**Minute No. 194**
**Report - Standing Policy Committee on Property and Development - February 5, 2004**

**Item No. 4** **Encroachment Agreement for a Portion of the Buffalo Place Right-of-Way in Favour of Smith Carter Architects and Engineers Incorporated**
**File ED(32)**

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 Council approve an Encroachment Agreement in favour of Smith Carter Architects and Engineers Incorporated to place and maintain two free-standing business identification signs in portions of the Buffalo Place right-of-way shown shaded and identified as “Sign Encroachments” on Misc. Plan No. 12134, in accordance with the terms and conditions outlined in the administrative report dated January 30, 2004.

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 - February 18, 2004**

**Report - Standing Policy Committee on Property and Development - February 5, 2004**

DECISION MAKING HISTORY:

Moved by Councillor Vandal,

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

Carried

STANDING COMMITTEE RECOMMENDATION:

On February 5, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

**Re: Proposed Encroachment Agreement For A Portion Of The Buffalo Place Right-of-Way In Favour Of Smith Carter Architects & Engineers Incorporated.**
**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:** January 30, 2004

**Recommendation(s):**

1. That Council approve an Encroachment Agreement in favour Smith Carter Architects & Engineers Incorporated to place and maintain two freestanding business identification signs in portions of the Buffalo Place right-of-way shown shaded and identified as "Sign Encroachments" on Misc. Plan No. 12134, attached, in accordance with the terms and conditions as outlined herein.

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:**

- Smith Carter Architects & Engineers Incorporated (hereafter called Smith Carter) has requested the use of two portions of the subject right-of-way for the placement and maintenance of two freestanding business identification signs.
- The Public Works Department has advised that the portions of the subject right-of-way are available for the proposed Encroachment Agreement purpose.
- The proposed negotiated terms and conditions are considered reasonable and consistent with other such agreements for similar uses.

**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 Buffalo Place 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 of public right-of-way unless 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.

The Department has negotiated the terms and conditions of an Encroachment Agreement in favour of the Smith Carter respecting the use of two portions of the Buffalo Place right-of-way identified as "Sign Encroachments" on Misc. Plan No. 12134, attached. This report seeks Council's approval to the proposed Encroachment Agreement.

**HISTORY:**

Smith Carter submitted an encroachment application to the City's Zoning and Permits Division to use two portions of the subject right-of-way, directly adjacent to its property, for the placement and maintenance of two freestanding business identification signs.

The application was circulated for consideration and comments from various City Departments and public utilities. No objections have been received from the parties circulated.

The City's Designated Officer – Encroachments requested that the Real Estate Division negotiate the terms and conditions of an Encroachment Agreement pursuant to 4(1)(d) of the City's Encroachment B-law No. 692/74.

At its meeting held on January 13, 2004 the City Centre Community Committee considered this matter and advised that it had no objections to the proposed use of the subject right-of-way.

**DISCUSSION:**

The Department has concluded its negotiations with Smith Carter and both parties concur that the proposed terms and conditions being recommended are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses. Briefly, the proposed terms and conditions of the lease are as follows:

| | |
|---|---|
| Use: | Placement and maintenance, of two freestanding business identification signs. |
| Term: | Annual continual, commencing on the first date of the first month immediately following Council's approval of the proposed Encroachment Agreement. |
| Rental: | $82.00 per annum, (plus GST), computed on the basis of the fees outlined in the City of Winnipeg's Development Fees By-law No. 6965/97, Sec. 13.2 and amendments thereto. In the event that the said By-law is amended, changing the fees charged for encroachments, the rental paid under this agreement shall be adjusted accordingly. |

| | |
|---|---|
| Taxes: | The Tenant will be responsible for all municipal taxes, school taxes, local improvements, license fees, business tax, GST, etc. which may be charged in respect of the use and occupation of the subject properties. |
| Insurance: | The Tenant will provide the City with a certificate of insurance containing; public liability insurance of at least $2,000,000.00; naming the City of Winnipeg as additional insured; containing a cross-liability clause. |
| Cancellation: | Six months written notice by either party. |
| Other: | Upon termination of the proposed Encroachment Agreement the Tenant shall be solely responsible for the removal of the two freestanding business identification signs and returning all affected portions of the right-of-way to a state at least equal to the condition prior to the installation of the said signs.<br><br>The Tenant will be responsible for the ground maintenance within the immediate vicinity of the of the two freestanding business identification signs.<br><br>Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City's Solicitor/Manager of Legal Services to protect the City's interests. |

## Financial Impact Statement

**Date:** January 28, 2004

**Project Name:**

Proposed Encroachment Agreement For A Portion Of The Buffalo Place Right-of-Way In Favour Of Smith Carter Architects & Engineers Incorporated.

