Minute No. 350
Report - Standing Policy Committee on Property and Development – May 3, 2005

Item No. 20 **Sale/Exchange of Lands - southeast corner Bonner Avenue at Mitchelson Way**
File FI-2.4(33)

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 sale and exchange of lands between the City and Henry and Irena Kosciuczyk be approved as follows:

   A. Henry and Irena Kosciuczyk receive title to the City-owned property identified as Parcel "D" on Misc. Plan No. 12293/2.

   B. The City receive title to the Kosciuczyk property identified as Parcel "C" on Misc. Plan No. 12293/2 and $14,500.00, 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.

Minutes - Executive Policy Committee – May 11, 2005

Report - Standing Policy Committee on Property and Development – May 3, 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 May 3, 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 Sale/Exchange of Lands Located at the Southeast Corner of Bonner Avenue at Mitchelson Way**
East Kildonan - Transcona Community Committee
North Kildonan Ward

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

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

Report date: April 21, 2005

Recommendation(s):

1. That the proposed sale and exchange of lands between the City and Henry & Irena Kosciuczyk be approved as follows:

    a) Henry & Irena Kosciuczyk receive title to the City-owned property identified as Parcel "D" on Misc. Plan No. 12293/2, and

    b) The City receives title to the Kosciuczyk's property identified as Parcel "C" on Misc. Plan No. 12293/2 and $14,500.00, 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:

- In February of 1988, the City acquired the lands as shown in broken outline on Misc. Plan No. 7445 for the extension of Mitchelson Way to Bonner Avenue. In 1989, a portion of this parcel, shown hatched on said Misc. Plan was legally opened as a right of way.
- The balance of the City property shown as Parcel "A", Parcel "B" and Parcel "D" on Misc. Plan No. 12293/2, is considered surplus to this project.
- On June 22, 2004, Henry & Irena Kosciuczyk, the easterly adjoining owner, requested the purchase of this City property for inclusion in a proposed subdivision (DASZ 52/04).
- It was deemed to be in the City's best interest to portion off the subject property in a manner shown on the attached Misc. Plan No. 12293/2.
- Negotiations for a sale/exchange of the subject lands have been concluded.

- The Department is seeking approval of the Standing Policy Committee on Property and Development to the terms and conditions of the attached Offer to Purchase for the sale/exchange.

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 has concluded its negotiations for a sale/exchange of land at the Southeast corner of Bonner Avenue at Mitchelson Way. Approval by the Standing Policy Committee on Property and Development for the proposed sale/exchange is required.

HISTORY:

At its meeting held on May 2 1985, the Board of Commissioners considered a report from the then Director of Waterworks, Waste, and Disposal and the then Director of Environmental Planning (dated March 18, 1985), which instructed the then Land Surveys and Real Estate Department to undertake negotiations for the acquisition of the lands required for the extension of Mitchelson Way to Bonner Avenue.

In February of 1988, the City acquired the lands as shown in broken outline on Misc. Plan No. 7445 for this project. In 1989, a portion of this parcel, shown hatched on said Misc. Plan was legally opened as a right of way. The balance of the City property shown as Parcel "A", Parcel "B" and Parcel "D" on Misc. Plan No. 12293/2, is considered surplus to this project.

On June 22, 2004, Henry & Irena Kosciuczyk, the easterly adjoining owner, requested the purchase of this City property for inclusion in proposed subdivision (DASZ 52/04). Following a comprehensive review of land use and development alternatives, the Department discerned that it was in the City's best interest to portion off the subject property in the following manner as shown on the attached Misc. Plan No. 12293/2.

1. In accordance with the proposed subdivision, Parcel "A" (322 $ft^2\pm$) is to be legally opened as part of Bonner Avenue.
2. The City will acquire Parcel "C" (5,433$ft^2\pm$) from the owner of 732 Bonner Avenue (the applicant), which will create along with Parcel "B" a buildable lot fronting Bonner Avenue. The Department would then offer this lot for sale to the general public once all the servicing is in place.
3. The City will transfer Parcel "D" to the applicant for inclusion in the proposed subdivision.
4. The City-owned properties identified, as Control Areas 1, 2 and 3 will be dealt with as part of the Development Agreement.

DISCUSSION:

The Planning, Property and Development Department has concluded its negotiations with Henry & Irena Kosciuczyk for the sale/exchange of the lands in accordance with the terms and conditions set out in the attached Offer to Purchase dated November 15, 2004.

