



# STAFF REPORT

**TO:** Council **MEETING DATE:** April 18, 2017  
**FROM:** André Boel, Director of Planning **FILE NO:** 3220-20 Gower 377-385  
**SUBJECT:** Land Exchange Agreement George Hotel & Residences

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## RECOMMENDATION

**THAT the staff report regarding the “Land Exchange Agreement George Hotel & Residences” be received;**

**AND THAT Council endorse the Land Exchange Agreement and authorizes the Mayor and the Corporate Officer to sign the agreement on behalf of the Town.**

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## PURPOSE

The purpose of this report is to seek Council’s consideration of a proposed Land Exchange Agreement between the Town of Gibsons and the owner of the George Hotel & Residences project.

## BACKGROUND

The George Hotel and Residences received Council approval of requested Official Community Plan and Zoning Bylaw amendments on October 6, 2015 (RS2015-330 and RS2015-331). At the time of rezoning a Development Agreement was registered at the Land Titles Office (reference CA4741913) to secure the delivery of development approval conditions.

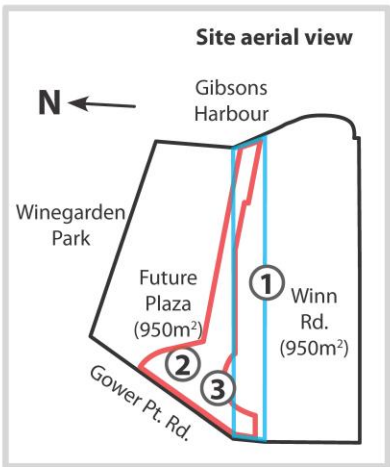
The proposed Land Exchange Agreement between the Town and developer addresses requirements, (specifically: Development Agreement items 2a)ii), 2b), 2c), 2d) and 6e)), for transferring the Winn Road area in exchange for a public plaza connecting from Gower Point Road to a new waterfront walkway. The proposed Land Exchange Agreement and associated statutory rights of way and covenants outline the steps and requirements to enable this exchange.

Previously, a draft agreement was reviewed by Council in the meeting of December 20, 2016. Further legal review has taken place by the Town and the developer and the developer has agreed to the currently proposed terms.

**DISCUSSION**

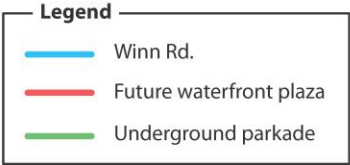
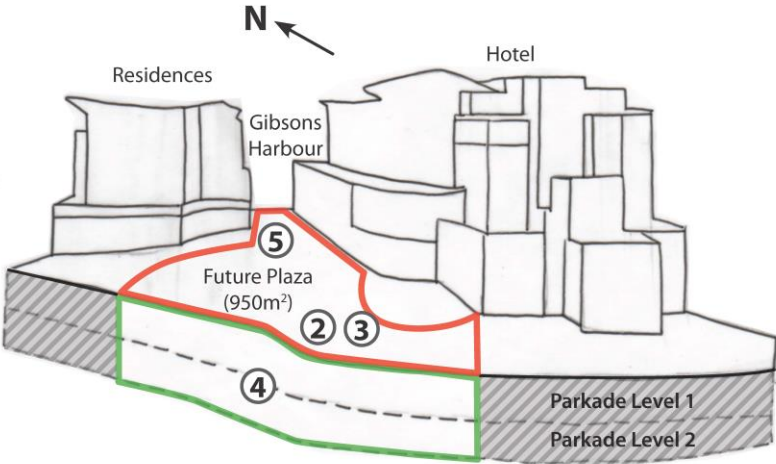
The following documents are part of the attached Land Exchange Agreement:

- A. The Land Exchange Agreement itself outlines conditions and steps for the transfer of Winn Road to the developer in exchange of the Plaza;
- B. The Winn Road Statutory Right of Way secures access for the public and Town utilities over Winn Road until the project is under construction and / or completed;
- C. The Air Space Agreement outlines the rights and responsibilities between the Town and the George Hotel in relation to the (Town-owned) Plaza and the (privately owned) Airspace Parcel below it;
- D. The Statutory Right of Way and Section 219 Covenant for waterfront and Plaza works secures public access over the new waterfront walkway and also secures the construction and maintenance of the Plaza by the future owners of the George Hotel;
- E. The Statutory Right of Way for waterworks arranges for Town access in relation to the operation and maintenance of municipal services.



**Town of Gibsons  
Summary of Road Closure  
and Exchange\***

- ① Road closed
- ② Plaza is dedicated
- ③ Legal agreements registered to protect Town's interests
- ④ Lands under plaza being sold to developer for appraised value
- ⑤ Objective to enhance pedestrian access to the waterfront



*\* This is prepared as an explanatory illustration only and is not fully accurate or to scale*

*Figure 1 Explanatory sketch road closure, exchange and disposition.*

## A. Land Exchange Agreement

The proposed road closure and exchange is referenced in the explanatory sketch above. Currently, the Town owns Winn Road (see number 1). The current land area of Winn Road is approximately 950 m<sup>2</sup> (10,225.7 ft<sup>2</sup>). The Town would close Winn Road, by way of a Road Closure Bylaw and notification process, as per the statutory procedures outlined in the *Community Charter*.

