

ITEM	16
MANAGER'S REPORT #	27
COUNCIL MEETING	95/06/05

TO: CITY MANAGER

1995 MAY 30

FROM: DIRECTOR PLANNING AND BUILDING

OUR FILES: RZ 68/93
SD 108/92

SUBJECT: LICENCE FOR SAPPERTON FISH AND GAME
CLUB TO OCCUPY CITY LANDS

PURPOSE: To provide Council with information in support of a recommendation to grant a licence for the Sapperton Fish and Game Club to occupy City lands for the purpose of installing a salmon holding facility.

RECOMMENDATION:

1. **THAT** Council authorize the issuance of a licence to the Sapperton Fish and Game Club to occupy 7681 Craig Avenue for a period of 5 years for the sum of \$1.00.

R E P O R T

1.0 BACKGROUND

Council, on 1993 December 13, received the City Manager's Report No. 73, Item 16 and adopted a resolution authorizing the City Solicitor to prepare an agreement to lease the lands referenced on Figure 1 **attached** to the Sapperton Fish and Game Club for 5 years for the sum of \$1.00 for the purpose of constructing a salmon holding facility.

In this regard, approximately 50 mature spawners are taken from the Brunette River each year to enhance natural spawning numbers in the River. In order to keep this brood stock in their prime they are to be temporarily kept in a secure holding box on the subject property in November and December of each year. The selected salmon provide approximately 50,000 eggs each year to the Alouette River Hatchery for later return and release into the Brunette River.

2.0 EXISTING SITUATION

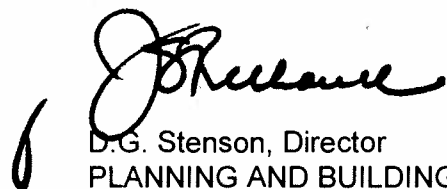
In discussing the applicable legislation for the entering into a lease, the City Solicitor has advised the Sapperton Fish and Game Club would be required to pay all taxes, rates, charges, assessments, including school taxes, local improvement rates and other similar charges. This was not our intent as the Club will only utilize the site in November and December of each year. This use would qualify for a permissive exemption from property taxes under Section 400 of the Municipal Act. However, the Bylaw granting the exemption must be adopted prior to August 31 in a given year for the purpose of granting an exemption in the following calendar year.

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In order to alleviate the situation regarding taxation and keep administration procedures simple, the Solicitor has proposed the issuance of a Licence to Occupy the site rather than a Lease. For Council's information, the Solicitor advises that the following are some of the basic differences between a Lease and a Licence to Occupy:

- ▶ A lease creates an interest in land which, subject to registration requirements, runs with the land and is binding on successors in title. A licence creates no interest in land, but merely confers a personal right on the named licensee to use the land for a particular purpose;
- ▶ A leasehold interest, subject to any restrictions in the lease itself, is assignable to third parties. A licence, being personal to the named licensee, is not assignable unless permitted by the licence itself; and
- ▶ A lease confers the right of exclusive possession enforceable against even the owner of the land. A lease is not a lease unless it grants exclusive possession. A licence need not and generally does not grant exclusive possession.

The key element in the above is the fact that the granting of a Licence does not automatically render the holder liable for taxes.



