

NO: R019

COUNCIL DATE: January 25, 2010

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **January 18, 2010**

FROM: **General Manager, Parks, Recreation
and Culture** FILE: **6140 - 20/K**

SUBJECT: **Dedication as Park of Kwomais Point Park**

RECOMMENDATION

The Parks, Recreation and Culture Department recommends that Council:

1. Receive this report as information; and
2. Authorize the City Clerk to bring forward for the required readings a Park Dedication By-law, in the form attached as Appendix 1 to this report, for the lands known as Kwomais Point Park in South Surrey.

INTENT

The purpose of this report is to obtain Council authorization to bring forward a by-law to dedicate the lands known as Kwomais Point Park as "Park".

BACKGROUND

Kwomais Point Park is 16.25 acres of parkland located at the southwest tip of the Semiahmoo Peninsula in Ocean Park (See Schedule "A" of Appendix 1). The property was acquired by the City for park purposes in 2007. A Master Plan for Kwomais Point Park was adopted by Council in 2008. It will ensure that the Park acts as a "Place of Vision" for residents and visitors through the preservation of the rich history of the site including the existing Kwomais Lodge and Sanford Hall buildings and through carefully positioned viewpoints on the site. The natural environment of this historical site enables the offering of a range of accessible and affordable recreation and cultural services for the City's diverse population.

In 2008, Council requested that staff to carry out the research necessary to dedicate the lands as "Park". A team made up of staff from the Parks Division, the Engineering Department and the Legal Services Division has studied the issues related to dedication. This work included title searches, detailed surveys, reviews of engineering requirements and discussions with the Greater Vancouver Sewer and Drainage District (GVS&DD) regarding an existing sanitary sewer right of way on the property.

DISCUSSION

Park Dedication Process

For the purpose of dedicating land as “Park”, Council must adopt a dedication by-law by an affirmative vote of at least 2/3 of all members of Council. This dedication process is provided under s. 30 of the Community Charter. Land dedicated as “Park” in this manner is well protected, as the Community Charter requires that any by-law to remove a park that has been dedicated under s. 30 of the Community Charter may only be adopted with the approval of the electors, i.e., through referendum or through the alternative approval process under s. 86 of the Community Charter.

Legal Encumbrances on Title

The following legal encumbrances are on the Title of the lands:

- Six (6) Statutory Right of Ways in favour of the City of Surrey: These SRW’s are all for drainage infrastructure located on the lands; and
- One (1) Statutory Right of Way in favour of the Greater Vancouver Sewer and Drainage District: This SRW is for sanitary sewer infrastructure located within the lands.

The Park Dedication process will affect none of these encumbrances.

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 “Park”, defined as "Lands held by the City of Surrey for the public's use and enjoyment, community uses and, where the City of Surrey, in its sole discretion, deems it appropriate and necessary, for the management, conservation and enhancement of the native flora and fauna."

Permitted Uses

This dedication will preserve the Kwomais Point Park lands as a public park and will in addition allow the operation of the Sanford Hall and the Kwomais Lodge for public leisure purposes. Specifically, the dedication will permit forest management and the construction, installation, upgrading, operation, use, carrying out, repairing, clearing and maintenance of trails, community recreation buildings, concessions, caretaker buildings and facilities, viewing points, gardens, information kiosks, signage, transit shelters, picnic areas, washrooms, parking areas and park access roads.

The dedication will also permit the Engineering Department to operate and maintain public infrastructure works in the park. Specifically, the Engineering Department may construct, install, upgrade, operate, use, carry out, repair, clear and maintain any public utilities, public works and road widening in the park.

Draft By-law

A draft dedication by-law has been prepared by Legal Services and is attached as Appendix 1 to this report.

SUSTAINABILITY CONSIDERATIONS

By dedicating as Park the lands known as Kwomais Point Park, the City will be contributing to the achievement of the Sustainability Charter's Environmental Goal: *"To demonstrate good stewardship of the land, water, air and built environment, protecting, preserving and enhancing Surrey's natural areas and ecosystems for current and future generations while making nature accessible for all to enjoy."*

As the dedication will permit the operation of existing leisure facilities (Kwomais Lodge and Sanford Hall) with opportunities for art, music and healthy living programs, the dedication will support the following key Socio-Cultural Goal of the Sustainability Charter: *"To promote a safe, caring, engaged and liveable community, with a sense of place, that is inclusive of all aspects of diversity and provide a range of educational, recreational, cultural opportunities...that are accessible to all."*

CONCLUSION

In 2008, Council asked staff to carry out the research necessary to dedicate as "Park" the lands presently known as Kwomais Point Park. Based on the above discussion, it is recommended that Council authorize the City Clerk to bring forward for the required readings a Park Dedication By-law, in the form attached as Appendix 1 to this report, for the lands known as Kwomais Point Park in South Surrey.

