



ADMINISTRATIVE REPORT

Report Date: April 13, 2016
Contact: Jerry Evans
Contact No.: 604.873.7430
RTS No.: 11429
VanRIMS No.: 08-2000-20
Meeting Date: May 17, 2016

TO: Vancouver City Council

FROM: General Manager of Real Estate and Facilities Management in consultation with the Director of Legal Services, the Chief Housing Officer (or successor in function) and the General Manager of the Vancouver Board of Parks and Recreation

SUBJECT: Registration of Agreements Against Title to City Owned Lands in South East False Creek Areas 3A and 3B

RECOMMENDATION

- A. THAT Council approve the registration of the following agreements against title to Lot 355 - Parcel Identifier: 029-631-785, Lot 355, False Creek, Group 1, New Westminster District, Plan EPP46205 ("Lot 355") in connection with the redevelopment of SEFC Areas 3A & 3B (as shown in Appendix A):
- (a) *Homeowner Protection Act* covenant in favour of British Columbia Housing Commission ("BC Housing") which restricts the use of the Rental Building (defined below) to rental only for a period of ten (10) years; and
 - (b) Floodplain covenant in favour of the City of Vancouver.
- (collectively, the "Lot 355 Agreements")
- B. THAT Council approve the registration of the following agreements against title to Lot 344 - Parcel Identifier: 029-631-742, Lot 344, False Creek, Group 1, New Westminster District, Plan EPP1333 ("Lot 344") in connection with the redevelopment of SEFC Areas 3A & 3B:
- (a) No build covenant in favour of Lot 356 - Parcel Identifier: 029-631-793 , Lot 356, False Creek, Group 1, New Westminster District, Plan EPP46205 ("Lot 356");

- (b) Access easement in favour of Lot 356; and
 - (c) Floodplain covenant in favour of the City of Vancouver.
- C. THAT the Lot 355 Agreements and the Lot 344 Agreements will be on terms and conditions acceptable to the Director of Legal Services in consultation with the General Manager of Real Estate and Facilities Management, the Chief Housing Officer (or successor in function), the General Manager of Planning and Development Services, and the General Manager of the Vancouver Board of Parks and Recreation, as applicable;
- AND THAT the Director of Legal Services be authorized to execute the Lot 355 Agreements and the Lot 344 Agreements on behalf of the City.
- D. THAT no legal rights or obligations shall arise or be created until all legal documentation is fully executed on terms and conditions to the satisfaction of the Director of Legal Services.

REPORT SUMMARY

The purpose of this report is to seek Council authority to register various agreements against the City owned Lot 355 and Lot 344, respectively so as to facilitate the construction of the new residential development on Areas 3A and 3B in SEFC. The Vancouver Charter requires that City Council approve any agreements which are to be registered against title to City owned lands. Lot 355 will house a minimum 133 unit residential rental building (the "**Rental Building**") which will be owned by the City of Vancouver and Lot 344 will be used for park.

Both Lot 344 and Lot 355 are located in a designated floodplain and the Vancouver Building By-law permits the Chief Building Official to require that a floodplain covenant be registered against lands within designated flood plains as a condition of building permit issuance, this report seeks Council approval of the registration of these covenants against these City owned lands.

The construction of the Rental Building may be exempted from the consumer protection provisions in the *British Columbia Homeowner Protection Act* which are not applicable to a building which is being constructed for the City. The exemption is available if a covenant in favour of BC Housing is registered against title to the City owned Lot 355.

An access easement and no build covenant need to be registered against the City owned Lot 344 which will be developed as a park in the future. These two (2) agreements arise from the development of the residential buildings adjacent to the future park and are explained in detail below.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

SEFC ODP dated April 2007, last updated on October 30, 2012.

Vancouver's Housing and Homelessness Strategy 2012 - 2021.

Section 190(1)(b) of the Vancouver Charter which authorizes Council to dispose of City-owned property.

Public Hearing (RTS No. 10659) on June 10th, 2014, Council approved the rezoning and amendment to the ODP in principle, subject to conditions contained in the Rezoning Report (RTS No. 10569).

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Real Estate and Facilities Management recommends that the Lot 355 Agreements and the Lot 344 Agreements be registered against title to Lot 355 and Lot 344, as applicable, to facilitate the construction of the new residential development on Areas 3A and 3B in SEFC, including a minimum 133 unit residential Rental Building on Lot 355 which will be owned by the City of Vancouver.

