

70 Lacey Avenue - Encroachment Appeal – Retaining Wall

Date: June 18, 2026

To: Etobicoke York Community Council

From: Acting Director, Street Permits, Transportation Services

Wards: Ward 5, York South-Weston

SUMMARY

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

The purpose of this report is for Etobicoke York Community Council to consider an appeal from the property owner of 70 Lacey Avenue regarding their encroachment application. The proposed encroachment consists of a reinforced concrete retaining wall that does not comply with City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of.

The property owner is seeking authorization from Etobicoke York Community Council to allow the construction and maintenance of the encroachment within the public right-of-way at 70 Lacey Avenue. Transportation Services recommends that authority be granted, subject to the conditions set out in this report.

RECOMMENDATIONS

The Acting Director, Street Permits, Transportation Services recommends that:

1. Etobicoke York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with the owner of 70 Lacey Avenue to permit the construction and maintenance of a reinforced concrete retaining wall varying from approximately 1.8 metres to 2.8 metres in height, with a footing varying from approximately 1.2 metres to 1.9 metres in depth and located with zero setback from the sidewalk, subject but not limited to, the following conditions:

- a. The property owner will indemnify the City of Toronto 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. The property owner will maintain the encroachment 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. The property owner will accept such additional or amended conditions as the City Solicitor, or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. The property owner will remove the encroachment upon receiving written notice from Transportation Services to do so;
- e. 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 encroachment;
- f. Transportation Services and/or utility companies may remove the encroachment at any time to install or maintain their assets within the affected public right of way with no obligation to reinstate them;
- g. No spikes or pointed tops are permitted on the encroachment;
- h. The encroachment agreement shall not permit or authorize any drainage works, including the installation of drainage pipes, weeping tiles, connections, conduits, or any other system designed to collect or direct water, other than the weeping tiles located below the soft landscaping identified on the approved encroachment plans. The property owner shall not connect, discharge, or permit the discharge of any water, runoff, or other effluent from the property or the encroachment to the City's stormwater or sanitary infrastructure, or onto any other portion of the public right-of-way. Notwithstanding the foregoing, to the extent that any weeping tiles or subsurface drainage elements form part of the encroachment beneath the soft landscaping, the property owner shall be solely responsible for ensuring the proper drainage, functioning, and ongoing performance of the encroachment, including all subsurface elements, and shall ensure that such drainage systems do not cause, contribute to, or allow erosion, undermining, settlement, or any other damage to the public right-of-way or other City infrastructure, and shall take all necessary measures to prevent adverse impacts to the public right-of-way, including adjacent sidewalks, boulevards, and subsurface utilities;
- i. The encroachment shall be constructed, installed, occupied, and maintained in a manner that ensures it does not:

1. create, cause, or allow any water, effluent, sediment, mud, debris, runoff, or other discharge or material to drain or deposit onto, accumulate on, or flow across the sidewalk, boulevard, roadway, or any portion of the public right-of-way, including in a manner that could result in pooling, icing, or any actual or potential nuisance or hazard; and
 2. extend beyond the limits identified in the approved encroachment plans, including but not limited to any heights, depths, or lateral limits identified in such plans;
- j. The property owner shall release, waive, and forever discharge the City of Toronto and its employees, officers, agents, and representatives from any and all claims for loss, damage, or injury, including property damage, personal injury, bodily injury, or death, arising out of or related to:
1. the City's inspection, maintenance, repair, clearing, salting, sanding, plowing, or other winter or non-winter maintenance activities performed within the public right-of-way, including the sidewalk adjacent to the encroachment, including any incidental impacts to the encroachment or the property; and
 2. any nuisance, hazardous condition, or other situation created, caused, or contributed to by the encroachment, including, without limitation, any drainage, runoff, icing, slipperiness, obstruction, or other condition of the public right-of-way, including the sidewalk adjacent to the encroachment, attributable to the encroachment.

FINANCIAL IMPACT

There are no financial implications beyond what has already been approved in the current year's budget.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was submitted by the owner of 70 Lacey Avenue seeking permission to construct a reinforced concrete retaining wall within the public right-of-way to replace an existing retaining wall that is currently in a state of disrepair. The proposed

retaining wall would vary in height from approximately 1.8 metres to 2.8 metres and would include footings varying in depth from approximately 1.2 metres to 1.9 metres. The wall would be located immediately adjacent to the sidewalk, with zero setback from the public sidewalk (the "encroachment").

