

**Request for an Encroachment Agreement
98 Alamosa Drive**

Date:	April 5, 2007
To:	North York Community Council
From:	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 33 - Don Valley East
Reference Number:	IBMS No. 07-101788

SUMMARY

This staff report is about a matter that the Community Council has delegated authority to make a final decision [provided that it is not amended so that it varies with City policy or by-laws].

The purpose of this report is to consider a request by the owner(s) of 98 Alamosa Drive, being a one-family detached dwelling Third Density Zone (R3), for an encroachment agreement. The encroachment consists of decorative boulders, heated driveway, chain link fence, wrought iron fence, irrigation heads, rock with house number, river rock, low voltage lighting, plant bed, a hedge, various trees and shrubs located on the City road allowance.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that the Encroachment application be approved, subject to the following conditions:

1. that the owner(s) remove the existing boulders or relocate to a minimum of 2.13 metres behind the City curb, to the satisfaction of Transportation Services, North York District;
2. that the owner(s) remove the existing rock with the house number or relocate to a minimum of 2.13 metres behind the City curb, to the satisfaction of Transportation Services, North York District;

3. that the owner(s) remove the existing river rock or relocate to a minimum of 2.13 metres behind the City curb, to the satisfaction of Transportation Services, North York District;
4. that the owner(s) enter into an Encroachment Agreement with the City to the satisfaction of the City Solicitor and the Executive Director of Municipal Licensing and Standards;
5. that the appropriate City Officials be authorized to take the necessary action to give effect thereto;
6. that no claims will be made against the City by the owner(s) for damages occurring to the area of the encroachment or its elements during snow removal;
7. that the life of the Agreement be limited to 10 years from the date of registration on title or to the date of removal of the encroachment at which time, the City may consider the Agreement for further extension, if requested by the applicant;
8. the indemnification to the City by the owner(s) of the encroachment for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the City Solicitor, in an amount no less than \$2,000,000.00 or such greater amount as the City Solicitor may require;
9. in the event of sale or transfer of the property abutting the encroachment, Legal Services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the Executive Director of Municipal Licensing and Standards;
10. the owner(s) pay the following fees:
 - a. Application Fee of \$456.32 (paid).
 - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
 - c. One-time fee of \$430.49 plus G.S.T., totalling \$456.32.

Financial Impact

There is no financial impact anticipated resulting from the adoption of this report.

DECISION HISTORY

The application was received from the property owner(s) in January 2007 and was circulated to Transportation Services, Parks, Forestry and Recreation and the following Utilities: Enbridge, Bell Canada, Cable, Toronto Transit Commission and Hydro.

ISSUE BACKGROUND

The encroachments on the City road allowance are as follows:

- (a) Decorative boulders located at the front and south/east flankage yards;

- (b) Heated driveway;
- (c) Chain link fence measuring 10.67 metres in length and 1.52 metres in height located on the east flankage yard;
- (d) Wrought iron fence measuring 8.54 metres in length and 1.68 metres in height located on the east flankage yard;
- (e) Irrigation heads located at the front and east flankage yards;
- (f) Rock with house number located on the west side of driveway;
- (g) River rock located on the west side of driveway, front and east flankage yards;
- (h) Low voltage lighting located on the front, east flankage yards;
- (i) Plant bed located on east flankage yard;
- (j) A hedge measuring 9.14 metres in length and 1.62 metres in height located on the east flankage yard;
- (k) Various trees and shrubs.

COMMENTS

Utilities have provided clearance letters indicating that they have no objection.

Transportation Services, North York District staff, as part of the review, have indicated the following: That the existing decorative boulders and the rock with the house number be removed or relocated to 2.13 metres behind the City curb. The river rock that is located at the westerly limit of the driveway be removed and replaced with soil and sod to a point of 2.13 metres behind the City curb.

CONTACT

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SIGNATURE

Bryan Byng, District Manager
Municipal Licensing and Standards
North York District

ATTACHMENTS

1. Site Plan