Agenda - Council - September 30, 2009

Report - Standing Policy Committee on Property and Development – September 8, 2009

Item No. 13 Easement Agreement - Parkland adjacent to 1 Carriere Road – Dave Warrenchuk and Sigrid Quinn (St. Boniface Ward) eFile GL-8

STANDING COMMITTEE RECOMMENDATION:

On September 23, 2009, 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 an Easement Agreement be approved in Favour of Dave Warrenchuk and Sigrid Quinn, for ingress and egress purposes from the Grantee's Land located at 1 Carriere Road onto a portion of the City-owned parkland identified as "Requested Easement Area" on Misc. Plan No. 13584, in accordance with the terms and conditions outlined on Schedule "A" contained in the report of the Winnipeg Public Service dated August 12, 2009.; the final Easement 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 Acting 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 complete 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 – September 8, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 23, 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 September 8, 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 Easement Agreement in favour of Dave Warrenchuk and Sigrid Quinn for egress purposes over City Owned Parkland adjacent to 1 Carriere Road**

Critical Path: **Standing Policy Committee on Property and Development**
Executive Policy Committee
Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen	D. Joshi	N/A	G. Laubenstein

RECOMMENDATIONS

1. That Council approve an Easement Agreement in Favour of Dave Warrenchuk and Sigrid Quinn, for ingress and egress purposes from the Grantee's Land located at 1 Carriere Road onto a portion of the City-owned parkland identified as "Requested Easement Area" on Misc. Plan No. 13584 attached, in accordance with the terms and conditions outlined on the attached Schedule "A"; the final Easement 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 complete the intent of the foregoing.

IMPLICATIONS OF THE RECOMMENDATIONS

- There are no regulatory, environmental or human resource implications associated with the report.
- In accordance with Section 205(2) of the City of Winnipeg Charter, any disposition of parkland requires approval by 2/3 majority vote of Council.
- Should Recommendation No. 1 of this report be approved, a one time fee of $1,000.00 plus applicable taxes will be administered.

HISTORY

At its meeting held on June 24, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Reil Community Committee, namely:
"That the Winnipeg Public Service, in consultation with the Ward Councillor, be requested to negotiate an easement agreement in favour of Dave Warrenchuk and Sigrid Quinn of 1 Carriere Avenue for ingress/egress purposes over the City-owned property located at the west limit of the back lane north of Carriere Avenue, subject to the following conditions:

A. *That should the City determine at any time to eliminate the access across the subject City-owned property, the owners of 1 Carriere Avenue shall be responsible for relocating the garage door to the east side of the structure and undertaking necessary modifications to provide access directly off the lane; this includes returning the City land to a state at least as good as it was prior to the granting of the easement.*

B. *That no modifications shall be made to the easement parcel without written approval by the Director Planning Property and Development.*

C. *That the city not be responsible to police the use of the space by others in the community nor to maintain the property within the easement area.*

D. *That a caveat including the above conditions be registered on the property title of 1 Carriere Avenue."*

The Planning, Property and Development Department has concluded negotiations with the owners of 1 Carriere Avenue. The proposed easement Agreement also provides for the following:

1. That should the City determine at any time to eliminate the access across the subject City-owned property, the owners of 1 Carriere Road shall be responsible for relocating the garage door to the east side of the structure and undertaking necessary modifications to provide access directly off the lane; this including returning the City land to a state at least as good as it was prior to the granting of the easement.

2. That no modifications shall be made to the easement parcel without written approval by the Director of Planning, Property and Development.

3. That the City not be responsible to police the use of the space by others in the Community nor to maintain the property within the easement area.

4. That a caveat including the above conditions be registered on the property title of 1 Carriere Road.

The Ward Councillor is supportive of the Easement Agreement and the Planning, Property and Development Department is recommending that the Easement Agreement in Favour of Dave Warrenchuk and Sigrid Quinn, for ingress and egress purposes from the Grantee's Land located at 1 Carriere Road onto a portion of the City-owned parkland identified as "Requested Easement Area" on Misc. Plan No. 13584 be approved.

FINANCIAL IMPACT

Financial Impact Statement **Date:** August 21, 2009

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

Proposed Easement Agreement in favour of Dave Warrenchuk and Sigrid Quinn for egress purposes over City Owned Parkland adjacent to 1 Carriere Road

	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	1,000	-	-	-	
Net Cost/(Benefit)	$ (1,000)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts					
Net Budget Adjustment Required	$ (1,000)	$ -	$ -	$ -	$ -

If the recommendation to grant the Easement Agreement is approved, a one time fee of $1,000.00 plus applicable taxes will be administered.

"Original signed by Karen Ayotte" on behalf of
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this Report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by	Michelle Granger
Date:	August 21, 2009
File No.	32/6521

