



**STAFF REPORT
ACTION REQUIRED**

Building Addition to Expand Restaurant – 894 Queen Street West

Date:	June 3, 2011
To:	Toronto and East York Community Council
From:	Acting Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Trinity-Spadina – Ward 19
Reference Number:	Te11063te.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 is in receipt of a request from the owner of 894 Queen Street West, Fresh Restaurant, to construct a building addition in order to expand the restaurant within the Crawford Street flank of 894 Queen Street West.

Transportation Services has reviewed the proposal and does not recommend approval as there are no provisions in the Municipal Code to allow for such encroachments.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. Deny the request to install a building addition within public right of way on the Crawford Street flank of 894 Queen Street West.

Financial Impact

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

ISSUE BACKGROUND

Transportation Services has received an application from the owner of 894 Queen Street West, Fresh Restaurant, to construct a building addition on the Crawford Street flank of 894 Queen Street West to expand the dining area of the existing restaurant. For the information of the Toronto and East York Community Council, Fresh Restaurant currently holds a valid patio café license on the Crawford Street flank.

The proposed building addition would be an approximately 72 m² encumbrance on the City's right of way. It is proposed to extend approximately 4.8 m beyond the street line and 15 m lengthwise with a 0.09 m setback from the sidewalk. The owner is also proposing to install a bike rack within the boulevard, adjacent to the proposed building addition.

A photo of the Crawford Street flank of the property is shown on Appendix 'A'.

COMMENTS

Applicable regulation

There are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, to allow for the installation of permanent buildings or bike racks within the public right of way. The Municipal Code provides only for the maintenance of existing building encroachments that by inadvertence have been wholly or partially erected upon any street.

Transportation Services would apply the general requirements for permitted encroachments within the right of way which stipulate that a minimum 0.46 m setback is to be provided from the sidewalk or 2.1 m where no sidewalk is present.

Reasons for not approving

The building addition would be a permanent encumbrance upon the City boulevard that is proposed to be installed with a 0.09 m setback from the sidewalk. The City's right of way is required to maintain a clear public corridor for any future infrastructure and public utility installations or maintenance.

The proposed building addition would impact negatively on the public right of way and Transportation Services does not recommend approval of the building addition encroachment.

Details of the proposal are on file with Transportation Services.

Alternate Recommendations

Should Community Council decide to grant the request for the installation and maintenance of the building addition, it could recommend that:

1. The owners of 894 Queen Street West enter 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 of 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 the amount not less than \$2,000,000.00 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;
- b. maintain the permanent building addition 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 system beyond what is allowed under the terms of the Agreement;
- c. obtain approval from Toronto Building;
- d. provide a minimum 0.46 m setback from the sidewalk;
- e. allow the City and its staff or any public utility company to enter any portion of the public right of way proposed building addition, for the purpose of the installation, maintenance and repair of their infrastructure;
- f. obtain clearances and/or sign-offs from all affected utilities and satisfy all conditions imposed by any utilities that may be affected by the installation and maintenance of the permanent building addition;
- g. in the event that the City at any time undertakes the widening of the street and in connection with this requires the removal of the encroachment, the City shall not be liable to pay any compensation whatsoever for or in respect to the encroachment upon or over the street, and the owner, at their own cost and expense and to the satisfaction of the General Manager of Transportation Services, shall remove the encroachment from the street;
- h. provide as-built drawings within 60 days of completing the installation;
- i. pay an annual rental fee for the use of the public right of way as determined by the Director of Real Estate Services, Real Estate Policy & Appraisals;
- j. limit the life of the Agreement to the removal of the building addition or the date of demolition of the building at 894 Queen Street West, whichever is the less;
- k. pay for the costs of preparing the Agreement and the registration of the Agreement on title; and

1. 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 License 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. Legal Services be requested to prepare and execute the Encroachment Agreement.

CONTACT

Elio Capizzano, Supervisor, Right of Way Management
Tel: 416-392-7878, Fax: 416-392-7465, E-mail: ecapizza@toronto.ca

SIGNATURE

Joe Colafranceshi
Acting Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – Photo

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