

Encroachment Appeal - 2294 Bloor Street West - Maintain Existing Enclosed Marketing Structure

Date: October 30, 2023

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 4, Parkdale-High Park

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 2294 Bloor Street West regarding their encroachment application. The encroachment consists of an enclosed marketing structure which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking approval from Toronto and East York Community Council to allow an enclosed marketing structure to be maintained within the public right-of-way at 2294 Bloor Street West, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

RECOMMENDATIONS

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

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with property owner of 2294 Bloor Street West, to permit enclosed marketing structure, subject to the following conditions:

- 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 enclosed marketing structure 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. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. remove the enclosed marketing structure upon receiving written notice to do so;
- f. the property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right of way with no obligation to replace them;
- g. the property owner shall pay (i) an annual licence fee in the amount of \$17,128.00 as established by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto), and shall further be recalculated every five (5) years based on the applicable fee of the City for private areaway encroachments, as prescribed under Chapter 441, Fees and Charges, Appendix C – Schedule 2, Transportation Services, of the City's Municipal Code, as amended or replaced; and
- h. the property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.

FINANCIAL IMPACT

If Toronto and East York Community Council adopts the staff recommendations the Owner will be responsible for the costs for the ongoing maintenance, repair, and operation of the enclosed marketing structure.

The Owner shall pay (i) an annual licence fee in the amount as established by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto), and shall further be recalculated every five (5) years based on the applicable fee of the City for private areaway encroachments, as prescribed under Chapter 441, Fees and Charges, Appendix C – Schedule 2, Transportation Services, of the City's Municipal Code, as amended or replaced.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on November 22, 2021, from the owners of 2294 Bloor Street West requesting permission to maintain an existing enclosed marketing structure within the public right-of-way on Durie Street flanking the subject premises.

Transportation Services has reviewed the application and the property located at 2294 Bloor Street West. The existing encroachment has multiple deficiencies that contravene Code Chapter 743. The deficiencies include the following:

- The enclosed marketing structure extends out from the exterior building wall 4.17m in total, which encroaches 4.17m into the public right-of-way and takes up 49sqm on Durie Street, which is not a permitted encroachment within the Municipal Code Chapter 743.
- The enclosed marketing structure exceeds 0.9m in height which is not a permitted encroachment within the Municipal Code Chapter 743.
- The enclosed marketing structure as built reaches a height of 1.7 metres and is 10 metres away from the intersection of two or more streets, which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[1].
- The fence as built reaches a height of 1.7 metres and is less than 3 metres away from a sidewalk, which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[2].

The applicant was notified that the enclosed marketing structure is not eligible for an encroachment agreement and an appeal was subsequently received from the property owner.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

It should be noted that staff conducted a site visit and determined that although the enclosed marketing structure contravenes Municipal Code Chapter 743, it does not constitute a sightline impediment to vehicular traffic or pedestrians.

A site plan, ground floor plan, section views and photos of the existing encroachment are shown in Attachments 1-4.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

