

**REPORT NO. 223** of the  
**ENVIRONMENT, TRANSPORTATION & PUBLIC SAFETY**  
**STANDING COMMITTEE**  
of its meeting held July 23 2014

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**Present:** Councillor J. Gignac  
Councillor R. Jones  
Councillor F. Valentinis, Chair

**Regrets:** Councillor A. Halberstadt  
Councillor H. Payne

That the following recommendations of the Environment, Transportation and Public Safety Standing Committee **BE APPROVED**:

Moved by Councillor Gignac, seconded by Councillor Jones,

I. **THAT** the applicants request for the property at 2595 Dougall Avenue, identified as CON 2PT Lot 79; to permit a billboard and block wall to encroach on the Dougall Avenue right-of-way, **BE APPROVED** subject to the owner entering into an encroachment agreement, satisfactory in form to the City Solicitor, and in technical content to the City Engineer, to comply with the terms and conditions:

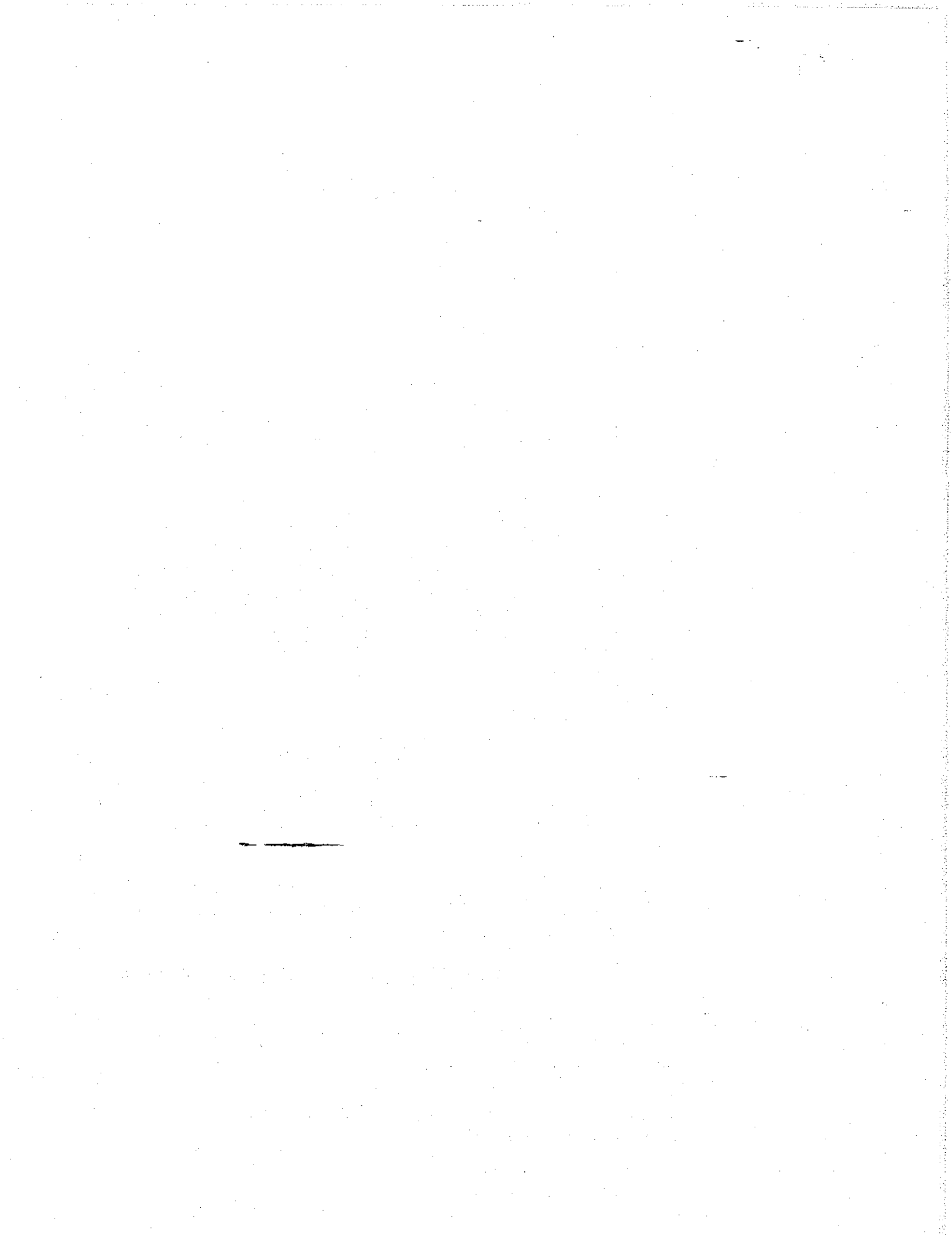
- (a) Furnish a copy of the Registered Deed by which ownership to the property was acquired.
- (b) Pay a \$225.00 (includes 5% G.I.S. charge) encroachment application fee to the Engineering Department. (paid)
- (c) Indemnify the City of Windsor against all claims which may arise by reason of its occupying sections of the public right-of-way herein before listed and file with the Risk Management Supervisor a Certificate of Insurance with a minimum amount of \$2,000,000.00 per occurrence Commercial General Liability, a cross liability endorsement, the Corporation of the City of Windsor as an additional insured and 30 days notice of cancellation.

The Certificate of Insurance must be satisfactory in form to the Risk Management Supervisor and provided to the Risk Management Supervisor with the commencement of this encroachment and annually thereafter.

