



STAFF REPORT ACTION REQUIRED

Request for an Encroachment Agreement 52 Fallingbrook Road

Date:	August 19, 2009
To:	Scarborough Community Council
From:	Acting Director, Transportation Services, Scarborough District
Wards:	Ward 36 – Scarborough Southwest
Reference Number:	P:\2009\Cluster B\TRA\Scarborough\sc09059 Encroachment Agreement 52 Fallingbrook Rd

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 52 Fallingbrook Road, 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

Transportation Services, Scarborough District, recommends that Scarborough Community Council:

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 owner is to relocate the drain pipes that are located behind the decorative boulder retaining wall at the northerly limit of the driveway and is also required to ensure that they do not drain water onto the municipal boulevard, sidewalk or roadway.
3. The retaining wall that has already been constructed out of block that is 0.61 of a metre away from the utility pole and at a height of 0.37 of a metre must be relocated to a point of no less than 1.0 metre behind the utility pole.

4. That the City Solicitor be authorized to prepare and execute the encroachment agreement.
5. 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.
6. 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.
7. 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.
8. 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 \$480.46.

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 December 1, 2008.

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.

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

Steven T. Kodama, P.Eng.
Acting Director, Transportation Services, Scarborough District

DT/BT:lab/ca

ATTACHMENTS

1. Site Plan - Encroachment at - 52 Fallingbrook Road
2. Photos - Encroachment at - 52 Fallingbrook Road