

Municipality Of Chatham-Kent
Infrastructure and Engineering Services
Public Works

To: Mayor and Members of Council

From: Ryan Brown
Director, Public Works

Date: April 8, 2021

Subject: Amendment to Encroachment Agreement and By-Law – Hartley Vidler Memorial Walkway, Erieau

Recommendations

It is recommended that:

1. The General Manager of Infrastructure and Engineering Services be authorized to enter into an amended encroachment agreement for the installation of an additional six banner poles on parts of PINs 00938-1064, 00938-1066, and 00938-1067 and 00938-1068, being part of the boulevard municipally known as Hartley Vidler Memorial Walkway, Erieau.
2. By-Law # 112-2019 confirming the encroachment (Appendix “B”), be amended to include the locations of the additional six poles.

Background

In August 2019, Council approved a request from Erieau Community Association Inc. (ECA) to enter into an agreement permitting the installation of 12 poles on part of the Hartley Vidler Memorial Walkway in Erieau for the purposes of displaying banners with content in the interest of the ECA on the municipal right-of-way.

Administration has recently received new correspondence from the ECA requesting permission to erect an additional six poles in the locations depicted in Appendix “A” (attached).

Comments

In reviewing the new encroachments, it is the opinion of administration that the poles will not obstruct the Municipality in maintaining the sidewalks on Mariners Road or Ross Lane in Erieau.

Chatham-Kent By-Law # 112-2019 permits the current 12 poles, but will need to be amended to reflect the placement of the six new poles upon Council approval. The amended by-law is attached as Appendix B.

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 supports 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 to be acceptable. Legal Services has drafted an amendment to the encroachment agreement to be entered into between the Municipality and Erieau Community Association Inc. upon Council approval of this encroachment.

Financial Implications

There are no financial implications resulting from the recommendations. Costs for procurement, installation, and maintenance of the poles will be the sole expense of the Erieau Community Association.

Prepared by:

Ryan Brown, P.Eng.
Director, Public Works

Reviewed by:

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

Attachments: Appendix “A” - Detailed specifications of encroachment
Appendix “B” – Draft by-law

C: Director, Legal Services
Supervisor I, Roads

P:\RTC\Infrastructure And Engineering\I & ES\2021\4373 - Amendment To Encroachment - Hartley Vidler Memorial Walkway.Docx

Appendix A



#3 - 9' West of Fourth St. 6' North Mariners Rd.

#4 - 8' East of Fourth St. 6' North of Mariners Rd.

#5 - Next to Curb 10' East of Fourth St.

#6 - Next to Curb 10' West of Fourth St.

Locations may change slightly when we do locates



#1 - Next to Curb 10' East of Mariners Rd.

#2 - Next to Flower Garden 8' North of Mariners Rd.

Locations may change slightly when we do locates

BY-LAW NUMBER _____

OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

A By-Law to amend Encroachment By-Law Number 112-2019

FINALLY PASSED THE ____ day of _____, 2021.

WHEREAS the Municipality did enact By-Law 112-2019 on August 12, 2019 to permit the Erieau Community Association Inc. an encroachment to install 12 banners on municipal property in Erieau forming part of the Hartley Vidler Memorial Parkway.

AND WHEREAS the Erieau Community Association Inc. (the "Owner") wishes to install the a further six (6) Banner Poles on the parts of PINs 00938-1064, 00938-1066, and 00938-1067 and 00938-1068 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 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 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. Notwithstanding anything herein contained, upon the Municipality giving three (3) months' written notice to the Owner that the Boulevard occupied by the Encroachment is required, the permission to maintain and use the

said Encroachment shall be terminated, and the Owner shall remove such Encroachment, and restore the Boulevard occupied by such Encroachment to a suitable condition for use by the Municipality for the purposes of a boulevard.

5. This By-law affects the lands described in Schedule "A" annexed hereto.
6. 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 _____, 2021.

Mayor – Darrin Canniff

Clerk – Judy Smith

SCHEDULE "A"

PIN 00938-1064, being part of the boulevard known as the Hartley Vidler Memorial Parkway in the Community of Erieau, Municipality of Chatham-Kent, legally described as MARINERS ROAD, PLAN 462, 464, 520 & 755 & ALSO BEING A FORCED RD THROUGH THE POINT OR BAR FROM THE W LIMIT OF 2ND ST, PLAN 314 TO THE W LIMIT OF PLAN 464 MARINERS RD ERIEAU

PIN 00938-1066, being part of the boulevard known as the Hartley Vidler Memorial Parkway in the Community of Erieau, Municipality of Chatham-Kent, legally described as PT POINT OR BAR, PTS 3 & 8, 24R-2121 "DESCRIPTION IN 340477 MAY NOT BE ACCEPTABLE IN FUTURE" ERIEAU

PIN 00938-1067, being part of the boulevard known as the Hartley Vidler Memorial Parkway in the Community of Erieau, Municipality of Chatham-Kent, legally described as ROSS LANE, PLAN 314 & 520 & PT POINT OR BAR, PTS 1, 7 & 9, 24R-2121 ROSS LANE ERIEAU

PIN 00938-1068, being part of the boulevard known as the Hartley Vidler Memorial Parkway in the Community of Erieau, Municipality of Chatham-Kent, legally described as PT POINT OR BAR, PTS 4 & 10, 24R-2121 "DESCRIPTION IN 340477 MAY NOT BE ACCEPTABLE IN FUTURE" ERIEAU

SCHEDULE "B"

For the purposes of this By-Law, the "Boulevard" is comprised of the parts of PINs 00938-1064, 00938-1066, and 00938-1067 and 00938-1068 outlined in red below.



#3 - 9' West of Fourth St. 6' North Mariners Rd.

#4 - 8' East of Fourth St. 6' North of Mariners Rd.

#5 - Next to Curb 10' East of Fourth St.

#6 - Next to Curb 10' West of Fourth St.

Locations may change slightly when we do locates



#1 - Next to Curb 10' East of Mariners Rd.

#2 - Next to Flower Garden 8' North of Mariners Rd.

Locations may change slightly when we do locates