REPORT

Background/Context

At a public hearing on June 3 and June 10, 2014, Council approved the rezoning of Lot 1 - Parcel Identifier: 008-765-146, Lot 1, Block E, District Lot 200A, Plan 12958 and Lot 5 - Parcel Identifier: 008-765-364, Lot 5, Except part in Reference Plan 17723 Now Road, Block E, District Lots 200A and 2037, Plan 12958 owned by Concert Development Corporation ("**Concert**") and Lot 307 - Parcel Identifier: 026-497-654, Lot 307, Except: part on Plan BCP20721, False Creek Plan BCP20720 owned by the City of Vancouver, subject to conditions contained in the Rezoning Report (RTS No. 10569). Rezoning by-law 11279 was enacted on June 23, 2015. As a condition of the rezoning, Lot 1, Lot 5 and a portion of Lot 307 were consolidated to create four (4) development sites, Lots 353, 354, 355 and 356. The remainder of City owned Lot 307 is now Lot 344 and will eventually be developed into East Park as described in RTS No. 10569. Lots 353 to 356 and Lot 344 are shown on the subdivision plan attached to this report (Appendix B). Lots 353, 354 and 356 are owned by Concert (the "**Concert Development Sites**") and Lot 355 (site of future Rental Building) and Lot 344 (site of future park) are owned by the City.

As indicated in RTS No. 10569, the City has entered into an agreement with Concert to build the Rental Building on Lot 355 on the City's behalf. Concert has commenced excavation on Lot 355 and on the Concert Development Sites but the permits issued or to be issued by the City are subject to the registration of certain agreements against title to the Concert Development Sites and Lot 355 and Lot 344.

The *Vancouver Charter* requires Council approval of any agreements which are to encumber title to City owned lands.

Agreement Details

As described above, the *Vancouver Charter* requires that City Council approve any encumbrances which are to be registered against title to City owned lands. The Lot 355 Agreements and the Lot 344 Agreements are required to facilitate the development of buildings on the Concert Development Sites and the Rental Building on Lot 355. This report seeks specific Council approval of the following agreements which are to be registered against City owned Lot 344 and Lot 355.

(a) Lot 355 Agreements

(i) Homeowner Protection Act covenant in favour of BC Housing

Builders of multiple unit rental buildings where all units are owned by the same owner may be exempted from the consumer protection provisions (new home warranty) of the *British Columbia Homeowner Protection Act* if a covenant is registered against title which restricts the use of the building to 'rental only' and prohibits the sale of any unit (other than a sale of all units to the same purchaser) for the first ten (10) years following initial occupancy. The new home warranty program is intended to protect individual purchasers of newly constructed homes, not owners like the City who contract with a builder to construct a multiple unit rental building. Registering this 'rental only' covenant against title to Lot 355 is consistent with the City's intended use of the Rental Building for rental purposes. Without the registration of this covenant the City, as regulator, is not permitted to issue building permits for the Rental Building.

(ii) Floodplain Covenant

The *Vancouver Building By-law* permits the Chief Building Official to require that a floodplain covenant be registered against lands within designated flood plains as a condition of building permit issuance. The Concert Development Sites, Lot 355 and Lot 344, are all within a designated flood plain due to their proximity to False Creek. A condition of the rezoning required the registration of a flood plain covenant against each of the parcels which are subject to the rezoning. Council has already approved the floodplain covenant as a condition of the rezoning of 3A and 3B but this report seeks specific Council approval to encumber City owned lands with such an agreement.

(b) **Lot 344 Agreements**

(i) No Build Covenants

A condition of the rezoning is the registration of a no build covenant over the eastern edge of Lot 344 adjacent to the Concert Development Sites on which buildings 3, 4 and 5 will be located (as shown in Appendix C). The purpose of this no build covenant is to ensure that no permanent structures are built within the no build area on Lot 344 to ensure that the spatial separation requirements of the Vancouver Building By-law will be achieved. As a condition of the development permit for buildings 3 and 4, the Development Permit Board has required a no build covenant to secure a 2.1 metre wide no build area over the portion of Lot 344 immediately adjacent to Lot 356. City staff consulted with Parks Board staff on the requirement for a no build covenant at the rezoning stage and at the development permit stage for buildings 3 and 4. It is anticipated that two (2) no build covenants will ultimately be required over Lot 344. The first being over a 2.1 metre wide portion of Lot 344 immediately adjacent to Lot 356 (a requirement of the Development Permit for buildings 3 and 4) and the second being a similar area over that portion of Lot 344 immediately adjacent to Lot 353. Council has already approved the no build covenants as a condition of the rezoning of 3A and 3B but this report seeks specific Council approval to encumber City owned lands with the no build covenants.

