



Staff Report to Council

DATE: Monday, November 20, 2023

DEPARTMENT: Engineering

SUBJECT: Request for Construction Licence – Application for Lane Closure at 2826 Jacklin Rd.

EXECUTIVE SUMMARY:

In advance of a Construction Impact Management Strategy and 'Good Neighbour' Policy, both identified as initiatives in the Draft 2023-2027 Council Strategic Plan, and the potential bylaw amendments (similar to other municipalities in the Greater Victoria Area for street occupancy permits) that may result from that engagement process, staff have been requiring developers to submit a request for a construction licence to occupy the road right-of-way. Staff are proposing scaled daily fee rates of:

- \$0.85 per square metre per day to occupy existing public sidewalks or parking stalls; and
- \$1.15 per square metre per day to occupy existing public bike lanes or vehicular lanes.

This proposal is being brought forward by staff as a result of a request for a construction license for a significant temporary above ground encroachment in the road right-of-way fronting the development at 2826 Jacklin Rd., where there is no other option for an adjacent laydown and delivery area, but undoubtedly will result in impacts to traffic on a major road for approximately 20 months. If Council approves this licence agreement, as proposed as an interim measure, this may set a precedent for future licence agreements and potential bylaw amendments for street occupancy to be brought forward to Council.

BACKGROUND:

The application to rezone 2822, 2824, and 2828 Jacklin Road from the One- and Two-Family Residential (R2) Zone to the City Centre Pedestrian (CCP) Zone to allow for the development of a 12-storey mixed use build under Application No. Z21-0036 and Bylaw No. 2032 was adopted by Council on July 18th, 2022. The building permit was issued on September 26th, 2023 and onsite construction works have commenced.

Lubec Construction has submitted a formal request for a construction licence (application for lane closure at 2826 Jacklin Rd) to facilitate the construction of a multi-family residential tower with two levels of below grade parkade for the estimated construction duration of November 20, 2023, to August 1, 2025; see attached letter dated November 6, 2023. Lubec Construction also submitted the proposed scope of surface encroachment and traffic management plan (TMP) which addressed all of staff's preliminary comments; see attached Encroachment Plan dated June 20, 2023, with Appendix A – TMP 1

Rev 2. The developer has stated that this building is being funded through the Canadian Mortgage & Housing Corporation (CMHC) program, will have affordable units, and that time is of the essence.

COMMENTARY:

The residents and businesses of Langford have expressed, in general, that they are experiencing construction fatigue. There is a need to balance the negative impact that multi-year high-density infill construction has on their neighbours with the benefit of additional housing units being built. In advance of a Construction Impact Management Strategy and ‘Good Neighbour’ Policy, identified as initiatives in the Draft 2023-2027 Council Strategic Plan to address these ongoing impacts, staff are requiring developers to submit a request for construction licence to occupy the road right-of-way.

Construction License to Occupy on Jacklin Road

Jacklin Rd is classified as a Major Road in Langford. Traffic demand on a Major Road is typically between 5000 and 30000 vehicles per day. The road cross-section at 2826 Jacklin Rd. consists of three vehicular driving lanes (two single lanes with a two-way centre left turn lane) with two unprotected bike lanes and two sidewalks with boulevard and street trees. The developer is prioritizing sidewalk connectivity around the licence area in an accessible way with temporary barrier-free ramps and concrete barriers on the roadway for protection; see Figure 1. Therefore, approval of the construction license will result in the equivalent loss of both bike lanes and the two-way centre left turn lane for 20 months.

