Minutes - Executive Policy Committee – July 10, 2013

Minute No. 413
Report - Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – July 8, 2013

Item No. 2 **Encroachment Agreement to allow the cantilever of a proposed six storey building to project over the Public Right of Way at 207 Edmonton Street**
(Fort Rouge – East Fort Garry Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and submitted the following to Council:

1. That a Encroachment Agreement in favour of Hargrave Holdings Ltd. for the purpose of a cantilever on a proposed six storey building identified as “Encroachment” on Misc. Plan 14510 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.

Report - Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – July 8, 2013

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor,

That the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 8, 2013, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management 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 to allow the cantilever of a proposed six storey building to project over the Public Right of Way at 207 Edmonton Street**

Critical Path: **Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, Executive Policy Committee, Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
I. Day	B. Thorgrimson	N/A	D. Joshi

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Hargrave Holdings Ltd. for the purpose of a cantilever on a proposed six storey building identified as “Encroachment” on Misc. Plan 14510 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

On March 24, 2004, Council established the Standing Policy Committee on Downtown Development. This Standing Policy Committee has jurisdiction over matters related to asset management, development control, land acquisition, land development and planning and land use in the area defined as Downtown.

On March 23, 2011, Council amended the name of the Standing Policy Committee on Downtown Development to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

In this regard, the Planning, Property and Development Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of Hargrave Holdings Ltd. at 207 Edmonton Street.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no general, policy, regulatory, environmental or human resource implications to entering into an Encroachment Agreement shown on the attached Miscellaneous Plan No. 14510.

HISTOREY

Hargrave Holdings Ltd. is set to construct a six storey, forty suite apartment building on their site at 207 Edmonton Street. It will reportedly function as a safe haven for single women immigrants at risk.

Hargrave Holdings Ltd. submitted an application to the City's Zoning and Permits Branch to allow for a cantilever on the proposed building which will encroach over 207 Edmonton Street.

The application was circulated to applicable City departments and public utilities for consideration and comments. All comments and concerns have been incorporated into the signed terms and conditions.

The Risk Management Division of Corporate Finance reviewed the insurance requirements for this proposed encroachment and their comments have been incorporated into the terms and conditions.

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Hargrave Holdings Ltd.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement Date: June 28, 2013

Project Name:

Proposed Encroachment Agreement to allow the cantilever of a proposed six storey building to project over the Public Right of Way at 207 Edmonton Street

COMMENTS:

There are no Financial implications associated with this report.

"Original Signed By"

