



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: April 25, 2005
Author: Mark Vulliamy
Phone No.: 604.257.8461
RTS No.: 05096
CC File No.: 1203
Meeting Date: May 10, 2005

TO: Vancouver City Council

FROM: General Manager - Parks and Recreation

SUBJECT: Kerrisdale Park/Point Grey Secondary School - License Agreement

RECOMMENDATION

- A. *THAT Council approve the attached license agreement from the School Board.*
- B. *THAT seven days following the signing of the agreement by all parties, the School Board lands so held by the City shall be in the custody, care and management of the Park Board to the fullest extent for the full term of the license.*
- C. *THAT no legal rights shall arise hereby, and none shall arise until execution of the contemplated agreement by all parties.*

CITY MANAGER'S COMMENTS

The City Manager recommends approval of A, B and C.

COUNCIL POLICY

Council has the power to assign custody, care and management of areas belonging to or held by the City to the Park Board.

POLICY

On July 8, 2002, the Board approved the Playing Field Renewal Plan. The Renewal Plan was also endorsed by the Vancouver School Board.

The 2003 - 2005 Park Board Capital Plan allocates \$2.9 Million in city-wide development cost levies to the development of two synthetic turf playing fields.

In September 2003, the Park Board and the School Board approved a public consultation plan for determining appropriate locations for the installation of synthetic turf sport fields.

In April, 2004, the Park Board and the School Board approved a shortlist of five candidate sites, and a public process to further narrow the choices.

In November, 2004, the Park Board and the School Board endorsed the development of a lit synthetic turf playing field at Point Grey Secondary School and Kerrisdale Park.

BACKGROUND

For the last three years, Park Board and School Board staff have cooperated on assessing the inventory of playing fields in the city, and on developing strategies to increase play capacity by building lit synthetic turf playing fields. The current project is the first to be built after a comprehensive public consultation process.

The proposed playing field is partially located on park land, and partially on school land. The project is to be largely funded by city-wide development cost levies collected for the purpose of acquiring or improving park land, noting that \$2.9 million in development cost levies have been allocated for synthetic playing field development in the 2003 - 2005 Capital Plan. This report proposes legal steps which will give the school portion of the playing field a legal status that allows the proposed use of development cost levies.



DISCUSSION

Staff initially considered a land exchange, but this report outlines a simpler process of two steps. Step 1 is the execution of a license agreement by which the School Board gives the City a license to use the school portion of the playing field (shown in the above plan); and the Park Board gives the School Board a license to use the park portion. This license will allow Council to take step 2: to resolve that the Park Board will have the custody, care and management of this school land in accordance with Section 488 (3) of the Vancouver Charter. Once that is in effect, development cost levies can be used to build the playing field.

This report asks Council to approve the proposed license agreement (Recommendation A). The Park Board approved the license agreement subject to Council concurrence, at its regular meeting of April 25, 2005. The School Board will be asked to approve the license agreement in a separate report prepared by School Board staff. Once the license agreement has been approved by all parties and executed, step 1 is complete. Step 2 is for Council to turn over the school portion of the playing field to the Park Board for custody, care and management (Recommendation B). Step 2 will allow the legal expenditure of development cost levies for the construction of the synthetic turf playing field.

The proposed license agreement, see Appendix A, will give the School Board the right to use the playing field during school hours and school events; the Park Board will have access the rest of the time for regular field bookings. The term of the licence is the life of the synthetic playing field. The Park Board is solely responsible both physically and financially for the installation of the synthetic turf. It is expected that these licences will be amended so as to elaborate and confirm details of the shared use of the fields, including times of use, maintenance obligations and other matters needing to be defined. Guidance in this regard will be given by similar arrangements in place for the joint Park Board/School Board use of the playing field at Eric Hamber Secondary School.

Park Board staff are currently in the process of preparing a development permit application with respect to the installation of a lighting system at the field, and hiring a consultant to develop the design and construction drawings. It is expected that construction of the field begin in summer and be concluded within five months.

FINANCIAL IMPLICATIONS

Funding for the construction of the synthetic turf field is included in the Park Board 2003 - 2005 Capital Plan. There is no fee associated with the license.

CONCLUSION

This report asks Council to approve a license agreement from the School Board to enable the Park Board to develop a synthetic turf playing field on a site that is partially on School Board property. Council is further asked to give custody, care and management of the School Board portion of the lands in question to the Park Board, effective seven days after the signing of the license agreement by all parties.

