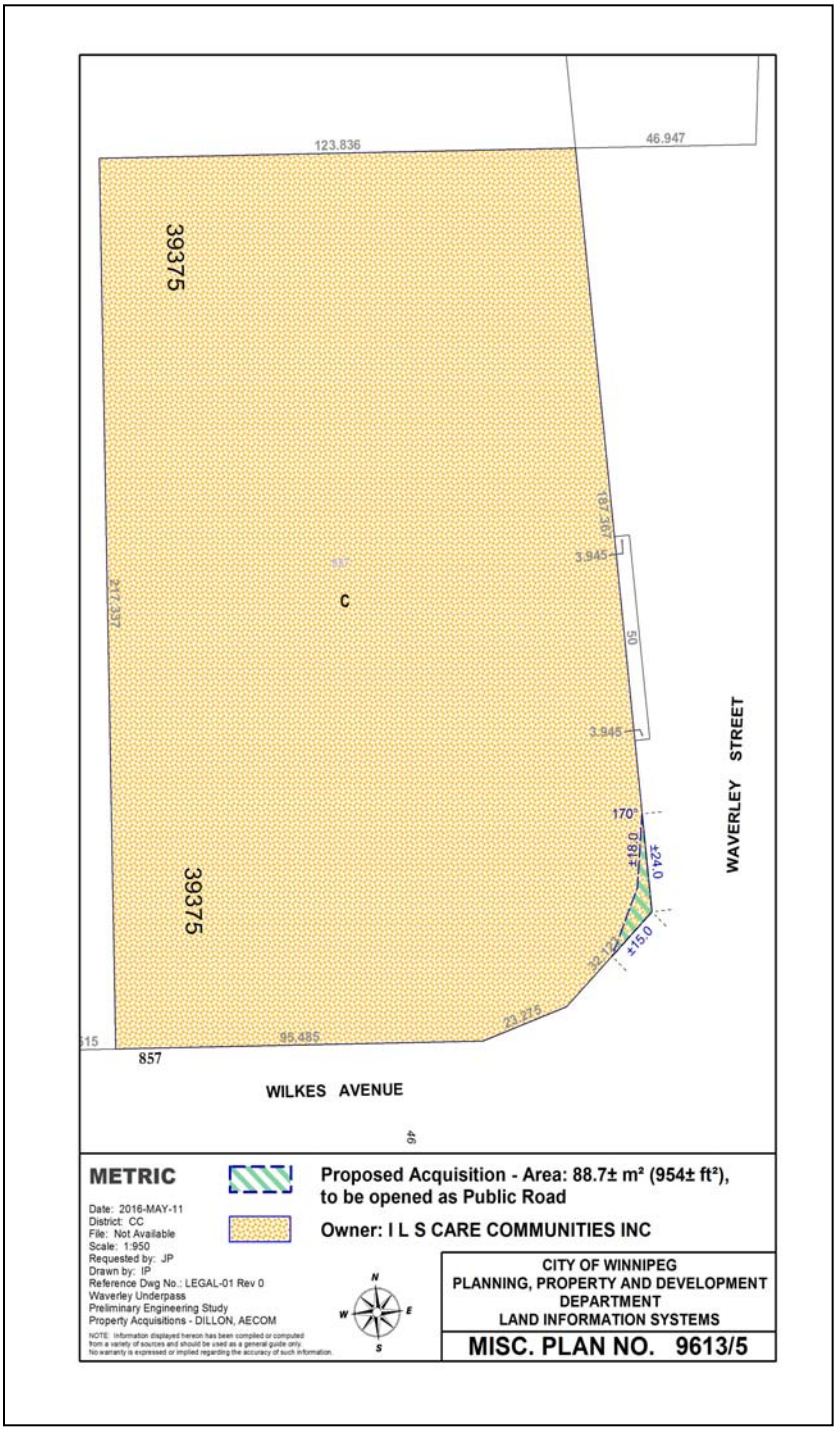
**Holding #5**

| | |
|---|---|
| Location: | 877 Wilkes Avenue |
| Legal Description: | Lot 1, Plan 50592 |
| Certificate of Title: | 2490556 |
| Zoning: | E1 |
| Property: | (1) Construction Easement (3,459.6m2±, (37,239ft2±)<br>(2) Land Drainage Sewer Easement (6.0 metre wide ,Area: 1,951 +/- m2 (21,000 +/- ft2) |
| Description: | Mainly grassed covered area with some scrub brush. It appears that a trailer and baseball diamond may need to be relocated. |



