Minute No. 407
Report - Standing Policy Committee on Property and Development - February 28, 2006

Item No. 12 **Encroachment Agreement - Canad Corporation of Manitoba Ltd. - Parking Purposes within the Lagimodiere Boulevard Right-of-Way, between Maginot Street and Elizabeth Road**
File ED(35)

COUNCIL DECISION:

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

1. That an Encroachment Agreement be approved in favour of Canad Corporation of Manitoba Ltd. for parking purposes within the Lagimodiere Boulevard right-of-way, shown as "Encroachment Area" on Misc. Plan No. 11251/1, in accordance with the terms and conditions outlined on the Offer to Lease contained in the report from the Director of Planning, Property and Development dated February 17, 2006.

2. 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 28, 2006

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 15, 2006, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 28, 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 Encroachment Agreement in Favour of Canad Corporation of Manitoba Ltd. for Parking Purposes Within the Lagimodiere Boulevard Right-of-Way, Between Maginot Street and Elizabeth Road.
Riel Community
St. Boniface Ward

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

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

Report date: February 17, 2006

Recommendation(s):

1. That Council approve an Encroachment Agreement in favour of Canad Corporation of Manitoba Ltd. for parking purposes within the Lagimodiere Boulevard right-of-way, shown as "Encroachment Area" on the attached Misc. Plan No. 11251/1, in accordance with the terms and conditions outlined on attached Offer to Lease. This Report seeks Council's approval to the proposed Encroachment Agreement.

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:

- The City's Public Works Department and Water and Waste Department have advised that the Encroachment Area is available for leasing purposes only.
- The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Canad Corporation of Manitoba Ltd. for parking purposes within the Lagimodiere Boulevard right-of-way, shown as "Encroachment Area" on the attached Misc. Plan No. 11251/1.

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):

- There are no environmental implications associated with the recommendations of this report.

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:

Council has the authority to permit or license the use of a public right-of-way.

The Department has negotiated the terms and conditions of an Encroachment Agreement in favour of Canad Corporation of Manitoba Ltd. for parking purposes within the Lagimodiere Boulevard right-of-way, shown as “Encroachment Area” on the attached Misc. Plan No. 11251/1. This Report seeks Council’s approval to the proposed Encroachment Agreement.

HISTORY:

At its meeting held on June 3, 1986 Council approved an Encroachment Agreement, (previously called a Leave and License Agreement) for the portion of Lagimodiere Boulevard identified as Encroachment Area on attached Misc. Plan No. 11251/1 in favour of the then Hospitality Corporation of Manitoba Inc. The approved Encroachment Agreement was for the construction and maintenance of a parking lot to service its adjoining property, the Windsor Park Inn. The Encroachment Agreement was for a term of ten (10) years at a rental rate of $1.00 per annum plus an amount equivalent to the realty taxes.

On November 26, 1986, Council granted a further ten (10) year renewal option to the term of the Encroachment Agreement. In June 1987 the Hospitality Corporation assigned all of its rights and interests in the original agreement to the Windsor Park Inn Ltd. This Assignment was approved by the then Committee on Finance and Administration on July 14, 1987.

The Windsor Park Inn Ltd. exercised its renewal option on June 11, 1996. The Encroachment Agreement will expire on June 10, 2006.

In July 1999, the Windsor Park Inn Ltd. changed its name to Canad Inns – Windsor Park Ltd. by way of Articles of Amendment.

DISCUSSION:

The Canad Inns – Windsor Park Ltd. contacted the Planning, Property and Development Department (the Department), and advised that, when its Encroachment Agreement expires in June 2006, it wishes to enter into a new agreement for the continued use of the Encroachment Area under the same terms and conditions of its previous agreement.

The original agreement's rent was set at $1.00 per annum. The original $1.00 rent recognized the significant capital investment required to originally develop the Encroachment Area and allowed for a return on the tenants original investment.

The Department is of the opinion the tenant has had significant time (20 years) to recognize its return on its original investment and that the new Encroachment Agreement should be negotiated at current market rates.

