



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request 12 Hedon Avenue

Date:	August 26, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 16 - Eglinton-Lawrence
Reference Number:	IBMS No. 09-127252

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 12 Hedon Avenue, subject to the following conditions:**
 - a) That the owner(s) pay the required security deposit to Urban Forestry to warranty the 5 trees planted on the right of way outside of the privacy fence;
 - 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 for a proposed encroachment was received from the property owner(s) in April 2009 and was circulated to Transportation Services, Urban Forestry and the applicable utilities.

Urban Forestry would not support enclosing the two city trees as proposed in the application (*Attachment 1*). Discussions were held on modifying the encroachment application with Urban Forestry and the Councillor's office. Due to the labour disruption revised plans do not accompany this report. The property was inspected by a Municipal Licensing and Standards officer on August 25, 2009 and it was found that the encroachment was just being completed.

ISSUE BACKGROUND

This single family detached home is in a residential third density (R3) zone located in the former City of North York (*Attachments 2 and 3*).

The existing encroachment consists of a cedar, horizontal board on board, privacy fence in the rear flankage yard running along Saunders Street. The fence is approximately 2 metres high and 15 metres in length. The fence continues along the north property line in the rear yard adjacent to the front yard of 139 Wilson Avenue. Approximately 10 cedar trees have been planted inside the fence with a stone surround flush to the ground and 5 trees have been planted on the street side outside of the fence (*Attachments 4, 5, 6 and 7*).

COMMENTS

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

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that they have no objections.

Urban Forestry has requested a security deposit to warranty the life of the five trees planted adjacent to the street outside of the fence.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Report from Urban Forestry
2. Zoning map
3. Survey/site plan of 12 Hedon Avenue
4. Photograph facing north
5. Photograph facing east showing property line
6. Photograph facing north inside rear privacy fence
7. Photograph showing north end of fence facing east