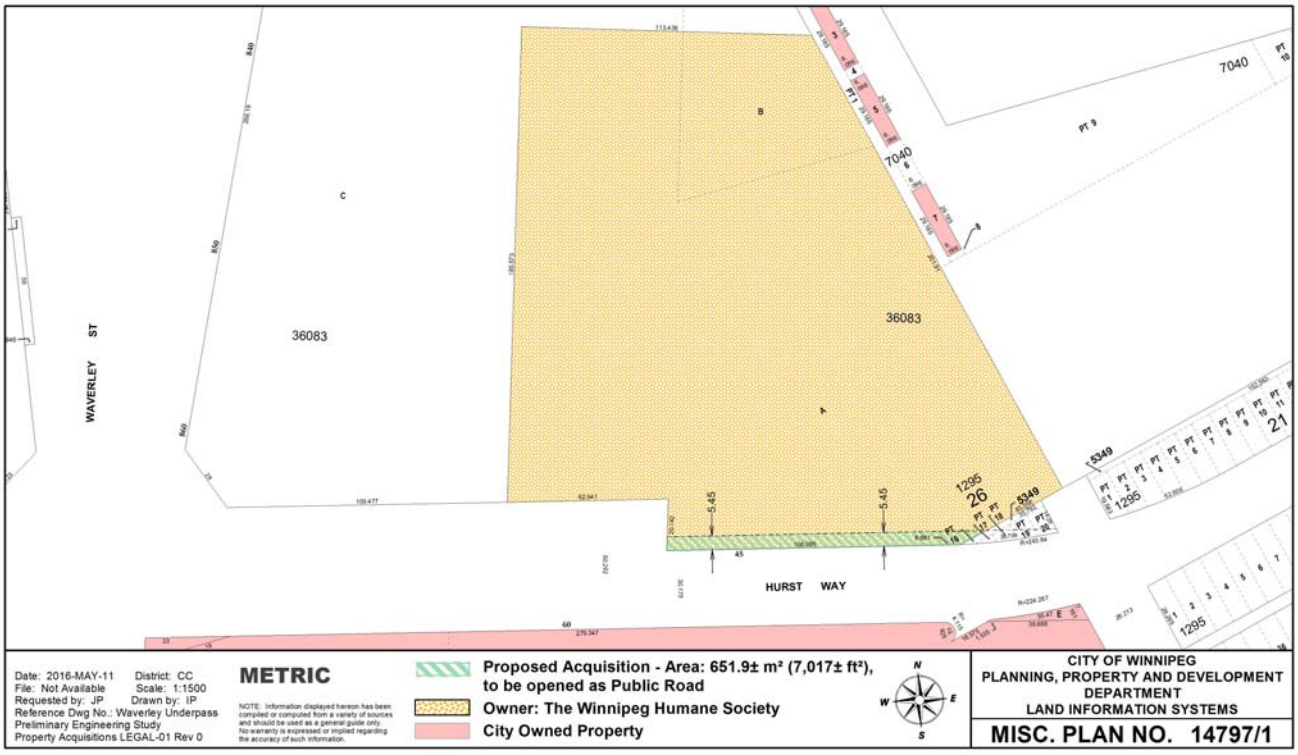
**Holding #6**

| | |
|---|---|
| Location: | 857 Wilkes Avenue |
| Legal Description: | Parcel C, Plan 39375 |
| Certificate of Title: | 2082433 |
| Zoning: | RMF-M |
| Property: | Part Taking – 88.7m2±, (954 ft2±). To be opened as Public Road. |
| Description: | The land required is a mainly grassy area. |



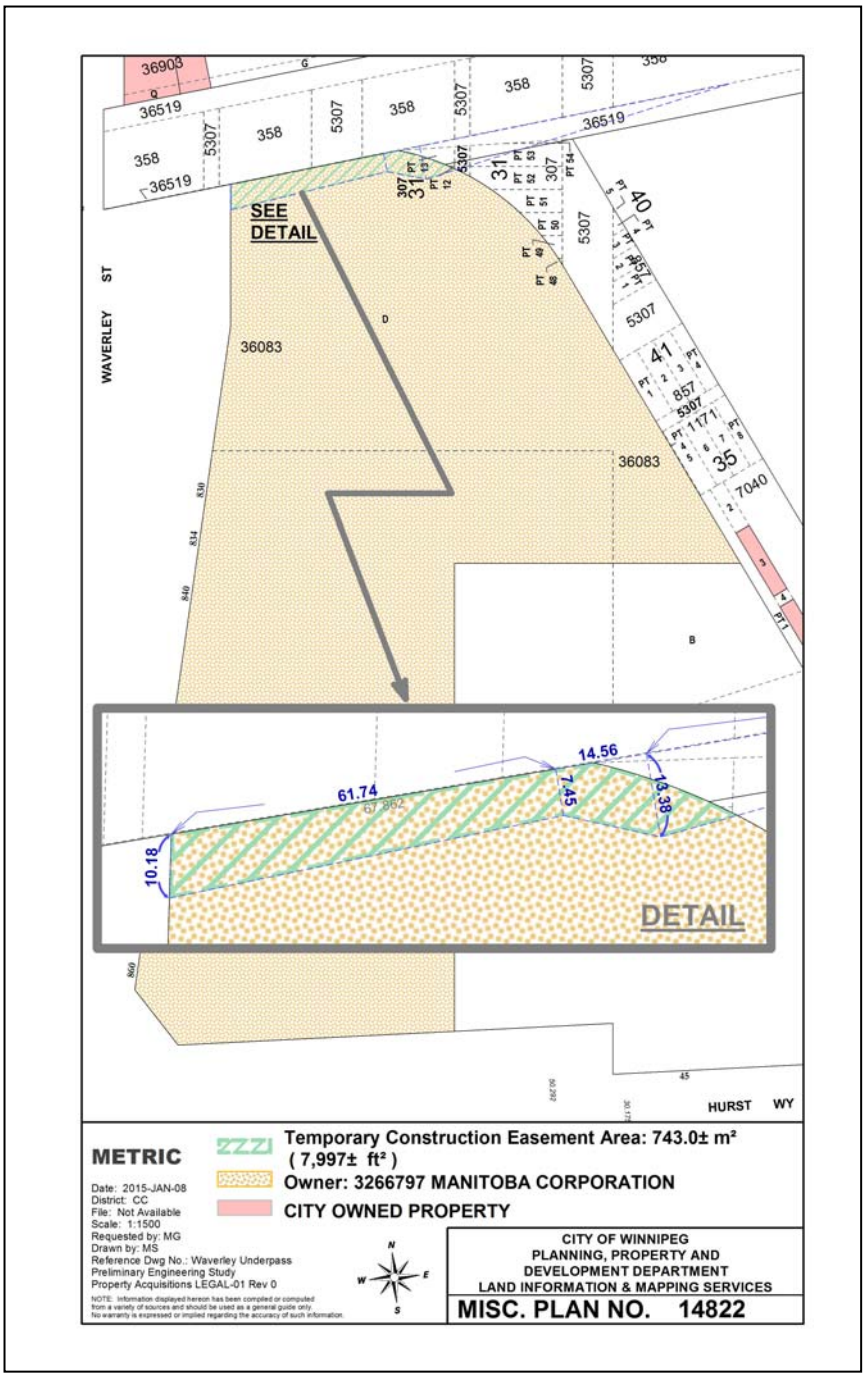
**Holding #9**

| | |
|---|---|
| Location: | 45 Hurst Way |
| Legal Description: | Parcels A and B, Plan 36083 |
| Certificate of Title: | 1811934 |
| Zoning: | M2 |
| Property: | Part taking - 651.9m2±, (7,017ft2±). To be opened as Public Road. |
| Description: | Front yard, landscaping, interruption to 3 approaches. |