For insurance purposes only, the mailing address for the Corporation of the City of Windsor is:

The Corporation of the City of Windsor  
Risk Management Division  
400 City Hall Square, Suite 403  
Windsor, ON N9A 7K6

- (d) Pay a \$250.00 fee to the Engineering Department for the preparation of the agreement, to be signed by the property owner. (paid)



- (e) Pay a surcharge in the amount of \$100.00 to the Engineering Department, as required by Council Resolution 699/85. (paid)
- (f) Pay an annual encroachment fee of \$795.00, calculated according to Council Resolution 425/81, and any and all applicable provincial and federal land taxes, etc.
- (g) Pay an annual inspection and billing fee of \$25.00 to the Engineering Department.
- (h) Remove the encroachment and restore the area within 60 days to the condition of the surrounding area upon receipt of written notice by the City Engineer to do so.
- (i) The applicant agrees to obtain a Street Opening Permit at a cost of \$208.00 for the subject encroachment.
- (j) The applicant agrees to obtain the services of a structural engineer to certify the billboards structural integrity.
- (k) The applicant agrees to enter into an encroachment agreement with the Detroit River Tunnel Partnership for the possible billboard and block wall encroachment.

II. **THAT** the encroachment of landscaping boulders and part of 6 parking spaces on the Dougall Avenue right-of-way, as shown on attached drawing C-3221A, **BE APPROVED**, subject to the owner entering into an encroachment agreement, satisfactory in form to the City Solicitor, and in technical content to the City Engineer, to comply with the terms and conditions:

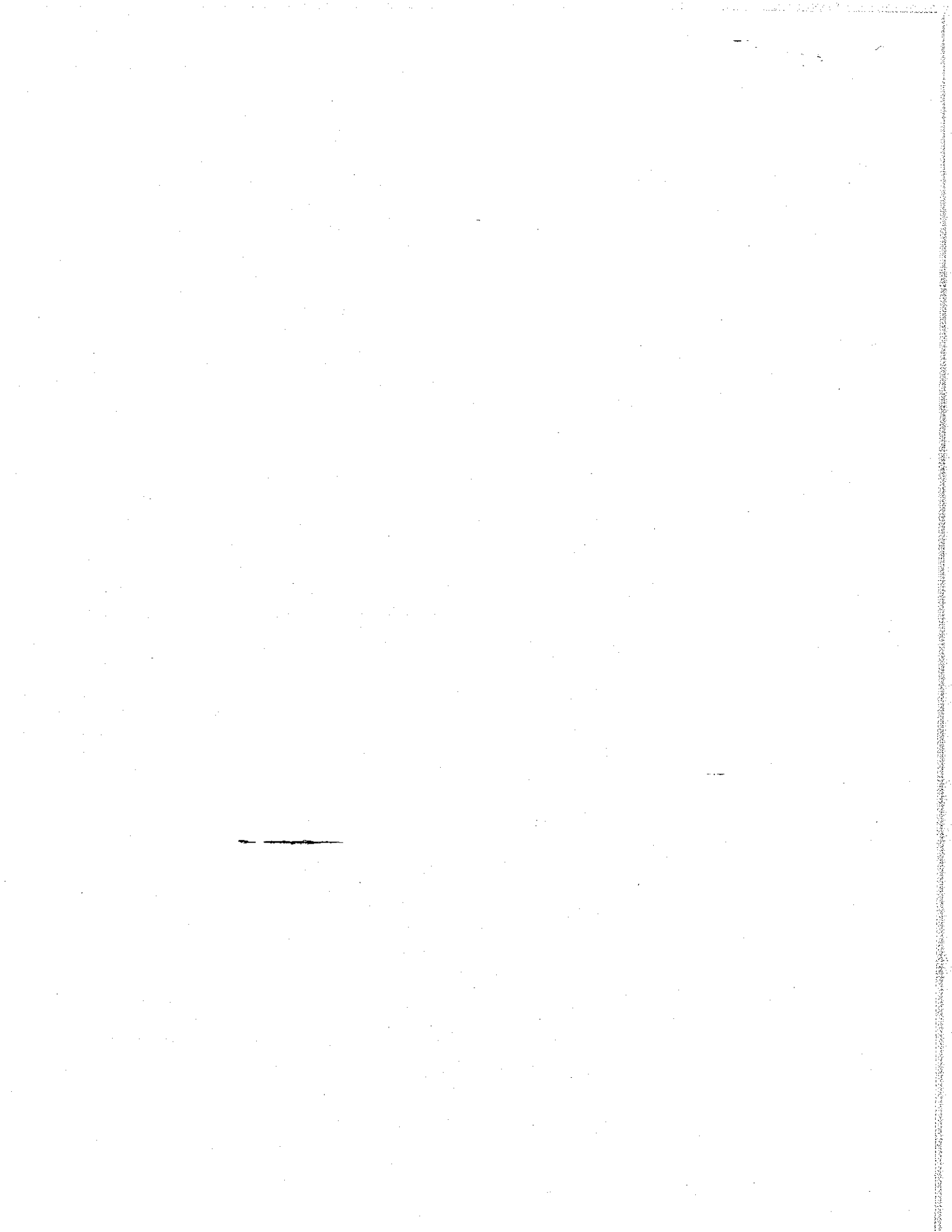
- (a) Furnish a copy of the Registered Deed by which ownership to the property was acquired.
- (b) Pay a \$225.00 (includes 5% G.I.S. charge) encroachment application fee to the Engineering Department. (paid)
- (c) Indemnify the City of Windsor against all claims which may arise by reason of its occupying sections of the public right-of-way herein before listed and file with the Risk Management Supervisor a Certificate of Insurance with a minimum amount of \$2,000,000.00 per occurrence Commercial General Liability, a cross liability endorsement, the Corporation of the City of Windsor as an additional insured and 30 days notice of cancellation.

