Agenda - Council - February 25, 2004

Report - Standing Policy Committee on Property and Development - February 5, 2004

Item No. 6 Option to Purchase 14.91 Acres of Tree Stand Lands in Bois des Esprits under DASZ 19/2000
File FI-2(35)

STANDING COMMITTEE RECOMMENDATION:

On February 18, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, as amended, and submits the following to Council:

1. That the Director of Planning, Property and Development be instructed to enter into an extension of the Option to Purchase Agreement for one (1) year, provided the Province of Manitoba absorbs all of the Land Transfer Tax that would normally be applicable to the acquisition of this land and that no further interest charges would apply to the purchase price beyond February 28, 2004.

2. That the City's current Option to Purchase the subject property shown on Misc. Plan No. 11303/4 (Category III land) not be exercised at this time.

3. 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 - February 5, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 18, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 5, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation with the following amendments, namely:

- Delete the words “Subject to Recommendations 2, 3 and 4” in the first line of Recommendation 1.

- Delete recommendations 3 and 4 in their entirety and renumber the remaining recommendation,

and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Option to Purchase 14.91 Acres of Tree Stand Lands in Bois des Esprits under DASZ 19/00

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

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

Report date: January 14, 2004

Recommendation(s):

1. Subject to Recommendations 2, 3 and 4 herein, that the Director of the Planning, Property and Development Department be instructed to enter into an extension of the Option to Purchase Agreement for one (1) year, provided that the Province of Manitoba absorbs all of the Land Transfer Tax that would normally be applicable to the acquisition of this land and that no further interest charges would apply to the purchase price beyond February 28, 2004.
2. That the City's current Option to Purchase the subject property shown on Misc. Plan No. 11303/4 (Category III land) not be exercised at this time.
3. Subject to Recommendations 1, 2 and 4 herein, that the Director of the Planning, Property and Development Department be instructed to advise the Province of Manitoba, the Save our Seine River Environmental Inc. and Grandin Park Development Ltd. that the City is prepared to match dollar for dollar any further alternative sources of funds up to the $423,387.68 remainder of the $.6M maximum (City's share), to be comprised of either land or cash or a combination thereof, for one year to December 31, 2004.
4. Subject to recommendations 1, 2 & 3 herein, that an additional appropriation not to exceed $423,387.68 be approved, as may be required.

REPORT SUMMARY

Key Issues:

- The City has negotiated and obtained the attached Option to Purchase 14.91 acres (Category III land) of tree stand land from Ladco Company Limited (Ladco). Ladco is the managing partner of Grandin Park Development Ltd. (Grandin Park), which is a development company jointly owned by the Province of Manitoba (38%) and Ladco (62%). This Option expires on February 28, 2004, unless extended by mutual agreement. The cost to exercise this Option is estimated to be within a budget of $1.2M (City's share would be no more than $423,387.68 less a further sum of approximately $8,000 owing to the Province for some of the Categories I & II lands).

- All of the Categories I and II lands, comprising 63.41 acres, within Bois des esprits have now been acquired by the City at an aggregate cost of $1.666M (City's share). Due to a final determination that the size of the Categories I and II lands located within a Public Reserve is greater than initially estimated, $176,612.32 of that sum was taken from miscellaneous funds and treated as part of the City's matching funds. The SOS/Province matched this sum. As well, the Province front ended an additional sum of matching funds in the approximate amount of $8,000 for which the City currently has no funding source. The precise amount is subject to further discussion with Ladco, the managing partner in Grandin Park Development Ltd..

- The Save our Seine River Environment Inc. (SOS) had until year end of 2003 to complete its fundraising in order to acquire as much of the tree stand land as possible. The City made a commitment, subject to Council approval, of up to a further $0.6M in matching dollars. In December 2003, the Province, Ladco and the SOS requested that the City agree to a further one year extension of its cost matching deadline in order to work to protect the final 14.91 acre Category III lands.

- Pursuant to DASZ 19/2000, the 14.91 acres of Category III land became zoned "RM-2" Multiple-Family on December 31, 2003. Grandin Park has advised that no development is scheduled to take place on this land before the year 2005; thus, should it be acquired for public use, a rezoning to "PR-1" can take place immediately thereafter.

Implications of the Recommendation(s):

General implications:

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

Comment(s):

- An acquisition of the final 14.91 acres (the Category III land) would require funding in the approximate amount of $1.2M to be in place. The Province, Ladco and the SOS have requested that City Council consider a further one year extension of the "cost-matching" deadline.