(ii) Access Easement

The development permit board has required that an access easement be granted over Lot 344 in favour of Concert's Lot 356 as conditions of the development permit for buildings 3 and 4. The access easement is to facilitate ingress to and egress from buildings 3 and 4. The agreement will require the owners of buildings 3 and 4 to maintain the north south walkway, any east-west connections to Lot 356 and all landscaping within the easement area. Such landscaping to be designed and maintained to the satisfaction of the General Manager of Parks. City staff consulted with Parks Board staff on the registration of an access easement as a condition of the development permit for buildings 3 and 4.

(iii) Floodplain Covenant

The Vancouver Building By-law permits the Chief Building Official to require that a floodplain covenant be registered against lands within designated flood plains as a condition of building permit issuance. The Concert Development Sites, Lot 355 and Lot 344 are all within a designated flood plain due to their proximity to False Creek. A condition of the rezoning required the registration of a flood plain covenant against each of the parcels which are subject to the rezoning.

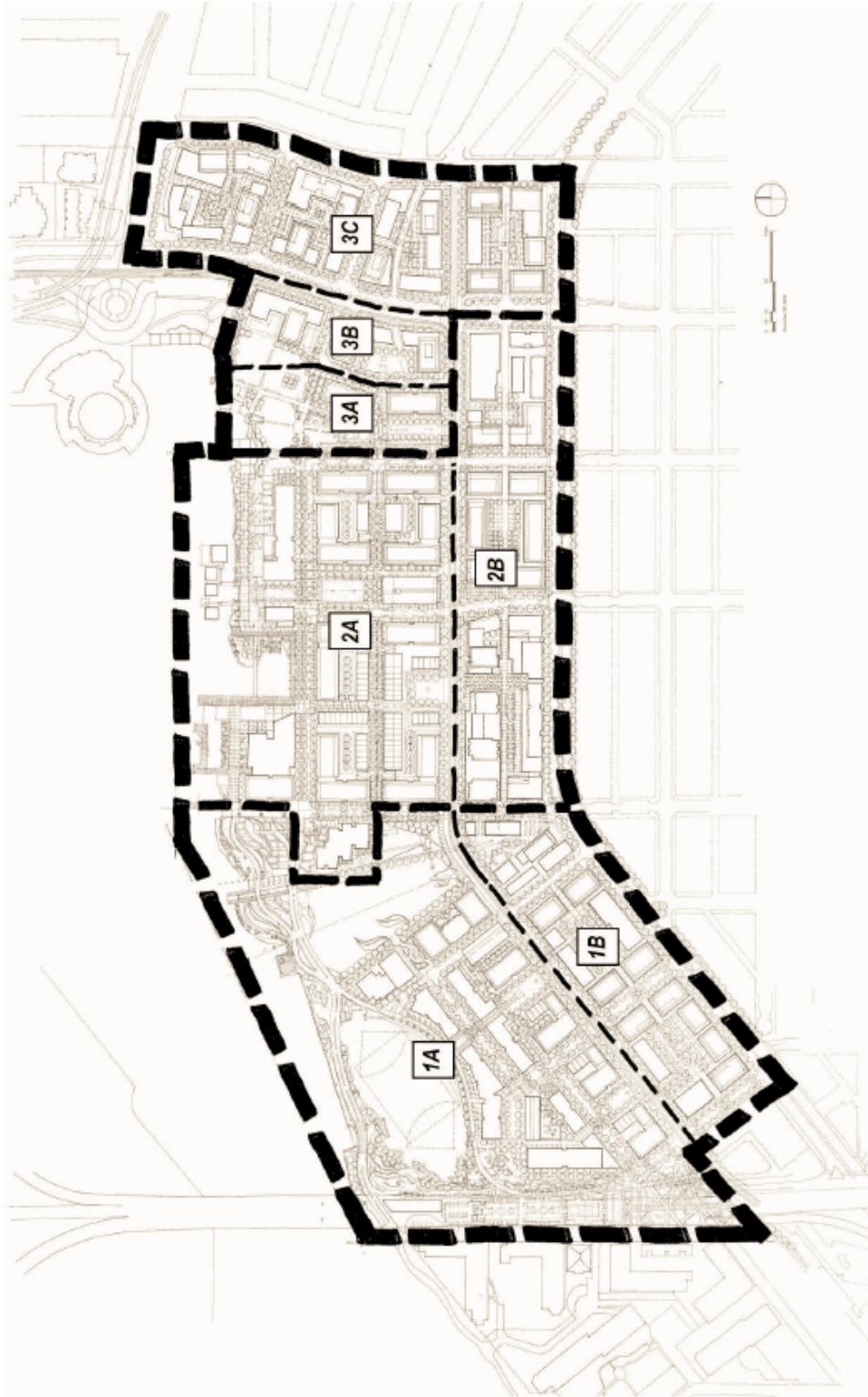
Council has already approved the floodplain covenant as a condition of the rezoning of 3A and 3B but this report seeks specific Council approval to encumber City owned lands with such an agreement.

