Agenda - Council – November 21, 2007

Report - Standing Policy Committee on Property and Development – October 30, 2007

Item No. 15 Leave and License Agreement - Alpine Climbing Club of Canada Inc. – St. Boniface Section
(St. Boniface Ward)
File FI-2.2(35)

STANDING COMMITTEE RECOMMENDATION:

On November 14, 2007, 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 terms and conditions for a Leave and License Agreement with the Alpine Climbing Club of Canada Inc. - St Boniface Section as referenced in the report from the Director of Planning Property and Development dated October 17, 2007, be approved and the City Solicitor/Manager of Legal Services be authorized to finalize the terms generally in accordance with the foregoing.

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

Pursuant to Section 205(2) of The City of Winnipeg Charter, disposal of land owned or acquired by the City for park or cemetery purposes requires approval by two-thirds of all Members of Council.

Report - Standing Policy Committee on Property and Development – October 30, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 14, 2007, 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 October 30, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: **Proposed Leave and License Agreement with the Alpine Climbing Club of Canada Inc. – St. Boniface Section**
St. Boniface Ward
Riel Community

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning, Property and Development

REPORT DATE: October 17, 2007

RECOMMENDATION:

1. That the proposed terms and conditions for a Leave and License Agreement with the Alpine Climbing Club of Canada Inc. - St Boniface Section as referenced herein, be approved and that the City Solicitor be authorized to finalize the terms generally in accordance with the foregoing.

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 Alpine Climbing Club of Canada Inc. – St Boniface Section (ACCSBC) obtained approval in 1995 from the Standing Policy Committee on Protection, Parks and Culture to construct a climbing structure on City-owned riverbank situated north of Messager in North St. Boniface for amateur climbing purposes.

- During the period between 1995 and 2007, the ACCSBC constructed the climbing tower and subsequently maintained and programmed the facility at its sole cost and expense.

- Given difficulties with the Manitoba Municipal Assessment Act, the Public Service was unable to finalize an agreement with the ACCSBC without creating a liability to pay property taxes. At its meeting held on April 27, 2005, Council approved By-law 89/2005, which exempts the subject ACCSBC occupancy from the liability to pay realty taxes. As such, the Public Service has now completed the proposed terms and conditions for a Leave and License Agreement to formally document this occupancy.

- On May 22, 2007 Council approved the sale of surplus City-owned properties located north of the Highline to Qualico Developments which is currently being finalized. As the redevelopment of the North of Highline properties and the North St Boniface Riverbank Parkway evolve, the matter of the Climbing Tower may need to be reviewed in terms of compatibility with contiguous land uses. As such, the proposed term of the Leave and License Agreement will expire in three years and is subject to a one hundred eighty day (180) cancellation clause.

Implications of the Recommendation(s):

General Implications

( ) None

(x) For the organization overall and/or for other departments

(x) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): There will be a requirement to coordinate the plans for the North St. Boniface Riverbank Parkway and the existing Climbing Tower. The Tower may need to be relocated depending on the final plans for the riverbank.

The ACCSBC has conducted its climbing programs (beginner through advanced) during the winter season since 1995. In 2007, the Club has completed a plan to integrate its schedule with the Festival Du Voyageur and plans to add programs during the late spring and summer of 2008.

Policy Implications

(x) No

( ) Yes

Comment(s):

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(x) No

( ) Yes

Comment(s):

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): The proposed agreement will result in $501.00 to the City in each of the next three years.

Report

REASON FOR THE REPORT:

In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City properties for which the Director of the Planning, Property and Development Department has no authority. In this regard, the Department has negotiated a proposed leave and license agreement in favour of the Alpine Club of Canada Inc. – St. Boniface Section for the use of the City-owned lands identified as "Leased Area" on Misc. Plan No. 12985 as attached. This report seeks the Committee's approval of the Leave and License as negotiated.