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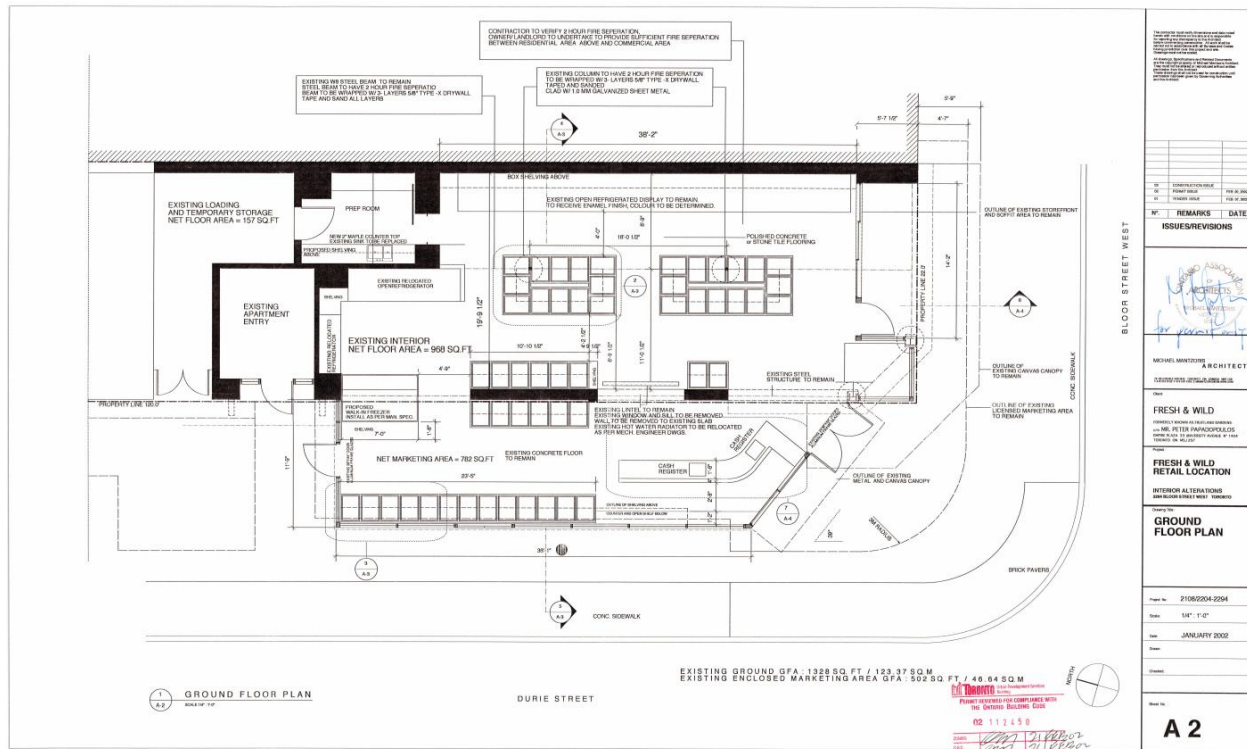
SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

