

Various Encroachments – 111 Vesta Drive

Date:	October 20, 2009
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	St. Paul's - Ward 21
Reference Number:	Te09080te.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 agent of the property owner of 111 Vesta Drive to install various encroachments within the public right of way fronting 111 Vesta Drive. The encroachments include a glycol heating system within the driveway, a wrought iron fence with stone retaining wall, stone pillars and iron gates.

Although the wrought iron fence with retaining wall, pillars and gates exceed the allowable height under the Municipal Code, they will not impact negatively on the public right of way. Similarly, the glycol heating system within the driveway will not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of these encroachments.

The agent together with any other interested parties will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the installation of a glycol heating system within the driveway, a wrought iron fence with stone retaining wall, together with stone pillars and iron gates that will encroach within the public right of way fronting 111 Vesta Drive, 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;
 - b. maintain the glycol heating system, wrought iron fence with stone retaining wall, stone pillars and iron gates 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 encroachments beyond what is allowed under the terms of the Agreement;
 - c. obtain approval for associated work on private property from Toronto Building;
 - d. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
 - e. remove the encroachments 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;
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 and execute the Encroachment Agreement.

Financial Impact

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

ISSUE BACKGROUND

The agent of the property owner of 111 Vesta Drive has requested permission to install and maintain various encroachments within the public right of way fronting 111 Vesta Drive.

The encroachments consist of a glycol heating system to be installed within the driveway, a wrought iron fence with stone retaining wall with a varying height of 1.0 m to 1.8 m, together with stone pillars measuring 1.2 m to 2.1 m in height and iron gates 1.8 m in height, within the public right of way fronting 111 Vesta Drive.

COMMENTS

Applicable regulation

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, which provides for fences to be constructed to a maximum height of 1.0 m fronting a property, if they are neither hazardous nor unsightly in appearance.

There are similar provisions within the Municipal Code to allow for the construction of retaining walls and pillars.

As there are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, for the installation of glycol heating systems 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 request and determined that the installation of the glycol heating system within the driveway, wrought iron fence with stone retaining wall, together with stone pillars and iron gates, will not impact negatively on the public right of way.

Details of the encroachments are on file with Transportation Services.

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

CONTACT

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SIGNATURE

Angie Antoniou
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ATTACHMENTS

Appendix 'A' – Photo

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