

**Application for Fence Exemption
267 Riverside Drive**

Date:	August 20, 2013
To:	Etobicoke York Community Council
From:	Eletta Purdy, District Manager, Municipal Licensing and Standards
Wards:	Ward 13, Parkdale – High Park
Reference Number:	Municipal Licensing and Standards Folders 13-177536 and 13-193594

SUMMARY

This Staff report is in regard to a matter for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to consider an application submitted by McMillan Lawyers acting on behalf of the property owners of 267 Riverside Drive for a Fence Exemption to maintain an existing hedge, 3.66 metres (12 feet) in height, located at the front yard of the subject property.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that Etobicoke York Community Council:

1. Refuse the application for an exemption submitted by McMillan Lawyers acting on behalf of the property owners of 267 Riverside Drive, to maintain an existing hedge, 3.66 metres (12 feet) in height, located at the front yard of the subject property, on the basis that a section of this fence does not comply with the provisions of the City of Toronto Municipal Code, Chapter 447, Fences.

Financial Impact

There are no financial implications resulting from the adoption of this Staff Report.

DECISION HISTORY

An application for a fence exemption was submitted by McMillan Lawyers acting on behalf of the property owner(s). The fence is located in the front or flankage yard; therefore, all property owners within a 60-metre radius of 267 Riverside Dr have been notified by the City Clerk's office of the date that the application for exemption will be considered by the Etobicoke York Community Council (Attachment 1).

ISSUE BACKGROUND

A complaint was received by Transportation Services about sightline restrictions created by a hedge located at 267 Riverside Drive, in particular, for motorists making the north-westbound to north-eastbound manoeuvre on Riverside Drive.

The property is located on a corner lot at a sharp bend on Riverside Drive where it turns from north-west into the north-east direction at the intersection of Riverside Trail, similar to a 3-way intersection (Attachment 2). A site survey has determined the hedge is installed along the north-west and north-east boundary predominantly on private property (Attachments 2 and 3). The complaint was referred to Municipal Licensing and Standards for enforcement under the City of Toronto Municipal Code (TMC), Chapter 447, Fences, as a hedge is defined as a fence under the legislation.

Being located on a corner lot that has two street frontages, the shorter lot line on the north-west side fronting Riverside Drive is defined as the front lot line whereas the longer lot line fronting Riverside Drive on the south-west side is considered to be the flankage under TMC, Chapter 447. Effectively the subject hedge is located at the front yard under the definition and is restricted to a maximum height of 1.2 metres. Instead the subject hedge is approximately 3.66 metres (12 feet) in height (Attachment 4 and 5).

In addition to the above issue of noncompliance, the subject hedge does not comply with TMC, Fences. Chapter 447-2C, any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway. The subject hedge obstructs the view of the highway from the adjacent driveway located at 269 Riverside Dr. (Attachment 6). A Notice of Violation of was issued in regard to the above issues of noncompliance.

In response to the Notice, an application for Fence Exemption was submitted on the grounds that the hedge, being attractive and well maintained, provides the property with privacy and shelter from noise, keeping with and complimentary to the character of the surrounding neighbourhood.

COMMENTS

The Applicant has pointed out that "the road at 267 Riverside Drive is characterized by a convex curve that extends outwards into the 3-way intersection between Riverside Drive and Riverside Trail (hereinafter referred to as the 'intersection')" (Attachment 7). This curve results in limitations in the sightline at the intersection, particularly when approaching the intersection from Riverside Drive. This concurs with the complaint received by Transportation Services.

The Applicant contends that, because of the nature of this curve, other objects, such as the house itself at 267 Riverside Drive, will invariably interfere with the sightline at the intersection, and as such, reducing the height of the hedge will not address the safety issues at the intersection.

