Minute No. 375
Report - Standing Policy Committee on Property and Development - April 5, 2005

Item No. 9 **Maples Collegiate - Lease of a Portion of Adsum Park by Seven Oaks School Division for a Running Track and Football Field**
File FI-2.2(34)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the lease agreement between the City and Seven Oaks School Division for a portion of Adsum Park, as identified on Misc. Plan 88 a/81, be approved in accordance with the terms and conditions contained in the report from the Director of Planning, Property and Development dated March 18, 2005.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development - April 5, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 5, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: **Maples Collegiate – Proposed Lease of a Portion of Adsum Park by the Seven Oaks School Division for a Running Track and Football Field**
Lord Selkirk/ West Kildonan Community
Old Kildonan Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: March 18, 2005

Recommendation(s):

1. That the proposed lease agreement between the City and Seven Oaks School Division for a portion of Adsum Park as identified on Misc. Plan 88 a/81 be approved in accordance with terms and conditions contained herein;

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT SUMMARY

Key Issues:

- On August 18, 1981, the City and Seven Oaks School Division entered into a 10 year lease agreement for the development of a running track and football field on a portion of Adsum Park with an option to renew for a further ten years.

- The Seven Oaks School Division exercised its renewal option under Agreement dated July 17, 1992.

- The renewal agreement expired on November 17, 2001. Since then, the Seven Oaks School Division has occupied the lands on an overholding basis.

- By letter dated January 4, 2005, the Seven Oaks School Division indicated that it wished to extend the lease by an additional ten years.

- The Public Works and Community Services Departments support the Seven Oaks School Division request to lease a portion of Adsum Park.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

-

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

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REASON FOR THE REPORT:

Pursuant to By-law 7100/97 s.11(e), the Standing Policy Committee on Property and Development has delegated authority to approve the terms and conditions for the leasing of City-owned property.

HISTORY:

At its meeting held on August 18, 1981, the former Committee on Finance and Administration approved the terms and conditions for a lease of a portion of Adsum Park with the Seven Oaks School Division. The particulars were as follows:

Owner:	City
Tenant:	Seven Oaks School Division
Location:	Southwest of Jefferson Avenue and Adsum Drive
Description:	Portion of Adsum Park shown on Misc. Plan 88 a/81
Purpose:	Running track and football field
Commencement:	August 18, 1981
Term:	10 years ending August 17, 1991
Renewal:	one (1) - ten year term commencing November 18, 1991 and ending on November 17, 2001
Rent:	$1.00 per annum
Insurance:	To indemnify the City and provide CGL with City to be named as additional insured with cross liability and a minimum limit of $250,000.00 all-inclusive.
Tenant Responsibility:	To be responsible for all costs incurred in the development and future maintenance of the running track and football field. To construct at its sole cost, fence and buffer with trees along total length of residential property abutting the running track and football field.
Cancellation:	If not used for school purposes.
Revisions:	Either party may request revisions to the agreement in January of any year within the term of the lease agreement, such revision would require mutual consent.

The City and Seven Oaks School Division executed the Lease Agreement under date of August 18, 1981.

Since August 18, 1981, the Seven Oaks School Division completed the development of a running track and football field and has been utilizing the subject City property for school purposes.

At its meeting held on February 12, 1992, Council approved the renewal of the subject lease agreement for an additional ten years commencing August 18, 1991 and ending on August 17, 2001.

By letter dated January 4, 2005, the Seven Oaks School Division notified the Planning, Property and Development Department that it wished to continue utilizing the subject City property until November 11, 2011.

The Planning, Property and Development Department circulated the subject request to the Public Works and Community Services Departments and the Planning and Land Use Division for review and comments.

DISCUSSION:

1. Background:

The Maples Collegiate is located adjacent to Adsum Park as shown on the attached Misc. Plan. 88 a/81. In 1981, the Seven Oaks School Division entered into a lease agreement with the City for the use of a portion of the park to develop a running track and football field. Since then, the School Division has utilized the City property for high school programming purposes.

