



Corporate Report

NO: R100

COUNCIL DATE: June 15, 2009

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **June 1, 2009**

FROM: **General Manager, Parks, Recreation and Culture; City Clerk** FILE: **6140 - 20/SSAUF**

SUBJECT: **Addition of Lands to the Sunnyside Acres Urban Forest Park – Approval of Alternative Approval Process and Dedication Process**

RECOMMENDATION

The Parks, Recreation and Culture Department and the Legislative Services Division recommend that Council:

1. Receive this report as information;
2. Authorize staff to undertake an Alternative Approval Process as provided under s. 84 and s. 86 of the *Community Charter*, SBC Chap. 26, as amended (the "Community Charter");
3. Establish the deadline of July 23, 2009 for receiving elector responses to the Alternative Approval Process;
4. Approve for use in the Alternative Approval Process the elector response form attached as Appendix "4" to this report;
5. Approve the determination of the total number of electors of the area at 253,137 as described in this report;
6. Authorize the City Clerk to bring forward a By-law to close and remove the dedication as highway of unopened portions of 23rd Avenue containing 4,090 square feet (380 square meters) and 23A Avenue containing 8,611.3 square feet (800 square metres), shown as Blocks "C" and "D" in Appendix 2 and approve the designation of Blocks "C" and "D" as "Urban Forest Park";
7. Instruct staff to prepare for introduction, upon successful conclusion of the Alternative Approval Process, a By-law that removes the dedication as "Park" of those lands identified as Block "A" and Block "B" in Appendix 1 of this report; and
8. Instruct staff to prepare, for introduction in parallel with the by-law referenced in recommendation 7. above, a By-law that dedicates as "Urban Forest Park" those lands identified as Blocks "A" and "B" in Appendix 1 and Blocks "C", "D" and "E" in Appendix 2 of this report.

INTENT

The purpose of this report is to advise Council of the work that has been done to prepare for a public approval process in the matter of removing the dedication over lands previously dedicated by referendum as “Park” so as to enable their dedication, along with other lands described herein totalling 13.18 ha, as “Urban Forest Park” and to obtain Council approval for an Alternative Approval Process related to such designation of land in accordance with s. 30, s. 84 and s. 86 of the *Community Charter*.

BACKGROUND

In 1988, a public referendum was held to determine whether the residents of Surrey agreed with setting aside 125 ha (308 acres) of City lands in South Surrey as “Urban Forest Park”. The referendum passed, and by-laws were enacted to change the status of the lands, which subsequently became the Sunnyside Acres Urban Forest Park. In 1996, another referendum was held, which resulted in an additional 5.34 ha (13.2 acres) of land being re-dedicated as “Park” and then re-dedicated as “Urban Forest Park” and added to the Sunnyside Acres Urban Forest.

In 2005, with the support of the Sunnyside Acres Heritage Society, the Sunnyside Acres Urban Forest Advisory Committee resolved to request that the City add 13.18 ha (32.57 acres) of adjacent lands to Sunnyside Acres Urban Forest. On October 12, 2005, the Parks and Community Services Committee (PCSC) of Council discussed the proposal and forwarded a recommendation to Council that 14.76 ha of additional lands be dedicated as “Urban Forest Park” and added to the Sunnyside Acres Urban Forest Park.

The land proposed to be added to the Urban Forest Park is described as follows:

- Forested land within South Surrey Athletic Park, north of 20th Avenue – 8.4 ha (Block “A”, Appendix 1.);
- Forested land within South Surrey Athletic Park, south of 20th Avenue – 4.6 ha (Block “B”, Appendix 1.);
- Two portions of unopened road allowance, presently forested, on the west side of the park – 0.1180 ha (Blocks “C” and “D”, Appendix 2.); and
- One City-owned lot, presently forested, at 20th Avenue – 581 sq metres (Block “E”, Appendix 2.).

On November 30, 2005, Council received and approved the minutes of the PCSC (Res.R05-2856). Council then approved a recommendation from the Committee to add the lands shown in Appendices 1 and 2 of this report to the dedicated Sunnyside Acres Urban Forest Park (Res.R05-2857). Council also requested a legal opinion on whether approval of the electors was required to rescind the previous dedication of some of the lands as “...*held for park, pleasure and recreation and community uses...*” prior to their dedication by Council as Urban Forest Park. Legal Services has opined that approval of the electors is required for this purpose. Legal Services has also advised that under s. 84 of the Community Charter there are two options available to obtain the approval of the electors. These options are by assent of the electors, i.e., referendum, where a majority of the votes counted are in favour of the by-law or question, or by alternative approval process under s. 86 of the Community Charter.