The subject hedge, being defined as a fence at the front yard, is limited to a maximum height of 1.2 metre under TMC Chapter 447-2B. Furthermore TMC Chapter 447-2C requires any fence within 2.4 metres of any driveway shall be an open mesh chain-link fence or of an equivalent open-fence construction for at least 2.4 metres from the lot line at which the driveway begins so as not to obstruct the view of the boulevard or highway.

In accordance with TMC Chapter 447, the hedge at the front yard will have to be trimmed from 3.66 metres down to a height of 1.2 metres. Additionally, since the neighbour's driveway at 269 Riverside Drive is abutting the north-east boundary of the subject property, the hedge within 2.4 metres of the front lot line and 2.4 metres from the neighbour's driveway at 269 Riverside Drive will have to be removed or replaced by a fence of open construction.

Transportation Services commented that the hedge is a sight restriction from traffic operations' perspective and suggested the hedge is trimmed to a height of 1.0 metre, measured from the travelled surface of the adjoining land (even though TMC Chapter 447 allows a height of up to 1.2 metres). This is in addition to the existing traffic safety signs installed on site, including proceed with caution light, hidden driveway, sharp turn and 20 kilometres per hour speed limit (Attachments 5, 6 and 7).

As an alternative to reduce the height of the hedge, the Applicant has proposed the City install two stop signs on Riverside Drive, in addition to the existing stop sign at Riverside Trail (Attachment 7), to create a 3-way stop at the intersection, in order to address the traffic safety concerns.

Should the staff recommendation not be accepted and the request by the applicant be approved, the following condition of approval should include that when the fence is replaced it should be constructed in compliance with TMC Chapter 447 – Fences, or its successor by-law.

CONTACT

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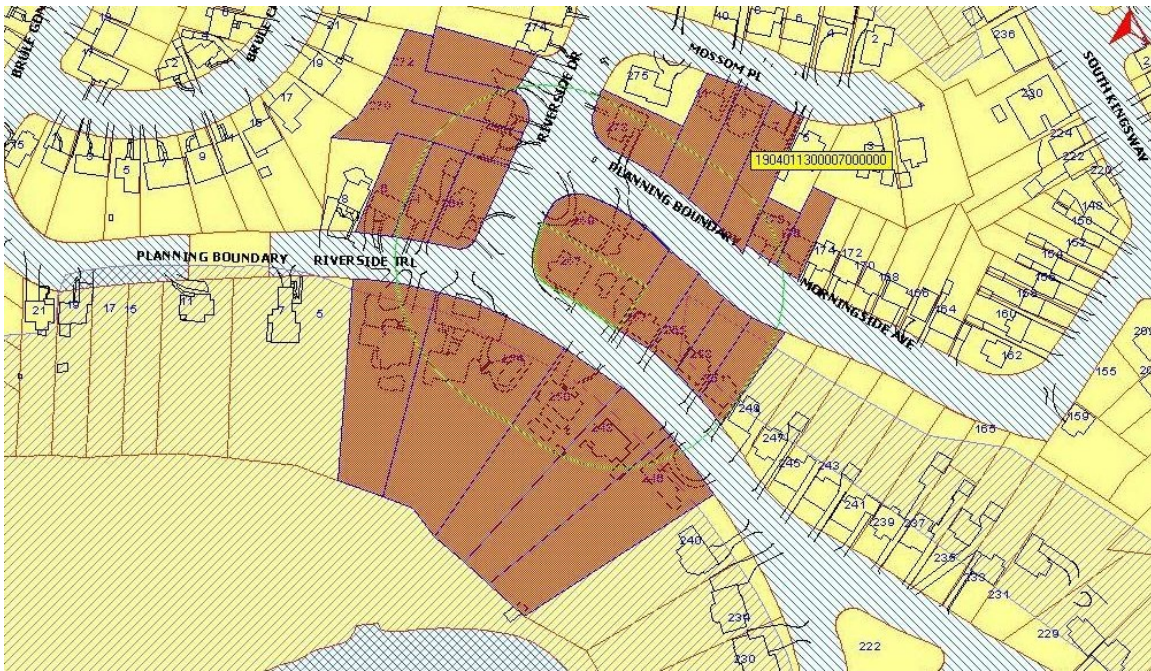
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Eletta Purdy, District Manager
Municipal Licensing and Standards
Etobicoke York District

