Agenda – Council – December 12, 2012

Report – Standing Policy Committee on Property and Development – November 30, 2012

Item No. 3 Encroachment Agreement – Land adjacent to 450 Provencher Boulevard (St. Boniface Ward)

STANDING COMMITTEE RECOMMENDATION:

On December 5, 2012, 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 a Encroachment Agreement in favour of Centre Flavie Laurent Inc. to develop and maintain a parking area encroaching onto the City right of way adjacent to 450 Provencher Boulevard, as shown on attached Miscellaneous Plan No. 14329, be approved in accordance with the proposed terms and conditions as set out in Schedule A.

2. That all encroachment fees associated with Centre Flavie Laurent Inc. located at 450 Provencher Boulevard, be waived in perpetuity.

3. 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 – November 30, 2012

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 5, 2012, 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 November 30, 2012, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 7, 2012, the Executive Policy Committee referred the matter back to the Standing Policy Committee on Property and Development.

STANDING COMMITTEE RECOMMENDATION:

On November 6, 2012, 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.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 5, 2012, the Riel Community Committee recommended to the Standing Policy Committee on Property and Development that all encroachment fees associated with Centre Flavie Laurent Inc. located at 450 Provencher Boulevard, be waived in perpetuity.

ADMINISTRATIVE REPORT

Title: **Proposed Encroachment Agreement for the Development and Maintenance of a Parking Area encroaching onto the City right of Way adjacent to 450 Provencher Boulevard.**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Zabudney	B. Thorgrimson	M. Ruta	D. Joshi COO

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in Favour of Centre Flavie Laurent Inc. to develop and maintain a parking area encroaching onto the City right of way adjacent to 450 Provencher Boulevard, as shown on attached Miscellaneous Plan No. 14329, 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 Centre Flavie Laurent Inc.

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. 14329.

HISTORY

An application was submitted to the City's Zoning and Permits Branch to develop and maintain a parking area encroaching onto the City right of way adjacent to 450 Provencher Boulevard.

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 Centre Flavie Laurent Inc. to develop and maintain a parking area encroaching onto the City right of way.

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 terms and conditions.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement

Date: October 11, 2012

Project Name:

Proposed Encroachment Agreement with Centre Flavie Laurent Inc.

First Year of Program **2012**

	2012	2013	2014	2015	2016
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	400	-	-	-	-
Net Cost/(Benefit)	$ (400)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(400)	(1,800)	(1,800)	(1,800)	(1,800)
Net Budget Adjustment Required	$ -	$ 1,800	$ 1,800	$ 1,800	$ 1,800

Additional Comments: Revenues in 2012 consist of a one-time admin fee of $250 + annual rental income of $1,800, which has been prorated for an assumed December 1, 2012 commencement date. Revenues from 2013 onward represent the annual rental amount only.

"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:	Marlene Haderer
Date:	October 12, 2012
File No.	9003