DISCUSSION

A team made up of staff from Parks, Engineering, Legal Services, Legislative Services and Planning and Development met to evaluate the issues related to adding lands to the

Sunnyside Acres Urban Forest through dedication. This work has included title searches, detailed surveys and reviews of engineering requirements. The work also included an architectural assessment to ensure that any future expansion the South Surrey Recreation Centre may be undertaken without being affected by the Park Dedication. There has been careful documentation of all aspects of this project. The following is a brief discussion of issues that have been addressed in preparing for the dedication of these lands as Urban Forest Park.

Existing Encumbrances on the Lands

Blocks “A” and “B” were dedicated as “Park” after the 1988 referendum. Council does not have the authority to amend the By-laws and to dedicate these areas as “Urban Forest Park” without the approval of the electors. Therefore, it is proposed that an Alternate Approval Process be used to confirm the electorate’s approval to change the nature of the dedication of these two Blocks of land.

For the purpose of dedicating as “Urban Forest Park” those lands previously dedicated as “Park” together with those additional lands identified in Blocks “C”, “D” and “E”, Council need only approve a dedication by-law by an affirmative vote of at least 2/3 of all members of Council. This simplified dedication process is provided under s. 30 of the Community Charter. Once dedicated as “Urban Forest Park” through this process, the dedication can only be removed with the approval of the electors, thus providing assurance that the forested lands of Sunnyside Acres Urban Forest will be effectively protected against future development.

Legal Encumbrances on Title

The following legal encumbrances are on the Title of Lot 3:

- Statutory Right of Way – City of Surrey;
- Statutory Right of Way – Greater Vancouver Water District
- Lease – South Surrey Field House Society
- Lease - BC Amateur Softball Association
- Easement - BC Amateur Softball Association
- Mortgage of Lease - Royal Bank of Canada

The Park Dedication process will affect none of these encumbrances.

Requirement for Approval by Electors

As noted above, approval of the electors is required to rescind the previous dedication of Block “A” and Block “B” as “Park” prior to the dedication of these same lands by Council as “Urban Forest Park”. However, Legal Services has advised that it will not be necessary to submit for the approval of the electors any by-laws for dedication of Blocks A-E as “Urban Forest Park”, provided that Council approves a dedication by-law by an affirmative vote of at least 2/3 of all members of Council. It should be understood that the areas of land that have been dedicated as “Urban Forest Park” in this manner are very well protected, as s 30. (3) of the Community Charter requires that any by-law to remove a park dedicated as set out above may only be adopted with the approval of the electors, i.e., through referendum, or through alternative approval process under s. 86 of the Community Charter.

Alternative Approval Process

It is recommended that the deadline for receiving electors' responses in relation to the Alternative Approval Process for the removal dedication as "Park" of the lands as described in this report be set at July 23rd, 2009. The first notice of such a Process (Appendix 3) will be published June 16th, 2009 and the second notice will be published June 23rd, 2009. (The deadline must be at least 30 days after the second publication of the notice.) The recommended elector response form is attached as Appendix 4.

As the removal of "Park" dedication and re-dedication of parkland is a matter of interest to all Surrey residents, it is recommended that the alternative approval process apply to the entire City. To determine the total number of electors for the City, it is recommended that the number of electors (253,137) on the Provincial Voters List used in the 2008 Local Government Election is a fair determination of the total number of electors of the area to which the approval process applies. A report respecting the basis on which the determination under s. (3)(c) was made will be available to the public.

After the Alternative Approval Process has been completed, and approval of the electors is achieved, a dedication by-law will be brought forward to the July 27, 2009 Regular Council meeting for Council consideration of final adoption.

Subdivision

The Planning and Development Department is processing all necessary subdivision requirements. Plan registration will take place after the Alternate Approval Process demonstrates approval of the dedication.

Surveys

The Engineering Department Survey Section is presently surveying the parcels and preparing the necessary plans for filing in the Land Titles Office.

Engineering Requirements

The Engineering Department concluded that the cul-de-sac bulbs on 23 and 23A Avenues are not needed, and have agreed that road closures may be undertaken. This will allow the removal of highway dedication on those lands, thus allowing them to become "Urban Forest Park" through by-law dedication. However, a 9.600 metre in width road dedication from Lot 23 (presently City lands) is needed for the widening of 24th Avenue road allowance to accommodate future road and utility needs.

