

**Encroachment Agreement Request
4 Caldy Court**

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| Date: | June 2, 2009 |
| To: | North York Community Council |
| From: | District Manager, Municipal Licensing and Standards, North York District |
| Wards: | Ward 25 - Don Valley West |
| Reference Number: | IBMS No. 07-109665 |

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 subject matter is an application for an encroachment agreement.

RECOMMENDATIONS

Municipal Licensing and Standards has received the necessary clearances to recommend that:

- 1. The North York Community Council approve the encroachment agreement for 4 Caldy Court, subject to the following conditions:**
 - a) That the owner(s) not locate the fence for the rear yard any closer than 2.13 metres from the curbface;
 - b) 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;
 - c) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
 - d) 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;

- e) 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;
- f) 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;
- g) 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;
- h) The owner(s) pay all applicable fees.

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 2009 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This new single family detached home is in a second density residential (R2) zone located on a cul-de-sac (*Attachment 1*).

The proposed encroachment (*Attachments 2, 3 and 4*) consists of the following items:

1. Glycol heated stone and concrete walkway;
2. Two ornamental pear trees;
3. Two glycol heated clay brick driveway entrances for the circular driveway;
4. Underground sprinkler system extending across the entire boulevard;
5. Iron fence 1.62 metres in height enclosing the rear/flankage yard;
6. Evergreen hedges 1.5 metres in height all along the inside of the iron fence;

The amount of right-of-way enclosed by the rear/flankage yard fencing will be approximately 82.4 square metres.

COMMENTS

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

Transportation Services, North York District staff, as part of their review, indicated they wanted the fence to not encumber the right-of-way but after consultation changed that to a minimum of 2.13 metres between the proposed rear yard fence and the curbface for snow removal operations. The applicant had proposed a distance between the fence and the curb of 0.91 metres.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Photograph of 4 Caldy Court – June 2, 2009
3. Photograph of 4 Caldy Court – June 2, 2009
4. Landscape details boulevard encroachment for 4 Caldy Court