

Municipality Of Chatham-Kent
Infrastructure and Engineering Services
Public Works

To: Mayor and Members of Council

From: Ryan Brown, P.Eng,
Director of Public Works

Date: November 19, 2020

Subject: Encroachment Agreement – Dufferin Avenue at Bluewater Line,
Wallaceburg

Recommendations

It is recommended that:

1. The General Manager of Infrastructure and Engineering Services be authorized to enter into an encroachment agreement, to be drafted and approved by the Director of Legal Services, for construction of a concrete base and placement of a checkpoint structure on municipal property being PIN 00585-0002, municipally known as the intersection of Dufferin Avenue and Bluewater Line in Wallaceburg.
2. The attached by-law confirming the encroachment (Appendix “B”), be approved.

Background

Administration has received a request from Walpole Island First Nation to enter into an encroachment agreement for the purpose of constructing a concrete base and placement of a checkpoint structure at the intersection of Dufferin Avenue and Bluewater Line in Wallaceburg. This request was received several weeks ago to mitigate concerns with traffic control into Walpole Island First Nation during the Covid-19 pandemic, and Administration and the proponent have been working on the details of the design and conditions of the agreement since.

The encroachment will extend over the shoulder of Dufferin Avenue approximately 10 feet by 10 feet for a foundation of a small structure to protect employees from the elements. The structure will be only present during times traffic is being controlled into Walpole Island First Nation. If the structure is present, traffic control will be in place to ensure the safety of the public.

Comments

Initially after reviewing the encroachment described in Appendix “A” (attached), there were concerns from Administration related to the potential for issues accessing the area

for maintenance activities such as shoulder grading and snow plowing. However, after negotiations with representatives for the Walpole Island First Nation, the following conditions have been agreed upon:

- Structure is movable for future maintenance activities
- Base for the structure will be safe for the public if the structure is not present
- Traffic control and proper signage will be in place if structure is in place
- Should the Municipality require the lands for future municipal purposes, the encroachment will be removed.

Areas of Strategic Focus and Critical Success Factors

The recommendations in this report support the following areas of strategic focus:

Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendations in this report support the following critical success factors:

Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

Has the potential to support all areas of strategic focus & critical success factors

Neutral issues (does not support negatively or positively)

Consultation

Legal Services has reviewed the encroachment by-law and found it acceptable. Legal Services has drafted and negotiated an encroachment agreement to be entered into between the Municipality and Walpole Island First Nation upon Council approval of this encroachment.

Financial Implications

There are no financial implications resulting from the recommendations.

Prepared by:

Ryan Brown, P.Eng.
Director, Public Works

Reviewed by:

Thomas Kelly, P.Eng, MBA
General Manager
Infrastructure and Engineering Services

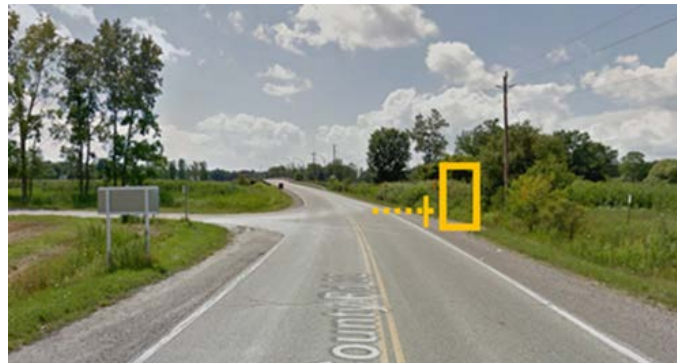
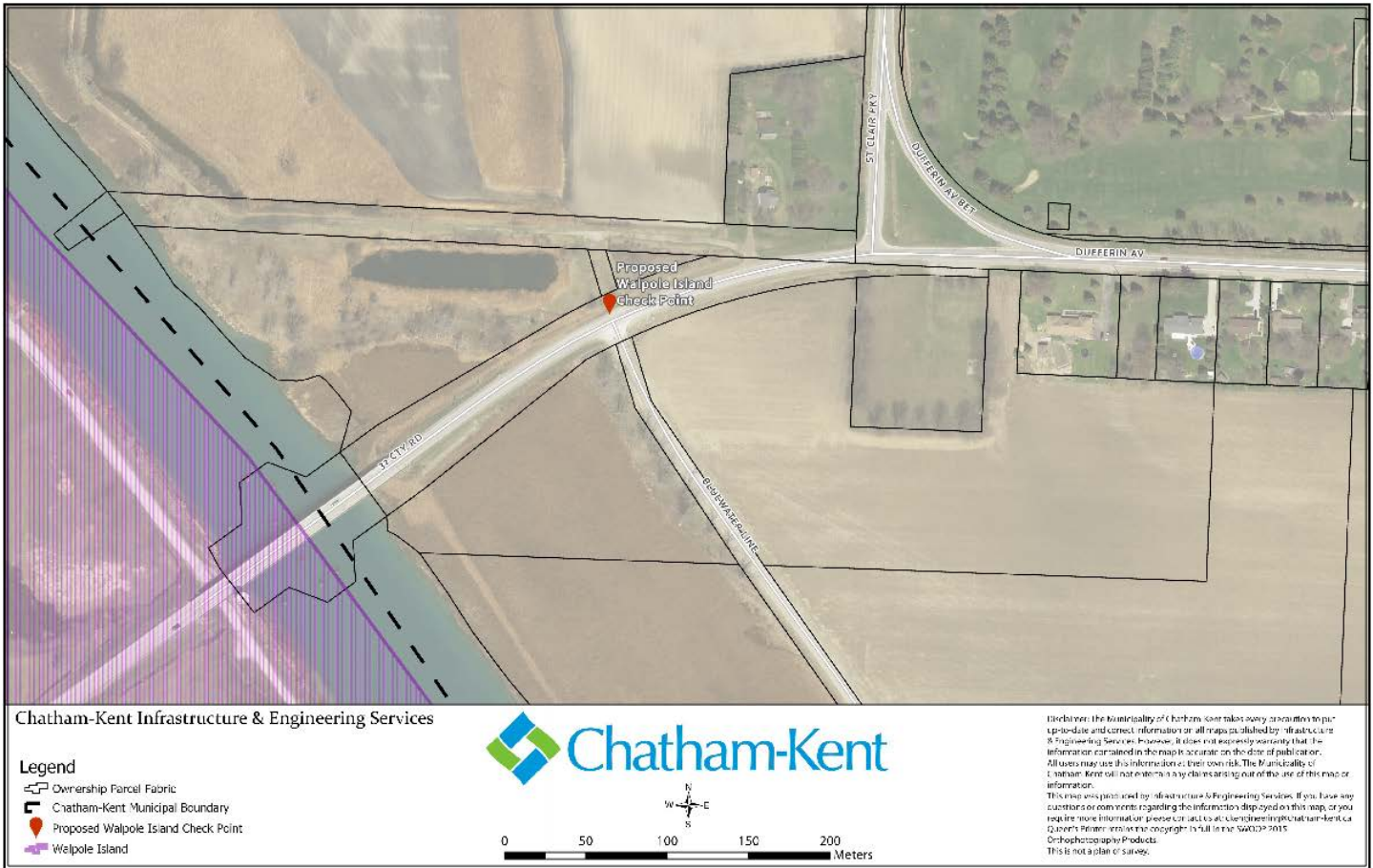
Consulted and confirmed the content of the consultation section of the report by:

David Taylor
Director, Legal Services

Attachments: Appendix A – Proposed Drawings
Appendix B – Draft By-law

c Director, Legal Services

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Dufferin Avenue At Bluewater Line Wallaceburg.Docx



BY-LAW NUMBER _____

OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A by-law to permit the encroachment of a concrete base and checkpoint structure to be placed on part of PIN 00585-0002 in Wallaceburg, Ontario.

FINALLY PASSED THE ____ day of _____, 2020.

WHEREAS the Municipality is the registered owner of PIN 00585-0002 in Wallaceburg, forming part of Dufferin Avenue, Wallaceburg.

AND WHEREAS Walpole Island First Nation (the "Owner") wishes to install a checkpoint structure and concrete base on the part of PIN 00585-0002 depicted in Schedule "B" attached hereto (the "Boulevard") which will form what is hereinafter referred to as the "Encroachment".

AND WHEREAS the Owner has applied for permission to install and maintain the Encroachment.

BE IT THEREFORE ENACTED by the Council of the Corporation of the Municipality of Chatham-Kent as follows:

1. The Owner shall be entitled to install and maintain the Encroachment on the Boulevard until the Corporation of the Municipality of Chatham-Kent in its sole and absolute discretion requires possession of the Boulevard for municipal purposes or until the Owner removes the Encroachment from the Boulevard, whichever event shall first occur.
2. That the permission granted by this By-law shall enure to the benefit of and the obligations resulting therefrom as herein set out to be binding upon the heirs, executors, administrators, successors and assigns of the Owner and of The Corporation of the Municipality of Chatham-Kent.
3. The Owner shall as a condition of the granting of permission hereunder, enter into an Agreement with the Corporation, and the General Manager of Infrastructure and Engineering Services is authorized to execute such Agreement.
4. This By-law affects the lands described in Schedule "A" annexed hereto.

5. This By-law shall come into force and effect upon being finally passed.

THIS By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME this ____ day of _____, 2020.

Mayor – Darrin Canniff

Clerk – Judy Smith

SCHEDULE "A"

PIN 00585-0002, being part of the boulevard known as Dufferin Ave., in the
Community of Wallaceburg, Municipality of Chatham-Kent

SCHEDULE "B"

For the purposes of this By-Law, the "Boulevard" is comprised of the part of PIN 00585-0002 outlined below.