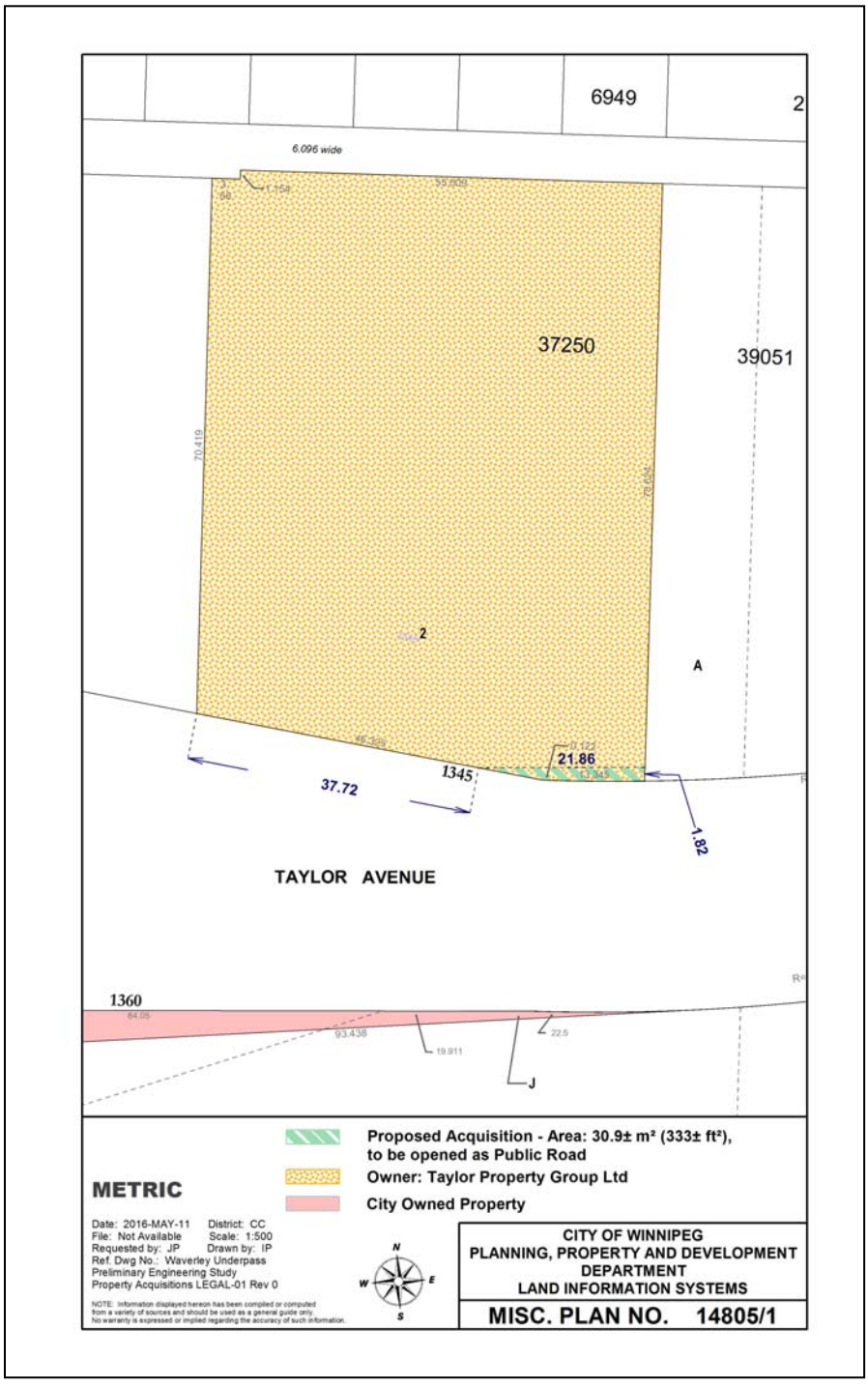
**Holding #10**

| | |
|---|---|
| Location: | 860 Waverley Street |
| Legal Description: | Parcels C and D, Plan 36083 |
| Certificate of Title: | 1584781 |
| Zoning: | M1 |
| Property: | Construction Easement (743.0m2±, (7,997ft2±). |
| Description: | Grassed covered area along with fencing and asphalt pavement. |



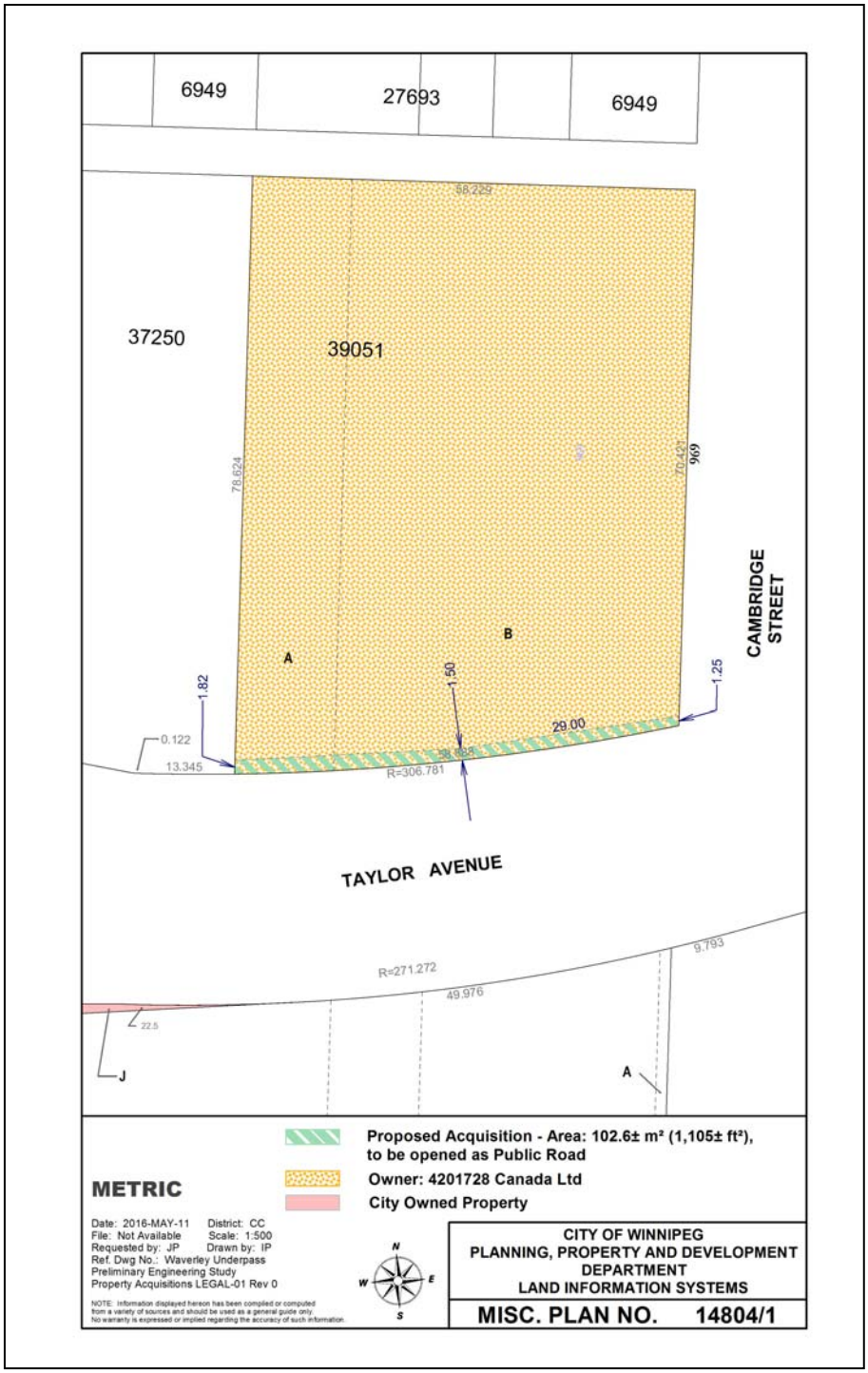
**Holding #11**

| | |
|---|---|
| Location: | 1345 Taylor Avenue |
| Legal Description: | Lot 2, Plan 37250 |
| Certificate of Title: | 1814171 |
| Zoning: | C2 |
| Property: | Part taking – 30.9m2±, (333 ft2±). To be opened as Public Road. |
| Description: | Small grassy area with scrubs |