The Engineering Department has determined that a drainage right-of-way over part of Block "D" is required to protect existing drainage infrastructure. A right-of-way for water infrastructure is required over part of Block "A". Language will be included in the dedication by-laws that will permit maintenance, replacement and continued operations of existing and contemplated future engineering infrastructure located within the lands that are to be dedicated.

Environmental Work

The current condition of the subject lands is such that little, or no environmental mitigation work will be required to meet the requirements of a designated Urban Forest Park. The lands are generally in excellent environmental condition.

Some work will be required in relation to minor reforestation, hazardous tree removal, trail maintenance, pest management, or in-stream works associated with fish habitat. Language will be included in the dedication by-law to permit works of this nature.

Purpose of Dedication

Parks dedicated under Section 30 (1) of the Community Charter are to be dedicated for a public purpose. The purpose being proposed for Council's consideration is "Urban Forest Park", defined as: "*A large tract of wooded land located within a populous community, dedicated for the public's use and enjoyment and for the management, conservation and enhancement of the native flora and fauna.*" A draft dedication by-law is attached as Appendix 5 to this report.

Active Use Areas

Block "A" contains an area of formalized and controlled off-road bicycle trails managed under the auspices of the Parks, Recreation and Culture Department in partnership with the Surrey Off-Road Cycling Enthusiast (SORCE) bicycle club. Through agreement with the Sunnyside Acres Urban Forest Advisory Committee, of which the Sunnyside Acres Heritage Society is an active member, it is intended that all of Block "A" will be designated as an Active Use Area. This similar to the Active Use Area that is designated within the Green Timbers Urban Forest, where "*active recreational uses include, but not be limited to, parking, washrooms, picnic area, recreational fishing, public events and other recreational activities.*"

South Surrey Recreation Centre

Staff working with an architectural consulting firm has determined that the proposed addition of the subject lands to the urban forest will not compromise future expansion of the South Surrey Recreation Centre.

Communication

In relation to the Alternative Approval Process, staff will develop a communication plan to assist electors in making an informed decision.

Other Steps

If Council approves the recommendations in this report, a by-law for the removal of the dedication of lands as "Park", a By-law for road closures and a By-law for the dedication of lands as "Urban Forest Park" will be brought before Council after completion of the Alternative Approval Process described in this report.

Legal Services has reviewed this report and has no concerns.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Authorize staff to undertake an Alternative Approval Process related to the removal of land as "Park" as described in this report, which Process is provided under s. 84 and s. 86 of the *Community Charter*, SBC Chap. 26, as amended (the "Community Charter");
- Establish the deadline of July 23, 2009 for receiving elector responses to the Alternative Approval Process;

- Approve for use in the Alternative Approval Process the elector response form attached as Appendix “4” to this report;
- Approve the determination of the total number of electors of the area at 253,137 as described in this report;
- Authorize the City Clerk to bring forward a By-law to close and remove the dedication as highway of unopened portions of 23rd Avenue containing 4,090 square feet (380 square meters) and 23A Avenue containing 8,611.3 square feet (800 square metres), shown as Blocks “C” and “D” in Appendix 2 and approve the designation of Blocks “C” and “D” as “Urban Forest Park”;
- Instruct staff to prepare for introduction, upon successful conclusion of the Alternative Approval Process, a By-law that removes the dedication as “Park” of those lands identified as Block “A” and Block “B” in Appendix 1 of this report; and
- Instruct staff to prepare, for introduction in parallel with the by-law referenced in recommendation 7. above, a By-law that dedicates as “Urban Forest Park” those lands identified as Blocks “A” and “B” in Appendix 1 and Blocks “C”, “D” and “E” in Appendix 2 of this report.

