



ADMINISTRATIVE REPORT

Report Date: July 15, 2013
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Meeting Date: July 24, 2013

TO: Standing Committee on Planning, Transportation and Environment

FROM: General Manager of Planning and Development Services in collaboration with the General Managers of the Parks and Recreation, Community Services and Real Estate and Facilities Management

SUBJECT: New Elementary School at International Village - 55 Expo Boulevard Considerations and Approvals

RECOMMENDATION

It is recommended that Council indicate support for the planning and on-going resolution of matters needed to advance the construction of a new school at International Village through approval of the following recommendations:

- A. THAT Council authorize the Director of Real Estate Services to enter into a purchase and sale agreement on behalf of the City with the Board of Education of School District No. 39 (Vancouver) (the "VSB") pursuant to which the City will sell to the VSB for \$100.00 the City-owned air space parcel (the "Air Space Parcel") located above the parking structure at 618 Abbott Street (legally described as PID: 027-045-765, Air Space Parcel 1 False Creek Air Space Plan BCP29637), on the following conditions:
- i) the VSB will lease back to the City, at nominal cost, the area used for the International Village Children's Centre (the "Childcare Centre") located at 680 Abbott Street, which area is generally shown on Appendix A;
 - ii) the City will enter into a new sublease of the Childcare Centre to the Vancouver Society of Children's Centres ("VSOCC") on substantially the same terms and conditions as the existing lease of the Childcare Centre entered into by the City and VSOCC as of November 18, 2009; and
 - iii) all of the above to be on such terms and conditions as may be required by the Director of Real Estate Services and the Director of Legal Services.

- B. THAT Council authorize the Director of Legal Services to execute such legal documents and take such steps on behalf of the City as she may determine in her discretion to be reasonably necessary to enable an application to the British Columbia Supreme Court to be made by the VSB and/or the City, subject to all required consents of the Province, to vary the Restrictive Covenant registered under numbers BJ133626 and BJ133627 ("the Restrictive Covenant") on title to Andy Livingstone Park (the "Park") to allow for the proposed new elementary school at International Village (the "School") to cantilever 5m into and over the Park and to enable additional areas of the Park to be used by School staff, students and parents and the public for entering and exiting the School, and by Children's Centre staff, children and parents and the public for entering and exiting the Children's Centre, generally as illustrated on Figure 2.
- C. THAT, if the Court varies the Restrictive Covenant as requested, Council authorize the Director of Legal Services and the Director of Real Estate Services to execute such legal documents and take such steps on behalf of the City as they may determine in their discretion to be reasonably necessary, to enter into an agreement with the VSB and the Province to grant such rights to the VSB as necessary to enable the portions of the Park identified in Figure 2 to be used for the School and for exiting and entering the School and the Childcare Centre.

REPORT SUMMARY

This report seeks approvals and consent needed to move forward with the construction of a new elementary School at International Village. To accommodate a larger school which is needed due to the growing number of children in the local area, meet program requirements and limit impacts on the adjacent residential tower and childcare centre, the school has been designed with the upper floors cantilevered five (5) metres over the property line common with Andy Livingstone Park. Because Andy Livingstone Park contains contaminated soils from the development of the former Expo Lands, it is owned by the Provincial Government and is the subject of a restrictive covenant limiting use to park purposes only. The City has a 999 year lease for the park and the Board of Parks and Recreation (Park Board) is responsible for management and maintenance of the park.

The ability for the Vancouver Board of Education (VSB) to proceed with the school as designed is predicated on a successful BC Supreme Court application to modify the restrictive covenant to allow school use in the park (5m cantilever). In addition, the cantilever requires complex approvals (yet to be resolved) involving the Vancouver Board of Education (VSB), the City Park Board, and the Province as the owner of Andy Livingstone Park. Council approval and consent on the recommendations in this report.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

False Creek North Official Development Plan (1990)

International Village Rezoning (1990)

Northeast False Creek: Directions for the Future (2009)

Greenest City 2020: A Bright Green Future

Transportation 2040 Plan

Healthy City Strategy

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

In a letter dated March 1, 2013 the VSB advised that all of the existing elementary and secondary public schools in the downtown area west of Main Street are operating at full capacity. New schools are required to meet the needs of the growing population of young families downtown and allow children to attend school in their own neighbourhoods.

