Minute No. 538
Report - Standing Policy Committee on Property and Development – July 6, 2010

Item No. 20 **Encroachment Agreement - Boulevard in front of 975 Thomas Avenue - Neptune Management Ltd.**
(Elmwood-East Kildonan Ward)
eFile EC (33)

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 Neptune Management Ltd. to landscape the boulevard along Thomas Avenue and to install unistone paves, benches and bushes encroaching onto the City right-of-way in front of 975 Thomas Avenue, as shown on Miscellaneous Plan No. 13777/1, be approved in accordance with the terms and conditions as set out in Schedule A to the report from the Winnipeg Public Service dated June 8, 2010.

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

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DECISION MAKING HISTORY:

Moved by Councillor Steeves,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 2010, 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 July 6, 2010, 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

Title: **Proposed Encroachment Agreement with Neptune Management Ltd.**

Issue: **Proposed Encroachment Agreement to Landscape the Boulevard along Thomas Avenue and to Install Unistone Paves, Benches and Bushes Encroaching onto the City Right-of-Way in front of 975 Thomas Avenue - Neptune Management Ltd.**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	M Ruta	P Sheegl, Deputy CAO

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Neptune Management Ltd. to landscape the boulevard along Thomas Avenue and to install unistone paves, benches and bushes encroaching onto the City right-of-way in front of 975 Thomas Avenue, as shown on attached Miscellaneous Plan No. 13777/1, be approved in accordance with the proposed terms and conditions as set out in the 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.

REASON FOR THE REPORT

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 property for which the Director of Planning, Property and Development has no authority. In this regard, the Planning, Property and Development has negotiated proposed terms and conditions of an Encroachment Agreement, in favour of Neptune Management Ltd.

IMPLICATIONS OF THE RECOMMENDATIONS

- The Department has determined that there is no general, policy, regulatory, environmental or human resource implications to lease the lands as shown on the attached Miscellaneous Plan No. 13777/1.

HISTORY

Pre-Con Builders, on behalf of Neptune Management Ltd., submitted an encroachment application to the City's Zoning and Permits Branch to landscape the boulevard along Thomas Avenue and to install unistone paves, benches and bushes encroaching onto the City right-of-way in front of 975 Thomas Avenue.

The application was circulated to applicable City departments and public utilities for consideration and comments. No objections were received.

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Neptune Management Ltd. to landscape the boulevard along Thomas Avenue and to install unistone paves, benches and bushes encroaching onto the Thomas Avenue Right-of-Way in front of 975 Thomas Avenue.

The Public Works Department has no objection to the proposed encroachment, subject to conditions as noted on Schedule A.

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.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 11, 2010

Project Name: **First Year of Program** **2010**

Proposed Encroachment Agreement with Neptune Management Ltd.

	2010	2011	2012	2013	2014
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	593	458	458	458	458
Net Cost/(Benefit)	$ (593)	$ (458)	$ (458)	$ (458)	$ (458)
Less: Existing Budget Amounts	(593)	(458)	(458)	(458)	(458)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2010 consist of the annual encroachment fee of $457.50, prorated for the April 1 commencement date, plus a one-time admin fee of $250. Revenues from 2011 onward consist of the full year encroachment fee amount which is assumed to remain constant.

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

CONSULTATION

In preparing this report there was consultation with:

Corporate Finance
Legal Services Department as to legal issues
Public Works Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate
Prepared by:	Maxine Clayton
Date:	June 8, 2010
File No.	32/5389

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PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO LANDSCAPE THE BOULEVARD ALONG THOMAS AVENUE AND TO INSTALL UNISTON PAVES, BENCHES AND BUSHES ENCROACHING ONTO THE RIGHT OF WAY IN FRONT OF THOMAS AVENUE – NEPTUNE MANAGEMENT LTD.

