



Staff Report to Council

DATE: Tuesday, May 21, 2024

DEPARTMENT: Land Development

APPLICATION NO.: DP22-0041

SUBJECT: Encroachment Easement at 1361 Goldstream Avenue

EXECUTIVE SUMMARY:

An encroachment easement has been requested by Keycorp to allow for a section of fence and control panel to be located within the road right of way at 1361 Goldstream Avenue.

BACKGROUND:

A 59-unit Apartment Building has recently been constructed at 1361 Goldstream Avenue, with an additional 65-unit Apartment Building nearing completion at 1371 Goldstream. These two sites share an access to Goldstream along the frontage of 1361 Goldstream Avenue. A motorized security gate was installed at the entrance to the properties. When the Langford Fire Department inspected the gate, it was determined the configuration did not allow the Ladder Truck to access the site. The developer relocated fence and control panel and the Fire Department confirmed that access is now satisfactory. The location of the control panel and a portion of supporting fence was found to be within the Goldstream Avenue Road Right of Way.

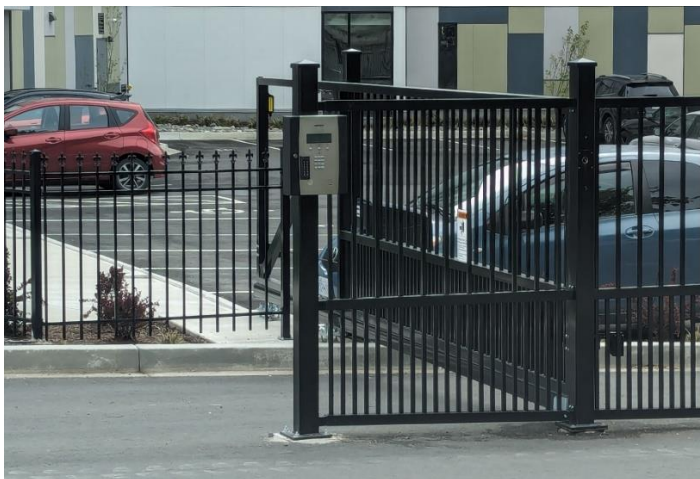


Figure 1- Entry Gate and Control Panel

COMMENTARY:

Although this encroachment is small, and this portion of Goldstream Avenue only serves the subject property, all encroachments should be protected by an encroachment easement to establish the ownership and maintenance obligations for the private works on public property, limit the City's liability, and ensure the City is insured against any loss. The public will not be impacted by the encroachment.

FINANCIAL IMPLICATIONS:

All costs associated with the registration of the encroachment easement will be the responsibility of the applicant. A fee of \$2,500 for preparing the encroachment agreement was received on 2024-04-25.

According to Policy POL-0152-PLAN, the City must be compensated for the portion of road reserved for exclusive use. The unit cost of the land is based on the 2024 assessment value of \$2,000,000 divided by the area of Lot A EPP123382 (4540m²) which is \$440.53/m². The encroachment area is 1.8m², as shown on **Attachment 1 – the Sketch Plan**, so the developer must provide **\$792.95**.

Council may choose to accept the compensation to be included as a portion of the \$2,500 application fee in consideration of the fact that 25% of the dwellings in these buildings are to be sold within the City's Attainable Home Ownership Program.

LEGAL IMPLICATIONS:

An easement over municipal highway is permitted by s.35(11) of the *Community Charter* and s.99(1)(e) of the *Land Title Act*. Public Notification according to s.26 of the *Community Charter* has been issued. A survey plan of the encroachment area must be provided, and the encroachment easement be registered on the subject property. As this is road right of way without a title, the easement is registered as a notification on the benefitting property.

As required by the *Community Charter*, ads notifying the public of the disposition have been placed in the Goldstream Gazette.

The easement will run with the land and endure in perpetuity; however, the City can cancel the easement if the Grantee fails to comply with their obligations or the encroachment is no longer needed.

OPTIONS:

Option 1

THAT Council direct staff to enter into an Encroachment Agreement by way of an Easement with the Owners of EPS9365 for the encroachment of a fence and control panel within the Goldstream Avenue Road Dedication, which may be cancelled by the City in the event the Grantee does not comply with the

maintenance, insurance and indemnity provisions of the easement, and authorize the Mayor and CAO or Corporate Officer to execute all necessary documentation.

OR Option 2

THAT Council direct staff not to enter into an Encroachment Agreement by way of an Easement with the Owners of EPS9365 for the encroachment of a fence and control panel within the Goldstream Avenue Road Dedication.

SUBMITTED BY: James Oliver, Senior Land Development Technologist, D. Approving Officer

Concurrence: Matthew Baldwin, RPP, MCIP, Director of Development Services

Concurrence: Donna Petrie, Senior Manager of Communications & Economic Development

Concurrence: Yari Nielsen, Director of Parks, Recreation and Facilities

Concurrence: Matthew Baldwin, RPP, MCIP, Director of Development Services

Concurrence: Leah Stohmann, RPP, MCIP, Director of Community Planning and Climate Change

Concurrence: Katelyn Balzer, P.Eng., Director of Engineering and Public Works

Concurrence: Michael Dillabaugh, CPA, CA, Director of Finance

Concurrence: Marie Watmough, Deputy Director of Corporate Services

Concurrence: Braden Hutchins, Director of Corporate Services

Concurrence: Darren Kiedyk, Chief Administrative Officer

Attachment 1: Sketch Plan