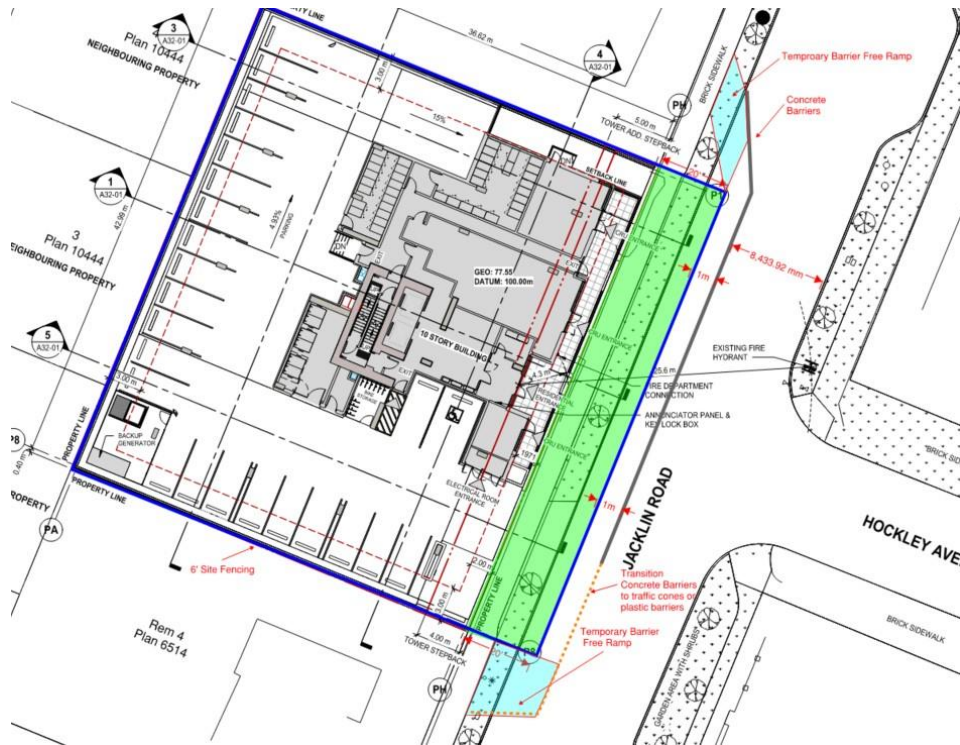


Figure 1: 2826 Jacklin Road Proposed Licence Area

It is unknown what level of impact the loss of the two-way centre left turn lane will have on the broader transportation network without a Traffic Impact Assessment (TIA). When exiting Hockley Ave onto Jacklin Rd, there is a stop sign and vehicles must wait for a break in traffic. Currently, the centre turn lane on Jacklin Rd helps with left turns off Hockley Ave onto Jacklin Rd because vehicles can turn into this middle lane even if there are vehicles southbound on Jacklin. As is currently proposed, the residents and businesses that enter and exit from Hockley Ave will still be allowed all turning movement onto Jacklin Rd because currently the Jacobson Rd connection (at the east end of Hockley Ave) is one-way westbound with “do not enter” signage on the Hockley Ave side.

Council may wish to require the developer to provide a TIA from a third-party professional or Council could approve the license agreement and the area would be monitored for traffic impacts. If there are reports of major delays at peak hour on Hockley Road (no opportunities to exit), staff would require an amendment to the TMP with options from a professional to adequately address the delays. Some options, for example restricting turning movements on Hockley Ave or reversing traffic flow on Jacobson Rd, would require engagement with the residents and businesses affected.

As is currently proposed, both bike lanes on Jacklin Road would end at the lane closure and cyclists will be directed to “take the lane” with the C-184 sign shown on the TMP and depicted in Figure 2. Although this is a standard approved construction sign in British Columbia, it is recognized that vulnerable users of all ages and abilities may not feel comfortable or confident enough to merge in with vehicular traffic on a Major Road. Council may wish to require that a cycling detour be established as part of the TMP for vulnerable users. Determining the best route would require consultation with a professional but staff can confirm that there are opportunities on parallel local streets for detour and that cyclists could still take the lane, if they so choose.



Figure 2: C-184 Sign

As stated above by the developer, time is of the essence because of the current stage this development and the funding source being CMHC. The reason why the development cannot proceed without this construction licence is because of the construction methodology assumptions and decisions made by the developer. For clarity, construction methodology is the responsibility of the developer. The City is not obligated to accommodate this request if Council determines that the impact to the community would be too great, regardless of the approvals or permits to date, the current stage of development, or the assumptions made by the developer based on a long-standing understanding of street occupancy for developments in Langford. Council has the opportunity at any time to set the standard going forward.

Charging for a Construction License to Occupy

When staff initially proposed a monthly fee of 5% of the adjacent property value per square metre per month for the construction licence, this developer attempted to rent space on the adjacent properties from another developer. In many cases, the financial deterrent has resulted in developers making other arrangements; thus, achieving the benefit of the housing being built without the impact to the public road right-of-way. In this case, the developer was unable to arrange alternative space. Once the City was

aware the developer was unable to achieve alternate arrangements and that the initially proposed fee was relatively high, staff began researching what the fees are in other municipalities, for comparison/confirmation.