The applicant was advised that the encroachment is not eligible for authorization through an encroachment agreement, as it does not comply with the requirements of the City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of ("Chapter 743"), including the applicable height and setback requirements. An appeal was subsequently submitted by the property owner.

Transportation Services reviewed the encroachment application for 70 Lacey Avenue and determined that the proposed encroachment does not comply with the provisions of Chapter 743, which are further detailed below:

- The proposed retaining wall would vary in height from approximately 1.8 to 2.8 metres and is located within 70 metres of the intersection of two streets. This does not comply with Chapter 743, Section 743-34A.(2)(a)[1], which states that, "No solid screen fence, privacy fence, railing, bollard, arbour, pergola, ornamental or retaining wall located within 70 metres of the intersection of any two or more streets shall exceed a height of one metre, with the height measured from the surface of the intersecting road."
- The proposed retaining wall would extend approximately 4.9 metres into the public right-of-way and provides zero setback from the sidewalk. This does not comply with Chapter 743 Section 743-31.E.(2), which provides that "Unless otherwise specified in this chapter, no encroachments other than soft landscaping are permitted... (2) Within 0.50 metres of the edge of sidewalk located closest to the street line."

In accordance with Section 743-48 of the Toronto Municipal Code, Transportation Services has prepared this report in response to the appeal to provide Toronto and East York Community Council with an opportunity to consider the matter and to provide the applicant with an opportunity to be heard.

Transportation Services has reviewed the application and is of the opinion that the proposed replacement retaining wall will not adversely impact pedestrian movement, vehicular traffic on the adjacent streets, or the City's ability to access and maintain the public right-of-way. Accordingly, Transportation Services recommends that Toronto and East York authorize the encroachment, subject to the conditions outlined in this report.

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

Drawings of the proposed encroachment and photos of the existing site conditions are provided in Attachments 1 and 2.