The proposed school design is an innovative approach that addresses both program and design objectives. Implementing the project as proposed is complex and requires a willingness on the part of all parties involved to do things differently. This project is an example of the real challenges facing the VSB and the City in the downtown area and of how we can work together to develop creative and sensitive solutions that optimizes use of public land while minimizing impacts.

REPORT

Background and Context

Two elementary schools were included in the planning of False Creek North. The Elsie Roy School was constructed in 2004 as part of the Roundhouse Neighbourhood. An addition of four (4) classrooms was built in 2011, including accommodation for school-age childcare. This site has no opportunity for further expansion.

The International Village (IV) site was rezoned for comprehensive development with accommodation for a school, community centre space and a childcare as community amenities to serve the new population. Initially, it was anticipated that all three facilities would be built at the same time, sharing the same building located in a City-owned air space parcel. Provincial funding for the school was not available at that time and the City had subsequently completed design testing that indicated it would be a significant challenge to fit the school, a childcare and satellite community centre into the available air space parcel and even more challenging to phase the construction. To avoid compromising the design of a future school and because of operational concerns with a satellite community space, Council accepted a \$2,100,000 payment to be used to increase the size of the future childcare facility and for restoration of the artificial playing field at Andy Livingstone Park in lieu of requiring the developer to build the community space (RTS 07121). Consequently, the childcare centre was developed on its own within the air space parcel and completed in 2009.

The Province has now funded the new school at International Village to meet existing and the growing number of children living downtown. Funding for the school was approved in 2012 and the VSB has been advancing the planning so that construction of the school can be completed for fall 2015.

The City and the VSB have recently signed a Childcare Facility Funding Agreement to facilitate the creation of school-age care spaces within schools (June 2013). This partnership

identifies the value of creating early care and learning spaces that are integrated, designed and purpose-built with joint uses in mind.

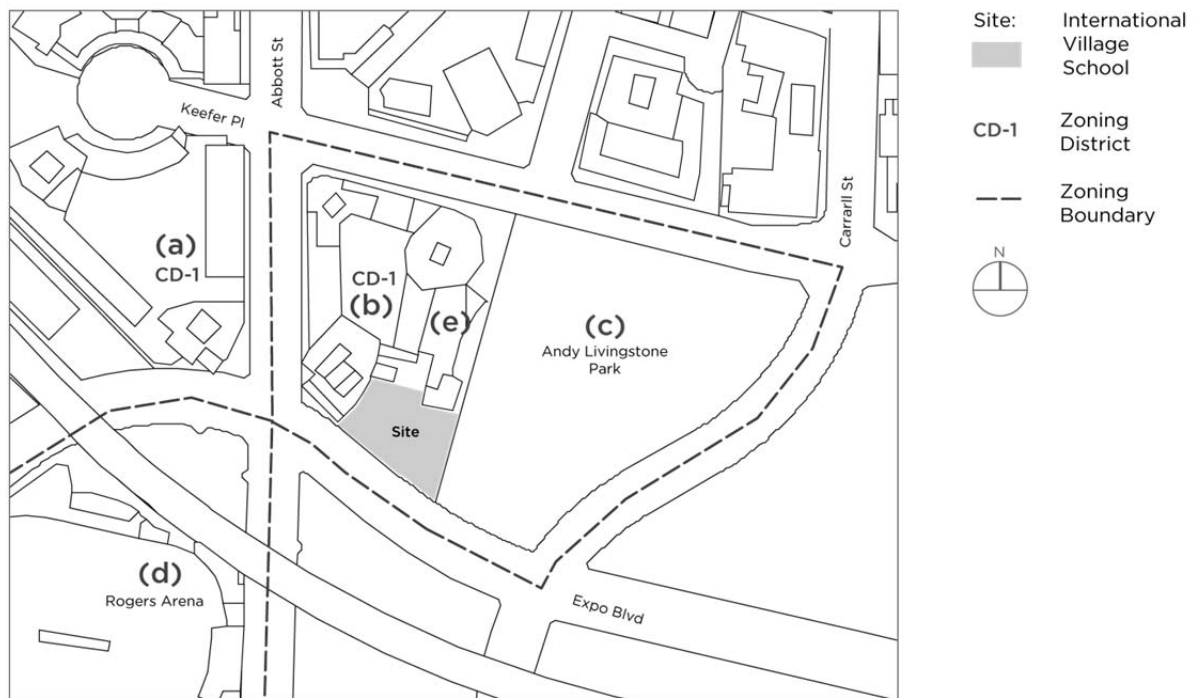
Andy Livingstone Park is owned by the Province and is a permanent contaminated soils storage facility (part of the development of the former Expo lands). The City has a 999 year lease from the Province for the park and a restrictive covenant is registered on title limiting the use of the land for park purposes only. The restrictive covenant (registered in 1995) identified some of the large development parcels adjacent to the park as beneficiaries of the covenant. The parcels have since been developed and strata titled so that today there are approximately 1,100 beneficiaries and the covenant can only be modified with the consent of all of the beneficiaries (strata owners) or by order of the BC Supreme Court.