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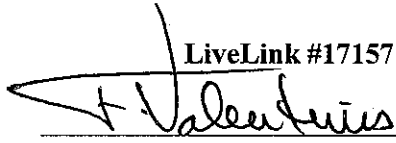
- (d) Pay a \$250.00 fee to the Engineering Department for the preparation of the agreement, to be signed by the property owner. (paid)



- (e) Pay a surcharge in the amount of \$100.00 to the Engineering Department, as required by Council Resolution 699/85. (paid)
- (f) Pay an annual encroachment fee of \$745.00, calculated according to Council Resolution 425/81, and any and all applicable provincial and federal land taxes, etc.
- (g) Annual inspection and billing fee of \$25.00 to the Engineering Department.
- (h) Remove the encroachment and restore the area within 60 days to the condition of the surrounding area upon receipt of written notice by the City Engineer to do so.
- (i) The applicant agrees to obtain a Street Opening Permit at a cost of \$208.00 for the subject encroachment.

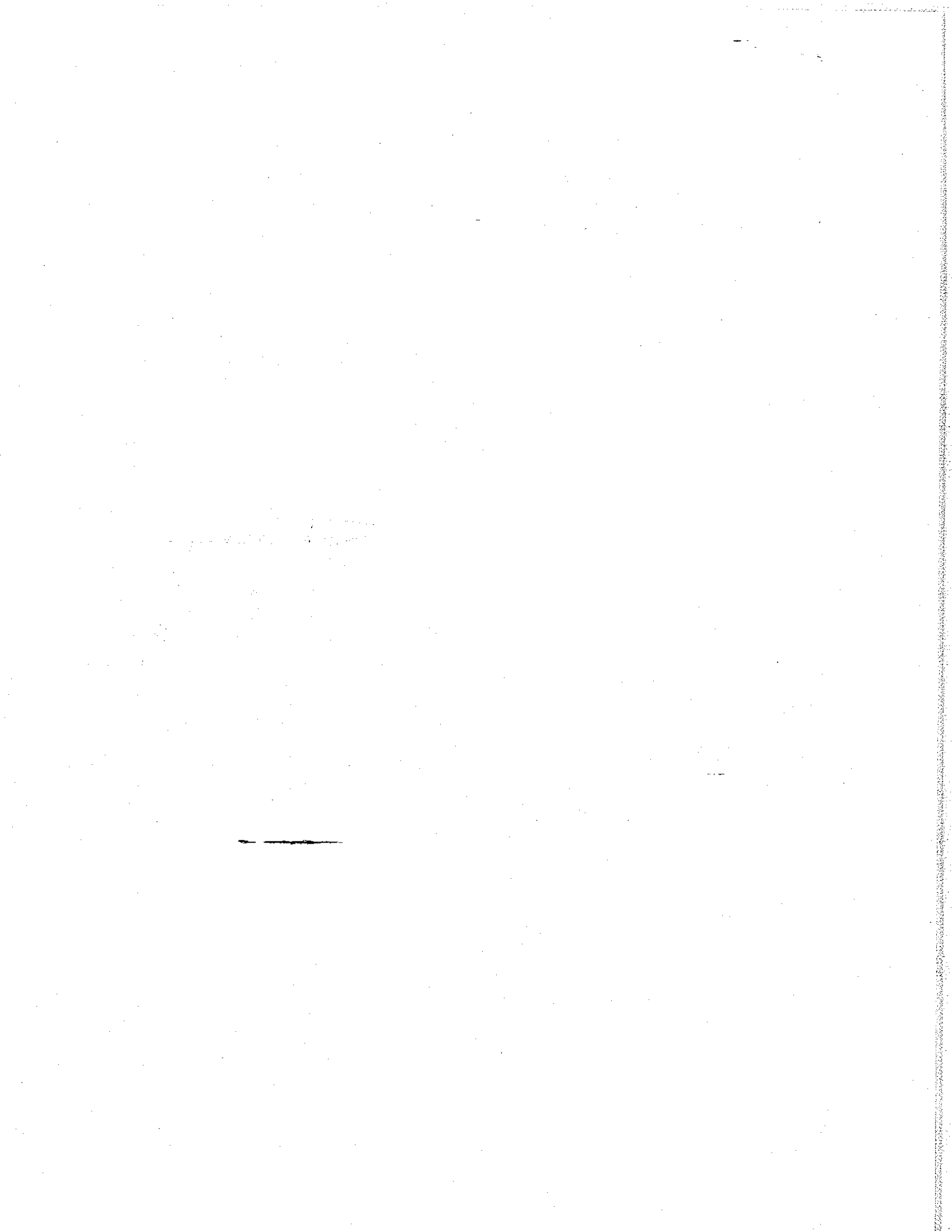
III. **THAT** the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign the agreement, satisfactory in form to the City Solicitor and in technical content to the City Engineer, in accordance with By-law 208-2008 as the authority for encroachments.

Clerk's Note: The report of the City Engineer entitled "2595 Dougall Avenue – Parking, Landscape, Block Wall and Billboard Encroachment" dated May 7, 2014 is attached as background information.

