

NO: **R161**

COUNCIL DATE: **July 24, 2017**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **July 21, 2017**

FROM: **General Manager, Engineering
City Clerk**

FILE: **0910-40 BL
5400-80 (10500)**

SUBJECT: **Changes to Reserved Parkland in Hawthorne Rotary Park**

RECOMMENDATION

That Council:

1. Authorize the City Clerk to bring forward for the required readings the *Surrey Removal of Reservation of a Portion of Hawthorne Park Bylaw, 2017, No. 19337*;
2. Authorize staff to undertake an Alternative Approval Process as authorized under s. 84 and s. 86 of the *Community Charter, SBC Chap. 26, as amended (the "Community Charter")*;
3. Establish the deadline of September 22, 2017 for receiving elector responses;
4. Approve the elector response form attached as Appendix "I" to this report; and
5. Approve the determination of the total number of electors (303,721) of the area as described in the report.

INTENT

To obtain Council's approval for the Alternative Approval Process in accordance with s. 30, s.84 and s. 86 of the *Community Charter* for the removal of *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*.

BACKGROUND

105 Avenue Corridor Project

The 105 Avenue corridor project is a two-lane road between Whalley Boulevard and 150 Street, with the general project scope illustrated in the attached Appendix "II". A key component of the project plans is to add additional lands to Hawthorne Rotary Park resulting in both a net increase of Parkland and trees to the Park. The 105 Avenue corridor project is included in the City's 10 Year Capital Servicing Program and will include:

- A two-lane road (one travel lane in each direction) for vehicles;
- Separated bicycle lanes within the raised boulevard providing a safer riding corridor;
- Sidewalks improving pedestrian connectivity within the neighbourhood;
- Improved intermodal (cycling, pedestrian and vehicle) access to Hawthorne Rotary Park;
- New traffic signals at 140, 144 and 148 Streets; and
- Enhanced street and pedestrian lighting along the corridor.

There were five key principles developed to guide the planning and consultation process.

1. Delivering a critical collector road for the neighbourhood – This is essential for access and circulation in the community and it provides benefit for changes to access with the introduction of LRT on 104 Avenue.
2. Improve access to, and use of, Hawthorne Rotary Park – Increase the exposure of the community level park for more residents of Whalley and Guildford to use.
3. Provide high quality multi-modal facilities – Providing safe, attractive facilities to encourage alternative modes of transportation, such as separated cycling lanes.
4. Mitigate impacts of the project – Acquire compensation lands and provide investments for Hawthorne Rotary Park, as well as other features, as further described below.
5. Provide open and transparent public consultation process – Inform the public about the process through the project website, as well as Council and Committee updates.

The project will be constructed in phases and is anticipated to commence in early 2018 with completion by the fall of 2019.

Hawthorne Rotary Park Changes and Mitigation Plans

A key element of the mitigation plan is the acquisition of approximately 5 acres of adjacent properties that will form part of Hawthorne Rotary Park. The acquisition of these properties will result in both a net increase in the size of the Park and an increase in the number of trees in the Park, while enhancing the biodiversity and improving the overall access to and use of the Park. The acquisition of these properties and the initial improvements are further illustrated in Appendix “III”.

As illustrated in Appendix “II”, the 105 Avenue alignment, is within Hawthorne Rotary Park. An estimated 4 acres of parkland and removal of approximately 250 trees from the Park will result, which will be replaced with the acquisition of approximately 5 acres of adjacent properties, including 450 trees, to the Park. Staff understand changes to Hawthorne Rotary Park will occur and are committed to mitigate the impacts to the Park, while also balancing the needs for transportation infrastructure for the community.