David Wilson, CGA on behalf of
Mike McGinn, CA
Manager of Finance

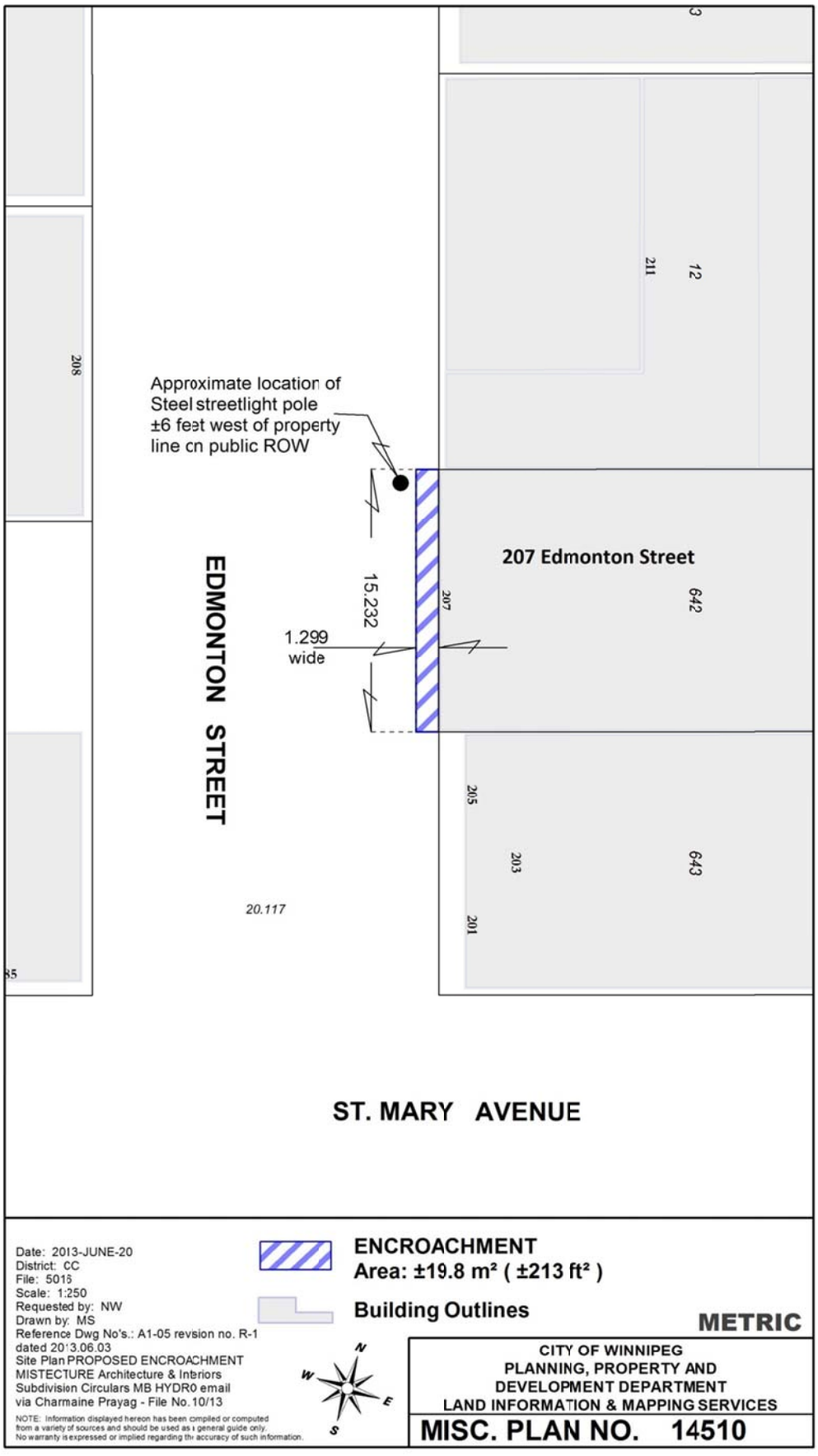
CONSULTATION

In preparing this report there was consultation with:

Legal Services Department as to legal issues
Risk Management, Corporate Finance

SUBMITTED BY

Department	Planning, Property and Development
Division	Municipal Accommodations
Prepared by:	Nolan Winters
Date:	July 2, 2013
File No.	5016



Approximate location of
Steel streetlight pole
±6 feet west of property
line on public ROW
207 Edmonton Street
15.232
1.299
wide
EDMONTON STREET
ST. MARY AVENUE
20.117
208
211
12
207
642
205
203
643
201
Date: 2013-JUNE-20
District: CC
File: 5016
Scale: 1:250
Requested by: NW
Drawn by: MS
Reference Dwg No's.: A1-05 revision no. R-1
dated 2013.06.03
Site Plan PROPOSED ENCROACHMENT
MISTECTURE Architecture & Interiors
Subdivision Circulars MB HYDRO email
via Charmaine Prayag - File No. 10/13
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: ±19.8 m² (±213 ft²)
Building Outlines
METRIC
N
W
E
S
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14510

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR AN ENCROACHMENT AGREEMENT TO ALLOW FOR THE USE OF A PORTION OF THE EDMONTON STREET RIGHT OF WAY AT 207 EDMONTON STREET FOR THE PURPOSE OF A CANTILEVER ON A SIX STORY BUILDING

Use:	Building cantilever encroaching onto Edmonton Street
Licensor:	The City of Winnipeg
Licensee:	Hargrave Holdings Ltd. (hereinafter called the "Licensee")
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 14510, attached;
Term:	Annually continuing, commencing the first day of the month following approval from the City's Standing Committees and Council;
Rental:	$156.25 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 five million dollars ($5,000,000) 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.

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

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, existing pumping stations 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, security, etc. The Licensee shall also be responsible for cleanup of litter in the immediate area as a result of use and occupation of the Encroachment Area.

An existing steel streetlight standard is located in the vicinity of the proposed Encroachment Area. The light standard is located on the Edmonton Street right-of-way North West of the encroachment area as identified on misc. plan 14510. The light standard is located approximately 6.5 feet west of the property line of 207 and 211 Edmonton St. and the limit of the Encroachment Area is approximately 4 feet out from the building. No easement is required but if the Licensee requires the relocation of the light standard for the purposes of the proposed encroachment, then the Licensee shall be solely responsible for the cost of doing so;

If this application is revised at any time it will be necessary for Manitoba Hydro/Centra Gas to review the file to determine if their easement requirements remain the same;

That all utilities be permitted to enter the area for maintenance, repair or installation of services at any time without notice to 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;

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

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 the Lands without the prior consent of the Licensor and in accordance with the City of Winnipeg Encroachment Bylaw No. 692/74;

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.