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- These 14.91 acres constitute primarily young to middle-aged aspens that are colonizing abandoned farmland and although no detailed technical investigation has been made, this land visually appears to be unpolluted.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

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

Comment(s):

- The recommendation of this report, i.e. that the City not exercise its Option to Purchase the subject property, has no new direct or immediate financial implication. However, should Council decide to extend its commitment to cost-match beyond the December 31, 2003 deadline, then either a source of new funds or a combination of new funds and potentially surplus realty assets in the sum of $423,387.68 will likely be required within the year.

REASON FOR THE REPORT:

The City's Option to Purchase the "SUBJECT PROPERTY 14.91 ACRES", shown on the attached Misc. Plan No. 11303/4, expires on February 28, 2004. Also, Council had previously indicated, among other things, that it was prepared to match dollar for dollar all other alternative sources to a maximum of $0.6M (City contribution) towards the acquisition of the tree stand. In December of 2003, the Province, Ladco and the SOS requested that the City agree to a further one-year extension of its "cost-matching deadline".

This report seeks direction as to whether the City is prepared to extend to December 31, 2004, its preparedness to match dollar for dollar any other alternative funding sources to a maximum of $0.6M (City contribution) and, if so, to extend the Option to Purchase accordingly. If the City is prepared to exercise that Option within the coming year, consideration should also be given to approval of an additional appropriation in an amount not to exceed $423,387.68 (i.e. the remainder of $0.6M after the City's expenditure of $176,612.32 in matching funds to date).

HISTORY:

The attached Misc. Plan No. 11303/3 illustrates the boundaries of the newest phase of the Royalwood development; as well, it illustrates the three categories of the approximately 80 acre tree stand within that development application DASZ 19/2000. The City of Winnipeg has been working with Save Our Seine River Environment Inc. (SOS), Ladco Company Limited (Ladco) and, more recently, the Province of Manitoba in an endeavor to preserve as much as possible of the entire tree stand as may be financially feasible. Ladco is the managing partner of Grandin Park Development Ltd. (Grandin Park), which is a development company jointly owned by the Province of Manitoba (38%) and Ladco (62%).

On June 19, 2002, Winnipeg City Council adopted a series of recommendations in this regard, as follows:

> *1. That the Director of the Planning, Property and Development Department be instructed to:*
>
> *a) Advise the developer that the City's financial contribution for acquisition of such portions of the tree stand lands above the waterway requirement as total available funding will permit will be based on a price of $65,000 per acre; and,*
>
> *b) Encourage the Save Our Seine River Inc. (SOS) to launch a "time-limited" fundraising campaign to December 31st, 2002, and to consider approaching various alternative sources of support such as the Evergreen Foundation, the developer, the Province of Manitoba and the community at large toward funding an acquisition of as much as possible of all three categories of the tree stand lands; and,*
>
> *c) Advise the S.O.S. that the City, subject to Council approval, is prepared to commit $1M towards the acquisition of the tree stand and in addition, is prepared to match dollar for dollar all other alternative sources to a maximum of $0.6M (City contribution) for funding the said proposed acquisition, all based on a price of $65,000 per acre;*

d) Identify and to report back as to the sources of funding and method of payment to use in acquiring the lands.

e) Obtain an independent assessment on the long-term traffic and environmental impacts of the three alternative bridge locations to access the proposed Royalwood Phase II residential development; and pending the opinion of this independent assessment, ensure that the lands now readily available for bridge construction be preserved accordingly.

2. That, subject to recommendation 1. e) above, an additional appropriation of $50,000 be provided in order to obtain the independent assessment.

On January 29, 2003, Council approved the development application DASZ 19/2000 upon certain terms and condition and further instructed the Administration to advise SOS that the "time limited" fund raising campaign has been extended to December 31, 2003, subject to the owner's (Ladco) consent. On May 1, 2003, Ladco confirmed in writing that on behalf of Grandin Park Development Ltd., it has extended the SOS fundraising date to December 31, 2003.

On March 26, 2003, Council considered the administration's recommendations on sources of funding and method of payment to use in acquiring the lands, and adopted the following:

1. That the funding to finance the City's $1M contribution to the acquisition of the Bois des Esprits be established as follows:

A. an additional appropriation of $270,000;

B. an approximate amount of $38,655 available in the Riel Community Land dedication Reserve Account be allocated towards the City's cost to acquire the tree stand lands;

C. the projects and accounts funded by the Land Acquisition for General Unspecified Purposes Account be closed and/or cancelled and the surplus funds (estimated to be $366,976) be reallocated towards the City's cost to acquire the tree stand lands.