CONTACT

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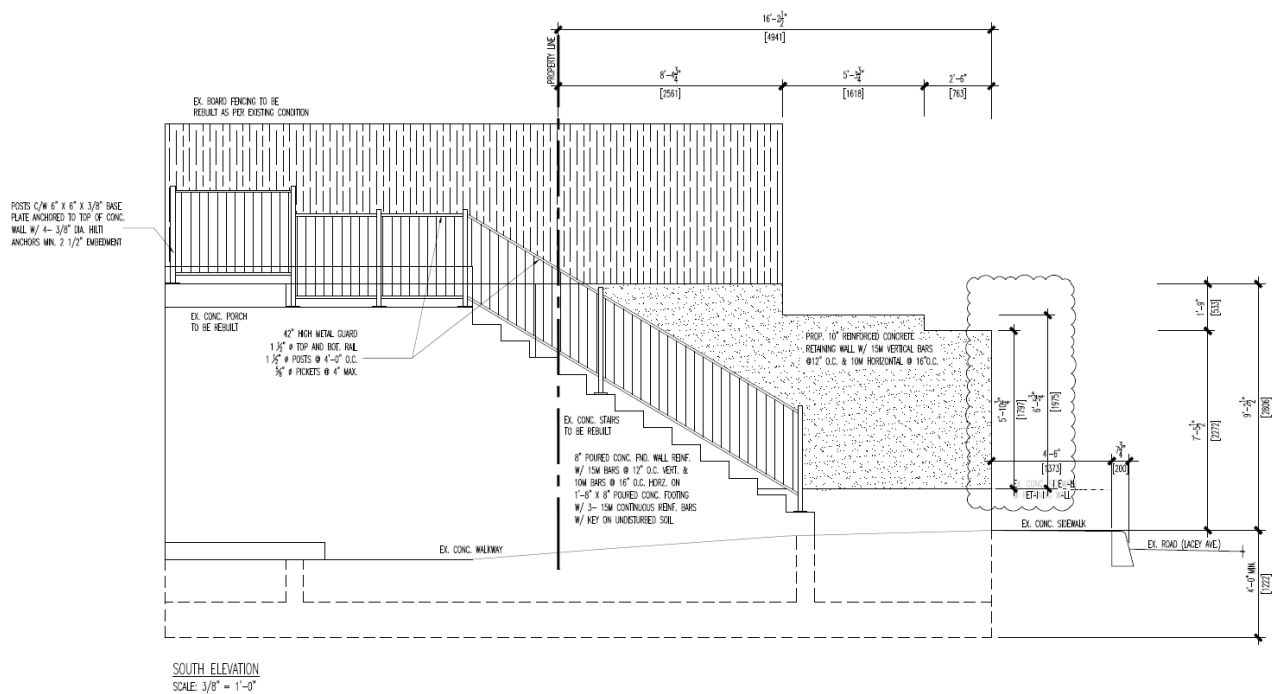
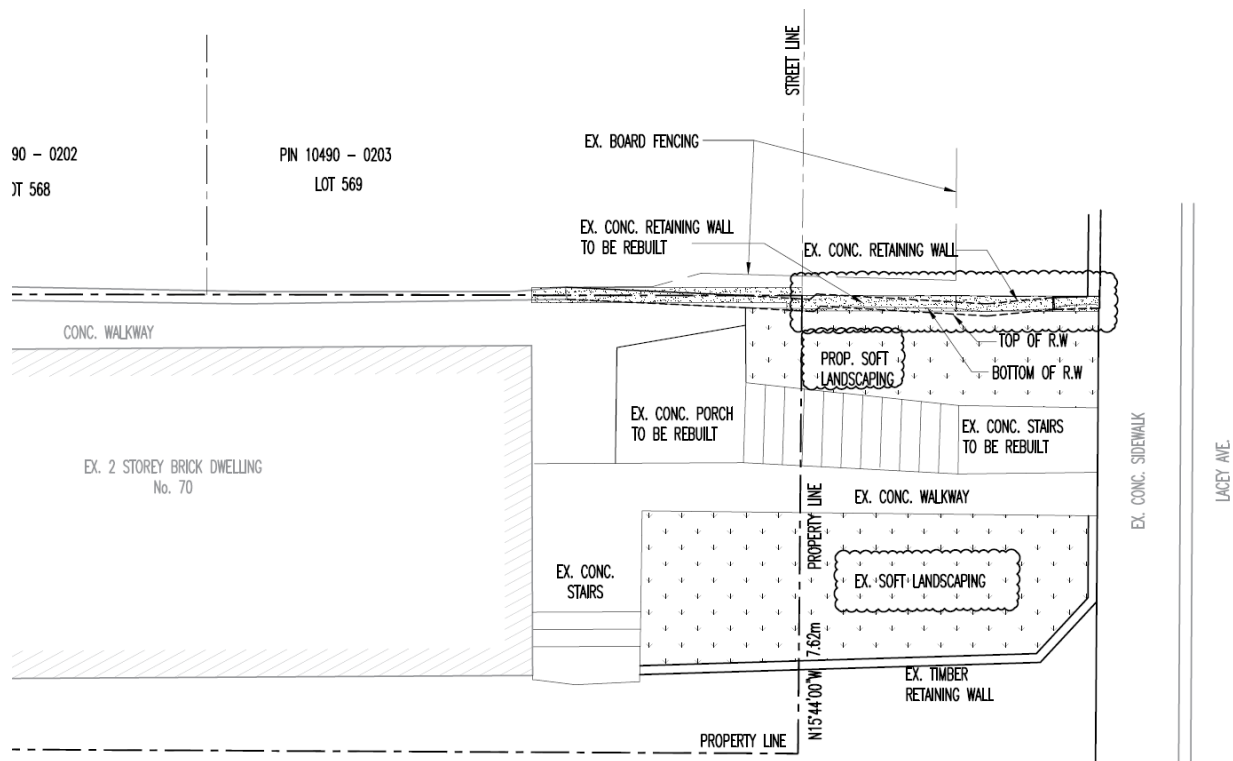
