

RE: DRIVEWAY ACCESS - MANDEVILLE GARDENS
SOUTH EAST CORNER OF NELSON AND MARINE DRIVE (KUYPERS)

Attached is a report from the Municipal Engineer regarding the hazardous condition at Nelson Avenue south of Marine Drive.

Following for the convenience of Council are the final positions that were taken regarding this matter:

A. Municipal Position

The Municipality's final position involves an exchange of land and provision of a new access from a proposed new cul de sac approximately 300 ft. south of Marine Drive off Nelson as follows:

- (a) The Municipality would acquire from the Kuypers a triangular portion of property (981 sq.ft.) required for the ultimate upgrading of Nelson Avenue at Marine Drive valued at \$2,560 plus a payment of \$8,387 for loss of existing driveway, curb, gate and landscaping.
- (b) The Kuypers would acquire from the Municipality a triangular portion of property involving 2,925 sq.ft. of P3 zoned land to be rezoned R2 plus 13,875 sq.ft. of P3 zoned land to be rezoned A3.
- (c) The Kuypers would pay the Corporation a differential of \$13,674 which includes their 50% (\$4,500) share of the cost of constructing the new cul de sac (entrance) from Nelson Avenue.
- (d) The Kuypers from their above named acquisition would dedicate one half of the land required for the cul de sac.
- (e) The Kuypers would perform their own restoration arising out of the closure of the existing driveway.
- (f) The Municipality would construct the cul de sac at an estimated cost of \$9,000 shared 50% each between the Corporation and the Kuypers.

B. Kuypers Final Position

The Kuypers' final position as put by their solicitor Mr. Hyndman was as follows:

- (a) The Kuypers would be paid \$4,900 for the triangular portion of property required ultimately for Nelson Avenue improvements at Marine Drive.
- (b) The Kuypers would be reimbursed \$48,559 for loss of improvements and related expenditures.
- (c) The Kuypers would be given 16,800 sq.ft. of P3 zoned land.
- (d) The Corporation would bear all the cost of a new driveway including landscaping on the triangular acquisition property.
- (e) The Kuypers would finish the new entrance work that fell within their property plus any relocation of buildings as required.

RECOMMENDATION:

1. THAT the recommendations of the Municipal Engineer be adopted.

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ITEM	14
MANAGER'S REPORT NO.	69
COUNCIL MEETING	1979 10 15

TO: MUNICIPAL MANAGER
FROM: MUNICIPAL ENGINEER
SUBJECT: DRIVEWAY ACCESS - MANDEVILLE GARDENS, S.E. CORNER
NELSON AND MARINE DRIVE - KUYPERS

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RECOMMENDATIONS:

1. THAT Mr. and Mrs. Kuyper be advised that the Corporation's final position on the matter of their driveway closure is as outlined in the Municipal Manager's letter to Mr. Hyndman dated 1979 01 31 as more fully described in the Manager's preamble of this report; and
2. THAT the Kuypers be advised that if they do not accept the Corporation's position by 1979 11 01 the Municipal Solicitor is authorized to prepare a bylaw for the consideration of Council as provided for in the Municipal Act, Section 514(1) (D) for the purpose of closing the existing driveway to the Kuyper property as shown on Sketch #2; and
3. THAT the Municipal Engineer be authorized to close the driveway immediately upon approval of the bylaw in #2, and
4. THAT the Municipal Engineer be authorized to improve alternative access from Mandeville as shown on Sketch #1 at an estimated cost of \$1,500.

REPORT

BACKGROUND

In anticipation of the opening of Nelson Avenue south of Marine Drive to an interim standard to initially serve the Sports Complex south of Marine Drive and ultimately connect to Marine Way, it was recommended in Manager's Report No. 82, Item 12, 77 11 28 (copy attached) that the existing driveway to the Kuyper property from the southeast quadrant of the Nelson / Marine Drive intersection should be closed to traffic. At that time the Municipal Council adopted the following resolution "that this matter be referred to the Mayor and the Municipal Manager for consideration of the correspondence received and the possible consideration of an exit from the property on Nelson Avenue some 200 feet approximately and/or more from Marine Drive".

