Minute No. 90
Report - Standing Policy Committee on Downtown Development - December 2, 2004

Item No. 1 **Encroachment Agreement - Ship Street Development Ltd. for parking purposes within the Bannatyne Avenue Right-of-Way**
File ED(32)

COUNCIL DECISION:

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

1. That Council approve an Encroachment Agreement in favour of Ship Street Development Ltd. for parking purposes within the Bannatyne Avenue right-of-way, shown as "Leased Area" on Misc. Plan No. 12444, in accordance with the terms and conditions outlined on 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 - December 2, 2004

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 8, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On December 2, 2004, the Standing Policy Committee on Downtown Development concurred in the administrative recommendation and submitted its recommendation to the Executive Policy Committee and Council.

Re: **Proposed Encroachment Agreement in Favour of Ship Street Development Ltd. – For Parking Purposes Within the Bannatyne Avenue Right-of-Way**
Lord Selkirk-West Kildonan Community
Point Douglas Ward

For submission to: **Standing Policy Committee on Downtown Development**

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

Report date: November 24, 2004

Recommendation(s):

1. That Council approve an Encroachment Agreement in favour of Ship Street Development Ltd. for parking purposes within the Bannatyne Avenue right-of-way, shown as "Leased Area" on Misc. Plan No. 12444, attached, in accordance with the terms and conditions outlined on 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 SUMMARY

Key Issues:

- The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Ship Street Development Ltd. for parking purposes within the Bannatyne Avenue right-of-way.
- This report seeks approval of the Encroachment Agreement as negotiated.

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

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- There are no environmental implications associated with the recommendations of this report

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:

Council has the authority to permit or license the use of public right-of-way.

The Department has negotiated the terms and conditions of an Encroachment Agreement in favour of Ship Street Development Ltd. for parking purposes within the Bannatyne Avenue right-of-way, shown as "Leased Area" on the attached Misc. Plan No. 12444. This report seeks Council's approval to the proposed Encroachment Agreement.

HISTORY:

Ship Street Development Ltd. acquired the lands on the west side of Waterfront Drive between Bannatyne and McDermont Avenues, identified as "Applicant's Property" on Misc. Plan No. 12444, attached, as part of CentreVentre's initiative to develop Waterfront Drive.

Ship Street Development Ltd. advised the Department that the pending development of the Applicant's Property would be residential (upscale condominiums), and light commercial at street level. The Leased Area was required for additional customer parking during the daytime and visitor parking in the evening.

DISCUSSION:

Ross McGowan, on behalf of Ship Street Development Ltd., submitted an encroachment application to the City's Zoning and Permits Branch for the proposed development and use of a portion of the Bannatyne Avenue right-of-way at the north terminus of Ship Street.

The application was circulated to various City Departments and public utilities for consideration and comments. No objections were received for the proposed development and use of the subject right-of-way.

The Department has concluded its negotiations with Ship Street Development Ltd. and both parties concur that the proposed terms and conditions are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses.

Briefly, the terms and conditions of the Encroachment Agreement (Schedule "A" attached), agreed to by Ship Street Development Ltd. are as follows:

Use:	Parking purposes only.
Term:	Annual continuing, commencing on a mutually agreeable date.
Rental:	$2,000.00 per annum, plus GST, subject to annual review by the City.

Taxes:	All municipal taxes, school taxes, local improvements, license fees, business tax, etc. which may be charged in respect of the use and occupation of the Subject City Properties. (Estimated Taxes for 2004 are $1,235.00).
Insurance:	General Liability Insurance of at least $2,000,000.00, naming The City of Winnipeg as additional insured and containing a cross-liability clause.
Cancellation:	180 days written notice by either party.
Other:	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: November 23, 2004

Project Name:

Proposed Encroachment Agreement in Favour of Ship Street Development Ltd. – For Parking Purposes Within the Bannatyne Street Right-of-Way.

