

Clause embodied in Report No. 6 of the Midtown Community Council, as adopted by the Council of the City of Toronto at its meeting held on June 18, 19 and 20, 2002.

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**Maintenance of a Carport - Retaining Wall
and Steps - 32 Bennington Heights Drive
(Don Valley West - Ward 26)**

(City Council on June 18, 19 and 20, 2002, adopted this Clause, without amendment.)

The Midtown Community Council recommends adoption of the following report (May 21, 2002) from the Manager, Right of Way Management, Transportation Services, District 1:

Purpose:

To report on the maintenance of a carport, retaining wall and steps which encroach within the public right of way at 32 Bennington Heights Drive. As the former Borough of East York By-law does not make provisions for encroachments, we are required to report on this matter.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that City Council approve the maintenance of a carport, retaining wall and steps within the public right of way fronting 32 Bennington Heights Drive, subject to the owner entering into an encroachment agreement with the City of Toronto, agreeing to:

- (a) indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such permission granted;
- (b) maintain the carport, retaining wall and steps in good and proper repair and a condition satisfactory to the Commissioner of Works and Emergency Services;
- (c) remove the carport, retaining wall and steps upon receiving notice to do so with the understanding that the City shall not give notice in the first 75 years; and
- (d) accept such additional conditions as the City Solicitor or the Commissioner of Works and Emergency Services may deem necessary in the interest of the Corporation.

Comments:

Mr. Ron Holbrook, Holbrook Associates, 390 Dupont Street, Suite 206, Toronto, Ontario M5R 1V9, submitted an application on April 9, 2001, on behalf of the owner of 32 Bennington Heights Drive, to reconstruct a carport, repave existing driveway, plant 5 trees, construct a retaining wall and a private approach with steps, and install landscaping lights within the public right of way.

The former Borough of East York By-law does not contain provisions for carports, retaining wall and steps which encroach within the public right of way. All landscaping at this address has been completed and remains in good and satisfactory condition within the public right of way.

The carport has been reconstructed in wood and lattice, in the same location as the previously existing carport and it leads to a parking garage on private property. It is approximately 2.31 m in height and due to the sloped property line fronting the property, the carport encroaches 1.22 m on one side and 2.28 m on the other. The carport is set back a minimum of 6.1 m from the curb.

Staff have inspected the area of in the immediate vicinity of this property and have determined that the maintenance of the carport, retaining wall and steps does not impact negatively on the public right of way.

Details of this application are on file with this Department.

Conclusions:

As the existing carport and other encroachments do not impact negatively on the public right of way, they should be permitted to remain, provided that the owners enter into an encroachment agreement with the City of Toronto.

Contact:

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(Attachments appended to the foregoing report were forwarded to all Members of the Midtown Community Council with the agenda for its meeting on June 4, 2002, and copies thereof are on file in the office of the City Clerk, North York Civic Centre.)