



TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE MEETING ON MAY 28, 2012
FROM:	JOHN FLEMING DIRECTOR of LANDUSE PLANNING & CITY PLANNER PLANNING, ENVIRONMENTAL AND ENGINEERING SERVICES
SUBJECT:	SUGAR CREEK PARK and AREA DESIGN, DEVELOPMENT and MAINTENANCE AGREEMENTS with OLD OAK PROPERTIES INCORPORATED
RECOMMENDATION	

That, on the recommendation of the Director of Landuse Planning and City Planner, the following actions **BE TAKEN**, regarding the design, development and maintenance agreements with Old Oak Incorporated for Sugar Creek Park and area:

- a) The Administration **BE DIRECTED** to carry out all required actions to finalize an amendment to the existing Development Agreement for 400 Sugar Creek Trail for the development and payment terms for Sugar Creek Park at 460 Sugar Creek Trail – attached for reference as Appendix A;
- b) The Source of Financing for the works outlined in Section 1 of the Development Agreement Amendment as attached as Appendix B, **BE APPROVED**;
- c) The Administration **BE DIRECTED** to carry out all required actions to finalize a License Agreement for 400 Sugar Creek Trail for the use and maintenance of the park plaza adjacent to Old Oak’s Community Centre as an outdoor café sitting area;
- d) The Administration **BE DIRECTED** to carry out all required actions to finalize an Adopt-a-Park Agreement with Old Oak Inc. for Old Oak to provide added maintenance services for Sugar Creek Park;
- e) The Administration **BE DIRECTED** to carry out all required actions to finalize an Adopt-a-Street Agreement with Old Oak Inc. for Old Oak to provide added maintenance for Sugar Creek Trail from Proudfoot Lane to BeaverBrook Avenue, and;
- f) Old Oak Incorporated **BE THANKED** for their donation to the park development project, and for their commitment to the community by entering into the Adopt-a-Park and Adopt-a-Street Agreements.

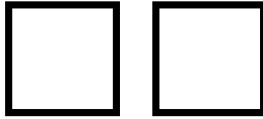
PREVIOUS REPORTS PERTINENT TO THIS MATTER

April 16, 2012 Finance and Administrative Services Committee report for the acquisition of the final parcel from Old Oak Inc. to complete Sugar Creek Park.

DISCUSSION

BACKGROUND

Within the Beaverbrook Planning District, an “Area Plan” concept was developed in 1991 for lands south of Proudfoot Lane and west of Beaverbrook Drive to ensure that the many small



parcels of land would develop in a coordinated way and provide for proper road and servicing alignments and a park central to the Area. Over the last 10 years, development has progressed parcel by parcel, almost exclusively by Old Oak as they acquired the parcels.

Old Oak has been very cooperative during this process and has gone above “standard requirements” in many ways to work with the City in the design of the neighbourhood, the street and the park. Old Oak has fully embraced the latest urban design principles for their building design and streetscape design and installed a roundabout with many design amenities not found elsewhere. They have also worked with the City towards a new approach to the creation of active urban spaces along the streetscape.

The City and Old Oak also established an agreement to link this neighbourhood to private trails within other Old Oak lands further west and to the City’s planned pathway system that will link the whole Beaverbrook Area to downtown.

Old Oak’s community centre at 400 Sugar Creek Trail is adjacent to the park and includes a café that will utilize private and public lands for outdoor patio use. The City supported the placement of the centre and café directly adjacent to the park to benefit from the complimentary uses, and entered into a “no-build” agreement with Old Oak to permit the construction of the centre abutting the park. The intent is to amend the development agreement with Old Oak for this property to include clauses to provide for the installation of park improvements and reimbursement under Section 41 of the Planning Act.

DEVELOPMENT AGREEMENT AMENDMENT

Sugar Creek Park is classified as an “Urban Park” that has an upgraded level of design and amenity because of its small size and high population surrounding it. The design includes standard park amenities such as a play structure, multi-use sports pad, pathways, trees and benches. Additional amenities include a gathering area with an arbour, and a plaza at the street frontage to be combined with the patio of the adjacent private community centre and café to provide an attractive sitting area for park users.