As part of the 105 Avenue corridor project, a mitigation plan to offset the impacts to Hawthorne Rotary Park is being developed as part of the Hawthorne Park Master Plan process, and based on feedback received at the June 7 public consultation meeting, initial deliverables will include:

- The acquisition of over 5 acres of adjacent properties, protecting natural areas adjacent to the Park while also improving access to the Park from 144 Street;
- The incorporation of approximately 450 trees into the Park through the properties being acquired;

- Removal of the 142 Street connection between 104 Avenue and 105 Avenue corridor, reducing the overall road footprint in the Park by one acre, and saving approximately 50 trees;
- Removal of the existing 200m long park roadway to the main parking lot and replacement with green-space;
- Relocation of the main parking lot to 144 Street and replacement of the existing main parking lot with green space;
- Development of a custom 105 Avenue corridor to reduce the overall road footprint through the Park, including Crime Prevention through Environmental Design elements. The road cross section will be reduced eliminating any on-street parking along the road corridor and will include measures to reduce the noise through the Park;
- Environmental enhancements for the Park such as the construction of salmon rearing habitat for Bon Accord Creek;
- Construction of a new walking trail connecting Hawthorne Park to the Quibble Creek Greenway; and
- Installation of wildlife crossings to ensure connectivity of wildlife habitat throughout the Park.

Future investments in the Park identified in the Hawthorne Park Master Plan process will be delivered by the Parks, Recreation & Culture Department.

Hawthorne Rotary Park By-law and 105 Avenue Corridor

On January 15, 1979, a By-law was adopted by Council to reserve portions of lands in Hawthorne Rotary Park for park purposes. The *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*, applies to six specific properties within Hawthorne Rotary Park as identified in Appendix “IV” of this report. A copy of the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*, is provided in Appendix “V” of this report.

The desire for a collector road between Whalley and Guildford, parallel to 104 Avenue and 108 Avenue, was identified in the early 1980’s as part of the Whalley – Guildford Town Centre Plan. The road was identified to improve neighbourhood access, connectivity and cycling within the growing community, and was officially included in the City’s 1986 OCP. The road alignment shown in the 1986 OCP largely avoided the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*.

In the late 2000’s, portions of the 105 Avenue corridor alignment between 138 Street and 150 Street, specifically the segment through Hawthorne Rotary Park, was revised from generally along 106 Avenue to 105 Avenue. This was done to avoid environmentally sensitive ponds constructed in the middle of Hawthorne Rotary Park, and to avoid fragmenting the park in half, as illustrated in Appendix “IV”. Although not known to staff at the time, the change in road alignment resulted in placing the 105 Avenue corridor within the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*.

Subsequent to the City’s June 7, 2017 Public Consultation Meeting, as part of the Engineering’s standard process to review the status of land tenure of City-owned lands, the City Land Inventory was reviewed for the lands purchased and included as Hawthorne Rotary Park. During this process, staff determined that the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812* had been passed by Council in 1979. No records of a Corporate Report were found indicating the purpose or intent of why this By-law was adopted to include these six lots within Hawthorne Rotary Park.

Changes to the Park Reservation Area By-law

The Engineering Department is recommending to remove the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812* to allow the City to move forward with the 105 Avenue corridor project. Through the delivery of the Hawthorne Park mitigation plans, the Engineering and Parks, Recreation, & Culture Departments plan to acquire 5 acres of new parkland into Hawthorne Rotary Park to offset the 4 acres of land that will be used for the 105 Avenue corridor project.

In order to approve the removal of the *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812* for road purposes, in accordance with s. 30 (3) of the *Community Charter*, the removal of a park reservation may only be adopted with the approval of the electors.

DISCUSSION

Section 84 of the *Community Charter* provides for obtaining the approval of the electors by assent of the electors (referendum) or by alternative approval process. Staff are recommending that Council approve undertaking the alternative approval process for this By-law.

The Notice of Alternative Approval Process for the By-law to authorize disposal of park land is attached as Appendix "VI".

