

RE: LETTER FROM ATLANTIC CONTRACTORS LTD. WHICH APPEARED ON THE AGENDA FOR THE 1987 MAY 19TH MEETING OF COUNCIL (ITEM 2 B) SUBDIVISION REFERENCE NO. 8/87 DL 59, BLK 9, PCL 'B' (EX. PL. 9840), PLAN 3795 7429 LOUGHEED HIGHWAY

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Approving Officer be adopted.

TO: MUNICIPAL MANAGER \* \* \* \* \* 1987 MAY 21

FROM: APPROVING OFFICER

RE: SUBDIVISION REFERENCE #8/87  
D.L. 59, BLK. 9, PCL. "B" (EX. PL. 9840), PLAN 3795  
7429 LOUGHEED HIGHWAY

RECOMMENDATION:

1. THAT this report be received for the information of Council.

REPORT

1.0 BACKGROUND

Council, on 1987 May 19, heard a presentation by Mr. Russ Shields, the owner and subdivider of the subject property.

In his presentation, Mr. Shields discussed the matter of payment of compensation for the proposed Kyle Street road closure area.

Council referred the matter for a report outlining a possible method of making the road allowance available to the subdivider at a nominal value.

2.0 ROAD CLOSURE PROCEDURE

The following procedure would apply should Council choose to make available that portion of road allowance as shown on the attached sketch at a nominal value:

- (a) Submission of Road Closing By-law plans by the subdivider.
- (b) Preparation by the Municipal Solicitor of Legal Consents and their execution by the owners of the subject property and the abutting lot to the north.
- (c) Preparation and introduction of a Road Closing By-law by the Municipal Solicitor to Council for the required Four Readings.
- (d) Submission of a Petition to the Minister of Municipal Affairs to request the granting of an Order transferring title of the road closure area from the Province to Burnaby.
- (e) Filing of the Order and the Road Closing By-law in the Land Title Office.
- (f) Advertisement of the new legal parcel for sale by public tender subject to:

- 1. consolidation of the parcel with the subject property.
- 2. payment of compensation to the Corporation in the amount of \$1.00 for the road closure area.

It should be noted that a value of \$3.00 per square foot has been established as the market value of the road closure area by the Legal Department (approximately \$10,764.00 for the 3,588 sq. ft. closure area if Phillips Avenue cul-de-sac is required; otherwise, approximately \$12,177.00 for the 4,059 sq. ft. road closure area).

Past Council policy relative to road closures, in accordance with the requirements of the Ministry of Municipal Affairs as outlined in the attached Directive, has included the payment of compensation at market value, and the above proposal would be at variance with the Directive.

Furthermore, the previous owner of the subject property, after making preliminary enquiries, was informed we would be prepared to support the closure and sale of the road allowance at market value for consolidation and subdivision of the site into four lots. She did not, however, pursue this proposal. The opinion of the Municipal Solicitor is that there is likely no case for liability by the previous owner against the Municipality should Council sell the road allowance for \$1.00 to the present owner; however, there is potential for unpleasant publicity and a claim of discrimination and special treatment which may be contrary to Section 291 of the Municipal Act which states:

"Restriction on granting privileges

291. Unless otherwise specifically provided in this Act, a council may not grant a person a particular privilege or an immunity or exemption from the ordinary jurisdiction of the corporation, may not grant a charter giving a right, franchise or privilege, may not give an exemption from a tax, rate or rent, and may not remit a tax, rate or rent."

- (g) Submission of the consolidation plans by the subdivider.
- (h) Preparation of a Transfer document by the Municipal Solicitor.
- (i) Filing of the consolidation plans and Transfer document in the Land Title Office (the subdivider must bear all legal survey costs and costs associated with registration and document preparation).

3.0 CONCLUSIONS

Mr. Shields desires the road closure area in order to enable him to create four single-family dwelling lots. Without the inclusion of this road closure area into the site, only three lots can be achieved.

The request for compensation for the road closure area is consistent with past practice and is in accordance with the requirements of the Ministry of Municipal Affairs.

Road dedication from the site is a requirement of subdivision and is a separate issue under the jurisdiction of the Approving Officer.