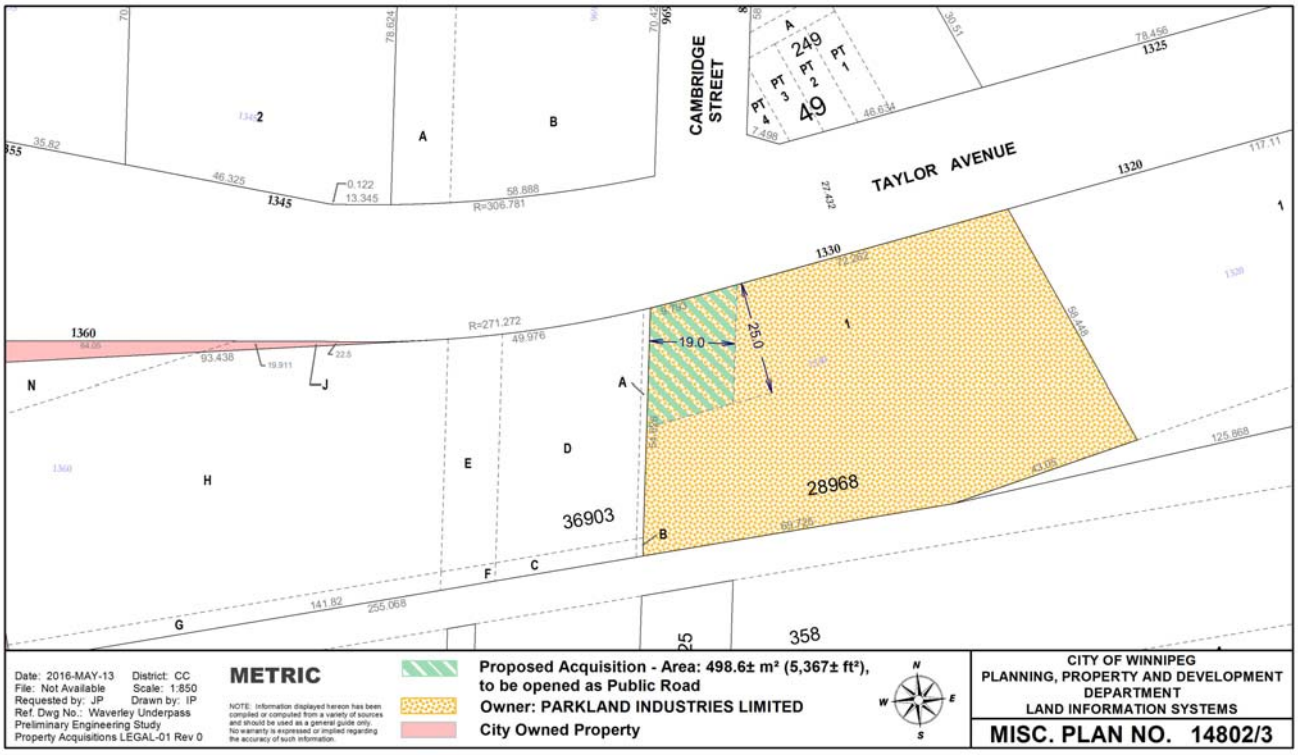
**Holding #12**

| | |
|---|---|
| Location: | 969 Cambridge Street |
| Legal Description: | Parcels A and B, Plan 39051 |
| Certificate of Title: | 1986091 |
| Zoning: | RMF-S & RMF-M |
| Property: | Part taking – 102.6m2±, (1,105 ft2±). To be opened as Public Road. |
| Description: | Landscaping, interruption to front approach. |



