Agenda - Executive Policy Committee - September 17, 2003

Report - Standing Policy Committee on Property and Development - September 4, 2003

Item No. 20 Leave and License for a Portion of the Waverley Street Right-of-Way in favour of I.L.S. Care Communities Inc.
File ED(32)

STANDING COMMITEE RECOMMENDATION:

On September 4, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submits the following to Council:

1. That Council approve a Leave and License Agreement in favour of I.L.S. Care Communities Inc. to develop and maintain a vehicle parking area in the portion of the Waverley Street right-of-way shown shaded and identified as "Leave and License" on Misc. Plan No. 9613/2, in accordance with the terms and conditions as outlined in the administrative report dated August 14, 2003, and any other such terms and conditions deemed necessary by the Director of Planning Property and Development and by the City Solicitor/Manager of Legal Services to protect the City's interest.

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

Agenda - Executive Policy Committee - September 17, 2003

Report - Standing Policy Committee on Property and Development - September 4, 2003

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On September 4, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to Executive Policy Committee and Council.

Re: Proposed Leave and License for a Portion of the Waverley Street Right-of-Way in favour of I.L.S. Care Communities Inc.
City Centre Community
River Heights – Fort Garry Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: August 14, 2003

Recommendation(s):

1. That Council approve a Leave and License Agreement in favour of I.L.S. Care Communities Inc. to develop and maintain a vehicle parking area in the portion of the Waverley Street right-of-way shown shaded and identified as "Leave and License" on Misc. Plan No. 9613/2, attached, in accordance with the terms and conditions as outlined herein and any other such terms and conditions deemed necessary by the Director of the Planning Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interest.

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

REPORT SUMMARY

Key Issues:

- I.L.S. Care Communities Care Inc. wishes to develop a portion of the subject right-of-way for accessory parking.
- The Public Works Department has advised that the portion of the subject right-of-way can be available for the proposed Leave and License purposes.
- The Board of Adjustments on May 14, 2003 approved Variance Order DAV 196/2003C, thus permitting the development of accessory parking within the subject right-of-way.
- The proposed negotiated terms and conditions are considered reasonable, reflective of current market rates and consistent with other such agreements in the area.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- No issues of environmental contamination are apparent on this portion of the Waverly Street right-of-way.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

-

REASON FOR THE REPORT:

In general, The City of Winnipeg cannot grant the lease of land comprising a public right-of-way except by first legally closing the public right-of-way. The City has, however, the power to permit or license the use of public right-of-way subject to the continuing pleasure of Council.

This report seeks Council's approval to a proposed Leave and License, in favour of I.L.S. Care Communities Inc., as negotiated by the Planning, Property and Development Department respecting the use of a portion of the Waverley Street right-of-way identified as "LEAVE AND LICENSE" on Misc. Plan No. 9613/2, attached.

HISTORY:

In September of 2000, Mr. Juaraj (Yuri) Bohna on behalf of I.L.S. Care Communities Inc. made application for a Leave and License to establish an accessory parking area encroaching into the Waverley Street right-of-way, shown as "LEAVE AND LICENSE" on Misc. Plan No. 9613/2.

The aforementioned application was circulated to various civic departments and public utilities for comments. The Planning, Property and Development Department so determined that in order to develop accessory parking at this location, a zoning variance would be required. On April 27, 2001 the Board of Adjustment approved Variance Order DAV 185/2001C, thus permitting development of accessory parking within the subject right-of-way.

From November 2001, to July 2002, preliminary negotiations for the proposed Leave and License took place between the Department and I.L.S. Care Communities Inc.; however, due to the competing priorities of both parties, a Leave and License Agreement was not formalized.

In January 2003, the solicitor for I.L.S. Care Communities Inc. contacted the Department to advise that his client wishes to finalize the proposed Leave and License and that the previously forwarded proposed terms and conditions were acceptable.

The Department reviewed the relevant file and determined that I.L.S. Care Communities Inc. would have to re-apply for a variance to permit the development of accessory parking within the subject right-of-way.

At its meeting of May 14, 2003, the Board of Adjustment approved Variance Order DAV 1965/2003C permitting the subject right-of-way to be developed for accessory parking purposes.

DISCUSSION:

The Department has concluded its negotiations with I.L.S. Care Communities Inc. and is of the opinion that the proposed terms and conditions are fair, reasonable and reflective of gross market rents in the area. Briefly, the proposed terms and conditions of the lease are as follows:

Term:	Annual continuing, commencing on a mutually agreeable date.
Purpose:	Vehicle parking area, in conjunction with the Licensee's adjoining property.
Rental:	Gross rent of $1,800.00 per annum (includes an amount equivalent to realty taxes), plus applicable GST, payable in advance, subject to an annual review by the City and in no event shall it be less than that paid in the previous year.
Insurance:	Public liability insurance of at least $2,000,000.00, naming the City as additional insured and containing a cross-liability clause.
Cancellation:	One Hundred and Eighty (180) Days written notice, by either party; immediately by the City in event of Licensee default.
Other:	Any other terms and conditions as are deemed necessary by the Director of the Planning Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

Financial Impact Statement

Date: August 7, 2003

Project Name:

Proposed Leave and License - Portion of the Waverley Street Right-of-Way in favour of I.L.S Care Communities Inc.