HISTORY:

At its meeting held on April 6, 1995, the Standing Policy Committee on Protection, Parks and Culture approved a proposal from the Alpine Climbing Club of Canada Inc. – St. Boniface Section to establish and operate a Climbing Tower in Whittier Park.

At its meeting held on January 8, 1996, the Standing Policy Committee on Protection, Parks and Culture amended the approval by deleting the words "permanent" and "in Whittier Park" from the approval.

At its meeting held on April 27, 2005, Council approved By-law 89/2005 which includes an exemption from municipal realty taxes for the subject occupancy.

By letter dated June 6, 2007, Mr. D. Cormie, P.Eng, provided a structural evaluation of the Climbing Tower and determined under seal that it is in excellent condition and no areas of deficiency were observed.

DISCUSSION:

1. Background:

In 1995/96, the Alpine Climbing Club of Canada Inc. – St. Boniface Section constructed a Climbing Tower on City-owned riverbank situated north of Messager and west of Whittier Park as shown on the attached Misc. Plan 12985.

The Climbing Tower is approximately 60 ft. tall consisting of three 70 ft. long Douglas fir poles embedded 10 ft. in the ground in a triangular pattern with several layers of diagonal and horizontal bracing and it is enclosed by a chain link fence area around the perimeter. The Club has also placed a temporary storage trailer to support on site activities. During the winter season, ice is formed on the exterior of the structure to

create alpine climbing conditions for local amateur ice climbers. The Club operates and maintains the structure at its sole cost and expense.

The Club currently provides an array of programming spanning from beginner to advanced, for all age groups and is open to all members of the general public.

2. Proposed Terms and Conditions for a Leave and License Agreement:

In order to regularize this occupancy, the Planning, Property and Development Department has formulated the proposed terms and conditions for a Leave and License Agreement with the Alpine Club of Canada Inc. – St. Boniface Section as follows:

Owner:	City
Licensee:	Alpine Club of Canada Inc. – St. Boniface Section
Location:	City-owned Riverbank situated North of Messager and west of Whittier Park as identified on the attached Misc. Plan No. 12985
Term:	Commencing on January 1, 1996 and ending on December 31, 2010
Rent:	$1.00 plus GST plus annual administration fee of $500.00
Realty taxes:	On By-law 89/2005
Termination:	One hundred eighty (180) days notice by either party
Purpose:	Operation of Climbing Tower
Insurance:	To provide comprehensive general liability and all risk property insurance for the structure and all equipment, contents and stock,
Licensee Resp:	To maintain the climbing tower, storage trailer and perimeter fencing and to undertake all required repairs, to obtain a qualified structural engineer report every three years, and maintain the lands in a neat and tidy condition and to provide annual programming at its sole cost and expense and to pay all utility costs (the Licensee arranges for seasonal water supply with a meter).

Departmental Comment:

The Licensee is a tenant in good standing and has properly maintained and operated the Climbing Structure in a manner acceptable to the City. It provides a specialized recreational activity and furthers the goal of “winter livability”. Pending the finalization of riverbank plans for the North St Boniface riverbank parkway, it may be necessary to have the Licensee relocate to an alternate site in the future.

Financial Impact Statement Date: October 9, 2007

Project Name:

Proposed Leave and License Agreement with the Alpine Climbing Club of Canada Inc. – St. Boniface Section

COMMENTS:

The recommendations in this report include that the proposed terms and conditions for a Leave and License Agreement with the Alpine Climbing Club of Canada Inc. - St Boniface Section as referenced herein, be approved and that the City Solicitor be authorized to finalize the terms generally in accordance with the foregoing.