Currently, Langford does have a Highway Use Bylaw No. 33 and permit process but typically only charges the minimum \$35 application fee. It is standard practice in other municipalities to charge a daily rate per square metre for occupancy of public road right-of-way for private functions, including but not limited to for construction laydown, parking, and delivery areas. This charge encourages efficient use of the occupied area for the minimum amount of time required to complete the works. Also, charging a fee for the private use of the public road right-of-way encourages alternative/innovative construction methods and consideration for purchasing/renting adjacent private property for these purposes in the early stages of developing costing/proforma, all which would be more preferable to the City and the public than the loss of use of an existing public sidewalk, bike lane, parking stall, or vehicle lane.

In other municipalities, charging a daily rate per square metre is typically done through a street occupancy permit. Saanich charges \$0.50 per square metre per day. View Royal charges \$0.75 per square metre per day. Victoria charges based on a sliding scale of impact type, from \$0.77 per square metre per day for sidewalks, to \$1.92 per square metre per day for vehicle and bike lane closures. In addition to the daily rate there is typically a base fee for the application and additional requirements, including but not limited to: traffic management plan (TMP), insurance, damage deposits, bonding for removal/reinstatement, etc.

Given that developing a street occupancy permit would require bylaw amendments, the only mechanism to begin charging for street occupancy in Langford in the short-term would be through a construction licence. Langford typically charges an administrative fee of \$2500 for a construction licence. Any conditions, requirements, fees, bonding, insurance, etc. proposed in the construction licence would be in addition to any other currently applicable bylaw or permit requirements, including but not limited to Bylaw No. 33. Please, see attached the draft licence agreement CON23-0162 for Council consideration.

Staff are proposing at a minimum the following fees for all future construction licences, as an interim measure for street occupancy, until the resultant recommendations for bylaw amendments from a Construction Impact Management Strategy and 'Good Neighbour' Policy engagement are adopted:

- A one-time licence administration fee in the amount of \$2,500;
- \$0.85 per square metre per day to occupy existing public sidewalks or parking stalls; and
- \$1.15 per square metre per day to occupy existing public bike lanes or vehicular lanes.

This is essentially a daily rental fee, which better aligns with the *Community Charter* for the exclusive private use of public lands, as long as it is applied fairly to all.

In this case, the daily fee is calculated as follow:

- The requested licence area is $6.1\text{m} \times 43.0\text{m} = 262.3\text{m}^2$;
- The result is an equivalent loss of two bike lanes and one vehicular lane;

- Therefore, the daily rate is \$1.15/m²;
- Therefore, the daily fee is 262.3m² X \$1.15/m² = \$301.65/day.

As a current comparison against other municipalities, over the duration of the proposed licence period of November 21st, 2023, to August 1st, 2025 which is 619 days, multiplied by the daily fee for this licence area, the total would be:

- \$81,181.85 in Saanich,
- \$121,772.78 in View Royal,
- \$249,790.31 in Victoria, and
- \$186,721.35 (proposed) in Langford.

Staff are proposing not charging for temporary occupancy of airspace or frontages with no existing formalized parking stalls, bike lanes, or sidewalks.

FINANCIAL IMPLICATIONS:

All fees collected would be revenue that may be used for neighbourhood improvements to counteract the temporary loss of use of the public infrastructure or as otherwise approved by Council through the 5-year financial plan budget process.

LEGAL IMPLICATIONS:

A licence agreement, approved by Council, with fair consideration, is necessary for the development to proceed. That said, Council is not obligated to approve the license agreement.

OPTIONS:

Option 1

THAT Council authorize the Mayor and CAO to execute licence agreement CON23-0162.

OR Option 2

THAT Council authorize the Mayor and CAO to execute licence agreement CON23-0162 with the following amendments:

- a. _____;
- b. _____;
- c. _____.

OR Option 3

THAT Council defer consideration for street occupancy in front of 2826 Jacklin Road until the following information is received and accepted by staff, with the licence agreement amended accordingly and brought back to Council:

- a. _____;
- b. _____;

c. _____.

OR Option 4

THAT Council does not allow street occupancy in front of 2826 Jacklin Road.

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

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

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

Concurrence: Matthew Baldwin, MCIP, RPP, Director of Planning and Subdivision

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

- Attachments:
1. Request for Lane Closure – 2826 Jacklin Rd. dated November 6, 2023
 2. Surface Encroachment Plan – 2826 Jacklin Rd. dated June 20, 2023, with traffic management plan in Appendix A – TMP 1 Rev 2
 3. DRAFT CON23-0162 Licence Agreement