(Note: the Administrative report had indicated that $500,000 had already been approved as an additional appropriation from the 2002 year end surplus)

2. That the Chief Administrative Officer be delegated the authority:

A. to finalize the acquisition of such lands as can be acquired within the proposed funding as identified in Recommendation 1;

B. to declare as surplus to the City's needs those City-owned properties as are identified on Misc. Plan No. 11720 and lying to the south of Bishop Grandin Boulevard and to the west of Waverley Street, as is appropriate;

C. to finalize a land exchange agreement with the Province of Manitoba to enable the transfer of the surplus lands as referenced in recommendation 2B;

D. to finalize the acquisition of an Option to Purchase the remaining tree stand lands to coincide with the conclusion of the extended Save Our Seine River Environment Inc. fundraising campaign as recommended by the Standing Policy Committee on Property and Development on January 6, 2003 (approved by Council on January 29, 2003).

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

A Public Reserve along the Seine River was included within DASZ19/2000 approved by Council on January 29, 2003. Later in the year 2003, this development was registered in the Winnipeg Land Titles Office as Plan of Subdivision No. 42013. This Public Reserve incorporates virtually all of the Categories I and II lands of this "A" quality habitat, leaving only the 14.91 acre Category III land remaining.

As instructed by Council on March 26, 2003, the Planning, Property and Development Department's Real Estate Division had negotiated the terms and conditions of an Option to Purchase the final 14.91 acres of tree stand (the Category III land) from Ladco. The Option to Purchase attached as Schedule "A", was then approved by the Director of Planning, Property and Development, on behalf of the Chief Administrative Officer, pursuant to instructions of April 1, 2003, to act as the CAO's designate in this matter.

The Save our Seine River Environment Inc. (SOS) had until year end of 2003 to complete its fundraising in order to acquire as much of the tree stand land as possible. The City made a commitment, subject to Council approval, of up to a further $0.6M in matching dollars. In December 2003, the Province, Ladco and the SOS requested that the City agree to a further one year extension of its cost matching deadline in order to work to protect the final 14.91 acre Category III lands.

Pursuant to DASZ 19/2000, the 14.91 acres of Category III land became zoned "RM-2" Multiple-Family on December 31, 2003. Grandin Park has advised that no development is scheduled to take place on this land before the year 2005; thus, should it be acquired for public use, a rezoning to "PR-1" can take place immediately thereafter.

DISCUSSION:

General

Early in this process, the City of Winnipeg's Naturalist, Forester, and Environmental Coordinator were all consulted in defining the quality of the tree stand. Their feedback is the basis for the following discussion:

This tree stand, including the portion lying below the waterway requirement, represents the largest and highest quality unmanaged river bottom forest remaining in Winnipeg. There are three categories in terms of quality of habitat (refer to Misc. Plan No. 11303/3).

Category One (1) *, i.e. the portion thereof which lies above the waterway requirement, consists of relatively healthy trees and understory woody shrubs. Mature bur oak dominates the upland. Construction would destroy virtually all the oaks even if some were left for landscaping purposes. These 32 acres (subject to final calculation based on a survey) were recommended for acquisition by the City.*

Category Two (2) *, i.e. the portion thereof which lies above the waterway requirement in the vicinity of the bridge crossing opposite Southglen Boulevard. The bur oaks are not as old (large) as in Category One. Also, the soils are moister and so the trees show growing stress and many are in a state of decline (are dying back).*

Category Three (3) *consists of primarily young to middle-aged aspens that are colonizing abandoned farmland. Within this category is a grouping of a unique clone of aspen unlike any other observed in Winnipeg. These should be preserved through vegetative propagation in a tree nursery, if they are not preserved as a small park.*

Categories I and II lands

All of the Categories I and II lands have been acquired and are now contained within a Public Reserve.

