

Encroachment Appeal - 88 Forest Heights Boulevard

Date: May 30, 2019

To: North York Community Council

From: Director, Transportation Services, Permits and Enforcement

Wards: Ward 15 - Don Valley West

SUMMARY

This staff report is about a matter for which Community Council has delegated authority from City Council to make a final decision provided it is in keeping with City policy or by-laws.

Transportation Services is requesting authority to enter into an encroachment agreement with the owner(s) of 88 Forest Heights Boulevard for the 2.8 metre high pillars with decorative lights and a 2.2 metre high metal fence, both with a 4.7 metre setback from the roadway curb, and a 1.3 metre high intercom system, with a 2.5 metre setback from the roadway curb on Forest Heights Boulevard fronting the subject premises.

The proposed pillars, fence, and intercom system on the public right of way do not meet the requirements of the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The owner(s) will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

The Director, Transportation Services, Permits and Enforcement, recommends that:

1. North York Community Council approve the request to maintain the 2.8 metre high pillars with decorative lights, 2.2 metre high metal fence and a 1.3 metre high intercom system on the frontage of the subject premises within the public right of way at 88 Forest Heights Boulevard, subject to the following conditions:

- a) The property owner(s) enter into an encroachment agreement with the City of Toronto at the applicant's expense and assume all liability and damages related to the encroachment.

b) The property owner(s) must retain valid property insurance for the duration of the encroachments in case there are any claims initiated due to the encroachments.

c) The property owner(s) agree that the City and/or utility companies may remove the encroachments in order to install or maintain services within the affected public right of way with no obligation to replace the encroachments.

d) The property owner(s) shall remove the encroachments if required by the General Manager, Transportation Services, at any time and restore the street to the satisfaction of the General Manager, Transportation Services.

e) The property owner(s) are responsible for the cost of replacing the footings and fence if they are damaged as a result of a water main break.

f) The property owner(s) are responsible for the cost of removing and replacing the footings and fence if their removal is required for the City to gain access to the water main for replacement or maintenance purposes.

FINANCIAL IMPACT

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

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received from the owner(s) of 88 Forest Heights Boulevard requesting permission to maintain the 2.8 metre high pillars with decorative lights, a 2.2 metre high metal fence, and a 1.3 metre high intercom system on the frontage of the subject premises within the public right of way.

Encroachments are governed by the criteria set out in the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The relevant provisions for the encroachments subject to this appeal are that a fence located within a street can be built to a maximum height of 1.2 metres for that portion of the fence fronting the property, provided that it does not obstruct driver and pedestrian sight lines.

As the existing height of the pillars with decorative lights, metal fence, and intercom system do not comply with the maximum 1.2 metre height permitted encroachment guidelines under Chapter 743, Streets and Sidewalks, Use of, the General Manager is

not authorized to issue a permit or enter into an agreement for the encroachment. An appeal was subsequently received from the property owner(s) for which this report has been prepared.

The site plan and picture showing the encroachments have been submitted and are included as attachments in this report.

Although the existing pillars with lights, metal fence, and intercom system exceed the permitted height of 1.2 metres for the portions fronting the property, staff is of the opinion that they do not cause a sight line impediment affecting traffic or pedestrians, and that these proposed encroachments will not have a negative impact on the public right of way. Thus, staff believe the encroachments are acceptable provided that the property owner(s) enter into an encroachment agreement with the City.

The Ward Councillor has been advised that the encroachments are installed along the frontage of the subject premises within the public right of way at 88 Forest Heights Boulevard.

CONTACT

Luigi Nicolucci, Manager, Development Planning and Review, and Permits and Enforcement, Transportation Services, Tel: 416-394-8412, Fax: 416-394-8942, Email: Luigi.Nicolucci@toronto.ca

SIGNATURE

Dave J. Twaddle
Director

ATTACHMENTS

Attachment 1: Site plan - Fence

Attachment 2: Picture - Frontal view of the Pillars with lights and Metal Fence

[illegible]

Attachment 2: Frontal view of the Pillars with lights and Metal Fence

