



Committee of the Whole Report

Report Number: RS2024-003
Meeting Date: March 5, 2024
Title: Request Direction For Encroachment Adjacent to 106 Bond Street West, Fenelon Falls
Description: Encroaching stairs, pump for irrigation system with protective housing, planter and retaining wall on City-owned rail trail
Author and Title: Christine Oliver, Law Clerk, Realty Services

Recommendations:

That Report RS2024-003, **Request Direction For Encroachment Adjacent to 106 Bond Street West, Fenelon Falls**, be received;

That Council deny the request to allow for encroachments (consisting of stairs, pump for irrigation with protective housing, planter and retaining wall) and request that the owner of 106 Bond Street West, Fenelon Falls relocate these encroachments 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, initiated by the Community Services Department, of encroachments consisting of stairs, pump for irrigation with protective housing, planter and retaining wall (the "Encroachments") within the City owned rail trail (the "Rail Trail") adjacent to 106 Bond Street West, Fenelon Falls. Municipal Law Enforcement completed a site visit and determined the Encroachments were encroaching on the Rail Trail. The owners (the "Applicant") of 106 Bond Street West, Fenelon Falls, submitted an application to have the Land Management Team (the "Team") review their request to enter into a license agreement to allow the Encroachments to remain in the current location. The Team reviewed the request for the Encroachments to remain with the photos provided (attached as Appendix D). The Team decided the request should be denied and requested that the Applicant relocate the Encroachments onto their own property.

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

Rationale:

The Team was unable to support the request due to concerns related to current underground infrastructure (specifically, stormwater infrastructure. See Appendix E), risk management (specifically, strike hazard for trail users), and maintenance/operational practices. In addition to these concerns, the location of this property is at the beginning of the trail where a future trail head may be developed. The entire width of the municipal property (not just the traveled portion of the trail) is required for the development of the trail head.

Other Alternatives Considered:

The City may request that Realty Services proceed with a license agreement to allow for the Encroachments to remain in the current location. This is not recommended because this portion of the Rail Trail is at the trailhead and will be required for future projects. If Council decides to proceed with this option, Realty Services will proceed through the license process.

Alignment to Strategic Priorities

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

- Good Government
 - Increase efficiency and effectiveness of service delivery

Financial/Operation Impacts:

The City would not have any financial impact if the City requested the owners of 106 Bond Street West, Fenelon Falls relocate the Encroachments 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 a similar process as property taxes.

If the City licenses the Encroachments, the City will recover a modest annual fee for the Encroachment license.

Consultations:

The Land Management Team

Manager of Parks and Recreation

Attachments:

Appendix A – Location Map



General Location
Map

Appendix B – Map



Map

Appendix C – Aerial Map



Aerial

Appendix D – Applicant Provided Photos and Survey



Applicant Provided
Photos and Survey

Appendix E – Map of the City's Infrastructure



Map of Sewer
Infrastructure

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Department Head: Robyn Carlson, City Solicitor

Department File: L17-23-RS184