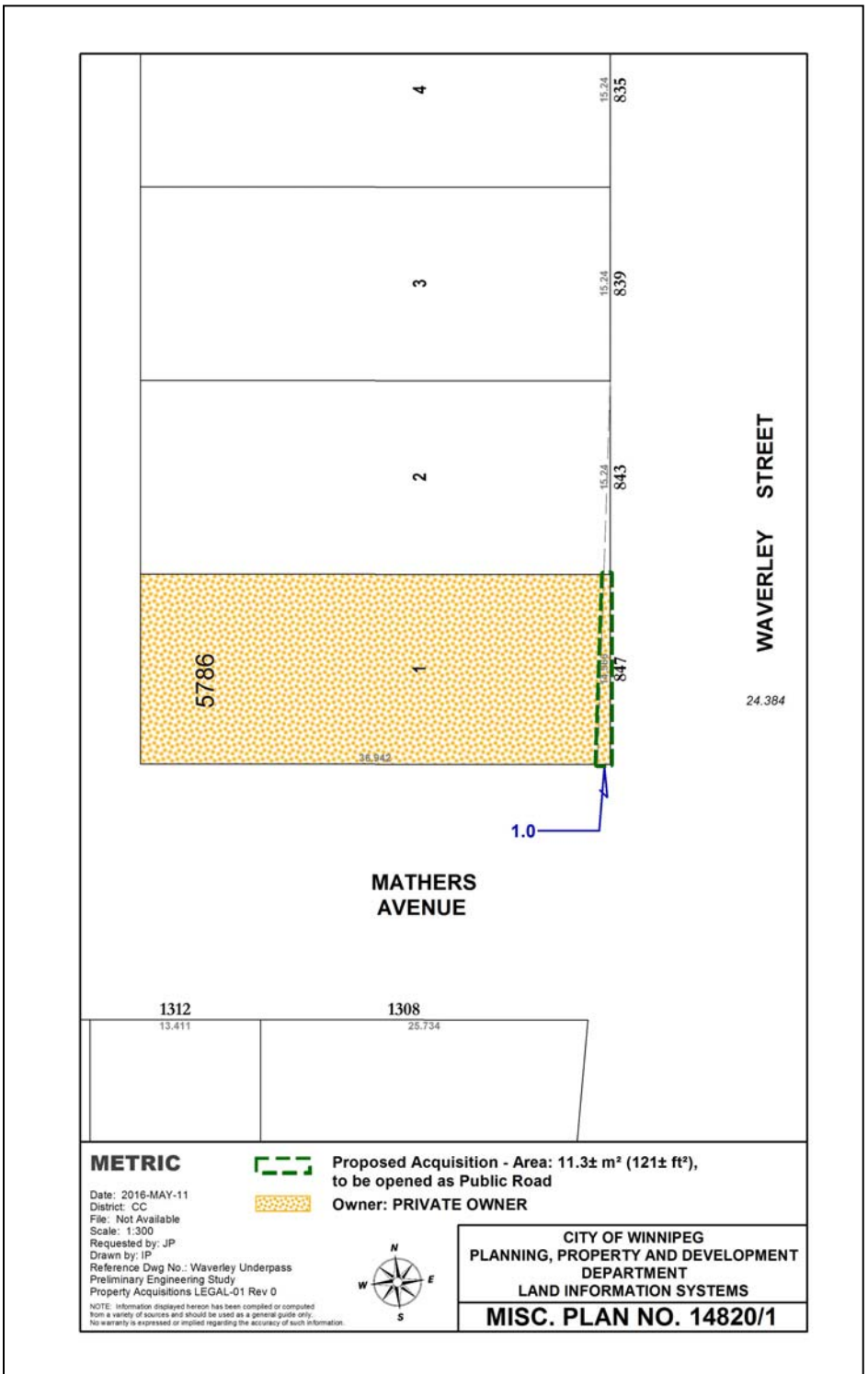
**Holding #13**

| | |
|---|---|
| Location: | 1330 Taylor Avenue |
| Legal Description: | Lot 1, Plan 28968 |
| Certificate of Title: | 2786603 |
| Zoning: | C2 |
| Property: | Part taking – 498.6m2±, (5,367 ft2±). To be opened as Public Road. |
| Description: | Landscaping, interruption to front approach and relocation of sign. |



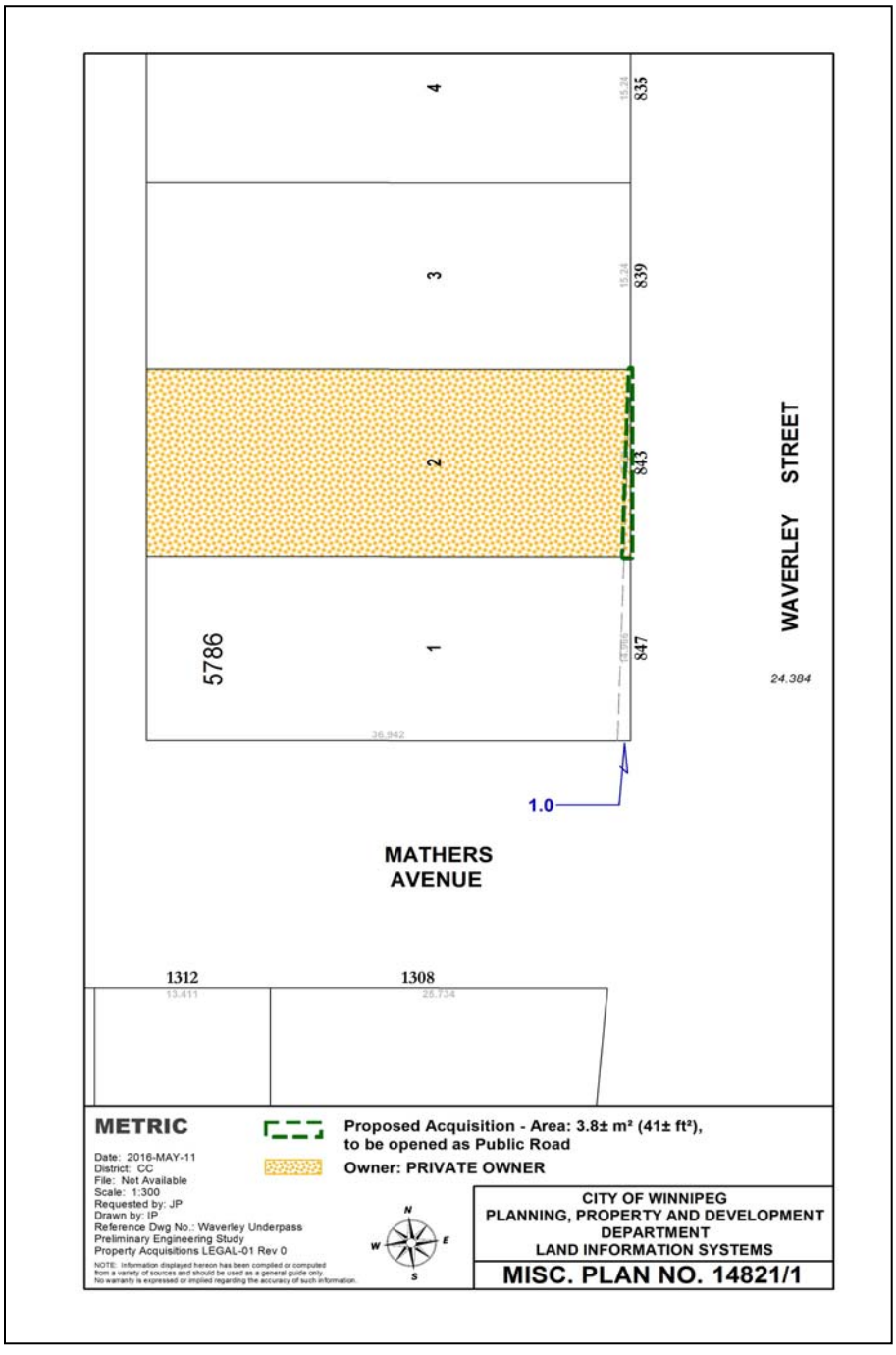
**Holding #17**

| | |
|---|---|
| Location: | 847 Waverley Street |
| Legal Description: | Lot 1, Plan 5786 |
| Certificate of Title: | 2519616 |
| Zoning: | R1-M |
| Property: | Part taking – 11.3m2±, (121ft2±). To be opened as Public Road. |
| Description: | Landscaping, interruption to front sidewalk. |