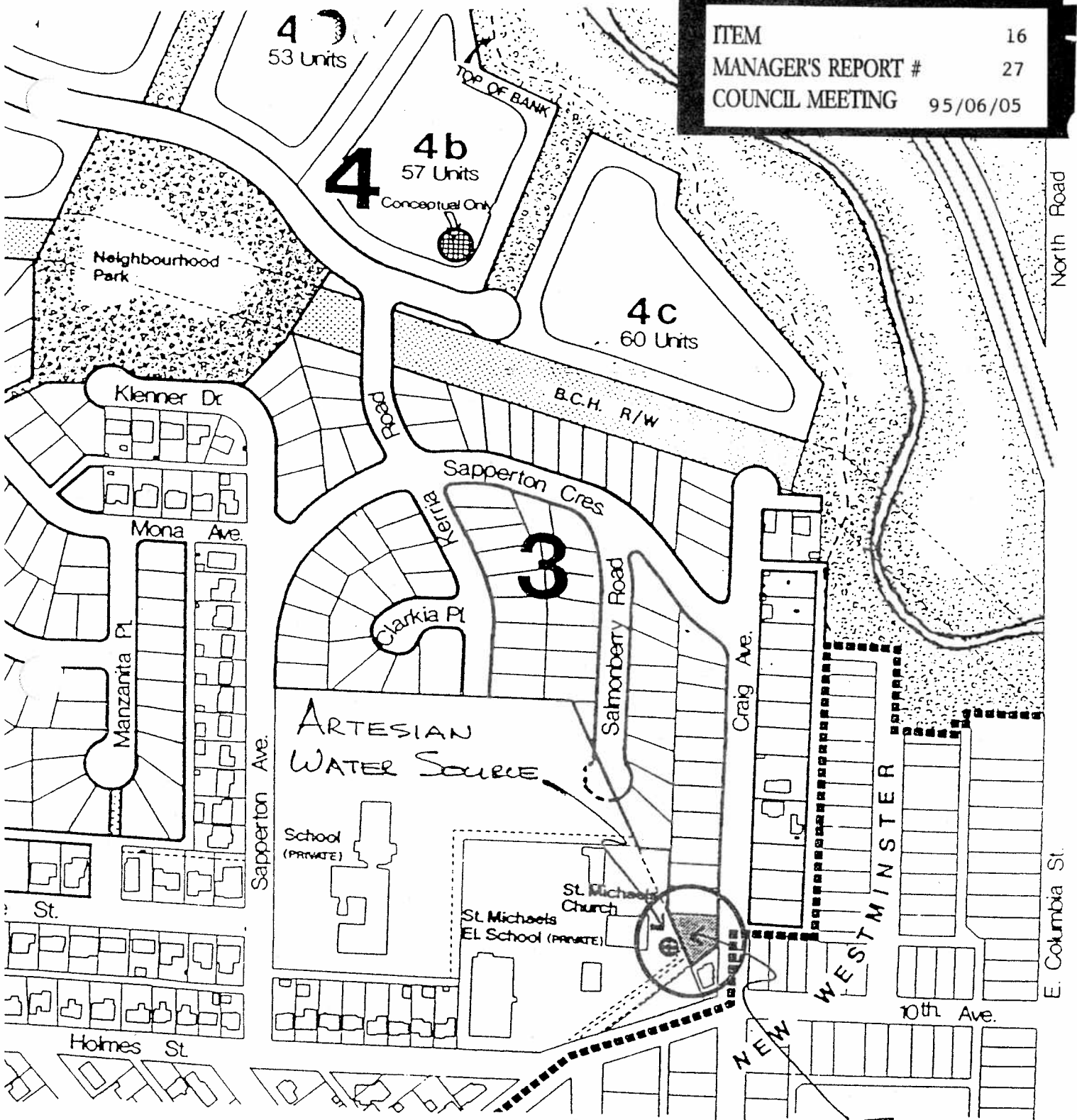
D.G. Stenson, Director
PLANNING AND BUILDING



PB\db

Attachment

cc: City Solicitor (Attn: B. Rose)
Director Finance (Attn: B. Pegler)



Cariboo Heights Community Plan

SUBJECT PROPERTY

Legend:

- Conservation Reserve
- Neighbourhood Park
- Public Rights-of-Way
- Neighbourhood Commercial
- Existing Buildings

- ▶ **Area 1: Small Lot (R9)**
Single Family Compact Housing, With A Mix Of Frontages Giving An Average Of 13.7m (45 Ft.)
- ▶ **Areas 2&3: Conventional (R2) Single Family**
- ▶ **Areas 4-7: Group Housing**
Ground Oriented Cluster Housing At A Maximum Density Of 25 Units Per Hectare, (10 Units Per Acre)