First Year of Program 2005

	2005	2006	2007	2008	2009
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	3,235	3,235	3,235	3,235	3,235
Net Cost/(Benefit)	$ (3,235)	$ (3,235)	$ (3,235)	$ (3,235)	$ (3,235)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (3,235)	$ (3,235)	$ (3,235)	$ (3,235)	$ (3,235)

Additional Comments:

Incremental Revenue is Calculated as follows: Annual Rent of $2,000.00 + Estimated Tax Equivalent of $1,235.00 = $3,235.00/annum. Assuming a commencement date of January 1/05. The estimated tax equivalent was calculated using an estimated assessed value of $24,900.00 and 2004 mill rates. Future changes to these rates have not been considered in subsequent years.

"Original signed by"
Mike McGinn, CA
Manager of Finance

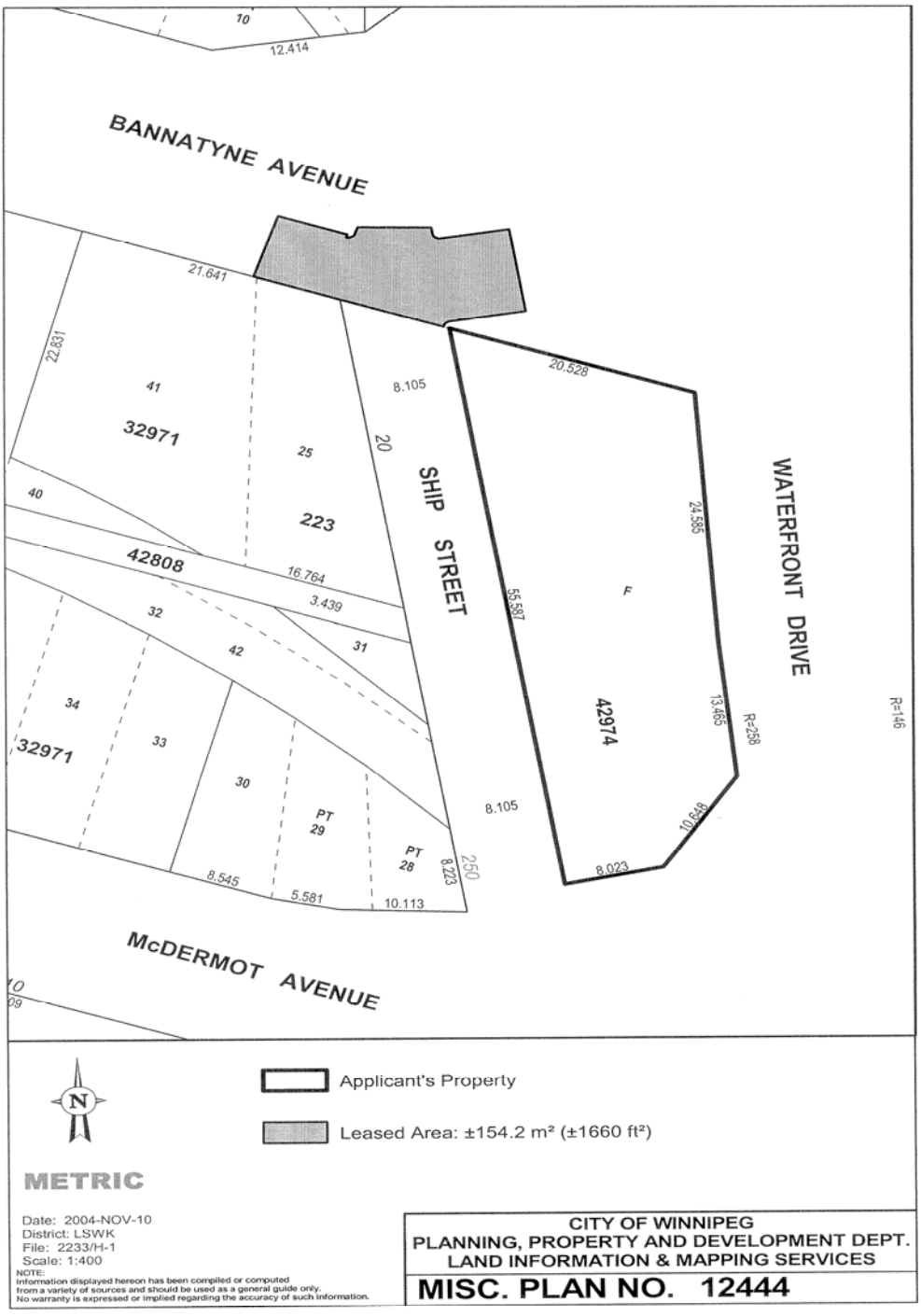
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Water and Waste Department, Public Works Department, Zoning and Permits Branch and CentreVentre.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Stewart Anderson
PPD File #: 2233/H-1