The attached Development Agreement Amendment for 400 Sugar Creek Trail (Appendix A) outlines City requirements for construction of these park components and the method of payment to Old Oak for the work. This arrangement minimizes the capital outlay from the City at this time by way of utilizing future parkland dedication payments due to the City from Old Oak. Old Oak is willing to absorb capital construction costs now, for these future cash-in-lieu of parkland credits. The cash payment to Old Oak includes DC funding as identified in the DC by-law and approved in the 2010 and 2011 capital budgets.

The final design and cost of the park also includes work that will be fully paid for by Old Oak and donated to the City in the amount of approximately \$35,000. The City will provide a “gift-in-kind” receipt for this donation.

LICENSE AGREEMENT

Old Oak sees value in the unique design of the park / café plaza and will be taking on maintenance of the plaza, including supplying and maintaining plaza furniture, emptying garbage and recycling containers, sweeping and power-washing the plaza as required and maintaining the adjacent shrub and flower beds. The License Agreement will outline the responsibilities under the agreement of both parties under the agreement and will be finalized through standard administrative processes. The City is not proposing to charge Old Oak for the use of the park plaza area to augment their café, as their maintenance activities more than make up for the standard payment.

ADOPT-A-PARK AGREEMENT

In addition, Old Oak will also be entering into an Adopt-a-Park agreement with the City to carry out some park maintenance as per the Adopt-a-Park Program. This includes: providing dog-litter bags and disposing of them, general park clean-ups and water trees as required. Old Oak will also be programming events in the park accessible to the general public.



ADOPT-A-STREET AGREEMENT

Sugar Creek Trail has been upgraded to suit the City's place-making guidelines and includes an enhanced roundabout and amenities such as planters and banners. Old Oak sees the benefit in enhancing their community with these amenities. The City will be working with Old Oak to finalize an Adopt-a-Street agreement that will see Old Oak maintain these features, picking up litter and watering street trees.

This report has been prepared with input from Development Services Division, Legal Division, Finance Planning & Policy Division and Realty Services Division.

CONCLUSION

Old Oak's participation in the development and maintenance of Sugar Creek Park represents a huge benefit to the City. The Park is constructed to the Urban Park standard and includes a \$35,000 donation from Old Oak. The developer will be reimbursed by the City utilizing approved capital funds for this project and cash-in-lieu of parkland credits for future developments.

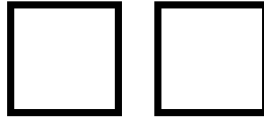
Old Oak will also be taking on maintenance activities for the park and street and "adopting" these areas as part of their on-going commitment to the Beaverbrook Area. These arrangements provide an enhanced park in a timely way to residents of this growing community with a reduced capital investment by the City.

PREPARED & SUBMITTED BY:
ANDREW MACPHERSON MANAGER, PARKS PLANNING & DESIGN
RECOMMENDED BY:
JOHN FLEMING DIRECTOR, LAND USE PLANNING & CITY PLANNER

Y:\Shared\parksplanning\REP&RECS - Working Reports\2012\Old Oak - Sugar Creek - const agreement.docx

Attachments: Appendix A – Development Agreement Amendment Text
 Appendix B – Source of Financing

cc Dave Munteer
 Alan Dunbar
 Bruce Henry
 Peter Christians
 Scott Stafford



Appendix A – Development Agreement Amendment

This Agreement made in duplicate this day of May, 2012.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON,
hereinafter called "the City" OF THE FIRST PART;

- and -

OLD OAK PROPERTES INC.
hereinafter called "the Owner" OF THE SECOND PART;

WHEREAS the Owner represents that he is the registered owner of the lands and premises more particularly described in the Schedule "A" attached hereto at 400 Sugar Creek Trail, London;

AND WHEREAS the Owner entered into an Agreement with the City dated the 15th day of July, 2010 and registered in the Land Registry Office on the 17th day of August, 2010 as Instrument Number ER723520 (the "2010 Agreement") to provide for the development of the Lands and for the provision and maintenance of buildings, structures, facilities and works thereon;

