



Council Update Report

For the Meeting of June 8, 2017

To: Council

Date: May 26, 2017

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Land Use Procedures Bylaw Update

RECOMMENDATION

That Council give 1st and 2nd readings for the attached Land Use Procedures Bylaw which include proposed amendments that would enable staff to approve:

1. Encroachment agreements for awnings, canopies and decorative features that are attached to a building but hang over a City property where the proposal is consistent with an approvable delegated Development Permit.
2. Underpinning encroachment agreements associated with the construction of a building where the construction has been approved by Council.

EXECUTIVE SUMMARY

The purpose of this report is to inform Council that, in accordance with Council's motion of May 25, 2017, the necessary Land Use Procedures Bylaw Amendments as described in the May 18, 2017 Committee of the Whole Report, have been prepared (bylaw attached).

In addition, staff recommend for Council's consideration further changes to the Land Use Procedures Bylaw to address potential liability issues associated with encroachments on City land. The proposed changes would enable the appropriate City staff member to approve agreements for two types of encroachments:

1. The first type of encroachment would be for decorative features that are attached to a building but hang over City property where the proposal is consistent with an approvable delegated Development Permit. This could be for elements such as, awnings, canopies and architectural features. It would not include any type of indoor or outdoor living space such as bay windows or balconies. The delegation would be to:
 - a. the Director of Parks, Recreation and Facilities for encroachments of a City park
 - b. the Director of Engineering and Public Works for encroachments of a City street; and,
 - c. the Head of Strategic Real Estate for encroachments of any other City property.

2. The second type would be for underpinning encroachment agreements where they facilitate the construction of a building that otherwise has been approved by Council. Approval of these encroachments would be delegated to the Director of Engineering.

This delegation would enable staff to complete encroachment agreements in these specific circumstances without obtaining Council approval. It would not give staff more authority over approving delegated Development Permits, but could help streamline processes while ensuring liability issues are addressed.

The fee for an underpinning encroachment agreement pursuant to this delegation will be \$750, plus \$25 per square metre of area of the proposed excavation face that will be supported by anchor rods and abuts a City street. There will not be any fee for the decorative features encroachment agreement, as the City's position based on the contents of the Official Community Plan is to encourage developers to provide awnings, canopies, etc., as these features provide weather protection and an improved public realm.

These are private encroachment agreements that would not be registered in the Land Title Office; therefore, they do not run with the land to bind future owners. Instead, we have contractually required in the template encroachment agreements, to be appended to the Land Use Procedures Bylaw that in the event of an ownership change the property owner must assign the encroachment agreement to the new owner. The previous owner remains bound by the encroachment agreement if they fail to assign the agreement to the new owner; however, this does not ensure that the encroachment agreement will bind future owners to the same extent that registration in the Land Title Office would.


Staff explored the option of requiring that these agreements be registered in the Land Title Office; however, this would result in a \$3000-\$5000 cost increase for the applicant for processing these types of delegated approvals, as well as, an additional four to six weeks of processing time for the City. These impacts would largely defeat the purpose of the delegated permit system which is aimed at streamlining processes. It also presents a barrier to introducing items such as canopies and decorative features which ultimately improve the public realm, are identified as desirable in the Official Community Plan and numerous other City policies, yet already come at significant expense to applicants. These factors, combined with the fact that the proposed changes, although not perfect, represent a vast improvement in terms of formalizing these types of building features that overhang City land.

If Council would prefer to not delegate authority to staff to handle these two types of encroachment agreements, the proposed bylaw could be amended by striking out the sections related to this issue and Schedules 1, 4 and 5.

ALTERNATE MOTION

That Council strike out the sections related to this issue and Schedules 1, 4 and 5, and provide 1st and 2nd readings of the attached Land Use Procedures Bylaw as amended.

Respectfully submitted,



Rob Bateman
Senior Process Planner
Development Services Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

June 5, 2017

List of Attachments:

- Proposed Land Use Procedures Bylaw (No. 17-054)