LiveLink #17157 SE2014  
  
 \_\_\_\_\_  
 CHAIRPERSON

  
 \_\_\_\_\_  
 SUPERVISOR OF COUNCIL SERVICES (A)

NOTIFICATION:				
<i>Name</i>	<i>Address</i>	<i>Email Address</i>	<i>Phone</i>	<i>FAX</i>
Gino Morga, Solicitor		gmorga@morgalaw.com		



**THE CORPORATION OF THE CITY OF WINDSOR**  
**Environment, Transportation & Public Safety Standing Committee –**  
**Administration Report – Environment & Transportation**

**MISSION STATEMENT:**

*"Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."*

<b>LiveLink REPORT #: 17157 SE2014</b>	<b>Report Date: May 7, 2014</b> (PW#3822-05/07/14:eb)
<b>Author's Name: Adam Pillon</b>	<b>Date to Standing Committee: July 23, 2014</b>
<b>Author's Phone: 519 255-6257 ext. 6612</b>	<b>Classification #:</b>
<b>Author's E-mail: apillon@city.windsor.on.ca</b>	

**To: Environment, Transportation & Public Safety Standing Committee**

**Subject: 2595 Dougall Avenue – Parking, Landscape, Block Wall and Billboard Encroachment**

**1. RECOMMENDATION: City Wide: \_\_\_\_\_ Ward(s): 10**

- I. That the applicants request for the property at 2595 Dougall Avenue, identified as CON 2PT Lot 79; to permit a billboard and block wall to encroach on the Dougall Avenue right-of-way, **BE DENIED**.
- II. That the encroachment of landscaping boulders and part of 6 parking spaces on the Dougall Avenue right-of-way, as shown on attached drawing C-3221A, **BE APPROVED**, subject to the owner entering into an encroachment agreement, satisfactory in form to the City Solicitor, and in technical content to the City Engineer, to comply with the terms and conditions:
  - (a) ~~Furnish a copy of~~ the Registered Deed by which ownership to the property was acquired.
  - (b) Pay a \$225.00 (includes 5% G.I.S. charge) encroachment application fee to the Engineering Department. **(paid)**
  - (c) Indemnify the City of Windsor against all claims which may arise by reason of its occupying sections of the public right-of-way herein before listed and file with the Risk Management Supervisor a Certificate of Insurance with a minimum amount of \$2,000,000.00 per occurrence Commercial General Liability, a cross liability endorsement, the Corporation of the City of Windsor as an additional insured and 30 days notice of cancellation.

The Certificate of Insurance must be satisfactory in form to the Risk Management Supervisor and provided to the Risk Management Supervisor with the commencement of this encroachment and annually thereafter.

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Risk Management Division  
400 City Hall Square, Suite 403  
Windsor, ON N9A 7K6

- (d) Pay a \$250.00 fee to the Engineering Department for the preparation of the agreement, to be signed by the property owner. **(paid)**
- (e) Pay a surcharge in the amount of \$100.00 to the Engineering Department, as required by Council Resolution 699/85. **(paid)**
- (f) Pay an annual encroachment fee of \$745.00, calculated according to Council Resolution 425/81, and any and all applicable provincial and federal land taxes, etc.
- (g) Pay an annual inspection and billing fee of \$25.00 to the Engineering Department.
- (h) Remove the encroachment and restore the area within 60 days to the condition of the surrounding area upon receipt of written notice by the City Engineer to do so.
- (i) The applicant agrees to obtain a Street Opening Permit at a cost of \$208.00 for the subject encroachment.

and further, that the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign the agreement, satisfactory in form to the City Solicitor and in technical content to the City Engineer, in accordance with By-law 208-2008 as the authority for encroachments.

### **EXECUTIVE SUMMARY:**

N/A

## **2. BACKGROUND:**

An order to comply was issued to 2595 Dougall Avenue on September 27, 2013 under By-Law 25-2010 for personal property in the Dougall Avenue right-of-way. An application was received on December 5, 2013 from the property owner at 2595 Dougall Avenue requesting permission for landscaping boulders, billboard, block wall and 6 parking spaces and shown on drawing C-3221B and figures 1 & 2 to encroach on the Dougall Avenue right-of-way.

A sign permit (Appendix A) was issued to the owner of 2595 Dougall Avenue on April 16, 1980 to erect 1 ground sign 46'x12' with the advertising message "New Homes by Riverside". The sign was to comply with sign By-Law No. 1257 and be located entirely on private property.

City of Windsor Sign By-Law No. 250-2004 provides the following definition section 2.62.19 defines a ground sign as a sign that is supported by a structure or supports erected on or anchored in the ground for the sole purpose of supporting the sign, and are not attached to any building or other structure. Section 2.62.7 defines a billboard sign as a ground or wall sign, which has copy fastened in such manner so as to permit its periodic replacement, which is owned and maintained by a person engaged in the rental or leasing of the sign face area for advertising goods, products, services or facilities that are not present or sold on the property on which the sign is located.



In July 2003, a building permit was issued to change the first floor office space at 2595 Dougall Avenue into a pizza takeout restaurant. The parking spaces were required (Appendix B) for the takeout restaurant however the parking spaces were constructed in the right-of-way.



Figure (1)



Figure (2)

### 3. DISCUSSION:

The billboard and block wall may be in front and encroaching into the Detroit River Tunnel Partnership (DRTP) property directly south of the subject property as shown on C-3221A and figure 3. DRTP does not object to the encroachment application on the Dougall Avenue right-of-way provided that;

(1) The owner of 2595 Dougall Avenue enters into an encroachment agreement with DRTP.