AND WHEREAS the 2010 Agreement was amended by an Agreement dated the 20th day of April, 2011 and registered in the Land Registry Office on the 10th day of May, 2011 as Instrument Number ER763622 (the "2011 Agreement");

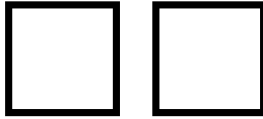
AND WHEREAS the parties have agreed to further amend the 2010 Agreement as herein after provided for;

NOW THEREFORE WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the City to the Owner (the receipt and sufficiency of which the Owner hereby acknowledges) it is agreed by the parties as follows:

1. That the 2010 Agreement as amended by the 2011 Agreement shall be further amended by adding the following provisions:

Sugar Creek Park 460 Sugar Creek Trail - Construction and Cost Reimbursement

- a) The Owner shall construct and install the Urban Park together with all amenities as more particularly shown on Schedule "B" to the satisfaction of the Director of Land Use Planning, including, but not limited to:
- Supplying and installing all underground storm services and catch basins;
 - Grading all park lands;
 - Installing retaining walls as required;
 - Seeding all park lands as defined by seeding area and seed mix;
 - Installing all asphalt pathways;
 - Installing concrete multi-purpose court and sports fixtures;
 - Installing play area and play structure;
 - Installing seating area and arbour;
 - Install concrete "plaza" area; and
 - Installing all trees and planting beds.
- b) The Owner shall have its consulting professional engineer supervise the construction of the storm servicing works and parkland grading and provide contract administration



services. The Owner shall have its professional landscape architect supervise all other park construction activities and provide contract administration services.

- c) For the above noted works where the Owner undertakes works at their entire expense as a capital cost incurred on behalf of the City and as authorized by the City, the Owner must conform with the rules of procurement, insurance and capital claims of the City including requirements for tendering, contract administration and completeness of claims for capital works.
- d) Upon completion of the construction and installation of the park amenities, The Owner shall submit claims to a maximum of \$440,000 for completed capital works and professional services to the City and include all documentation regarding tendering and final costs. The City shall pay the Owner for the construction and installation of park works the follows:
 - i) cash in the amount of \$170,000; and
 - ii) the balance (\$270,000) as credits to the Owner for future cash-in-lieu owed by the Owner calculated as follows:
 - Cash-in-lieu credit for parkland dedication required - 325 Sugar Creek Trail in the amount of \$27,750;
 - Cash-in-lieu credit for parkland dedication required - 345 Sugar Creek Trail in the amount of \$27,750;
 - Cash-in-lieu credit for parkland dedication required - 365 Sugar Creek Trail in the amount of \$27,750;
 - Cash-in-lieu credit for parkland dedication required - 385 Sugar Creek Trail in the amount of \$27,750;
 - Cash-in-lieu credit for parkland dedication required - 909 Southdale Road W in the amount of \$79,500; and
 - Cash-in-lieu credit for parkland dedication required - 3045 Pomoroy Lane in the amount of \$79,500.

Any capital expenditures above the maximum allowable cost by the Owner may compensated by the City by way of a "gift in kind" donation receipt.

- 2. In all other respects, save and except as amended hereby, the provisions of the 2010 Agreement, as amended by the 2011 Agreement, shall remain binding on the parties and of full force and effect.

IN WITNESS WHEREOF the City has executed this agreement by its authorized officers pursuant to C.P. Bylaw 1213-340 as amended and the Owner has hereunto set his hand and seal, duly witnessed in that regard.

THE CORPORATION OF THE CITY OF LONDON

by its appointed officers:

(seal)

(seal)

OLD OAK PROPERTES INC.

(seal)

witness



SCHEDULE "A"
to an Agreement dated April , 2012
made between

OLD OAK PROPERTES INC.

and

THE CORPORATION OF THE CITY OF LONDON

DESCRIPTION OF LAND

Firstly: Part of Park Lot 4, west side of Francis Street, City of London, County of Middlesex, and designated as Part 8 on Plan 33R-17509; and

Secondly: Part of Park Lot 3, west side of Francis Street, City of London, County of Middlesex, and designated as Part 10 on Plan 33R-17509.