The Department has concluded its negotiations with Canad Inns-Windsor Park Ltd. The proposed terms and conditions of the lease agreement, as agreed to by the parties, are as follows (details contained in the signed "Offer To Lease" attached):

Use:	Parking purposes only.
Initial Term:	One five (5) year term, commencing on June 1, 2006.

Renewal Option:	Three, five (5) year options, subject to a rental rate review at the end of each five (5) year option. The said rental rate at no time shall exceed a 10% increase from the previous rental rate review and at no time shall the rental rate be less then the previous term's rental rate.
Initial Rental Rate:	**$6,600.00** per annum, plus GST.
Taxes:	All municipal taxes, school taxes, local improvements, license fees, business tax, etc., based on the given year's assessed value, plus GST. (Realty Taxes for 2005 were $5,800.86).
Insurance:	General Liability Insurance of at least $2,000,000.00, naming The City of Winnipeg as additional insured and containing a cross-liability clause.
Option To Cancel:	365 days written notice by either party.
Other:	The tenant understands and agrees that it is leasing the Encroachment Area on an "as is" basis. The development and maintenance of the Encroachment Area will be performed at the sole cost, expense and effort of the tenant, including obtaining all permits required to develop, occupy and utilize subject property for its intended use. The Water and Waste Department be allowed access to maintain, operate, repair or rehabilitate its existing facility located within the Encroachment Area at any time. Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests. The tenant agrees to enter into an appropriate Encroachment Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services. This proposal is subject to final approval by the City of Winnipeg's Council, or its delegated authority.

Financial Impact Statement

Date: February 15, 2006

Project Name:

Proposed Encroachment Agreement in Favour of Canad Corporation of Manitoba Ltd. for Parking Purposes Within the Lagimodiere Boulevard Right-of-Way

First Year of Program 2006

	2006	2007	2008	2009	2010
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	5,233	8,971	8,971	8,971	8,971
Net Cost/(Benefit)	$ (5,233)	$ (8,971)	$ (8,971)	$ (8,971)	$ (8,971)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (5,233)	$ (8,971)	$ (8,971)	$ (8,971)	$ (8,971)

Additional Comments:

Leasing Revenue is calculated at $6,600.00 (annual rent) + $2,371 (Tax Equiv. from 2005 Tax Bill less School Tax portions) = $8,971 (Gross Annual Rent). No consideration given for future Tax Equiv. changes. Rental revenue in 2006, based on a June 1, 2006 commencment date (adjusted accordingly).

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

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

Public Works Department

Water and Waste Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: Stewart Anderson
PPD File #: 5099/96

