



Report to: General Committee

Date Report Authored: November 27, 2014

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**SUBJECT:** Alteration of Municipal Boulevard - 10 Eckardt Avenue, Unionville

**PREPARED BY:** David Porretta, Acting Manager, Business & Technical Services  
Bill Wiles, Manager, By-law Enforcement  
George Duncan, Senior Heritage Planner, Planning/Urban Design

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**RECOMMENDATION:**

- 1) That the report and presentation entitled “Alteration of Municipal Boulevard - 10 Eckardt Avenue, Unionville” be received;
- 2) And that an exemption to municipal By-law 2013-136 (Road Occupancy) not be granted to the property Owner of 10 Eckardt Avenue;
- 3) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

This report pertains to the construction of an unauthorized parking pad within the municipal road allowance at 10 Eckardt Avenue, in contravention of municipal By-laws. City staff are seeking Council’s endorsement that the existing municipal By-laws regulating the municipal road allowance be upheld, thereby requiring the Owner to remove the illegal parking pad and restore the boulevard to its previous condition.

**BACKGROUND:**

Located in the Unionville Heritage Conservation District, 10 Eckardt Avenue is a single family residential property located east of Main Street Unionville, north of Highway 7. In May 2014, the property owner, Mr. David MacDonald, undertook alterations to his property, including repaving the existing driveway, and initial work for a parking pad within the municipal road allowance, without the required municipal approvals.

This activity was subsequently brought to the attention of Heritage Planning and By-law Enforcement staff for review. The Operations Department was subsequently contacted to review and comment on the activity within the road allowance. In response, Operations staff confirmed that the construction of the parking pad was in contravention of Road Occupancy By-law (2013-136), and is not permitted.

On May 21, 2014, Mr. MacDonald applied and received approval for a Heritage Permit for re-surfacing the existing driveway only. The approval letter to the Applicant specified that the parking pad, which had been partially constructed at that point in time, was not permitted and not approved.

Mr. MacDonald continued to pursue approval for the unauthorized parking pad, making a presentation to the Heritage Markham Committee at the July 9, 2014 meeting. The Committee supported the owner’s proposal to retain the parking pad on the basis that a number of other properties on the same street had expanded driveways. However, the

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Heritage Markham committee functions as an advisory body to Council on matters pertaining to the Ontario Heritage Act only; it is not an approval authority, nor does it have jurisdiction in commenting on municipal By-laws. Therefore, Heritage Markham's resolution included a statement that it had no objection to the parking pad **"on the condition that the property owner obtains any required municipal approvals."** Despite direction provided by the City to Mr. MacDonald, construction of the parking pad continued.

In the future, to avoid confusion with residents, staff will ensure that work or alterations affecting City property, including any matters governed by the Road Occupancy By-law, are not forwarded to the Heritage Markham Committee unless the project is initiated by City staff, or if feedback is sought by City staff.

#### **OPTIONS/ DISCUSSION:**

##### **The parking pad contravenes multiple municipal By-laws.**

The property at 10 Eckardt Avenue has a single lane driveway 42 metres in length with minimum capacity of 7 vehicles. The driveway includes a 6-metre "hammer head" adjacent to a single-car garage. The parking pad is wholly located within the municipal road allowance and therefore is subject to the requirement of the City's Road Occupancy By-law. Further, the parking pad is located within the Toronto and Region Conservation Authority (TRCA) regulated flood zone and is subject to their review and approval. TRCA has advised that no application for the parking pad has been received.

On June 19, 2014, Mr. MacDonald e-mailed By-law Enforcement staff, stating that his existing single lane driveway "creates an inconvenience to dealing with multiple cars" and that the parking pad would help address this situation by creating a by-pass which "we will use for a couple of hours potentially in the evening". Street parking on Eckhart Avenue is allowed, with exception of the overnight period.

Existing driveways elsewhere on the street, some of which are decades old, have a range of as-constructed conditions that do not comply with current City By-law. However, the Manager of By-law Enforcement advises that the City's policy is not to pursue compliance except where boulevard parking is contrary to Parking Control By-law (2005-188) and the Extended Driveways By-law (2006-96). Further, any subsequent alterations, repairs or repaving of such driveways encroaching in the municipal road allowance would require removal to comply with the By-law.

