

Date: July 12, 2006



TO: Board Members – Parks and Recreation
FROM: General Manager – Parks and Recreation
SUBJECT: CAPTAIN COOK PARK: UPDATE ON GINGERBREAD HOUSE DAYCARE

RECOMMENDATION:

- A. THAT the Board rescind the following resolutions approved on June 21, 2004:**
- i. THAT the Board approve the use of the required portion of Captain Cook Park for a fenced play area, and that the Board enter into a five year agreement with the operators of the Gingerbread House Daycare for the purposes of operating licensed childcare programs on a portion of Captain Cook Park, at no cost to the Park Board;**
 - ii. THAT all arrangements be made subject to the satisfaction of the General Manager, Director of Legal Services and Director of Risk Management;**
- B. THAT the Board authorize the General Manager to execute a License Agreement with the City of Vancouver to use that portion of 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) indicated on Appendix "A", for the purposes of providing the outdoor play area, including installing playground equipment and fencing, as required for the childcare centre to be operated on the adjacent Captain Cook School site, on terms and conditions acceptable to the General Manager and the Director of Legal Services;**
- C. THAT the Board authorize the General Manager to execute and register against title to Captain Cook Park a "no build" covenant over that portion of Captain Cook Park shown in Appendix "B" to address certain spatial separation issues required to be addressed under the Vancouver Building By-Law to allow the operation of the childcare centre on the adjacent Captain Cook School site, on terms and conditions acceptable to the General Manager and the Director of Legal Services.**

POLICY

The votes of not less than 2/3 of the Commissioners present are required to rescind a resolution passed by the Board.

In 1974, the Board resolved that daycare centres could be a suitable facility in a park.

In 1992, the Board adopted guidelines and procedures for daycare centres in parks.

On March 8, 2004, the Board approved the Child Care Protocol, which sets out a framework for the City of Vancouver, the Vancouver School Board (the School Board) and the Park Board to work toward building a comprehensive range of childhood education and care services.

BACKGROUND

Gingerbread House Daycare is currently located in a Provincially-owned portable building at 6605 Boundary Road, on land owned by BC Hydro. In early 2004, the Province indicated its intention to terminate this agreement, meaning that the Gingerbread House Daycare needed to relocate. In the spring of 2004, the following relocation proposal was formulated: the childcare building would be built on School Board land (Captain Cook School) and the outdoor play area for the childcare centre would be built on Park Board land (Captain Cook Park), as shown on the map in Appendix A.

After staff completed their review, which included community notification and a public meeting, the Board approved the following resolutions on June 21, 2004:

- “That the Board approve the use of the required portion of Captain Cook Park for a fenced play area, and that the Board enter into a five year agreement with the operators of the Gingerbread House Daycare for the purposes of operating licensed childcare programs on a portion of Captain Cook Park, at no cost to the Park Board.”
- “That all arrangements be made subject to the satisfaction of the General Manager, Director of Legal Services and Director of Risk Management.”

City, Park Board and School Board staff have been working on implementing the proposal. The concept for the childcare’s outdoor play area at Captain Cook Park was presented to the public at an open house in November 2004 and to the Park Board in March 2005. The City issued a development permit for the construction of the childcare centre in July 2005.

DISCUSSION

In recent months, work has focussed on the legal arrangements and issues associated with the Building By-Law. These two issues are detailed below.

Legal Agreement

In June 2004, the Board approved that a legal agreement be signed with the operator of the childcare centre – Gingerbread House Daycare – for a five year period. Earlier this year, the City determined that it was more prudent to structure the legal arrangement as follows: the Park Board would grant a license agreement to the City for the outdoor play area, and the City would subsequently sub-license the area to the childcare operator. The City and School Board have agreed that the same legal structure would apply to the childcare building on School Board lands.

The City also prefers that the term of the license be three (3) years, not five (5) years as previously approved.

Park Board staff support these changes to the legal arrangement. In order for staff to follow through on these changes, the following resolutions are required:

- a resolution to rescind the two resolutions approved by the Park Board on June 21, 2004 (recommendation A), which requires a 2/3 majority vote of the Board; and
- a resolution to authorize the General Manager to enter into a license agreement with the City (recommendation B).

Building By-Law Issue

The childcare building will be located on School Board land, very close to the property line separating Captain Cook School and Captain Cook Park. In late 2005, the City reviewed the Building Permit application and noted that the Building By-Law requires a minimum distance between the east face of the proposed childcare building and any building that may be constructed in the future in Captain Cook Park.

As a result of this bylaw requirement, the City has requested that the Park Board approve the registration of a 'no build' covenant at the Land Title Office, which would prevent the Park Board from constructing a building on the portion of Captain Cook Park located immediately east of the proposed childcare building. Appendix B shows the area to be included in the 'no build' covenant - an area covering approximately 2 m by 20 m. The area covered by the 'no build' covenant overlaps with the area for the outdoor play area required for the childcare centre.

Park Board staff support the request for a 'no build' covenant because staff do not anticipate a need to construct a building in Captain Cook Park. Moreover, even if a building is needed one day in this park, it will be situated away from the outdoor play area and therefore away from the area covered by the 'no build' covenant. The approval of recommendation C is required in order for staff to follow through on the registration of the 'no build' covenant.

Next Steps

A report will be considered by City Council on July 18, 2006, in which City staff are seeking authorization to enter into the appropriate legal agreements with the School Board, the Park Board and the operator of Gingerbread House Daycare.

SUMMARY

The Park Board has supported and continues to support the initiative to relocate Gingerbread House Daycare to Captain Cook School and Park. Recent technical work has revealed that changes are required to the structure of the legal arrangement, and that a 'no build' covenant be registered over a portion of Captain Cook Park.

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Map Showing Proposed Location of Outdoor Play Area
for Gingerbread House Daycare at Captain Cook Park



Map Showing Proposed Area of 'No Build' Covenant at Captain Cook Park

