

Memo



Date: November 9, 2010
File: 0910-20-277
To: City Manager
From: Manager, Real Estate Services
Subject: Letter of Understanding - City of Kelowna and School District #23

Report Prepared by: Graham Hood, Property Officer

Recommendation:

THAT Council endorses the Letter of Understanding attached to the report dated November 9, 2010, between the City of Kelowna and School District #23 pertaining to the joint use of lands located on a portion of Lot 3, Plan KAP66779 and a portion of the property described as Part N 1/2, Except Plans 5648, 9458, 9459, KAP 74689, KAP 75766, KAP 77604, KAP 88577;

AND THAT Council direct staff to negotiate and bring forward, at the appropriate time, a comprehensive Joint Use Agreement for the future use of the lands;

AND THAT the Managers of Real Estate Services and Parks & Public Places be authorized to execute the Letter of Understanding on behalf of the City.

Purpose:

Staff have prepared a Letter of Understanding for School District #23 ("SD23") to define the terms of a mutually beneficial agreement with the City of Kelowna regarding the future land use adjacent to Neighbourhood #3 (The Ponds development). Through shared use, the parties can maximize utility of the lands thereby benefiting the recreational needs of the overall community.

Background:

Staff have been working with the developers of the Neighbourhood #3 Sector Plan since 2005 as they plan for development of the properties as comprehensively and efficiently as possible. Identified in the Neighbourhood #3 Sector Plan is the provision for a school site. At the current time, SD23 is unable to determine if this will be an elementary or middle school. City of Kelowna staff have been working with SD23 and the developer to protect sufficient land for either type of school, and at the same time, providing the community with the highest utility of the lands.

Directly north of The Ponds development, and east of Gordon Drive, is a 20 acre property (Lot 3, Plan KAP66779) that the City of Kelowna received in 1997 from the Province of British

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Columbia as a result of an amalgamation commitment in 1976. The Province placed a restrictive covenant on the property stating that the lands may only be used for park purposes (no residential development) and cannot be sold.

Through the developers planning process, it was recognised that by reserving land for SD23 directly adjacent to the City's parcel, a mutually beneficial relationship could be achieved. In principle, a soccer field could be constructed on City land, used by SD23 during school days, and used by the community on the weekends, evenings and summer. In addition, the parking lot and possible second field created for the school could be used by the community. Thus, maximizing the use of both parties' lands.

The developer (21 Great Projects Limited) has agreed to sell the lands directly south of the City's property to SD23 to facilitate this joint use proposal. This will also help maximize development density of surrounding lands, improve on the pedestrian connectivity and ensure future amenity in the neighbourhood.

Under the Letter of Understanding two possible scenarios for the future school site exist, dependant on whether the school is developed for elementary or middle school use. The major reason for the two scenarios is due to the requirement of only one field for an elementary school, and two for a middle school.

Under an elementary school model, one field would be constructed on City land, and the school and parking lot constructed on future SD23 land. The City will provide use of a soccer field on City lands between the hours of 8:00am and 3:30pm in exchange for the use of parking stalls and the interim use of SD23's lands in advance of site development.

Under a middle school scenario, one field would be constructed on City land, a second field, parking lot and the school constructed on future SD23 land. The City will provide use of a soccer field on City lands between the hours of 8:00am and 3:30pm in exchange for the use of parking stalls on SD23's lands, the interim use of SD23's lands in advance of site development, and the use of the field on these lands outside school use hours (school days from 8:00am to 6:00pm).

All remaining terms and conditions of the understanding are outlined in the attached letter (Schedule 'B'). It is expected that this letter will form the basis of a future binding Joint Use Agreement between the parties.

Internal Circulation:

Infrastructure Planning
Land Use Management
Financial Services
Recreation & Cultural Services

Considerations not applicable to this report:

Financial/Budgetary Considerations:

Community & Media Relations Considerations:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:


Personnel Implications:

External Agency/Public Comments:

Alternate Recommendation:

In light of the above, the Real Estate & Building Services department request Council's support of this agreement.