Laurie Cavan
General Manager,
Parks, Recreation and Culture

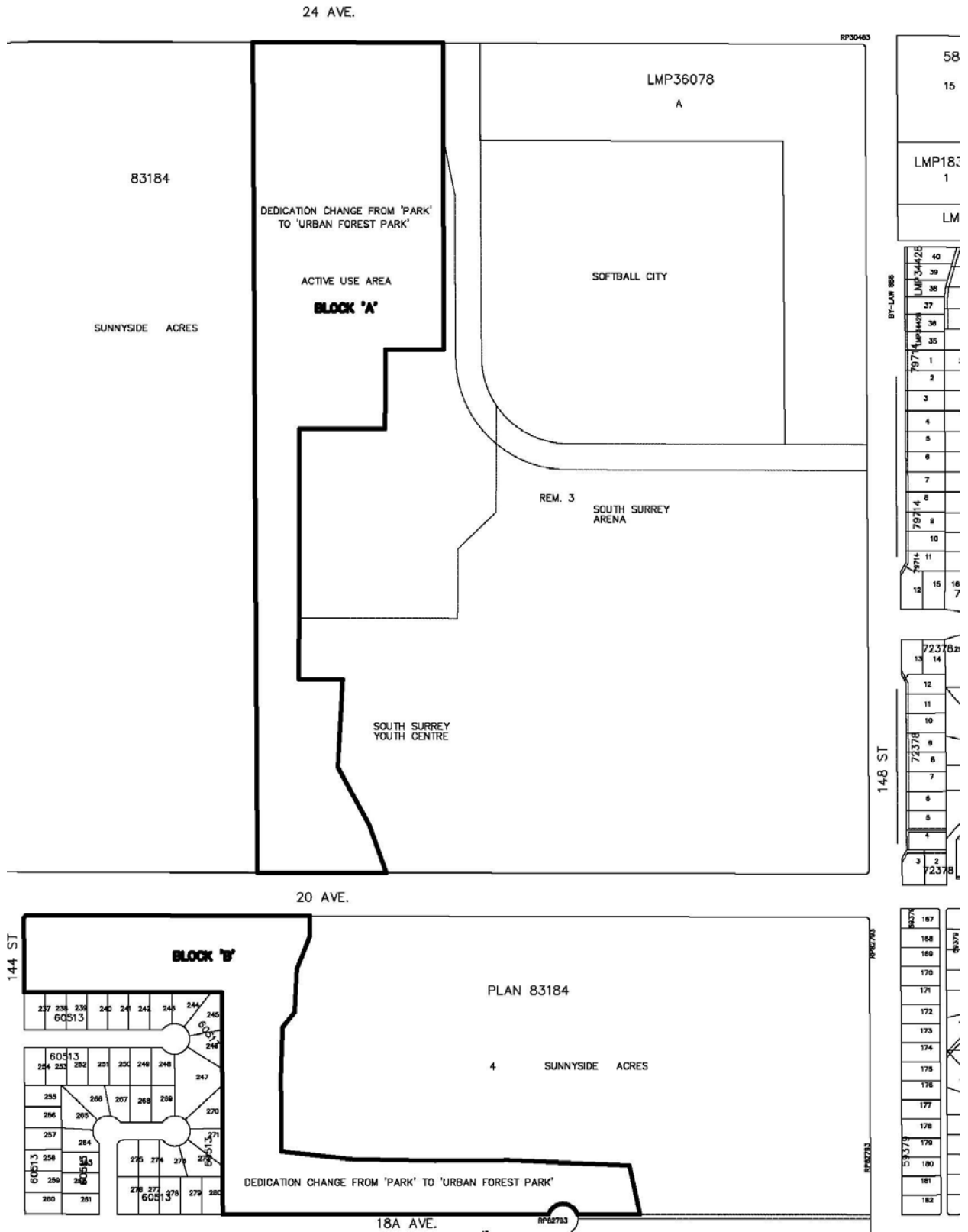
Jane Sowik
City Clerk

OC/ljr

Attachments

- Appendix 1. Map showing Blocks “A” and “B”
- Appendix 2. Map showing Blocks “C”, “D” and “E”
- Appendix 3 Notice of Elector Approval Process
- Appendix 4 Elector Response Form
- Appendix 5 Draft dedication By-law

Appendix 1 Map showing Blocks "A" and "B"



Appendix 3
Notice of Elector Approval Process

CITY OF SURREY

PUBLIC NOTICE

**ASSENT OF THE ELECTORS BY
ALTERNATIVE APPROVAL PROCESS**

**REMOVAL OF “PARK” DEDICATION FROM CERTAIN LANDS AND RE-
DEDICATION OF THOSE LANDS AND DEDICATION OF CERTAIN
ADDITIONAL LANDS TO “URBAN FOREST PARK” IN SUNNYSIDE ACRES**

NOTICE IS HEREBY GIVEN pursuant to Section 94 of the *Community Charter*, S.B.C. 2003, c.26, that City Council seeks the assent of the electors for the City of Surrey in regard to “Sunnyside Acres Urban Forest Park and South Surrey Athletic Park Dedication By-law, 1998, No. 9800, Amendment By-law, 2009, No. 16706” (the "By-law"). In general terms, the intent of the By-law is to authorize the City to remove the dedication of "Park" over those lands known as Sunnyside Acres and identified as Blocks “A” and “B” in the map below for the purpose of re-dedication to “Urban Forest Park”. This is only a synopsis of the By-law and a true copy of the proposed By-law may be inspected at the City of Surrey Municipal Hall in the Legislative Services Division (Phone No. 591-4132), situated at 14245 56th Avenue, Surrey, BC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday (excluding statutory holidays) from June 16th, 2008 to July 23rd, 2009.