Since that time an extensive exchange has been carried out with the Kuypers and Mr. Fraser Hyndman, their Solicitor, regarding the proposed closure of the driveway and including various proposals to sell them additional land and construct a new driveway from Nelson Avenue approximately 200 feet south of Marine Drive. For the information of Council, a chronology of the events that have occurred in the continuing negotiation with the Kuypers and their solicitor is attached from late 1977 to the present. From this chronology it will be seen that every effort has been made to reach some agreement with the Kuypers on this matter, however, the final letter received from their solicitor, Mr. Hyndman, dated 79 03 08 indicates that none of the proposals made are acceptable to his clients and he confirms that his clients have no interest in acquiring any property and it seems quite clear at this time that there is no point in attempting to negotiate further on the matter of constructing a new driveway from Nelson Avenue south of Marine Drive.

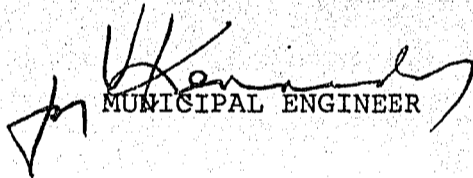
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CURRENT

Since negotiations started on the matter of closing this driveway, Nelson Avenue has been constructed at first to a gravel standard in early May 1978 and finally to an interim paved standard in late September 1978. The south leg of Nelson Avenue at the present time only extends as far as the Sports Complex south of Marine Drive, however, it will ultimately, probably within two years, be connected further south to the new Marine Way. The situation as regards the hazardous nature of the driveway is still as outlined in our original report 77 11 23, i.e. there is a serious lack of sight distance because of the steep grade with which the driveway drops off from Marine Drive and it connects to the intersection mid point in the southeast quadrant which is an extremely hazardous situation as traffic increases on Nelson Avenue south of Marine Drive. To demonstrate the conflict points caused by the driveway compared to the circumstance without the driveway we attach conflict Sketches 'A' and 'B' which indicate 69 conflict points with the driveway as opposed to 32 conflict points without the driveway.

One circumstance that has changed in the two year interim is the estimated cost of upgrading the existing access from Mandeville has increased from \$1200 to \$1500.

We are again recommending the closure of this driveway for the safety and well being of the Mandeville Gardens in particular as well as the public at large, with particular attention to the fact that an adequate and safe form of access (with some minor improvements as recommended) is in existence to Mandeville Gardens from Mandeville Avenue.


MUNICIPAL ENGINEER

VDK:sp
Attach.

cc: () Director of Planning
() Municipal Solicitor

ITEM 14
MANAGER'S REPORT NO. 69
COUNCIL MEETING 1979 10 15

ITEM 12
MANAGER'S REPORT NO. 82
COUNCIL MEETING Nov. 28/77

Re: NELSON AVENUE SOUTH OF MARINE DRIVE

Following is a report from the Municipal Engineer regarding a proposed solution to a hazardous condition that exists at Nelson Avenue south of Marine Drive.

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RECOMMENDATIONS:

1. THAT the Municipal Solicitor be authorized to prepare a by-law as provided for in the Municipal Act, Section 514 (1)(d), for the purpose of closing existing driveway to the Kuyper property as shown on sketch #2; and
2. THAT the Municipal Engineer be authorized to improve alternate access from Mandeville as shown on sketch #1 at an estimated cost of \$1,200.00.

* * * * *

23 November, 1977

TO: MUNICIPAL MANAGER
FROM: MUNICIPAL ENGINEER
SUBJECT: NELSON AVENUE SOUTH OF MARINE DRIVE

The Municipal Council approved Work Order No. 22-201 in the amount of \$104,000 on the 2 August, 1977 for the construction, to an interim standard, of Nelson Avenue from Marine Drive south to the Sports Complex.

Construction of this road to its final standard requires a small truncation from the property on the southeast corner of the intersection of Nelson and Marine Drive owned by the Kuypers. The Land Agent advises that he has achieved little success in negotiating for this truncation, however, the road has been now constructed to rough grade and on an interim basis narrowed as it approaches Marine Drive to avoid the proposed truncation.

