



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: July 6, 2006
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VanRIMS No.: 06-3200-10
Meeting Date: July 18, 2006

TO: Vancouver City Council

FROM: Director of Social Planning

SUBJECT: Gingerbread House Day Care, 3340 East 54th Avenue on Captain Cook School Site - Lease-License, Sublease/Sub-License and Non-Exclusive License Agreement for a Portion of the Captain Cook Park, 3398 East 54th Avenue

RECOMMENDATION

- A. THAT Council authorize the City to enter into a lease or licence agreement with the Vancouver School Board (the "School Board") to permit the City to use a portion (the "Premises") of the Captain Cook School site located at 3340 East 54th Avenue, legally described as Parcel Identifier No. 007-766-530, Lot 206, District Lot 334, Plan 14590 to permit the placement, construction and maintenance of a modular building (the "Building") and the operation of a child care centre, on terms and conditions acceptable to the Director of Legal Services and the Director of Social Planning. The agreement shall include a term by which the City will indemnify the School Board for all losses it may suffer relating to the City's occupation and use of the Premises including any occupation and use by third parties the City permits to operate the child care centre on the Premises.
- B. THAT Council authorize the City to enter into a sublease or sublicense agreement of the Premises to the Champlain Heights Citizens Society (the "Society") and to permit the Society to use the Premises for the placement, construction and maintenance of the Building and the operation of a child care centre on terms and conditions acceptable to the Director of Legal Services and the Director of Social Planning.
- C. THAT Council authorize the City to enter into a non-exclusive licence agreement with the Board of Parks and Recreation of the City of Vancouver and

to permit the City to use a portion (the "Playground Licence Area") of the Captain Cook Park located at 3398 East 54th Avenue, legally described as Parcel Identifier No. 007-982-151, Lot 12, District Lot 334, Plan 13993 for the purposes of providing the outdoor play area including installing playground equipment and fencing as required for the child care centre to be operated on the Premises, on terms and conditions acceptable to the Director of Legal Services and the Director of Social Planning.

- D. THAT Council authorize the City to enter into a non-exclusive sublicense agreement of the Playground Licence Area with the Society to permit the Society to use the Playground Licence Area for the purposes of providing the outdoor play area including installing playground equipment and fencing as required for the child care centre to be operated on the Premises, on terms and conditions acceptable to the Director of Legal Services and the Director of Social Planning.
- E. THAT the Director of Legal Services be authorized to execute all necessary agreements, plans and other documents on behalf of the City.
- F. THAT no rights or obligations hereby arise or take effect under the legal agreements until each is signed by all parties.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of A to F.

COUNCIL POLICY

In 1990, City Council approved the Civic Childcare Strategy that set out to:

- support the viability, accessibility and quality of existing child care services;
- assist child care initiatives in high need areas;
- encourage and support efficient, coordinated administrative services required for a child care system in Vancouver to lever other sources of child care funding, wherever possible.

Vancouver City Council approved "Moving Forward Childcare: A Cornerstone of Childhood Development" in April 2002, which set out a strategic plan for child care and child development services for the City.

In June, 1993, Council directed that City-owned properties, occupied by non-profit organizations, held as assets in the Capital Fund be charged a nominal rate. The lease/sublease/license of City assets below market value constitutes a grant and, as such, requires eight affirmative votes.

In 2003, Vancouver City Council, Park and School Boards adopted the Childcare Protocol, which includes the objective to maintain and expand child care by 5 percent over the next two years.

On September 11, 2003, Council approved terms and conditions as described in a report titled, "Lease/Sublease/License of City-Owned Capital Assets to Non-Profit Organizations" and directed that staff utilize the framework for agreements as outlined in the report for all future leases/subleases/licenses to non-profit organizations occupying City capital assets.

PURPOSE

The purpose of this report is:

To seek Council's authority to enter into a lease or licence agreement (the "Head Lease") with the Vancouver School Board (the "School Board") to accommodate the placement of a childcare modular building (the "Building") by the Champlain Heights Citizens Society (the "Society") on a portion (the "Premises") of the Captain Cook School site located at 3340 East 54th Avenue, legally described as Parcel Identifier: 007-766-530, Lot 206, District Lot 334, Plan 14590 (the "School Site") on the terms and conditions outlined in this report; and

To seek Council's authority to sublease or sublicense (the "Sublease") the Premises to the Society, the operator of the Gingerbread House Day Care on the terms and conditions outlined in this report.

