

## MANAGEMENT REPORT

**Date:** June 25, 2025  
**To:** Infrastructure, Transportation and Safety Sub-committee  
**From:** Vicky Trotter, Council Committee Coordinator  
**Report Number:** ITS25-012  
**Attachments:** Sketch of the Encroachments at 40 Daly Avenue

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**Title:** Encroachment Application for 40 Daly Avenue (ITS25-012).docx

**Objective:** To consider a request to enter into an Encroachment Agreement with the owner of 40 Daly Avenue. The purpose of the Encroachment Agreement is to permit the recently installed flower beds and retaining wall to encroach onto the Daly Avenue road allowance.

**Background:** An encroachment agreement is a formal agreement signed between the City and a property owner, approved by by-law and registered on title against the property that is benefited by the agreement (not the municipal property). The intent of the encroachment agreement is to formally recognize the encroachment and clearly establish the terms and conditions specific to the encroachment if it is permitted to remain.

The City adopted an Encroachment Policy P.3.2 (the Policy) which states:

"It is the policy of the City of Stratford that there shall be no unauthorized encroachments onto road allowances or municipal property, including park property. A property owner shall seek prior permission from the City to encroach onto a road allowance or municipal property and subject to Council approval, enter into an encroachment agreement with the City and pay the required fees.

Where an encroachment exists without City approval, the owner shall be required to remove the encroachment at their own expense or seek permission from the City for the encroachment to remain.

No new encroachments onto park property will be permitted."

The Policy further states:

## "7. When Encroachments will not be granted

It is the policy of the City of Stratford that approval for the following will not be granted:

- new encroachments onto park property;
- additions to existing buildings or other structures that would encroach or do encroach onto municipal property or road allowances;
- the encroachment poses a danger to the public;
- when construction has commenced prior to the issuance of a required permit from the City."

In 2022, construction took place at 40 Daly Avenue, and it was identified that an encroachment agreement was required. In September 2022, the owners of the property were notified, and the owner submitted an encroachment application for the driveway on the east side of the property to encroach onto municipal property.

Per the Encroachment Policy, the application was circulated to staff for review and comment. Comments received were as follows:

### **Planning Services**

- Planning does not support the application as the encroachment is the entire parking space and it is encroaching onto the City's right-of-way.

### **Engineering Services**

- The Engineering Department will not support the application to establish a parking space since most of the space is located on the City's right-of-way and the utility right-of-way. The parking space is to be located within the front yard setback and entirely on private property.

In November 2022, the owner of 40 Daly Avenue and their contractor were advised if they poured the driveway and the encroachment application was denied, the driveway would need to be removed and returned to grass at the cost of the owner. The contractor proceeded to install the driveway.

Clerk's Office staff were then advised in 2023 that a new site plan was to be submitted, and the encroachment application was placed on hold.

In June of 2024, the property was sold to new owners without the encroachment application process being completed.

**Analysis:** In April 2025 a new encroachment application was submitted. The application requested the east driveway be permitted to encroach onto the Daly Avenue Road allowance. During the review it was determined the flower beds and retaining wall were also located on the City's property.

The new application was submitted for review to the following divisions: Planning, Engineering, and Building. Their comments are summarized below.

### **Planning Services**

- Planning Services advised the subject property's main driveway meets the requirements of the Comprehensive Zoning By-law ("CZBL") in terms of satisfying the off-street parking requirement. As such, the second driveway "goes above and beyond" and is not necessary to satisfy the off-street parking requirement for the site.
- Considering the second driveway is wholly contained within the road allowance and does not extend onto the subject lands due to the retaining wall as shown on the sketch provided, it is not a "driveway" as it applies to the CZBL. There is no concern with the request provided there is no vehicular encroachment over the sidewalk. Notwithstanding, most vehicles exceed the depth of the space being 4.08 m therefore the City may be facilitating future by-law enforcement issues with vehicle encroachments over the sidewalk.

### **Building Services**

- Building Services agreed with the comments provided by Planning Services and the Engineering Division.

### **Engineering Division**

- The Engineering Division advised they have concerns with the driveway portion of the application. The existing parking lot along 40 Daly Avenue is not fully contained within the property and does not conform to the Zoning By-Law, specifically section 5.2 regarding minimum parking space dimensions. No parking lot shall encroach on the City's right of way. As per the City of Stratford's Zoning By-Law - Section 5.2: Parking Space Dimensions and Requirements, the minimum parking space shall have a minimum width of 2.4m and a minimum length of 5.6m. The parking space has a width of 2.23m and a length of 4.08m.
- Additionally, as per By-Law 159-2008, Section 8 - No Parking in Unposted Locations: No person shall park a vehicle in such a manner that any part of the vehicle is situated upon or over a sidewalk at any time. Due to the existing driveway not meeting the minimum length of 5.6m, it does not comply with the by-law.

Staff does not recommend approving the "driveway" encroachment on the east side of the property based on the comments provided. Additionally, a driveway compliant with all By-law and Policies exists on the west side of the property for use by the owner.

Council may wish to consider one of the following options:

1. Deny the request for an encroachment which would result in the owner having to remove the flower beds, retaining wall and driveway and return these areas to grass at their cost.
2. Permit the flower beds and retaining wall to encroach onto the municipal road allowance and require the "driveway" to be removed and returned to grass at the cost of the property owner;
3. Approve the flower beds, retaining wall and driveway to encroach onto the road allowance.

Staff recommend proceeding with option 2 which would permit the flower beds and the retaining wall to encroach onto the Daly Avenue road allowance. With this option, the second driveway which does not conform to City by-laws would need to be removed by the owner at their cost.

**Financial Implications:**

The annual fee will be adjusted yearly by the CPI and would be added to the property tax bill for this property for the encroachment agreement. The annual fee is based on the size of the encroachment and is calculated by taking the current property tax times the size of the encroachment (area) divided by the total area of the owned property.

**Financial impact to current year operating budget:**

If the encroachment is denied (Option 1) there will be no financial impact to the current year operating budget.

If the encroachment of the flower beds and retaining wall is approved (Option 2), the annual fee of \$58.76, adjusted yearly by the CPI, would be added to the property tax bill for this property for the encroachment agreement, representing revenue to the City.

If the encroachment of the flower beds, retaining wall and driveway is approved (Option 3), the annual fee of \$190.45, adjusted yearly by the CPI, would be added to the property tax bill for this property for the encroachment agreement, representing revenue to the City.

**Financial impact on future year operating budget:**

If the encroachment is denied there will be no financial impact on future year operating budget.

If approved the amounts noted above would be adjusted yearly by the CPI and added to the property tax bill until the agreement is terminated or the encroachment is removed, representing revenue to the City.

### **Alignment with Strategic Priorities:**

**Not applicable:** The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

### **Alignment with One Planet Principles:**

**Not applicable:** The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

**Staff Recommendation: THAT the flower beds and retaining wall at 40 Daly Avenue be permitted to encroach onto the Daly Avenue road allowance for a total encroachment area of 6.35m<sup>2</sup>;**

**THAT the annual fee of \$58.76 adjusted yearly by the CPI, be added to the property tax bill for 40 Daly Avenue;**

**AND THAT the City Clerk be directed to prepare a by-law authorizing the encroachment at 40 Daly Avenue.**

<b>Prepared by:</b>	Vicky Trotter, Council Committee Coordinator
<b>Recommended by:</b>	Tatiana Dafoe, City Clerk
	Karmen Krueger, CPA, CA, Director of Corporate Services
	Adam Betteridge, Interim Chief Administrative Officer