APPENDIX B

APPENDIX 'B'

#12089
May 17, 2012

Chair and Members
Planning & Environment Committee

RE: Sugar Creek Park and Area
Design, Development and Maintenance Agreements with Old Oak Properties Incorporated
Capital project PD2735-12 - Sugar Creek Urban Park
Old Oak Properties - \$170,000.00

FINANCE DEPARTMENT REPORT ON THE SOURCES OF FINANCING:

Finance Department confirms that the cost of this project can be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Director of Land Use Planning & City Planner, Planning, Environmental and Engineering Services, the detailed source of financing for this project is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Additional Funding Required</u>	<u>Revised Budget</u>
Construction	\$0	\$170,000	\$170,000
Land Acquisition	80,207		80,207
NET ESTIMATED EXPENDITURES	\$80,207	\$170,000	1) \$250,207
SOURCE OF FINANCING:			
Capital Levy-Tsf from PD1382-2010 New Neighbourhood Parks	2) \$0	\$33,530	\$33,530
Capital Levy-Tsf from PD1382-11 - 2011 New Neighbourhood Parks	2) 0	23,950	23,950
Capital Levy-Tsf from PD2165-11 - 2011 Civic Spaces	2) 0	50,000	50,000
Drawdown from City Services-Parks & Rec R.F. (Dev. Charges)-Tsf fr. PD1382-2010 New Neighbourhood Parks	2 & 3) 0	36,470	36,470
Drawdown from City Services-Parks & Rec R.F. (Dev. Charges)-Tsf fr. PD1382-11 - 2011 New Neighbourhood Parks	2 & 3) 0	26,050	26,050
Drawdown from Parkland Reserve Fund	40,923		40,923
Contribution from Developer	39,284		39,284
TOTAL FINANCING	\$80,207	\$170,000	\$250,207

1) **Financial Note:**

The total park construction cost is \$475,000 and has been paid by Old Oak Properties Inc. up front in order to expedite construction and delivery of the park to the community. A portion of the funding for Sugar Creek Park was identified in our capital budget in 2010 and 2011 (\$170,000) and is available to reimburse Old Oak Properties Inc. To complete the full reimbursement of Old Oak's cost to construct the park on behalf of the City ahead of schedule, an arrangement has been made to use future cash-in-lieu (parkland dedications) owed by Old Oak as a credit towards dedicated park upgrades as listed on Appendix A-Development Agreement Amendment, Section 1d).

Total cost to construct Sugar Creek Park	\$475,000
"Gift-in-Kind" Donation from Old Oak	(35,000)
Future cash-in-lieu credit for parkland dedication	(270,000)
Total reimbursement to Old Oak Properties	170,000

NOTES:

- The additional funding requirement of \$170,000 is available as a transfer of Capital Levy in the amounts of \$33,530, \$23,950, and \$50,000 from Capital Projects PD1382 - 2010 New Neighbourhood Parks, PD1382-11 - 2011 New Neighbourhood Parks and PD2165-11 - 2011 Civic Spaces, respectively. The balance of the additional funding is available as a drawdown from the City Services-Parks and Recreation Component (Development Charges) in the amounts of \$36,470 and \$26,050 transferred from PD1382 - 2010 New Neighbourhood Parks and PD1382-11 - 2011 New Neighbourhood Parks.
- Development charges have been utilized in accordance with the underlying legislation and the Development Charges Background Studies completed in 2009.
- Amenities in this park that upgrade it from a neighbourhood park to an urban park were funded from capital approved tax levy for "Civic Spaces" plus the parkland dedications from Old Oak Properties Inc. obtained through the Planning Act.
- There are no additional annual operating costs to the City associated with the approval of this project. Old Oak Properties Inc. will be taking on all maintenance costs for the park.

Alan Dunbar
Manager of Financial Planning & Policy

EH