**First Year of Program** 2004

| | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|
| **Capital** | | | | | |
| Capital Expenditures Required | $ - | $ - | $ - | $ - | $ - |
| Less: Existing Budgeted Costs | - | - | - | - | - |
| Additional Capital Budget Required | $ - | $ - | $ - | $ - | $ - |
| **Funding Sources:** | | | | | |
| Debt - Internal | $ - | $ - | $ - | $ - | $ - |
| External | - | - | - | - | - |
| Grants (Identify) | - | - | - | - | - |
| Reserves, Equity, Surplus, Other | - | - | - | - | - |
| Total Funding | $ - | $ - | $ - | $ - | $ - |
| Total Additional Capital Budget Required | $ - | | | | |
| Total Additional Debt Required | $ - | | | | |
| **Current Expenditures/Revenues** | | | | | |
| Direct Costs | $ - | $ - | $ - | $ - | $ - |
| Less: Incremental Revenue/Recovery | 82 | 82 | 82 | 82 | 82 |
| Net Cost/(Benefit) | $ (82) | $ (82) | $ (82) | $ (82) | $ (82) |
| Less: Existing Budget Amounts | - | - | - | - | - |
| Net Budget Adjustment Required | $ (82) | $ (82) | $ (82) | $ (82) | $ (82) |

**Additional Comments:**

The Incremental Revenue is calculated based on the City of Winnipeg's Development Fees By-law No. 6965/97, Sec. 13.2, therefore no municipal/school tax will be levied.

"Original signed by"
Gord Courage, Manager
Support Services Division

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

The Public Works Department

**THIS REPORT SUBMITTED BY:**

Planning, Property and Development Department
Division: Real Estate
Prepared by: Stewart Anderson
PPD File #: 8459

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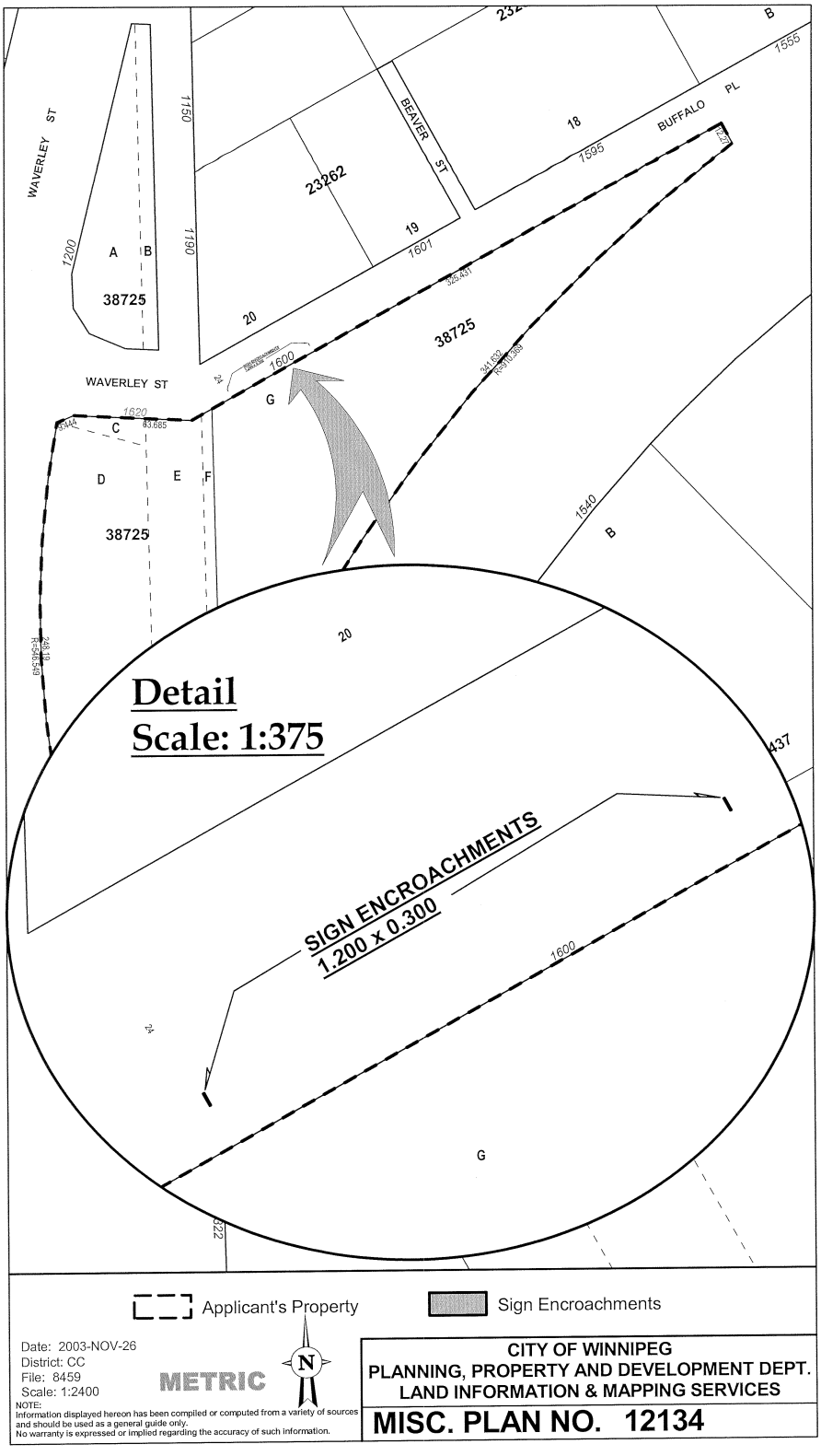
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1601
1600
1620
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437
322
Detail
Scale: 1:375
SIGN ENCROACHMENTS
1.200 x 0.300
Applicant's Property
Sign Encroachments
Date: 2003-NOV-26
District: CC
File: 8459
Scale: 1:2400
METRIC
N
NOTE:
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No 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. 12134