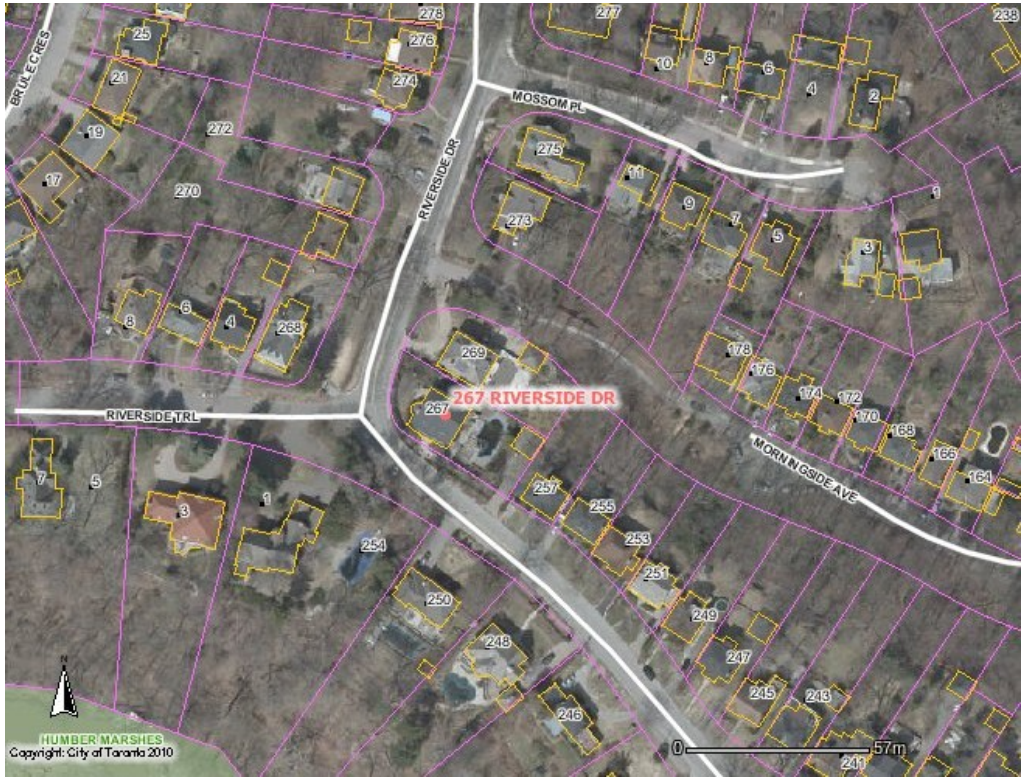
ATTACHMENTS

Attachment 1: Notification Area
Attachment 2: Aerial Photographs
Attachment 3: Site Survey
Attachment 4: Photos showing property and road bend at Riverside Drive (Eastbound)
Attachment 5: Photos showing property and road bend at Riverside Drive (Northbound)
Attachment 6: Photos showing hidden driveway at 269 Riverside Drive (Southbound)
Attachment 7: Photo showing the existing stop sign at Riverside Trail