Questions on the initiative may be directed to Mr. Owen Croy, Manager, Parks at 604-501-5050.

The assent of the electors is being sought by way of alternate approval process. The number of electors in the City of Surrey to which the approval process applies is 253,137. The City will provide an Elector Response Form to each person who requests one from June 16th, 2009 to July 23rd, 2009. The forms are also available on-line at www.surrey.ca.

An elector may only sign an Elector Response Form if the person meets the qualifications referred to in Section 161(1)(a) of the *Local Government Act*. The Elector Response Form must be received by the City Clerk not later than 4:30 p.m. on July 23rd, 2009.

City Council will proceed with this matter unless, by the deadline of 4:30 pm, July 23rd, 2009, at least 10% of the electors, or 25,314 electors, sign and submit an Elector Response Form indicating that the City Council must obtain the assent of the electors before proceeding with the By-law.

TAKE NOTICE THAT in the event the number of electors’ signatures on the combined total of Elector Response Forms received by the City Clerk by 4:30 p.m. on July 23rd, 2009 represents fewer than ten percent (10%) of the electors in the City of Surrey, the By-law will be deemed to have received the assent of the electors.

The first publication of this Public Notice will be deemed to have occurred on June 16th, 2009 and the last publication will be deemed to have occurred on June 23rd, 2009.

Jane Sowik
City Clerk

Appendix 4 CITY OF SURREY

Elector Response Form

For the purposes of signing this elector response form, the term "elector" means a person who, at the time of signing this form, meets the qualifications of the *Local Government Act* for registration as a resident elector or as a non-resident property elector of the City of Surrey.

A resident elector must:

1. be a Canadian citizen;
2. be an individual who is age 18 or older on or before July 23, 2009;
3. have been a resident of British Columbia for the past 6 months (since January 23, 2009);
4. have been a City of Surrey resident for at least the last 30 days (June 23, 2009);
5. not be disqualified by the *Local Government Act* or any other enactment from voting in an election or otherwise disqualified by law.

A non-resident property elector must:

1. not be entitled to register as a resident elector;
2. be a Canadian citizen;
3. be an individual who is age 18 or older on or before July 23, 2009;
4. have been a resident of British Columbia for at least the past 6 months;
5. have been a registered owner of property within Surrey for the last 30 days (since June 23, 2009);
6. provide written consent of the number of individuals who, together with the person registering, are a majority of those individuals holding the title to the property that entitles you register as a non-resident property elector.
7. not be disqualified by the *Local Government Act* or any other enactment from voting in an election or otherwise disqualified by law.

The full name and residential address of each person signing must be included on this elector response form and, if applicable, also the address of the property in relation to which the person is entitled to register as a non-resident property elector.

Signed elector response forms must be mailed, delivered or faxed to the City Clerk at the City of Surrey, 14245 - 56 Avenue, Surrey, BC, V3X 3A2, by 4:30 p.m. on July 23, 2009. Telephone (604) 591-4132; Fax (604) 591-8731.

CITY OF SURREY

Elector Response Form

I am an elector of the City of Surrey. By my signature below, I hereby indicate that I am opposed to the adoption of "Sunnyside Acres Urban Forest Park and South Surrey Athletic Park Dedication By-law, 1998, No. 9800, Amendment By-law, 2009, No. 16706".

Full Name: _____

Residential Address: _____

(if applicable) Address of the property in relation to which you are entitled to register as a

non-resident property elector: _____

Signature: _____

Pursuant to Section 51 (2) of the *Local Government Act* "A person may only register as a non-resident property elector in relation to one parcel of real property in a jurisdiction."

Section 51 (5) states "If there is more than one individual who is the registered owner of the real property, either as joint tenants, or tenants in common, only one of those individuals may register as a non-resident property elector"; and

51 (6) states "If the land title registration of the real property in relation to which a person registering under this section indicates that there is more than one individual who is registered owner of the real property, the person registering must do so with the written consent of the number of those individuals who, together with the person registering must do so with the , are a majority of those individuals.