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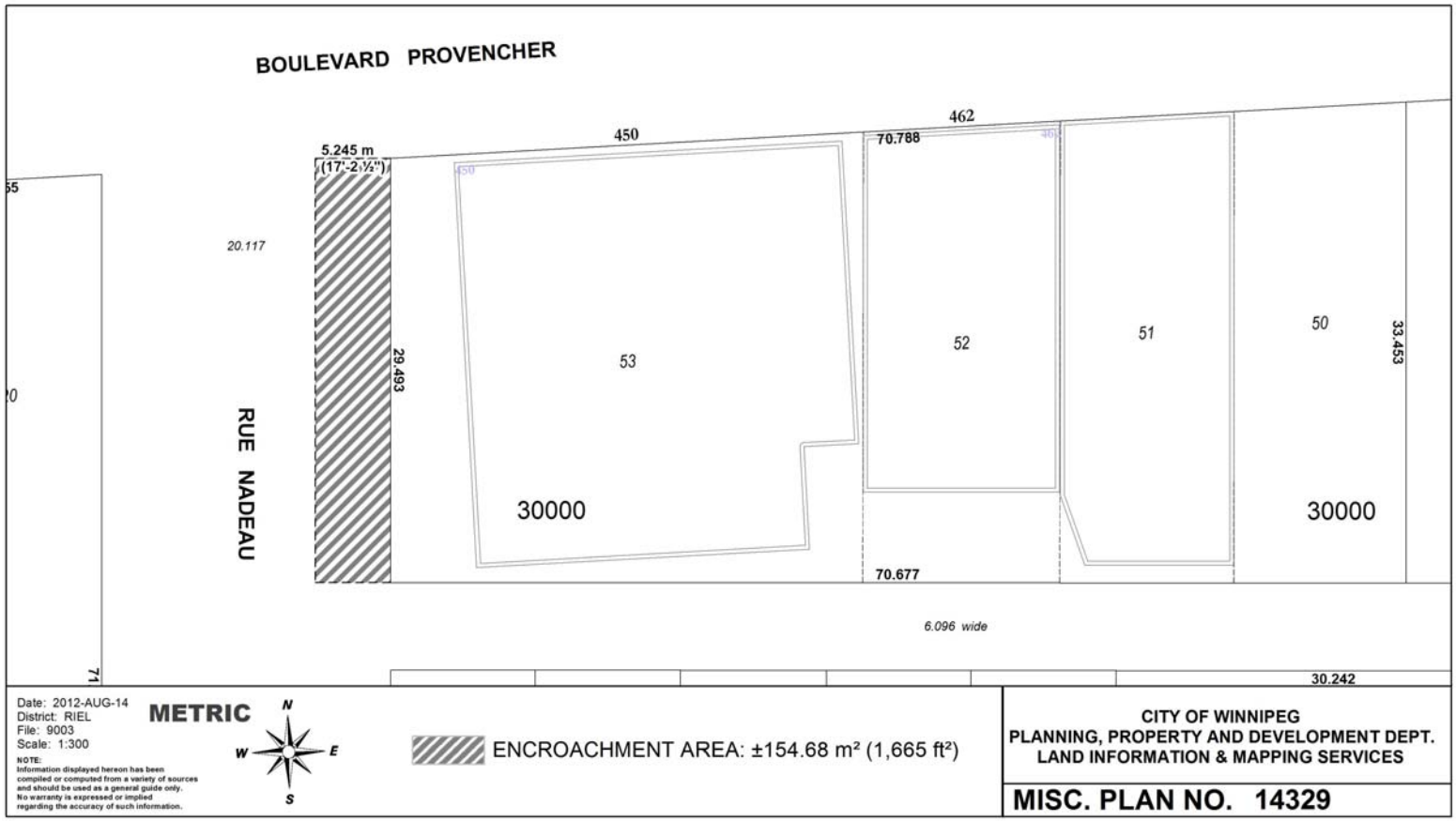
BOULEVARD PROVENCHER
RUE NADEAU
5.245 m
(17'-2½")
20.117
29.493
450
462
70.788
70.677
53
52
51
50
30000
30000
33.453
6.096 wide
30.242
55
71
Date: 2012-AUG-14
District: RIEL
File: 9003
Scale: 1:300
METRIC
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W
E
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NOTE:
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.
ENCROACHMENT AREA: ±154.68 m² (1,665 ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14329

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR AN ENCROACHMENT AGREEMENT TO ALLOW FOR THE USE OF A PORTION OF THE PUBLIC RIGHT OF WAY ON THE EAST SIDE OF RUE NADEAU, SOUTH OF PROVENCHER BOULEVARD FOR THE PURPOSE OF PARKING.

Use:	Development and Maintenance of Parking Area
Licensor:	The City of Winnipeg
Licensee:	Flavie Laurent Centre Inc. (hereinafter called the "Licensee")
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 14329, attached;
Term:	Annually Continuing, commencing the first day of the month following approval from the City's Standing Committees and Council;
Rental:	$1,800.00 per annum plus GST; plus an initial administrative fee of $250.00 plus GST;
Insurance:	The Licensee shall purchase and keep in force during the full term of the agreement the following insurance coverage: 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 and contractual liability; All policies to be taken out with insurers licensed to and carrying on business in the Province of Manitoba; Deductibles shall be borne by the Licensee; 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; The Licensee shall file with the City a certificate of insurance in a form satisfactory for the City Solicitor; 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 encroachment 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 by either party;
Conditions:	The Licensee understands and agrees that the 'Encroachment Area' is leased on an "as is" basis. The development and maintenance of the Encroachment Area will be performed at the sole cost, expense and effort of the Licensee, including, obtaining all permits required to develop, occupy and utilize the Encroachment Area for its intended use. The City shall have the right to access the encroachment area at any time (twenty four hours a day, seven days a week) by its employees or other persons acting with its authorization, with or without equipment to maintain, operate, repair, inspect or rehabilitate existing water mains, sewer lines, the existing pumping station and appurtenances located within the encroachment area. The Licensee shall not erect or permit the erection of any building or other structure, nor make any excavation or place fill upon the Encroachment Area. The Licensee shall be responsible for all costs, utilities, and operating expenses in connection with the use and occupation of the Encroachment Area including, but not limited to; license fees, business tax, garbage removal, snow removal (to be hauled away and not piled on site), security, etc. The Licensee shall also be responsible for clean up of litter in the immediate area as a result of use and occupation of the Encroachment Area. 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 applicant 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 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; The Licensee shall not assign this agreement or sublet these the Lands without the prior consent of the Licensor.

