



**STAFF REPORT
ACTION REQUIRED**

**Installation of Decorative Sidewalks with Granite Pavers
- 40 Adelaide Street West, “Bay-Adelaide Centre”**

Date:	April 16, 2009
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:	Te09055te.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 40 Adelaide Street West to install decorative sidewalks with granite pavers within the public right of way fronting 40 Adelaide Street West and on the Bay Street and Temperance Street flanks of 40 Adelaide Street West, “Bay Adelaide Centre”.

As the installation and maintenance of the decorative sidewalks with granite pavers do not impact negatively on 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 installation of the decorative sidewalks with granite pavers within the public right of way fronting 40 Adelaide Street West and on the Bay Street and Temperance Street flanks of 40 Adelaide Street West, 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 decorative sidewalks with granite pavers 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 granite pavers beyond what is allowed under the terms of the Agreement;
 - c. indemnify the City and utility/telecommunication companies of any damage sustained to the decorative sidewalks with granite pavers in the event of a need to access the area;
 - d. remove the decorative granite pavers upon receiving 90 days written notice to do so;
 - e. pay for the costs of preparing the agreement and the registration of the agreement on title;
 - f. in the event that the City requires the removal of the decorative paving, the owner is responsible for restoring the area affected to its former condition with City of Toronto standard concrete curb and sidewalk; or alternatively, pay the costs for the work of restoration if the work is carried out by the City; and
 - g. 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

The cost of construction and the ongoing maintenance of the decorative sidewalks will be borne by the owners.

ISSUE BACKGROUND

An application was submitted on behalf of the property owners requesting permission to install decorative sidewalk with granite pavers fronting 40 Adelaide Street West for a distance of approximately 95 lineal metres, on Bay Street for a distance of approximately 53 lineal metres and on Temperance Street for a distance of approximately 95 lineal metres.

Given the potential impact of these type of applications on existing underground utility services, it is the applicant's responsibility to undergo a public utility review with a view of obtaining clearances or sign-offs from the affected utility agencies or satisfying their requirements prior to the issuance of a construction permit authorizing work within the public right of way.

We have received clearances from the affected utility companies regarding the proposed work and determined the proposed installation of the decorative sidewalks with granite pavers is acceptable and will not impact negatively on the public right of way. The owner will be required to enter into an encroachment agreement with the City to be registered on title of the property for the maintenance of the decorative sidewalks.

In order not to delay the project, the applicant requested that a construction permit be issued prematurely prior to Committee approval. Staff have consulted with the Ward Councillor who concurred with the applicant's request to issue a partial permit. Accordingly, Construction Permit No. 45987301 was issued on April 6, 2009 authorizing partial work within the public right of way.

COMMENTS

Applicable regulation

As the proposed decorative sidewalks with granite pavers are not consistent with the City's specification for a standard concrete sidewalk, we are required to report on this matter.

Reasons for approval

Transportation Services has reviewed the request and determined that the installation and maintenance of the decorative granite pavers does not impact negatively on the public right of way.

Details of the encroachment 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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