



## STAFF REPORT ACTION REQUIRED

### 93 Farnham Avenue - Encroaching Retaining Wall and Electrical Snow Melting System

<b>Date:</b>	April 15, 2008
<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>	Te08032te.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 owner of 93 Farnham Avenue to maintain an existing stone retaining wall and an electrical snow melting system that extends within the public right of way fronting 93 Farnham Avenue.

Although the setback of the stone retaining wall does not comply with the provisions of the Municipal Code, it does not impact negatively upon the public right of way. Similarly, the electrical snow melting system does not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of the stone retaining wall and the electrical snow melting system.

The owner 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 stone retaining wall and an electrical snow melting system that extends within the public right of way fronting 93 Farnham Avenue, subject to the owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the stone retaining wall and electrical snow melting 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 Toronto Building;
  - c. remove the stone retaining wall and electrical snow melting 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 electrical snow melting 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 owner of 93 Farnham has requested permission to maintain a stone retaining wall together with an electrical snow melting system within the driveway area servicing the property that extends within the public right of way fronting the property. The stone retaining wall varies in height from 0.10 m to 0.84 m and is set back 0.26 m back of the City sidewalk.

### **COMMENTS**

#### **Applicable regulation**

The construction and maintenance of various encroachments within the public right of way may be considered under the criteria set out in the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, subject to meeting various criteria amongst which includes that all installations shall 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. In addition, there are no provisions within the Municipal Code to allow for the

maintenance of the electrical snow melting 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 stone retaining wall does not impact negatively on the public right of way even though the retaining wall does not provide the allowable setback under the Municipal Code. In addition, the electrical snow melting system does not impact negatively on the public right of way and should be permitted to remain subject to the owner entering into an encroachment agreement and arranging for an inspection by the Electrical Safety Authority for the installation of the snow melting system and providing a copy of their approval to the General Manager of Transportation Services.

Details of the encroachments 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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Angie Antoniou  
Manager, Right of Way Management

### **ATTACHMENTS**

Appendix 'A' – Photos

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