The Licensee shall indemnify and save the City harmless from and against any and all claims for damages or injuries, including death that may arise from the use of the Lands by the Licensee.

Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department, the Director of Public Works Department and by the City Solicitor/Director of Legal Services to protect the City's interests.

That the approval of this application by Council or its delegated authority is only valid for a period of twelve (12) months from the date of said approval unless the applicant executes 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;

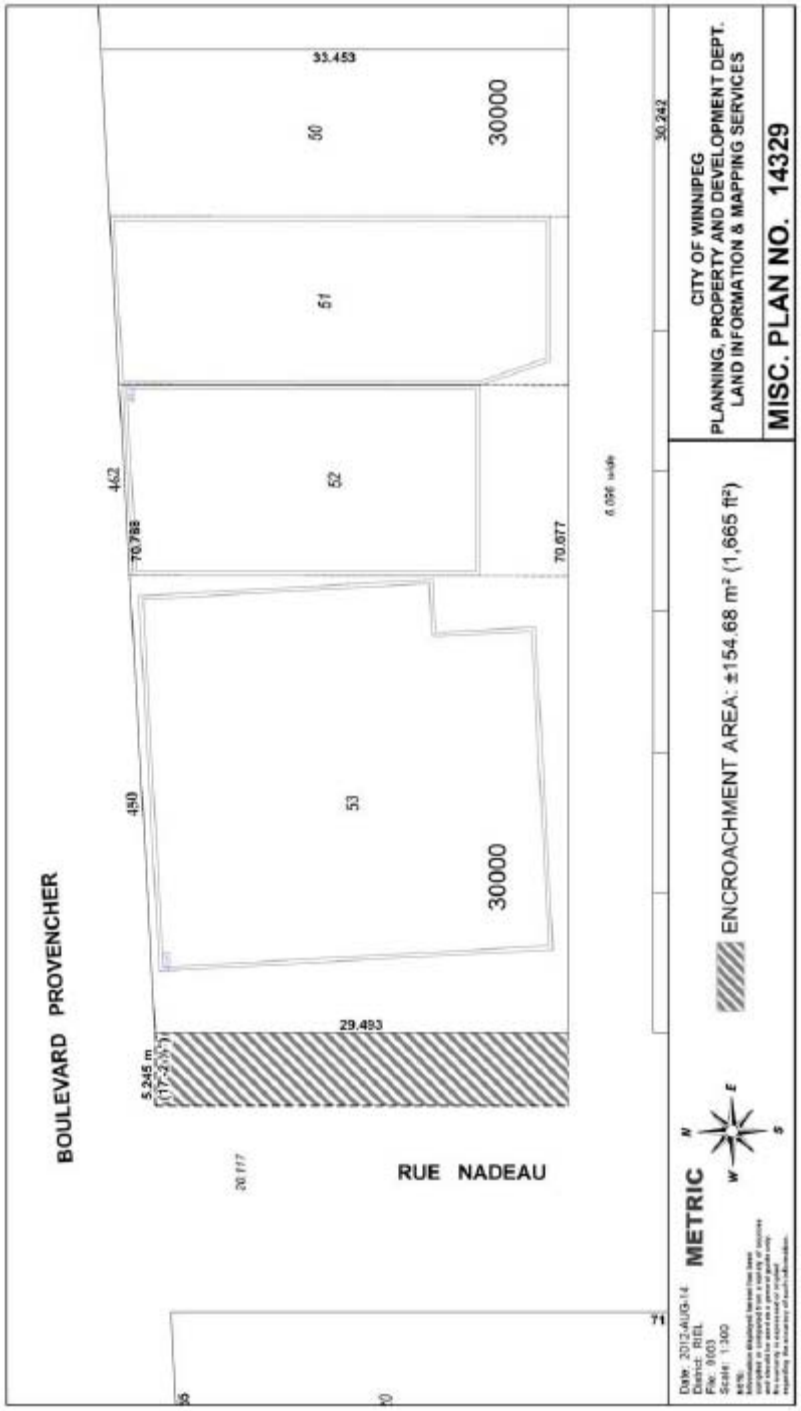
The proposed terms and conditions of the proposed Encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.

FLAVIE LAURENT CENTRE INC. HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

FLAVIE LAURENT CENTRE INC.

27 Sept 2012
DATE

CEO
TITLE


BOULEVARD PROVENCHER
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