In accordance with the School Division request, the Department reviewed the matter and identified various issues as follows:

a) Lease Agreement Status:

The City and Seven Oaks School Division executed the original lease agreement dated August 18, 1981. Subsequently, the parties executed a renewal agreement dated July 17, 1992 for the term commencing August 18, 1991 through August 17, 2001.

Since August 18, 2001, the Seven Oaks School Division has occupied the subject site on an overholding basis.

By letter dated January 4, 2005, the Seven Oaks School Division requested that the Agreement be extended by 10 years. It is the standard practise of the Department to obtain approval of new lease terms and conditions with a commencement date immediately following the expiry of the previous agreement to cover any potential liability issues.

b) Insurance:

The City's Risk and Insurance Branch reviewed this matter and provided advice as follows:

> "Please note that insurance from MAST - Manitoba Association of School Trustees - is on file covering off these leases. The insurance is currently in good standing, not expiring until July 01, 2005.

To further safeguard the City, the Lessee shall purchase and keep in force during the full term hereof, a comprehensive general liability policy including, but not limited to the following provisions

(1) Commercial general liability insurance, in the amount of at least five million dollars ($5,000,000.00) all inclusive, with The City of Winnipeg being added as an additional insured, with a cross-liability clause, such liability policy to also contain contractual liability, to remain in place at all times during the full term hereof;

(2) Lessee shall not cancel, materially change, or cause any such policy or policies to lapse without minimum fifteen (15) days prior written notice to the City of Winnipeg;

AND deductibles shall be borne by the Lessee;

AND the Lessee shall file with the City a Certificate of Insurance in a form satisfactory to the City Solicitor;

AND the City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of this agreement."

2. Proposed Terms and Conditions for a New Lease Agreement:

The particulars for a new lease agreement are as follows:

Owner:	City
Tenant:	Seven Oaks School Division
Location:	South west of Jefferson Avenue and Adsum Drive
Description:	Portion of Adsum Park shown on Misc. Plan 88 a/81
Purpose:	Running track and football field
Commencement:	August 18, 2001
Term:	10 years ending August 17, 2011
Rent:	$1.00 annum plus GST
Insurance:	To indemnify the City and provide CGL of $5.0 million, City added as additional insured with cross liability and also contain contractual liability
Tenant Responsibility:	To be responsible for all costs incurred in the development and future maintenance of the running track and football field. To construct at its sole cost, fence and buffer with trees along total length of residential property abutting the running track and football field and for any damage to the City's demised lands.
Cancellation:	If not used for school purposes.
Revisions:	Either party may request revisions to the agreement in January of any year within the term of the lease agreement, which revision would require mutual consent.

Being as the School Division still requires the use of the subject City-owned property and that same is not required for parks and recreation use, the Administration is recommending approval of the subject terms of lease.

Financial Impact Statement

Date: March 14, 2005

Project Name:

First Year of Program 2005

Maples Collegiate – Proposed Lease of a Portion of Adsum Park by the Seven Oaks School Division for a Running Track and Football Field

	2005	2006	2007	2008	2009
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	11	-	-	-	-
Net Cost/(Benefit)	$ (11)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(11)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

The subject lease will result in a one time cash inflow of $10.70 (10 years times $1.00 plus GST)

"Original signed by"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Public Works Department

Community Services Department

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: D.Armstrong
PPD File #: 5099/99