A problem has arisen from the construction of the road caused by the Kuyper driveway, which is a very steep driveway, entering the intersection in the southeast quadrant, as shown on attached Sketch No. 2. This driveway, as it exists, presents a serious hazard because of location and lack of sight distance such that it is our recommendation that the driveway be closed as a traffic safety measure. The Kuyper property has another entrance from Marine Drive off Mandeville Avenue which we are proposing to improve, as shown on the attached Sketch No. 1. The estimated cost of this improvement is \$1,200 which is properly a cost relating to the construction of Nelson Avenue and therefore should be charged to the Nelson Work Order No. 22-201.

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MANAGER'S REPORT NO.	82
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The Municipal Act Section 514 (1) (d) provides that, "The Council may, by By-law, regulate the means of access to and from a highway or any parcel of land abutting thereon, including the location and extent of such access".

RECOMMENDATION

Because of the serious traffic hazard presented by the existing Kuyper driveway, as shown on Sketch No. 2, and whereas it is proposed that the alternative driveway by way of Mandeville is to be improved by the Corporation, it is recommended:

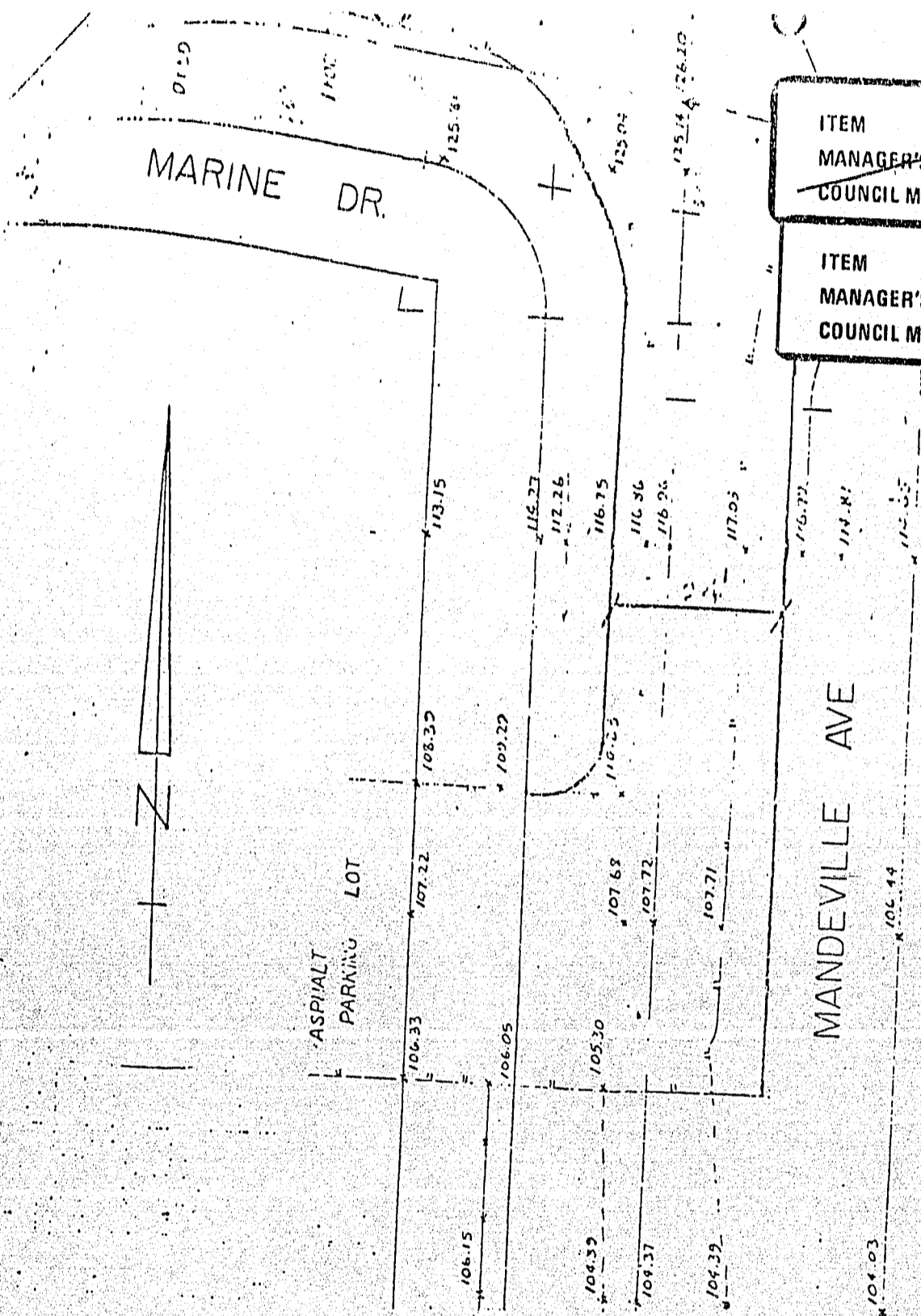
1. THAT the Municipal Solicitor be directed to prepare a By-law as provided in the Municipal Act Section 514 (1) (d) to close the existing driveway to the Kuyper property, as shown on Sketch No. 2.
2. THAT the Municipal Engineer be directed to improve alternate access from Mandeville, as shown on Sketch No. 1, at an estimated cost of \$1,200.

