

Deck – 298 Manning Avenue

Date:	December 11, 2008
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Trinity-Spadina – Ward 19
Reference Number:	Te09006te.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 owner of 298 Manning Avenue to maintain a wooden deck within the public right of way on the Mansfield Avenue flank of 298 Manning Avenue.

As the maintenance of the deck does not impact negatively within the public right of way, Transportation Services recommends approval of the encroachment.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of a wooden deck within the public right of way on the Mansfield Avenue flank of 298 Manning Avenue, subject to the 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;

- b. maintain the deck 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. modify the deck by enclosing the area between the boulevard and the deck floor;
 - d. accept the cancellation of the residential boulevard parking privileges on the Mansfield Avenue flank;
 - e. remove the deck upon receiving 90 days written notice to do so; and
 - f. 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 to 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 owner of 298 Manning Avenue submitted an application requesting permission to maintain a wooden deck that has been constructed within the public right of way on the Mansfield Avenue flank of the property. The deck is situated approximately 0.52 m above the level of the existing grade of the boulevard and is situated 0.2 m back of the City sidewalk.

In support of the application, the owner has submitted a letter indicating that they have no yard space whatsoever as the building and their garage occupy the extent of the lot. The deck allows a place for them to sit outside and socialize with friends and neighbours. The owner has indicated that they have invested a considerable amount of money in the construction of the deck and it would be a financial hardship should the owner be required to remove it.

For the information of the Toronto and East York Community Council, the location is licensed for residential boulevard parking on the Mansfield Avenue flank for the parking of one vehicle. The installation of the deck eliminated residential parking at this location. This has been conveyed to the owners in our letter of November 5, 2008, as a result their parking privileges will be cancelled.

Given that the deck is raised above the boulevard, there is an opportunity for animals and small children to crawl under the deck. Under the circumstances, it is required that the owner enclose the opening that exists between the boulevard and the deck (i.e. lattice) to avoid these situations.

There are no underground utilities present within the public right of way where the deck currently exists.

COMMENTS

Applicable regulation

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

Reasons for approval

Notwithstanding the reduced setback of the deck, Transportation Services has reviewed the encroachment and determined that the existing deck does not impact negatively on the public right of way.

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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ATTACHMENTS

Appendix 'A' - photos

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