THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 10-171

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN ENCROACHMENT AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF PETERBOROUGH AND YOUNIS PROPERTIES INC., WITH RESPECT TO THE PROPERTY KNOWN MUNICIPALLY AS 1293 CLONSILLA AVENUE

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

1. That the Mayor and Clerk be hereby authorized to execute an Encroachment Agreement between the Corporation of the City of Peterborough and Younis Properties Inc., with respect to the establishment of three (3) parking spaces within Victory Crescent road allowance previously authorized by City Council and the pre-existing parking spaces encroaching upon Victory Crescent and Clonsilla Avenue, in the form attached hereby as Schedule “A” the Encroachment Agreement and Schedule “B” the survey plan showing the Encroachments, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 13th day of September, 2010.

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) John Kennedy, Deputy Clerk
AGREEMENT made this day of September, 2010.

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
hereinafter referred to as the “City”,

OF THE FIRST PART

- and –

YOUNIS PROPERTIES INC.
hereinafter referred to as the “Licencee”

OF THE SECOND PART

WHEREAS the Licencee is the owner of the lands described in Schedule A hereto, which lands abut the Clonsilla Avenue and Victory Crescent public road allowances owned by the City;

AND WHEREAS the Licencee applied for permission to make use of a portion of the Victory Crescent public road allowance, as hereinafter set forth, and City Council agreed to authorize the execution of a license agreement to permit the establishment of three (3) parking spaces within the Victory Crescent road allowance adjacent to Westmount Plaza for use by Younis Properties Inc. which encroachments are described as the spaces numbered 42, 43 and 44 on Schedule “B” attached hereto;

AND WHEREAS the Licencee is also requesting to make use of pre-existing parking spaces that presently encroach upon and are shown as the parking spaces on Schedule “B”, as spaces 1 and a small part of space 2 as well as spaces 40 and 41 on the Victory Crescent road allowance and spaces 38 and 39 on the Clonsilla Avenue road allowance;

AND WHEREAS the Licencee has requested permission from the City to maintain or establish and maintain the Encroachments as set out on Schedule “B” on the terms and conditions hereinafter contained;

NOW THEREFORE THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1. The City grants permission to the Licencee, at the risk and expense of the Licencee, to construct, use and maintain three (3) motor vehicle parking spaces on the Victory Crescent public road allowance, in the location shown on as the spaces numbered 42, 43 and 44 on the plan attached hereto as Schedule B.

2. The City grants permission to the Licencee, at the risk and expense of the Licencee, to use and maintain three (3) and part of a fourth motor vehicle parking spaces on the Victory Crescent public road allowance and two (2) motor vehicle parking spaces on the Clonsilla public road allowance, in the location shown as spaces 1 and a small part of space 2 as well as spaces 40 and 41 on the Victory Crescent road allowance and spaces 38 and 39 on the Clonsilla Avenue road allowance all as illustrated on the plan attached hereto as Schedule B.

3. The Licencee shall maintain the Encroachments in a good and workmanlike fashion and shall comply in all respects with the provisions of all by-laws of the City and any other applicable regulations.

4. The Licencee acknowledges and agrees that the permission granted by the City to maintain the encroachment is at the sole risk of the Licencee.
5. Nothing in this agreement shall have the effect of permitting the Licencee to interfere, in any way, with the usefulness or safety for public purposes of the City property.

6. The Licencee shall at all times, indemnify and save harmless the City from any loss, expense, or liability howsoever incurred by the City arising from the exercise of the privileges herein granted to the Licencee, and the Licencee hereby waives, as against the City, all claims of whatever nature, where such loss, expense, liability or claims arise directly or indirectly out of or attributable to the exercise by the Licencee or others of the privileges herein granted, whether or not such loss, expense, liability or claim result from the negligence of the City.

7. The Licencee shall obtain and maintain in force during the continuance of this agreement, insurance providing coverage for public liability and property damage, in the minimum amount of Two Million Dollars ($2,000,000.00). The City shall be named as an additional insured, and the policy shall contain a cross-liability clause, to the satisfaction of the City. The Licencee agrees to forward to the City the original or certified copy of the policy of such insurance, and the annual renewals thereof. It is acknowledged and agreed by the Licencee that the provision of such insurance shall in no way relieve the Licencee of its obligations pursuant to this agreement.

8. This agreement shall not be assignable by the Licencee without the written consent of the City.

9. The Licencee acknowledges and agrees that, should the City require the use, for public purposes, of the lands upon which the motor vehicle parking spaces are located, the Licencee shall, upon ninety (90) days written notice from the City, remove the motor vehicle parking spaces and restore the lands to a condition satisfactory to the City, at the sole expense of the Licencee. Should the Licencee default in so doing, the City may perform the work of removal and restoration at the risk and expense of the Licencee.

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals.

SIGNED, SEALED AND DELIVERED in the presence of:

THE CORPORATION OF THE CITY OF PETERBOROUGH

D. Paul Ayotte, Mayor

John Kennedy, Deputy Clerk

YOUNIS PROPETIES INC.

Murad Younis, President

I have the authority to bind the Corporation.
SCHEDULE A

Legal Description

LTS 3, 4 & PT LT 5 PL 174; PT LANE PL 174 AS CLOSED BY ORDER R86837 AS IN R316247; PETERBOROUGH BEING ALL OF PIN 28065-0006 (LT)

SCHEDULE B

Building Character Drawing dated August 18, 2010 on project 08-165 marked Sheet A-1.