



**STAFF REPORT
ACTION REQUIRED**

Public Art Features – 38 The Esplanade and 1 Scott Street

Date:	August 13, 2008
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 28
Reference Number:	Te08064te.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 a request from the developer of “London on The Esplanade”, located at 38 The Esplanade and 1 Scott Street for the installation of two public art features that will encroach over the Scott Street public right of way.

As the public art features will not impact negatively on the public right of way, Transportation Services recommends approval of these encroachments.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the installation of two public art features that will encroach within the Scott Street public right of way, subject to the property owners 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 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 an 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 public art features 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;
 - c. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
 - d. remove the public art features upon receiving 90 days written notice to do so; 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;
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, execute and register the Agreement on title.

Financial Impact

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

ISSUE BACKGROUND

An application was received by Cityzen Development Group to install two public art features on either side of the garage entrance that will encroach over the Scott Street public right of way. Photos of the garage entrance are shown on Appendix 'A'.

In accordance with the Public Art Program, the developer obtained the City's approval of a Public Art Plan that calls for the integration of sculptural artwork within the design of the weather protection canopy. The owner retained an artist, Francisco Gazitua, to design the public art in accordance with the approved Public Art Plan.

The art features are of steel construction with the central column providing a 0.94 m setback from the sidewalk, measuring 4.03 m in height and are attached to the building wall 0.34 m above grade, thereby reaching an overall height of 4.37 m. The steel sculptures attached to the columns provide a vertical clearance of 3.27 m and will extend 1.52 m within the Scott Street public right of way. A cross-section of the proposed art features is shown on Appendix 'B'.

The artworks celebrate the industrial, railway and wharf themes and seek to interpret the history of the area. The inclusion of the garage artwork elements into the revised canopy design is desirable to maintain the rhythm of the artworks intended by the artist. The artworks are already in fabrication and it is anticipated that the artworks will be installed prior to building occupancy in the spring of 2009.

COMMENTS

Applicable regulation

As there are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, to allow for the encroachment of public art features within the public right of way, we are required to report to Community Council on this matter.

Reasons for approval

Transportation Services has reviewed the application and determined that the public art features do not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 'A' – photos
Appendix 'B' – cross-section of art features

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