

TORONTO STAFF REPORT

November 8, 2005

To: Toronto and East York Community Council

From: Manager, Right of Way Management, Transportation Services
Toronto and East York District

Subject: Installation of a Historical Plaque and a No. '99' Sculpture Within the Public Right of Way Fronting 99 Blue Jays Way - "Wayne Gretsky's"
(Trinity Spadina - Ward 20)

Purpose:

To report on a request to install a historical plaque embedded on a porcelain podium and a No. '99' sculpture within the public right of way fronting 99 Blue Jays Way. As the former City of Toronto Municipal Code does not make provisions for these types of encroachments, we are required to report on this matter.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) City Council approve the installation of a historical plaque "in principle" embedded on porcelain podium and the installation of a No. '99' sculpture within the public right of way fronting 99 Blue Jays Way, subject to the property owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
 - (a) indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such permission granted and providing of an insurance policy for such liability for the lifetime of the Agreements in a form as approved by the Deputy City Manager and Chief Financial Officer and in an amount not less than \$2,000,000.00 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;

- (b) maintain the historical plaque and the No. '99' sculpture at his/her own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
 - (c) remove the historical plaque and No. '99' sculpture upon receiving 90 days written notice to do so;
 - (d) pay for the costs of preparing the Agreement and the registration of the Agreement on title; and
 - (e) accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the Corporation;
- (2) in the event of sale or transfer of the property abutting the encroachment, Legal Services and/or the General Manager of Transportation Services be authorised to extend the Encroachment Agreement to the new owner, subject to the approval of the General Manager of Transportation Services; and
- (3) Legal Services be requested to prepare and execute the Encroachment Agreement.

Comments:

An application has been submitted on behalf of the property owner of 99 Blue Jays Way requesting permission to install a historical plaque embedded on a porcelain podium and a No. '99' sculpture within the public right of way fronting the property.

In support of his application, the owner submitted a letter explaining that the historical plaque was donated to them to commemorate the original address of the building, 41 Peter Street. Of note, the street name was changed in 1993 to Blue Jays Way by the former City of Toronto Council to recognize the two World Series the Toronto Blue Jays had won. Due to the fact that Peter Street was named after Toronto's first City Planner, the Historical Society asked for and received support to recognize its historical significance in the form of a plaque.

The historical plaque is to be mounted on a porcelain podium with a concrete base that measures 1.5 m in length and 1.2 m in width to be raised 0.15 m above the existing level of the boulevard. The historical plaque and the podium will encroach approximately 1.2 m onto the public right of way.

In order to assist staff in their investigation, staff have requested the applicant to provide some additional information pertaining to the plaque (i.e., size of plaque, what is inscribed on the plaque, etc.). Regrettably, at the time of preparing our report the requested information had not been provided and therefore, our investigation is incomplete.

The No. '99' sculpture consists of a stainless steel graphic No. '99' anchored to a porcelain tile surface, on a concrete platform. The sculpture will measure 2.0 m in height and 2.1 m in length

and 0.3 m in width. The base for the sculpture will measure 4.0 m in length and 1.1 m in width to be raised 0.2 m above the level of the City boulevard. The sculpture and platform will encroach 1.0 m onto the public right of way. According to the owner, the No. '99' represents the actual building address and will be an important part of the exterior décor.

A copy of the property data map is shown on Appendix 'A'. Photos of the frontage of 99 Blue Jays Way are shown on Appendix 'B' and a photo of the No. '99' sculpture is shown on Appendix 'C'.

Staff have inspected the area and determined that the proposed encroachments will not impact negatively on the public right of way.

The applicant is anxious to proceed with the installation of the No. '99' sculpture and not to delay the project, we are recommending that permission be granted for the installation of the sculpture and with respect to the historical plaque, we are recommending that approval be given "in principle" to the construction, subject to the applicant satisfying the requirements of the General Manager of Transportation Services and/or the various utility companies.

Having regard that there are no provisions in Chapter 313, Streets and Sidewalks, of the former Toronto Municipal Code, for these types of encroachments, we are required to report on this matter.

Details of the proposed encroachments are on file with this Department.

Conclusions:

As the installation of the historical plaque and the No. '99' sculpture will not negatively impact on the public right of way fronting 99 Blue Jays Way, permission should be granted for the installation of the sculpture and installation of the historical plaque, subject to the owner providing the additional information as requested. Furthermore, the owner will be required to enter into an encroachment agreement to be registered on title of the property for the proposed encroachments.

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Manager
JFK

List of Attachments:

Attachment No. 1 - Appendix 'A' - property data map

Attachment No. 2 – Appendix 'B' - photos of area

Attachment No. 3 – Appendix 'C' - photo of sculpture