Alternative Approval Process

The requirements to obtain approval by electors by alternative approval process are set out in s. 86 of the *Community Charter*:

Alternative approval process

- 86** (1) *Approval of the electors by alternative approval process under this section is obtained if*
- (a) *notice of the approval process is published in accordance with subsection (2);*
 - (b) *through elector response forms established under subsection (3), electors are provided with an opportunity to indicate that council may not proceed with the bylaw, agreement or other matter unless it is approved by assent of the electors; and*
 - (c) *at the end of the time for receiving elector responses, as established under subsection (3), the number of elector responses received is less than 10% of the number of electors of the area to which the approval process applies.*
- (2) *Notice of an alternative approval process must be published in accordance with section 94 [public notice] and must include the following:*
- (a) *a general description of the proposed bylaw, agreement or other matter to which the approval process relates;*
 - (b) *a description of the area to which the approval process applies;*
 - (c) *the deadline for elector responses in relation to the approval process;*
 - (d) *a statement that the council may proceed with the matter unless, by the deadline, at least 10% of the electors of the area indicate that the council must obtain the assent of the electors before proceeding;*
 - (e) *a statement that*
 - (i) *elector responses must be given in the form established by the council,*
 - (ii) *elector response forms are available at the municipal hall, and*
 - (iii) *the only persons entitled to sign the forms are the electors of the area to*

- which the approval process applies;*
- (f) the number of elector responses required to prevent the council from proceeding without the assent of the electors, determined in accordance with subsection (3);*
 - (g) other information required by regulation to be included.*
- (3) For each alternative approval process, the council must*
- (a) establish the deadline for receiving elector responses, which must be at least 30 days after the second publication of the notice under subsection (2),*
 - (b) establish elector response forms, which*
 - (i) may be designed to allow for only a single elector response on each form or for multiple elector responses;*
 - (ii) must be available to the public at the municipal hall from the time of first publication until the deadline; and*
 - (c) make a fair determination of the total number of electors of the area to which the approval process applies.*
- (4) The council must make available to the public, on request, a report respecting the basis on which the determination under subsection (3) (c) was made.*
- (5) For the purposes of this section, the electors of the area to which an alternative approval process applies are the persons who would meet the qualifications referred to in section 161 (1) (a) [who may vote at other voting] of the Local Government Act if assent of the electors were sought in respect of the matter.*
- (6) Elector responses may be made on an elector response form obtained under subsection (3) or on an accurate copy of the form.*
- (7) For an elector's response to be considered for the purposes of this section, the elector must*
- (a) sign an elector response form that includes:*
 - (i) the person's full name and residential address; and*
 - (ii) if applicable, the address of the property in relation to which the person is entitled to register as a non-resident property elector; and*
 - (b) submit the elector response form to the corporate officer before the deadline established for the alternative approval process.*
- (8) After the deadline for an alternative approval process has passed, the corporate officer must determine and certify, on the basis of the elector response forms received before that deadline, whether elector approval in accordance with this section has been obtained.*
- (9) A determination under subsection (8) is final and conclusive.*
- (10) A person must not sign more than one elector response form in relation to the same alternative approval process, and a person who is not an elector for the area of the approval process must not sign an elector response form.*

The recommended deadline is September 22, 2017. The first notice will be published on August 11, 2017, and the second notice will be published on August 18, 2017. The deadline must be at least 30 days after the second publication of the notice. The recommended elector response form is attached as Appendix "I".

As the removal of reserved park land is a matter of interest to all Surrey residents, it is recommended that the 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 (303,721) on the Provincial Voters List used in the 2017 Provincial 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 available to the public.

DEPARTMENTAL REVIEW

Parks, Recreation, & Culture staff have been consulted on the removal of the By-law and understand its necessity to achieve broader City objectives. There is support for the Engineering Department's commitment to acquiring additional properties to achieve a net increase in the area of Hawthorne Rotary Park and the measures being undertaken to enhance the park through the Master Plan process.

The City's Legal Services and Legislative Services Division have reviewed this report and have no concerns.

CONCLUSION

After the Alternative Approval Process has been completed, and should the approval of the electors be received, the final reading for the By-law removal will be brought forward to the October 2, 2017 Regular Council meeting for Council to consider final adoption.

Jane Sullivan
City Clerk

Fraser Smith, P.Eng., MBA
General Manager, Engineering

SBN/PB/VJ/cc/js

Appendix "I" - Elector Response Form

Appendix "II" - 105 Avenue Alignment

Appendix "III" - Hawthorne Park Mitigation and Improvements Plans

Appendix "IV" - *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812 and Alignment Change*

Appendix "V" - *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*

Appendix "VI" - Notice to Electors of an Alternative Approval Process

For Official Elector Response form, please go to:

<http://www.surrey.ca/city-government/13723.aspx>

and download the [response form](#) at the bottom of the page.