Use:	Landscaping of the boulevard along Thomas Avenue and to install unistone paves, benches and bushes
Area:	Shown and identified as 'Sign Encroachment' on Misc. Plan No. 13777/1, attached
Term:	Annual Continuing, commencing April 1, 2010
Fee:	$457.50 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:	The Tenant shall provide and maintain the following insurance coverage: Commercial general liability insurance, in the amount of at least two million dollars ($2,000,000.00) inclusive, with The City of Winnipeg added as additional insured, such liability policy to also contain a cross-liability clause, All policies shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba; Deductibles shall be borne by Neptune Management Ltd; Neptune Management Ltd. shall not cancel, or cause any such policy or policies to lapse without a minimum thirty (30) days prior written notice to the City; Neptune Management Ltd. 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 Neptune Management Ltd. reasonable and shall request reasonable change. Any certificates of insurance documenting the above should be sent to: The City of Winnipeg, Risk Management Division, 3rd Floor, 185 King Street, Winnipeg, Manitoba R3B 1J1 Attention: Shelly Davidson, Supervisor of Insurance Phone: 986-5252 Fax: 986-6132 Email: shellydavidson@winnipeg.ca
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 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 extreme caution be used when excavating in the vicinity of MTS buried plant (MTS facilities have been marked on attached drawing) and that the applicant contact the Buried Plan Location Service at 941-7267m, 48 hours prior to excavation for further confirmation in the field;

That the existing manhole within the proposed encroachment area be adjusted, if needed, as a result of any landscaping/re-grading and there may be a water shut-off valve associated with the water service for this property exists within the proposed area. It will be up to the applicant to verify the location of this valve and take it into account when re-grading

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

NEPTUNE MANAGEMENT LTD. ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

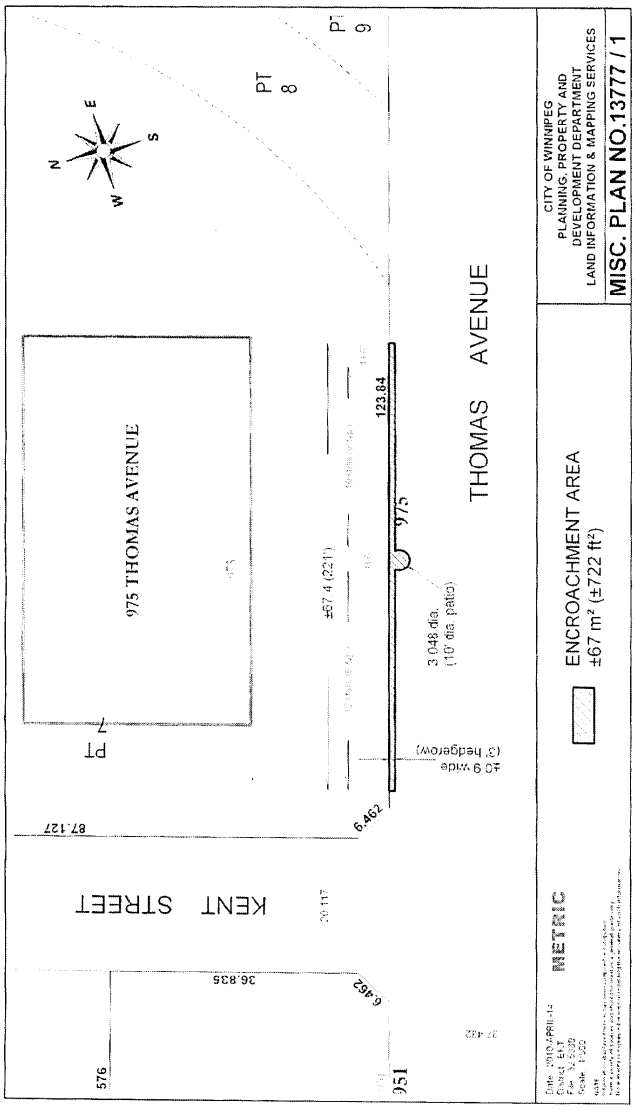


NAME Calvin Polet

TITLE: Secretary

20/4/10

DATE


PT 9
PT 8
975 THOMAS AVENUE
PT 7
THOMAS AVENUE
123.84
975
±67.4 (221)
3.048 dia. (10' dia. patio)
40.9 wide (3' hedgerow)
87.127
6.462
KENT STREET
36.835
6.462
576
951
N
E
S
W
ENCROACHMENT AREA
±67 m² (±722 ft²)
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO.13777 / 1


KENT ST
THOMAS AV