In addition, this report is designed to seek Council's authority to enter into a licence agreement with the Board of Parks and Recreation of the City of Vancouver (the "Park Board") in order to be able to then sublicense the outdoor play area (the "Playground Licence") to the Society on the terms outlined in this report.

BACKGROUND

The Gingerbread House Day Care, operated by the Society, has been in operation for over thirty-three years. This 25-space licensed child care program provides full time, group care to 3 to 5 year olds living in the Killarney neighbourhood. It is currently located on a BC Hydro right-of-way at 6505 Boundary Road. In 2003, this Society, along with six others delivering child care programs in aging BC Building Corporation portables, was approached by the Province to participate in an initiative to replace their portable facilities. The Provincial child care portable replacement program involved a partnership between the BC Building Corporation (which ceased operation on April 1, 2006) and the Ministry of Children and Family Development. Under the terms of the Province's proposal, the child care operator would be provided with \$455,000 to cover the expenses of a modular building replacement or if they preferred to use as a contribution toward a new permanent building. The organizations that chose to have new modular buildings were asked to work with Britco, a contractor selected by the Province for its expertise in factory built buildings.

The City was also engaged by the Province in discussions about the portable replacements as most were located on civic properties. The Province, as part of divesting its interest in the child care portables advised that they no longer wished to lease the civic land that had been used as sites for the child care programs. They asked the City if it would be willing to lease its properties directly to the child care operators. In response to this request, the City and

Park Board approved entering into landlord relationships with a number of the child care operators.

In the case of Gingerbread House Day Care, other arrangements were required as it was not located on City land. In 2004, the Province wrote to BC Hydro to see if they would be willing to extend use of their Boundary Road right-of-way for the development of a new modular building to house the existing child care program. In response, BC Hydro advised that they had plans in the near future to lease the site to the BC Transmission Corporation. As Killarney has a high number of children under the age six years old and there are very few child care programs providing full time care for 3 to 5 year olds, it was decided to make every effort to retain this program.

In 2004, nine months were spent searching for a suitable property that could accommodate a new child care facility for Gingerbread House Day Care. Two civic sites were identified, the Captain Cook school site and Captain Cook park site. In a commitment to implementing the Vancouver Childcare Protocol's goal of increasing childcare spaces on or in civic properties by five percent, both the School Board and the Park Board approved the use of a portion of each of their properties for the new childcare facility. The childcare modular building will be placed on the school site. Currently, the plan is that the Society shall own the building. The City will enter into a head lease or licence with the VSB to use a portion of the school land and sublease or sublicense it to the Society. On-site outdoor play space required for a Provincial childcare license will be provided on a portion of the adjacent park site. The City will enter into a licence with the Park Board to use a portion of the park for the child care centre's outdoor play area. The City will then sublicense the outdoor play area to the Society. By sharing the siting of the facility between the two properties, neither one will be adversely affected. The school site will retain ample outdoor play area and the park, sufficient green space for park users (see site map attached as APPENDIX A).

DISCUSSION

The key terms of the proposed arrangements are as follows:

1. **Re Recommendation A: Head Lease (or Head Licence) from School Board to City**
 - a. Nominal rent - \$1.00 per year;
 - b. term — 3 years;
 - c. early termination — on 6 months notice by the School Board;
 - d. ownership of Building — to be owned by the child care operator but City will have obligation to remove it at the end of the term if the child care operator fails to do so;
 - e. an indemnity by the City to indemnify the School Board for all losses it may suffer relating to the City's occupation and use of the Premises including any occupation and use by third parties the City permits to operate the child care centre on the Premises; and

- f. such further and other terms as are acceptable to the Director of Legal Services in consultation with the Director of Social Planning.