The Proposal

A new school at International Village School is to be built in an air space parcel situated above the existing surface parking lot (constructed as part of the Firenze development) located north of Expo Boulevard and west of Andy Livingstone Park. See Figure 1 below.

Figure 1: Significant adjacent development includes:

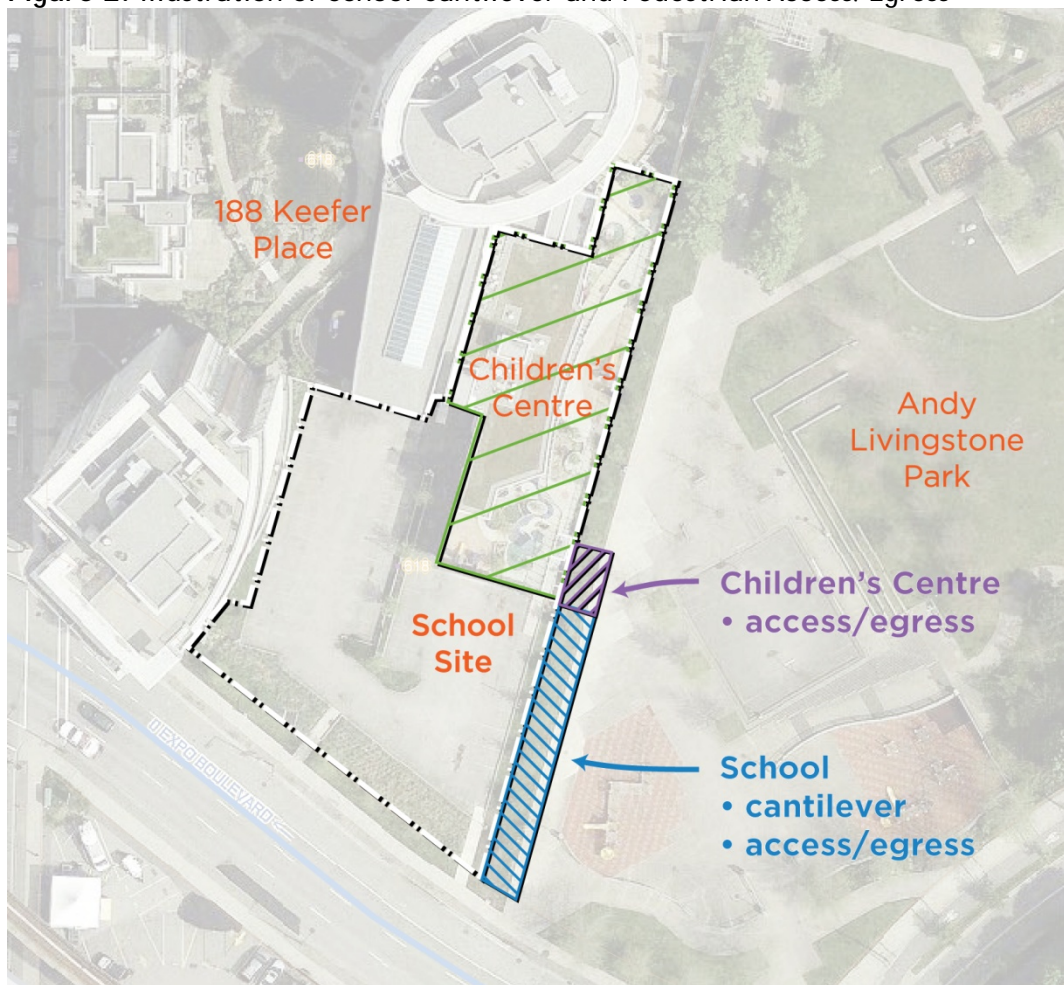
- (a) 188 Keefer Place
- (b) 618 Abbott Street
- (c) Andy Livingstone Park
- (d) Rogers Arena
- (e) International Village Children's Centre



