Agenda - Council - October 28, 2009

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

Item No. 12 Encroachment Agreement - Notre Dame Right-of-Way - Neil Bardal Inc.
(St. James - Brooklands Ward)
eFile ED(31)

STANDING COMMITTEE RECOMMENDATION:

On October 21, 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 the Encroachment Agreement in favour of Neil Bardal Inc. be approved in accordance with the terms and conditions contained in Schedule A to the report of the Winnipeg Public Service dated September 22, 2009.

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 – October 8, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 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 October 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: **To Seek Council Approval for the Proposed Encroachment Agreement to Permit the Development and Maintenance of a Loading Area for a Funeral Coach Encroaching onto the Notre Dame Right-of-Way – Neil Bardal Inc.**

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	P. Sheegl Deputy CAO

RECOMMENDATIONS

1. That the proposed Encroachment Agreement in favour of Neil Bardal Inc. be approved in accordance with the proposed terms and conditions as attached (Schedule A).

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

IMPLICATIONS OF THE RECOMMENDATIONS

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 the City properties for which the Director of Planning, Property and Development Department has no authority. In this regard, the Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement, in favour of Neil Bardal Inc., for the development and maintenance of a loading area for a funeral coach on the north of the property located within the Notre Dame Right-of-Way.

- The Department determined that there are no general policy, regulatory, environmental, human resource or financial implications to the Encroachment Agreement of this land as outlined in the attached Miscellaneous Plan No. 13593.

- Neil Bardal Inc. wishes to enter into an Encroachment Agreement for the development and maintenance of a loading area for a funeral coach within the Notre Dame Avenue Right-of-Way.

HISTORY

- Neil Bardal Inc. is a funeral home operation located at 3030 Notre Dame Avenue.

- Sunwood Construction, on behalf of Neil Bardal Inc., submitted an encroachment application to the City's Zoning and Permits Branch for the development and maintenance of a loading area, encroaching onto the Notre Dame Avenue Right-of-Way.

- The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the development and maintenance of a loading area for a funeral coach.

- The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Neil Bardal Inc.

- The Public Works Department has no objections to the proposed encroachment, subject to the conditions as noted in Schedule 'A'.

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

- This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement **Date:** September 18, 2009

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

Proposed Encroachment Agreement to Permit the Development and Maintenance of a Loading Area for a Funeral Coach Encroaching onto the Notre Dame Right-of-Way – Neil Bardal 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	325	550	550	550	550
Net Cost/(Benefit)	$ (325)	$ (550)	$ (550)	$ (550)	$ (550)
Less: Existing Budget Amounts	(325)	(550)	(550)	(550)	(550)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2009 consist of an annual administrative fee of $250 + a prorated portion of the annual $300 encroachment fee to reflect the Oct. 1 commencement date. Revenues from 2010 onward represent the full amount of the annual encroachment fees + the admin fee.

"Original signed by"

Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this Report there was consultation with:

Corporate Finance Department
Public Works Department
Corporate Support Services, Legal Services Division

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by	Maxine Clayton
Date:	September 22, 2009
File No.	8883

O:\Reports Directive\Real Estate\Leasing\(mpc)Encroachment Agreement-3030 Notre Dame Avenue.doc

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO PERMIT THE DEVELOPMENT AND MAINTENANCE OF A LOADING AREA FOR A FUNERAL COACH ON THE NORTH SIDE OF THE PROPERTY ENCROACHING ONTO THE NOTRE DAME RIGHT-OF-WAY

Use:	Development and Maintenance of a loading zone
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 13593, attached.
Term:	Annual Continuing, commencing October 1st, 2009.
Rental:	$300.00 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; an annual administrative fee of $250.00 plus GST.
Insurance:	Commercial General Liability insurance in the amount of at least $2,000,000.00, The City of Winnipeg to be added as an additional insured, policy to contain a cross-liability clause and provision to provide fifteen (15) days notice of cancellation/termination.
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 contact the Call-Before-You-Dig line at 480-1212;

That extreme caution be used when excavating in the vicinity of MTS buried plant and that the applicant contact the Buried Plan Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

That the loading area shall be constructed in accordance with the specifications of a commercial private approach as shown on the City of Winnipeg Public Works Department Drawing No. SD-234, a copy of which is attached for reference;

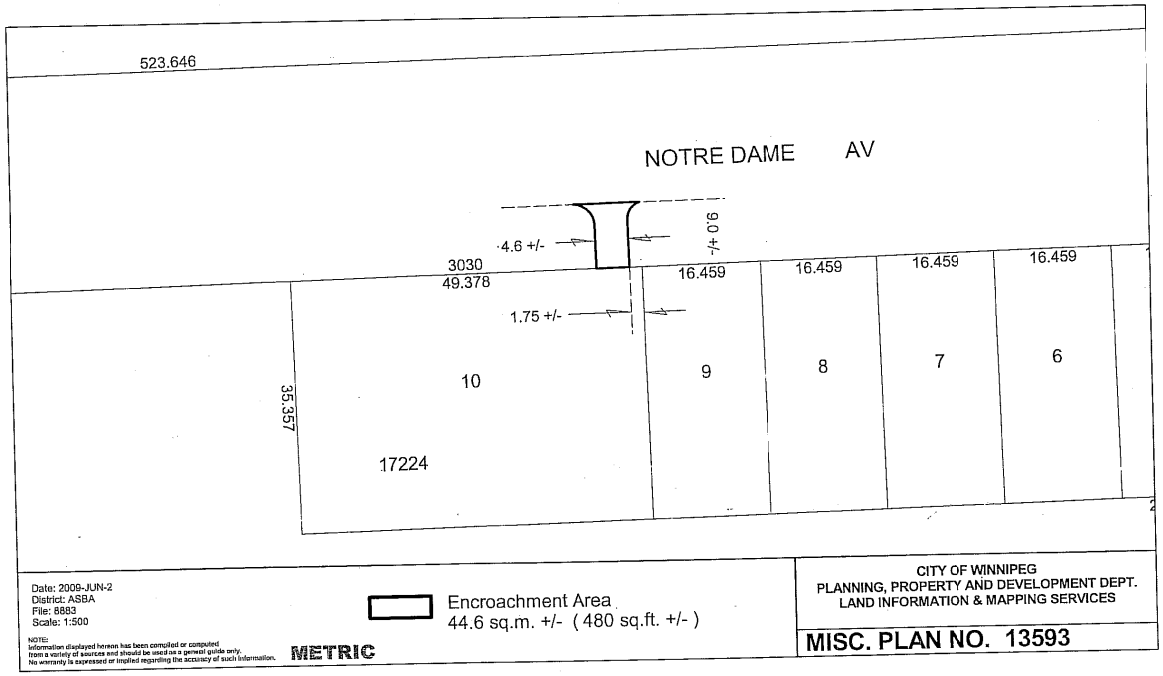
That the applicant/property manager shall grant full access to the encroachment areas to City staff and Utilities for infrastructure works as may be needed;

That all applicable permits be obtained prior to any further development.

NEIL BARDAL INC. HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS

Title

Aug 28/09
Date


523.646
NOTRE DAME AV
4.6 +/-
9.0 +/-
3030
49.378
16.459
16.459
16.459
16.459
1.75 +/-
10
9
8
7
6
35.357
17224
Date: 2009-JUN-2
District: ASBA
File: 8883
Scale: 1:500
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
Encroachment Area
44.6 sq.m. +/- (480 sq.ft. +/-)
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13593