The Licensee shall not file any caveat or encumbrance against the Lands during the life of this agreement;

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 six (6) 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;

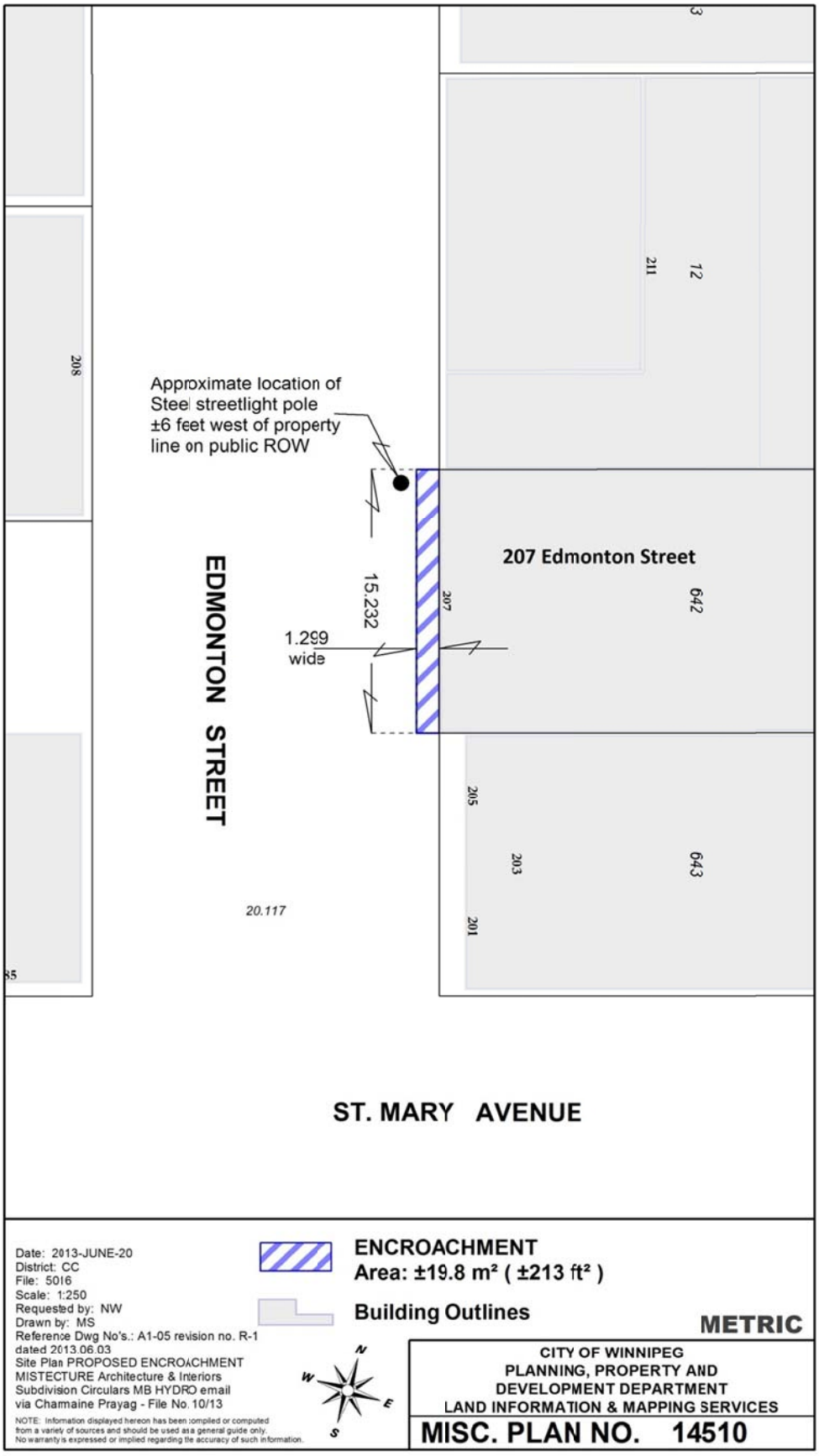
The proposed terms and conditions of the proposed Encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.

HARGRAVE HOLDINGS LTD. HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

Robert J. Dick
HARGRAVE HOLDINGS LTD.

June 27, 2013
DATE

President
TITLE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211
12
208
642
205
203
643
201
20.117
ST. MARY AVENUE
Date: 2013-JUNE-20
District: CC
File: 5016
Scale: 1:250
Requested by: NW
Drawn by: MS
Reference Dwg No's.: A1-05 revision no. R-1
dated 2013.06.03
Site Plan PROPOSED ENCROACHMENT
MISTECTURE Architecture & Interiors
Subdivision Circulars MB HYDRO email
via Charmaine Prayag - File No. 10/13
NOTE: Information displayed hereon has been compiled or computed
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ENCROACHMENT
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