

Encroachment Appeal - 137 Bond Street

Date: June 18, 2025

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 13, Toronto Centre

SUMMARY

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

Transportation Services has reviewed a request from Pomerleau Inc., on behalf of the Owner ("Owner"), Toronto Metropolitan University, to install a tower crane base with concrete foundation piers, grade beams, and helical piles which will encroach within the public right-of-way at 137 Bond Street.

The purpose of this report is to request authority to enter into an encroachment agreement with the Owner of 137 Bond Street to permit the construction and encroachment of the tower crane base with concrete foundation piers, grade beams and helical piles within the Gould Street flank of 137 Bond Street.

RECOMMENDATIONS

The Director Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council authorize the City to enter into an encroachment agreement (the "Agreement") with the Owner of 137 Bond Street (the "Owner's Lands") permitting the tower crane base with concrete foundation piers, grade beams, and helical piles (the "Encroachment") on the terms and conditions set out in Attachment 3 and including any such other or amended terms and conditions satisfactory to the General Manager of Transportation Services (the "GM"), and in a form satisfactory to the City Solicitor.
2. Toronto and East York Community Council direct the GM to extend the Agreement to the new Owner of 137 Bond Street, in the event of a sale or transfer of the property at 137 Bond Street, subject to the prior approval of the GM, and provided in all cases the transferee or assignee enters into an assumption agreement with the City to assume the obligations under the Agreement, as well as the obligations under the construction and licence agreement for the portion of the tower crane base with concrete foundation

piers, grade beams, and helical piles within the City right-of-way, in form satisfactory to the City.

3. Request the City Solicitor to prepare and arrange execution and registration of the Agreement as required by this report.

FINANCIAL IMPACT

The Owner will be responsible for all associated costs for the construction, maintenance, repair and (partial) removal of the tower crane base.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An application has been received from Pomerleau Inc. on behalf of the Owner of 137 Bond Street, requesting permission to construct a tower crane base with concrete foundation piers, grade beams, and helical piles within the Gould Street right-of-way. The proposed Encroachment will allow the applicant to install and operate the tower crane within the right-of-way required for the construction of an eight-storey building on the southeast corner of Bond St and Gould Street. This development will serve as Toronto Metropolitan University's Student Centre for Wellbeing and will integrate the rehabilitated heritage building located on the site.

The placement of the tower crane in the right-of-way will allow the retention of the heritage building's exterior walls and roof to be retained in-situ during construction. The proposed concrete foundation piers and grade beams are temporary and will be fully removed following completion of tower crane operations, which are tentatively scheduled to conclude in January 2027. The helical piles will be cut down to a depth of 2.4m below grade, and the remaining helical piles below 2.4m will encroach permanently within the ROW. The applicant will reinstate the boulevard and sidewalk in accordance with their site plan development application.

A drawing of the proposed tower crane base with concrete foundation piers, grade beams, and helical piles is included in Attachment 1.

Under Municipal Code Chapter 743, Streets and Sidewalks, The Use Of, the General Manager of Transportation Services does not have the delegated authority to allow for the encroachment of a tower crane base with concrete foundation piers, grade beams, and helical piles therefore Community Council authority is required. An encroachment agreement between the City and the Owner will set out the Owner's responsibilities for the maintenance, repair and operation of the tower crane base with concrete foundation piers, grade beams and helical piles.

The applicant explored alternate locations for the crane installation on the surrounding private property. However, due to site constraints - including the limited footprint of the development site while preserving the heritage structure, and the proximity of existing buildings - no suitable private property locations were identified that could support the crane installation.

As there may be impacts to existing utility infrastructure, it will be the Owner's responsibility to undergo a public utility review and obtain clearances from the affected utility agencies including satisfying their requirements prior to issuance of a construction permit authorizing work within the public right-of-way.

Transportation Services has reviewed the application and determined that the proposed Encroachment can be accommodated without obstructing the pedestrian clearway on Gould Street. Appropriate protection measures will be implemented for pedestrian and vehicular safety during the installation of the crane base, as well as during crane operations.

