

Re: LETTER FROM CARLTON PRIVATE HOSPITAL AND NURSING HOME WHICH
 APPEARED ON THE AGENDA FOR THE FEBRUARY 7, 1977 MEETING OF
 COUNCIL (Item 4g).
SUBDIVISION REFERENCE #157/76 AND REZONING APPLICATION #30/76

Appearing on last week's agenda was a letter from Mr. John R. Becher regarding the amount of compensation that has been established for the sale of a redundant portion of Carlton Avenue. Following are reports from the Land Agent and the Director of Planning regarding this matter.

RECOMMENDATION:

1. THAT the applicant's request for title to the redundant lane allowance without payment of compensation for same be denied.

* * * * *

TO: MUNICIPAL MANAGER February 4, 1977
 FROM: LANDS DEPARTMENT
 SUBJECT: SUBDIVISION REFERENCE #157/76 AND
 REZONING APPLICATION #30/76

With reference to the letter dated January 25, 1977, from Carlton Private Hospital relative to their negotiations to acquire the redundant portion of Carlton Avenue which was authorized by Council on August 30, 1976 (Item 18, Manager's Report No. 58).

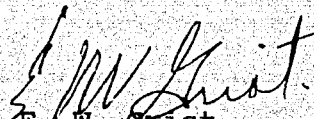
The opinion of value expressed by the applicant is, in our opinion, not a valid one. The value of \$65,000.00 placed thereon can be adequately supported. The addition of this area (66' x 203'), when consolidated with adjacent property owned by the hospital, could provide site area to provide for building which would accommodate an additional twenty-two (22) patients. Their statement to the effect that a fair market value has not been set cannot be supported in fact.

The area of the sewer easement of which they complain has been allowed for in arriving at the value. The argument advanced that the R5 zoning does not support this value is rather weak when you take into consideration the purpose for which tentative approval has already been given for the ultimate use of the land is for institutional purposes.

Taking these points into consideration, I am unable to recommend any reduction in value with regard to the redundant portion of Carlton Avenue.

I would point out that, owing to the fact that the hospital has now acquired land on both sides of the road allowance, there is a possibility they might proceed to acquire the road allowance through plans cancellation proceedings. However, as this matter has proceeded to this point under road abandonment procedure and if this procedure is successful, then the Municipality has no alternative other than to sell the area involved at a fair market value.

I believe this opinion is adequately supported in directives dated February 20, 1973 and January 7, 1974, addressed to all Municipal Clerks in the Province of British Columbia, re highway abandonment procedures, from W. K. Smith, Deputy Minister of Municipal Affairs, copies of which I attach hereto.


E. W. Grist
Land Agent

EWG/jce
Encl.

cc: Clerk
Mayor
Director of Planning

February 20, 1973.

TO: All Municipal Clerks,
Province of British Columbia

Re: Highway Abandonment Procedures

In addition to the Highway Abandonment Procedures set out on page 49 of our "Guide to Municipal Management" it is confirmed that the present policy of the Department requires that when the portion of highway being stopped up and closed is to be abandoned and vested in the name of the adjoining owner or owners, or subsequently is to be conveyed by the municipality to another party for development purposes, such conveyance or vesting should not be completed without compensation first being received by the municipality.

The amount of compensation received by the municipality is to be confirmed at the time of submission of the petition to this office for consideration by the Lieutenant-Governor in Council.

Another practice that is not specifically covered in the Guide and requires clarification, concerns the vesting of those lands created by the abandonment. When an application is made by an incorporated company vesting will only be in the name of the municipality. Subsequent to the vesting in the name of the municipality a sale may then be arranged pursuant to the provisions of the Municipal Act. If the conditions are such that vesting is to be made in the name of an individual this may still be accomplished by way of the Order-in-Council.

Yours truly,

W. K. Smith,
Deputy Minister.

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Corporation of ...
Lands Department

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DEPARTMENT OF MUNICIPAL AFFAIRS
Province of British Columbia

January 7, 1974

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TO: All Municipal Clerks
Province of British Columbia

Re: Highway Abandonment Procedures

Corporation of Burnaby
Lands Department

In a circular letter dated February 20, 1973, the policy of the Department was outlined in respect to compensation being received by a municipality in return for conveyance of a portion of highway abandoned pursuant to section 508 of the Municipal Act.