On October 2, 2014, By-Law Enforcement staff issued a Notice of Obstruction to Mr. MacDonald, under By-law (2013-136), for failing to seek a Road Occupancy Permit prior to the alteration of the municipal boulevard. He was directed to remove all materials from the municipal boulevard and restore the affected area to its original state, no later than October 17, 2014.

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**Removing the parking pad and restoring the municipal boulevard is recommended.**

The municipal boulevard is intended for multiple uses, including the provision of services, utilities and urban design elements. The City also has concerns with stormwater management and run-off as a result of climate change and extreme weather conditions; parking pads create additional detrimental impacts on flood and stormwater management.

As of October 17, 2014, Mr. MacDonald had not complied with the Notice of Obstruction. Legal action is underway with the failure to comply. As such, it is recommended that Mr. MacDonald comply with the requirements specified in the Notice of Obstruction by removing the interlocking brick from the municipal boulevard and restoring it to previous conditions, per municipal By-law (2013-136). By-law Enforcement staff will contact Mr. MacDonald to determine a reasonable date for the completion of the removal and restoration. If Mr. MacDonald does not agree, or fails to comply, the City will hire a contractor to conduct the removal and restoration, at the owner's expense.

If Council allows the parking pad to remain, the following measures would be required:

- Owner to submit an application and receive approval from the TRCA;
- Amendment to the Road Occupancy By-law (2013-136) to include a fee schedule and permit, providing the City with enforcement options for misuse/non-repair;
- Amendment to the Parking By-law (2005-188) to permit parking on the boulevard parking pad and also to allow overnight parking;
- An Encroachment Agreement, including the requirement for the Owner to have liability insurance to mitigate risk to the City.

**Permitting the parking pad would set a precedent and impact enforcement efforts.**

The City has been actively enforcing By-law provisions against the creation of driveway expansions. This includes charges being laid and the offending modifications being removed by City staff, at the cost of the offending Owners. Permitting the Owner of 10 Eckardt Avenue to maintain the parking pad would set a precedent wherein property owners throughout the City may request similar exemptions for similar driveway modifications. This would undermine the intent of the By-law and compromise the City's ability to effectively control and regulate the municipal road allowance. This is not in the City's best interest and is therefore **not recommended**.

**FINANCIAL CONSIDERATIONS AND TEMPLATE:**

Not applicable.

**HUMAN RESOURCES CONSIDERATIONS:**

Not applicable.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

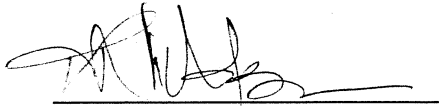
This report aligns with Environmental strategic priorities, wherein the City of Markham must continue to demonstrate environmental stewardship, sustainability and innovation in our built and natural environments.

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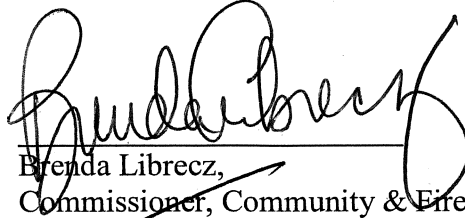
**BUSINESS UNITS CONSULTED AND AFFECTED:**

Heritage Planning, By-laws and Legal staff have contributed to the preparation of this report and support the recommendations contained herein.

**RECOMMENDED BY:**

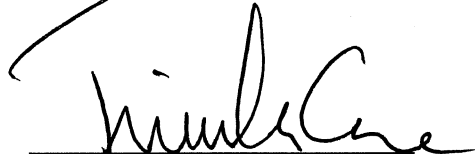


Bob Nicholson,  
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For:  *Carlie Turpin*  
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City Clerk

  
Trinela Cane,  
Commissioner, Corporate Services

**ATTACHMENTS:**

Presentation – “Alteration of Municipal Boulevard - 10 Eckardt Avenue, Unionville”