



Committee of the Whole Report

Report Number: RS2023-037
Meeting Date: September 12, 2023
Title: Request for Encroachment Agreement – 8 Monty’s Inn Road
Description: This report seeks to provide background information regarding the encroachment adjacent to 8 Monty’s Inn Road, and to provide a recommendation in the matter.
Author and Title: Lucas Almeida, Realty Services Law Clerk

Recommendations:

That Report RS2023-037, Request for Encroachment Agreement – 8 Monty’s Inn Road, be received;

That the request for an additional license agreement be denied and no additional encroachments be allowed, other than the existing structures that are currently permitted pursuant to the existing license agreement; 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:

The purpose of this report is to address several encroachments at 8 Monty's Inn Street, where the property owners have parked vehicles and placed garbage, children's play sets, in addition to the permitted small sheds. The owners have an agreement from 2008 (See Appendix A) which they claim permits these encroachments, however, the agreement only provides permission for the buildings. A similar request for a license agreement was previously made by their neighbor at 6 Monty's Inn Street, but the Land Management Team (LMT) denied the request and decided to treat all encroachments on the road allowance similarly.

LMT had reviewed the encroachment issue when dealing with the request from 6 Monty's Inn Street and concluded that no application would be received for the matter now in question. The decision was based on the consideration that the entire area, including 8 Monty's Inn Street, had numerous encroachments across the road from the respective residential property.

The owners of 8 Monty's Inn Street received a Notice of Violation dated June 19, 2023, and attempted to apply for a license agreement for the balance of the encroaching items. However, they were informed that their application would not be accepted due to LMT's previous review and decision regarding their neighbor's encroachments.

In response, the owners of 8 Monty's Inn Street have requested a deputation, prompting this report to provide background information and recommendations.

Rationale:

Consistency with previous Council Decision: The wording of the Council Resolution CR2007-802, in allowing the license for encroachment of the "buildings only" seems to contemplate this exact scenario.

Consistency with LMT Decision: The Land Management Team previously decided to deny the request for a license agreement for similar encroachments from 6 Monty's Inn Street, due to concerns about the overall aesthetic of the area, road safety, and the fear of fuel and oil leaks into the adjacent ditch and neighbouring farmland. At this time, it was also determined that the entire area should be reviewed, and all non-permitted encroachments removed. To maintain consistency in approach and fairness, the same decision should apply to the encroachments from 8 Monty's Inn Street.

Road Constriction and Safety: The encroachments at 8 Monty's Inn Street, including parked vehicles and personal items, have constricted the roadway. This situation poses safety concerns and is limiting the City's ability to perform maintenance and winter operations effectively. This also may be impacting a farm entrance (see aerial at Appendix "B"). Denying the requested amendment to the license agreement will address these safety and operational issues.

Aesthetic Considerations: Encroachments onto City property are affecting the area's overall aesthetics. By denying the license agreement, the City can prioritize preserving the natural surroundings and ensuring responsible land use.

Other Alternatives Considered:

Council may choose to terminate the existing agreement on 12 months’ notice per section 4.01 of the Agreement (at Attachment "A"). This would require not only the additional encroachments (parked vehicles, boats, garbage, swing sets, etc.) to be removed immediately; it would require the 3 sheds to be relocated fully onto private lands at 8 Monty’s Inn Street. There appears to be sufficient space on the property to relocate the structures in accordance with the relevant Zoning By-law. See Appendix B for an aerial view, showing property boundaries.

Alignment to Strategic Priorities

This Report does not specifically align with any of the goals in the Council Adopted Strategic Plan. This Report is in alignment with the strategic enabler of “efficient infrastructure and asset management”.

Financial/Operation Impacts:

None, if an amendment to the existing agreement is offered.

If permitted, then a License Agreement should require that the City is insured and indemnified for any third party claim resulting from the encroachment.

Similarly, any License Agreement will require the owner of 8 Monty’s Inn to waive their rights for compensation in the event that damage is done to the encroaching items over the course of maintenance or any activity of the City.

Consultations:

Land Management Team

Attachments:

Appendix A: 2008 Encroachment Agreement



RS2023-037 -
Appendix A.pdf

Appendix B: Aerial, showing parcel fabric



Appendix B - Aerial
(8 Monty's Inn Street)

Appendix C: Photos of Encroachments



RS2023-037 -
Appendix C.pdf

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Department Head: Robyn Carlson