Minute No. 284
Report - Standing Policy Committee on Property and Development - March 3, 2009

Item No. 8 **Encroachment Agreement - Tuxedo Facility Inc. - Monument Sign encroaching onto the Shaftesbury Boulevard Right-of-Way (Charleswood-Tuxedo Ward)**
eFile ED(32)

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 in favour of Tuxedo Facility Inc. to install and maintain a monument sign in conjunction with the facility located at 905 Shaftesbury Boulevard encroaching onto the Shaftesbury Boulevard right-of-way, shown as 'Sign Encroachment Area' on Misc. Plan No. 13460, be approved in accordance with the terms and conditions outlined in the report from the Director of Planning, Property and Development dated February 3, 2009; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of Planning, Property and Development Department and by the Acting City Solicitor/Manager of Legal Services, to protect the City's interests.

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 - March 3, 2009

DECISION MAKING HISTORY:

Moved by Councillor Fielding,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 19, 2009, 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 March 3, 2009, 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 Tuxedo Facility Inc. to Install and Maintain a Monument Sign in Conjunction with their Facility Located at 905 Shaftesbury Boulevard Encroaching onto the Shaftesbury Boulevard Right-of-Way
Assiniboia Committee
Charleswood-Tuxedo Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

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

REPORT DATE: February 3, 2009

RECOMMENDATION:

1. That Council approve an Encroachment Agreement in favour of Tuxedo Facility Inc. to install and maintain a monument sign in conjunction with their Facility located at 905 Shaftesbury Boulevard encroaching onto the Shaftesbury Boulevard right-of-way, shown as 'Sign Encroachment Area' on Misc. Plan No. 13460 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 Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

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 proposed terms and conditions of an Encroachment Agreement in favour of Tuxedo Facility Inc. to install and maintain a monument sign in conjunction with their Facility located at 905 Shaftesbury Boulevard.

- The Public Works Department has no objection to the proposed encroachment.

- The Corporate Finance Department, Risk Management Branch, reviewed the insurance requirements for this proposed encroachment and their comments have been incorporated into the proposed terms and conditions for a new lease.

- 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 Tuxedo Facility Inc. to install and maintain a monument sign, in conjunction with the facility located at 905 Shaftesbury Boulevard, within the Shaftesbury Boulevard Right-of-Way.

HISTORY:

MMM Group Limited, on behalf Tuxedo Facility Inc., owners of the Shaftesbury Park Independent Living Residence located at 905 Shaftesbury Boulevard, submitted an encroachment application to the City's Zoning and Permits Branch for the proposed installation and maintenance of a monument sign in conjunction with their Facility within the Shaftesbury Street Right-of-Way shown as 'Sign Encroachment Area' on Misc. Plan No. 13460, attached.

DISCUSSION:

The Department has concluded its negotiations of an Encroachment Agreement with Tuxedo Facility Inc. pursuant to Section 4(1)(d) of the City's Encroachment By-law No. 692/74.

The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the proposed development and use of the subject Right-of-Way.

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 agreed to by Tuxedo Facility Inc. are as follows:

Use:	Installation and maintenance of a monument sign
Area:	Shown and Identified as 'Sign Encroachment Area' on Misc. Plan No. 13460, attached
Term:	Annual Continuing, commencing January 1, 2009

Rental: $54.00 per annum, plus GST, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-Law No. 692/74 and amendments thereto, in event that the By-law is amended changing the fees charged for encroachments the rental paid under this agreement shall be adjusted accordingly, a one-time administrative fee of $250.00, plus GST

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

Cancellation: Ninety (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 obtain an extension of time from the Designated Officer-Encroachments