Submitted by:



J. Hettinga

Manager, Real Estate Services

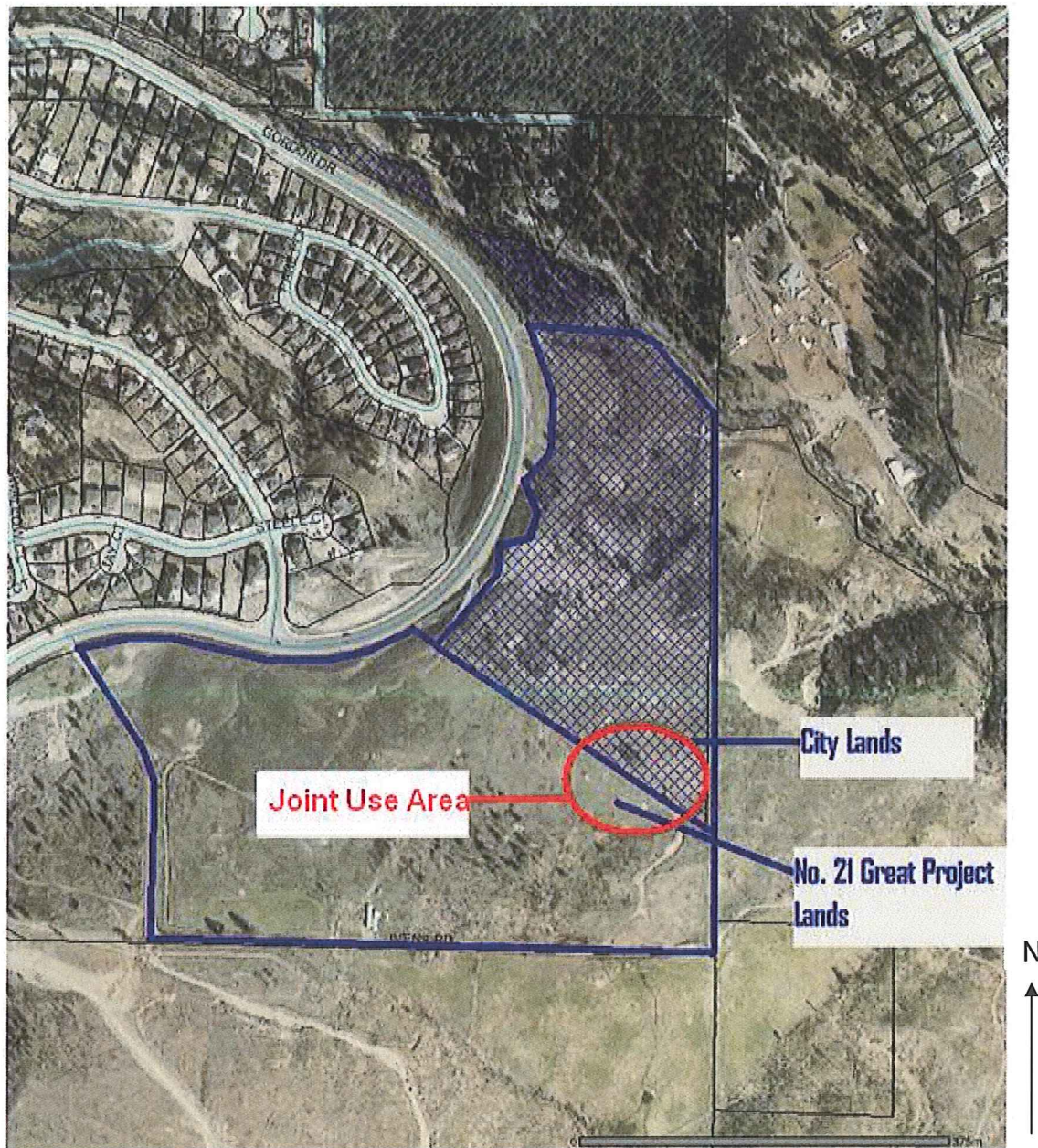
Approved for inclusion:



D. Gilchrist, Director, Real Estate & Building Services

cc: R. Cleveland, Director, Infrastructure Planning
T. Barton, Parks & Public Places Manager
D. Noble, Manager, Urban Land Use,
J. Gabriel, Director, Recreation & Cultural Services
K. Grayston, Director, Financial Services

Schedule 'A'



Schedule 'B'

LETTER OF UNDERSTANDING

Between City of Kelowna and School District No. 23

Regarding the joint use of lands in Neighborhood #3

(The Ponds Development)

1.0 INTRODUCTION

This letter outlines the current understanding between the City of Kelowna (Hereinafter called the "City") and The Board of Education of School District No. 23, (Central Okanagan) (Hereinafter called the "Board") for the potential shared use on dedicated lands in Neighborhood #3 (The Ponds Development), Kelowna. The specific lands have no current subdivision, but form an area made up of the current legal parcels: Lot 3, Plan KAP77336, District Lot 579, Land District 41, (the "City Lands") and: approximately 3.0 acres of Lot N1/2, Except Plans 5648, 9458, 9459, KAP 74689, KAP 75766, KAP 77604, KAP 88577 (the "Board Lands"). Jointly referred to as the "Lands"

2.0 PURPOSE OF AGREEMENT

The purpose of this letter is to outline the nature of agreement between the City and Board regarding joint use of the proposed "Lands" and amenities. The City and Board are in agreement that mutually acceptable terms can be reached for the shared use of the "Lands".

The understanding is founded on the principles whereas the Board and the City wish to use the Board Lands for both educational and community use; and whereas the City and Board endeavor to maximize the use of public funds for community and educational purposes.

This agreement shall be used to form the basis of understanding for a future "Joint Use Agreement" between the City and Board, pending Council approval of the future development of the Lands and both parties acquiring ownership of the respective Lands. The intent of the agreement is to provide a level of comfort to the City and the Board in regards to park and school land acquisition within the Neighbourhood 3 Area Structure Plan.

All parties acknowledge that to enter into a binding agreement at this time is premature due to the lack of specific property boundaries required to fully assess the geographic and environmental limitations of the Lands. Both parties also require additional time to assess the proposed terms and conditions in order to maximize the success of the final Joint Use Agreement.

3.0 TERMS OF AGREEMENT

The following outlines the current understanding between the parties with respect to the future Joint Use Agreement. The final agreement is dependent upon the type of school placed on Board Lands and as such, the agreement contains terms for both possible school types.

3.1 Joint-Use Community Park/Elementary School

3.1.1 Site Development

The following minimum park amenities will apply to the subject property:

- 1 soccer field: Maximum 68 x 110 m (including run out areas)
- Bellevue Creek top of bank trail: 3.0 m wide asphalt trail to link with parking
- Multi-use loop trail around the City property
- Parking - 30 parking stalls
- Community level playground: ~1000 square meters
- 2 tennis courts (38.0 m x 32.0 m)
- Washrooms (2 stalls)
- Road frontage: adequate for park exposure, sight-lines and profile

3.1.2 Land Supply

The soccer field and other park amenities will be accommodated on City Lands. The parking stalls will be accommodated on the Board Lands.

3.1.3 Joint Use of Amenities/Hours of Use

The parties are in agreement that the Joint Use Agreement will establish the guiding hours of use for the amenities. It is understood, that scheduling and priority will be set forth by the operations committee.

Initial/Interim Use: Both parties understand that the Board will not require use of its Lands until such time as a school is built. In the interim, the Board will provide use of the Board Lands to the City. Any City interim development on the Board lands must be approved in writing by the School District prior to the City proceeding with the work. The City will be responsible for all development and maintenance costs for the interim use and any clean up costs associated with returning the property to its dedicated state. The Board will provide the City with sufficient notice in order to restore the site.

Hours of Use: Both parties recognize the requirement for the School amenities and in particular the playfields on all lands are reserved for use between the hours of 8:00 am and 3:30 pm on school days. A minimum of 10 parking stalls will be available during park hours for public use. The City shall have priority use of the amenities at all other times.