ATTACHED: Written consent as per Section 51 (6) above

Appendix 5
Draft Dedication By-law

CITY OF SURREY

BY-LAW NO. _____

A by-law to amend "Sunnyside Acres Urban Forest Park and Park Dedication By-law, 1988, No. 9800", as amended
.....

WHEREAS the Sunnyside Acres Urban Forest Park and Sunnyside Acres Park were dedicated by Council of the City of Surrey as urban forest and park in 1988 by way of Sunnyside Acres Urban Forest Park and Park Dedication By-law, 1988, No. 9800 ("By-law 9800"), pursuant to Section 533 of the Municipal Act, Chapter 290, R.S.B.C. 1979, as amended (the "Municipal Act");

AND WHEREAS Council of the City of Surrey, pursuant to Section 533 of the Municipal Act amended By-law 9800 by adopting Sunnyside Acres Urban Forest Park and Park Dedication By-law, 1988, No. 9800, Amendment By-law, 1996, No. 12926 ("By-law 12926") and removed a portion of lands from Sunnyside Acres Park dedicated as park and dedicated the same as urban forest park to be included as part of the Sunnyside Acres Urban Forest Park;

AND WHEREAS Council of the City of Surrey, pursuant to Section 30 of the Community Charter, Chapter 26, S.B.C. 2003, as amended, deems it expedient to amend By-law 9800, as amended by By-law 12926, and remove a portion of lands, shown as "(Lot 1)" and "(Lot 2)" on Appendix "1" attached hereto, from Sunnyside Acres Park dedicated as park to facilitate the dedication of same as urban forest park to be included as part of Sunnyside Acres Urban Forest Park;

AND WHEREAS Council of the City of Surrey, pursuant to Section 30 of the Community Charter, Chapter 26, S.B.C. 2003, as amended, deems it expedient to amend By-law 9800, as amended by By-law 12926, and dedicate more lands held by the City of Surrey as urban forest park to be included as part of Sunnyside Acres Urban Forest Park;

NOW, THEREFORE, the Council of the City of Surrey in open meeting assembled
HEREBY ENACTS AS FOLLOWS:

1. Sunnyside Acres Urban Forest Park and Park Dedication By-law, 1988, No. 9800, as amended by By-law 12926, is hereby amended as follows:

- (a) Section 1 is hereby amended by adding the following as the last paragraph:

"And this dedication will permit active recreational use on the portion of the lands identified as Active Recreational Use Area on Schedule "A", legally described as Lot 1 Section 15 Township 1 New Westminster District Plan BCP_____. The active recreational uses include, but are not limited to, cycling trails, cycling skills apparatus, public events and other recreational activities."

- (b) Section 3 is hereby amended by deleting the legal description and substituting the following legal description:

"Lot 3 Except: Firstly; Part Subdivided by Plan LMP36078 Secondly; Part Subdivided by Plan BCP_____ Section 15 Township 1 New Westminster District Plan 83184; and

Lot 4 Except: Part Subdivided by Plan BCP_____ Section 15 Township 1 New Westminster District Plan 83184.

As shown hatched on Schedule "A" to this By-law, and shown as Park."

- (c) A new Section 2A is added after Section 2 and before Section 3 as follows:

"The following described lands owned by the City of Surrey and identified as "(Lot 1)", "(Lot 2)", "Rem. Lot 23", "Parcel 'A' " and "Parcel 'B' " on Schedule "A" to this By-law, are hereby dedicated as urban forest park:

Lot 1 Section 15 Township 1 New Westminster District Plan
BCP_____.

Lot 2 Section 15 Township 1 New Westminster District Plan
BCP_____.

Lot 23 Except: Part Dedicated Road on Plan BCP_____ Section 16
Township 1 New Westminster District Plan 46185.

Parcel 'A' (Reference Plan BCP_____) Section 16 Township 1 New
Westminster District Dedicated Road on Plan 83184.

Parcel 'B' (Reference Plan BCP_____) Section 16 Township 1 New
Westminster District Dedicated Road on Plan 83184."

- (d) A new Section 2B is added after Section 2 and before Section 3 as follows:

"The City of Surrey reserves the right to construct, maintain, operate,
carry out, replace and renew existing and future water and drainage
utility works and related appurtenances on the portion of lands
identified on Schedule "B" to this By-law and described as follows:

That portion of Parcel 'A' (Reference Plan BCP_____) Section 16
Township 1 New Westminster District Dedicated Road on Plan
83184 shown on Statutory Right of Way Plan BCP_____.