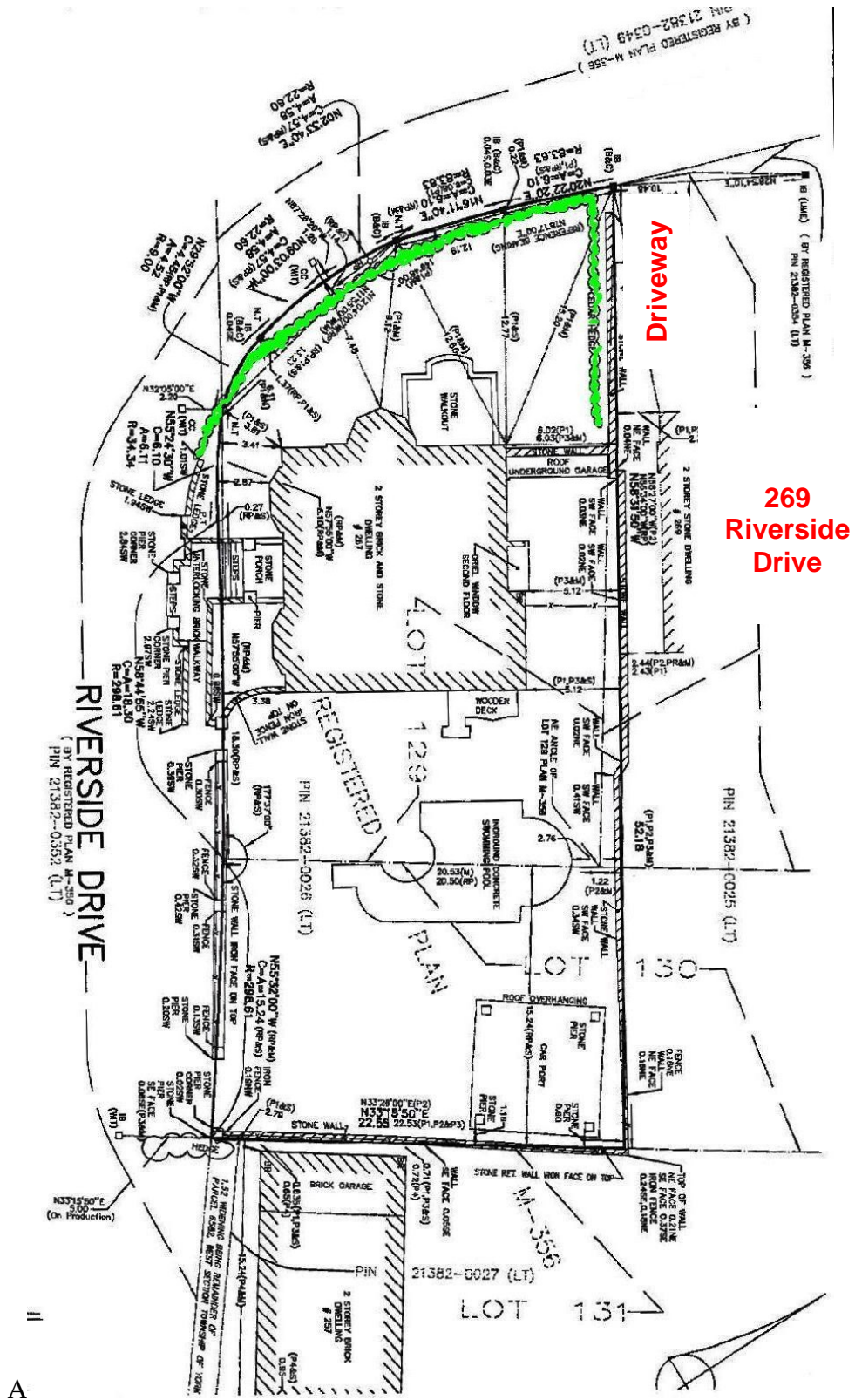
Notification Area



Attachment 1:



Attachment 2: Aerial Photographs (broken green line showing hedge in question)



Attachment 3: Site Survey (subject hedge in green colour)

Riverside Drive Northbound



Attachment 4: Photos showing subject property and road bend at Riverside Drive



Attachment 5: Photos showing subject property and road bend at Riverside Drive

Riverside Drive Eastbound



Attachment 6: Photos showing hidden driveway at 269 Riverside Drive

Riverside Drive Southbound



Attachment 7: Existing Stop Sign at Riverside Trail