OR

(2) The billboard and block wall are removed to eliminate the possible encroachment on DRTP property.

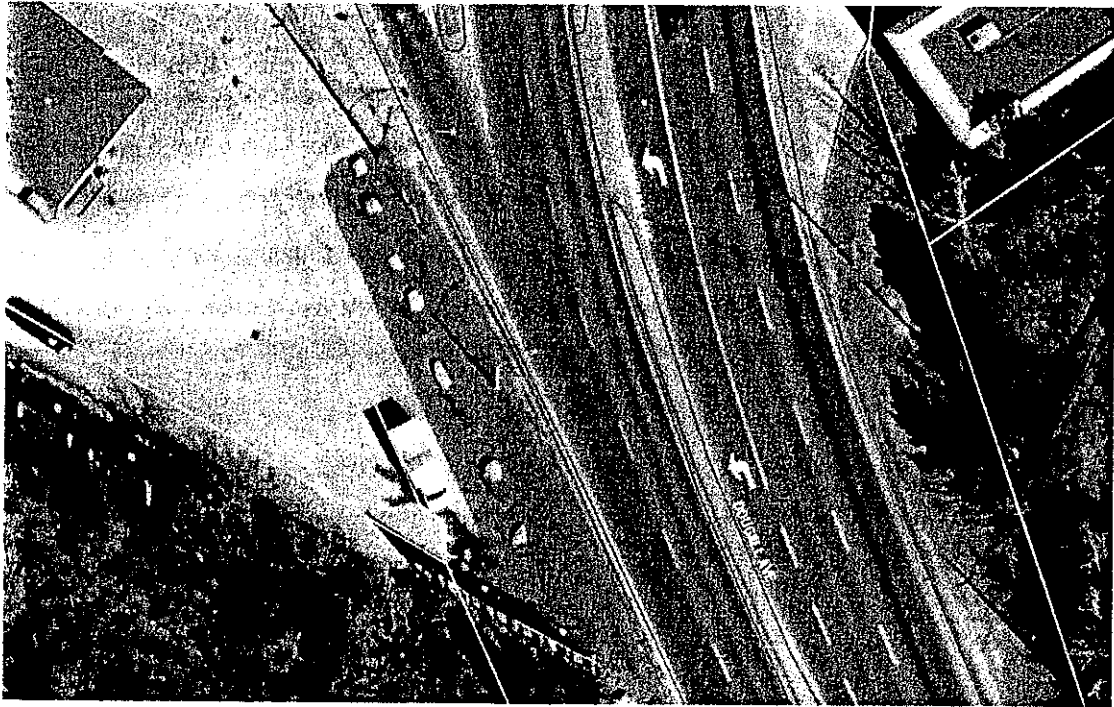


Figure (3)

The billboard and block wall do not meet the current sign by-law requirements. In 1980 a permit was issued to Riverside Construction the owner of 2595 Dougall Avenue to erect 1 ground sign 46'x12' with the advertising message "New Homes by Riverside". The current billboard advertising goods, products, services or facilities that are not present or sold on the property on which the sign is located does not comply with the 1980 sign permit. The Building Department has provided a review of the billboard assuming it was located completely on private property. There are a number of reasons the billboard would not be in compliance with the sign by-law including; it cannot be within 200.0 metres of another billboard, it cannot be erected within 4.0 metres of the public road allowance, it cannot be erected within 3.0 metres of a side lot line, and the billboard is too big to be permitted on private property. In order to not circumvent the sign by-law the same private property regulations have been applied to right-of-way. The Legal Department advises Council should not contravene its own by-laws and grant permission for this encroachment.

Administration has safety concerns with the structural integrity of the billboards, in addition the billboard and block wall adds a visual complexity to an intersection with unique geometry that has been identified as a high collision location. The Legal Department advises Council should not permit a situation that may be dangerous; the insurers may deny liability if the sign was permitted even though the danger was apparent.

The property is zoned manufacturing (MD 1.2). The landscaping boulders occupy an area of 7.1 square meters (76.6 square feet) and the parking spaces occupy an area of 55.75 square meters (600 square feet) into the Dougall Avenue right-of-way. The landscaping and parking encroachments are recommended by administration and do not interfere with any municipal services nor obstruct any sightlines to vehicular traffic.

If Council wishes to approve the applicants request notwithstanding Administrations safety concerns with the billboard and block wall, the attached drawing C-3221B and the following terms and conditions will be required for the encroachment agreement.

- (a) Furnish a copy of the Registered Deed by which ownership to the property was acquired.
- (b) Pay a \$225.00 (includes 5% G.I.S. charge) encroachment application fee to the Engineering Department. **(paid)**
- (c) Indemnify the City of Windsor against all claims which may arise by reason of its occupying sections of the public right-of-way herein before listed and file with the Risk Management Supervisor a Certificate of Insurance with a minimum amount of \$2,000,000.00 per occurrence Commercial General Liability, a cross liability endorsement, the Corporation of the City of Windsor as an additional insured and 30 days notice of cancellation.

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Risk Management Division  
400 City Hall Square, Suite 403  
Windsor, ON N9A 7K6

- (d) Pay a \$250.00 fee to the Engineering Department for the preparation of the agreement, to be signed by the property owner. **(paid)**
- (e) Pay a surcharge in the amount of \$100.00 to the Engineering Department, as required by Council Resolution 699/85. **(paid)**
- (f) Pay an annual encroachment fee of \$795.00, calculated according to Council Resolution 425/81, and any and all applicable provincial and federal land taxes, etc.
- (g) Pay an annual inspection and billing fee of \$25.00 to the Engineering Department.
- (h) Remove the encroachment and restore the area within 60 days to the condition of the surrounding area upon receipt of written notice by the City Engineer to do so.