That portion of Lot 3 Except: Part Subdivided by Plan LMP36078
Section 15 Township 1 New Westminster District Plan 83184 shown
on Statutory Right of Way Plan BCP_____."

- (e) Section 6 is hereby amended by deleting the text of Section 6 and
substituting the following:

"This By-law may be cited as "Sunnyside Acres Urban Forest
Park and South Surrey Athletic Park Dedication By-law,
1988, No. 9800"."

2. Schedule "A" to By-law 9800, as amended by By-law 12926, is hereby deleted and a new Schedule "A" as attached hereto is substituted therefore.

A new Schedule "B" as attached hereto is added.

3. The Mayor and Clerk are hereby authorized and empowered to sign any documents required by and to do any acts necessary and incidental to the carrying out of this By-law.

4. This By-law may be cited as "Sunnyside Acres Urban Forest Park and South Surrey Athletic Park Dedication By-law, 1998, No. 9800, Amendment By-law, 2009, No. _____".

PASSED THREE READINGS on the _____ day of _____, 2009.

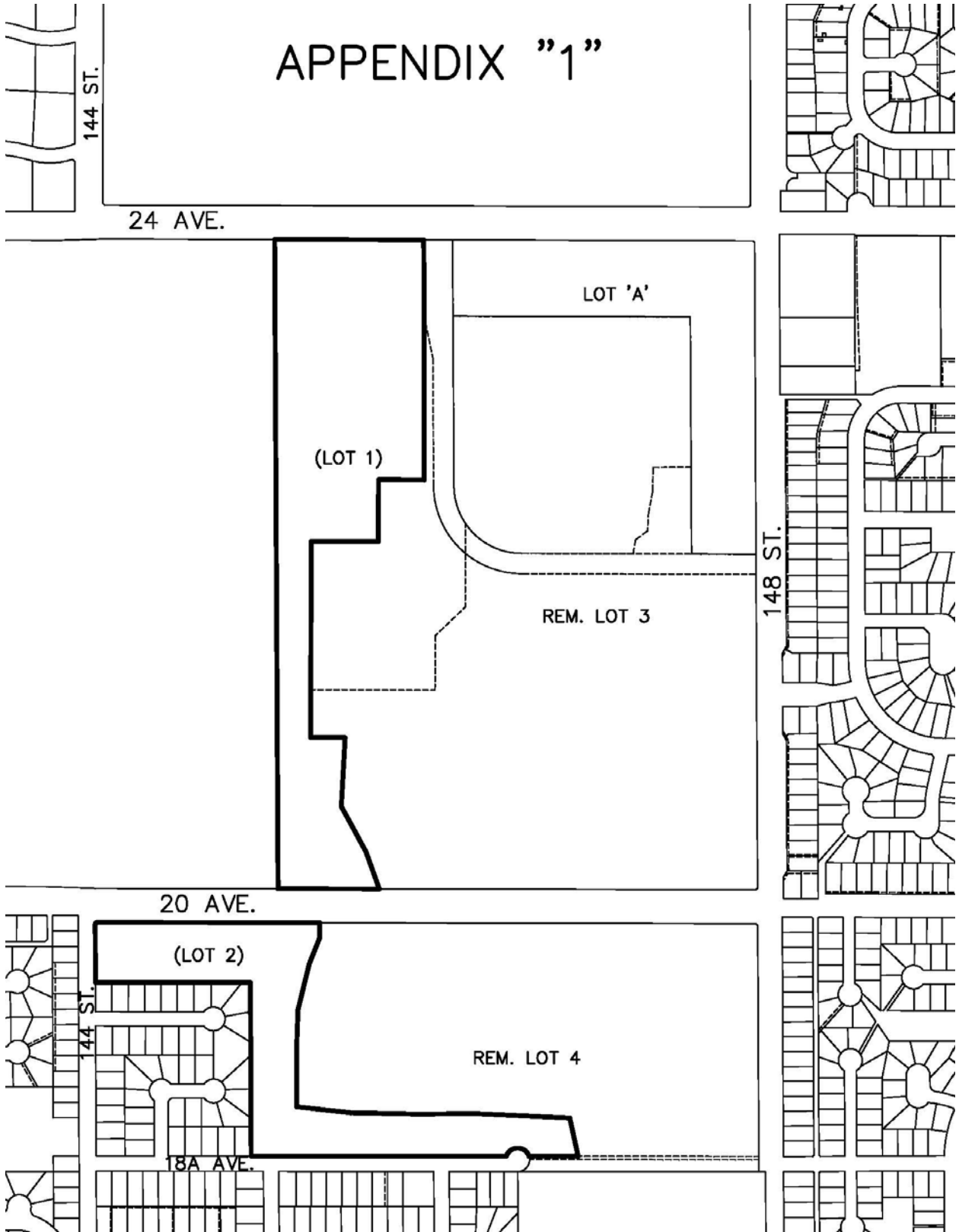
RECEIVED the approval of the electors on the _____ day of _____, 2009.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2009.