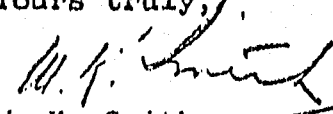
Some clarification in determining the amount of compensation to be received by the municipality would appear to be necessary.

Whether the compensation is by way of a cash payment or exchange of land, the value received by the municipality should represent a fair market value of the portion of closed road being vested in the adjoining owner or owners. In arriving at a fair market value, consideration should be given to such factors as:

- (a) is the conveyance of the closed road to be a simple addition to a residential lot or lots;
- (b) will the addition of the closed road enable a subdivision to be performed which would create an extra lot, or lots;
- (c) will the addition of the closed road permit a possible rezoning with an increased potential value for industrial or commercial use.

At the time the Petition for abandonment is presented to the Department, information relating to the compensation and the means of arriving at the evaluation should be included with the submission. Any deviation from this principle should be fully explained.

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Yours truly,

W. K. Smith,
Deputy Minister.

JGC/cb

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cc: M. Smith
cc: Legal
cc: Burnaby

ITEM 8
MANAGER'S REPORT NO. 11
COUNCIL MEETING Feb. 14/77

PLANNING DEPARTMENT
February 10, 1977

TO: MUNICIPAL MANAGER

FROM: DIRECTOR OF PLANNING

SUBJECT: Closure of Carlton Avenue between Canada Way
and Norfolk Street, Road Closure Reference #6/76
and Rezoning Reference #30/76

1.0 INTRODUCTION

Appearing on the February 7, 1977 Council Agenda was a letter from Dr. J. R. Becher of the Carlton Private Hospital regarding the compensation set for the purchase of the subject redundant road allowance.

2.0 BACKGROUND

2.1 On August 30, 1976, Council authorized the introduction of the subject road closure for the purposes of consolidating the redundant portion of Carlton Avenue between Canada Way and Norfolk Street with the Carlton Private Hospital site to the immediate west in order to gain sufficient area for expansion of the existing hospital facility. Completion of the road closing by-law was subject to the following prerequisites:

1. Consolidation of the road allowance with the hospital site to the immediate west.
2. Payment of compensation to the Municipality in the amount of \$65,000. for the 66' x 203.9' area, as determined by the Municipal Land Agent.
3. Protection of existing sewer and water mains by the granting of an easement in favor of Burnaby subsequent to final consolidation.

4. Retention of an existing access across the allowance to 4205 Canada Way until redevelopment occurs on this property in conjunction with abutting owners.
5. Written consent to the closure from all abutting owners on the east side of the allowance.
6. Submission of all survey plans necessary for the closure and subsequent consolidation.

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- 2.2 On September 20, 1976, Council gave favourable consideration to the rezoning of the east half of the subject road allowance in order to accommodate the proposed hospital expansion under the appropriate P5 zoning designation.
- 2.3 The rezoning by-law amendment received Three Readings on October 25, 1976. The road closing by-law received Final Adoption on January 17, 1977. The Municipality is presently petitioning the Lt. Governor in Council for title to the subject lands in order to consummate the requisite sale and consolidation.

3.0 GENERAL DISCUSSION

- 3.1 Upon initial contact with representatives of the Carlton Private Hospital regarding their proposed facility expansion, the Planning Department advised that the subject road allowance required closure and consolidation with the site to the immediate west as well as rezoning of its east half from R5 to P5. At that time, lots 1 and 8 which abut the east side of the subject road allowance (see sketch #1) were owned by a Mr. P. T. Doolan. Acknowledging these requirements, the applicant obtained the necessary consent of Mr. Doolan to close the road allowance, thereby relinquishing his rights, title and interest thereof (see attached letter).
- 3.2 On the basis of the foregoing circumstances, the Planning Department initiated the necessary road closure which specifically outlined as a requisite condition, the payment of compensation to the Municipality in the amount of \$65,000. for the 66' x 203.9' road allowance as determined by the Municipal Land Agent.
- 3.3 Not until after the Road Closing By-Law and Rezoning had been initiated did the applicant proceed to purchase lots 1 and 8.