* * * * *

Appendix A

THESE LICENCES are dated for reference the ____ day of _____, 2005

BETWEEN:

**THE BOARD OF SCHOOL TRUSTEES OF
SCHOOL DISTRICT NO. 39 (VANCOUVER),**
1580 West Broadway
Vancouver, British Columbia
V6J 5K8

(herein called the "School Board")

OF THE FIRST PART

AND:

CITY OF VANCOUVER
(herein called the "City"),
represented in part by its **BOARD OF
PARKS AND RECREATION** (the "Park Board")
and in part by its elected **council**
453 West 12th Avenue,
Vancouver, British Columbia
V5Y 1V4

OF THE SECOND PART

WHEREAS:

A. The School Board is the owner of Point Grey Secondary School and its lands including that part thereof shown hatched on Schedule "A", which part shown hatched is herein called the "School Lands". So far as concerns the School Lands, this agreement is entered into between the School Board and the City as represented by its elected council.

B. The Park Board has the exclusive possession, jurisdiction and control of all permanent public parks in the City of Vancouver including that part shown hatched on Schedule B, which part shown hatched is herein called the "Park". So far as concerns the Park, this agreement is entered into between the School Board and the City as represented by its Park Board.

C. The School Lands and the Park are contiguous and together comprise one complete full size sporting field.

D. For many years, the School Board and the Park Board have shared use of the School Lands and the Park such that each could enjoy use of a full size sporting field.

E. The parties are desirous of having the Park Board install synthetic turf on the School Lands and the Park to enhance their joint use of the sporting field and this agreement is to facilitate such installation and joint use and administration of the playing field by the School Board and the Park Board.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT the School Board and the City so far as concerns the School Lands and the School Board and the Park Board so far as concerns the Park, hereby agree each with the other concerning the School Lands and the Park.

1. **Licence from School Board to City.** Subject to the reservations expressed herein, the School Board hereby grants to the City as represented by its elected council the right and licence to use the School Lands for recreational uses only on the terms and conditions set out herein.

2. **Licence from Park Board to School Board.** Subject to the reservations expressed herein, the Park Board hereby grants to the School Board the right and licence to use the Park for recreational uses only on the terms and conditions set out herein.

3. **Reservations.**

(a) The School Board hereby reserves use of the School Lands during the hours when Point Grey Secondary School is normally open for classes and for all Point Grey Secondary School outdoor sporting events scheduled outside of the normal school hours AND the Park Board agrees that during the times so reserved, the School Board shall have exclusive use of the Park.

(b) The Park Board hereby reserves use of the Park during the evenings and weekends when public use sporting events are scheduled in the Park AND the School Board agrees that during the times so reserved, the City shall have exclusive use of the School Lands.

4. **Joint permit application.** The School Board as owner of the School Lands, the City as the holder of this licence to use the School Lands, the Park Board as lawful manager of the Park and the School Board as holder of this licence to use the Park each agree that:

- (a) the School Lands and the Park shall only be used together as a full size sporting field for the benefit of the students of Point Grey Secondary School and the citizens of Vancouver;
- (b) the parties shall make joint application to secure all necessary permits to improve the School Lands and Park together as one full size sporting field by installing lighting and synthetic turf; and
- (c) construction of the improvements shall commence as soon as practicable following issuance of the required permits with the Park Board solely responsible both physically and financially for installation of the synthetic turf on both the Park and the School Lands. This subparagraph 4(c) shall not come into force or take effect until the City as represented by its elected council approves this licence from the School Board and resolves that seven days following the signing of this licence from the School Board to the City, pursuant to Section 488(3) of the *Vancouver Charter* the Park Board shall have the custody, care and management of the licenced area so held by the City for the full term of such licence.

5. **Amendment for elaboration.** Prior to completion of construction, the parties expect to amend these licences so as to elaborate and confirm details of their shared use including times of use, maintenance obligations and other matters needing of elaboration and confirmation.

6. **Term of licences.**

- (a) Except for uncorrected material default by the City, the School Board shall not terminate this licence to the City so long as the synthetic turf to be installed in the School Lands is not ready for replacement in the joint opinion of the General Manager of the Park Board and the Director of Facilities of the School Board or their respective successors in function.
- (b) Except for uncorrected material default by the School Board or if the Park ceases to be a public park, the Park Board shall not terminate this licence to the School Board so long as the synthetic turf to be installed in the Park is not ready for replacement in the joint opinion of the General Manager of the Park Board and the Director of Facilities of the School Board or their respective successors in function.

7. **Assignment.**

- (a) Except as contemplated in paragraph 4(c), the City shall not assign this licence from the School Board except with the written permission of the School Board which permission may be arbitrarily withheld.
- (b) The School Board shall not assign this licence from the Park Board except with the written permission of the Park Board which permission may be arbitrarily withheld.