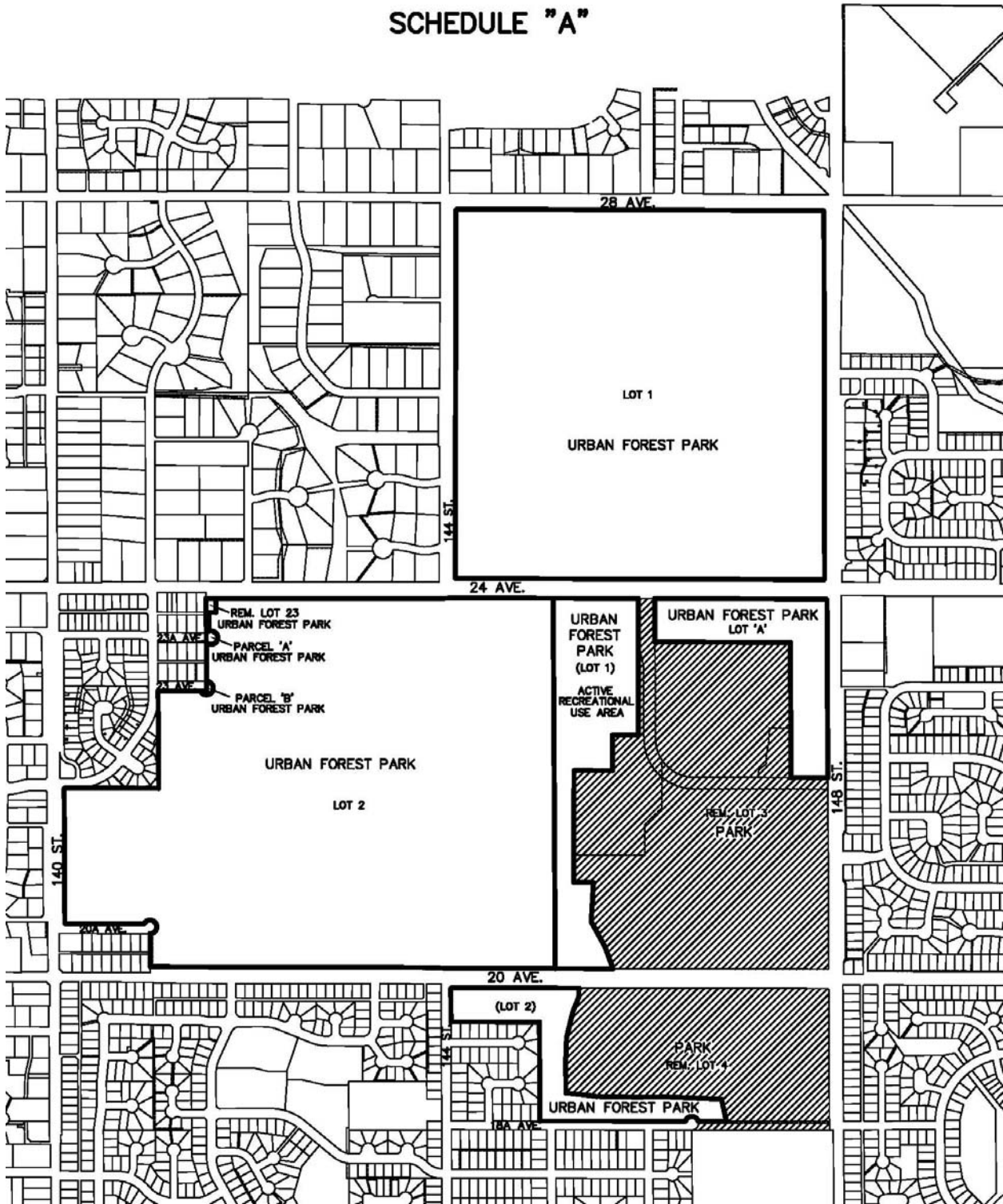
MAYOR

CLERK

APPENDIX "1"



SCHEDULE "A"



SCHEDULE "B"