Category III land

In the event that the City's Option to Purchase were to be exercised by the City on or before February 28, 2004, the purchase price would be $969,150 plus interest at 5.75% per annum calculated from the date that the Vendor's Plan of Subdivision was registered in the Winnipeg Land Titles Office up until the closing date for this proposed transaction. Additional related costs would include the Land Transfer Tax, net GST, finance administration charges and miscellaneous disbursements; thus, funds would be required in the total estimated sum of $1.2M to complete this transaction (the City's share would be no more than $423,387.68 less a further sum of approximately $8,000 owing to the Province for some of the Categories I & II lands). Ladco had formally advised in a letter dated September 15, 2003, that it is not prepared to amend the Option to Purchase in order to provide for a purchase by the City of anything less than the full 14.91 acre parcel.

Due to a final determination that the size of the Categories I and II lands located within the Public Reserve is greater than initially estimated, approximately $184,600 of matching funds were required by the City (in addition to the initial $1M commitment). $176,612.32 in miscellaneous funds were available and treated as matching dollars, while a remainder of approximately $8,000 has been front ended by the Province of Manitoba to be reimbursed by the City at a later date. Accordingly, the City's earlier preparedness to commit an additional $0.6M in matching funds has a balance of $423,387.68, less approximately $8,000 owing to the Province, in order to help fund an acquisition of the remaining 14.91 acre Category III land. Some of the actual cost to acquire the Category III land may possibly be comprised of surplus City-owned lands, thus the full amount may not ultimately need to be in the form of cash.

The SOS has indicated that it has thus far succeeded with $115,000 in fundraising for its matching dollars towards acquisition of as much of the tree stand as possible. $5,080 of that was required for administrative expenses and the remaining $109,920 was paid to the City and matched by the City in order to help complete acquisition of the Categories I and II lands. The Province of Manitoba also made a contribution of funds to the SOS that was matched by the City. The SOS with assistance from the Province would still be required to raise an estimated $0.785M to enable the acquisition of the final 14.91 acres (Category III land) that are currently

under Option to the City until February 28, 2004. The SOS is currently awaiting the City's decision regarding its request that the City agree to a further one year extension of its cost matching deadline in order to work to protect the final 14.91 acre Category III lands.

The Province of Manitoba, through its Community and Economic Development Committee of Cabinet, advised on December 23, 2003, that it looks forward to meeting with the City, the SOS and Ladco in the near future to discuss fundraising and other options for the acquisition and protection of these Category III lands. These other options may include potential exchanges of land for affordable housing. The Province, through MHRC, has advised that as a special case, it is prepared to absorb the cost of the Land Transfer Tax (estimated to be $13,218) that would be applicable to the Category III land when purchased by the City, i.e. if the City is prepared to extend the fundraising deadline and keep its matching dollars available as requested by the Province and the SOS; the Province has also advised that no further interest charges on the purchase price for the final 14.91 acres would accrue due to this further fundraising extension.

The Option to Purchase will require consideration by Council before the end of February of 2004, after which the Option becomes null and void. As of January 1, 2004, this land became zoned RM-2 Multiple Family District pursuant to the terms of Council's approval of DASZ 19/2000 on January 29, 2003. However, Grandin Park has advised that no development will occur on this land before 2005, thus, should it be acquired for public use a rezoning to "PR-1" can take place immediately thereafter.

Financial Implications

Currently, there is no identifiable source of funding for the additional matching dollars that Council had indicated it is prepared to further commit to a maximum of $0.6M (City contribution) for funding the proposed acquisition, all based on a price of $65,000 per acre. Earlier in 2003, the Province orally indicated that it does not require much of either the City's or the privately owned land that is not required to form part of a large block of MHRC-owned land in the Waverly West area. Therefore, although the Province was not at that time interested in a land exchange as proposed by the Planning, Property and Development Department, it would appear at this time that some of the City's real estate assets in this area (total 1999 level assessed value of $316,300) could potentially be utilized to partly account for the City's future $0.6M obligation, i.e. in the event that Council approves the requested one year extension of time. Should Council decide to extend its commitment to cost-match beyond the December 31, 2003 deadline, then either a source of new funds or a combination of new funds and potentially surplus realty assets in the sum of $423,387.68 will likely be required within the year.

Financial Impact Statement

Date: January 14, 2004

Project Name:

Proposed Option to Purchase 14.91 Acres of Tree Stand Lands in Bois Des Esprits under DASZ 19/00

First Year of Program 2004

	2004	2005	2006	2007	2008
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
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	$ 423,388	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 423,388	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ 423,388	$ -	$ -	$ -	$ -

Additional Comments:

The above amount is the maximum amount of additional funding that would be required to comply with Council's commitment to cost share treestand acquisition funding with the SOS group up to a maximum of $.6 million. This amount includes approximately $8,000 still required to fund the category I and II lands. This amount could be reduced by the value of lands that might be provided to Grandin Park Development Ltd. in exchange for the tree stand lands and also by the possibility that SOS or other sources external to the City are unable to raise all of the matching funding.