The program for the school has expanded from 3 storeys and 350 students to 4 storeys and 510 students (due to population growth downtown), including an all-day kindergarten and flexible multi-purpose space to accommodate school-age childcare. To allow the expanded program to fit into the tight site, provide a minimum 15m setback from the adjacent residential tower and limit shadow impacts on the outdoor play area to the north, the VSB is proposing to build the school over the property line common with Andy Livingstone Park (the upper floors of the school cantilever approximately 5m into the park). A further benefit of the proposed design is that it allows for the creation of outdoor learning garden spaces on the two upper floors.

The proposed design creates a strong connection between the school and the park with a major school entrance located at the property line common with the park. Pedestrian access/egress for the new school and the existing childcare centre is proposed via the park (see section 3 - Impacts and Implications).

Figure 2: Illustration of School Cantilever and Pedestrian Access/Egress



The Vancouver Building By-law (VBBL) generally prohibits buildings from crossing property lines. However, the VBBL allows the Chief Building Official to consider an alternative way of meeting the requirements of the VBBL referred to as an "Alternative Solution".

The City is proposing to partner with the VSB to accommodate school-age care within the multi-purpose spaces planned for the school with City funding anticipated to be provided through NEFC community amenity contributions. Opportunities to meet any demand for additional multi-purpose community space will also be explored and be included in future recommendations to Council along with the scope, costs and final funding sources.

Strategic Analysis

Alignment with City Priorities and Policies

The construction of a new school at International Village has been long anticipated as part of the planning and build out of False Creek North. International Village School is the second school to be developed as part of False Creek North. Future development in Northeast False Creek is expected to add another 7200 people or more to the area with potential viaduct removal. The growing population of school-aged children downtown, the addition of all-day kindergarten and the limited availability of sites is creating significant challenges for the VSB and the City to provide schools required to meet present and future needs. Elementary school aged children that now reside in the International Village school catchment area are attending school at Strathcona Elementary School, Elsie Roy and beyond.

