

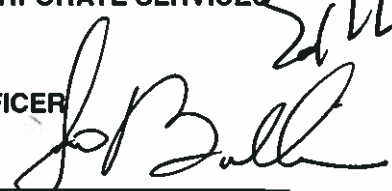

TO: GENERAL COMMITTEE

SUBJECT: ENCROACHMENT APPLICATION 24-32 Mulcaster Ave.

PREPARED BY AND KEY CONTACT: TERRY THOMAS, SENIOR REAL ESTATE SERVICES OFFICER, EXT. 4758

SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES 

GENERAL MANAGER APPROVAL: E. ARCHER, CMA, GENERAL MANAGER OF CORPORATE SERVICES 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: JON M. BABULIC, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the Mayor and City Clerk be authorized to enter into an encroachment agreement with Pulis Investment's Inc., owner of the property known municipally as 24-32 Mulcaster Ave., to permit the installation of a new exterior stucco siding on the east face of the building, as well as recognize that an existing encroachment exists pertaining to the foundation and possibly a small portion of the existing brick veneer on this same east side, subject to the following terms and conditions.
 - 1) The stucco finish will be applied to the existing east face, adding approximately 2" to the existing encroachment. It is recognized that 3 bay windows on the upper level are not considered an encroachment under the existing Building Code.
 - 2) The owners will provide proof of public liability insurance in the amount of \$ 2,000,000.00 and naming the City of Barrie as an additional insured and be required to pay the annual encroachment fee as established by Council from time to time;
 - 3) The contents of the agreement will be to the satisfaction of the Director of Legal Services and the City Solicitor and that all costs associated with the agreement, including registration on title, be the responsibility of the owners.

PURPOSE & BACKGROUND

2. The owner of 24-32 Mulcaster Ave. has made application to the City of Barrie for permission to install new siding on this building, recently purchased by the applicant.
3. The installation of this siding will have the effect of increasing the existing approximate 1" encroachment along the Mulcaster Street sidewalk to approximately 4" at it's maximum. See Schedule "A" attached.
4. This is an approximate 80+ year old building which originally would have had a minor foundation encroachment, very typical of the downtown core area. The current action is a maintenance issue.
5. The construction will be subject to applicable Building Permit requirements. All appropriate City Departments have been circulated with the application and no objections or concerns were presented.

ANALYSIS

6. The intent of encroachment agreements is to control unauthorized use of City property and protect against liability that may occur should there be personal or property damage caused by the encroachments onto City property. Encroachment agreements run with the title of the land for as long as the encroachment exists. The approval of Council is required for new encroachments and in cases where the property owner wishes to expand the limits of the encroachment.
7. Updated legal surveys in the 1960's and 1970's discovered that many of the buildings in the downtown had been constructed without the benefit of accurate surveys resulting in buildings being built partially on the City's road allowance.
8. Very few of the approved encroachments are for property other than road allowances and are typically reserved for situations where removal of the encroachments would create undue hardship on property owners or where it is in the best interest of the municipality for the encroachment to stay in place for public safety reasons. Otherwise, encroachments are discouraged and if brought to the attention of staff, are typically requested to be removed at the owner's expense, and the City's property restored.

ENVIRONMENTAL MATTERS

9. There are no environmental matters related to the recommendation.

ALTERNATIVES

10. There is one alternative available for consideration by General Committee:

Alternative #1

General Committee could reject the recommendation to enter into an encroachment agreement.

This alternative is not recommended as it is counter productive to the City's initiative to encourage formalization of existing encroachments and the non-intrusive ongoing maintenance and improvements to privately owned property.

FINANCIAL

11. There will be no financial implications resulting from the proposed recommendation. The Owner will be responsible for all costs associated with the preparation of the agreement including the City's legal costs and any survey requirements. The Owner will be responsible to pay the annual encroachment fee as established by Council and provide proof of liability insurance in the amount of \$ 2,000,000.

LINKAGE TO 2010 – 2014 COUNCIL STRATEGIC PLAN

12. This Staff Report is not linked to any specific 2010 – 2014 Council Strategic Plan.

L01 16 REGD PLAN 2
CITY OF
BARRIE
COUNTY OF SIMCOE

