Minute No. 224
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)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That 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 be approved.

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

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DECISION MAKING HISTORY:

Moved by Councillor Vandal,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 18, 2004, 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 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. The Tenant will be responsible for the ground maintenance within the immediate vicinity of the of the two freestanding business identification signs. 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:

First Year of Program 2004

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

	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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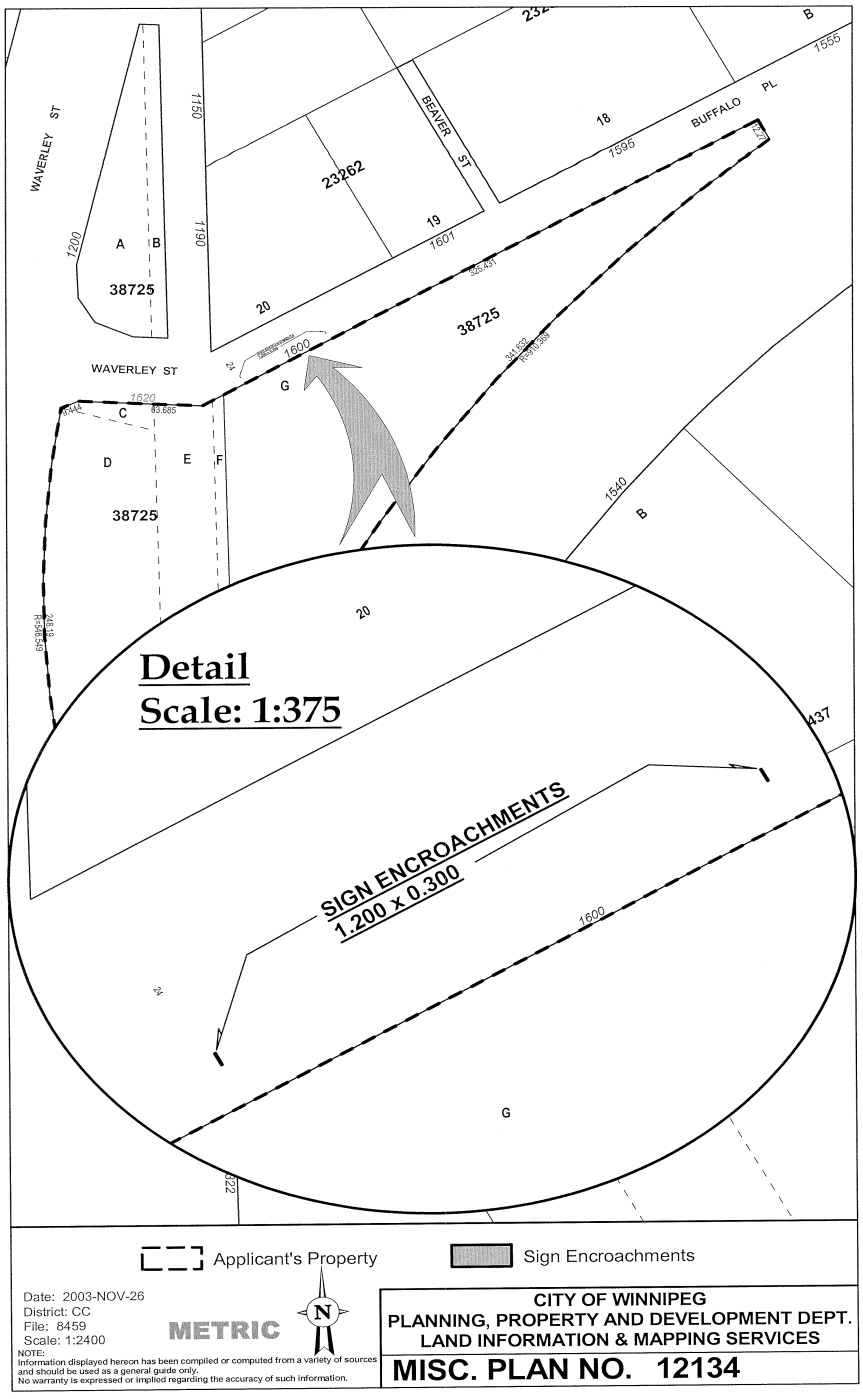
WAVERLEY ST
BEAVER ST
BUFFALO PL
23262
38725
Detail
Scale: 1:375
SIGN ENCROACHMENTS
1.200 x 0.300
Applicant's Property
Sign Encroachments
Date: 2003-NOV-26
District: CC
File: 8459
Scale: 1:2400
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should 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. 12134