



ADMINISTRATIVE REPORT

Report Date: February 8, 2011
Contact: Alan Zacharias
Contact No.: 604.873.7288
RTS No.: 09101
VanRIMS No.: 08-2000-20
Meeting Date: March 15, 2011

TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: 540 North Penticton Street (Burrard View Park) - Encroachment Agreement

RECOMMENDATION

- A. THAT in conjunction with the upgrade to the Harbourview Day Care facility at 540 North Penticton Street, Burrard View Park ([PID: 023-551-861] Parcel E Lots 138 to 155 and 214 to 221 Town of Hastings New Westminster District Plan LMP30219), Council approve an Encroachment Agreement between the City and Kiwassa Neighbourhood Services Association on the terms and conditions set out in this report and such other terms and conditions as the City Engineer and the Director of Legal Services find advisable.
- B. THAT the Director of Legal Services be authorized to execute all documents.
- C. THAT no legal right or obligation shall be created and none shall arise hereafter, until the documents are executed to the satisfaction Director of Legal Services.

COUNCIL POLICY

There is no Council Policy directly related to this matter.

PURPOSE

The purpose of this report is to seek Council authority for the City to enter into an Encroachment Agreement with Kiwassa Neighbourhood Services Association ("Kiwassa") for a childcare playground encroachment onto a portion of North Penticton Street as shown in heavy outline on plan attached hereto as Appendix "A" and adjacent to the Harbourview Day Care site at Burrard View Park pursuant to the Encroachment By-Law.

BACKGROUND

Kiwassa seeks to encroach onto a portion of North Penticton Street with an outdoor playground improvement undertaken in conjunction with Development Permit No. DE414409. The development includes the renovation of the existing childcare building on the adjacent Parcel E addressed as 540 North Penticton Street. Parcel E is also known as Burrard View Park and is designated under the Vancouver Charter as Permanent Public Park and therefore under the care and control of the Vancouver Park Board. The Park Board intends to enter into a licence agreement with Kiwassa for the operation of the facility within the park. As a condition of development permit issuance, Kiwassa must make arrangements for the use of North Penticton Street to the satisfaction of the General Manager of Engineering Services. This childcare facility has been in operation at this location since 1975 and the playground has encroached onto the subject portion of street without a formal arrangement in place.

Since Section 289A of the Vancouver Charter does not permit lease of street adjacent properties zoned for residential use, and Burrard View Park is zoned RS-1, the Director of Legal Services and the General Manager of Engineering Services are recommending the use of street be permitted under an agreement pursuant to the Encroachment By-Law.

Kiwassa was incorporated as a non-profit society in 1951 and was registered as a charitable organization in 1967.

DISCUSSION

The current width of North Penticton Street is 99 feet which is 33 wider than the standard 66 foot road allowance. The subject portion of street is not presently required for municipal purposes and it is not practical for the daycare or the City to remove the encroachments at this time. The encroachment agreement will allow for continued use of a portion of the street as a playground area incorporating various types of play safe ground surface treatments, play equipment and structures, perimeter fencing and landscaping.

The Encroachment Agreement will provide indemnification for the City and will require that the applicant be responsible for maintenance of the encroachment area. The future use of the encroachment area by the City will be assured through termination clauses in the agreement.

Pursuant to the Encroachment By-Law the encroachment agreement with Kiwassa will not be subject to annual charges. However, the Society is required to pay the one time administrative fee of \$50.00 plus applicable taxes for the preparation of the agreement.

FINANCIAL IMPLICATIONS

There are no financial implications.