Document name: o:\reports directive\real estate\leasing\(sa)encroachmentagrmtship&bannatyne.doc


BANNATYNE AVENUE
McDERMOT AVENUE
SHIP STREET
WATERFRONT DRIVE
32971
223
42808
42974
Applicant's Property
Leased Area: ±154.2 m² (±1660 ft²)
METRIC
Date: 2004-NOV-10
District: LSWK
File: 2233/H-1
Scale: 1:400
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. 12444

SCHEDULE "A"

Proposed terms and conditions for an Encroachment Agreement for parking purposes shown as, "Leased Area" on the attached Misc. Plan No. 12444.

Use:	Parking purposes only.
Term:	Annual continuing, commencing on a mutually agreeable date.
Rental:	$2,000.00 per annum, plus GST, subject to annual review by the City.
Taxes:	All municipal taxes, school taxes, local improvements, license fees, business tax, etc. which may be charged in respect of the use and occupation of the Subject City Properties. (Estimated Taxes for 2004 are $1,235.00).
Insurance:	General Liability Insurance of at least $2,000,000.00, naming The City of Winnipeg as additional insured and containing a cross-liability clause.
Cancellation:	180 days written notice by either party.
Other:	The development and maintenance of the Leased Area will be performed at the sole cost, expense and effort of Ship Street Development Ltd., including, obtaining all permits required to develop, occupy and utilize subject property for its intended use.
	The subject parking spaces shall be developed in accordance with By-law 100/2004 standards and be subject to Urban Design Review.
	The Water and Waste Department be allowed access to maintain, operate, repair or rehabilitate existing watermains and combined sewers locate with the area at any time.
	The removal and/or relocation of any existing public utilities, if required, shall be at the sole cost, expense and effort of Ship Street Development Ltd.
	That the existing 2.4 metre walk and landscaping from the round-about going up Bannatyne and not Ship Street be maintained to a least the midway point of Ship Street, or to the point where a safe walk crossing to the north side of Bannatyne can be made. The walk on the Ship Street portion can be removed.
	That the area adjacent to the 2.4 metre walk have a form of retaining wall to accommodate the difference in elevation of Ship Street and Bannatyne Avenue.
	That the applicant maintains a minimum boulevard with of 3 metres on Bannatyne Avenue to provide adequate room for pedestrian mobility and snow clearing operations
	That should the application be required to remove any public tree because of this development, a replacement cost of $350.00 for each tree removed shall be paid to the City of Winnipeg Forestry Branch.
	That all applicable permits be obtained prior to the development of the parking spaces.

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

Ship Street Development Ltd agrees to enter into an appropriate Lease Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services.

This proposal is subject to final approval by the City of Winnipeg's Council, or its delegated authority and approval by the Vendor's Senior Management within 30 days of acceptance of the final offer.

I, **Ross McGowan,** acting on behalf of **Ship Street Development Ltd**. hereby agrees to enter into an encroachment agreement with the City of Winnipeg for the use of the property identified as "Leased Area" on the attached Misc. Plan No. 12444 and in accordance with the terms and conditions as outlined herein on this Schedule "A".

Ross McGowan for

Ship Street Development Ltd.

Nov. 22/04

Date