

**Request for an Encroachment Agreement  
28 Kelsonia Avenue**

<b>Date:</b>	March 5, 2008
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Transportation Services, Scarborough District
<b>Wards:</b>	Ward 36 - Scarborough Southwest
<b>Reference Number:</b>	P:\2008\Cluster B\TRA\Scarborough\sc08024

**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 28 Kelsonia Avenue, being a one-family detached dwelling, for an encroachment agreement. The proposed encroachment is for a stone retaining wall fronting the property located within the City right of way.

**RECOMMENDATIONS**

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Transportation Services, Scarborough District recommends that the Encroachment application be approved, subject to the following conditions:

1. That the owner(s) enter into an encroachment agreement with the City to the satisfaction of the City Solicitor and the General Manager of Transportation Services;
2. That the City Solicitor be authorized to prepare and execute the encroachment agreement;
3. 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;

4. 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;
5. 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 General Manager of Transportation Services; and
6. The owner(s) pay the following fees:
  - a. Application Fee of \$463.31.
  - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
  - c. One-time rental fee of \$463.31.

#### **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) on November 15, 2007 as a result of a Stop Work order being issued.

#### **ISSUE BACKGROUND**

The new retaining wall was being installed to replace an old wall in poor condition. The new wall is being installed at the same height and set back, and is a continuation of the abutting neighbour's wall, on the Municipal right of way.

The owner obeyed the stop work order and applied to Transportation Services for permission to complete the wall.

## **COMMENTS**

Transportation Services has no objections to the proposed wall since it is set back adequately for snow storage from the existing sidewalk and there are no sight line issues.

We have received notification from public utilities that they have no objections to the encroachments.

## **CONTACT**

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## **SIGNATURE**

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Peter J. Noehammer, P. Eng.  
Director, Transportation Services, Scarborough District

DT/BT:lab

## **ATTACHMENTS**

1. Site Plan – 28 Kelsonia Avenue