EEO
MUNICIPAL ENGINEER

VK:cc

- c.c. () Director of Planning
 () Municipal Solicitor
 () Land Agent

Att.

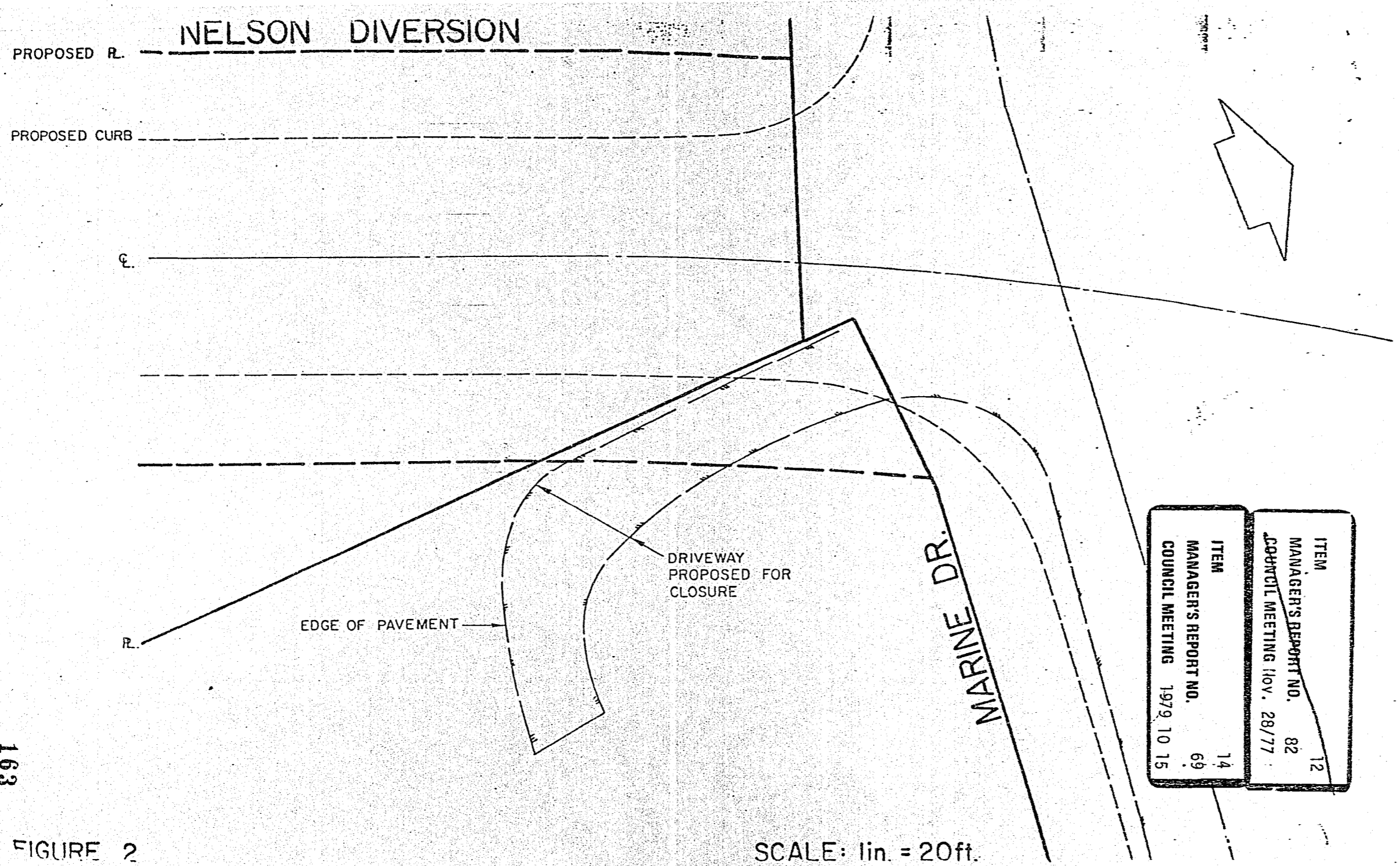


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SKETCH NO. 1



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FIGURE 2

SCALE: lin. = 20ft.