- (i) The applicant agrees to obtain a Street Opening Permit at a cost of \$208.00 for the subject encroachment.
- (j) The applicant agrees to obtain the services of a structural engineer to certify the billboards structural integrity.
- (k) The applicant agrees to enter into an encroachment agreement with the Detroit River Tunnel Partnership for the possible billboard and block wall encroachment.

**4. RISK ANALYSIS:**

The encroachment may present a future damage/liability claim. This is a low risk which is mitigated by the owner's insurance requirement in the agreement.

**5. FINANCIAL MATTERS:**

**Fees for administrations recommendation:**

The calculated encroachment fee according to CR 425/81 results in an annual encroachment fee of \$745.00:

**Landscape (Boulders) Formula:**

$$\text{Total Area} \times \text{Land Value} \times 1 \times \text{Interest} = \text{Encroachment Fee } (\$25.00 \text{ min.})$$

$$76.63 \times \$4.00 \times 1 \times 4\% = \$12.26, \text{ therefore } \$25.00 \text{ minimum fee applies.}$$

**Parking Formula:**

$$\text{Rate} \times \text{Period} \times \text{Number of Spaces} = \text{Encroachment Fee}$$

$$\$20.00/\text{space} \times 12 \text{ months} \times 50\% \text{ of } 6 \text{ spaces} = \$720.00$$

Therefore, the annual encroachment fee of \$745.00 plus the annual billing and inspection fee of \$25.00 are applicable for a total of \$770.00

The status of fees and deposits are summarized in the table below:

ITEM	AMOUNT	NOTE
Application fee	\$225.00	Paid
Legal agreement preparation	\$250.00	Paid
Surcharge under CR699/85	\$100.00	Paid. Refundable after the agreement is signed.
Annual encroachment fee	\$745.00	Payable upon CAO approval.
Annual billing & inspection fee	\$25.00	Payable upon CAO approval.
Permit fee	\$208.00	Payable upon CAO approval.
<b>TOTAL FEES</b>	<b>\$1553.00</b>	

**Fees including the billboard and block wall:**

The calculated encroachment fee according to CR 425/81 results in an annual encroachment fee of \$795.00:

**Ground Sign (Billboard) Formula:**

*Total Area x Land Value x 1.25 x Interest = Encroachment Fee (\$25.00 min.)*  
30.1 x \$4.0 x 1.25 x 4% = \$6.02, therefore \$25.00 minimum fee applies.

**Building Structure (Block Wall) Formula:**

*Total Area x Land Value x 1.0 x Interest = Encroachment Fee (\$25.00 min.)*  
37.46 x \$4.0 x 1.0 x 4% = \$5.99, therefore \$25.00 minimum fee applies.

**Landscape (Boulders) Formula:**

*Total Area x Land Value x 1 x Interest = Encroachment Fee (\$25.00 min.)*  
76.63 x \$4.00 x 1 x 4% = \$12.26, therefore \$25.00 minimum fee applies.

**Parking Formula:**

*Rate x Period x Number of Spaces = Encroachment Fee*  
\$20.00/space x 12 months x 50% of 6 spaces = \$720.00

Therefore, the annual encroachment fee of \$795.00 plus the annual billing and inspection fee of \$25.00 are applicable for a total of \$825.00

The status of fees and deposits are summarized in the table below:

ITEM	AMOUNT	NOTE
Application fee	\$225.00	Paid
Legal agreement preparation	\$250.00	Paid
Surcharge under CR699/85	\$100.00	Paid. Refundable after the agreement is signed.
Annual encroachment fee	\$795.00	Payable upon CAO approval.
Annual billing & inspection fee	\$25.00	Payable upon CAO approval.
Permit fee	\$208.00	Payable upon CAO approval.
<b>TOTAL FEES</b>	<b>\$1,603.00</b>	

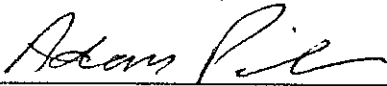
**6. CONSULTATIONS:**

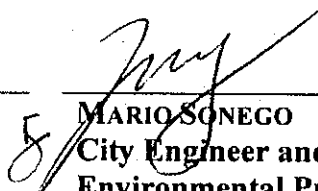
The following have been consulted/notified on this application:


- City of Windsor – Engineering Department
- City of Windsor – Building Department - Walid Hawilo
- City of Windsor – Transportation Planning - Jeff Hagan
- City of Windsor – Legal Department - Patrick Brode
- Allan Peck- Agent for CPR Real Estate Group - (DRTP Property)

**7. CONCLUSION:**

Typically encroachments are approved by the Chief Administrative Officer; however administration could not recommend approval of the sign and block wall encroachment due to safety concerns.

