Minute No. 443
Report - Standing Policy Committee on Property and Development - June 2, 2009

Item No. 15 **Encroachment Agreement to Establish a Bike Kiosk encroaching onto the Riverdale Street Right-of-Way (Fort Rouge - East Fort Garry 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 the terms and conditions for an Encroachment Agreement between the City and Bee2gether Tandem Bike Rentals and Sales as referenced in the report from the Winnipeg Public Service dated May 7, 2009, be approved.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

Report - Standing Policy Committee on Property and Development - June 2, 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 June 10, 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 June 2, 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.

ADMINISTRATIVE REPORT

ISSUE: **Proposed Encroachment Agreement to Establish a Bike Kiosk Encroaching onto the Riverdale Street Right-of-Way**

CRITICAL PATH: **Standing Policy Committee on Property and Development**

AUTHORIZATION

Author	Department Head	CFO	CAO
Ray Klassen	Deepak Joshi	M Ruta	P Sheegl, Deputy CAO

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 Planning, Property and Development has no authority. In this regard, the Department has negotiated a proposed Encroachment Agreement in favour of Bee2gether Tandem Bike Rentals and Sales for the use of the City-owned land encroaching onto Riverdale Street and identified as 'Encroachment Area' on Misc. Plan No. 13557, as attached. This Report seeks the Committee's approval of the Agreement as negotiated.

RECOMMENDATIONS

1. That the proposed terms and conditions for an Encroachment Agreement between the City and Bee2gether Tandem Bike Rentals and Sales as referenced herein be approved.

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

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there are no general, policy, regulatory, environmental, human resource, or financial implications to the lease of these lands as set out in the attached Schedule A.

The Public Works Department approved the subject location of the rental kiosk encroaching onto the Riverdale Street public right-of-way subject to the following conditions:

- The types of bike units that may be rented at the proposed rental kiosk shall be limited to those permitted for use on public streets. The Legislative Analyst from Manitoba Infrastructure and Transportation has advised that the three and four wheeled units having two seats side by side do not meet the definition of bicycle under the Provincial Highway Traffic Act and as such, are not permitted to be operated on public streets.

- The rental of the kiosk and all associated activities should not interfere with the use of the existing private approaches on Riverdale Street to 772 Jubilee Avenue and 766 Jubilee Avenue.

- At the end of each season, the applicant shall be responsible for any boulevard repairs required as a result of their operations to the satisfaction of the Director of Public Works.

HISTORY

Chad and Kim Celaire, owners of Bee2gether Tandem Bike Rentals and Sales submitted an encroachment application to the City's Zoning and Permits Branch for the proposed establishment of a bike kiosk within the Riverdale Street Right-of-Way as shown on the attached Schedule A.

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

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.

Both parties concur that the terms and conditions of the Encroachment Agreement are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 14, 2009

Project Name: **First Year of Program** **2009**

Proposed Encroachment Agreement to Establish a Bike Kiosk Encroaching onto the Riverdale Street Right-of-Way

	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	655	405	405	405	405
Net Cost/(Benefit)	$ (655)	$ (405)	$ (405)	$ (405)	$ (405)
Less: Existing Budget Amounts	(655)	(405)	(405)	(405)	(405)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2009 consist of a one-time adminstration fee of $250 + the annual rental amount of $405. Revenues from 2010 represent the annual rental amount only.

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

CONSULTATION

In preparing this Report there was consultation with:

Public Works
Corporate Finance
Corporate Support Services-Legal Service Division as to Legal Issues

SUBMITTED BY

Department Planning, Property and Development
Division Real Estate Division
Prepared by: Maxine Clayton
Date: May 7, 2009
File No. 1052

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PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ESTABLISH A BIKE RENTAL KIOSK NEXT TO THE BRIDGE DRIVE INN ENCROACHING ONTO RIVERDALE STREET SOUTH OF JUBILEE

Use:	Seasonal Bike Rental Kiosk
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 13557, attached
Term:	Annual Continuing, commencing May 1st and expiring September 30th of each year
Fee:	$405.00 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, plus an initial administrative fee of $250.00 plus GST
Insurance:	Commercial general liability insurance, in the amount of at least $2,000,000.00, inclusive, with the City of Winnipeg added as additional insured, such policy to contain a cross-liability clause and products and completed operations cover; An All Risk property insurance policy, for the full replacement cost insuring property, contents and equipment; If required, Automobile liability insurance for owned and non-owned automobiles used for or in connection with the Encroachment Agreement in the amount of at least two million dollars ($2,000,000.00) to remain in place at all times during the full term of the Encroachment Agreement; such insurance may be met through the commercial general liability cover where applicable; All policies shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba; Deductibles shall be borne by the Bee2gether Tandem Bike Rentals & Sales; The Bee2gether Tandem Bike Rentals & Sales shall not cancel, or cause any such policy or policies to lapse without a minimum thirty (30) days prior written notice to the City;

The Bee2gether Tandem Bike Rentals & Sales shall file with the City an annual Certificate of Insurance in a form satisfactory to the City Solicitor;

The City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance to this Encroachment Agreement and for any subsequent renewals thereof, provided that the City shall give the Bee2gether Tandem Bike Rentals & Sales reasonable notice and shall request reasonable change.