Thank you.

City of Surrey

Information Sheet

The City Council intends to adopt *Surrey Removal of Reservation of a Portion of Hawthorne Park Bylaw, 2017, No. 19337* to enable the 105 Avenue corridor project and Hawthorne Park Improvement plans to be constructed.

105 Avenue Corridor Project and Hawthorne Rotary Park Improvements

A key element of the mitigation and improvement plan is the acquisition of approximately 5 acres of adjacent properties that will form part of Hawthorne Rotary Park. The acquisition of these properties will result in both a net increase in the size of the Park and an increase in the number of trees in the Park, while enhancing the biodiversity and improving the overall access to and use of the Park.

The 105 Avenue corridor project is a two-lane road between Whalley Boulevard and 150 Street, and will include separated bicycle lanes within the raised boulevard providing a safer riding corridor; sidewalks improving pedestrian connectivity within the neighbourhood; new traffic signals at 140, 144 and 148 streets; and enhanced street and pedestrian lighting along the corridor.

As part of the 105 Avenue corridor project, a mitigation and improvements plan to offset the impacts to Hawthorne Rotary Park is being developed as part of the Hawthorne Park Master Plan process. Initial deliverables will include:

- The acquisition of over 5 acres of adjacent properties, protecting natural areas adjacent to the Park while also improving access to the Park from 144 Street;
- The incorporation of approximately 450 trees into the Park through the properties planned on being acquired;
- Removal of the 142 Street connection between 104 Avenue and 105 Avenue corridor, reducing the overall road footprint in the Park by one acre, and saving approximately 50 trees;
- Removal of the 200m long existing park roadway to the main parking lot and replacement with green-space;
- Relocation of the main parking lot to 144 Street and replacement of the existing main parking lot with green space;
- Development of a custom 105 Avenue corridor to reduce the overall road footprint through the Park, including Crime Prevention through Environmental Design elements. The road cross section will be reduced eliminating any on-street parking along the road corridor and will include measures to reduce the noise through the Park;
- Environmental enhancements for the Park such as the construction of salmon rearing habitat for Bon Accord Creek;
- Construction of a new walking trail connecting Hawthorne Park to the Quibble Creek Greenway; and
- Installation of wildlife crossings to ensure connectivity of wildlife habitat throughout the Park.

Additional Information About Elector Eligibility

In order to sign an elector response form in relation to the alternative approval process, a person must either be a resident elector or a non-resident property elector. 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** is an individual who is entitled to sign an elector response form during an AAP by virtue of living within that jurisdiction. *When signing an elector response form*, a resident elector must:

- be 18 years of age or older;
- be a Canadian citizen;
- have lived in British Columbia for at least six months;
- have lived in the jurisdiction (e.g., municipality or electoral area) for at least 30 days;
- live in the area defined for the AAP; and
- not be disqualified under the *Local Government Act*, or any other enactment from voting in a local election, or be otherwise disqualified by law.