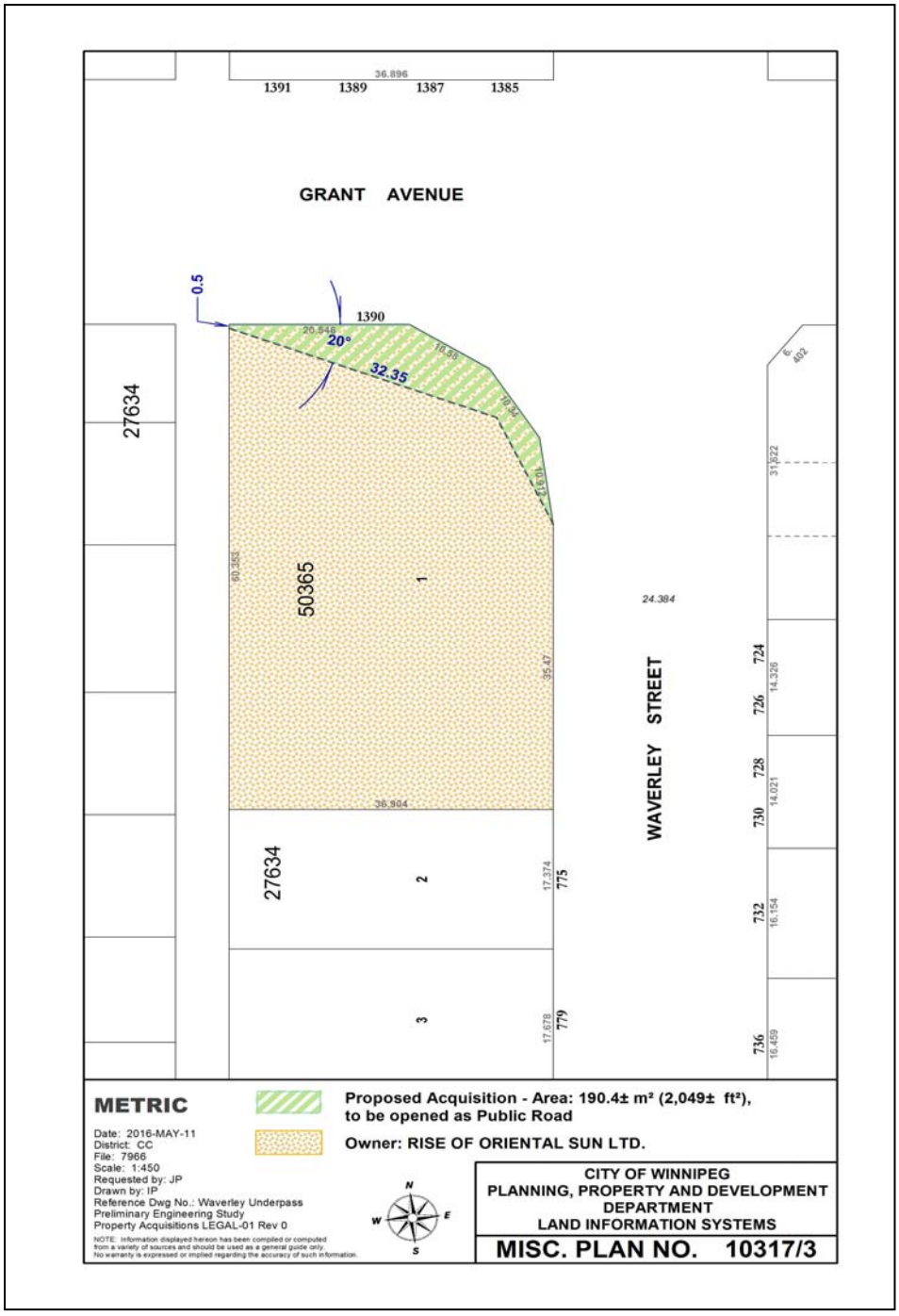
**Holding #18**

| | |
|---|---|
| Location: | 843 Waverley Street |
| Legal Description: | Lot 2, Plan 5786 |
| Certificate of Title: | 2666378 |
| Zoning: | R1-M |
| Property: | Part taking – 3.8m2±, (41 ft2±). To be opened as Public Road. |
| Description: | Landscaping, interruption to front sidewalk. |



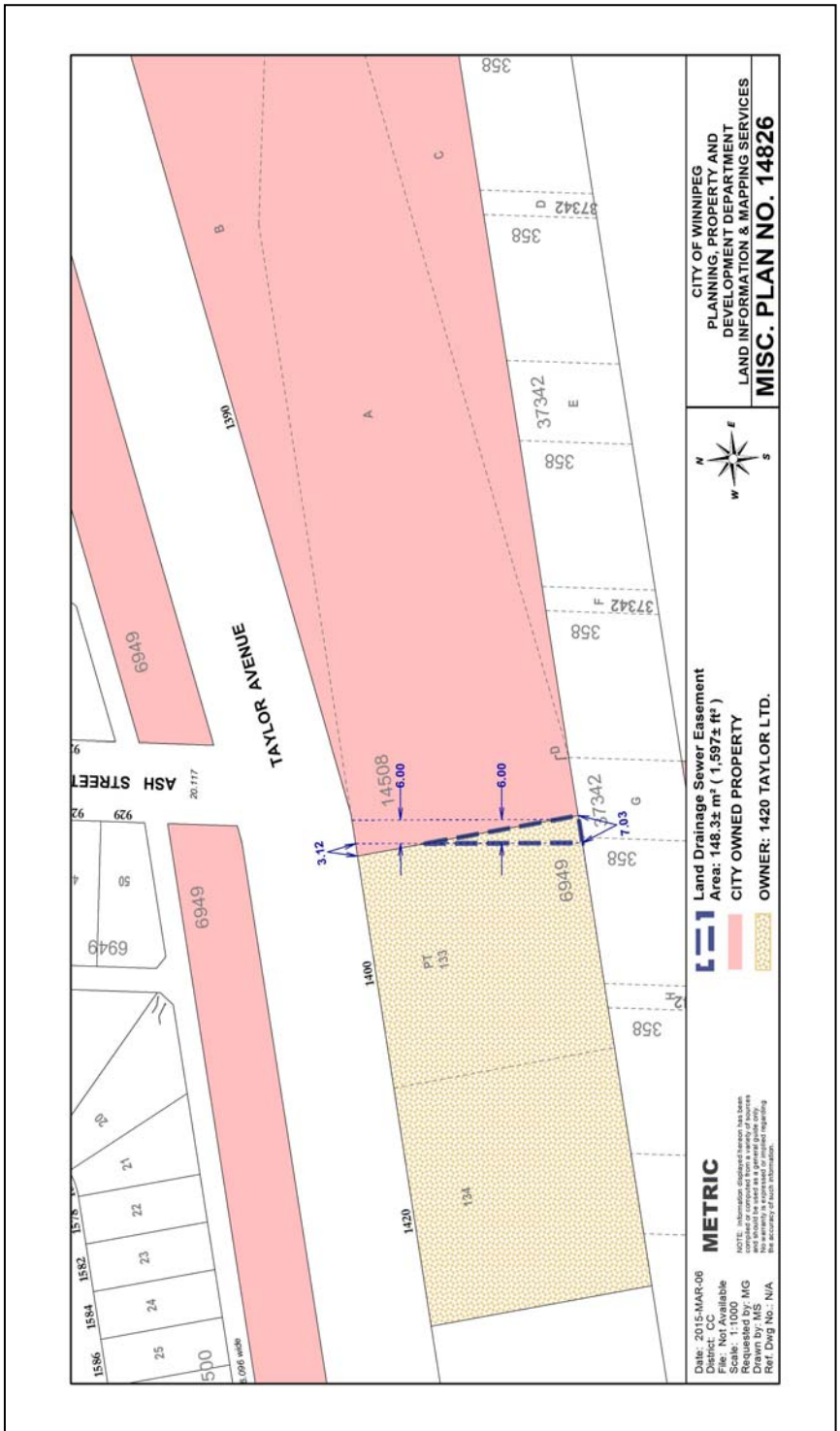
**Holding #19**

| | |
|---|---|
| Location: | 1390 Grant Avenue |
| Legal Description: | Lot 1, Plan 50365 |
| Certificate of Title: | 2475928 |
| Zoning: | C2 |
| Property: | Part taking – 190.4m2±, (2,049ft2±). To be opened as Public Road. |
| Description: | Small grassy area with scrubs. |