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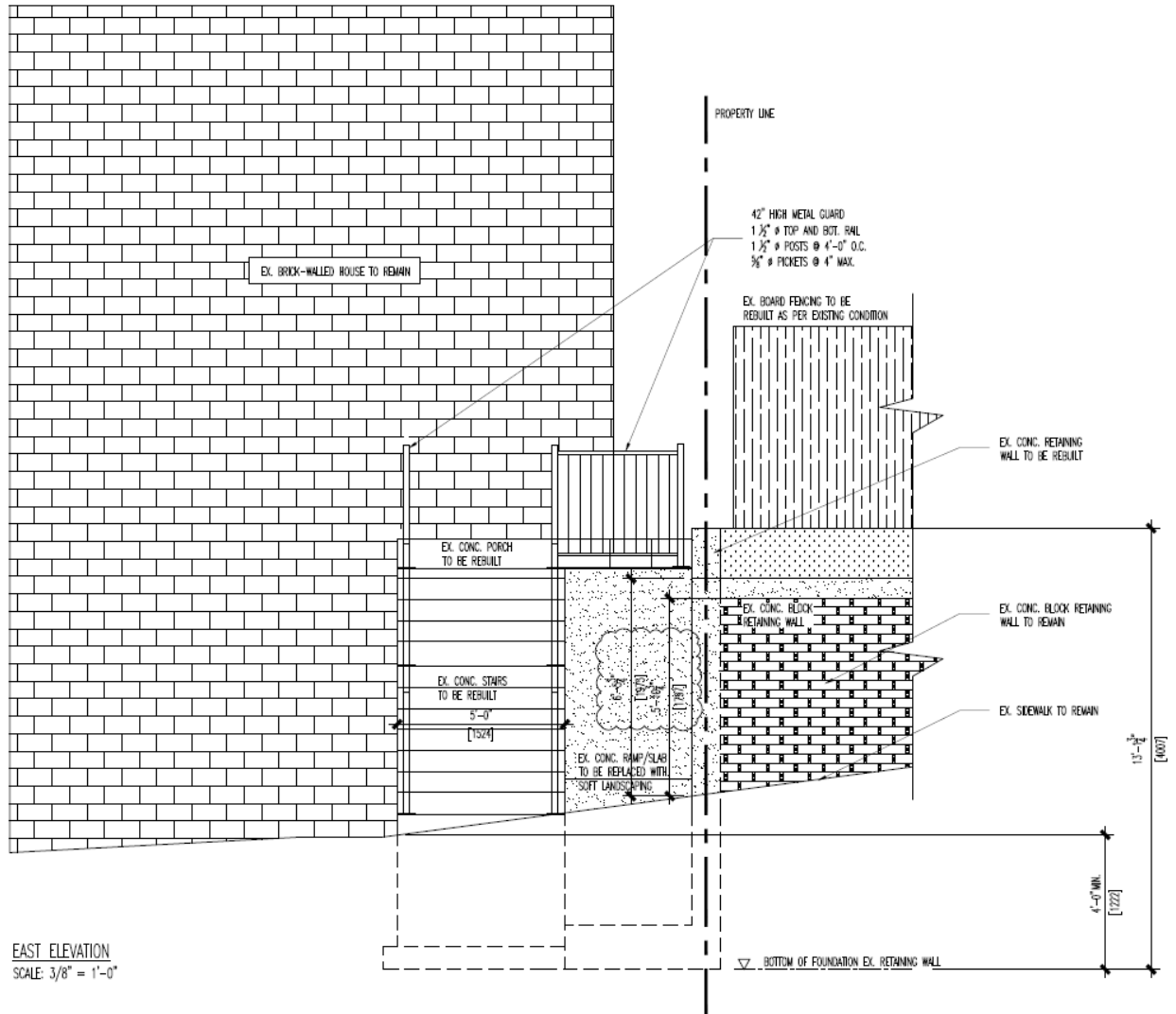
Nazzareno A. Capano, P.Eng.
Acting Director, Street Permits, Transportation Services

