Agenda - Council – September 30, 2009

Report – Standing Policy Committee on Infrastructure Renewal and Public Works – September 15, 2009

Item No. 2 Memorandum of Understanding – 418 Belvidere Street (St. James-Brooklands Ward) eFile WS-5

STANDING COMMITTEE RECOMMENDATION:

On September 23, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submits the following to Council:

1. That the Winnipeg Public Service be authorized to enter into a Memorandum of Understanding and such other agreements that may be required, pursuant to Section 211 of The City of Winnipeg Charter, with Khouay Quang Tran and Ngoc Ai Tang-Tran in order to construct the wastewater sewer and all associated works in Belvidere Street.

2. That the Chief Administrative Officer be authorized to finalize and approve the terms of the Memorandum of Understanding and such other agreements as may be required for this matter.

3. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

Report– Standing Policy Committee on Infrastructure Renewal and Public Works – September 15, 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 Infrastructure Renewal and Public Works and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 15, 2009, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

ISSUE: **MEMORANDUM OF UNDERSTANDING – 418 BELVIDERE STREET**

Critical Path: **Standing Policy Committee on Infrastructure Renewal & Public Works - Executive Policy Committee - Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen Manager of Real Estate M. Shkolny, P. Eng. Manager of Engineering Services	D. Joshi Director, Planning Property and Development B. D. MacBride, P. Eng. Director, Water and Waste	M. Ruta	G. Laubenstein

RECOMMENDATIONS

1. That the Winnipeg Public Service be authorized to enter into a Memorandum of Understanding and such other agreements that may be required, pursuant to Section 211 of the City of Winnipeg Charter, with Khouay Quang Tran and Ngoc Ai Tang-Tran in order to construct the wastewater sewer and all associated works in Belvidere Street.
2. That the Chief Administrative Officer be authorized to finalize and approve the terms of the Memorandum of Understanding and such other agreements as may be required for this matter.
3. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

IMPLICATIONS OF THE RECOMMENDATIONS

Council approval is required for approval of the Memorandum of Understanding and other agreements that may be required for this matter.

HISTORY

In October 2008, the Winnipeg Public Service marketed the sale of the Vacant City property located at 418 Belvidere Street shown outlined on the attached Misc. Plan 13319/1, to the general public. The marketing package along with the Offer to Purchase clearly stated the following:

> "If the subject property is developed, extension of the existing City sewermain is required at the expense of the applicant prior to the issuance of a building permit".

On October 20, 2008 the Winnipeg Public Service approved the sale of 418 Belvidere Street to Khouay Tran in the amount of $45,000.00. In January 2009, title to the subject property transferred to Khouay Quang Tran and Ngoc Ai Tang-Tran (the Purchaser).

In June, 2009, the Purchaser contacted the City with the intent on hiring a contractor to extend the City sewermain.

In this instance, the City and the Purchaser are required to enter into an agreement under section 211 of the City of Winnipeg Charter which permits the City to enter into agreements with any person to provide services in the City.

With input from the Water and Waste Department, the Land Development Branch, the Real Estate Division and the Legal Services Division, the City and the Purchaser entered into a Memorandum of Understanding (MOU), copy attached. The purpose of this MOU is to outline the common understanding of the City and the Purchaser regarding the Purchaser's obligation to construct the sewermain and all associated works in Belvidere Street to provide wastewater service for the property shown outlined on Misc. Plan No. 13319/1.

The Purchaser is responsible for all costs associated with the construction of the sewermain and all associated works including engineering services.

The said MOU requires Council approval before the Purchaser (or Purchaser's contractor) can commence with the extension of the sewermain in order to develop the property at 418 Belvidere Street.

FINANCIAL IMPACT

Financial Impact Statemen **Date:** August 19, 2009

Project Name:
Memorandum of Understanding – 418 Belvidere Street

COMMENTS:

There are no financial implications associated with this report's recommendations.