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CHRONOLOGY

DRIVEWAY ACCESS - KUYPERS
S.E. CORNER NELSON, MARINE DRIVE

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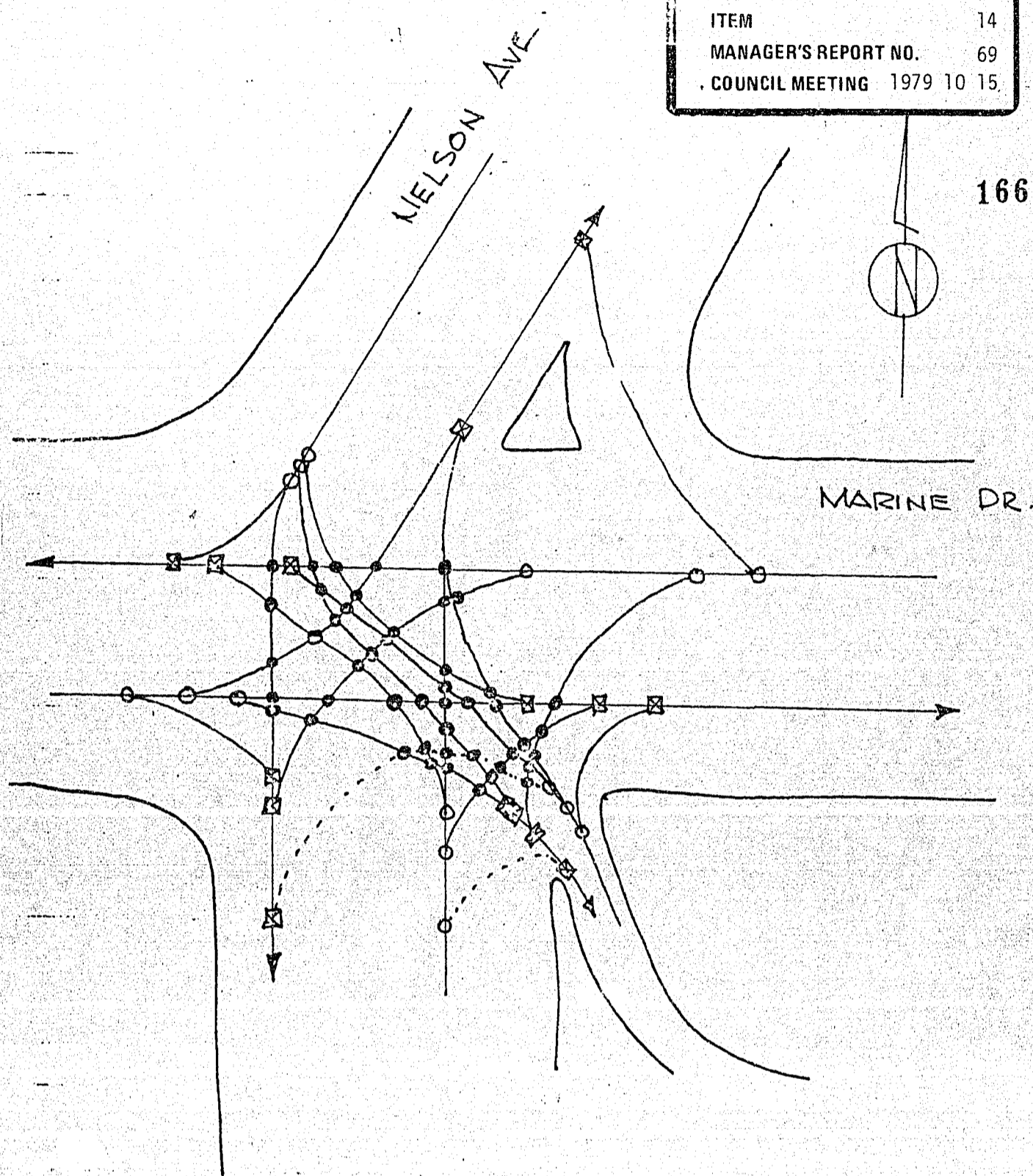
- 77 11 28 Manager's Report to Council recommending closure of Kuyper's driveway.
- 77 11 30 Municipal Clerk's letter to the Mayor and Manager referring the matter to them to consider a proposed new driveway approximately 200 feet south of Marine Drive.
- 77 12 15 Meeting between Manager and Mr. Hyndman, solicitor for Kuypers re closure of the driveway and triangular right-of-way taking.
- 78 01 16 Letter from Mr. Hyndman to Manager summarizing discussion held 77 12 15.
- 78 01 27 Letter from Manager to Mr. Hyndman advising that negotiations for the triangular taking were terminated and advising what Municipal Manager could recommend to Council re closure of the driveway, i.e. allowing a new driveway from Nelson approximately 200 feet south of Marine Drive and leave the existing Mandeville entrance as is.
- 78 01 27 Letter from Mr. Hyndman asking for clarification on several points.
- 78 02 03 Letter from Manager to Mr. Hyndman answering his enquiries.
- 78 02 14 Meeting on the site to discuss the driveway, Municipal Manager, Mr. Hyndman, Mr. Kennedy and the Kuypers.
- 78 02 16 Municipal Manager to Mr. Hyndman re Engineer to review truck turning radii.
- 78 02 20 Manager to Mr. Hyndman re free standing pole mounted neon sign at Marine Drive.
- 78 04 10 Mr. Hyndman to Manager re proposed location of driveway.
