

Over-height Fence and Gates – 46 Russell Hill Road

Date:	December 1, 2010
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 22
Reference Number:	Te11028te.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 owner of 46 Russell Hill Road to construct a 1.7 m high decorative wrought iron fence with gates that will encroach within the public right of way fronting 46 Russell Hill Road.

Although the decorative wrought iron fence and gates exceed the allowable height under the Municipal Code, it does not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of these encroachments.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. Approve the installation of the decorative wrought iron fence with gates within the public right of way fronting 46 Russell Hill 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. 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 with 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 encroachment beyond what is allowed under the terms of the Agreement;
 - c. remove the fence and gates upon receiving 90 days written notice to do so; and
 - d. 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 encroachments, 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 agent of the owner of 46 Russell Hill Road has submitted an application requesting permission to construct and maintain a 1.7 m high decorative wrought iron fence with gates fronting 46 Russell Hill Road. The fence and gates would be installed approximately 1.9 m within the public right of way. When closed, the gates would be set back approximately 9.7 m from the edge of curb and, when open, set back approximately 8.2 m from the edge of curb.

The owners feel that the fence and gates are necessary as a security measure.

COMMENTS

Applicable regulation

The construction and maintenance of fences within the public right of way is 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 fronting a property, if they are neither hazardous nor unsightly in appearance. In addition, fences must be set back 0.46 m from the rear edge of the City sidewalk or a minimum of 2.1 m from the curb where no sidewalk is present.

Reasons for approval

Transportation Services has reviewed the request and determined that the installation and maintenance of the decorative wrought iron fence with gates does not impact negatively on 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

Angie Antoniou
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ATTACHMENTS

Appendix 'A' – Photo of property

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