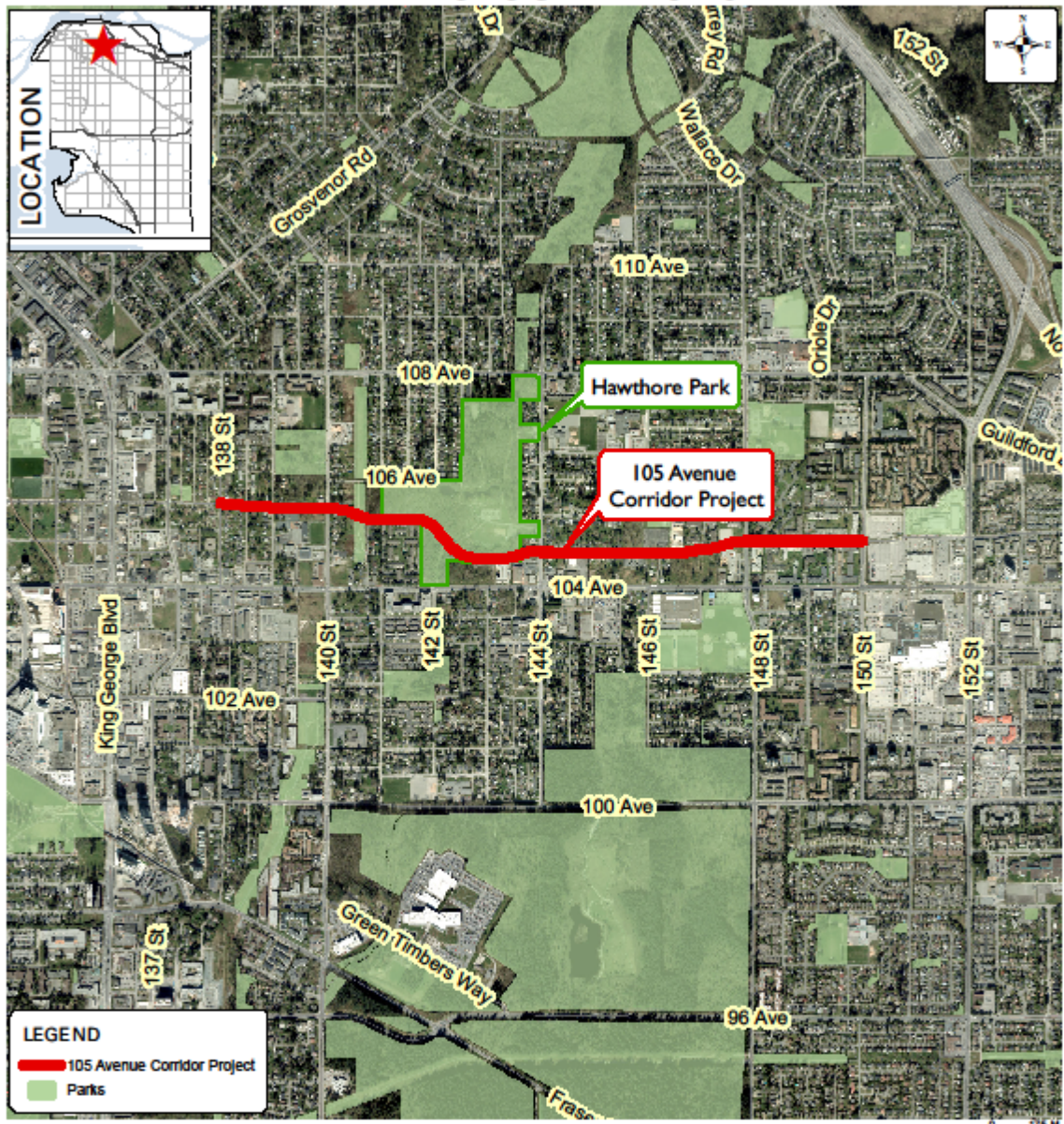
A **non-resident property elector** is an individual that does not live in a jurisdiction and who is entitled to sign an elector response form during an AAP by virtue of owning property in that jurisdiction. *When signing an elector response form*, a non-resident property elector must:

- be at least 18 years of age;
- be a Canadian citizen;
- have lived in British Columbia for at least six months;
- have owned property in the jurisdiction (e.g., municipality or electoral area) for at least 30 days;
- own property in the area defined for the AAP; and
- not be disqualified under the *Local Government Act*, or any other enactment from voting in a local election, or be 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.

Note: Only one non-resident property elector may sign an elector response form per property, regardless of how many people own the property; and, that owner must have the written consent of a majority of the other property owner(s) to sign the response form on their behalf. **Property owned in whole or in part by a corporation does not qualify under the non-resident property elector provisions.**

AERIAL PHOTOGRAPH OF SITE APPENDIX "II"