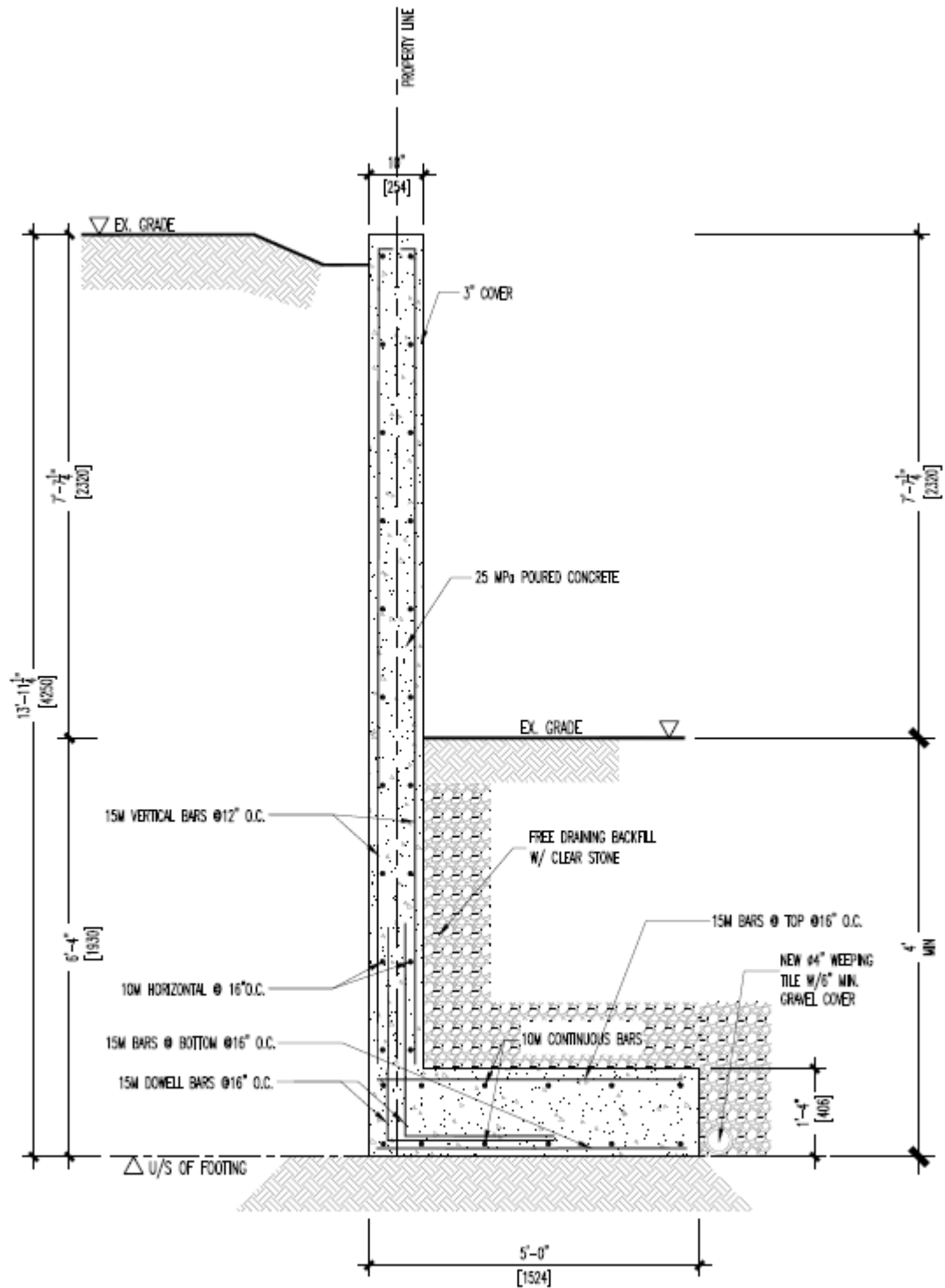
ATTACHMENTS

Attachment 1: Drawings – 70 Lacey Avenue
Attachment 2: Photos of Existing Condition – 70 Lacey Avenue

Attachment 1: Drawings – 70 Lacey Avenue







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S3.01 CONC. RETAINING WALL SECTION
SCALE: $1/2" = 1'-0"$

Attachment 2: Photos of Existing Condition – 70 Lacey Avenue



Looking west at 70 Lacey Avenue.



Looking North at 70 Lacey Avenue.