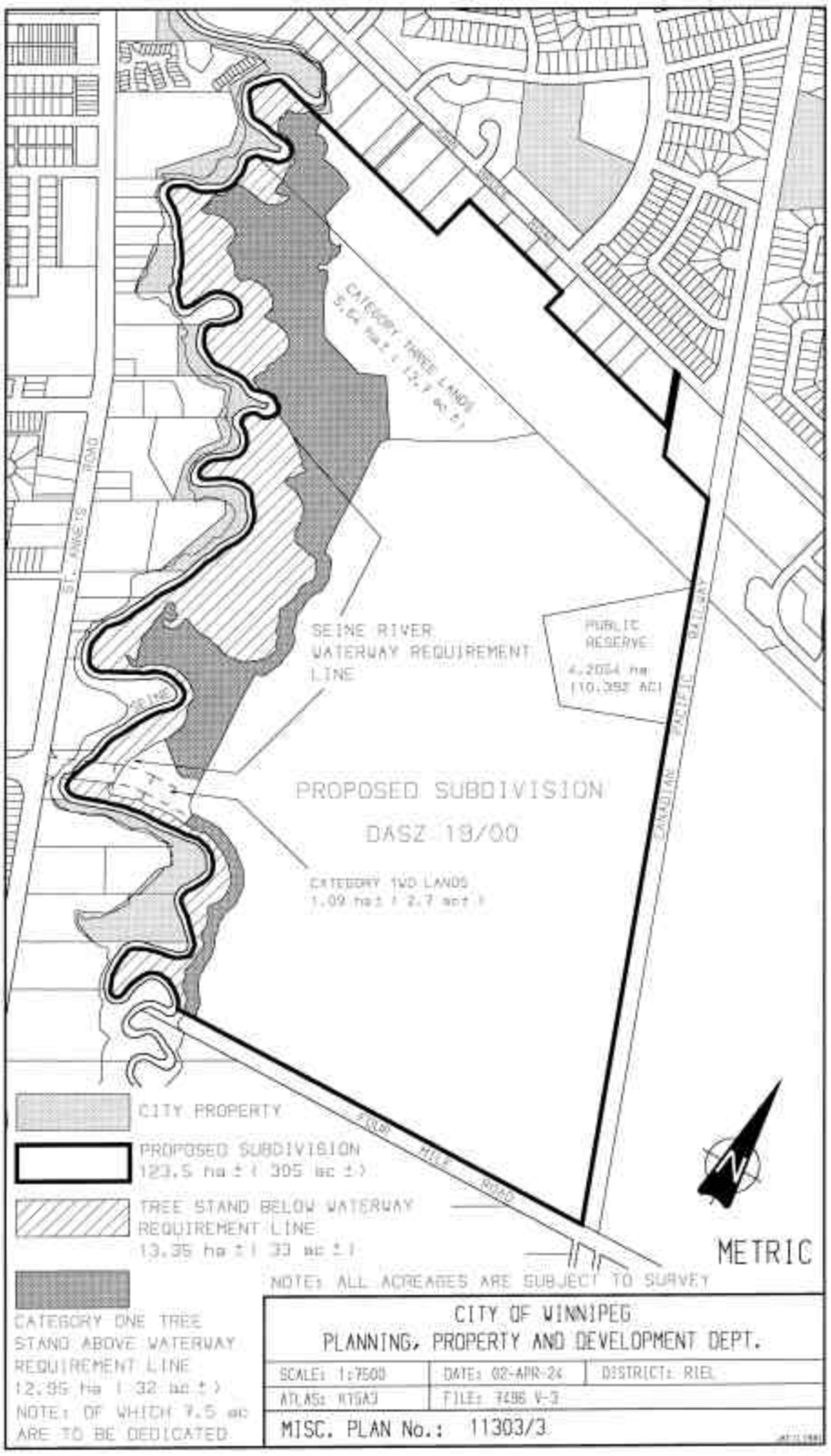
"Original signed by"
Gord Courage, Manager
Support Services Division

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 Division
Prepared by: Vic Mikolayenko
PPD File #: 7496 (V-6)