**Holding #20**

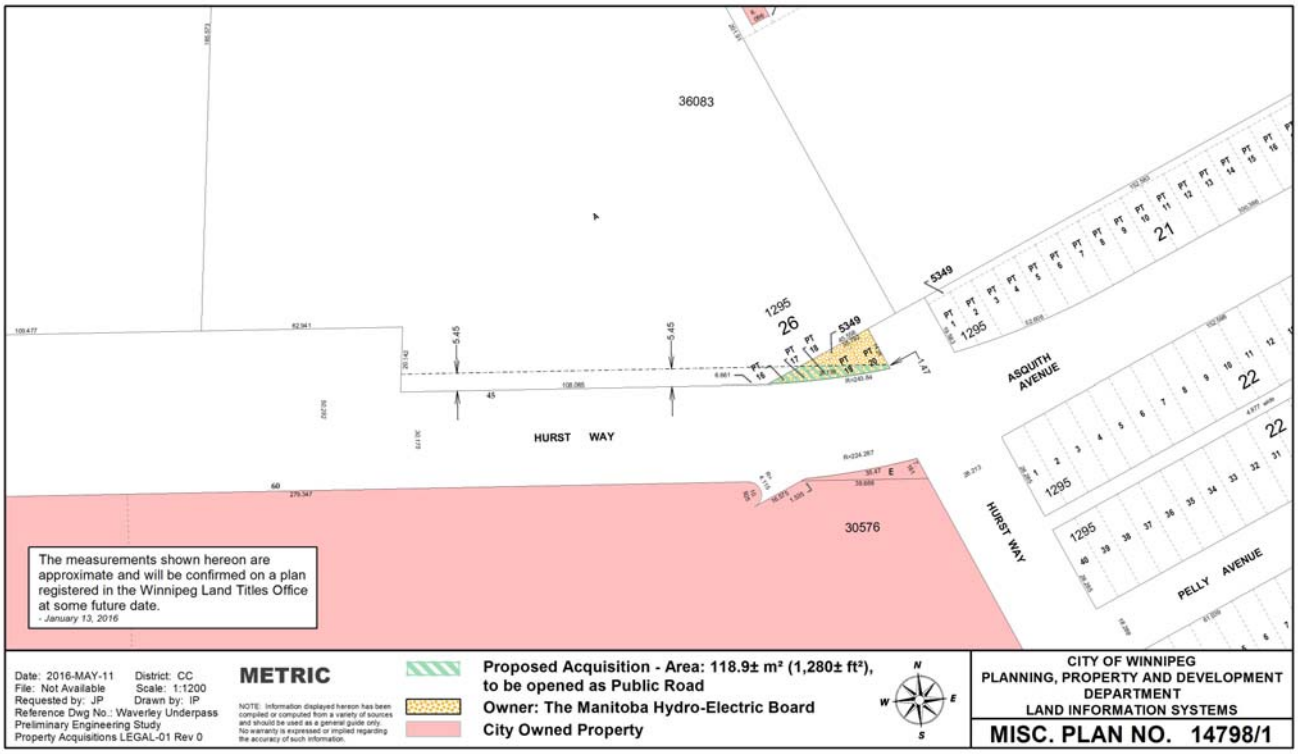
| | |
|---|---|
| Location: | 1420 Taylor Avenue |
| Legal Description: | Wly 195F Lot 133, Plan 6949, Parish 46/52 St. B.<br>Lot 134, Plan 6949, Parish 46/52 St. B. |
| Certificate of Title: | 2372570 |
| Zoning: | M1 |
| Property: | Easement -148.3 +/-m2±, (1,597 ft2±) |
| Description: | Portion of parking area. |