  
 \_\_\_\_\_  
**ADAM PILLON**  
 Technologist I (A)

  
 \_\_\_\_\_  
**MARIO SONEGO**  
 City Engineer and Corporate Leader  
 Environmental Protection and  
 Transportation

  
 \_\_\_\_\_  
**SHELBY ASKIN HAGER**  
 City Solicitor

  
 \_\_\_\_\_  
**HELGA REIDEL**  
 Chief Administrative Officer

AP/ls

**APPENDICES:**  
 C-3221A, C-3221B, Appendix A, Appendix B

**DEPARTMENTS/OTHERS CONSULTED:**  
 Name: \_\_\_\_\_  
 Phone #: \_\_\_\_\_

NOTIFICATION : 7-11-2014 KS				
Name	Address	Email Address	Telephone	FAX
545654 Ontario Ltd. o/a North Construction Attn: Angelo Lunetta	2595 Dougall Ave Windsor ON N8X 1T5	<a href="mailto:info@northconstruction.ca">info@northconstruction.ca</a>	519-966-0818	
Al Maghnieh -- Ward 10	c/o 350 City Hall Sq W Windsor ON N9A 6S1	<a href="mailto:amaghnieh@city.windsor.on.ca">amaghnieh@city.windsor.on.ca</a>	519-962-5921	
Risk Management Supervisor				

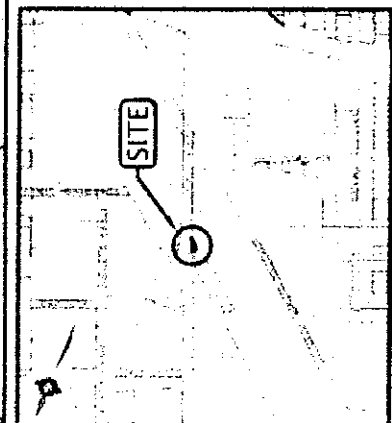
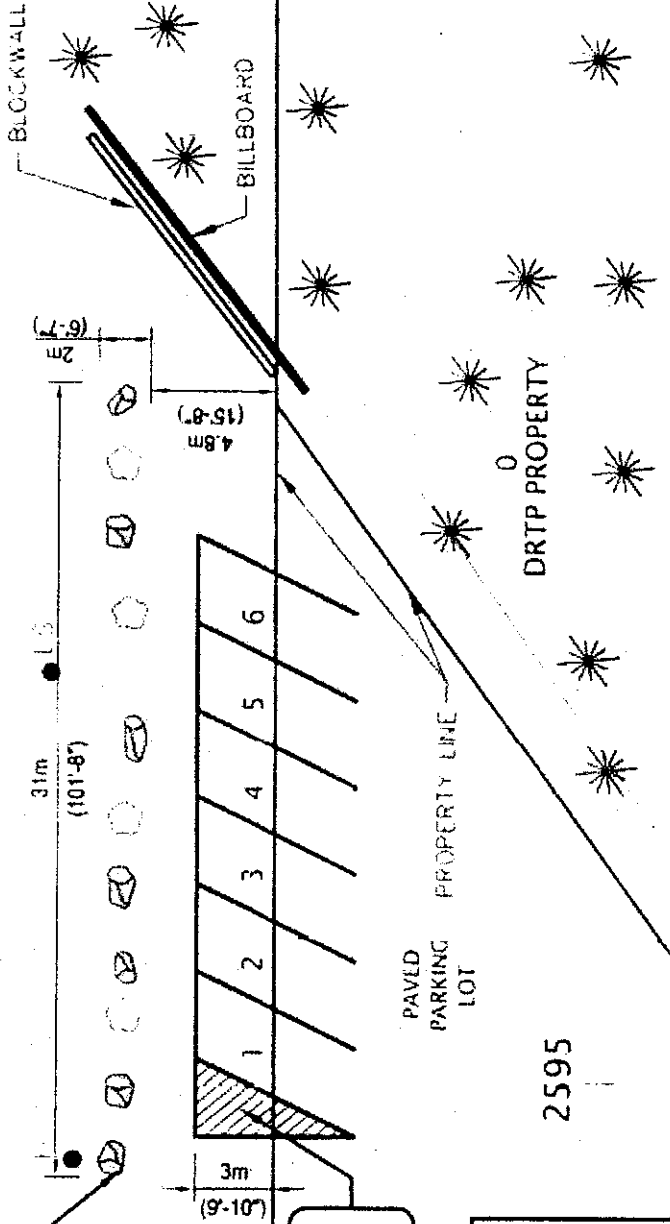
\* DENOTES MANHOLE  
 ○ DENOTES HYDRANT  
 ○ DENOTES LIGHT  
 □ STANDARD

# DOUGALL AVENUE

FACE OF CURB

**Proposed Landscape Encroachment**  
 7 Boulders  
 AREA = 7.12m<sup>2</sup> (76.63ft<sup>2</sup>)

**Proposed Parking Encroachment**  
 50% of 6 Spaces  
 3 Parking Spaces



KEY PLAN N.T.S.

## THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT

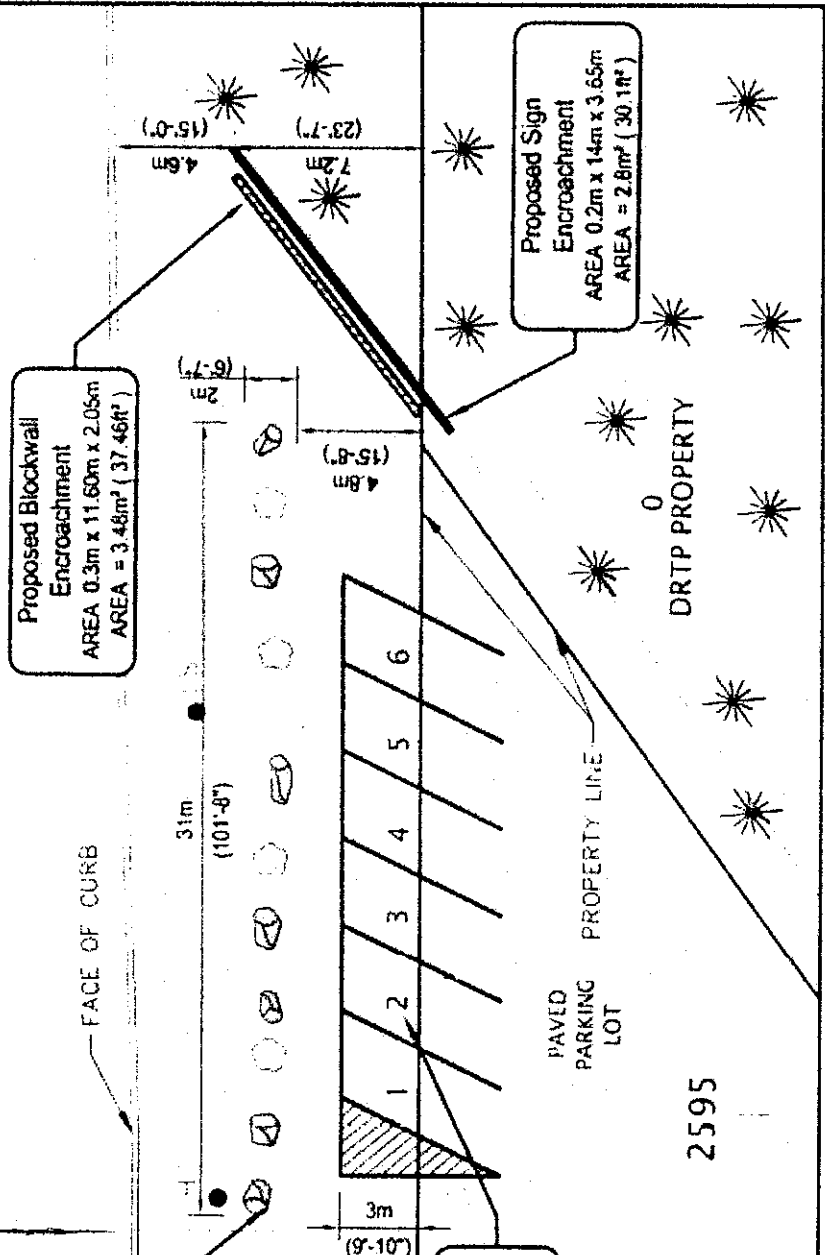
PROPOSED PARKING, SIGN, BLOCK WALL AND LANDSCAPE  
 ENCROACHMENT AT 2595 DOUGALL AVENUE

SCALE: 1:250	DATE: DECEMBER 2013	DWG NO: C-3221 A
DWN BY: JL	CHECKED BY: PUJAP	

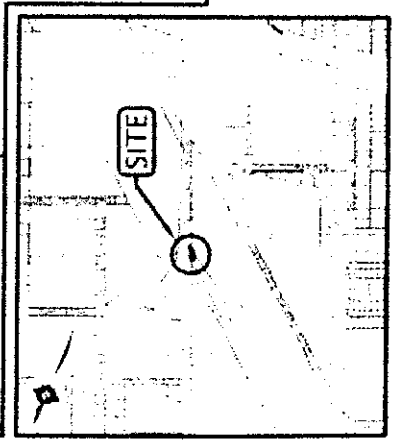
*Marian Drouillard*  
 Marian Drouillard, Manager of Geomatics

\* DENOTES MANHOLE  
 \*\* DENOTES HYDRO  
 ○ DENOTES LIGHT  
 □ STANDARD

DOUGALL AVENUE



Proposed Parking Encroachment  
 50% of 6 Spaces  
 3 Parking Spaces



THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT  
 PROPOSED PARKING, SIGN, BLOCK WALL AND LANDSCAPE  
 ENCROACHMENT AT 2595 DOUGALL AVENUE

SCALE: 1:250	DATE: DECEMBER 2013	DWG NO: C-322
DWN BY: J.L.	CHECKED BY: P.J./J.P.	

*Marian Drouillard*  
 Marian Drouillard, Manager, Geomatics



# Appendix 'A'

PHONE: 268 6463

CITY OF WINDSOR  
DEPARTMENT OF BUILDINGS

FIRMS NO. 115587

<b>SIGN PERMIT</b>	DATE	30 04 16	EXPIRES (LAST DAY OF MONTH)	5	MONTHS FROM	28
	ISSUED BY					

ON THE PROPERTY ZONED M1.1 AT 2595 BOUGALL

BETWEEN

AND

LOT NO.

PLAN NO.

LOT SIZE

PERMISSION IS HEREBY GRANTED TO RIVERSIDE CONSTRUCTION, BOX 1150, TECUMSEH, ONT.

TO ERECT 1 GROUND SIGN 46' X 12', ADVERTISING MESSAGE "NEW HOMES BY RIVERSIDE". SIGN TO COMPLY WITH SIGN BY-LAW 1257 AND BE LOCATED ENTIRELY ON OWNER'S PROPERTY.

OWNER: CANADIAN BUILDERS SUPPLY

ADDRESS:

ISSUED BY: J. ELANEE/PERM

FOR: Major Street Signage Construction



PROPERTY VALUE

*Handwritten note:*  
Sign and its not applicable  
only the building is  
to be built

*Handwritten note:*  
2595 Bougall

# Appendix B

