

Consolidated Clause in Toronto and East York Community Council Report 9, which was considered by City Council on December 5, 6 and 7, 2005.

26

**Maintenance of a Stone Wall Fence and Columns
Surmounted with a Low Decorative Wrought Iron Fence -
125 South Drive (Ward 27 - Toronto Centre-Rosedale)**

City Council on December 5, 6 and 7, 2005, adopted this Clause without amendment.

The Toronto and East York Community Council recommends that City Council adopt the staff recommendations in the Recommendations Section of the report (October 31, 2005) from the Manager, Right of Way Management, Transportation Services, Toronto and East York District:

Purpose:

To report on a request to maintain a stone wall and columns together with proposed lighting, surmounted with a low decorative wrought iron fence within the public right of way fronting 125 South Drive. The height of the wall and fence measures approximately 1.52 m. As this is a request for an exemption from the by-law, it is scheduled as a deputation item.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) City Council approve the maintenance of the stone wall and columns together with the lighting and the low decorative wrought iron fence within the public right of way fronting 125 South 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 stone wall and columns together with the lighting and the decorative wrought iron fence at his/her 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) arrange for an inspection by the Electrical Safety Authority upon completion of the installation of the lights and provide a copy of the approval to the General Manager of Transportation Services;
 - (d) remove the stone wall, columns, lights and decorative wrought iron fence upon receiving 90 days written notice so to do; and
 - (e) 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) in the event of sale or transfer of the property abutting the encroachment, Legal Services and/or the General Manager of Transportation services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the General Manager of Transportation Services.

Comments:

A request has been received for permission to maintain a stone wall and columns together with lighting surmounted with a low decorative wrought iron fence within the public right of way fronting 125 South Drive. The overall height of the stone wall, columns and fence is approximately 1.52 m. The wall runs along the front of the property parallel to the sidewalk commencing at the westerly property line and ends at the driveway entrance and is set back from the City sidewalk a minimum of 2.29 m to a maximum of 2.99 m. In addition, electrical lighting is proposed on top of two of the columns.

The construction and maintenance of fences within the public right of way is governed under the criteria set out in Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of the property, and are considered to be neither hazardous nor unsightly in appearance. In addition, fences must be set back a minimum of 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.

On Appendix 'A', we have provided a property data map denoting this property and on Appendix 'B' we have provided photos of the wall, columns and decorative wrought iron fence.

Notwithstanding the overall height of the stone wall and columns together with the low decorative wrought iron fence, staff have determined that the encroachments do not impact negatively on the public right of way. For the information of the Toronto and East York Community Council, staff have noted that there are similar fences within the immediate area.

With respect to the lighting, there are no objections to the installation provided the applicant arrange for an inspection by the Electrical Safety Authority upon installation of the lights and provide Transportation Services with a copy of the approval.

Details of the fence, columns, wrought iron fence and lights are retained on file with this Department.

Conclusions:

As the stone wall, columns, decorative wrought iron fence do not impact negatively on the public right of way fronting 125 South Drive, permission should be granted for the ongoing maintenance of the encroachments, subject to the property owner entering into an encroachment agreement with the City of Toronto. With respect to the lighting, the owners will be required to arrange for an inspection by the Electrical Safety Authority upon completion of the installation of the lights and provide a copy of the approval to the General Manager of Transportation Services.

Contact:

Ken McGuire, Supervisor, Right of Way Management
Telephone: (416) 392-7894, Fax: (416) 392-7465, E-mail: kmcguire@toronto.ca

(Copies of the following Attachments in the report (October 31, 2005) from the Manager, Right of Way Management, Transportation Services, Toronto and East York District, were forwarded to all Members of the Toronto and East York Community Council with the agenda for its meeting on November 15, 2005, and copies are on file in the City Clerk's Office:

- Attachment No. 1 - Appendix 'A' - property data map; and
- Attachment No. 2 - Appendix 'B' – photos.)