"Original signed by D. Capp, C.G.A."
Darlene Capp, C.G.A.
Acting Manager of Finance & Administration

CONSULTATION

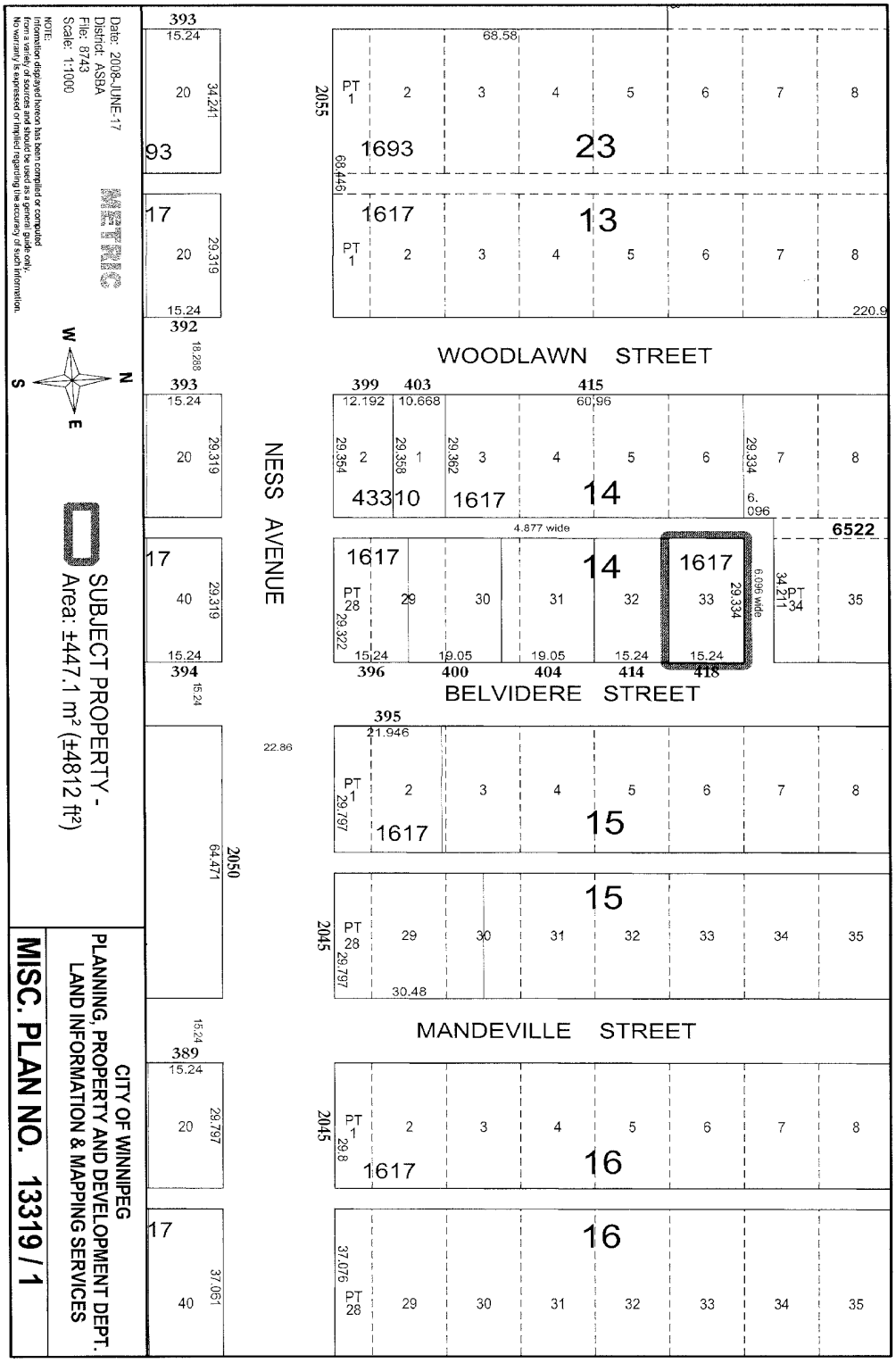
In preparing this Report there was consultation with:

- Water and Waste Department
- Land Development Branch, Planning, Property and Development Department
- Real Estate Division, Planning, Property and Development Department
- Legal Services, Corporate Support Services Department