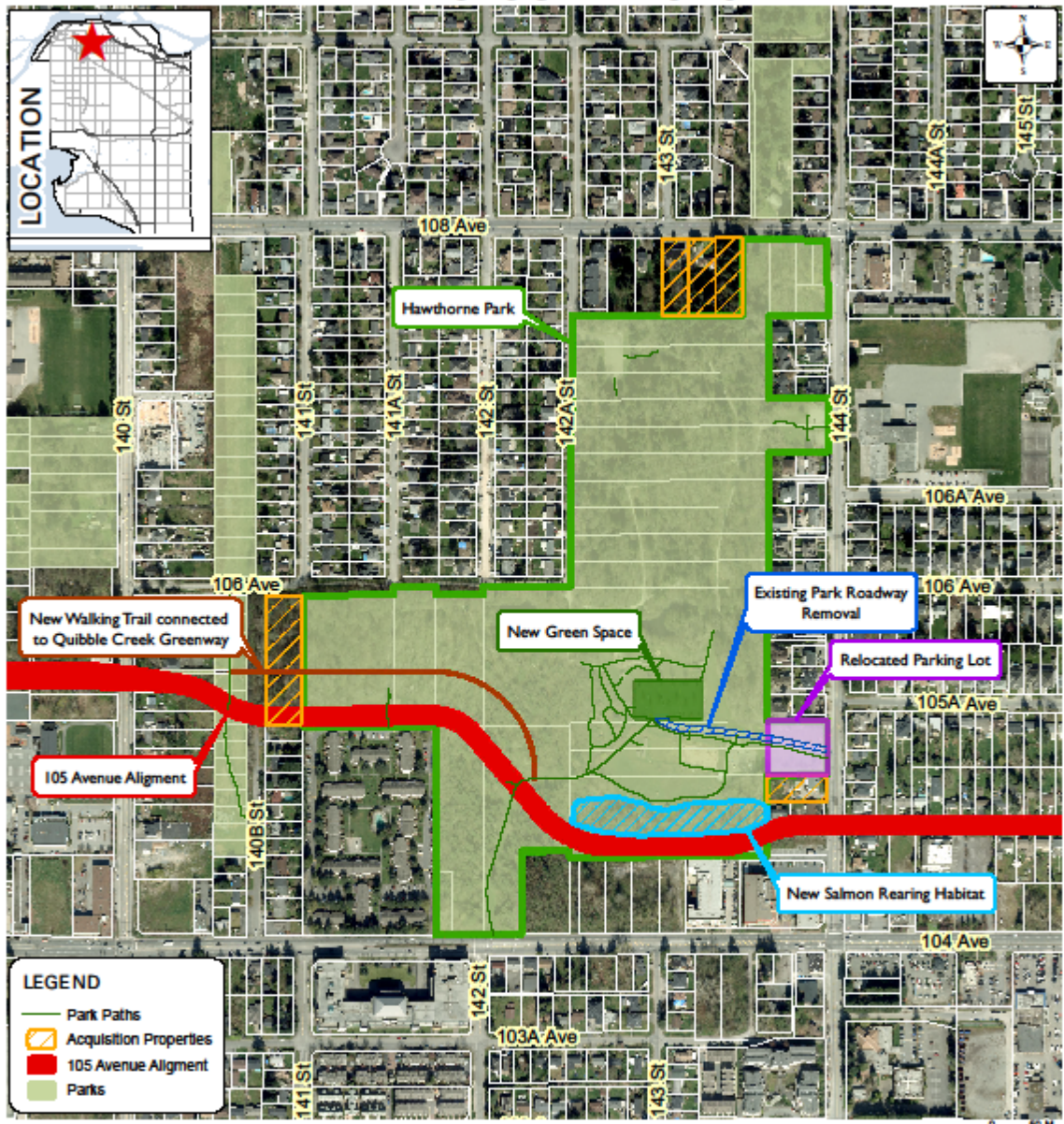
105 Avenue Corridor Project

**ENGINEERING
DEPARTMENT**

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey.
This information is provided for information and convenience purposes only.
Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office.