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

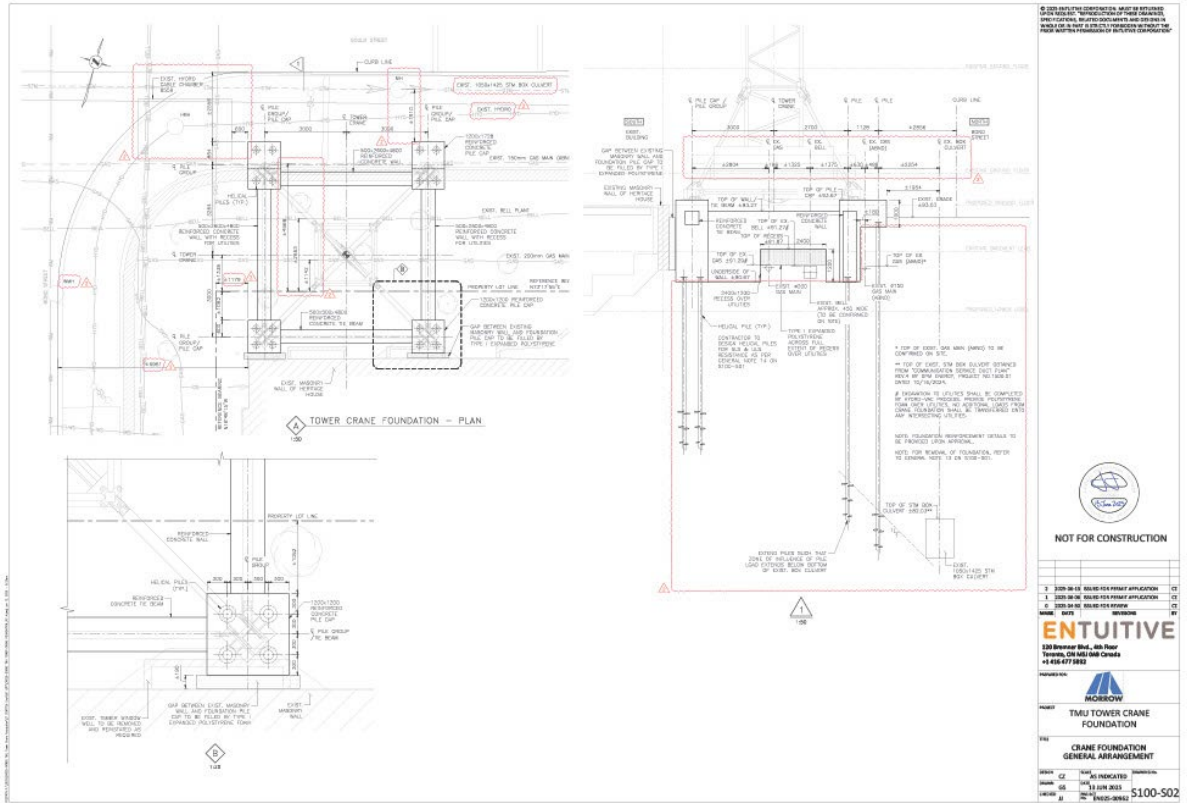
Attachment 1: Drawing of Proposed Tower Crane Base with Concrete Foundation Piers, Grade Beams, and Helical Piles - 137 Bond Street

Attachment 2: Photos of the Proposed Installation Location - 137 Bond Street

Attachment 3: Major Terms and Conditions of the Encroachment Agreement

Attachment 4 - Appendix A of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of

Engineering Stamped Plan and Details of Proposed Encroachment



Attachment 2: Photos of the Proposed Installation Location - 137 Bond Street

Rendering of Proposed Installation Location - Looking West along Gould Street



Proposed Installation Location - Looking East along Gould Street from Bond Street



Attachment 3: Major Terms and Conditions of the Encroachment Agreement

- a. the Owner shall indemnify the City from and against all actions, suits, claims or demands from all loss, cost, damages, and expenses that may result from such permission granted, any matter related to the tower crane base with foundation piers, grade beams, and helical piles and any failure of the Owner to comply with the Agreement, which indemnity shall be in a form and content satisfactory to the City Solicitor;
- b. the Owner shall, at its own expense, design, construct, repair and maintain the Encroachment in a state of good repair, to the satisfaction of the GM, and shall assume full and sole responsibility for the condition, operation, repair, replacement, maintenance, management and removal of the tower crane base with concrete foundation piers, grade beams, and helical piles, at no expense to the City, and in accordance with the terms of this Agreement;
- c. the Owner shall accept such additional conditions as the City Solicitor, or the General Manger of Transportation Services may deem necessary in the interest of the City;
- d. the 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 Encroachment;
- e. the Owner shall obtain all Public Utility Coordinating Committee clearances and/or signoffs from the public utility companies and satisfy any requirements they may have;
- f. the Owner shall ensure any design of the proposed Encroachment that impacts Toronto Water's infrastructure shall meet Toronto Water's standards and approval conditions, as determined by Toronto Water in their sole discretion;
- g. the Owner shall obtain approval and all necessary permits and agreements for the construction of the proposed Encroachment from the Toronto Building Division, if required;
- h. prior to commencement of construction, a construction permit and street occupation permit shall be obtained by the Owner in accordance with Article III of Chapter 743, Streets and Sidewalks, City of Toronto Municipal Code;
- i. the Owner shall submit and adhere to an accepted Traffic Management Plan, Construction Management Plan, Construction Schedule letter and Traffic Assessment Study outlining the proposed construction/installation and removal of the Encroachment and advise on the impacts in the area of the proposed Encroachment within the Public Highway, which content shall be to the satisfaction of the GM, prior to the issuance of a construction permit;