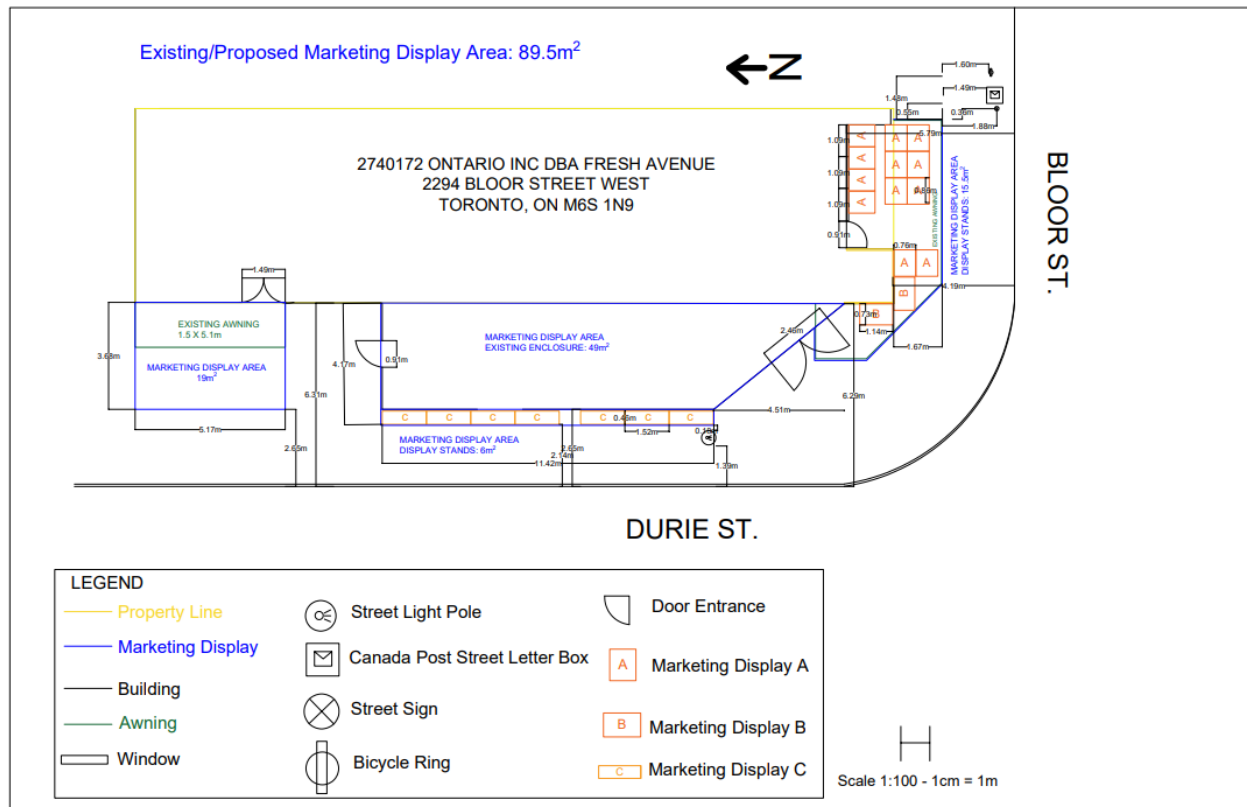
ATTACHMENTS

Attachment 1: Ground Floor Plan of Existing Encroachment - 2294 Bloor Street West
Attachment 2: Site Plan of Existing Encroachment - 2294 Bloor Street West
Attachment 3: Section Views of Existing Encroachment - 2294 Bloor Street West
Attachment 4: Photos of the Existing Encroachment - 2294 Bloor Street West

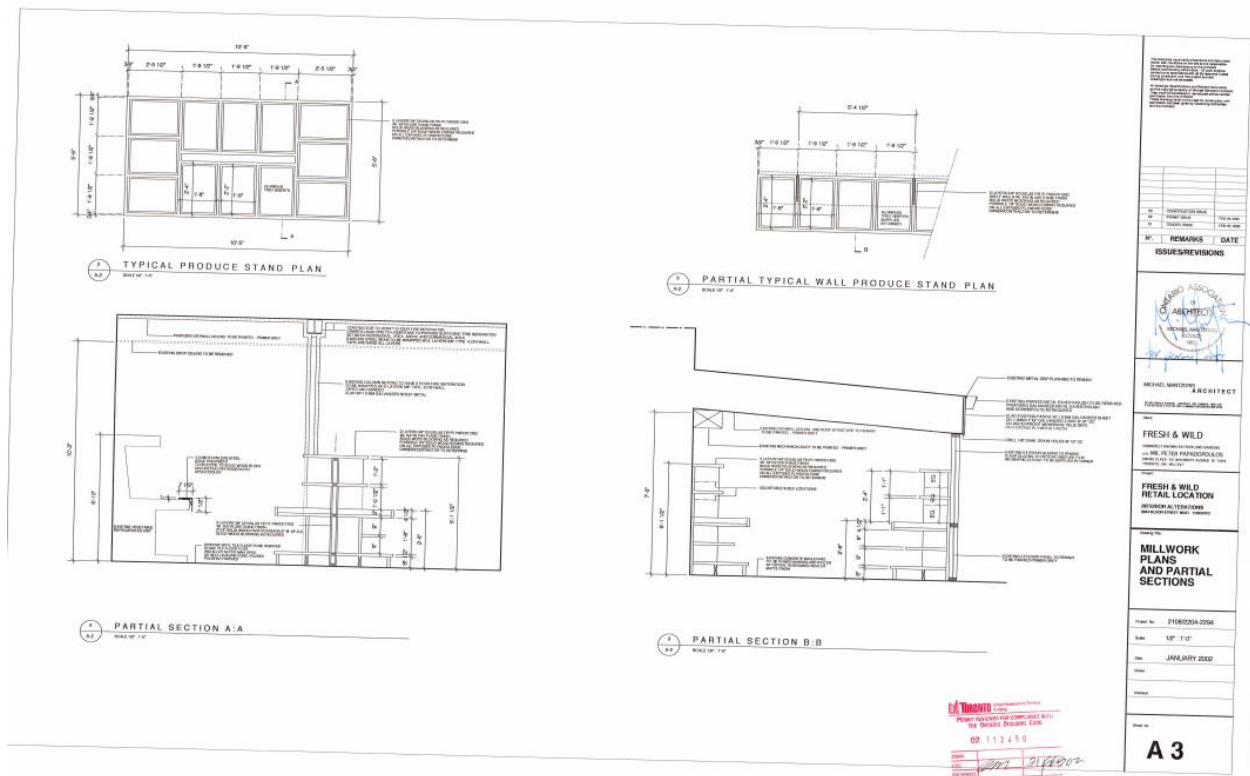
Attachment 1: Site Plan of Existing Encroachment - 2294 Bloor Street West



Attachment 2: Landscape Plan of Existing Encroachment - 2294 Bloor Street West



Attachment 3: Section Views of Existing Encroachment - 2294 Bloor Street West



Attachment 4: Photos of the Existing Encroachment - 2294 Bloor Street West