The completion of the new school at International Village benefits the community and supports Council priorities and policies as follows:

- supports building strong, safe and inclusive communities;
- facilitates healthy child development;
- supports the active transportation goals of the 2040 Transportation Plan and Greenest City 2020 Strategy, to get children walking and cycling to school by connecting all primary and secondary schools in Vancouver within 300m of the existing greenway system; and
- aligns with other key building blocks of the emerging Healthy City Strategy, including belonging, inclusion and critical social connections close to home;
- aligns with the Joint Childcare Council (JCC) mandate (involves City Council, Park Board and VSB) to plan for and develop childcare on public lands and promote the joint use of space for all types of early care and learning opportunities.
- New licensed school-age spaces provided in the school will count towards Council's target to facilitate the creation of 500 new spaces in the years between 2012-2014.
- aligns with the objectives of the Memorandum of Understanding being developed between the City, the Board of Parks and Recreation, the Vancouver Public Library Board and the VSB for the optimization of public spaces.

Impacts and Implications

1. Building Design

While a school has always been anticipated on this site, a smaller 3 storey building was originally envisioned affording generous setbacks from the adjacent residential tower and views toward the park. One of the design objectives in the planning of this larger school is to maintain generous setbacks from the adjacent resident tower to protect livability. A further design objective is to limit the loss of sunlight access to the International Village Children's Centre outdoor play area immediately to the north. These objectives led to the exploration of possible options and identified the cantilever option as the best performing design solution.

If the VSB is not successful with the Court application to revise the restrictive covenant or if the Province, the City and Park Board do not all provide consent to the approvals required for the cantilever into Andy Livingstone Park, the school will need to be constructed within the property lines. This means that the 3rd floor would get smaller (creating program challenges) and the 4th floor would need to get larger to compensate lost floor area. The 4th floor is currently setback approximately 25m from the adjacent tower. Without the cantilever the 4th floor would shift to the west and extend further north. The 4th floor setback from the adjacent tower would be reduced from 25m to 15m and no setback would be provided from the adjacent childcare outdoor play area. This massing arrangement would have a greater impact on the light and views from the adjacent residential units and would significantly limit sun exposure to the childcare play area (sunlight access to outdoor play area is a childcare licensing requirement). Another option would be to construct a smaller school within the air space parcel. However this would mean reductions to the capacity and program of the school neither of which would be desirable to the VSB or the community. As the implications of requiring the school to be constructed within the existing air space parcel are severe, and the impacts on the park can be mitigated, staff support the cantilever as the preferred design solution.

2. School and Park Relationship

When the school site was originally secured it was anticipated that the school would use the adjacent Andy Livingstone Park for recess and before and after school play. This arrangement exists throughout Vancouver with many schools such as Elsie Roy School reliance on David Lam Park. The playground was built in 1994 and is in need of renewal to meet the increased intensity of use that will come with the construction of the school. The park renewal design process will include the VSB and the neighbourhood. Once a concept plan is confirmed in 2014, a total project budget and funding sources can be finalized with the objective of having the renewed playground constructed for school opening in the fall of 2015.

The upper floors of the proposed school will extend 5m into Andy Livingstone Park at a height of approximately 3.6m (12) above grade. Parks Board staff have reviewed the implications of the cantilever in terms of any limitations it may place on park use and the potential to attract uses that are not compatible with playground use. The park facilities along this western edge are limited to grass, small trees and pathway paving. The existing playground nearby is not impacted by the school cantilever into the park. While the design of the school and the relationship with the adjacent park are still evolving, staff have had an initial meeting with the VSB design team and are confident that design solutions are possible that would allow the space below the cantilever to be used by children for play while also discouraging other undesirable uses in the evenings and weekends. Staff anticipate that a preferred design solution will be identified and refined as part of the Development Permit process.

3. International Village Children's Centre - Access and Lease Provisions

The design of the existing International Village Children's Centre provided for some level of integration and shared entry with the future school. The current childcare entry gate adjacent to the park is accessed by a ramp built on the future school site. Due to building code differences between the childcare and the future school, it is no longer possible to share an entry. Consequently, this childcare centre entrance will need to be modified so that it is separate from the school entry and accessed directly from Andy Livingstone Park.

The childcare centre is leased to and operated by the Vancouver Society of Children's Centres (VSSOC). The pre-existing lease with VSOCC will continue on the same terms and conditions and will continue to operate independently from and free of charge of the VSB. VSSOC is directly involved in the on-going school planning discussions and is aware of all implications for the International Village Children's Centre.