First Year of Program 2003

	2003	2004	2005	2006	2007
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	300	1,800	1,800	1,800	1,800
Net Cost/(Benefit)	$ (300)	$ (1,800)	$ (1,800)	$ (1,800)	$ (1,800)
Less: Existing Budget Amounts	(300)	(1,800)	(1,800)	(1,800)	(1,800)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The annual rent rate is a gross rent (market value + estimated Municipal/School tax equivalent based on 2003 mill rate. No adjustments have been made in subsequent years for changes in mill rate.). The rent revenue in the 1st year contemplates a November 1, 2003 commencement.

Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

The City of Winnipeg's Public Works Department.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: Stewart Anderson
PPD File #: 2598-AA Vol. 2

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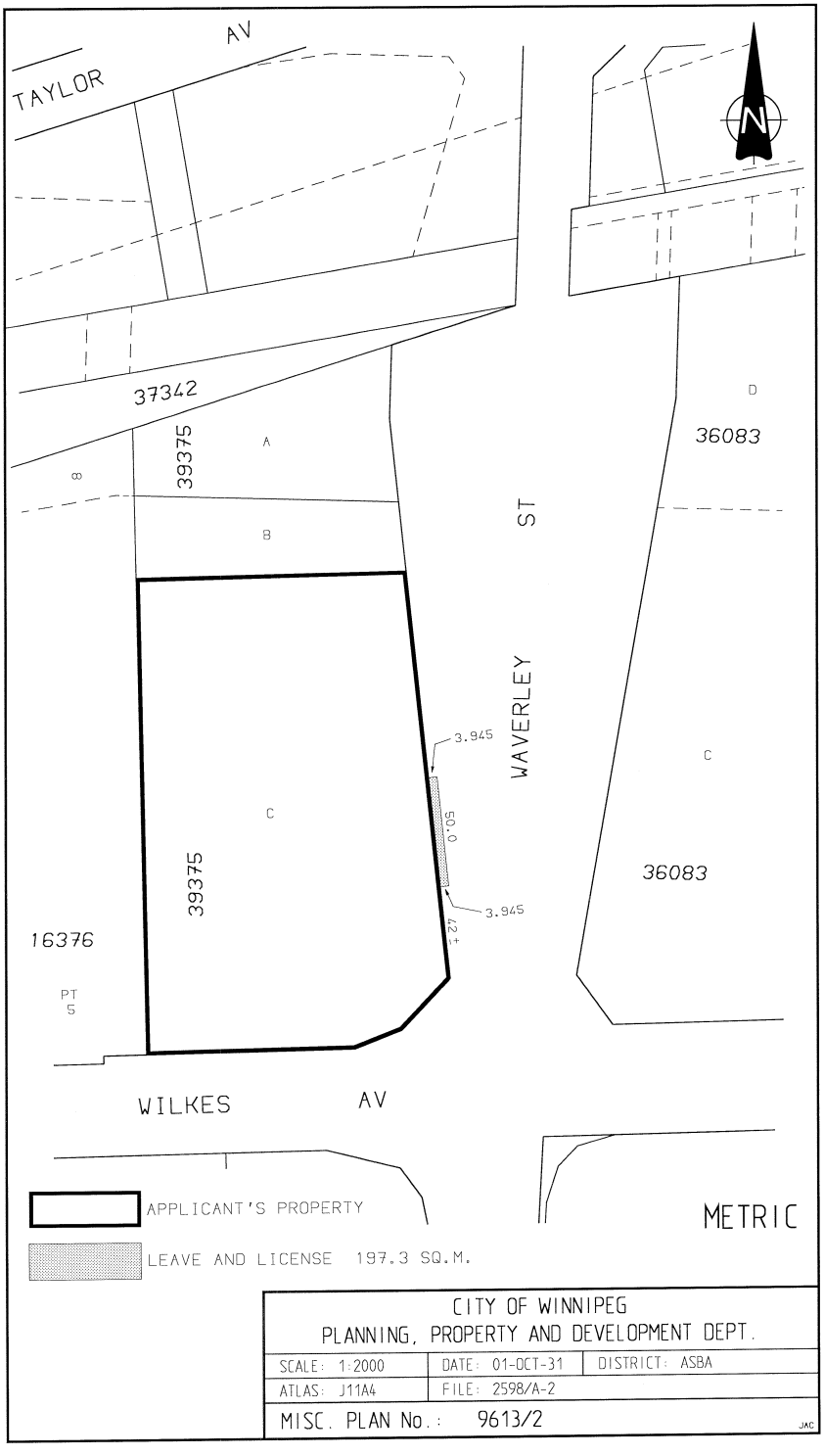
TAYLOR AV
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39375
A
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WAVERLEY ST
3.945
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16376
PT 5
WILKES AV
METRIC
APPLICANT'S PROPERTY
LEAVE AND LICENSE 197.3 SQ.M.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:2000
DATE: 01-OCT-31
DISTRICT: ASBA
ATLAS: J11A4
FILE: 2598/A-2
MISC. PLAN No.: 9613/2
JAC