

MEMORANDUM M16-046

Date: March 23, 2016
To: Buildings & Grounds Committee
From: Dean Bostrom, Executive Director
Craig Talsma, A&F Director/Deputy Director
John Giacalone, Director Park Services/Dev & Risk Management
Gary Buczkowski, Director of Planning & Development
Subject: Montessori Academy of North Hoffman

Background

The Montessori Academy of North Hoffman (“Academy”) has buildings located in both the NW and SW corners of the intersection of Mumford & Freeman Roads in the north part of Hoffman Estates.

In 1996 when the Academy renovated the building on the NW corner, the park district and the Academy entered into a temporary construction easement and permanent landscape easement agreement. The permanent landscape easement was for an area 10’ wide within park district property along the property line located parallel to the backside of the Academy’s building and parallel to the south side of the playground. See attached easement agreement dated October 1996. This permanent landscape easement is strictly limited to landscape maintenance and improvements located within the easement area and does not reference fences as being a permitted allowance within the easement area.

During 2015, the Academy completed an additional renovation to the same building located on the NW corner of Mumford & Freeman Roads. The improvements included the installation of a new playground with a 3 foot high board-on-board fence to enclose the playground. Both the playground and fence were placed in near the same locations as the prior existing playground and fence. The board-on-board fence encloses two sides of the playground with the third side being enclosed by the back side of the building. The majority of the fence on the south side of the playground is located within the easement area with approx. 10 feet of the fence located on the Academy’s property. The majority of the fence on the north side of the playground is located on the Academy/park district property line, except for two approx. 6 foot sections of fence which enclose two very old, large cottonwood trees.

Implications

In the summer of 2015 following the installation of the new playground and fence, staff identified that a portion of the fence was located within the easement and that the two 6’ sections on the north side of the playground were located on park district property. When the Academy was made aware of this circumstance, the Academy requested to purchase the park district property where the fence was located. The park board was not agreeable to selling the park district property in question. The park board did, however, agree to potentially incorporate the portions of the fence currently not included within the existing landscape easement and to make

fences an allowable structure within the easement agreement. This proposal was contingent upon the Academy agreeing to the park district's Reimbursement of Fees Agreement which would cover all related expenses, including but not limited to surveying the property, having legal counsel draft an agreement and recording the easement agreement with the Cook County Recorder's Office. On February 23, 2016 the Academy approved the Reimbursement of Fees Agreement and submitted a deposit amount of \$1,500 to the park district. Legal counsel prepared the attached revised Permanent Easement Agreement following the completion of the survey. Within the proposed Permanent Easement Agreement the Academy assumes all legal liability as a result of the fence located on park district property as well as responsibility for the very old, large cottonwood trees which in the future will need to be professionally cut down once they are dead.

Recommendation

Staff recommends the B&G committee recommend to the park board approval of the Permanent Easement Agreement contingent upon the Academy paying all related expenses plus a 10% administrative fee.