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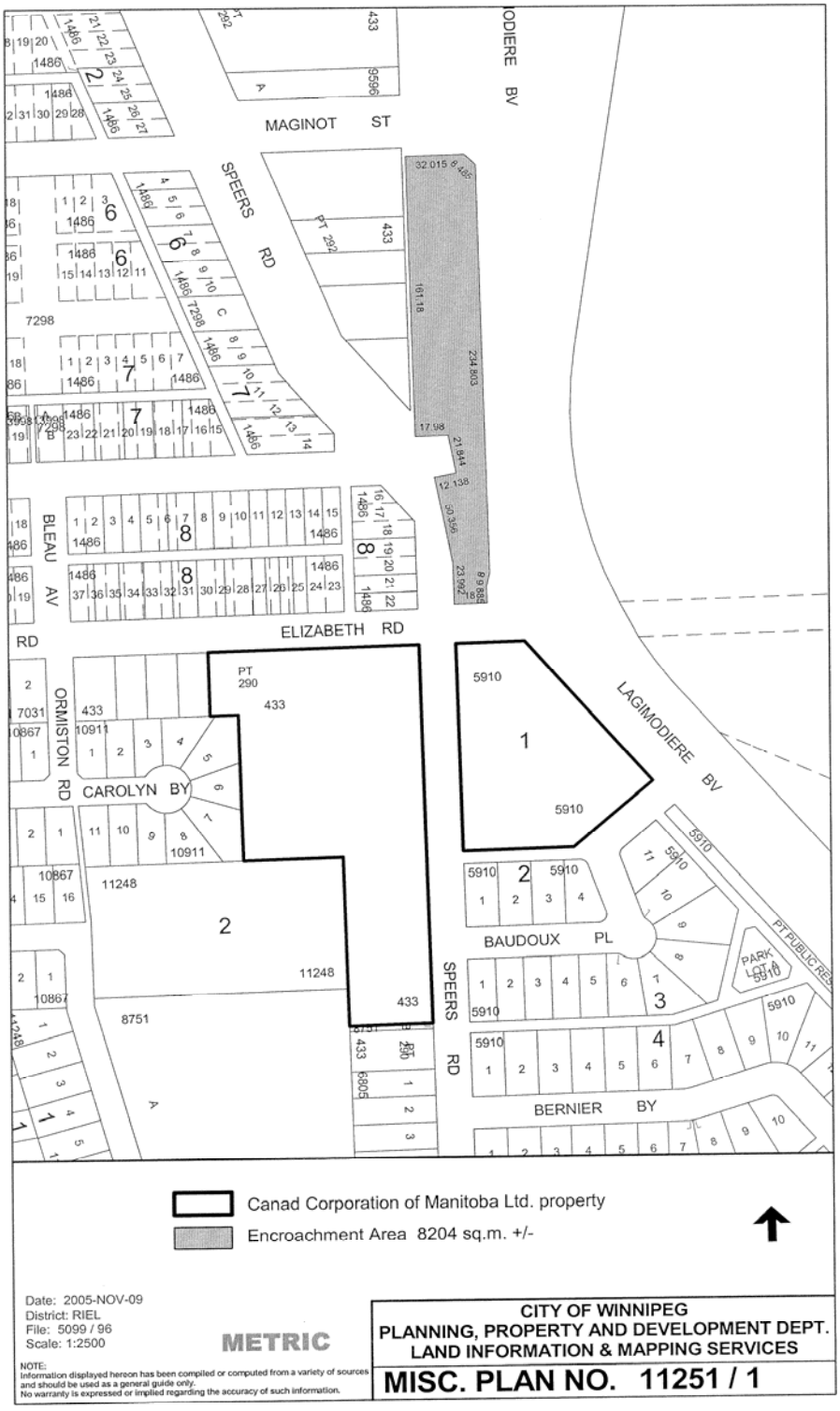
MAGINOT ST
SPEERS RD
LAGIMODIERE BV
ELIZABETH RD
BLEAU AV
ORMISTON RD
CAROLYN BY
BAUDOUX PL
BERNIER BY
PT PUBLIC RES
PARK LOT 5910
Canad Corporation of Manitoba Ltd. property
Encroachment Area 8204 sq.m. +/-
Date: 2005-NOV-09
District: RIEL
File: 5099 / 96
Scale: 1:2500
METRIC
NOTE:
Information displayed 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. 11251 / 1

OFFER TO LEASE
Lagimodiere Boulevard Right-of-Way
For Parking Purposes

Use:	Parking purposes only.
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The Water and Waste Department be allowed access to maintain, operate, repair or rehabilitate its existing facility locate within the Encroachment Area at any time.

Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

The tenant agrees to enter into an appropriate Encroachment Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services.

This proposal is subject to final approval by the City of Winnipeg's Council, or its delegated authority.

I, Leo Lechowski, on behalf of Canad Corporation of Manitoba Ltd. hereby agree to enter into an encroachment agreement with the City of Winnipeg for the use of the subject property, identified as "Encroachment Area" on attached Misc. Plan No. 11251/1, in accordance with the terms and conditions as outlined herein on this Offer to Lease.

L Lechowski

Agent for Canad Corporation of Manitoba Ltd.

Jan 17, 2006

Date

JAN-18-2006 WED 09:57 AM CANAD CORPORATION FAX NO. 204 694 9427 P. 04/04