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AERIAL PHOTOGRAPH OF SITE APPENDIX "III"



Produced by GIS Section: 19-Jul-2017, P205934 Date of Aerial Photograph: March 30, 2016 Scale: 1:5,000

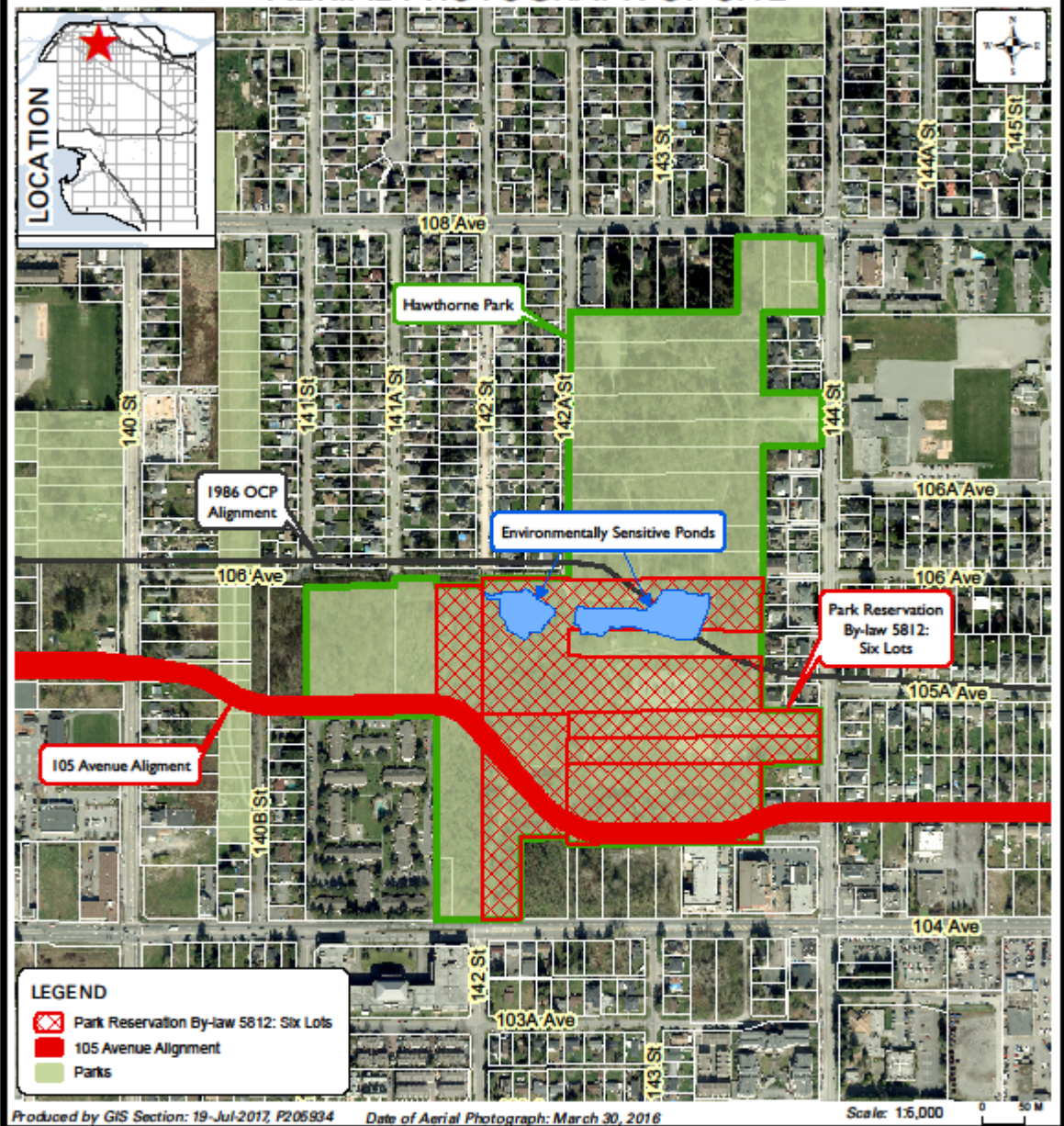



Hawthorne Park Mitigation and Improvements Plan

**ENGINEERING
DEPARTMENT**

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APPENDIX "IV" AERIAL PHOTOGRAPH OF SITE



 <p>CITY OF SURREY to future live here.</p>	<p>Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812, and Alignment Change</p>	<p>ENGINEERING DEPARTMENT</p>
<p>The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office.</p>		

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THE CORPORATION OF THE DISTRICT OF SUDBURY

BY-LAW NO. 5812

A By-law to reserve certain land in the Municipality for park purposes.