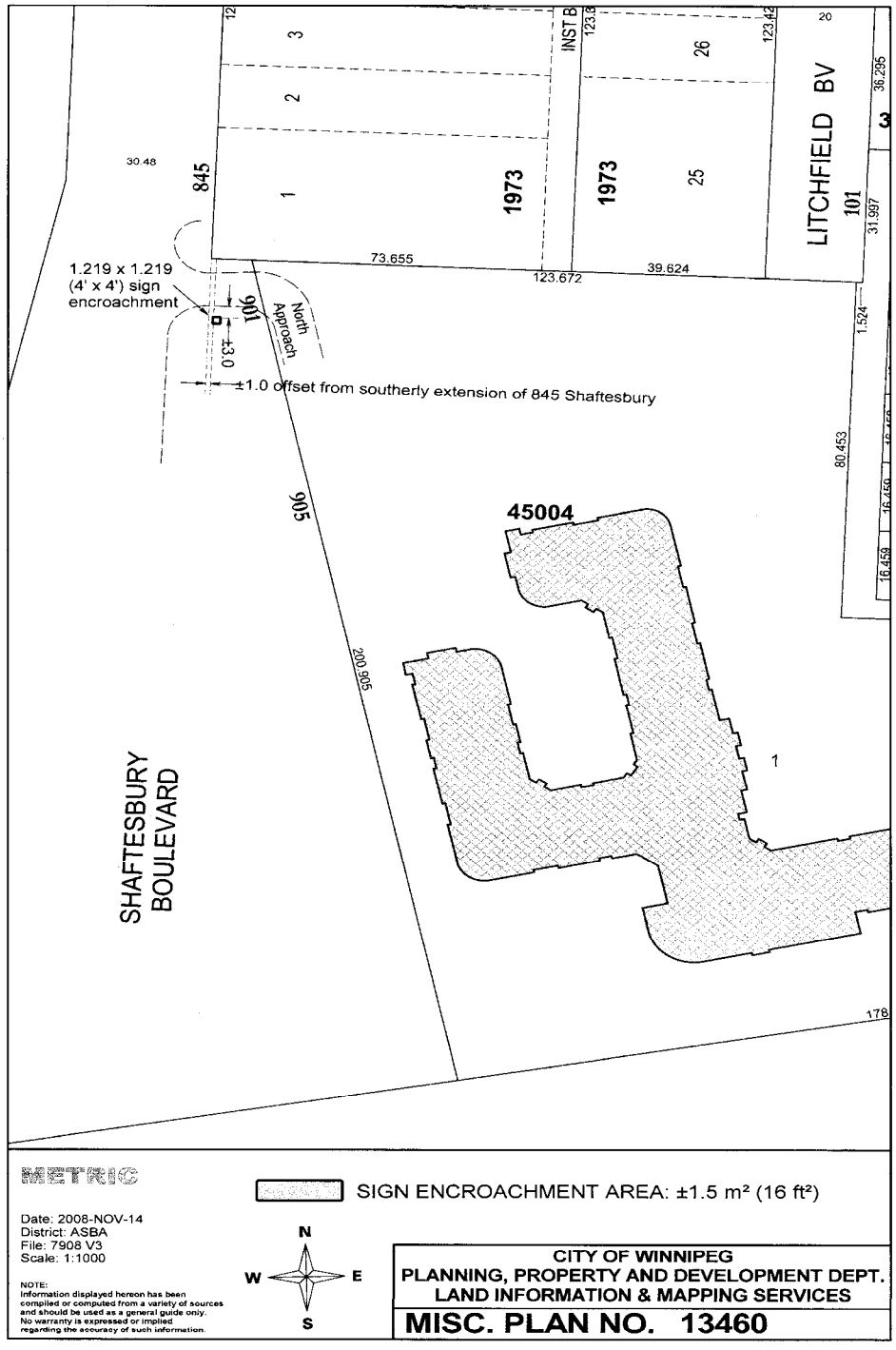
That any removal or relocation of existing facilities as a result of the proposed application will be at the expense of the applicant and that prior to any digging or excavation, Manitoba Hydro and Centra Gas Manitoba Inc. advise the applicant contact the Call-Before-You-Dig line at 480-1212

That because there is an existing sidewalk on the east side of Shaftesbury Boulevard which may be extended southward towards Wilkes Avenue in the future, Public Works recommends moving the proposed monument sign eastward so that the west edge of the monument sign aligns with the southerly projection of the west property line of the property immediately north of 905 Shaftesbury Boulevard (849 Shaftesbury Boulevard)

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 forma and content

A proposed Encroachment Agreement in favour of Tuxedo Facility Inc. is recommended for approval in accordance with the proposed terms and conditions as outlined herein.



845
1973
1973
LITCHFIELD BV
101
1.219 x 1.219
(4' x 4') sign
encroachment
North
Approach
±3.0
±1.0 offset from southerly extension of 845 Shaftesbury
905
45004
SHAFTESBURY
BOULEVARD
73.655
123.672
39.624
80.453
200.905
178
METRIC
SIGN ENCROACHMENT AREA: ±1.5 m² (16 ft²)
Date: 2008-NOV-14
District: ASBA
File: 7908 V3
Scale: 1:1000
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.
N
W
E
S
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13460

Financial Impact Statement

Date: February 3, 2009

Project Name:

First Year of Program **2009**

Proposed Encroachment Agreement in Favour of Tuxedo Facility Inc.

	2009	2010	2011	2012	2013
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	304	54	54	54	54
Net Cost/(Benefit)	$ (304)	$ (54)	$ (54)	$ (54)	$ (54)
Less: Existing Budget Amounts	(304)	(54)	(54)	(54)	(54)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2009 consist of annual rent of $54 + a one-time admin fee of $250. Revenue from 2010 onward represents the annual rental amount only.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Corporate Finance Department
Public Works
Internal Services-Legal Services Division as to Legal Issues

External Consultation With:

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate Division
Prepared by:	Maxine Clayton
PPD File No.	7908 (V3)

O:\Reports Directive\Real Estate\Leasing\(mpc)Encroachment Agmt-Tuxedo Facility Inc..doc