j. the Owner will remove concrete foundation piers and grade beams in their entirety following the completion of the tower crane operations. The helical piles encroaching within the public right-of-way will be cut down to a depth of 2.4m below grade. The top portions of the helical piles shall be removed, and the remaining portions of the helical piles below 2.4m will remain as a permanent encroachment. The excavation shall then be backfilled with granular material and compacted to achieve not less than 95 percent of the maximum dry density of the materials, as determined by the modified Proctor Method;

k. the Owner shall, at its own cost, charge and expense, and to the satisfaction of the GM, alter or remove the Encroachment if deemed necessary for municipal purposes by the GM, upon receiving not less than ninety (90) days notice in writing from the GM;

l. the City shall maintain the right to place or affix pipes, cables, wires, poles and other infrastructure within/to, over or under the Encroachment;

m. the City shall not be responsible for repairing or replacing the Encroachment damaged as a result of street repairs, construction or other municipal activities on the public highway;

n. the City shall be released from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from the permission granted, which release shall be in a form and content satisfactory to the City Solicitor;

o. the Owner shall provide and maintain public liability and property damage insurance with an insurer satisfactory to the GM for the lifetime of the Agreement in a form as approved by the Chief Financial Officer and Treasurer, including a cross-liability /severability of interest clause, a provision that the insurance is primary before the insurance of the City, and a thirty (30) day prior notice of cancelation/renewal clause, and in the amount not less than \$5 million or such greater amount as the Chief Financial Officer and Treasurer may require;

p. the Owner shall provide and maintain an irrevocable letter of credit, in an amount satisfactory to the GM, to be retained by the City, for the duration of construction of the Encroachment within the Public Highway, to secure against any damage to the Public Highway and to guarantee construction of the Encroachment and that the work within the Public Highway is completed to the City's satisfaction, including the restoration of the Public Highway, to the satisfaction of the GM; failing which the City may in its sole discretion draw down upon the letter of credit in such amount(s) as required to complete the Owner's obligations under the Agreement. Prior to the release of the letter of credit, the Owner will be required to provide a construction sign-off letter stamped and signed by the structural engineering firm that designed the Encroachment which states that the right-of-way is safe and ready to be opened to pedestrian traffic;

q. Within sixty (60) days of completion of the of completing the removal of the tower crane base with foundation piers, grade beams, and cut down of the helical piles, the Owner shall:

1. provide as-built drawings to the GM at trarow@toronto.ca and Utility Mapping at utilitymapping@toronto.ca; and
2. submit a survey for the Encroachment which includes the location of the Encroachment, upon completion of the removal and of tower crane base with foundation piers, grade beams, and the cut down of the helical piles to the GM at trarow@toronto.ca and Utility Mapping at utilitymapping@toronto.ca;
- r. the Owner shall pay the City all costs related to the engineering review and inspection fees that may be required;
- s. the Owner will be responsible for the restoration of the road pavement, including adjacent sidewalks and boulevards, if necessary, to the satisfaction of the GM, upon completion of the installation and removal of tower crane base with foundation piers, grade beams, and the cut down of the helical piles;
- t. the Owner shall not make or permit any additions or modifications to the Encroachment beyond what is permitted under the terms of the Agreement without the City's consent, which may be unduly delayed or arbitrarily withheld;
- u. the term of the Agreement shall expire on the earlier of: (i) the complete or partial removal or abandonment of the tower crane base with foundation piers, grade beams, and cut down of the helical piles, if permitted under the Agreement (ii) if deemed necessary for municipal purposes as determined by the GM, acting reasonably, upon receiving 90 days notice in writing from the GM, or (iii) in the event that the GM determines there is an emergency that presents a danger to the public health or safety, upon such notice as the GM determines is appropriate in the circumstances, if any;
- v. at the expiration or earlier termination of the Agreement, at the City's sole discretion, the City may require the Owner to alter, demolish and/or remove the Encroachment at the Owner's sole cost and expense, to the satisfaction of the GM, and after the removal of the tower crane base with foundation pier, grade beams, and cut down of the helical piles the Owner shall restore the street pursuant to Article VIII of Chapter 743, Streets and Sidewalks, City of Toronto Municipal Code;
- w. the Owner agrees that the City shall have the right of entry onto the Owner's Lands to access the Encroachment for the purposes of inspection, repair, or removal of the Encroachment or performing any other activity permitted by the City under the Agreement, on terms acceptable to the GM;
- y. the Agreement shall include rights and remedies acceptable to the GM, including the right, but not the obligation, of the City to remedy any failure of the Owner to comply with the Agreement, and the costs incurred by the City in enforcing the Agreement shall be payable by the Owner;
- x. shall require the Owner to adhere to applicable federal, provincial or municipal laws, by-laws, policies including the City of Toronto Municipal Code and Transportation Services' standard process for acquisition of Encroachment agreements;

y. the provisions of Appendix A of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of, attached as Attachment 4 to this report, shall be incorporated into the Agreement;

z. the Agreement shall be registered on title to the Owner's Lands and other affected properties as deemed necessary by the City Solicitor, at the expense of the Owner, with appropriate title opinions provided to the satisfaction of the City Solicitor as may be required by the City Solicitor;

aa. the Owner shall pay all cost associated with the preparation of the Agreement and the registration of the Agreement on title;

Attachment 4:

Appendix A of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of

1. These standard terms and conditions apply to all work conducted by or on behalf of the applicant.
2. Unless otherwise specifically provided in these standard terms and conditions, the terms specified herein have the same meaning given to them in Chapter 743, Streets and Sidewalks, Use of.
3. All street work shall conform to all applicable federal, provincial and municipal statutes, laws and by-laws and other applicable legal requirements.
4. All street work shall conform to City of Toronto construction standards and specifications, and shall be conducted and completed to the satisfaction of the General Manager.
5. All street work shall be performed in a manner that safeguards and protects all other equipment, facilities and improvements of any kind ("improvements") present in, on, over, under, across, or along the street and the environment.
6. The applicant shall take whatever steps are necessary to ensure the protection of the public.
7. The applicant shall not unduly interfere with the use of the street for free passage by the public.
8. The applicant shall make all necessary arrangements with traffic, police and fire authorities for the placing of barricades, notices, warning lights and signs and that all such barricades, notices, warning lights and signs shall conform with applicable law.
9. No street work shall block or impair the entrance to any premises abutting the work location unless the applicant has obtained and filed with the application for the permit the consent in writing of the Owner and occupant of such premises.
10. All street work shall be conducted in a manner so as to maintain access for emergency vehicles.
11. The street work shall be completed without delay.
12. The permit shall not authorize occupying a larger portion of the street or extend for a longer period of time than may be necessary in the opinion of the General Manager, having due regard to the applicant's needs and the safety and convenience of the public.
13. After completing any street work, the applicant shall restore and/or leave the street in substantially the same condition in which it was before such street work was undertaken by the applicant, free from nuisance and to the satisfaction of the General

Manager. If the applicant fails to repair and restore any street to the satisfaction of the General Manager within 48 hours of being notified by the City, the City may undertake such repairs and charge all costs owing to the applicant and may draw on any financial security or deposits submitted by the applicant.

14. The applicant shall maintain the equipment in good and proper repair and in a condition satisfactory to the General Manager.

15. Should the General Manager deem it necessary for the equipment to be removed or altered in an emergency, including repairs or maintenance to equipment owned or operated by the City or any agency, board or commission of the City, the General Manager, without notice to the applicant, may alter or remove, or cause to be altered or removed, the equipment and, subject to the requirements of any applicable law or existing agreement, the cost of such alteration or removal of the equipment shall be borne by the applicant.

16. Should the General Manager deem it necessary for the equipment to be removed or altered for any municipal purpose, including installation or alteration of new or existing plant by any agency, board or commission, the General Manager may upon three months notice in writing to the applicant, alter or remove, or cause to be altered or removed, the equipment or such portions of same not already altered or removed by the applicant, and subject to the requirements of any applicable law or existing agreement, the cost of such alteration or removal of the equipment shall be borne by the applicant.