## Schedule "B"

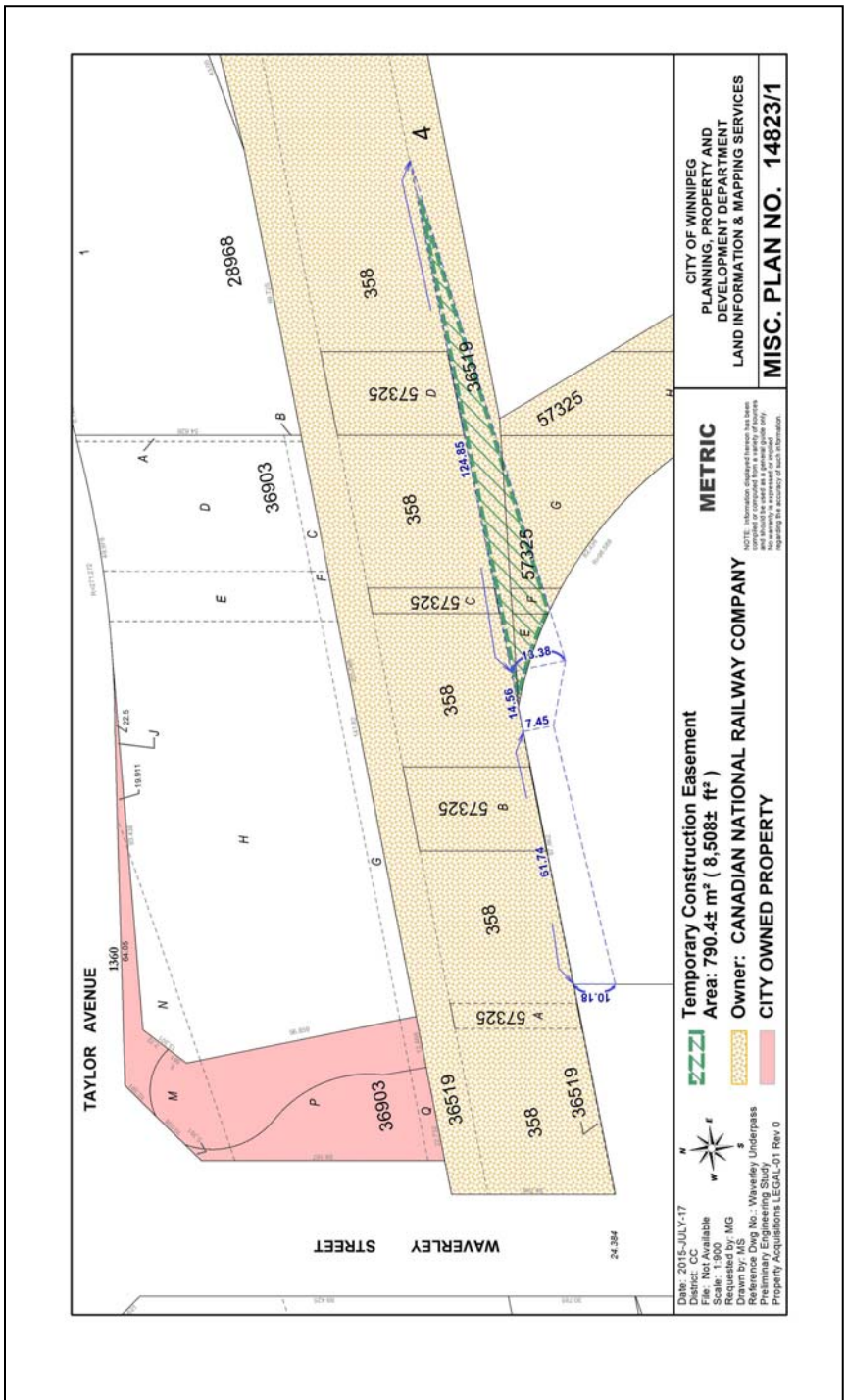
### Holding #8

| | |
|---|---|
| Location: | North west corner of Hurst Way and Asquith Avenue |
| Legal Description: | Lots 16 to 20, Block 26, Plan 1295 and Public Lane, Plan 1295 WLTO (now closed) |
| Certificate of Title: | 1360570 |
| Zoning: | M2 |
| Property: | 118.9m2±, (1,280 ft2±). To be opened as Public Road. |
| Description: | The site is currently used by the Manitoba Hydro Electric Board as a Hydro Corridor. |



**Holding #14, 15 and 16**

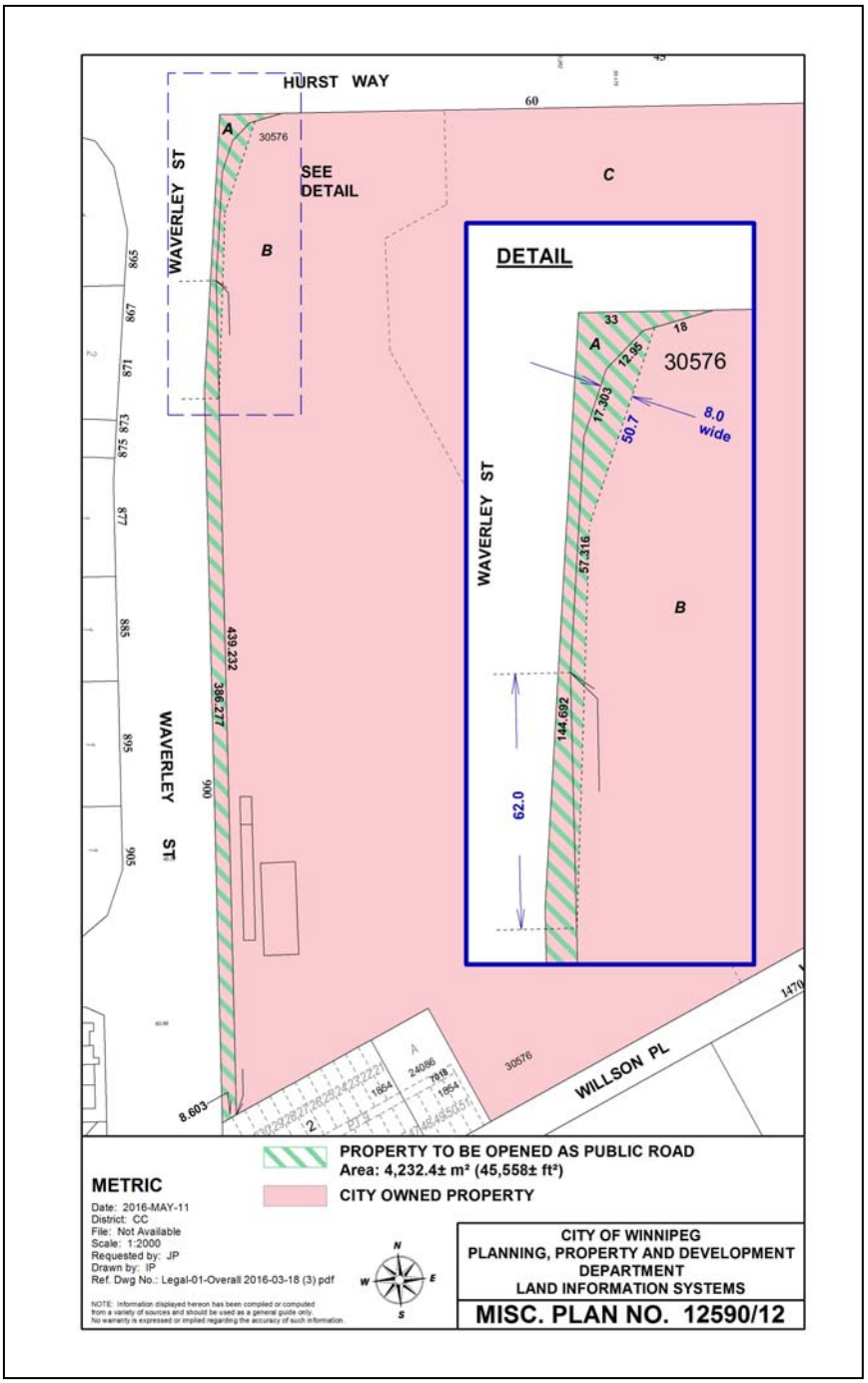
| | |
|---|---|
| Location: | South of Taylor Avenue and east of Waverley Street |
| Legal Description: | Block 4, Plan 36519, Parcels E and G, Plan 57325, Parcels F and H, Plan 57325 |
| Certificate of Titles: | 1606400, 2771259, 2771256 |
| Zoning: | M2 |
| Property: | Construction Easement – 790.4m2±, (8,508ft2±) |
| Description: | Portion of railway tracks |



## Schedule "C"

**Holding #7**

| | |
|---|---|
| Location: | North east corner of Waverley Street and Hurst Way |
| Legal Description: | Parcels A, B, C, D, and E, Plan 30576 |
| Zoning: | M1 |
| Certificate of Title: | 1343789 |
| | 4,232.4m2±, (45,558±) to be opened as Public Road. |
| Description: | The property houses the Wilkes Reservoir (a Regional Reservoir) and Hurst Pumping Station. City of Winnipeg owned property. |



**Holding # 21**

Location: 1360 Taylor Avenue
Legal Description: Parcels J, M, P, and Q, Plan 36903 in RL 46 Parish of St. Boniface
Certificate of Title: 1628326/1
Zoning: M1
Property: City owned land, shown as : "Roads to be Opened " on Misc. Plan No. 13128/1. To be opened as Public Road.
Description: Currently leased to Mondo Foods Co. Ltd. Part of Piazza De Nardi's parking area, landscaped area. Approaches will be removed/reconfigured.