- 78 04 18 Manager to Mr. Hyndman answering enquiry re driveway and asking for a sketch.
- 78 Late April Nelson south of Marine Drive opened - gravel standard.
- 78 05 19 Manager to Mr. Hyndman asking for a reply to his letter of 78 04 18.
- 78 06 06 Mr. Hyndman to Manager re locations of driveway and re existing sales building.
- 78 06 22 Manager to Mr. Hyndman re locations of driveway and what he would be prepared to recommend to Council re the sale of a triangular portion of Municipal property.
- 78 06 23 Mr. Hyndman to Manager advising that Kuypers would be interested in acquiring some property.
- 78 Late Sept. Nelson paved south of Marine Drive.

(cont'd)

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- 78 10 31 Manager to Mr. Hyndman asking that now that Nelson has been opened can a conclusion be reached re the driveway.
- 78 11 07 Mr. Hyndman to Manager advising he is awaiting direction of clients.
- 78 11 20 Mr. Hyndman to Manager advising he will reply in one week.
- 79 01 09 Mr. Hyndman to Manager working on extensive counter proposal.
- 79 01 31 Manager to Mr. Hyndman advising that his proposal 79 01 09 not acceptable and summarizing what he could recommend as being a final position.
- 79 02 13 Mr. Hyndman to Manager advising he will reply by 79 02 23.
- 79 03 08 Mr. Hyndman to Manager advising that Manager's proposal 79 01 31 is not acceptable and now stating that his clients have no interest in acquiring property - clearly a point of impasse has been reached.