There are no material financial implications associated with this recommendation.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Public Works

Internal Services (Legal Services Division)

Corporate Finance

External Consultation With:

n/a

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	D. Armstrong
PPD File No.	5413/A V2

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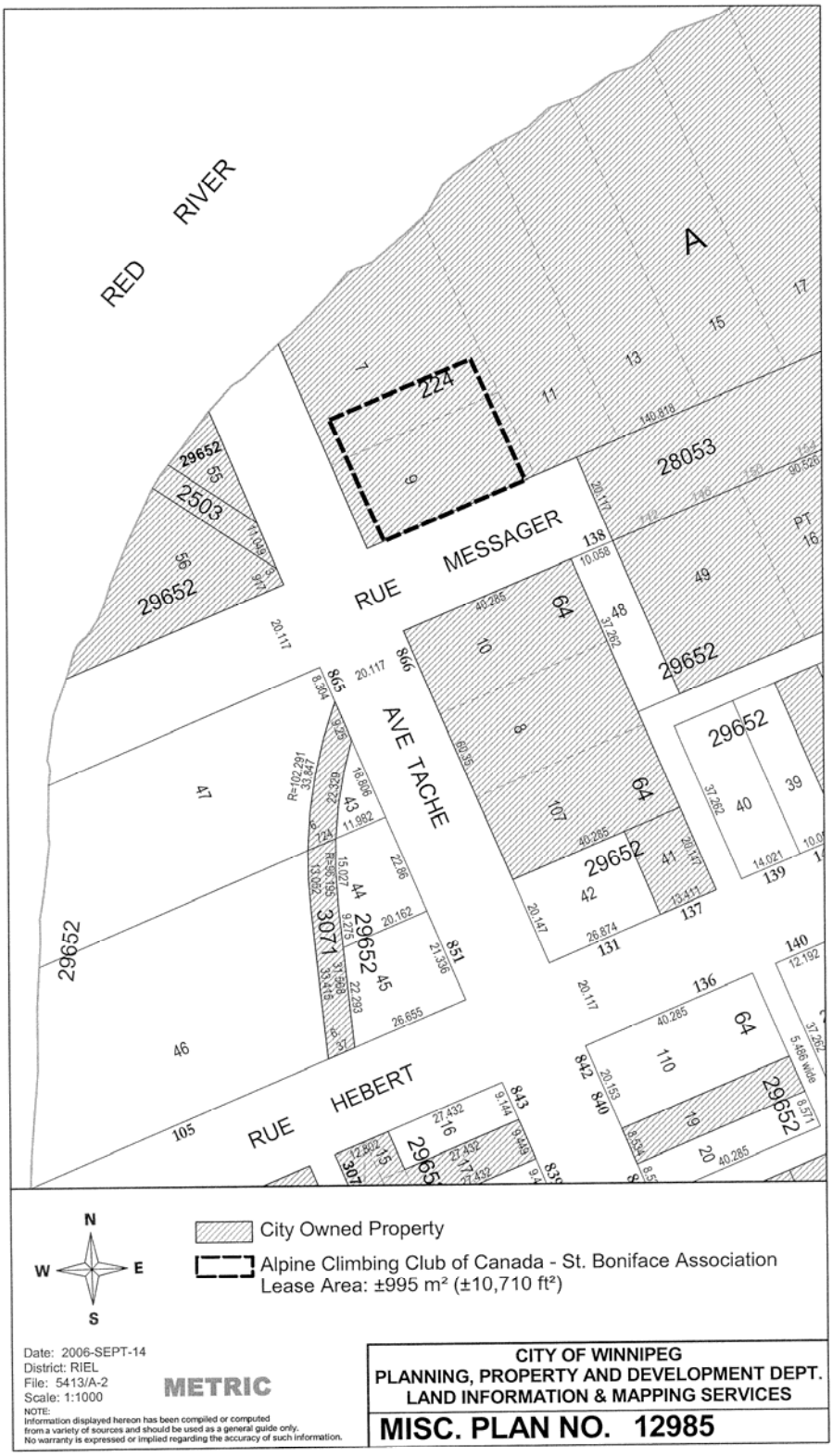

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City Owned Property

Alpine Climbing Club of Canada - St. Boniface Association
Lease Area: ±995 m² (±10,710 ft²)

Date: 2006-SEPT-14
District: RIEL
File: 5413/A-2
Scale: 1:1000

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. 12985