2. Re Recommendation B: Sublease or Sublicence from City to the Society

- a. Nominal rent - \$1.00 per year;
- b. to place, construct and maintain the Building at the Society's sole cost;
- c. to operate a child care centre in the Building on the Premises in accordance with the Provincial child care licensing and City's requirements and policies regarding the operation of day cares as they may be amended from time to time;
- d. term – 3 years less a day;
- e. early termination – upon termination of the Head Lease;
- f. ownership of Building – to be owned by the Society and to be removed by the Society at its cost at the end of the term;
- g. insurance - the Society will, or Cause its contractor to be required to carry the following insurance coverages: during the the construction phase, Commercial General Liability insurance with a minimum limit of \$5 million for the entire construction period, naming the City, its Board of Parks and Recreation, and the VSB as additional insureds and all risks property insurance up to the full value of the building under construction. After construction is completed, the Commercial General Liability insurance is to be maintained at \$5 million. In addition, the Society must also carry the following insurance overages: property insurance for the building, including but not limited to any improvements and property belonging to the Society or for which it is legally liable. Tenants legal liability with a minimum limit of \$500,000;
- h. soils testing - the Society, prior to commencing construction must conduct a preliminary site investigation to determine the historical uses of the portion of the school site to be used for the modular building location and if there is an indication of past contaminants, conduct further sampling to assure itself and the City that there is no soils contamination. In the event soils contamination is found, its remediation will be at the Society's cost. Upon termination of its use the Society will clear the leased site of all contaminants that it might have brought onto the site during its occupancy;
- i. maintenance - all cleaning and maintenance of the Building to be undertaken by the Society;
- j. to indemnify the City and the School Board for all losses they may suffer relating to the Society's occupation and use of the Premises;
- k. right to remove the building and playground equipment - the City reserves the right to remove the Building and playground

- equipment should the Society fail to meet its obligation upon termination of the sublease and the sublicense(s); and
- I. such further and other terms as are acceptable to the Director of Legal Services in consultation with the Director of Social Planning.

3. Re Recommendation C: Playground Licence from Park Board to City

- a. nominal fee - \$1.00 per year;
- b. term — 3 years;
- c. early termination — upon termination of the Head Lease; and
- d. such further and other terms as are acceptable to the Director of Legal Services in consultation with the Director of Social Planning.

4. Re Recommendation D: Playground Sublicence from City to the Society

- a. nominal fee - \$1.00 per year;
- b. term— 3 years less a day;
- c. early termination—upon termination of the Head Lease;
- d. to indemnify the City and the Park Board for all losses they may suffer relating to the Society's use of the Playground Licence Area; and
- e. such further and other terms as are acceptable to the Director of Legal Services in consultation with the Director of Social Planning.

FINANCIAL IMPLICATIONS

The contribution of Provincial funding to replace the Gingerbread House Day Care portable including demolition of the portable, site preparation on the school site, and the modular building cost has a value of up to \$800,000. The Society will bear all costs of building and operating the child care centre pursuant to the terms of the Society's Sublease and the Playground Sublicense. The Society will be required to indemnify the City for any losses the City or the VSB may incur due to the operation of the child care centre on the Premises and the Playground Licence Area. If the Society fails to honour its indemnity, and the School Board suffers any losses, the City shall be obliged to reimburse the School Board for such losses. In addition, if the Society fails to remove the Building at the end of the term, the City shall be liable for the costs. Removal of the Building is currently estimated at a cost of \$35,000 (June, 2006, \$). The cost to indemnify the School Board is not fully quantifiable as it could be for any and all costs the School Board could be responsible for due to the use of the Premises and the operation of a child care centre thereon. However, mitigation measures to reduce risks associated with indemnifying the School Board will be transferred to the Society through the sublease and sublicense agreements. In particular, the Society will be required to: provide assurance satisfactory to the City of no significant soils contamination before commencing construction, to be responsible for any soils remediation costs, upon termination of its lease to remove any contaminants it may have brought onto the site, carry

Commercial General Liability insurance naming the City, Board of Parks and Recreation and the VSB, and indemnify the City.

