



**STAFF REPORT  
ACTION REQUIRED**

**Various Encroachments – 19 Clarendon Avenue**

<b>Date:</b>	June 18, 2008
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Traffic Planning/Right of Way Management Transportation Services, Toronto and East York District
<b>Wards:</b>	St. Paul’s – Ward 22
<b>Reference Number:</b>	Te08042te.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 on behalf of the owners of 19 Clarendon Avenue to construct and maintain various encroachments that extend onto the public right of way fronting the property amongst which include the maintenance of 0.9 m and 1.2 m high masonry walls which are set back 0.61 m back of the City sidewalk, together with the maintenance of three, 1.78 m high concrete pillars surmounted with decorative luminaries. In addition, the applicant is requesting permission to install a controlled electronic wrought iron entry gate which will be affixed to two of the concrete pillars. The entry gate will range in height from 1.5 m to 1.7 m. The applicant is also proposing to install a 1.5 m wrought iron pedestrian gate with access thereto from Clarendon Avenue.

Although the masonry walls, pillars with luminaries and the height of the proposed wrought iron entry gate exceed the Municipal Code requirements, these encroachments will not impact negatively on the public right of way, Transportation Services recommends approval of these encroachments.

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 construction and maintenance of the 0.9 m and 1.2 m high masonry walls, the three 1.78 m high concrete pillars surmounted with luminaries together with the wrought iron entry gate, ranging in height from 1.5 m to 1.7 m and the 1.5 m high wrought iron pedestrian gate that encroach within the public right of way fronting 19 Clarendon Avenue, subject to the owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
  - a. reduce the height of the masonry wall adjacent to 17 Clarendon Avenue to 0.9 m in height;
  - b. maintain 50% of the area on private property as landscaped open space;
  - c. obtain approval for associated work on private property from Toronto Building and Municipal Licensing & Standards;
  - d. remove portions of the interlock paving as affecting the public right of way and restore the area to soft landscaping;
  - e. remove the masonry wall, concrete pillars with lights, wrought iron entry gate and pedestrian gate upon receiving 90 days written notice to do so;
  - f. arrange for an inspection by the Electrical Safety Authority for the installation of the luminaries together with the electronic entry gate and provide a copy of their approval to the General Manager of Transportation Services;
  - g. maintain the masonry walls, concrete pillars surmounted with luminaries, wrought iron gate and pedestrian gate 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; and
  - h. accept such additional conditions as the City Solicitor or the General Manger of Transportation Services may deem necessary in the interest of the City;
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; and
3. request Legal Services to prepare and execute the Encroachment Agreement.

## **Financial Impact**

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

## **ISSUE BACKGROUND**

Arising from a complaint, inspection by Transportation Services determined that various landscape improvements had been undertaken within the public right of way fronting 19 Clarendon Avenue without prior authority to do so and the requisite street allowance construction permit. This work included the construction of two 1.2 m high masonry walls, three concrete pillars 1.78 m in height, surmounted with luminaries situated 0.6 m back of the sidewalk. In addition, it was determined that the majority of the frontage of the property had been paved in interlock brick.

Accordingly, the owner was contacted by staff of Transportation Services and we are now in receipt of an application from the agent for the owners of 19 Clarendon Avenue requesting permission to maintain the various encroachments that have been constructed within the public right of way. In addition, the applicant is requesting permission to install an electronic wrought iron entry gate ranging in height from 1.5 m to 1.7 m which will be affixed to two of the concrete pillars. The applicant is also requesting permission to install a 1.5 m high pedestrian gate with access thereto from Clarendon Avenue.

Almost the entire frontage of the property has been paved in interlock brick and does not comply with the Zoning By-law 438-86 with respect to private property. The By-law requires that 50% of the area on private property be maintained as landscaped open space. A notice of violation has been issued to the property owner by staff of Municipal Licensing and Standards to bring the property into compliance. To be consistent with the Zoning By-law, the owner should be required to remove portions of the paving within the public right of way and install additional soft landscaping.

Given that the entry gate will be electronically controlled and the luminaries are illuminated, the owners will be required to arrange for an inspection by the Electrical Safety Authority and provide a copy of their approval to Transportation Services. Staff have determined that there are similar fences in the immediate area.

The driveway servicing the adjacent property at 17 Clarendon Avenue is immediately north of 19 Clarendon Avenue and in order to improve the sight lines for motorists using the driveway, the owner of 19 Clarendon has agreed as a condition of approval to lower the masonry wall to 0.9 m in height.

In support of their application, the co-owner of 19 Clarendon Avenue indicates that security was behind the decision to carry out these improvements following two break-ins to their home. Furthermore, the owner feels that many of their neighbours have already set a similar precedent in the area.

## **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 curb where no sidewalk is present. Having regard that the applicant is requesting a variance to the by-law, we are required to report on the applicant's request as a deputation item.

### **Reasons for approval**

Transportation Services has reviewed the request and determined that notwithstanding the overall height of the proposed entry gates and the fact that the owner has agreed to lower the height of the masonry wall adjacent to 17 Clarendon Avenue to 0.9 m to improve sightlines for motorists using the driveway servicing 17 Clarendon Avenue, the masonry walls, concrete pillars with luminaries, entry gate and pedestrian gate do not impact negatively on the public right of way and should be permitted.

Details of the encroachments are on file with Transportation Services.

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

### **CONTACT**

Ken McGuire, Supervisor, Right of Way Management  
Tel: 416-392-7894, Fax: 416-392-7465, E-mail: [kmcguire@toronto.ca](mailto:kmcguire@toronto.ca)

### **SIGNATURE**

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Angie Antoniou, Manager  
Traffic Planning/Right of Way Management

### **ATTACHMENTS**

Appendix 'A' – Photos

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