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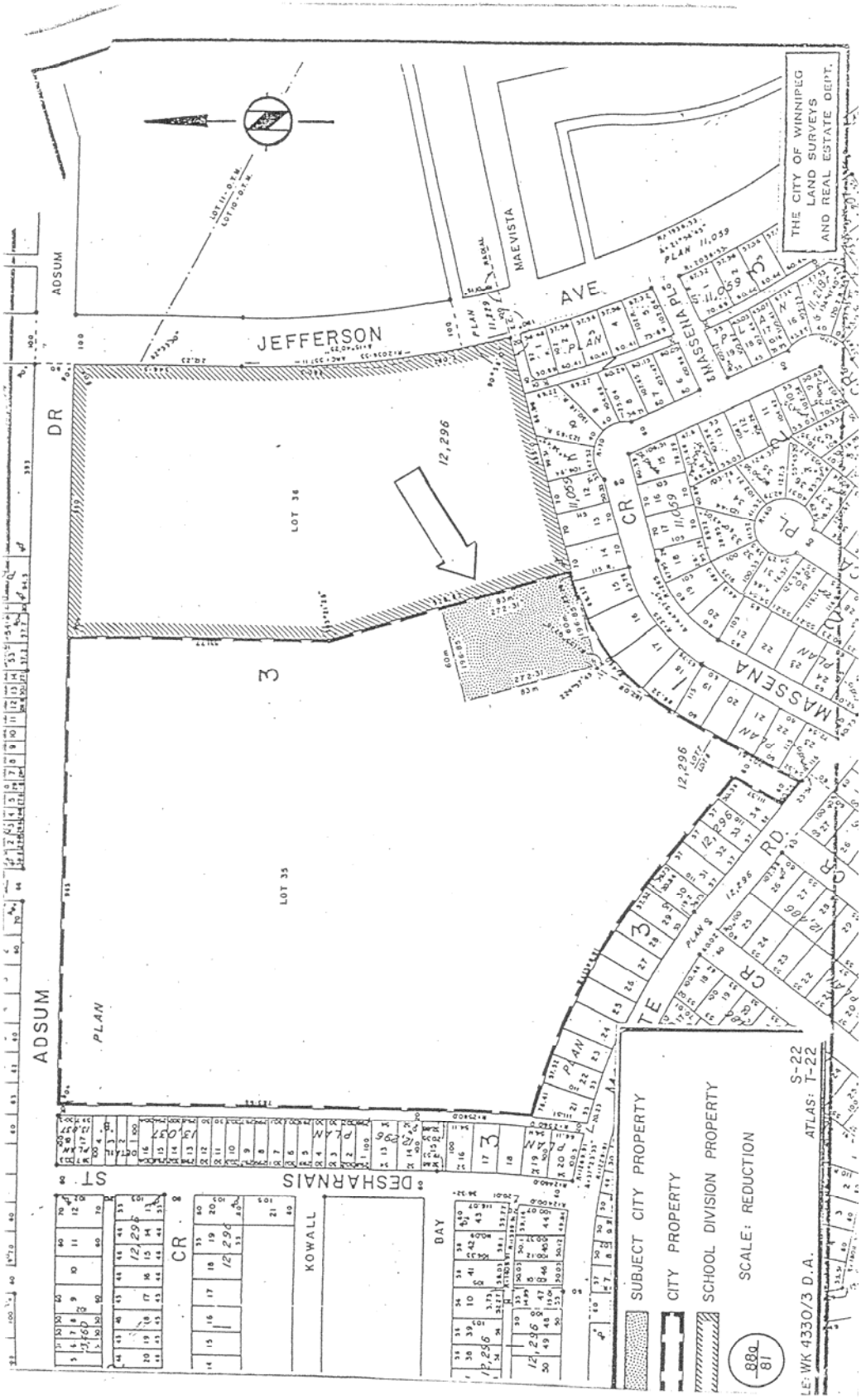
THE CITY OF WINNIPEG
LAND SURVEYS
AND REAL ESTATE DEPT.
JEFFERSON
AVE.
MAEVISTA
ADSUM
DR
MASSENA
CR
PL
RD.
DESHARNAIS
ST
KOWALL
BAY
LOT 36
LOT 35
12,296
SUBJECT CITY PROPERTY
CITY PROPERTY
SCHOOL DIVISION PROPERTY
SCALE: REDUCTION
ATLAS: S-22 T-22
LE: WK 4330/3 D.A.