

Consolidated Clause in Toronto and East York Community Council Report 8, which was considered by City Council on September 25, 26 and 27, 2006.

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**Installation of a Fence with a Cantilever
Gate Operator - 1 1/2 Beaumont Road
(Ward 27 - Toronto Centre-Rosedale)**

City Council on September 25, 26 and 27, 2006, adopted this Clause without amendment.

The Toronto and East York Community Council recommends that City Council adopt the staff recommendations in the Recommendations Section of the report (August 25, 2006) from the Manager, Right of Way Management, Transportation Services, Toronto and East York District:

Purpose:

To report on a request to install a fence together with a cantilever gate operator with intercom within the public right of way fronting 1½ Beaumont Road. The height of the fence and gate measures approximately 2.44 m. As this is a request for an exemption from the by-law, it is scheduled as a deputation item.

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 fence together with a cantilever gate operator with intercom within the public right of way fronting 1½ Beaumont Road, subject to the property owner entering into an encroachment agreement within 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;
 - (b) maintain the fence together with a cantilever gate operator with intercom 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) arrange for an inspection by the Electrical Safety Authority upon completion of the installation of the cantilever gate operator with intercom and provide a copy of the approval to the General Manager of Transportation Services;
 - (d) remove the decorative fence together with a cantilever gate operator with intercom upon receiving 90 days written notice so to do;
 - (e) accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City; and
 - (f) obtain a heritage permit under the *Ontario Heritage Act* for the proposed fence from Heritage Preservation Services;
- (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 authorized 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, execute and arrange to register the Encroachment Agreement on title of the property.

Background:

City Council, at its meeting of July 19, 20, 21 and 26, 2005, adopted Motion J(13), without amendment, respecting a request for a fence exemption at 1½ Beaumont Road.

In adopting the Motion, Council adopted staff recommendations contained in a July 14, 2005 report from the Executive Director, Municipal Licensing and Standards and requested the owner of 1½ Beaumont Road to file an application with Transportation Services for its approval.

Comments:

An application has been received for permission to install a fence together with a cantilever gate operator with intercom within portions of the public right of way fronting 1½ Beaumont Road. The overall height of the fence and gate is approximately 2.44 m and will be set back between anywhere from 0.46 m to 1.99 m back of the City sidewalk. The applicant is proposing a pedestrian gate and a driveway entrance with cantilever gate operator. The pedestrian gate is to include an intercom system connected to the residence's existing telephone system with communications and power cabling to be located below grade behind the fence. The driveway cantilever gate is proposed to be equipped with an above ground automatic gate operator.

For the information of the Toronto and East York Community Council, the applicant has made payment in the amount of \$1,038.00 to Urban Forestry for the removal of an existing City tree, for which a tree replacement location on site will be determined at a later date. In addition, the

applicant has contacted Toronto Hydro with regard to the 2 hydro poles located within the vicinity of the proposed work who advised that they have no objections to the applicant's proposal.

On Appendix 'A', we have provided a property data map denoting the property at 1½ Beaumont Road and on Appendix 'B' we have provided photos of the subject location.

During our review of the application we have received a communication from a representative of Heritage Preservation Services who has advised that the subject property is located within the South Rosedale Heritage Conservation District and as such, requires the issuance of a heritage permit under the Ontario Heritage Act for the proposed fence. Heritage Preservation Services has requested that the owner submit a landscape plan for review which must be satisfactory to the Manager of Heritage Preservation Services, prior to the issuance of a construction permit by Transportation Services.

The construction and maintenance of fences within the public right of way is governed under the criteria set out in 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 height of 1.9 m on the flank of a property and up to 1 m in height in front of the property, and are considered to be neither hazardous nor unsightly in appearance. In addition, fences must be set back a minimum of 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.

As indicated, the applicant is requesting to construct a fence that exceeds the by-law requirements. Notwithstanding the overall height of the fence and gate, staff have determined that the encroachments will not impact negatively on the public right of way. Of note, staff have noted that there are similar fences within the immediate area.

With respect to the cantilever gate operator and intercom, the applicant will be required to arrange for an inspection by the Electrical Safety Authority upon installation of the electrical hookups and provide Transportation Services with a copy of their approval.

Details of the fence, cantilever gate operator and intercom are retained on file with this Division.

Conclusions:

As the fence with cantilever gate operator and intercom will not impact negatively on the public right of way fronting 1½ Beaumont Road, permission should be granted for the installation of the encroachments, subject to the property owner entering into an encroachment agreement with the City of Toronto. In addition, the owner will be required to arrange for an inspection by the Electrical Safety Authority upon completion of the installation of the electrical hookups and provide a copy of the approval to the General Manager of Transportation Services. Furthermore, the applicant will have to submit a landscape plan to Heritage Preservation Services for their review and satisfy any of their requirements.

Contact:

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(Copies of the following Attachments in the report (August 25, 2006) from the Manager, Right of Way Management, Transportation Services, Toronto and East York District, were forwarded to all Members of the Toronto and East York Community Council with the agenda for its meeting on September 19, 2006, and copies are on file in the City Clerk's Office:

- Attachment No. 1 - Appendix 'A' - property data map; and
- Attachment No. 2 - Appendix 'B' - photo.)