



**STAFF REPORT
ACTION REQUIRED**

**Request for an Encroachment Agreement
1171-1195 Brimley Road**

Date:	December 14, 2009
To:	Scarborough Community Council
From:	Acting Director, Transportation Services, Scarborough District
Wards:	Ward 38 – Scarborough Centre
Reference Number:	P:\2009 Cluster B\TRA\Scarborough\sc1012

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 1171-1195 Brimley Road, being a Commercial property, for an encroachment agreement. The proposed encroachment is for a stone retaining wall fronting and flanking 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. The stone steps that are located at the corner of Brimley Road and Brimorton Road which lead to the parking lot of 1171-1195 Brimley Road are to be removed.
3. That the City Solicitor be authorized to prepare and execute the encroachment agreement.

4. 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.
5. 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 \$5,000,000.00 or such greater amount as the City Solicitor may require.
6. 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.
7. The owner(s) pay the following fees:
 - a. Application Fee of \$480.46.
 - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
 - c. Encroachment fee of \$2,068.59.

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 August 8, 2008.

ISSUE BACKGROUND

The existing stone retaining wall was brought to our attention during the site plan approval review process and it was noted at that time that the stone retaining wall that is located on Brimley Road and on Brimorton Road is partly within the Municipal Right of Way. It is our understanding that the wall has been in place for a number of years. It should be noted, that we have received no complaints regarding this wall. The stairs that led to the corner of the Brimley Road and Brimorton Road intersection were removed this Fall. The stone wall has a maximum height of 0.81 metres and at minimum 0.37 metres behind the back edge of the sidewalk. The length of the stone retaining wall on Brimley Road is 36.8 metres and the length of the stone retaining wall on Brimorton Road is 17.7 metres.

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

Dave Twaddle
Manager, Traffic Planning/Right-of-Way Management
Transportation Services, Scarborough District
Tel: 416-396-5670
Fax: 416-396-5641
Email:

SIGNATURE

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

DT/BT:lab

ATTACHMENTS

1. Site Plan – 1171-1195 Brimley Road