CONCLUSION

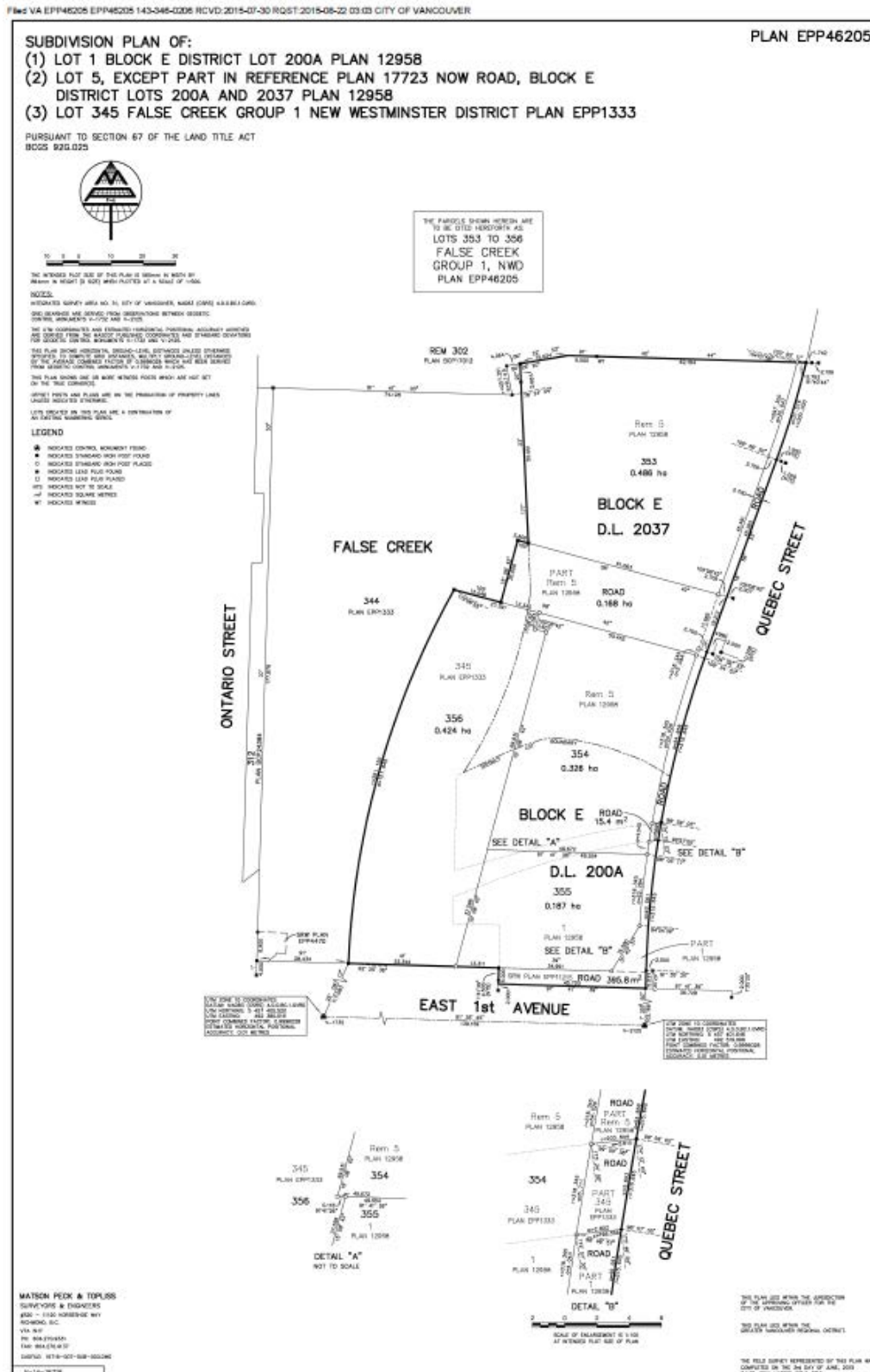
The General Manager of Real Estate and Facilities Management recommends that Council authorize staff to encumber the City owned Lot 355 and Lot 344 with the Lot 355 Agreements and the Lot 344 Agreements, respectively, to facilitate the development of SEFC Area 3A and 3B as contemplated in RTS10659.

* * * * *

Subject Property



Subdivision Plan



1551 Quebec Street, 1600 Ontario Street, and 95 East 1st Avenue
(Southeast False Creek Areas 3A and 3B)

