



**STAFF REPORT
ACTION REQUIRED**

8 St Joseph Street - Privacy Fence

Date:	May 10, 2007
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Toronto Centre-Rosedale – Ward 27
Reference Number:	Te07029te.row

SUMMARY

This staff report is about a matter which Community Council has delegated authority from City Council to make a final decision.

Transportation Services has assessed an appeal from the owners of 8 St. Joseph Street for the maintenance of a 1.93 m high privacy fence, gates and decorative light post that encroach within the public right of way fronting 8 St. Joseph Street.

Although the fence exceeds the allowable height under the Municipal Code, it does not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of the encroachment.

The owners together with any interested parties will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of the privacy fence, gates and decorative light post within the public right of way fronting 8 St. Joseph Street, subject to the property owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the privacy fence, gates and decorative light post at their 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;
 - b. obtain approval for associated work on private property from the Toronto Building Division;
 - c. remove the privacy fence with gates and decorative light post upon receiving 90 days written notice to do so;
 - d. arrange for an inspection by the Electrical Safety Authority for the installation of the decorative light post and provide a copy of the approval to the General Manager of Transportation Services; 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 City; and
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer of the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

The agent of the property owners of 8 St. Joseph Street submitted an application requesting permission to maintain a 1.9 m high wrought iron privacy fence, gates immediately set back from the back of the sidewalk and a decorative light post fronting 8 St. Joseph Street that extends onto the public right of way. With respect to the frontage, encroachments also include planter and steps.

COMMENTS

Applicable regulation

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property if they are 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.

There are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, to allow for the ongoing maintenance of the decorative light post; therefore, we are required to report to Community Council on this matter.

The maintenance of the planter and steps is considered under the provisions of Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code and can be dealt with administratively.

Reasons for approval

Transportation Services has reviewed the application and determined that the maintenance of the privacy fence, gates and decorative light post fronting 8 St. Joseph Street do not impact negatively on the public right of way, even though the overall height of the fence is higher than what is allowable under the Municipal Code. Staff have noted there are similar fences within the immediate area.

Details of the encroachment are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 'A' - photos

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