

**Construction of a Decorative Wrought Iron Fence,
Gates and Pillars - Fronting 46 Old Forest Hill Road
and on the Dunloe Road Rear.
(St. Paul's - Ward 22)**

The Midtown Community Council recommends adoption of the following report (September 30, 2002) from the Manager, Right of Way Management, Transportation Services, District 1:

Purpose:

To report on a request to construct a decorative wrought iron fence, gates and pillars within the public right of way fronting 46 Old Forest Hill Road and on the Dunloe Road rear. The proposed height and setback of the fence as affecting Old Forest Hill Road do not meet the minimum requirement as set out in Chapter 313 of the former City of Toronto Municipal Code, Streets and Sidewalks. As this is a request for an exemption from the by-law, it is scheduled as deputation item.

Financial Implications and Impact Statement :

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that the City Council approve the construction of the decorative fence, gates and pillars within the public right of way fronting 46 Old Forest Hill Road and on the Dunloe Road rear, subject to the owner:

- (a) providing a letter of credit/certified cheque in the amount of \$6,069.00 for the estimated value of 4 City owned trees fronting 46 Old Forest Hill Road and 2 City owned trees on the Dunloe Road rear, as determined by the Commissioner of Economic Development, Culture and Tourism to cover the costs of any tree work that may arise as a result of the fence, gates and pillars construction that is non-compliant with the City of Toronto's specifications for construction near trees; and
- (b) entering into an encroachment agreement with the City of Toronto as prescribed under Chapter 313 of the former City of Toronto Municipal Code.

Comments:

An application was submitted by David A Tandjung, CS&P Architecture Urban Design Planning Interiors, 2345 Yonge Street, Suite 200, Toronto, Ontario M4P 2E5, on July 24, 2002, on behalf of the owner of 46 Old Forest Hill Road, requesting permission to construct 1.5 m high decorative wrought iron fence with pillars together with 1.8 m high gates fronting 46 Old Forest Hill Road and on the Dunloe Road rear. With respect to the Old Forest Hill Road frontage, the installations are proposed to be set back 0.61 m from the curb. There is no sidewalk along this

portion of Old Forest Hill Road fronting the subject location. With respect to the Dunloe Road rear, the setback of the fence, pillars and gates is to be 0.61 m back of the City sidewalk.

The construction and maintenance of fences within the public right of way are governed under the criteria set out in 313-33 of the Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code, which provides for fences to be constructed to a maximum allowable height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property, and are considered to be neither hazardous nor unsightly in appearance. In addition, fences must be set back 0.46 m from the rear edge of the City sidewalk or a minimum of 2.1 m from the curb where no sidewalk is present. The by-law is silent for fences at the rear of a property. Of note, there are provisions in the Municipal Code to approve an application which does comply with the above described criteria namely, if the setback requirement causes interference with a tree, the Commissioner of Works and Emergency Services can approve the application.

The applicant has submitted a letter of appeal stating that if the fence were to be located 2.1 m from the curb on Old Forest Hill Road in keeping with the provisions of the Municipal Code, mature trees would have to be disturbed. Inspection shows that there are 2 trees situated on the frontage of the property which are set back approximately 1.8 m and 2.4 back of the curb respectively.

A representative from Economic Development, Culture and Tourism, Parks and Recreation Division attended the property and indicated that if the project is to go ahead, he would ask for the setback to be waived as affecting the frontage of 46 Old Forest Hill Road. He further indicated that the further away the installations were placed from the trees the better. Having regard that the proposed work is not in compliance with the City of Toronto's specifications for construction near trees, the Parks and Recreation Division have agreed to the proposed work provided that a letter of credit/certified cheque in the amount of \$6,069.00 is submitted to cover the cost of any tree work that may arise as a result of the construction including the replacement of the trees. The letter of credit will be held for a period of 2 years as a deposit to guarantee the trees protection.

On Appendix 'A', we have provided a property data map denoting the property.

Staff have inspected the area in the immediate vicinity of the property and notwithstanding the reduced setback of the fence, pillars and gates on the frontage of Old Forest Hill Road, we have determined that the construction of the fence, pillars and gates will not negatively impact the public right of way. Staff have noted that there are similar situations along Old Forest Hill Road where landscaping improvements (i.e., retaining walls, fences, etc.) have been undertaken by property owners without providing the minimum clearance requirement of 2.1 m from the curb.

Details of the proposal are retained on file with the Department.

Conclusions :

Notwithstanding the reduced setback on Old Forest Hill Road, the 1.5 m high decorative wrought iron fence with pillars together with 1.8 m high gates fronting 46 Old Forest Hill Road and on the Dunloe Road rear will not negatively impact on public right of way, permission should be granted to the owner for the construction of the fence, pillars and gates.

Contact:

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(An attachment appended to the foregoing report was forwarded to all Members of the Midtown Community Council with the agenda for its meeting on October 15, 2002, and copies thereof are on file in the office of the City Clerk, North York Civic Centre.)