



**STAFF REPORT  
ACTION REQUIRED**

**Various Encroachments - 477 Manning Avenue and  
Ulster Street**

<b>Date:</b>	June 17, 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>	Trinity-Spadina – Ward 19
<b>Reference Number:</b>	Te08044te.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 representative of St. Mary Magdalene Church, 477 Manning Avenue, to allow the installation of a 2.6 m high by 1 m wide non-illuminated church sign, to be set back 2.7 m from the sidewalk at the intersection of Manning Avenue and Ulster Street that will encroach within the public right of way.

The applicant is also proposing to reconstruct the entrances to the church with steps and railings, a bench on Manning Avenue, together with a 1 m high decorative wrought iron fence within the public right of way fronting 477 Manning Avenue and on the Ulster Street flank. The fence is to be set back 0.3 m from the back edge of the City sidewalk rather than 0.46 m in keeping with the Municipal Code requirements.

As these encroachments do not impact negatively on the public right of way, Transportation Services recommends approval of this request.

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 installation of the church sign, entrances with steps and railings, a bench, and 1 m high decorative wrought iron fence, within portions of the public right of way fronting 477 Manning Avenue and on the Ulster Street flank, subject to the property owner entering into an encroachment agreement with 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 and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer and in the amount not less than \$2,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;
  - b. maintain the encroachments 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. remove the encroachments upon receiving 90 days written notice to do so; and
  - d. 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. 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**

The representative for St. Mary Magdalene Church submitted an application requesting permission to install a non-illuminated church sign, 2.6 m high by 1 m wide, to be set back 2.7 m from the sidewalk at the intersection of Manning Avenue and Ulster Street that will encroach within the public right of way. As the property line is consistent with the building wall, the only available space to place the sign is within the public right of way. According to the applicant, the church sign is needed to identify activities planned at the church.

The applicant is also proposing to reconstruct the walkways leading to the church entrances with steps and railings, as well as to install a bench within the public right of way as affecting Manning Avenue. The applicant is also seeking permission to replace an existing chain link fence that extends along the frontage of church and on the Ulster Street flank with a 1 m high decorative wrought iron fence to be set back 0.3 m from the

back edge of the City sidewalk rather than 0.46 m in keeping with the by-law requirements.

## **COMMENTS**

### **Applicable regulation**

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow for free standing non-illuminated signs to be installed within the City boulevard, we are required to report to Community Council on this matter.

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. As the proposed fence does not meet the setback requirements of the Municipal Code, we are required to report on this matter as a deputation item.

There are similar provisions under the Municipal Code Chapter 313-50, Streets and Sidewalks, to allow for various encroachments within the public right of way, amongst which include benches and steps under specific criteria. As the proposed bench and steps meet with the Municipal Code requirements, they can be dealt with administratively.

### **Reasons for approval**

Notwithstanding the reduced setback of the fence, Transportation Services has reviewed the application and determined that the installation of the church sign, entrance steps, bench, together with the 1 m high decorative wrought iron fence within portions of the public right of way fronting 477 Manning Avenue and Ulster Street flank will not impact negatively on the public right of way.

For the information of the Toronto and East York Community Council, Transportation Services has consulted with Heritage Preservation Services who advises that they have no objections to this proposal.

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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