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


ST. ANNES ROAD
SEINE RIVER
CATEGORY THREE LANDS
5.64 ha ± (13.9 ac ±)
SEINE RIVER
WATERWAY REQUIREMENT
LINE
PUBLIC
RESERVE
4.2054 ha
(10.392 AC)
CANADIAN PACIFIC RAILWAY
PROPOSED SUBDIVISION
DASZ 19/00
CATEGORY TWO LANDS
1.09 ha ± (2.7 ac ±)
CITY PROPERTY
PROPOSED SUBDIVISION
123.5 ha ± (305 ac ±)
TREE STAND BELOW WATERWAY
REQUIREMENT LINE
13.35 ha ± (33 ac ±)
CATEGORY ONE TREE
STAND ABOVE WATERWAY
REQUIREMENT LINE
12.95 ha (32 ac ±)
NOTE: OF WHICH 9.5 ac
ARE TO BE DEDICATED
METRIC
NOTE: ALL ACREAGES ARE SUBJECT TO SURVEY
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:7500
DATE: 02-APR-24
DISTRICT: RIEL
ATLAS: R13A3
FILE: 7496 V-3
MISC. PLAN No.: 11303/3

Schedule "A"

THIS OPTION AGREEMENT made in duplicate this 15th day of ~~September~~ October, 2003.

BETWEEN:

LADCO COMPANY LIMITED
of the City of Winnipeg, in Manitoba
(herein called "*the Vendor*"),

OF THE FIRST PART,

- and -

THE CITY OF WINNIPEG
(herein called "*the City*"),

OF THE SECOND PART.

WHEREAS the Vendor and The Manitoba Housing and Renewal Corporation ("MHRC") created a joint venture pursuant to a Joint Venture Agreement dated May 11, 1989 for the purposes of developing certain lands in the City of Winnipeg (the "Joint Venture");

AND WHEREAS the Vendor is the appointed manager of the Joint Venture assets;

AND WHEREAS the Vendor is the registered owner, for and on behalf of the Joint Venture, of lands comprising approximately 14.91 acres (shown as "SUBJECT PROPERTY" ON THE ATTACHED Misc. Plan No. 11303/4) within Development Application No. DASZ 19/00 in the City of Winnipeg, Manitoba, and legally described as:

Lot 2 in Block 6, Plan Deposit No. 385/2003, WLTO

(herein called "the said lands")

AND WHEREAS the City has applied to the Vendor for and the Vendor has agreed to grant to the City an irrevocable option to purchase the said lands upon the terms and conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the parties hereto agree, each with the other, as follows:

1. In consideration of the sum of ONE ($1.00) DOLLAR now paid by the City to the Vendor, the Vendor hereby grants to the City an irrevocable option to purchase the said lands, (herein called "the Option") upon the terms and subject to the conditions set forth in this Agreement.

2. The Option may be exercised by the City at any time on or before the 28th day of February, 2004, by providing written notice to the Vendor and/or the Vendor's named legal counsel, of its intention to exercise the Option. Upon the City so providing notice, this Option Agreement shall constitute a binding contract of purchase and sale of the said lands in accordance with the provisions hereof.

3. In the event the City does not exercise the Option on or before February 28, 2004, this Agreement shall be deemed fully ended and the right of the City to purchase the said lands pursuant to the Option shall be null and void, whereupon the City shall promptly discharge any Caveat that it has filed pursuant to paragraph 7(f) hereof.

4. The parties hereto acknowledge and agree that in the event the city exercises the Option:

   (a) The agreed purchase price for the said lands shall be NINE HUNDRED SIXTY NINE THOUSAND ONE HUNDRED AND FIFTY ($969,150.00) DOLLARS, (herein called the "purchase price");

   (b) In addition to payment of the purchase price, the City shall pay to the Vendor interest calculated at the rate of 5.75% per annum on the

purchase price for the period commencing on the date that the Vendor's Plan of Subdivision (Deposit 385/2003 WLTO) is registered in the Winnipeg Land Titles Office and ending on the date of closing of the sale of the said lands pursuant to the Option.

(c) The date for possession and the payment of the purchase price and other amounts under this paragraph 4 shall be as mutually agreed upon between the parties hereto, but in any event, shall not be later than Ninety (90) Days following the date the City exercises the Option, (herein called "the Closing Date"); and

(d) Title to the said lands shall be conveyed to the City, on the Closing Date, free from any and all registered encumbrances, liens or interests whatsoever, save and except any public utilities thereon, a Caveat to be registered by the City in respect of this Option Agreement and any other registrations in favour of The City of Winnipeg.