Details of the Offer to Purchase are as follows:

Purchase Price:	$14,500.00. In addition, the City to receive from the Purchaser Parcel "B" Misc. Plan No. 12293/2
Purchaser:	Henry & Irena Kosciuczyk
Terms:	$2,181.00, being 15% of the purchase price
Balance Due:	30 days from date of approval of the Offer by the City

The Department supports the sale/exchange of this property for the following reasons:

a) Inclusion of the subject property in the application to rezone and subdivide the adjoining property to the east provides for efficient use of the land.

b) The East Kildonan-Transcona Community Committee and the Standing Policy Committee on Property and Development concurred in the administrative report recommending subdivision and rezoning of the land in a manner shown on the attached Schedule "B".

c) The proposed sale price is supported by an internal appraisal report.

d) The property will generate realty tax upon closing of the sale.

Financial Impact Statement

Date: April 20, 2005

Project Name:

Proposed Sale/Exchange of Lands Located at the Southeast Corner of Bonner Avenue at Mitchelson Way

First Year of Program 2005

	2005	2006	2007	2008	2009
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	14,500	-	-	-	-
Net Cost/(Benefit)	$ (14,500)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (14,500)	$ -	$ -	$ -	$ -

Additional Comments:

Proceeds of disposition will accrue to the Land Operating Reserve.

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

4272

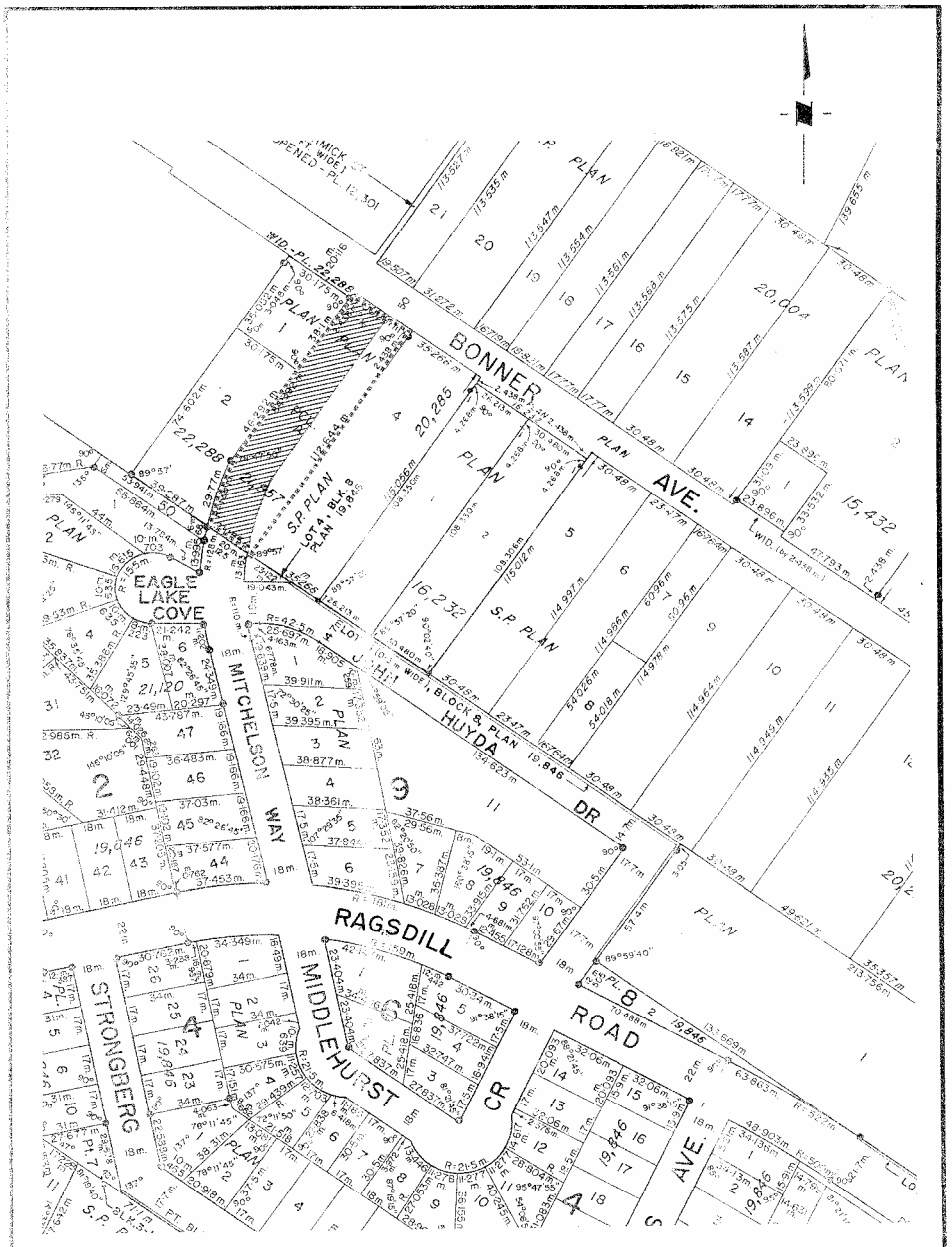
PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

