

October 21, 2025

To: Etobicoke York Community Council
From: Director, Street Permits, Transportation Services
Re: 3653 Lake Shore Boulevard West, Encroachment – Motion Memorandum
Wards: Ward 3, Etobicoke - Lakeshore

Transportation Services has been requested by a local councillor to provide recommended wording for recommendations they plan to present in a motion to Etobicoke York Community Council. Staff request that this memorandum accompany the member's submission.

Summary

- Staff **support** the draft recommendations provided below
- Staff **do not support** the draft recommendations provided below
- Staff **do not have sufficient data and/or time to determine if the draft recommendations provided below can be supported by staff, at this time.**

Draft Recommendations

Pergolas, fences and door gates are delegated encroachments under Municipal Code Chapter 743. Transportation Services has confirmed comments were received from Traffic Operations satisfactory to the applicant and no objections were raised by Toronto Fire Services.

Transportation Services has reviewed an application to maintain a wooden pergola averaging 2.5 metres in height surrounded by a metal fence averaging 1.2 metres tall superposed over concrete pad and surmounted by a wooden panel top. Metal fence includes two outward swinging gate doors along the patio on Thirty Sixth Street. Transportation Services has confirmed comments were received from Traffic Operations at the intersection with no objections.

None of the installations provide with a setback from the rear edge of the sidewalk and are within the public right of way flanking 3653 Lake Shore Boulevard West.

All the encroachments deficiencies include the following:

- Do not provide the 0.50 metre setback from the rear edge of the sidewalk.

- Fence at the driveway poses a hazard to pedestrian and vehicle traffic due to any installation within 70.00 metres of the intersection of any two streets does not to exceed a height of 1.00 metre.
- Wooden pergola does not need to be installed within 3.00 metres of a driveway that is adjacent to a sidewalk, and it is exceeding a height of one metre measured from the road grade.
- The gate doors shall provide a minimum of 2.50 metres of clear sidewalk.

The above points are in contravention of the City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of. Specifically, the fence and pergola need to provide 2.0 metres setback to the fire hydrant and a 1.20 metres setback is being currently provided on-site; however, Toronto Fire Services has signed off with the current 1.20 metres setback and Traffic Operations commented that for the current patio configuration at the intersection are not concerns for drivers as are able to see through the structure.

Staff is of the opinion that the pergola, metal fence and swing of door gates will have a negative impact on the public right-of-way for pedestrians and traffic on the affected Lake Shore Boulevard West and Thirty Sixth Street. Therefore, Transportation Services does not recommend entering into an encroachment agreement with the property owner without modifications.

If, despite the finding above, Etobicoke York Community Council approves the encroachment, the agreement would be subject to the following conditions:

- a. The property owner enters into an encroachment agreement with the City of Toronto at the applicant's expense and assumes all liability and damages related to the encroachment;
- b. The property owner must retain valid property insurance for the duration of the encroachments in case there are any claims initiated due to the encroachment;
- c. The property owner agrees that the City upon receiving written notice from the General Manager, Transportation Services to do so and/or utility companies may remove the encroachments to install or maintain services within the affected public right of way with no obligation to replace the encroachments;
- d. The property owner agrees to obtain a permit from Toronto Building Division, Sign by-law Unit for the restaurant signs encroaching into the right of way prior to issuance of the encroachment agreement;
- e. The property owner agrees to obtain a licence from the Municipal Licensing and Standards Division for the outdoor patio and provide proof an application has been received from them;
- f. The property owner agrees, patrons shall only enter and exit patio through the restaurant main door located on Lake Shore Boulevard West; there will be no entrance or exist from the patio itself on Thirty Sixth Street and only use in case of a fire emergency;

- g. The property owner must maintain the encroachments at their own expense in a good state of repair and in a condition deemed satisfactory by the General Manager of Transportation Services and must not make any additions or modifications to the encroachment beyond what is permitted under the terms of the encroachment agreement;
- h. The property owner agrees to indemnify and save the City, its elected officials, officers, employees and agents, harmless with respect to any action, cost, claim, loss, injury or damage whatsoever arising from the placement or installation and occupation of the street by the installation.
- i. The property owner accepts such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- j. The property owner shall ensure that the encroachment agreement with the City of Toronto is registered on-title of all relevant properties, at the sole expense of the property owner;

Cost

There is no cost to the City as a result of adopting this motion. The property owner is responsible to pay all costs associated with the ongoing maintenance of the encroachment.

Contact

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