Laurie Cavan
General Manager
Parks, Recreation and Culture

Appendix 1 – Park Dedication By-law

c.c. General Manager, Engineering
City Solicitor

CITY OF SURREY

BY-LAW NO. _____

A by-law to authorize the dedication of certain lands as Park.
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WHEREAS pursuant to the provisions of Subsection 30(1) of the Community Charter, S.B.C. 2003, Chapter 26, as amended (the "Act"), the Council of the City of Surrey may, by by-law, dedicate for a particular municipal or other public purpose real property owned by the City of Surrey;

AND WHEREAS, as a restriction, a by-law under Subsection 30(1) of the Act that dedicates property as park may only be adopted by an affirmative vote of at least 2/3 of all members of council;

AND WHEREAS it is deemed expedient to formally dedicate as park certain lands held by the City of Surrey for park purposes;

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

1. For the purpose of this By-law park means:

"Lands held by the City of Surrey for the public's use and enjoyment, community uses and, where the City of Surrey, in its sole discretion, deems it appropriate and necessary, for the management, conservation and enhancement of the native flora and fauna."

2. The following described lands owned by the City of Surrey and shown in bold outline on the attached Schedule "A" are hereby dedicated as park:

PORTIONS OF THE FRACTIONAL NORTH EAST QUARTER
SECTION 7 TOWNSHIP 1 EXCEPT;
FIRSTLY: PART ON STATUTORY RIGHT-OF-WAY 10769
SECONDLY: PART SUBDIVIDED BY PLAN 2834
NEW WESTMINSTER DISTRICT

(the "Lands")

3. The foregoing dedication is subject to the following:

- (a) Without limiting the generality of paragraphs 1 and 2 of this By-law, this dedication will permit forest management and the construction, installation, upgrading, operation, use, carrying out, repairing, clearing and maintenance of trails, community recreation buildings, concessions, caretaker buildings and facilities, viewing points, gardens, information kiosks, signage, transit shelters, picnic areas, washrooms, parking areas and park access roads.
- (b) The City of Surrey maintains its right to enter upon and to have free and uninterrupted access to the Lands for the purpose of constructing, installing, upgrading, operating, using, carrying out, repairing, clearing and maintaining any public utilities, public works and road widenings now or hereafter upon the Lands.
- (c) Those interests registered against title to the Lands which are listed below remain unaffected by this By-law:

STATUTORY RIGHT OF WAY AC37199
 STATUTORY RIGHT OF WAY AC37200
 STATUTORY RIGHT OF WAY BN72125
 STATUTORY RIGHT OF WAY BN72126
 STATUTORY RIGHT OF WAY BB223044
 STATUTORY RIGHT OF WAY BB223045
 STATUTORY RIGHT OF WAY BB112566

4. 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.

5. Schedule "A" forms part of this By-law.

6. This By-law may be cited as " Kwomais Point Park Dedication By-law, 2010,
_____."

PASSED THREE READINGS ON THE _____ day of _____, 2010.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2010.

_____MAYOR

_____CLERK

SCHEDULE "A"