8. **Notices.** The parties may deliver notices to each other only by personal delivery or by mailing at any Government Post Office in British Columbia, by prepaid registered or certified mail, in each case addressed as follows:

Vancouver Board of Parks and Recreation
2099 Beach Avenue
Vancouver, B.C.
V6G 1Z4

Attention: General Manager

City of Vancouver
453 West 12th Avenue
Vancouver, B.C.
V5Y 1V4

Attention: Director of Legal Services

Board of School Trustees
School District No. 39 (Vancouver)
1580 West Broadway
Vancouver, B.C.
V6J 5K8

Attention: Secretary-Treasurer

or to such other address of which a party may notify the others according to the requirements of this section. Any notice personally delivered will be deemed received when delivered. Any notice mailed will be deemed received five days after the date of mailing, except that if, between the time of mailing and actual receipt of the notice, a mail strike, slow-down, or other labour dispute occurs that might affect delivery of such notice then the notice will be effective only if the sender personally delivers it.

9. **Coming into effect.** That no part hereof shall come into force or take effect until this agreement has been signed by all parties.

10. **Continuing effect.** These licences will ensure to the benefit of and bind the parties and their successors and permitted assigns.

IN WITNESS WHEREOF each of the Park Board, the City and School Board have caused this agreement to be signed by its authorized signatories.

CITY OF VANCOUVER as
represented by its **BOARD OF
PARKS AND RECREATION:**

Per:

General Manager

Approved by Resolution of the Park Board
made _____

CITY OF VANCOUVER as represented
by its elected **council:**

Per:

Director of Legal Services

Approved by resolution of City Council
made _____

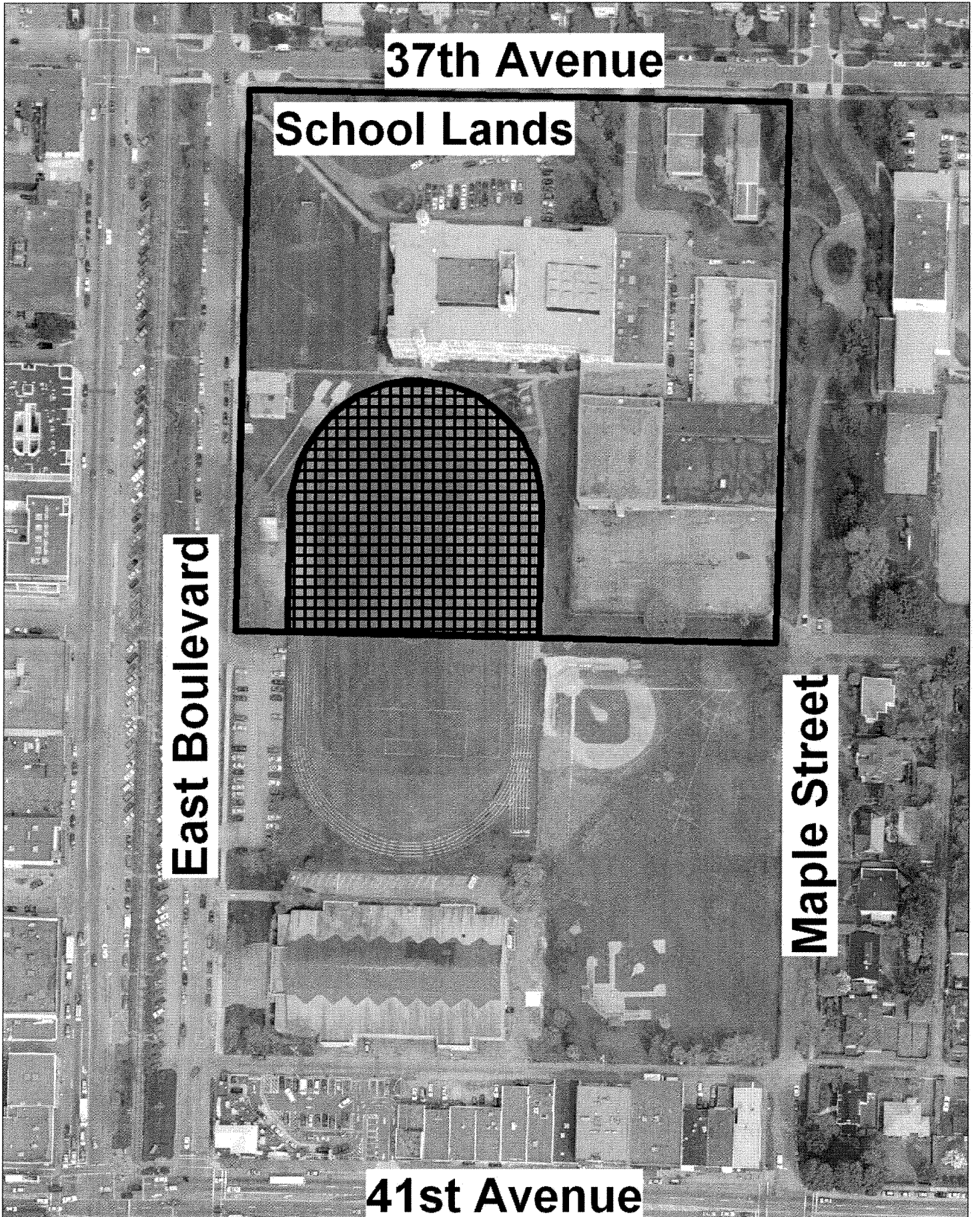
**BOARD OF SCHOOL TRUSTEES OF
SCHOOL DISTRICT NO.39
(VANCOUVER)** by its authorised
signatories:

Authorised signatory

Authorised signatory

Approved by resolution of the School Board
made _____

Schedule A



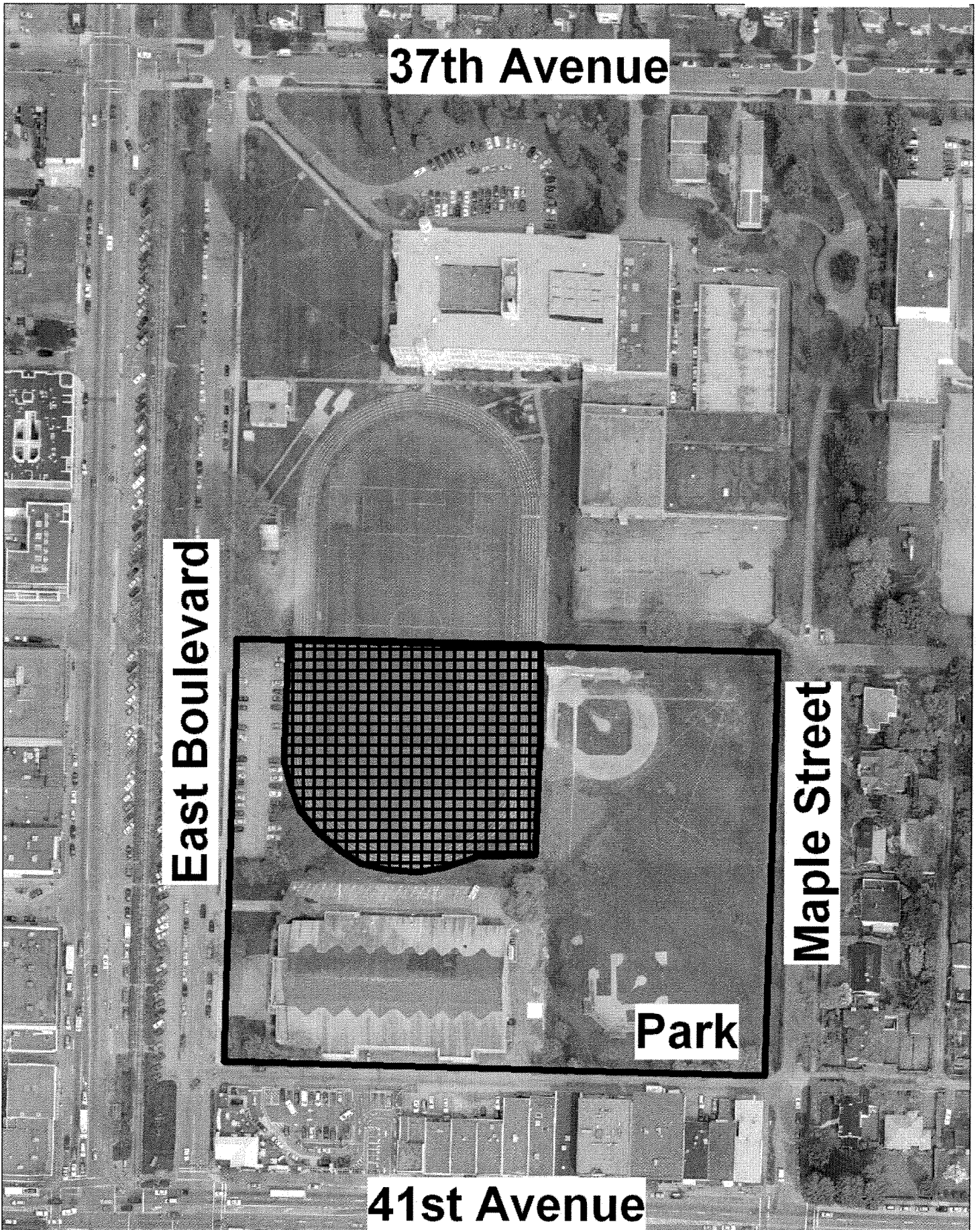
37th Avenue

School Lands

East Boulevard

Maple Street

41st Avenue



37th Avenue

East Boulevard

Maple Street

Park

41st Avenue