4.0 CONCLUSION

In light of the foregoing information, the Planning Department advises that prior to the completion of rezoning and consolidation of the subject road allowance with the adjacent hospital site, all of the requisite conditions must be satisfied in full, thereby including the appropriate compensation to be paid to the Municipality for the subject road allowance.

Council is advised that pursuant to the Municipal Act and a specific directive from the Provincial Government, closure and conveyance of redundant road allowances to another party for development purposes cannot be completed without compensation first being received by the Municipality. These conditions had been conveyed to the applicant upon initial consideration

of their expansion proposal and in advance of their purchase of the abutting properties.

This Department submits that the subject request would contradict the existing legislation and the adopted policy of Council on this matter. Furthermore, approval of this request would set an unwarranted precedent for similar requests within the Municipality.

5.0 RECOMMENDATION

It is recommended THAT Council receive the report of the Planning Department and not give favourable consideration to the applicant's request for conveyance of the subject road allowance without charge.


A. L. Parr
DIRECTOR OF PLANNING

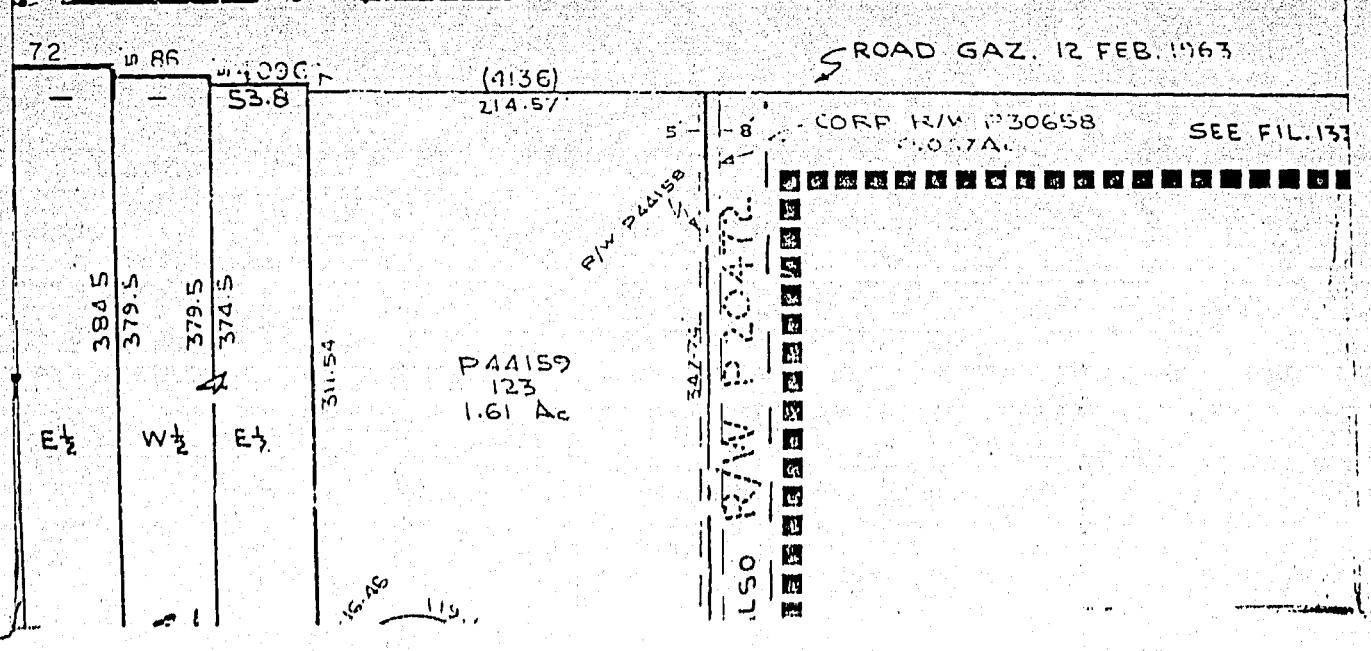
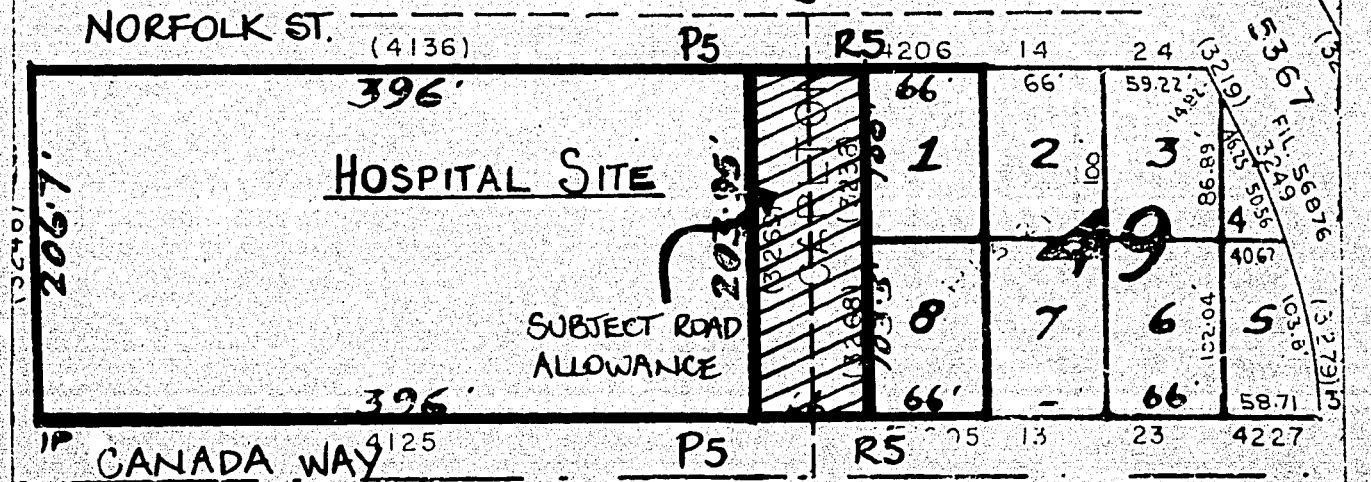
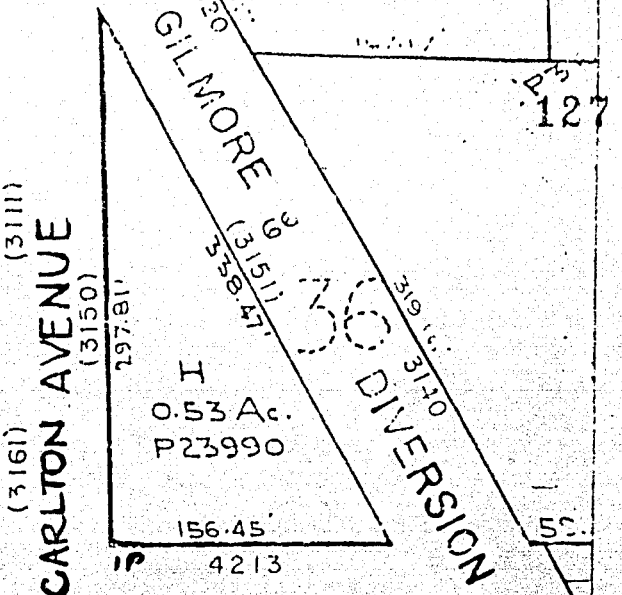
PDS/hr
Atts.

66'	15'	25'	37'	49'	63'	71'	81'	91'	101'
4107	15	25	37	49	63	71	81	91	101

ITEM 8
 MANAGER'S REPORT NO. 11
 COUNCIL MEETING Feb. 14/77

121'	121'	121'	121'	121'	121'	121'	121'	121'	121'
1	2	A	B	C	D	E	F	G	H
66'	66'	66'	66'	66'	66'	66'	66'	66'	66'
4107	25	36	50	64	78	92	106	120	134

121'	121'	121'	121'	121'	121'	121'	121'	121'	121'
12	11	10	9	8	7	6	5	4	3
66'	66'	66'	66'	66'	66'	66'	66'	66'	66'
4107	25	41	57	73	89	105	121	137	153



Date
 FEB/76

Scale
 1" = 100'

Drawn By
 P.D.S.



Burnaby Planning Department

SKETCH #1