**Minute No. 299**
**Report - Standing Policy Committee on Property and Development - February 26, 2008**

**Item No. 8** **Encroachment Agreement - Public Lane at the Rear of 533 St. Anne's Road (Lavalee Road and Bishop Grandin Boulevard) - Morrow Avenue Daycare**
**(St. Vital Ward)**
**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 Morrow Avenue Daycare for the installation and maintenance of a fence encroaching onto the undeveloped public lane to the rear of 533 St. Anne's Road, shown as "Encroachment Area" on Misc. Plan No. 13195, in accordance with the terms and conditions contained in the report from the Acting Director of Planning, Property and Development dated February 14, 2008; the Agreement to provide for such 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 interest.

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 26, 2008**

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 12, 2008, 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 26, 2008, 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 Encroachment Agreement in favour of Morrow Avenue Daycare for the Installation and Maintenance of a Fence Encroaching onto the Public Lane at the Rear of 533 St. Anne's Road (Lavalee Road and Bishop Grandin Boulevard)**
**Riel Community**
**St. Vital Ward**

**FOR SUBMISSION TO:** Standing Policy Committee on Property and Development

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

**REPORT DATE:** February 14, 2008

**RECOMMENDATION:**

1. That Council approve an Encroachment Agreement in favour of Morrow Avenue Daycare for the installation and maintenance of a fence encroaching onto the undeveloped public lane to the rear of 533 St. Anne's Road, shown as "Encroachment Area" on Misc. Plan No. 13195, attached, in accordance with the terms and conditions outlined herein; the Agreement to provide for such 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 interest.

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 Planning, Property and Development Department has negotiated terms and conditions of an Encroachment Agreement in favour of Morrow Avenue Daycare for the installation and maintenance of a fence.
- This report seeks approval of the Encroachment Agreement as negotiated.

**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

( ) Involves a multi-year contract

Comment(s):

**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):

## Report

**REASON FOR THE REPORT:**

Council has the authority to permit or license the use of a public Right-of-Way.

The Planning, Property and Development Department has negotiated the terms and conditions of an Encroachment Agreement in favour of Morrow Avenue Daycare for the

installation and maintenance of a fence encroaching onto the undeveloped public lane at the rear of 533 St. Anne's Road (Lavalee Road and Bishop Grandin Boulevard).

This report seeks Council's approval of the proposed Encroachment Agreement.

**HISTORY:**

Morrow Avenue Daycare submitted an encroachment application to the City's Zoning and Permits Branch for the proposed installation and maintenance of a fence encroaching onto the undeveloped public lane at the rear of 533 St. Anne's Road for a children's play area.

The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the proposed installation and maintenance of the fence encroaching onto the subject Right-of-Way.

**DISCUSSION:**

Pursuant to Section 4(1)(d) of the City's Encroachment By-law No. 692/74, the Department has concluded its negotiations for an Encroachment Agreement with Morrow Avenue Daycare and both parties concur that the proposed terms and conditions are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses.

In summary, the terms and conditions of the Encroachment Agreement (Schedule 'A' attached) agreed to by Morrow Avenue Daycare are as follows:

| | |
|---|---|
| Term: | Annual continuing, commencing January 1, 2008 |
| Purpose: | Installation and Maintenance of a fence for a children's play area |
| Area: | Shown and identified as 'Encroachment Area' on Misc. Plan No. 13195, attached |
| Rental: | $351.00 per annum computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-law No. 692/74 and amendments thereto plus an initial administrative fee of $250.00 and applicable GST. In the event that the By-law is amended, thereby changing the fees structure for encroachments, the rental paid under this agreement shall be adjusted accordingly. |
| Insurance: | Property and Liability insurance requirements have been updated by the Risk Management Branch staff as deemed appropriate to cover the scope, terms and conditions of the agreement. |
| Cancellation: | 90 days written notice by either party |
| *Conditions:* | *That the approval of this application by the Designated Officer - Encroachments is only valid for a period of six (6) months from the date of said approval unless the applicant enters into an* |

*Encroachment Agreement with the City of Winnipeg within the stated time frame, or alternatively obtains an extension of time from the Designated Officer – Encroachments;*

*That if there are any existing Hydro/Gas or MTS facilities which require removal and/or relocation as a result of this application, the costs will be at the expense of the developer and/or customer;*

*That extreme caution be used when excavating in the vicinity of an MTS buried plant and that the Buried Plant Location Service (941-7267) is contacted 48 hours prior to excavation for further confirmation in the field;*

*That all applicable permits be obtained prior to any development;*

*The proposed terms and conditions of the proposed Encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.*

A proposed Encroachment Agreement in favour of Morrow Avenue Daycare is recommended for approval in accordance with the proposed terms and conditions as outlined herein.