WHEREAS, pursuant to Section 457 of the "Municipal Act" the Municipal Council was by By-law 2288/90 authorized to reserve land for public purposes and land owned by the Municipality;

AND, WHEREAS, the Municipal Council of the Corporation of the District of Sudbury, at a meeting held on the 15th day of January, 1979, passed the following:

1. The following described lands are hereby reserved for park purposes pursuant to Section 457 of the "Municipal Act":
 - (a) Lots Twenty-Five (25) and Twenty-Six (26) of Section Twenty-Four (24), Block Five (5) North, Range Two (2) West, Plan 0014, N.S.D.;
 - (b) Lot One Hundred Twenty-Eight (128) of Section Twenty-Four (24), Block Five (5) North, Range Two (2) West, Plan 05884, N.S.D.;
 - (c) Lot Eighty-Seven (87) of Section Twenty-Four (24), Block Five (5) North, Range Two (2) West, Plan 04638, N.S.D.;
 - (d) Residue of Lot Eight (8) of Section Twenty-Four (24), Block Five (5) North, Range Two (2) West, Plan 6988, N.S.D.;
 - (e) North Four Hundred Eighty-Seven Feet (487') of Block "B" of Section Twenty-Four (24), Block Five (5) North, Range Two (2) West, Plan 21834, N.S.D.
2. This By-law may be cited for all purposes as "Park Reserve By-law, 1979, No. 5812".

PASSED by the Municipal Council on the 15th day of January, A.D., 1979. RECORDED AND FINALLY APPROVED, signed by the Mayor and Clerk and sealed with the Corporate Seal on the 15th day of January, A.D., 1979.

William J. Ford MAYOR
John P. Chatter CLERK

City of Surrey

Notice to Electors of an Alternative Approval Process

This notice is the first of two notices to advise electors in the City of Surrey the intention to remove *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812*. Removal of this By-law will allow the City to move forward with the 105 Avenue corridor project and Hawthorne Park Improvement plans including elements such as acquiring an additional 5 acres of Parkland to Hawthorne Park, adding approximately 450 trees to Hawthorne Park, and include new park amenities and features.

The City Council proposes to remove *Portion of Hawthorne Park, Park Reserve By-law, 1979, No. 5812* unless, by 4:00 p.m. on September 22, 2017 at least 10 percent of the electors in the whole municipality sign an elector response form opposing the implementation of the proposal unless the municipal council/regional district board holds a vote.

The number of elector responses required to prevent the local government from proceeding unless a vote is held is estimated to be 30,372. A report respecting the basis on which this determination was made is available upon request from the local government.

Elector responses are required to be submitted to the City on forms that can be obtained during regular business hours from the City Hall offices. The form can also be downloaded from the City of Surrey’s website at: www.surrey.ca. The only elector response forms that will be accepted by the local government are the ones provided by the City of Surrey, or an accurate copy of the form.

Only electors of the City of Surrey are eligible to sign the elector response forms. There are two types of electors – resident electors and non-resident property electors.

Resident Elector: *When signing* an elector response form during an AAP, a resident elector must: be 18 years of age or older; be a Canadian citizen; have lived in British Columbia for at least six months; have lived in the jurisdiction (e.g. municipality or electoral area) for at least 30 days; live in the area defined for the AAP; and, not be disqualified under the *Local Government Act*, or any other enactment from voting in a local election, or be otherwise disqualified by law.

Non-resident Property Elector: *When signing* an elector response form during an AAP, a non- resident property elector must: be at least 18 years of age; be a Canadian citizen; have lived in British Columbia for at least six months; have owned property in the jurisdiction (e.g. municipality or electoral area) for at least 30 days; own property in the area defined for the AAP; and, not be disqualified under the *Local Government Act*, or any other enactment from voting in a local election, or be otherwise disqualified by law.