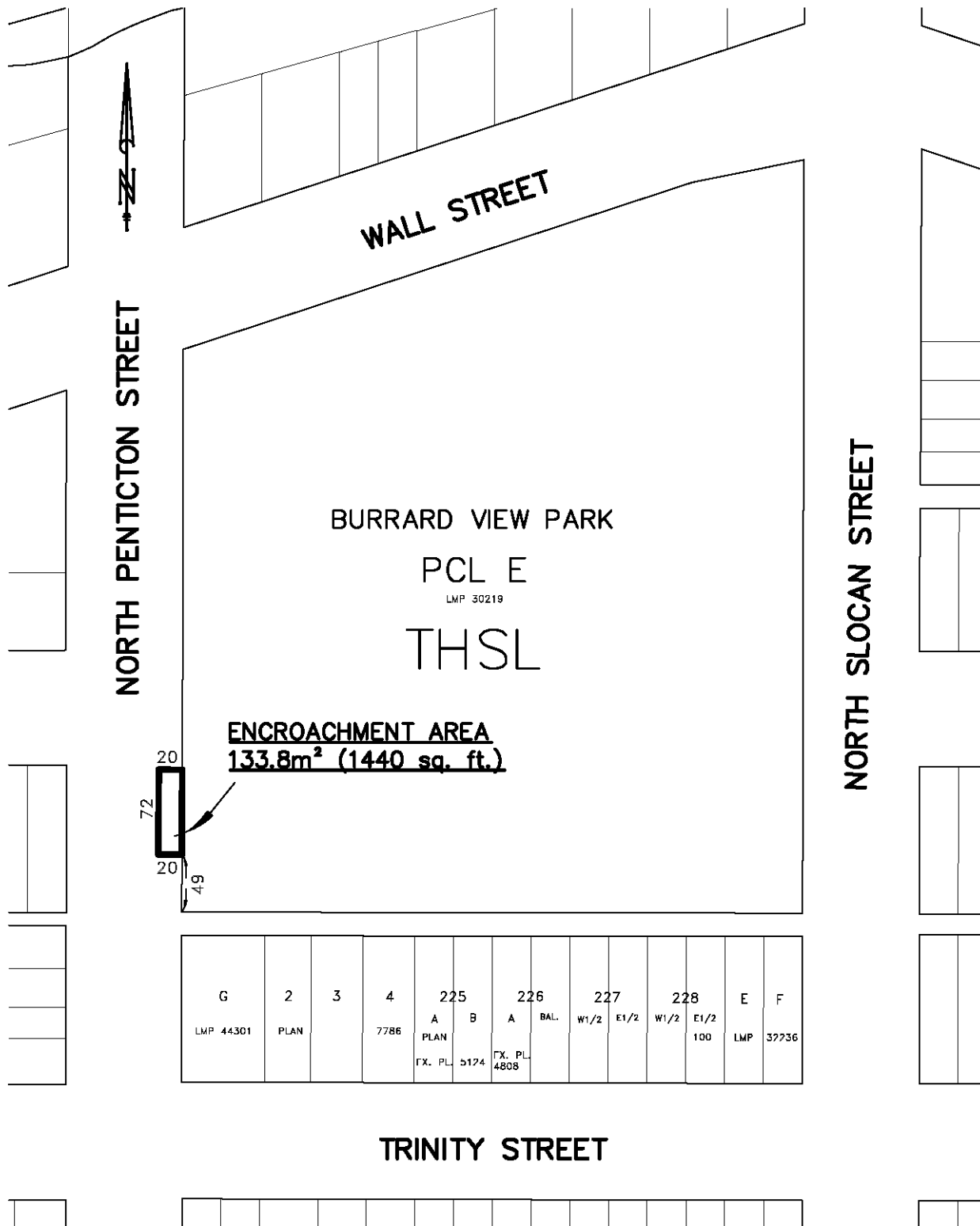
CONCLUSION

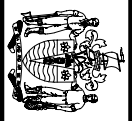
The General Manager of Engineering Services in consultation with the Director of Legal Services recommends that Council approve the form of Encroachment Agreement between the City and Kiwassa on the terms and conditions set out in this report and such other terms and conditions as the City Engineer and the Director of Legal Services find advisable.

* * * * *

PLAN TO ACCOMPANY ENCROACHMENT AGREEMENT
ADJACENT TO PARCEL E, LOTS 138 TO 155 & 214 TO 221.
TOWN OF HASTINGS, PLAN LMP30219.

ALL DISTANCES ARE IN FEET





**CITY OF VANCOUVER
ENGINEERING SERVICES**
THE CITY OF VANCOUVER ASSUMES NO RESPONSIBILITY
FOR THE CORRECTNESS OF INFORMATION SHOWN ON THIS MAP



SCALE
N.T.S.



DATE
MAR 8, 2011

540 NORTH PENTICTON STREET
THIS DIGITAL MAP WAS PRODUCED BY THE LAND SURVEY BRANCH

