



City of Port Moody

Report/Recommendation to Council

Date: November 9, 2020
Submitted by: Engineering and Operations Department – Infrastructure Engineering Services
Division
Subject: 3229 St. Johns Street Sidewalk Canopy Encroachment Covenant

Purpose

To obtain approval to register a covenant for a sidewalk canopy encroachment between the City and the property owner of 3229 St. Johns Street.

Recommended Resolution(s)

THAT the encroachment covenant between the City of Port Moody and the property owner of 3229 St. Johns Street be registered on title as recommended in the report dated November 9, 2020 from the Engineering and Operations Department – Infrastructure Engineering Services Division regarding 3229 St. Johns Street Sidewalk Canopy Encroachment Covenant;

AND THAT the encroachment fees for the sidewalk canopy fronting 3229 St. Johns Street be waived.

Background

Through the development permit process for 3229 St. Johns Street, the developer is required to construct a canopy which provides weather protection for the public sidewalk along the St. Johns Street frontage and encroaches over the City road allowance. Under the City's encroachment policy, private infrastructure that encroaches onto public land requires an encroachment agreement and the owner pays the calculated fees based upon the area of encroachment.

As this sidewalk canopy was a requirement established through the development permit process, the operation and maintenance of the canopy can be tied to a covenant registered on title and the fees are recommended to be waived to reflect the public benefit associated with the necessary encroachment.

Discussion

The City's encroachment policy (Corporate Policy 06-2360-01) reflects the authority to administer and maintain public property while taking into consideration the present and future needs from an operational and land use perspective. This policy allows for private citizens and organizations to enter into an encroachment agreement that reflects the neighbouring land owners' desire to "encroach" upon the adjacent City land for personal benefit. The typical encroachment agreement includes a one-time administration fee and an annual fee based upon the land use and the area of encroachment. Fee exemption is considered for passive uses such as small retaining walls used to stabilize slopes.

Encroachment agreements are valid for up to 10 years and must be approved by City Council.

As the sidewalk canopy for 3229 St. Johns Street was required as a development condition, and will be assigned to a future private strata or property owner, an alternative to the encroachment agreement and related fees is proposed in the section below.

3229 St. Johns Street

Through the development permit process for 3229 St. Johns Street, the developer was required to construct a sidewalk canopy that provides weather protection for the public sidewalk along St. Johns Street frontage and will ultimately encroach onto the City road allowance as shown on the attached Canopy Encroachment Plan (**Attachment 1**).

Based on the City's encroachment policy, private infrastructure that encroaches onto or over public land requires an encroachment agreement and payment of the calculated fees based upon the area of encroachment. However, as the canopy was a requirement of development and provides a public benefit, the attached encroachment covenant (**Attachment 2**), modeled on the City's typical encroachment agreement, can be used to identify that the encroachment was authorized as part of the development and the property is responsible for the liability and maintenance of the structure. In addition, the encroachment fee can be waived as there is a benefit to the City to have the infrastructure encroach onto the City road allowance.

Additional benefits of the encroachment covenant over the encroachment agreement in this instance are as follows:

- The covenant will succeed through changes in property owners – in a development scenario, the developer often owns the commercial units and manages the units until an independent strata is formed. An agreement is only made with the owner and would require the City to negotiate a new agreement with the future strata.
- The covenant does not expire while agreements are limited to 10 years. This reduces ongoing tracking and administration of agreements and fees.

Staff are working on a future update to the encroachment policy to address encroachments authorized by Council through the development process as well as clarifications to the minor public encroachments that could be considered exempt from the policy.

Other Option(s)

THAT an encroachment agreement for the canopy fronting 3229 St. Johns Street including fees per City Policy be prepared for approval by Council as per the Encroachment Policy.

Financial Implications

There is a minor revenue loss for waiving the encroachment fee and annual charge; however, there is an overall benefit to the general public that is being provided and maintained at the cost of the private landowner.

Communications and Civic Engagement Initiatives

No public communications or engagement activities are planned as part of this initiative. The development at 3229 St. Johns Street has followed the City's rezoning and development permitting processes which include opportunities for public input.

Council Strategic Plan Objectives

Registration of this covenant would align with the Council Strategic Plan Objective of Planning for the Future, Healthy City and Community Evolution. The Agreement would allow for private use of the City's property while still allowing for City access when necessary and supports sustainable transportation modes (walking) and active living.

Attachment(s)

1. Canopy Encroachment Plan.
2. Encroachment Covenant.

Report Author

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Report Approval Details

Document Title:	3229 St. Johns Street Sidewalk Canopy Encroachment Covenant.docx
Attachments:	- Attachment 1 - Canopy Encroachment Plan.pdf - Attachment 2 - Encroachment Covenant.pdf
Final Approval Date:	Nov 16, 2020

This report and all of its attachments were approved and signed as outlined below:

Jeff Moi, General Manager of Engineering and Operations - Nov 9, 2020 - 4:39 PM

Dorothy Shermer, Corporate Officer - Nov 9, 2020 - 5:08 PM

Rosemary Lodge, Manager of Communications and Engagement - Nov 10, 2020 - 12:17 PM

Paul Rockwood, General Manager of Finance and Technology - Nov 12, 2020 - 4:43 PM

Tim Savoie, City Manager - Nov 16, 2020 - 10:29 AM