Minutes - Executive Policy Committee – July 13, 2011

Minute No. 400
Report - Standing Policy Committee on Property and Development – July 5, 2011

Item No. 11 Encroachment Agreement - Development and Maintenance of an Underground Parkade encroaching onto the City Right-Of-Way located at 176 Roslyn Road – Dennistoun Real Estate Holdings Inc. (Fort Rouge - East Fort Garry Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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 Encroachment Agreement in favour of Dennistoun Real Estate Holdings Inc. to develop and maintain an underground parkade encroaching onto the City Right-of-Way located at 176 Roslyn Road, as shown on Misc. Plan No. 13937, be approved in accordance with the terms and conditions as set out in Schedule A.

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

Minutes - Executive Policy Committee – July 13, 2011

Report - Standing Policy Committee on Property and Development – July 5, 2011

DECISION MAKING HISTORY:

Moved by Councillor Havixbeck,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2011, 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 for the Development and Maintenance of an Underground Parkade Encroaching onto the City Right-Of-Way Located at 176 Roslyn Road – Dennistoun Real Estate Holdings Inc.**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	N/A	Alex Robinson Deputy CAO

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Dennistoun Real Estate Holdings Inc. to develop and maintain an underground parkade encroaching onto the City Right-of-Way located at 176 Roslyn Road, as shown on attached Miscellaneous Plan No. 13937, 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 Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of Dennistoun Real Estate Holdings Inc.

This report seeks the Committee's approval of the terms and conditions of the Encroachment Agreement as negotiated.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no general policy, regulatory, environmental, human resource or financial implications to the lease of the subject property as described on the attached Misc. Plan No. 13937.

The proposed Encroachment Agreement will formalize the terms and conditions for the use of the City's right-of-way as outlined on Misc. Plan 13937.

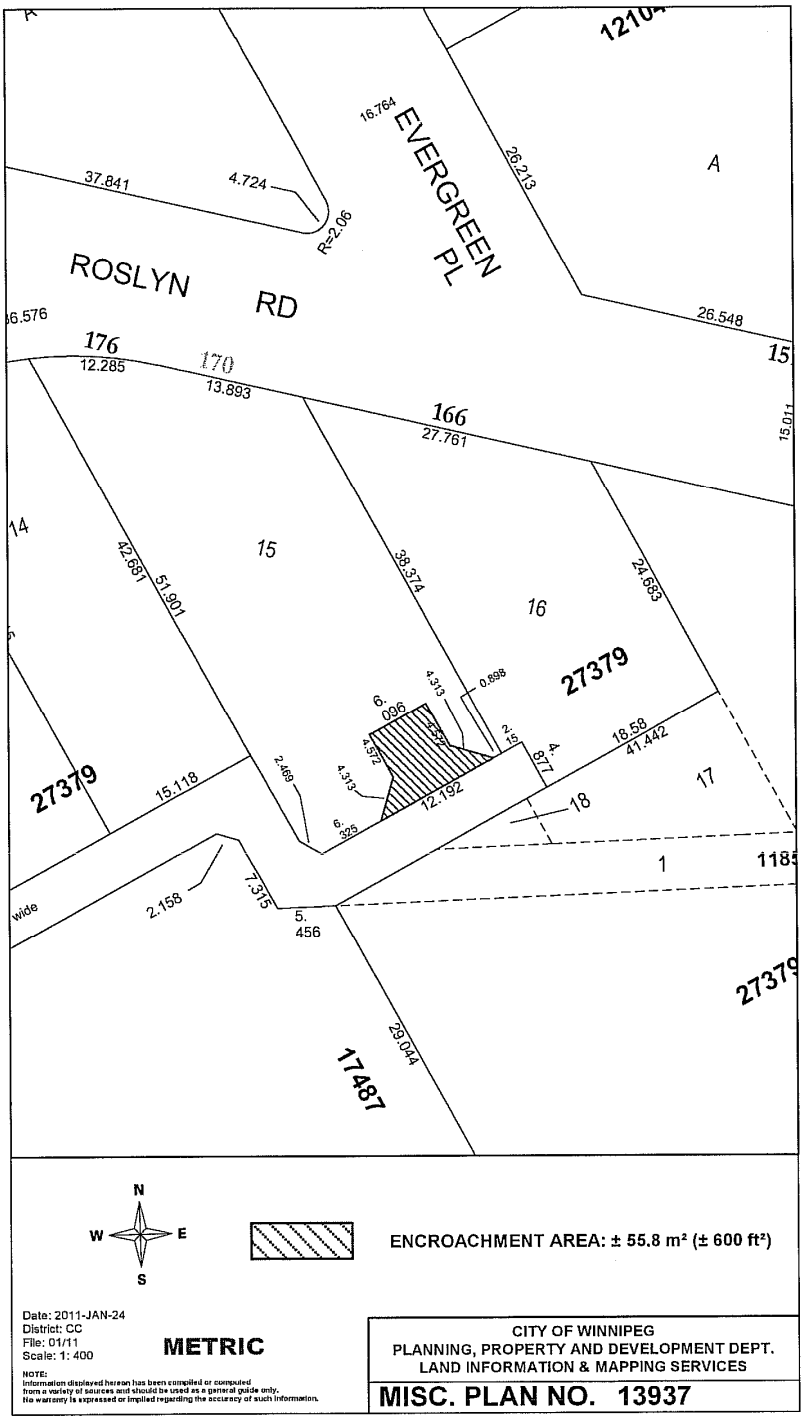
HISTORY

FWS Construction Projects, on behalf of Dennistoun Real Estate Holdings Inc. submitted an encroachment application to the City's Zoning and Permits Branch to develop and maintain an underground parkade encroaching onto the City's right-of-way at Roslyn Road.