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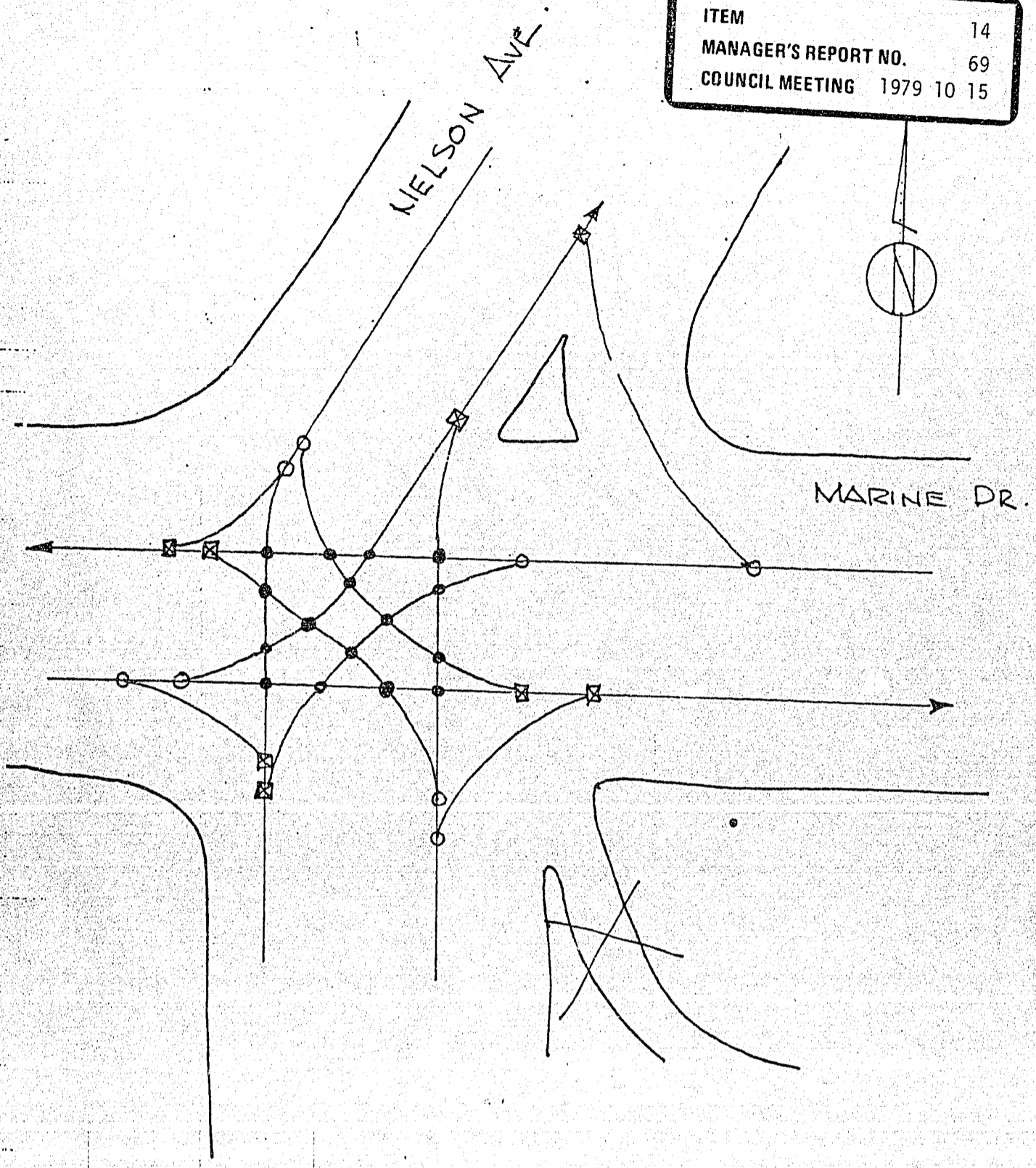
69	CONFLICT	POINTS
14	DIVERGE	○
14	MERGE	⊠
41	CROSS	●

----- MARINE WAY OPEN

79	CONFLICT	POINTS
16	DIVERGE	○
16	MERGE	⊠
47	CROSS	●

Conflict Sketch "A"

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32 CONFLICT POINTS
 8 DIVERGE ○
 8 MERGE ◻
 16 CROSS ●

Conflict Sketch "B"