

## **Various Encroachments – 258 Warren Road**

<b>Date:</b>	July 28, 2010
<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>	St. Paul's – Ward 22
<b>Reference Number:</b>	Te10078te.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 agent of the owners of 258 Warren Road to maintain various encroachments within the public right of way fronting 258 Warren Road. The encroachments include a 1.8 m high decorative wrought iron fence surmounted by a stone retaining wall, stone pillars and a glycol heating system within the driveway and private approach.

Although the decorative wrought iron fence surmounted by a stone retaining wall and stone pillars exceed the allowable height under the Municipal Code, they will not impact negatively on the public right of way. Similarly, the glycol system within the driveway and private approach 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 the opportunity to make a deputation before Community Council.

### **RECOMMENDATIONS**

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

1. approve the ongoing maintenance of the decorative wrought iron fence surmounted by a stone retaining wall, stone pillars and glycol heating system

within the driveway and private approach within the public right of way fronting 258 Warren Road, 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;
  - b. maintain the decorative wrought iron fence surmounted by a stone retaining wall, stone pillars and glycol heating system 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. obtain approval for associated work 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 owners of 258 Warren Road has requested permission to maintain various encroachments within the public right of way fronting 258 Warren Road.

The encroachments consist of a glycol heating system within the driveway and private approach, a 1.8 m high decorative wrought iron fence surmounted by a stone retaining wall and 1.8 m high stone pillars within the public right of way fronting 258 Warren Road.

## **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 313-33, which provides for fences to be constructed to a maximum height of 1.0 m in height fronting a property, if there are neither hazardous nor unsightly in appearance. There are provisions within the Municipal Code to allow for the construction and maintenance of retaining walls and pillars.

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow for the installation of a glycol heating system, we are required to report to Community Council on this matter.

### **Reasons for approval**

Transportation Services has reviewed the request and determined that the ongoing maintenance of the decorative wrought iron fence surmounted by a stone retaining wall together with stone pillars and glycol heating system within the driveway and private approach do not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

A photo of the encroachments 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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