

**50 Old Forest Hill Road - Privacy Fence**

<b>Date:</b>	August 21, 2007
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Right of Way Management, Transportation Services Toronto and East York District
<b>Wards:</b>	St. Paul's – Ward 22
<b>Reference Number:</b>	Te07056te.row

**SUMMARY**

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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 a request from the owners of 50 Old Forest Hill Road to allow the ongoing maintenance of an existing privacy fence with gates with a varying height of 1.74 m to 2.76 m and an intercom system that encroach within the public right of way fronting 50 Old Forest Hill Road and on the Dunloe Road rear.

Although the privacy fence with gates exceed the allowable height under the Municipal Code, it will not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of the encroachment.

The owners will be given an opportunity to make a deputation before Community Council.

**RECOMMENDATIONS**

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**Transportation Services recommends that Toronto and East York Community Council:**

1. approve the ongoing maintenance of the privacy fence, gates and intercom system within the public right of way fronting 50 Old Forest Hill Road and on the Dunloe Road rear, 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 fences, gates and intercom system 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 fences with gates and intercom system upon receiving 90 days written notice to do so;
  - d. arrange for an inspection by the Electrical Safety Authority for the installation of the intercom system 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 50 Old Forest Hill Road submitted an application requesting permission to maintain a 1.74 m high wrought iron privacy fence with 2.76 m high gates and an intercom system fronting 50 Old Forest Hill Road as well as a 2.15 m high wooden fence on the Dunloe Road rear.

The fence fronting 50 Old Forest Hill Road is located 1.08 m back from the City curb with the intercom system set back 0.77 m. Given that there is no sidewalk fronting this property, the fence does not meet the 2.1 m setback requirements. In addition, the 1.74 m high fence with 2.76 m high gates exceeds the maximum 1.0 m height regulation.

The 2.15 m high wooden fence at the Dunloe Road rear is located 4.93 m from the City curb.

### **COMMENTS**

## **Applicable regulation**

The construction and maintenance of fences within the public right of way are governed under the criteria set out in the former City of Toronto Municipal Code 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. The by-law is silent for fences at the rear of a property. In addition, 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 intercom system, therefore, we are required to report to Community Council on this matter.

## **Reasons for approval**

Transportation Services has reviewed the application and determined that the maintenance of the privacy fence, gates and intercom system fronting 50 Old Forest Hill Road, and the privacy fence on the Dunloe Road rear do not impact negatively on the public right of way, even though the overall height of the fences is higher than what is allowable under the Municipal Code as well as not meeting the setback requirements. 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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Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' - photos

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