3.1.4 Maintenance

In principle, the City will be responsible for the maintenance of all facilities on land owned by the City and the Board will be responsible for maintenance of all facilities located on land owned by the Board.

3.1.5 Operations (Use Management/Budget)

The parties are in agreement that an operations committee shall be established consisting of a minimum of one representatives from both the City and Board. The committee shall have the mandate of working in partnership with local residents and the administration of the school to provide an inclusive and coordinated community based approach to the planning, programming and scheduling of the amenities.

The operations committee shall be responsible for the establishment of priority use and access to the Lands and amenities on the basis terms and conditions outlined in the joint use agreement. Rental of the Lands and amenities shall be scheduled and managed by the committee who shall be responsible for ensuring that all insurance/liability and security requirements outlined in the joint use agreement are met.

Any revenues derived from the use of City Lands shall be provided in their entirety to the City and any revenues derived from the use of Board Lands shall be provided in their entirety to the School District.

The committee shall be responsible for monitoring and evaluating the success of the joint use agreement.

3.2 Joint Use Community Park/Middle School

3.2.1 Site Development

In addition to the 1 City soccer field the Board may need an additional soccer field to meet the needs of a Middle School.

- 1 City soccer field: Maximum 68 x 110 m (including run out areas)

- 1 SD soccer field: size to meet SD standards

The soccer fields and parking spaces may be developed by the Board by such time that the school is operational. The City may choose to develop the field on City lands in advance of the Board development of the School lands. The Board reserves the option to develop the field on City lands should the field not be developed by the City in advance of the Board's requirement for the field. The development costs of all other amenities on City lands will be borne by the City.

3.2.2 Land Supply

The land for one soccer field and other park amenities will be provided by the City. The land for the additional soccer field and parking stalls will be provided by the Board.

3.2.3 Joint Use of Amenities/Hours of Use

The above conditions for interim use of the amenities are to remain unchanged under the middle school scenario.

Hours of Use: Both parties recognize the requirement for a minimum amount of dedicated hours of use for both the Middle School and the public.

Board Soccer Field

The Board's soccer field will be reserved for the primary use of the Middle School between the hours of 8:00 am and 6:00 pm and the Board will have priority booking on non-school days and after hours during the school year. The remainder of the time, the City will have priority use of the soccer field for public use.

City Soccer Field

The City soccer field will be reserved for the use of the Middle School between 8:00 am and 3:30 pm on school days. The City shall have priority use of the soccer field at all other times.

Parking

A minimum of 10 parking stalls will be available at all times for public use of the park.

An additional minimum 20 parking stalls will be made available to the public from 3:30 pm onwards each school day and all day on weekends for use of the park.

3.2.4 Maintenance

In principle, the Board will be responsible for the maintenance of the Board soccer field and the City will be responsible for the City soccer field.

3.2.5 Operations (Use Management/Budget)

The above conditions (3.1.4) are to remain unchanged under the middle school scenario.

3.3 Term

The final term of the arrangement will be established in the Joint Use Agreement. The letter of understanding will expire upon the establishment of a Joint Use Agreement. The proposed term of the Joint Use Agreement is to be the duration of time that the Board Lands are used as a school site under both of the above scenarios.

4.0 NEXT STEPS

Upon completion of a survey of the proposed dedicated lands, the parties will further assess the possible uses and layouts for school and park amenities.

The parties are in agreement that upon further review and discussion, the next appropriate step is to enter into a Joint Use Agreement for the future use of the lands, at such time that the lands become developable by both the City and the Board. These future documents shall be similar in both terms and intent to current agreements between the participants for shared use of City and Board lands.

This Letter of Understanding is dated _____ and signed by:

Jordan Hettinga, Manager
Real Estate Services
City of Kelowna

Larry Paul
Secretary-Treasurer
School District No. 23

Terry Barton, Manager
Parks & Public Places
City of Kelowna