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

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.



ROSLYN RD
EVERGREEN PL
37.841
4.724
R=2.06
16.764
26.213
26.548
A
176
12.285
170
13.893
166
27.761
15.011
14
15
16
42.681
51.901
38.374
24.683
27379
6.096
4.313
0.898
2.15
4.877
18.58
41.442
17
18
1
15.118
2.469
4.572
12.192
6.325
2.158
7.315
5.456
wide
29.044
17487
N
W
E
S
ENCROACHMENT AREA: ± 55.8 m² (± 600 ft²)
Date: 2011-JAN-24
District: CC
File: 01/11
Scale: 1: 400
METRIC
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. 13937

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 21, 2011

Project Name: **First Year of Program** **2011**

Proposed Encroachment Agreement to develop and maintain an underground parkade encroaching onto the Public Lane at the rear of 176 Roslyn Road

	2011	2012	2013	2014	2015
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	753	403	403	403	403
Net Cost/(Benefit)	$ (753)	$ (403)	$ (403)	$ (403)	$ (403)
Less: Existing Budget Amounts	(753)	(403)	(403)	(403)	(403)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2011 consist of an initial admin fee of $250 + annual rental of $403. Revenues from 2012 onward represent just the annual rental amount.

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

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO DEVELOP AND MAINTAIN AN UNDERGROUND PARKADE LOCATED AT 176 ROSLYN ROAD ENCROACHING ONTO THE CITY RIGHT-OF-WAY – DENNISTOUN REAL ESTATE HOLDINGS INC.

Licensee:	Dennistoun Real Estate Holdings Inc. (hereinafter called the **'Licensee'**)
Use:	Development and Maintenance of an underground parkade
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 13937 attached
Term:	Annual Continuing, commencing April 1st, 2011
Rental:	$403.00 per annum, plus applicable 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 applicable GST.
Insurance:	The Licensee shall purchase and keep in force during the full term of the agreement the following insurance coverage: (i) Commercial general liability insurance in the amount of at least two million dollars ($2,000,000) per occurrence, such liability policy to include the City of Winnipeg as an additional insured and contain evidence of a cross liability clause; (ii) All policies to be taken out with insurers license to and carrying on business in the Province of Manitoba; (iii) Deductibles shall be borne by the Licensee; (iv) The Licensee shall not cancel, materially change or cause any such policies to lapse without a minimum of thirty (30) days prior written notice to the City of Winnipeg; (v) The Licensee shall file with the City a certificate of insurance in a form satisfactory for the City Solicitor; (vi) The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of this lease agreement and any subsequent renewals thereof, provided that the City shall give the Licensee 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 6 (six) months from the date of said approval unless the Licensee enters into an Encroachment

Agreement with the City of Winnipeg within the stated time frame, or alternatively obtains 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 Licensee and that any removal or relocation of existing facilities as a result of the proposed application will be at the expense of the Licensee. Prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. advise the Licensee contact the Call-Before-You-Dig line at 480-1212;

That if any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of the Licensee; that extreme caution be used when excavating in the vicinity of MTS buried plant and that the Licensee contact the Buried Plan Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

Any removal or relocation of Manitoba Hydro and/or Centre Gas Manitoba Inc. existing facilities as a result of the proposed encroachment will be at the expense of the Licensee;

Centra Gas Manitoba Inc. will require easements for future development with respect to the encroachment;

Should any future electrical and/or gas service is required, the Licensee contact the local Manitoba Hydro District Office;

The Licensee shall enter into a Servicing Agreement with the City to construct, at no expense to the City: a 1.5m in width by 100mm in thickness Portland cement concrete sidewalk along the south side of Roslyn Road from Nassau Street to the east limit of the Encroachment Area, including the provision of an easement for the sidewalk as required with the Encroachment Area, all as determined by and to the satisfaction of the Director of Public Works;

That the existing hammerhead turnaround will remain as a paved area in the new surface parking area and that there will be a parkade level built beneath this area, as understood and approved by the Public Works Department;

That all applicable permits be obtained prior to any development.

The Licensee shall enter into a formal agreement with the City embodying the foregoing terms and conditions and such other terms and conditions as the City Solicitor/Manager of Legal Services deems necessary and in a form satisfactory to the City Solicitor/Manager of Legal Services.

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.

DENNISTOUN REAL ESTATE HOLDINGS INC. ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

TITLE: Property Owner

DATE June 7/11

CONSULTATION

In preparing this report there was consultation with:

Legal Services
Corporate Finance
Public Works Department

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	M. Clayton, Real Estate Officer
Date:	June 22, 2011
File No.	6846

o:\reports directive\real estate\leasing\(mpc) encroachment agmt-176 roslyn.doc