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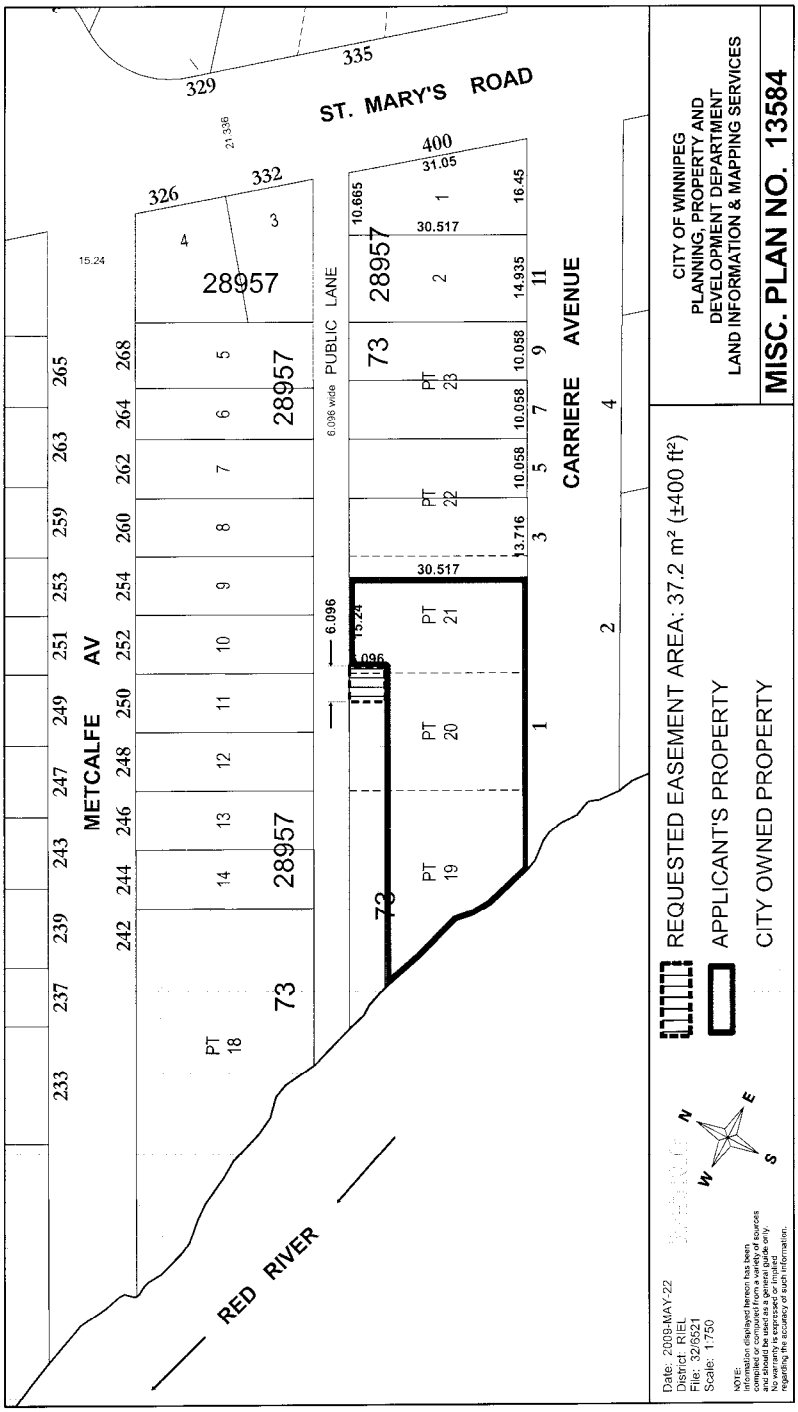
ST. MARY'S ROAD
METCALFE AV
CARRIERE AVENUE
PUBLIC LANE
RED RIVER
REQUESTED EASEMENT AREA: 37.2 m² (±400 ft²)
APPLICANT'S PROPERTY
CITY OWNED PROPERTY
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13584
Date: 2009-MAY-22
District: RIEL
File: 32/6521
Scale: 1:750

SCHEDULE "A"

Proposed Terms & Conditions for the City of Winnipeg to Grant an Easement over City-Owned parklands located at 1 Carriere Avenue Shown As, "Requested Easement Area", on Misc. Plan No. 13584

1. For the proposed consideration of **ONE THOUSAND ($1,000.00) DOLLARS,** the City of Winnipeg grants and conveys to Dave Warrenchuk and Sigrid Quinn, herein called the "Owners" of #1 Carriere Road, the right of easement together with the right to enter upon and use that portion of the City's land, described as "Requested Easement Area" on Misc. Plan No.13584 for the purpose of ingress and egress within the proposed easement area.

2. The City consents to allow the Owners to utilize the proposed easement area at any time hereafter subject to the following conditions:

   - That should the City determine at any time to eliminate the access across the subject City-owned property, the owners of 1 Carriere Road shall be responsible for relocating the garage door to the east side of the structure and undertaking necessary modifications to provide access directly off the lane; this including returning the City land to a state at least as good as it was prior to the granting of the easement.

   - That no modifications shall be made to the easement parcel without written approval by the Director of Planning, Property and Development;

   - That the City not be responsible to police the use of the space by others in the Community nor to maintain the property within the easement area;

   - That a caveat including the above conditions be registered on the property title of 1 Carriere Road.

3. The Owner shall not erect or permit the erection of any building or other structure in, over or upon the Requested Easement Area, or any part there of, without the prior written consent of the City's Director of Planning Property and Development.

4. The owner shall be fully responsible for the preparation and registration at the Winnipeg Land Titles Officer of a "Plan of Easement" so that a caveat based on the easement would be registered against the Easement Area.

5. The Owner shall allow the City of Winnipeg to register a caveat against the Owner's property outlining all terms and conditions of this agreement.

6. The Owners shall be responsible for their own legal costs.

7. The Owner agrees to enter into an appropriate Easement Agreement with the City in a form and embodying the within terms and conditions and any other such terms and conditions and amendments as deemed necessary by the City Solicitor.

8. The easement shall enure to the benefit of and be binding upon parties and respective heirs, executors, successors and assigns.

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

I/We, _____,
being the legally registered owner of the property commonly known as 1 Carriere Road agree to the terms and conditions as set out in this Schedule A for the use of the City Owned parklands identified as the "Requested Easement Area" shown on Misc. Plan No.13584 attached.

Date	***Dave Warranchuk***
Date	**Sigrid Quinn**