The future public plaza and pedestrian connection to the waterfront will be over the area shown outlined in red (see number 2 and 3). This public plaza also occupies a land area of approximately 950 m<sup>2</sup>. The future public plaza is located through the centre of the future George Hotel and Residences development site, which maintains current public access through Winn Road. The intent is to improve pedestrian access and to create a vibrant waterfront plaza for public gathering in Lower Gibsons (see number 5). The Plaza will be dedicated to the Town. As the surface land area for Winn Road and the future plaza is the same, this is a land exchange between the Town and developer.

In addition, as already outlined in the 2015 Development Agreement, the developer of the George Hotel & Residences would purchase the underground area below the plaza, which will allow for the construction and ownership of an underground parkade (see number 4). A recent appraisal of the Winn Road area valued the land at \$ 560,000 and the value of the Airspace Parcel at \$ 61,600. Since the Town will own the Plaza, the amount payable from the developer is limited to the value of the Airspace Parcel underneath the Plaza.

The actual execution of the Land Exchange is subject to the following conditions (Section 3.1):

- a) Adoption of a Road Closure Bylaw;
- b) Registration at the Land Title Office of the consolidation of the closed road area with the Development Lands and the dedication to the Town of the Plaza area;
- c) Registration of the Air Space Parcel below the Plaza;
- d) Removal of all existing buildings and structures from the future Plaza;
- e) Issuance of Development Permits under Development Permit Areas #1 (geotechnical), #2 (environmental and remediation) and #9 (Gibsons Aquifer).

Highlights of other details in the Land Exchange Agreement are:

- Section 2.1 summarises the process of the exchange;
- Section 3.1 lays out the required conditions before the land exchange proceeds;
- Section 4.1 outlines that a number of rights of ways and covenants will be registered over the land to secure existing and future utilities and public access;
- Section 4.3 provides an overview of the documents that will support this process;
- Section 5.2 f) makes the developer solely responsible for compliance with the Environmental Management Act and remediation of contaminated materials that may be present in the current Winn Road area.

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## **B. Winn Road Statutory Right of Way**

This Statutory Right of Way retains the Town's right to access and use of the Winn Road area after the road is closed and transferred. The Town has existing storm water infrastructure utilities that needs to remain in place until new drainage works are completed and connected. The document also secures public access until construction starts. This is a temporary right of way that is to be suspended when the project is under construction (see Section 5) and it may be discharged once the development has been completed (see Section 6).

## **C. Air Space Agreement (Easement and Section 219 covenant)**

This agreement makes arrangements for the owners of the Plaza (the Town) and the Airspace Parcel (George Hotel parkade). The Town will retain rights of access through an easement on the air space parcel below and the George Hotel has similar rights over the Plaza. The support structures and subsurface parcel must be maintained by the hotel in good repair and condition in the occurrence of damage. Course of construction and liability insurance requirements are outlined in this agreement.

The Section 219 Covenant ensures that the agreement and easements are transferred to any new future owners.

## **D. Waterfront Statutory Right of Way / Section 219 Covenant Plaza**

This Statutory Right of Way ensures public passage over the Development Lands to access the Plaza and the Waterfront Walkway (Section 1b). In addition, a Sublicence over the foreshore areas secures access over the Waterfront Walkway where it is located on the Crown Foreshore (Section 2).

Moreover, this covenant secures the construction and future maintenance by the George Hotel owner of the surface of the Town owned Plaza and the Waterfront Walkway in a manner that meets Town standards (Section 3).

The attached Assumption Agreement that is part of Schedule D ensures that the obligations are transferred to the future Strata Corporation (Schedule B to Schedule D).

The attached Licence Agreement that is part of Schedule D makes arrangements for the developer to construct and maintain the Town owned Plaza (Schedule C to Schedule D).

## **E. Waterworks Statutory Right of Way**

This Right of Way over the Development Lands is for Town waterworks, sewage works and drainage works. It grants a blanket access to the Town in perpetuity for unobstructed access, operation, and maintenance of municipal services where needed.

**NEXT STEPS**

This report has outlined the Land Exchange Agreement and associated legal documents for Council consideration. These documents have been prepared to implement the land exchange related items of the existing Development Agreement between the Town and developer. The developer has agreed to the proposed Land Exchange Agreement.

If the Land Exchange Agreement is accepted by Council, the next step would be to advance with a Road Closure Bylaw and notification process (*Community Charter, Section 94*) that will allow for the closure of Winn Road and exchange of the land for the Plaza.

Moreover, there are a range of other requirements from the Development Agreement that remain pending. The main outstanding requirements before a Building Permit can be issued are a satisfactory peer review of the geotechnical and hydrogeological analysis, and the issuance of Development Permits under Development Permit Areas #1 (geotechnical), #2 (environmental and remediation) and #9 (Gibsons Aquifer).

**RECOMMENDATIONS / ALTERNATIVES**

Staff recommendations are listed on page 1. Alternative recommendations are listed below:

Alternatively, if Council would like to explore changes to the Land Exchange Agreement:

*THAT staff be directed to discuss the following items with legal counsel and / or the applicant .....*

Alternatively, Council could reject the Land Exchange Agreement. In that case the George Hotel project would not be able to proceed in its currently proposed form.

Respectfully Submitted,

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André Boel, RPP  
Director of Planning

**CHIEF ADMINISTRATIVE OFFICER’S COMMENTS:**

I have reviewed the report and support the recommendation(s).

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Emanuel Machado  
Chief Administrative Officer

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**ATTACHMENT:**

Land Exchange Agreement dated April 1, 2017