17. If the City requires that any street work be stopped, the applicant shall cease such street work following notice to the applicant provided by the General Manager.

18. The applicant shall be at all times responsible for all aspects of the street work, including the cost of such street work.

19. The applicant shall notify the City promptly of any damage caused by the applicant in connection with its street work.

20. The City has made no representations or warranties as to the state of repair of the streets or the suitability of the streets for any business, activity or purpose whatsoever, and the applicant hereby agrees to take the streets on an "as is" basis for the purpose of the carrying out of the applicant's street work and the City is not responsible, either directly or indirectly, for any damage to property or injury to a person, including death, arising from the escape, discharge or release of any hazardous substance from its streets.

21. The applicant shall conform and shall be responsible for the conformance by its officers, employees, agents, contractors and invitees to all health and safety laws including any regulations requiring installation of safety devices or appliances, and any applicable traffic laws or regulations (collectively "safety rules"). If in the opinion of the City the likelihood of harm to persons or property appears imminent, the City may suspend street work performed by or on behalf of the applicant where there appears to be a lack of compliance with the safety rules, or because conditions of danger exist that

would likely result in injury to any person or property. Such suspension shall continue until the lack of compliance or danger is eliminated.

22. For the purpose of this provision, "hazardous substance" means any hazardous substance and includes, but is not limited to, radioactive substances, petroleum products and by-products, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, by-law or code, whether federal, provincial or municipal. The applicant agrees to assume all environmental liability relating to its work in, on, over, under, across, or along the streets, including but not limited to any liability for clean-up of any hazardous substance in, on, under, along, across and around streets that result from:

- (a) The operations of the applicant in, on, over, under, along, across or around the streets; or
- (b) Any products or goods brought in, on, over, under, along, across or around the streets by the applicant, or by any other person with the express or implied consent of the applicant.

23. The applicant shall in writing, prior to any permit being granted by the General Manager, indemnify and save harmless the City, its elected and appointed officials, officers, employees, directors and agents from and against all actions, claims, executions, demands, damages, liabilities, liens, costs, expenses direct or indirect (including reasonable legal fees and disbursements), and losses whatsoever incurred by the City, its elected and appointed officials, officers, employees, directors and agents in connection with the issuing of the permit, the conduct of the applicant's street work or the use of applicant's equipment, including claims in respect of property damage or personal injury, including death, and will pay to the City and to each such official, servant or agent on demand any loss, costs, damages and expenses, including legal fees and disbursements, that may be sustained, incurred or paid by the City or by any of its officers, servants and agents in consequence of any such action, claim, lien, execution or demand, including any monies paid or payable by the City or any of its officials, officers, servants or agents in settlement or discharge or on account thereof, provided that on default of such payment all loss, costs, damages and expenses and all such monies so paid or payable may be deducted from any security held by the City on account of the permit of the street work.

24. The City shall not be liable in any way for indirect or consequential losses or damages, or damages for pure economic loss, howsoever caused or contributed to, in connection with the applicant's street work.

25. The applicant shall, at their own expense and to the satisfaction of the General Manager, procure and carry, or cause to be procured and carried and paid for, full workers compensation coverage for itself and all workers, employees, and others engaged in or upon any street work.

26. The applicant shall deliver, when required by the General Manager, a performance bond or letter of credit in a form satisfactory to the Controller and in an amount which is satisfactory to the General Manager to ensure proper compliance with this Chapter.

27. The applicant shall at all times during the term of the permit and subsequent to the completion of the street work provide an accurate and timely in-house "locate" service or be a member of a "locate" service, in which case the applicant shall advise the General Manager of its membership in such a service. Should the applicant fail to comply with this provision, the City shall not be required to make any special effort to determine or confirm the location of the equipment. The applicant shall, at the request of the City or any third party, provide or cause to be provided accurate on-site locates within 14 consecutive days of receiving a request for such information.

28. The applicant shall respond within 14 consecutive days to any request from the City for a mark-up of municipal infrastructure design drawings showing the location of any portion of the equipment located in, on, under, over, across, or along the streets shown on the plans, and shall provide such accurate and detailed information as may be required by the General Manager.

29. The applicant will, at its sole cost and expense, maintain the equipment according to the drawings or subsequent "as built" drawings and in a state of good order, condition and repair, to the full satisfaction of the General Manager, acting reasonably.