Cancellation: Ninety (90) days written notice

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 all utilities be permitted to enter the area for maintenance, repair or installation of services at anytime without notice to the applicant and 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 the Call Before You Dig at 480-1212

That the applicant agrees to adhere to all the conditions contained in the documents from the Public Works Department:

The types of bike units that may be rented at the proposed rental kiosk shall be limited to those permitted for use on public streets. It should be noted that the Legislative Analyst from Manitoba Infrastructure and Transportation has advised that the three and four wheel bike units having two seats side by side do not meet the definition of bicycle under the Provincial Highway Traffic Act and as such, are not permitted to be operated on public streets. On this basis, the proposed 'Dino Train (Bee2gether Buggies)', 'Dino Side Car'(Bee2gether Side Care)' and "BERG Clipper" as illustrated in the applicant's letter would not be permitted on public streets

The rental kiosk and all associated activities shall not interfere with the use of the existing private approaches on Riverdale Street to 722 Jubilee Avenue and 766 Jubilee Avenue.

At the end of each season, the applicant shall be responsible for any boulevard repairs required as a result of their operations to the satisfaction of the Director of Public Works

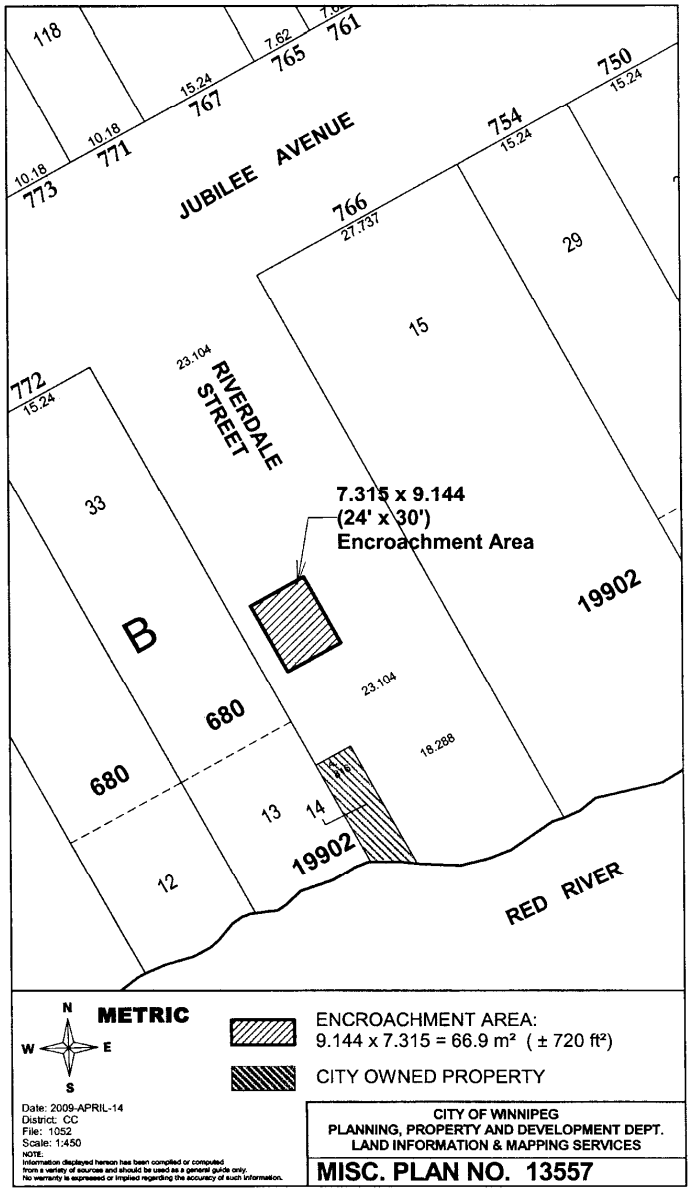
That all applicable permits be obtained prior to any development

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

BEE2GETHER TANDEM BIKE RENTALS AND SALES HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

_____ _____

NAME **DATE**


118
10.18
773
10.18
771
15.24
767
7.62
765
761
JUBILEE AVENUE
750
15.24
754
15.24
766
27.737
29
15
23.104
RIVERDALE STREET
772
15.24
33
7.315 x 9.144
(24' x 30')
Encroachment Area
19902
B
680
680
23.104
18.288
13
14
19902
12
RED RIVER
N
W
E
S
METRIC
ENCROACHMENT AREA:
9.144 x 7.315 = 66.9 m² (± 720 ft²)
CITY OWNED PROPERTY
Date: 2009-APRIL-14
District: CC
File: 1052
Scale: 1:450
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. 13557