4. Contaminated Soils

As part of the City's current agreements with the Province, liability for environmental and soils risks and other park use risks are clearly established. As a condition of a future easement or other tenure arrangements, the VSB will need to indemnify the Province and the City from any incremental environmental and contaminated soils liability related to the school building extending into the park and related school use over a limited area of the park.

5. Precedent

As the school is a critical amenity needed to support the existing and future population of the area, and as the project involves only public entities (City, Parks Board, VSB, and Province) staff support the design as proposed with a cantilever across the property line common with the park and all of the approvals related to that. As this is a public project, involving only public lands the situation is unique such that it will not provide a precedent for private projects.

6. Agreements and Approvals

The VSB would like to advance the project as designed with the cantilever into the park. All conditions and requirements for the project have not been fully resolved. However, to expedite the project, all parties involved have adopted a framework for the approvals/consent that will be required. In addition to obtaining a development and building permits, this proposal requires the following special considerations and approvals:

- a. British Columbia Supreme Court - An application to the Court will require broad notification and could take some months for a decision so the VSB is taking steps to initiate this as soon as possible.
- b. The Province (Ministry of Forests, Land and Natural Resources) - As owner of Andy Livingstone Park, the Province must consent to an agreement required for the school to cantilever into the park. In discussions to date with staff from the VSB and the City, the Province has indicated that it does not object to the school cantilevering into the park as proposed.
- c. Vancouver Park Board - The Park Board is responsible for the management and maintenance of the park and must approve an agreement required for the school to cantilever into the park.
- d. Vancouver City Council - Staff recommend that Council approve the following:
 - i. Transfer of the air space parcel to the VSB - As construction funding has been approved by the Province and the VSB is working towards permit applications, staff recommend transfer of the school site to the VSB now. The terms of the purchase and sale agreement with the City require that the VSB lease back the

- portion of the air space parcel occupied by the International Village Childcare Centre (owned by the City and leased to the Vancouver Society of Children's Centres (VSOCC) and that if the air space parcel is no longer required for school purposes the City would have an option to buy it back for a nominal price;
- ii. Tenure Over Andy Livingstone Park - If the VSB is successful in its application to modify the restrictive covenant now registered on Andy Livingstone Park to allow for the cantilever into the park and pedestrian access/egress for the school from the park, an agreement (e.g. lease, easement, right-of-way or sale) will be required to allow the VSB to proceed with the project. The modification to the covenant must also allow for pedestrian access/egress for the International Village Children's Centre from the park. Over the coming months the VSB, City and Province will determine the best method to secure long term tenure for the school cantilever in the park.

Implications/Related Issues/Risk (if applicable)

Financial

The value of the sale of the City-owned air space parcel to the VSB and the lease back of the daycare centre will be nominal amounts.

It is anticipated that the VSB will be responsible for all financial aspects of the proposed overhang over Andy Livingstone Park (construction, building maintenance, repairs, insurance, etc.).

Environmental

The VSB will need to indemnify the City from any incremental environmental and contaminated soils liability related to the school building extending into the Andy Livingstone Park and related school use over a limited area of the park.

Consultation

The VSB has met with the Strata Council of the Firenze project and has also discussed the project with the False Creek Residents Association and with the Northeast False Creek Joint Working Group. Further meetings with the FCRA the NEFC JWG and the broader neighbourhood are planned including a Public Information Meeting to be held on July 16, 2013. This project will also be reviewed by the Park Board at their July 22, 2013 meeting.

A summary of the response from both of these meetings will be provided to Council prior to consideration of this report.

CONCLUSION

The construction of the new school at International Village is critical to the existing neighbourhood and future development of the Northeast False Creek Area. While complex and not fully resolved, staff recommend support for all the considerations and approvals needed at this time to advance the project as proposed.

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