



**STAFF REPORT  
ACTION REQUIRED**

**38 Waverley Road – Maintenance of a Decorative Screen**

<b>Date:</b>	December 12, 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>	Beaches-East York - Ward 32
<b>Reference Number:</b>	Te08001te.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 38 Waverley Road to allow the ongoing maintenance of a decorative screen that encroaches within the public right of way fronting 38 Waverley Road.

As the decorative screen does not negatively impact on the public right of way, Transportation Services recommends approval of this request.

**RECOMMENDATIONS**

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

1. approve the ongoing maintenance of the decorative screen within the public right of way fronting 38 Waverley Road, subject to the property owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
  - a. maintain the decorative screen 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;

- b. remove the decorative screen upon receiving 90 days written notice to do so; and
  - c. 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 property owner of 38 Waverley Road submitted an application requesting permission to maintain a decorative screen within the public right of way fronting 38 Waverley Road. The screen extends approximately 3.6 m at the front of the property, alongside the City sidewalk to the existing driveway and is set back 0.30 m from the rear edge of the sidewalk. The screen measures 1.9 m in height and 2.4 m to the top of the posts.

In support of the application, the owner has indicated that the existing decorative screen compliments the local streetscape, as many other homes in the area exhibit similar decorative features. The owner has also pointed out that the screen provides an enclosed area and less distraction from street traffic for her dogs. The dogs cannot frequent the backyard because the backyard houses a pool and is paved, there is no grass.

### **COMMENTS**

#### **Applicable regulation**

The construction and maintenance of various encroachments, amongst which includes fences, within the public right of way are governed under the criteria set out in the former City of Toronto Municipal Code Chapter 313, 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, installations must be set back a minimum of 0.46 m from the rear edge of the City sidewalk or a minimum of 2.13 m from the curb where no sidewalk is present.

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow for the maintenance of the decorative screen, we are required to report to Community Council on this matter.

## **Reasons for approval**

Transportation Services has reviewed the application and determined that the decorative screen does not impact negatively upon the public right of way.

Details of the encroachment are on file with Transportation Services.

A photo of the property is shown on Appendix 'A'.

## **CONTACT**

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## **SIGNATURE**

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Angie Antoniou  
Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' - photo

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