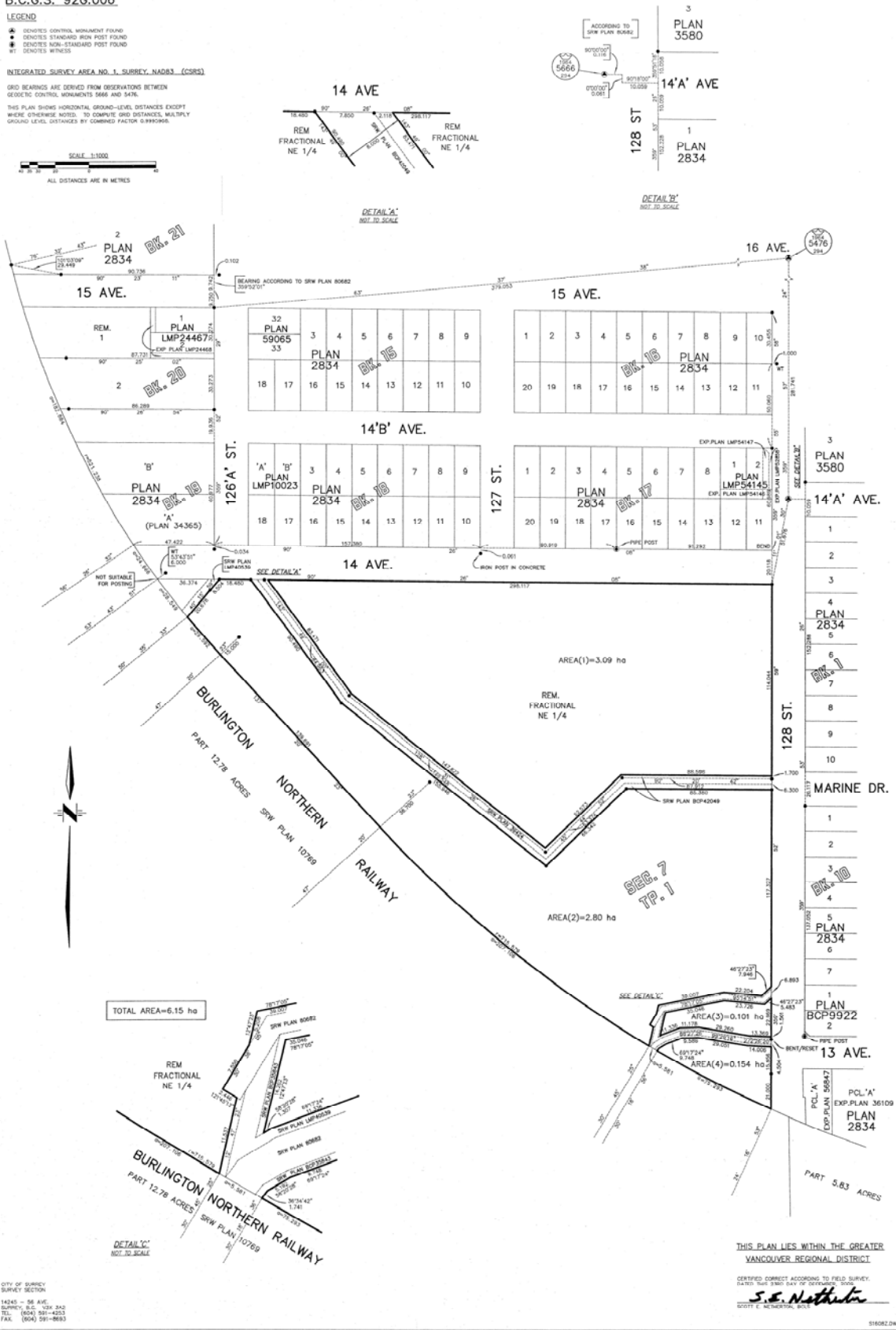
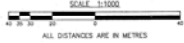
SURVEY PLAN TO ACCOMPANY CITY OF SURREY PARK DEDICATION BYLAW No. _____ OF PORTIONS OF THE FRACTIONAL NORTH EAST QUARTER SECTION 7 TOWNSHIP 1 EXCEPT; FIRSTLY: PART ON STATUTORY RIGHT OF WAY 10769 SECONDLY: PART SUBDIVIDED BY PLAN 2834
 NEW WESTMINSTER DISTRICT
 B.C.G.S. 92G.006

LEGEND

- ★ DENOTES CONTROL MONUMENT FOUND
- DENOTES STANDARD IRON POST FOUND
- DENOTES NON-STANDARD POST FOUND
- WT DENOTES WITNESS

INTEGRATED SURVEY AREA NO. 1, SURREY, NA083 (C085)

GRID BEARINGS ARE DERIVED FROM OBSERVATIONS BETWEEN GEODETIC CONTROL MONUMENTS 5666 AND 5476.
 THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES EXCEPT WHERE OTHERWISE NOTED. TO COMPUTE GRID DISTANCES, MULTIPLY GROUND LEVEL DISTANCES BY CORRECTION FACTOR 0.9993066.



CITY OF SURREY
 SURVEY SECTION
 14245 - 98 AVE.
 SURREY, B.C. V3X 2A2
 TEL: (604) 591-4523
 FAX: (604) 591-8883

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT
 CERTIFIED CORRECT ACCORDING TO FIELD SURVEY, DATED THIS 30th DAY OF OCTOBER, 2008.
S.S. Nathu
 SURVEYOR
 518082.DWG