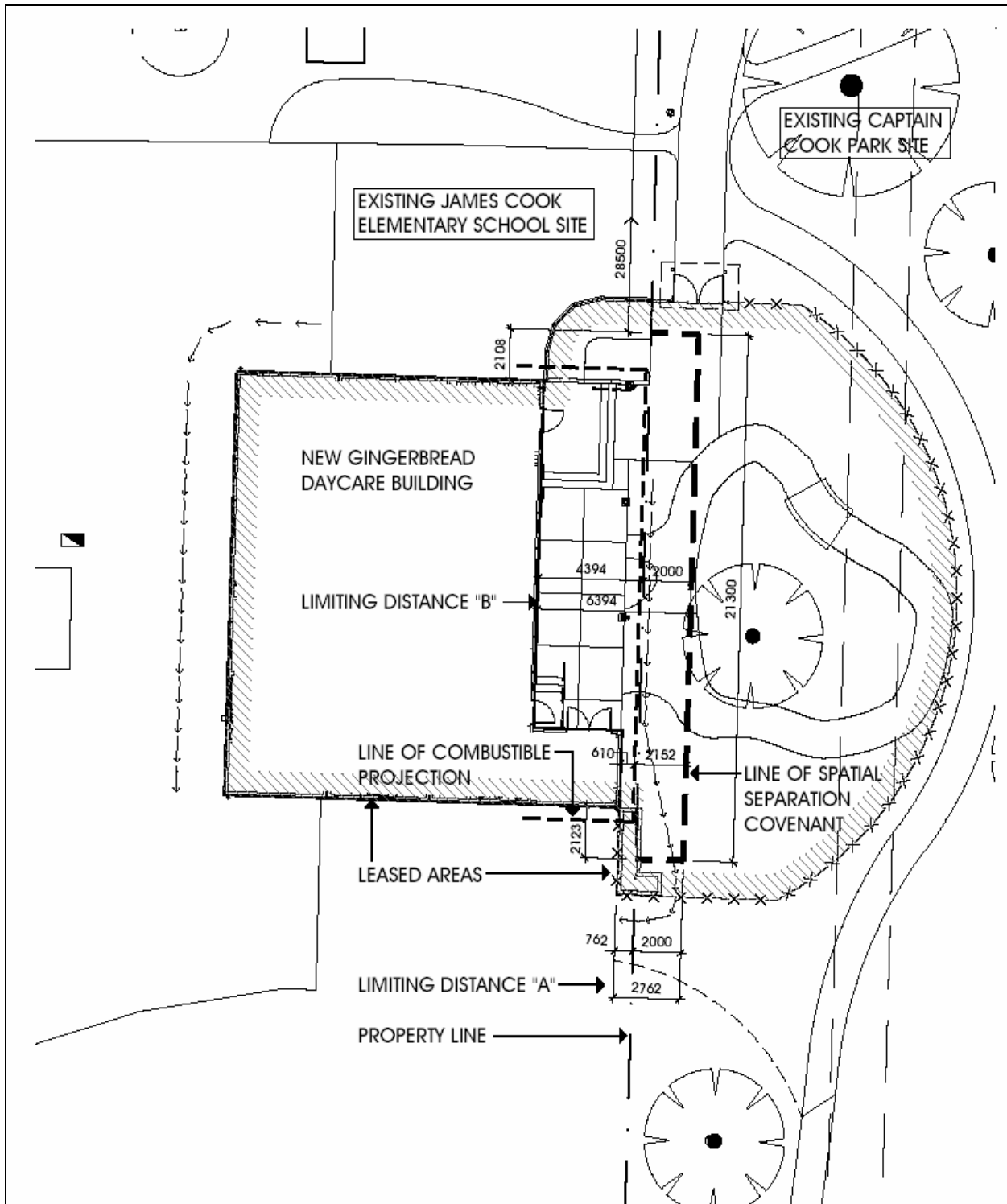
SOCIAL IMPLICATIONS

The Killarney neighbourhood, based on the 2001 Canada Census has 1,800 (one thousand eight hundred) children (infants to 6 years old). It is estimated that of this number, around thirty three percent require some type of non-parental care (source: "Civic Childcare Strategy" - Calculating Childcare Requirements & Childcare Targets, October 1990, pages 21 and 22, using an updated formula to reflect 2001 Canada Census percentage of mothers participating in the labour force). There are two licensed group care childcare programs in this neighbourhood, the Champlain Heights Child Development Centre and Gingerbread House Day Care which provide a total of 50 childcare spaces for 3 to 5 year olds. Retention of the Gingerbread House Day Care program would ensure that this much needed type of childcare is available to the Killarney residents. In addition, the new building will provide a higher quality environment for children attending this childcare service.

CONCLUSION

Proceeding with the recommendations as set forth in the report will ensure an existing childcare program is retained. This is a goal consistent the Vancouver Childcare Protocol. Maintaining these licensed childcare spaces will benefit a very under-served neighbourhood and will offer families a service that supports their labour force participation. The Killarney neighbourhood will have a quality child development service located in a new building well situated with school and park amenities. The Province, in partnership with Champlain Heights Citizens Society and the City of Vancouver, will be in a position to conclude a project that represents a contribution of up to \$800,000 in provincial funding to sustaining childcare services in Vancouver.

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Project
GINGERBREAD DAYCARE

Drawing
PARTIAL SITE PLAN

Scale: 1:200
Drawn: MRC
Checked:
Date: JUNE 14, 2006
Revised:

Project Number
04133D

Sheet Number
SK 1

DATE: 06/06/14 FILENAME: D:\04-133d_pat\04-133d_e01r3.dwg