## Financial Impact Statement

**Date:** February 5, 2008

**Project Name:**

**First Year of Program** **2008**

Proposed Encroachment Agreement in favour of Morrow Avenue Daycare

| | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|---|
| **Capital** | | | | | |
| Capital Expenditures Required | $ - | $ - | $ - | $ - | $ - |
| Less: Existing Budgeted Costs | - | - | - | - | - |
| Additional Capital Budget Required | $ - | $ - | $ - | $ - | $ - |
| **Funding Sources:** | | | | | |
| Debt - Internal | $ - | $ - | $ - | $ - | $ - |
| Debt - External | - | - | - | - | - |
| Grants (Enter Description Here) | - | - | - | - | - |
| Reserves, Equity, Surplus | - | - | - | - | - |
| Other - Enter Description Here | - | - | - | - | - |
| Total Funding | $ - | $ - | $ - | $ - | $ - |
| Total Additional Capital Budget Required | $ - | | | | |
| Total Additional Debt Required | $ - | | | | |
| **Current Expenditures/Revenues** | | | | | |
| Direct Costs | $ - | $ - | $ - | $ - | $ - |
| Less: Incremental Revenue/Recovery | 601 | 351 | 351 | 351 | 351 |
| Net Cost/(Benefit) | $ (601) | $ (351) | $ (351) | $ (351) | $ (351) |
| Less: Existing Budget Amounts | (601) | (351) | (351) | (351) | (351) |
| Net Budget Adjustment Required | $ - | $ - | $ - | $ - | $ - |

**Additional Comments:** Incremental revenues consist of encroachment fees of $351 per annum + an initial administrative fee of $250.

original signed by

Manager of Finance & Administration

**IN PREPARING THIS REPORT THERE WAS:**

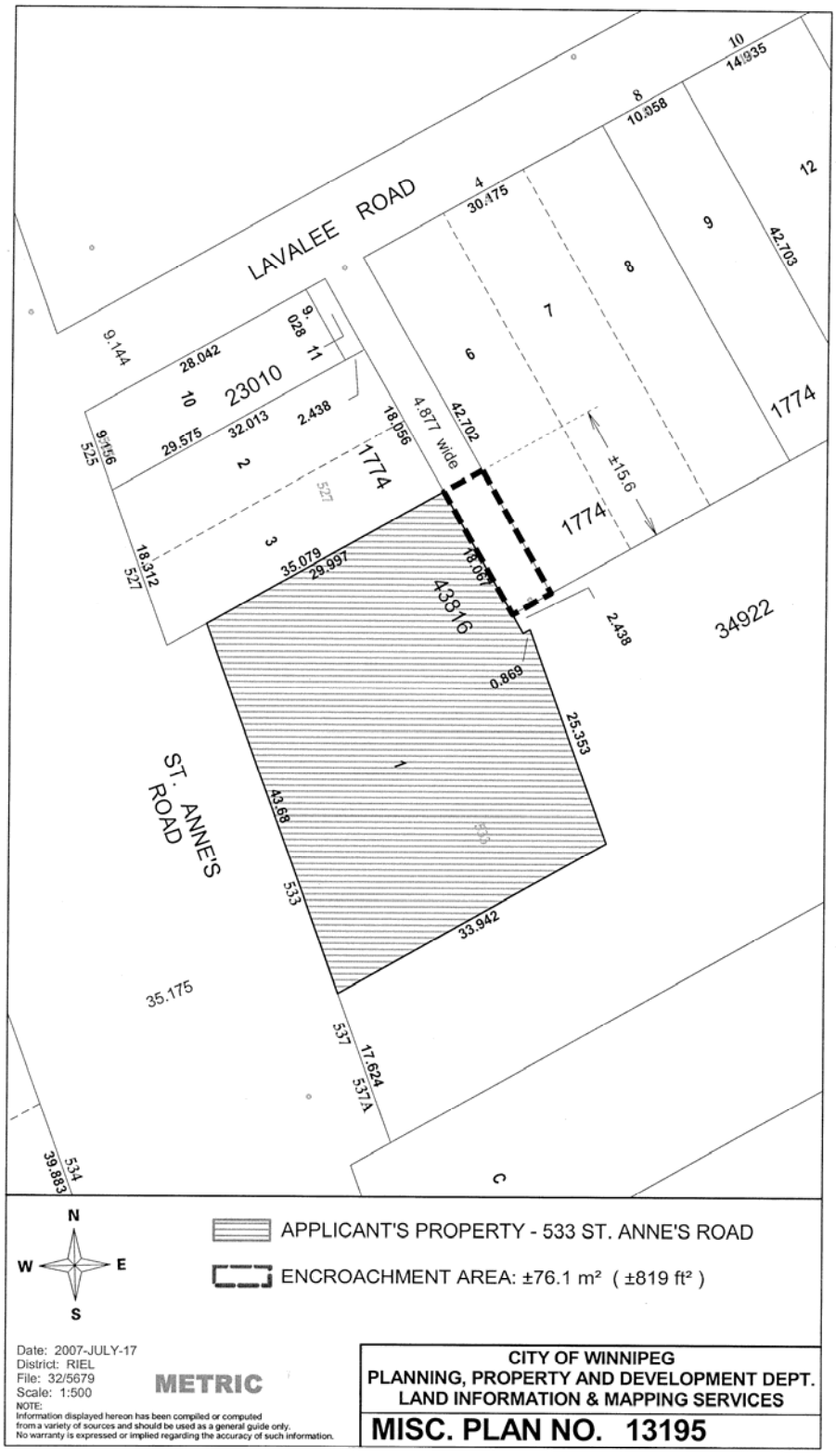
**Internal Consultation With and Concurrence By:**
N/A

**External Consultation With:**
N/A

**THIS REPORT SUBMITTED BY:**

Department Planning, Property and Development
Division Real Estate Division
Prepared by: Maxine Clayton
PPD File No. 32/5679

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LAVALEE ROAD
ST. ANNE'S ROAD
23010
1774
43816
34922
APPLICANT'S PROPERTY - 533 ST. ANNE'S ROAD
ENCROACHMENT AREA: ±76.1 m² ( ±819 ft² )
N
W
E
S
Date: 2007-JULY-17
District: RIEL
File: 32/5679
Scale: 1:500
METRIC
NOTE:
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13195