



Committee of the Whole Report

Report Number: RS2021-028

Meeting Date: September 7, 2021

Title: Request Direction For Encroachment Adjacent to 25 Oakland Lane, Fenelon Falls

Description: New shrub planted encroaching onto City owned rail trail and as a mature shrub will further impact snowmobiles and maintenance equipment.

Author and Title: Christine Oliver, Law Clerk, Realty Services

Recommendation(s):

That Report RS2021-028, **Request Direction From Council For Encroachment Adjacent To 25 Oakland Lane, Fenelon Falls**, be received;

That Council deny the request to allow for the new recently planted shrubs and request that the owner of 25 Oakland Lane, Fenelon Falls relocate their shrubs onto their property; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Municipal Law Enforcement received a complaint of new shrubs planted within the City owned rail trail adjacent to 25 Oakland Lane, Fenelon Falls (the "Rail Trail"). Municipal Law Enforcement completed a site visit and determined the shrubs/hedges were encroaching onto the Rail Trail (the "Encroachment"). City Staff met and determined that it would not be fair to accept an application because the City would not be able to allow the Encroachment. The owners of 25 Oakland Lane, Fenelon Falls submitted a deputation request to the Clerks Department. Clerks Department requested the issue be reviewed by the Land Management Team (previously Land Management Committee) (the "Team"). The Team reviewed the request for the shrubs/hedges to remain. The Team reviewed the photos provided by Municipal Law Enforcement (attached as Appendix D and E) and noticed the tress had a garden appearance, with rocks surrounding the shrubs/hedges. The Team decided the request should be denied and request the owners of 25 Oakland Lane, Fenelon Falls, to relocate the shrubs/hedges and rocks within their property.

A location map is attached as Appendix A, a map identifying the property in favour of the encroachment is attached as Appendix B, an aerial map identifying the property in favour of the encroachment is attached as Appendix C and a photo of the encroachment attached as Appendix D.

Rationale:

The Team was unable to support the request because when the Encroachment matures it will further impact the snowmobile trail maintenance equipment. The applicant stated they aligned the Encroachments with the adjacent owners encroachments, but the adjacent owners have more mature shrubs/hedges and were not initially planted as close to the paved trail. Staff at the City is trying to work with the community by not enforcing existing encroachments that Staff can work around, but is trying to prevent new encroachments, such as newly planted shrubs/hedges.

Other Alternatives Considered:

The City may request that Realty Services proceed with a license agreement to allow for the Encroachment to remain in the current location. This is not recommended because the Snowmobile Club will not have sufficient space for the trail maintenance equipment.

If Council decides to proceed with this option, it is strongly recommended that the rock border not be allowed to remain, as this poses an unacceptable strike hazard to snowmobiles.

Alignment to Strategic Priorities

The recommendation set out in this Report align with the following strategic priority:

- Good Government
 - Increase and effectiveness of service delivery

Financial/Operation Impacts:

The City should not have financial impact if the City requests the owners of 25 Oakland Lane, Fenelon Falls to relocate the Encroachment onto their own property and the owners comply with that request. If Municipal Law Enforcement is required to enforce removal, this would be at an initial cost to the City, and then recovered by the homeowner by placement of the cost on the property tax roll, and collected in like manner as taxes.

If the City licenses the encroachment, the City will recover a modest annual fee for the encroachment related to the administration of the agreement; the City will receive no net financial benefit.

Consultations:

The Land Management Team (previously the Land Management Committee)

Attachments:

Appendix A – Location Map



Appendix A
Location Map.pdf

Appendix B – Map



Appendix B
Map.pdf

Appendix C – Aerial Map



Appendix C
Aerial.pdf

Appendix D – Photos of Shrub



Appendix D
Photo.pdf

Appendix E – Photos of Shrub



Appendix E
Photo.pdf

Department Head email: rcarlson@kawarthalakes.ca

Department Head: Robyn Carlson