SUBMITTED BY

Department	Planning, Property and Development Department and Water and Waste Department
Division	Real Estate Division (PPD) and Engineering Division (W&W)
Prepared by:	Frank Mazur, Services Development Engineer Joedi Pruden, A/Land Enhancement Coordinator
Date:	August 19, 2009
File No.	8743 and WWD 020-06-02-07-00

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Date: 2008-JUNE-17
District: ASBA
File: 8743
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.
METRIC
SUBJECT PROPERTY -
Area: ±447.1 m² (±4812 ft²)
NESS AVENUE
WOODLAWN STREET
BELVIDERE STREET
MANDEVILLE STREET
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13319 / 1

Schedule “A”

Memorandum of Understanding

This Memorandum of Understanding made the day of , 2009.

BETWEEN:

KHOUAY QUANG TRAN and NGOC AI TANG-TRAN

(hereinafter jointly and severally called the “Purchaser”)

and

THE CITY OF WINNIPEG

(hereinafter called the “City”)

WHEREAS on the 20th day of October, 2008, the City accepted the Purchaser’s Offer To Purchase the property with a legal description of Lot 33 Block 14 Plan 1617 WLTO in River Lots 22 to 25 Parish of St. James, and with a civic address of 418 Belvidere Street, in the City of Winnipeg, in Manitoba as shown outlined on the attached Misc. Plan No. 13319/1 (hereinafter called the “Property”);

AND WHEREAS the City has transferred the Property to the Purchaser and the Purchaser is now the Owner of the Property;

AND WHEREAS the accepted Offer To Purchase provides that should the Property be developed, extension of the existing sewermain will be required at the expense of the Purchaser prior to the issuance of a building permit;

AND WHEREAS the accepted Offer To Purchase further provides that in regard to lot-line connections, the Property requires new sewer and water connections, installation and costs of which are to be borne by the Purchaser;

AND WHEREAS the purpose of this Memorandum of Understanding is to outline the common understanding of the City and the Purchaser regarding the Purchaser's obligation to construct the wastewater sewer and all associated works in Belvidere Street to provide wastewater service for the Property as outlined on Misc. Plan No. 13319/1;

NOW THEREFORE in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree with each other as follows:

1. The preamble hereto shall form an integral part of this Memorandum of Understanding.

2. The Purchaser shall retain the services of a qualified municipal engineer as the Project Manager to coordinate the construction of the wastewater sewer and all associated works in Belvidere Street.

3. The Purchaser agrees that the latest version of The City of Winnipeg "Standard Construction Specifications" shall apply to all materials supplied and all construction procedures related to the installation of the wastewater sewer and all associated works.

4. The Purchaser shall be responsible for all costs associated with the construction of the wastewater sewer and all associated works including engineering services.

5. The City agrees to permit the Purchaser to construct a wastewater sewer and all associated works in Belvidere Street at no cost to the City subject to the Purchaser agreeing to enter into an agreement for servicing with the City containing the following conditions:

    (a) Drawing approval shall be subject to the City's Underground Structures Approval process;

(b) A qualified municipal engineer retained by the Purchaser shall inspect the works on behalf of the City and shall provide as-built drawings to the City in a timely manner not exceeding three months immediately following the date of substantial completion of the works herein referred to;

(c) The Purchaser shall post Letters of Credit in amounts as determined by the City in a form satisfactory to the Acting City Solicitor to cover performance and Builders' Liens liability in accordance with the City's current servicing agreement practices.

IN WITNESS WHEREOF the Purchaser has caused this Memorandum of Understanding to be duly executed in duplicate at the City of Winnipeg, in Manitoba, this day of , 2009.

_____
Witness:

Name: _____
(please print)

Address:

_____

_____

_____
KHOUAY QUANG TRAN

_____
NGOC AI TANG-TRAN

IN WITNESS WHEREOF the City has caused this Memorandum of Understanding to be duly executed in duplicate at the City of Winnipeg, in Manitoba, this day of , 2009.

THE CITY OF WINNIPEG

Per: _____
Director of Planning, Property and Development

Approved:

_____
Planning, Property and Development Department

Approved:

_____
for Director of Water and Waste

Approved:

_____
for Director of Public Works

Certified as to form:

_____
for Acting City Solicitor/Manager of Legal Services