5. The Vendor hereby warrants and declares that:

(a) The said lands do now and shall on the Closing Date comply with all applicable, zoning restrictions, by-laws and/or regulations; and

(b) The said lands are not now and shall not on the Closing Date be subject to any work orders of any nature whatsoever.

The Vendor will provide to the City on the Closing Date a declaration of the Vendor in support of this warranty.

If prior to the Closing Date, the City determines that the said lands do not comply as set out in subparagraph 5(a) and/or are subject to work orders as set out in subparagraph 5(b), the City may, at its sole discretion, elect to cancel the transaction herein contemplated. Provided, however, that upon closing the purchase and sale transaction the City shall be deemed to have accepted the said lands in the condition they existed on the Closing Date, including being

subject to any work orders or not complying with zoning restrictions or regulations, all without recourse to the Vendor.

6. The City shall be entitled at any time prior to the Closing Date, to enter in, on or upon the said lands for the purposes of conducting or having conducted on its behalf and at its sole risk, cost and expense, an environmental study and/or soil testing of the said lands, and if it is determined as a result thereof that there are environmental concerns, the City may, at its sole discretion, elect to cancel the transaction herein contemplated. The City shall, and shall ensure that, any studies and/or reports and the contents and findings thereof will be kept strictly confidential by the City and the firm that prepares such studies and reports subject to any legal requirement requiring disclosure and subject otherwise to the City's normal practice to advise Manitoba Conservation; provided, however, that the City shall also ensure that complete copies of all studies and reports are promptly provided to the Vendor. The City shall repair any damage to the said lands resulting from such studies and testing.

7. The Vendor agrees:

   (a) To execute a Real Owner Application (in the form hereto attached) as "Registered Owner" and provide same to the City Solicitor on or before the Closing Date;

   (b) To be solely responsible for its own legal and other costs incurred in connection with the transaction herein contemplated;

   (c) That the said lands, until delivered to the City, shall remain at the sole risk and responsibility of the Vendor. In the event of substantial damage or waste to the said lands prior to the Closing Date, the City may elect to complete the purchase or alternatively, to cancel the purchase;

   (d) To deliver a registrable Transfer of Land of the said lands, duly executed by the Vendor on the Closing Date;

(e) Not to convey, dispose or encumber the said lands in any manner whatsoever except subject to this Option Agreement; and

(f) That the City shall be entitled to register a Caveat based upon this Option Agreement, in the Winnipeg Land Titles Office against the Vendor's title to the said lands, such Caveat to be in form and content satisfactory to the Vendor.

8. The City:

(a) shall pay the purchase price together with the other amounts payable under subparagraph 4(b) hereof to the Vendor or its solicitors on the Closing Date;

(b) agrees that except as may be expressly set out in this Option Agreement, there are no representations or warranties, expressed or implied, with respect to the said lands and the City, in deciding whether to complete the purchase and sale transaction contemplated hereby is relying upon its own inspection and investigations of the said lands and premises;

(c) will self-assess any tax payable in respect of this transaction. The City's G.S.T. Registration Number is R121682967. The City will deliver to the Vendor on the Closing Date a statutory declaration confirming such registration;

(d) represents that it is not now and on the Closing Date will not be a non-resident of Canada within the meaning of the Income Tax Act (Canada) and will deliver a statutory declaration to the Vendor on the Closing Date to that effect.

9. Any notice to either party under the provisions of this Agreement shall be in writing and shall be valid and effective only if given by personal delivery or by telecopier or by registered mail, postage prepaid (unless at the time of mailing there shall be a strike, interruption or lock out in the postal services, in which

case notice shall be given by personal delivery or by telecopier) addressed to such party as hereinafter set forth and shall be deemed to have been effectively given on the second day after the date of the mailing thereof or, in the case of personal delivery, on the date of personal delivery, or in the case of telecopier, on the next day following the date it was transmitted. The address of each party for notice shall be as follows:

To the Vendor at:

200 - 40 Lakewood Blvd.
Winnipeg, Manitoba R2J 2M6
Fax: 204-255-3652
Attention: Mr. David Borger

To the Purchaser at:

City of Winnipeg
3rd Floor 65 Garry St.
Winnipeg, MB, R3C 4K4
Fax: 204-947-2284
Attention: Director of the Planning, Property and Development Department

or to such other address to which any party may from time to time notify the other in writing in accordance with the terms and provisions of this paragraph.

10. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

11. This Agreement shall be construed in accordance with the laws of the Province of Manitoba.

12. Time shall in all respects be of the essence hereof.

13. This Agreement sets forth all of the terms, provisions and conditions of the agreement between the parties hereto and the parties agree that there are no other representations or warranties, expressed or implied, between the parties hereto.

14. Each and every provision of this Agreement is separate and severable and in the event that any provision or part thereof is found to be unenforceable, it shall not affect the enforceability of the remaining provisions or part thereof of this Agreement.

15. All references in this Agreement to dollar amounts shall be in lawful money of Canada.

IN WITNESS WHEREOF the parties hereto have executed this Option Agreement in the manner appropriate to each, the day and year first above written.

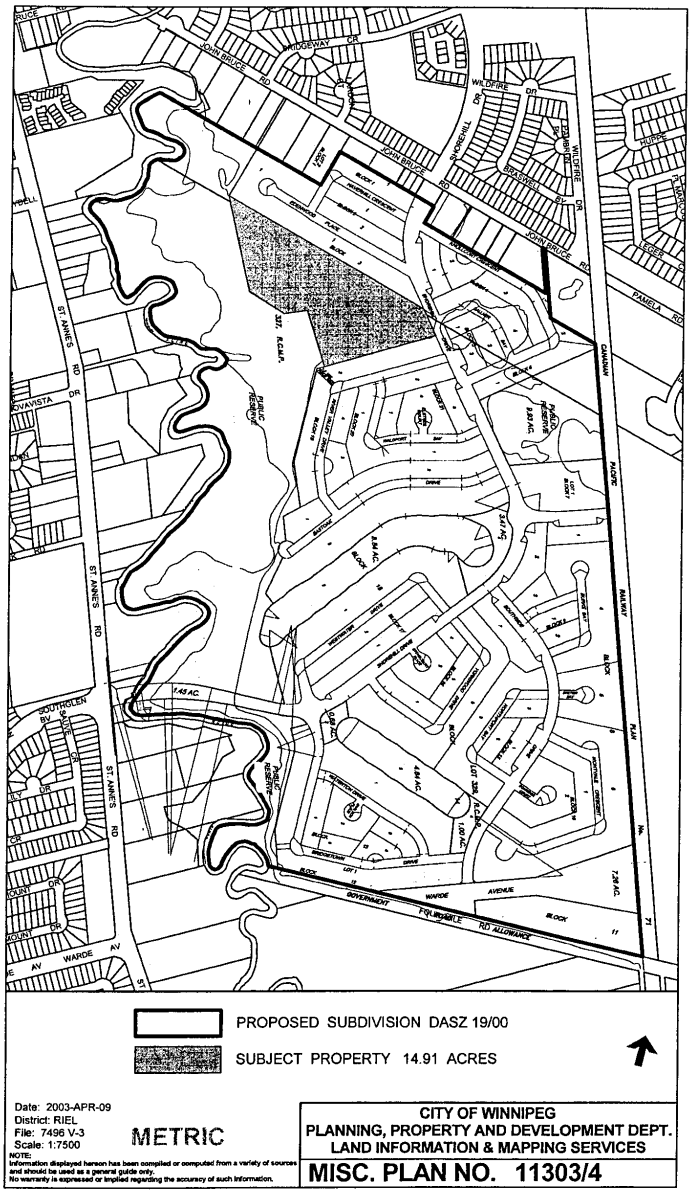
LADCO COMPANY LIMITED

Per: _____
~~President~~ Assistant Secretary

Per: _____
Vice-President, Development

THE CITY OF WINNIPEG

Per: _____ JR
Director of Planning, Property and Development


JOHN BRUCE RD
WILDFIRE DR
ST ANNES RD
PAMELA RD
CANADIAN PACIFIC RAILWAY
PUBLIC RESERVE
SOUTHOLEN RV
WARDE AVENUE
GOVERNMENT ROAD ALLOWANCE
PROPOSED SUBDIVISION DASZ 19/00
SUBJECT PROPERTY 14.91 ACRES
Date: 2003-APR-09
District: RIEL
File: 7496 V-3
Scale: 1:7500
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. 11303/4

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