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 File #: 5934

Document name: o:\reports directive\real estate\sales\(jp)bonner.doc



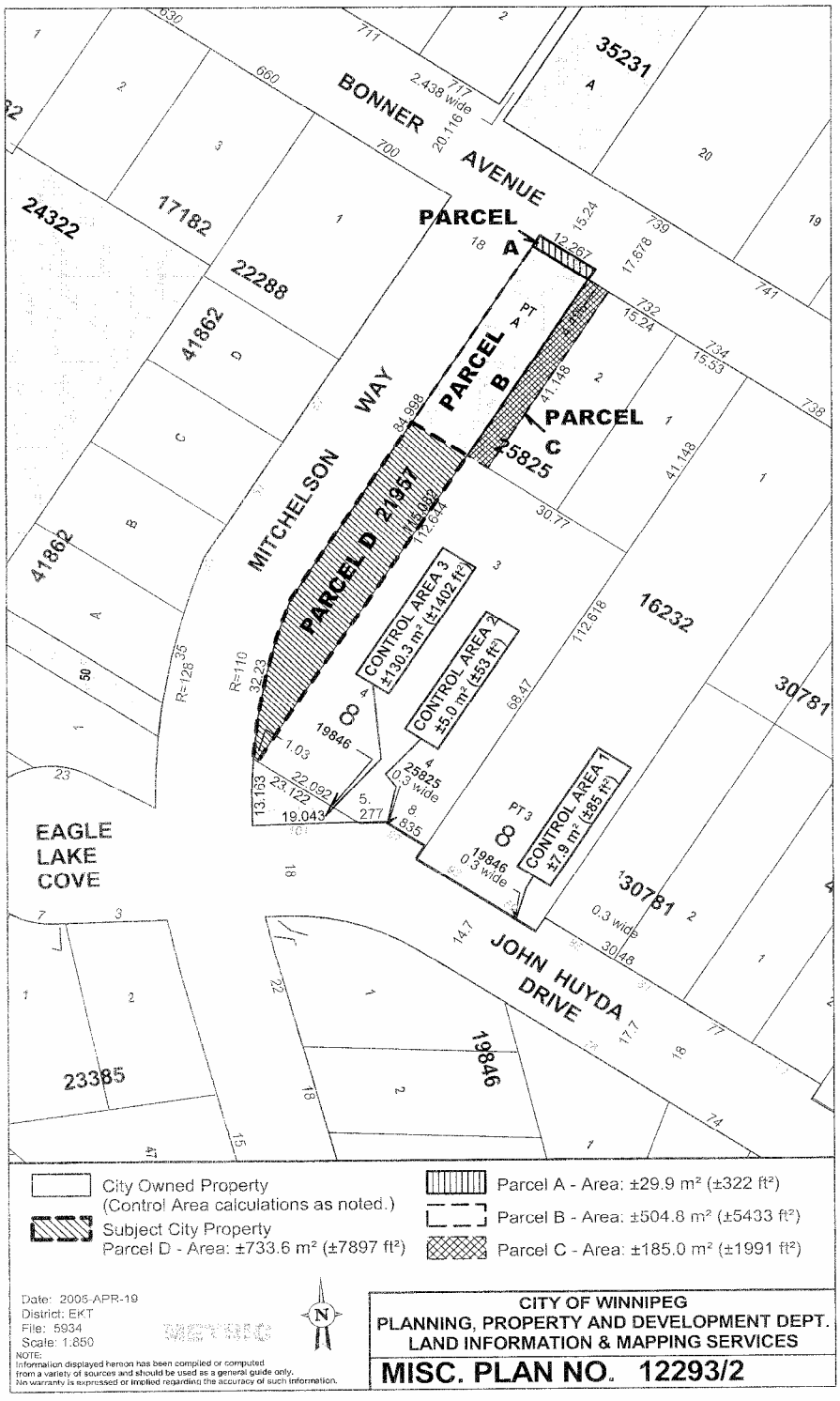
METRIC

Metric dimensions are designated with this Metric symbol "m". All other dimensions shown are Imperial.

THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.

SCALE 1: 2000	DATE MAR. 3/89	REVISIONS	
ATLAS U32	FILE EK5934/1-18 1-2	W.O.	F.B.

MISC. PLAN No. EKT 7445


BONNER AVENUE
MITCHELSON WAY
EAGLE LAKE COVE
JOHN HUYDA DRIVE
PARCEL A
PARCEL B
PARCEL C
PARCEL D
21957
25825
CONTROL AREA 3 ±130.3 m² (±1402 ft²)
CONTROL AREA 2 ±5.0 m² (±53 ft²)
CONTROL AREA 1 ±7.9 m² (±85 ft²)
35231
24322
17182
22288
41862
16232
30781
19846
23385
City Owned Property
(Control Area calculations as noted.)
Subject City Property
Parcel D - Area: ±733.6 m² (±7897 ft²)
Parcel A - Area: ±29.9 m² (±322 ft²)
Parcel B - Area: ±504.8 m² (±5433 ft²)
Parcel C - Area: ±185.0 m² (±1991 ft²)
Date: 2005-APR-19
District: EKT
File: 5934
Scale: 1:850
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. 12293/2

Schedule A

Kosciuczyk Co
File 5934/1-2.

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby agrees to include Part Parcel A, Plan 21957 within the proposed subdivision and offers to purchase from The City of Winnipeg (the "City") the following lands:

Part Parcel A, Plan 21957 (that portion shown as "Subject City Property" Parcel D on Misc. Plan No. 12293/1, attached hereto) (hereinafter called the "lands").

The Purchaser is the owner of that portion of Lot 3, Plan 25825, shown crosshatched as Parcel C on said Misc. Plan No. 12293/1 (hereinafter called Parcel "C").

In consideration of the City selling to the Purchaser the said lands, the Purchaser agrees as follows:

A. The Purchaser to transfer or deed to the City, free of all costs, charges and encumbrances, said Parcels "A, B and C" as shown on Misc. Plan No. 12293/1.

B. The Purchaser to pay to the City the sum of $14,540.00, being the difference in valuation between the lands and Parcel "C" payable as follows:

(1) Attached to this Offer is the Purchaser's certified cheque payable to "The City of Winnipeg" in the amount of $2,181.00, and represents an amount equal to fifteen (15%) percent of the purchase price which the Purchaser tenders by way of deposit, and which sum 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 City Council (in the event that Council approval is required) and/or its delegated authority. The Purchaser agrees to pay the balance of the purchase price, interest and adjustments within a period of thirty (30) days from date of the approval of the sale by the City's Standing Policy Committee on Property and Development and/or City Council (in the event that Council approval is required) and/or its delegated authority (the Date of Approval).

(2) If the Purchaser fails to pay the balance of the purchase monies and adjustments within thirty (30) days as in sub-clause (1) above provided, the City may, at its option, cancel the sale and retain the deposit as liquidated damages.

2. (1) The date for adjustments shall be the Date of Approval.

(2) Date of closing shall be sixty-one (61) days following the date of adjustments.

(3) 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 adjustments shall be calculated from the date of adjustments to and including the last day of the current taxation year.

(4) 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 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.

3. (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 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.

(3) The City will self-assess any Goods and Services Tax applicable in respect of the conveyance of Parcel "C" to it.

4. The Purchaser will obtain possession of the lands at the Purchaser's own expense.

5. All improvements in or on the said lands shall remain as part of the freehold.

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

7. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment of the lands and it is determined as a result thereof 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:

(1) take remedial action to bring the contamination levels within the Provincial Environmental Standards, **or,**

(2) cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date.

AND FURTHER, in the event the Purchaser fails to provide such documentation as aforesaid, the Purchaser hereby agrees to complete the purchase as herein contemplated and to indemnify and save harmless the City from and against any and all claims arising from or in any way attributable to the existence of contaminants of any kind whatsoever at, in, or upon the said lands.

8. 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 the Manitoba Hydro, Manitoba Telephone System, Centra Gas Manitoba Inc. or The City of Winnipeg, for the construction and/or maintenance of facilities 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 public utility or the City of Winnipeg, requiring such easement.

9. (1) The Purchaser shall include Part Parcel A, Plan 21957 within the Purchaser's proposed subdivision of adjoining lands.

