

MANAGEMENT REPORT

Date: October 15, 2024
To: Mayor and Council
From: Tatiana Dafoe, City Clerk
Report Number: COU24-120
Attachments: Draft Plan of 639, 649 and 663 Ontario Street

Title: Encroachment Application for 639, 649 and 663 Ontario Street

Objective: To consider a request to enter into an Encroachment Agreement with the owner of 639, 649 and 663 Ontario Street.

Background: The purpose of this report is to consider:

1. Entering into an encroachment agreement to permit the following to encroach onto the Ontario Street road allowance:
 - a. the existing wood porch and associated steps at 639 Ontario Street (Lot 49);
 - b. concrete walkways, sidewalk (ramped), sign, garden with a brick retaining wall and gardens at 649 Ontario Street (Lots 50, 51, 52);
 - c. enclosed porch and steps located at 663 Ontario Street (Lot 53);

This encroachment application was submitted as part of a condition for Consent Application B04-23 which was approved on December 18, 2023. The purpose of the application was to sever 639 Ontario Street from 649-663 Ontario Street after the parcels had merged on title. As a condition of approval, a road widening was requested by the City's Engineering Division along Ontario Street. As a result of the road widening, existing structures are now located on City property, thus requiring this encroachment agreement application.

An encroachment agreement is a formal agreement signed between the City and a property owner, approved by by-law and registered on title against the property that is benefited by the agreement (not the municipal property). The intent of the encroachment agreement is to formally recognize the encroachment and clearly

establish the terms and conditions specific to the encroachment if it is permitted to remain.

The City adopted an Encroachment Policy P.3.2 (the Policy) which states:

"It is the policy of the City of Stratford that there shall be no unauthorized encroachments onto road allowances or municipal property, including park property. A property owner shall seek prior permission from the City to encroach onto a road allowance or municipal property and subject to Council approval, enter into an encroachment agreement with the City and pay the required fees.

Where an encroachment exists without City approval, the owner shall be required to remove the encroachment at their own expense or seek permission from the City for the encroachment to remain.

No new encroachments onto park property will be permitted."

The Policy further states:

"7. When Encroachments will not be granted

It is the policy of the City of Stratford that approval for the following will not be granted:

- new encroachments onto park property;
- additions to existing buildings or other structures that would encroach or do encroach onto municipal property or road allowances;
- the encroachment poses a danger to the public;
- when construction has commenced prior to the issuance of a required permit from the City."

Analysis: In accordance with the Policy, the encroachment application was submitted for review to the following divisions: Planning, Engineering, and Building. The department comments are summarized below.

Planning Services advised that they have no concerns with this application.

Building Services advised that 639 Ontario Street has an outstanding property standards order against it. An item within the order is in relation to the front porch and steps. Staff have advised the repairs should be completed, and the property standards order closed by the By-law Division prior to the completion of the encroachment agreement.

The Engineering Division provided the following comments:

- recommend the removal of the retaining wall garden where a mature tree was removed at 649 Ontario Street, encroaching within the City right-of-way along the frontage of the property as this will allow for the sidewalk to be straightened when future work occurs;
- recommend the removal of the concrete sidewalk and step off the City sidewalk at 649 Ontario Street and utilize the existing sidewalk (ramp) access along the building frontage; and
- as per Section 3 of Policy P.3.2 an encroachment agreement is not required for the garden along the front of the commercial building as it falls within the road allowance.

The Engineering Division supports entering into an encroachment agreement for the following items:

- wood porch and steps located at 639 Ontario Street (Lot 49);
- sidewalk (ramped) and sign located at 649 Ontario Street (Lot 50/51/52); and
- enclosed porch and steps located at 663 Ontario Street (Lot 53).

Financial Implications:

The annual fee will be adjusted yearly by the CPI and would be added to the property tax bill for this property for the encroachment agreement. The annual fee is based on the size of the encroachment and is calculated by taking the current property tax times the size of the encroachment (area) divided by the total area of the owned property.

Financial impact to current year operating budget:

If the encroachment agreement is approved as recommended, the annual fee of \$133.56, adjusted yearly by the CPI, would be added to the property tax bill for this property for the encroachment agreement. The annual fee is based on the size of the encroachment and is calculated by taking the current property tax times the size of the encroachment (area) divided by the total area of the owned property.

Financial impact on future year operating budget:

If approved as recommended, the annual fee of \$133.56, adjusted yearly by the CPI, would be added to the property tax bill annually until the agreement is terminated or the encroachment is removed.

Alignment with Strategic Priorities:

Not applicable: The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will

exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

Alignment with One Planet Principles:

Not applicable: The encroachment policy is a service offered by the City to permit existing building or structures to encroach onto municipal property. The City will exercise its right to require an encroachment agreement if the City intends to allow the encroachment to remain under certain terms and conditions.

Staff Recommendation: THAT the encroachment application for 639, 649 and 663 Ontario Street to permit the following:

- wood porch and steps located at 639 Ontario Street (Lot 49);
- sidewalk (ramped) and sign located at 649 Ontario Street (Lot 50/51/52); and
- enclosed porch and steps located at 663 Ontario Street (Lot 53)

to encroach onto the Ontario Street road allowance for a total encroachment area of 44.04m², be approved;

THAT the retaining wall garden where a mature tree was removed at 649 Ontario Street be removed at the sole cost of the owner;

THAT the concrete sidewalk and step off the City sidewalk at 649 Ontario Street be removed at the sole cost of the owner;

THAT the annual fee of \$133.56 adjusted yearly by the CPI, be added to the property tax bill for 639, 649, and 663 Ontario Street;

AND THAT the City Clerk be directed to prepare a by-law authorizing the encroachment at 639, 649, and 663 Ontario Street.

Prepared by: Tatiana Dafoe, City Clerk

Recommended by: Karmen Krueger, CPA, CA, Director of Corporate Services
Joan Thomson, Chief Administrative Officer