



## STAFF REPORT ACTION REQUIRED

### Encroachment Agreement Request 167 Banff Road

<b>Date:</b>	December 10, 2007.
<b>To:</b>	North York Community Council
<b>From:</b>	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 25 - Don Valley West
<b>Reference Number:</b>	IBMS No. 07-274154

#### **SUMMARY**

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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 167 Banff Road being a one-family detached dwelling, seventh density zone (R7), for an encroachment agreement. The existing encroachment consists of retaining walls, decorative boulders, and gardens located on the City road allowance.

#### **RECOMMENDATIONS**

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

1. That the owner(s) remove the retaining walls located on both sides of the driveway to a point of 2.13 metres behind the City curb and replace with soil and sod, to the satisfaction of Transportation Services, North York District;
2. The owner(s) remove the decorative boulder located near the City curb to the satisfaction of Transportation Services, North York District;
3. 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;

4. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
5. 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;
6. 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. The City may consider the Agreement for further extension, if requested by the applicant;
7. 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;
8. 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;
9. 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 October 2007 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

### **ISSUE BACKGROUND**

The encroachments on the City road allowance are as follows:

- (a) Two retaining walls located on both sides of the driveway measuring approximately 0.12 metre at City curb and increasing to 0.36 metre in height at the property line;
- (b) Decorative boulders;
- (c) Gardens near the retaining walls;

### **COMMENTS**

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

Transportation Services, North York District staff, as part of their review, have indicated that the retaining walls shall be removed to 2.13 metres behind the City curb and shall be replaced with soil and sod.

Transportation Services, North York District staff also indicated that the decorative boulder located near to the City curb be removed to 2.13 metres behind the City curb.

## **CONTACT**

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## **SIGNATURE**

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

## **ATTACHMENTS**

1. Site Plan