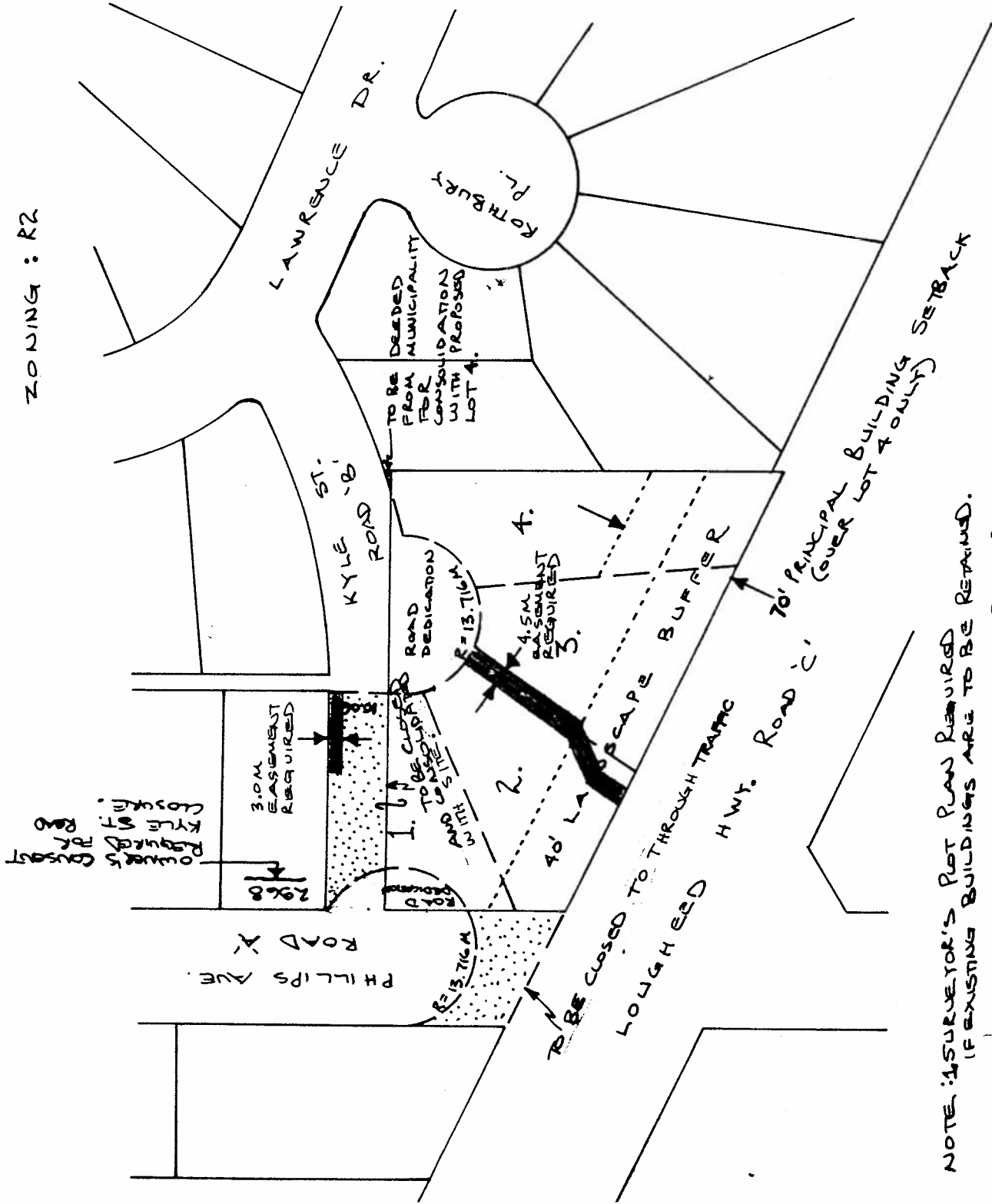
This report is submitted for the information of Council.

  
A.L. PARR,  
APPROVING OFFICER

ITEM 6  
 MANAGER'S REPORT NO. 38  
 COUNCIL MEETING 87/06/01

D.L. 59  
 BLK. 9  
 P.L. "B" (EX. PL. 9840)  
 PLAN 3795

S.D. REF. # 8/87  
 X. REF. R.C. REF. # 1/87  
 " " S.D. REF. # 10/81  
 " " R.C. REF. # 5/81



NOTE: SURVEYOR'S PLOT PLAN REQUIRED IF EXISTING BUILDINGS ARE TO BE RETAINED.

1. MIXTURE OF HIGHWAYS' APPROVAL REQUIRED ON SUBDIVISION PANS.
2. RESTRICTIVE COVENANT REQUIRED ON PROPOSED LOTS 2, 3 & 4 TO PROHIBIT VEHICULAR ACCESS VIA LOUGH EED HWY.
3. RESTRICTIVE COVENANT REQUIRED TO PROTECT 12M (40') LANDSCAPE BUFFER. LANDSCAPE PLANS AND FENCE DESIGN REQUIRED.
4. RESTRICTIVE COVENANT REQUIRED TO PROHIBIT DEVELOPMENT OF PRINCIPAL BUILDING WITHIN 21.5M (70') SETBACK AREA.
5. COUNCIL APPROVAL GIVEN 1581 JULY 13 FOR ENCLOSURE OF WATERCOURSE.
6. TO BE DEDICATED FROM MUNICIPALITY FOR CONSOLIDATION WITH PROPOSED LOT 4.
7. ROAD ALLOWANCES TO BE CLOSED.
8. SERVICING AGREEMENT REQUIRED.

SCALE: 1:1000M  
 1987 FEB. C.M.M.

ITEM	6
MANAGER'S REPORT NO.	38
COUNCIL MEETING	87/06/01



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DEPARTMENT OF MUNICIPAL AFFAIRS  
 PROVINCE OF BRITISH COLUMBIA

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January 7, 1974

TO: All Municipal Clerks  
 Province of British Columbia

Re: Highway Abandonment Procedures

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 re-zoning 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.

Yours truly,

W. K. Smith,  
 Deputy Minister.

JGC/cs

74:3

ITEM 6  
MANAGER'S REPORT NO. 38  
COUNCIL MEETING 87/06/01



DEPARTMENT OF MUNICIPAL AFFAIRS  
Province of British Columbia

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.

ARC/cs

72:14

CLERK'S

REC

FEB 23 1973