(2) In the event that the said subdivision is disapproved by the City, sale of the lands shall become null and void and all monies paid by the Purchaser to the City on account of the purchase price shall be refunded without interest.

10. The lands shall be consolidated through subdivision with the Purchaser's adjoining land described as Lot 3, Plan 25825 on said Misc. Plan No. 12293/1.

11. The Purchaser shall apply for the subdivision of Part Parcel A, Plan 21957 and Lot 3, Plan 25825 and prepare or cause to be prepared, at the Purchaser's sole cost and expense, all necessary plans that may be required by the Winnipeg Land Titles Office to facilitate the transfer of the subject land, including the plan of subdivision, and all plans of easement required to grant any utility rights.

12. No commission is payable by the City on the sale of the lands.

13. The sale of the lands to the Purchaser shall be subject to the provision of the By-laws of the City of Winnipeg and all amendments thereto.

14. The Purchaser agrees that the City may register and maintain a caveat 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 Offer.

15. Upon approval of the sale by the City, the Purchaser agrees to

(1) make application to the City Assessor (in form set out as attached) to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the lands.

(2) execute a Real Owner Application as "Registered Owner" in respect of Parcel "C".

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

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

18. 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.

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

HENRY KOSCIUCZYK & IRENA KOSCIUCZYK 734 BONNER AVE. WINNIPEG
Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) N/A

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, this 15th day of Nov. 2004

Witness

Purchaser

Witness

Purchaser

Location: South east corner of Bonner Avenue at Mitchelson Way

Size: Parcel D - Irregular – 733. 6 sq. m. (7,897 sq. ft.)
Parcel C – 4.49 m. x 41.15 m. (14.75 ft. x 135 ft.)

Zoning: "A-5" Rural and "R1.5.5" Single-family Residentail

Schedule B

By-Law No. _____

File No. DASZ 52/04

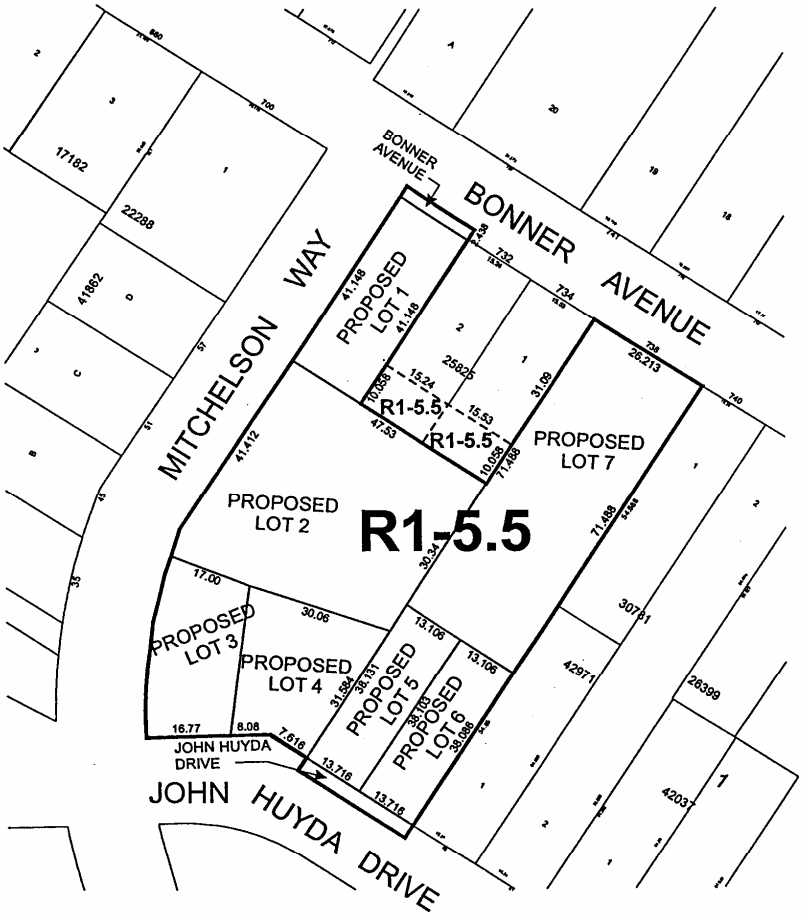
Atlas Sheet No. U32

N

EAST KILDONAN TRANSCONA COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located on the north side of John Huyda Drive, east of Mitchelson Way from an "A" AGRICULTURAL DISTRICT to a "R1-5.5" RESIDENTIAL DISTRICT as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____