

THE CORPORATION OF THE CITY OF PORT COQUITLAM

COMMITTEE MEETING AGENDA

December 21st, 1992

Description of Item

Item No.

Page No.

- 1 ✓ Engineer, re: Access to River View - Pitt River Road Allowance ✓
Ta approve? ✓
open Council Session 1/92
- 2 ✓ Administrator, re: Potential Land Sale
Lot 2, District Lot 290, Plan LMP 7676
2300 Block Lobb Avenue and west of Mary Hill Road
Ta ✓ approve ✓ 8

All Council
except K/Ga

7:00 PM

THE CORPORATION OF THE
CITY OF PORT COQUITLAM

IN COMMITTEE
COMMITTEE
DEC 21 1992

MEMORANDUM

TO: B.R. Kirk
City Administrator

DATE: December 17, 1992

FROM: I.R. Zahynacz, P. Eng.
City Engineer


SUBJECT: **ACCESS TO RIVER VIEW - PITT RIVER ROAD ALLOWANCE**
(Public Works Committee Meeting December 15, 1992)

RECOMMENDATION:

That City Council direct the Engineering Department to improve the public highway access along the Pitt River Road Right of Way from Argue Street to the River Bank by installing a gravel surface pathway.

BACKGROUND & COMMENTS:

As described in the attached memorandum dated December 8, 1992 from Janna Taylor and the attached letter from Grant Anderson dated November 23, 1992, it would be appropriate at this point to recommend to Council that a resolution be passed directing the Engineering Department to improve the existing road allowance on Pitt River Road from Argue Street to the river bank in order to provide a public access to the view of the river.


I.R. Zahynacz, P. Eng.
City Engineer

IRZ:ck

Attachments

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**THE CORPORATION OF THE
CITY OF PORT COQUITLAM**

MEMORANDUM

December 8, 1992

TO: Igor Zahynacz, City Engineer

FROM: Janna Taylor, Parks & Recreation Director

SUBJECT: Pitt River Road - Unopened Road Allowance

The Parks & Recreation Committee have looked into the issue of opening the unopened road allowance at the end of Pitt River Road. A letter has been received from Grant Anderson outlining various steps the City needs to take in order for the City to maintain access to the river. The Committee feels that the opening of road allowances is under the auspices of the Public Works Committee and is therefore passing on the information received from Grant Anderson. The Committee respectfully suggests that the Public Works Committee undertakes the various recommendations, as outlined in Grant's letter.


JT/pg

c.c. - B.R. Kirk, City Administrator

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LIDSTONE, YOUNG, ANDERSON**BARRISTERS & SOLICITORS**

501 - 1803 Douglas Street
Victoria, B.C.
V8T 5C3
Telephone: (604) 383-2063
Telecopier: (604) 689-3444

1414 - 808 Nelson Street
Box 12147, Nelson Square
Vancouver, B.C. V6Z 2H2
Telephone: (604) 689-7400
Telecopier: (604) 689-3444

BY TELECOPIER 944-5405

November 23, 1992

Ms. Janna Taylor
Director of Parks and Recreation
City of Port Coquitlam
2580 Shaughnessy Street
Port Coquitlam, B.C.
V3C 2A8

Dear Janna:

**Re: Pitt River Road
Unimproved Road Allowance
Our File 19-70**

Further to your memorandum of November 10, we have reviewed the plans showing the unopened portion of the Pitt River Road allowance adjacent to the Pitt River. You have enquired what action must be taken to ensure that the road allowance is not vulnerable to cancellation and transfer to the owners of neighbouring properties pursuant to Part 8 of the Land Title Act.

Although there has been discussion of legislation which may be introduced in 1993 to make it more difficult for adjacent owners to obtain unused road allowances, at present such allowances are vulnerable and will remain so for the foreseeable future. We recommend that the City take the following steps in order to ensure retention of the Pitt River Road allowance:

1. A check should be carried out to ensure that no bylaw has been adopted under Section 578(1)(b) of the Municipal Act to "stop up and close to traffic" that portion of the road allowance which has not been improved. If such a bylaw exists, it should be repealed by a bylaw which authorizes the reopening of the highway to traffic.

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2. Physical improvement and use of the highway as a highway (i.e., for the passage of pedestrians, horses, bicycles or motor vehicles) is the best means of ensuring that a highway is not cancelled by the Registrar. However, until such time as highway improvements are carried out, an unqualified direction by Council that improvements be made would be important in defending any plan cancellation application.
3. Accordingly, we recommend that Council be requested to adopt a resolution under Section 578(2)(a) of the Municipal Act, directing that the unimproved portion of Pitt River Road adjacent to the Pitt River be "improved" to standards set out in the resolution, "for the purpose of providing public highway access to the Pitt River and the river bank".
4. In Stevenson v. Surrey (Supreme Court of B.C., Vancouver Registry No. A891260, June 23, 1989); (B.C. Court of Appeal, Vancouver Registry No. CA011160, May 7, 1990) the court held that a highway which is improved for the purpose of "affording recreation in a mini-park like setting" and not for the purposes of "mundane passage" remains liable to cancellation. However, Surrey persisted and adopted a bylaw to improve its road ends to municipal highway standards. In Kehler and Stevenson v. Surrey (B.C. Court of Appeal, Vancouver Registry No. CA014153, July 29, 1992) the Court held that the principle arising from the earlier judgment was as follows:

"A municipality may not by the purported exercise of its highway reopening powers acquire land dedicated for highways to use as a park."

However, the Court held that the applicable principle:

"... is not that a municipality may not open a road allowance for the purpose of affording the public access to a view."

Thus even if there is no usage of the Pitt River Road end for access to and from the river, access to the river bank for the purposes of viewing the river should be sufficient. The court concluded by stating:

"A road is a highway whether it goes to a view, the foot of a mountain, or the seashore."

If the resolution confirms that the purpose of opening the Pitt River is to create public access to the Pitt River and the banks of the Pitt River, Council's decision to open the road should not be vulnerable to attack.

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5. If unallocated funds for highway improvement are available in the City's budget, the resolution should allocate a specified amount of those funds. If no such funds are available, the City's budget should be amended to include an item for improvement of Pitt River Road.
6. At a minimum, the improvements should include the eventual clearing and surfacing of a pathway at least 8 metres wide. It is not necessary that the highway be paved but gravel or other surfacing should be laid down. Access for motor vehicles is not mandatory.
7. It is possible to stage the improvements over two or more years but it is preferable that some work begin in the next few weeks. Evidence that the City is proceeding with a definite program of improvements and that work has begun should be sufficient to defend any plan cancellation application.

Yours truly,

LIDSTONE, YOUNG, ANDERSON

Grant Anderson

Grant Anderson

GA/ps

cc: Mr. Bryan Kirk
City Administrator

159ps

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bylaw dispose of a portion of a highway in purpose of improving, widening, straightening,

is section have effect as a Crown grant free of all exchange for a portion of a highway under this title to them vests in the Crown.

nder this section, the council shall cause public advertisement once each week for 2 consecutive r circulating in the municipality.

171-38-40.

resumed the entire area reserved in a Crown grant towing paths or other works of public utility or may, by bylaw approved by the minister, resume 1 may be deemed necessary to make roads, canals, cs of public utility or convenience, not exceeding nted.

ade of land on which a building may have been as gardens or otherwise for the more convenient

1977-57-29; B.C. Reg. 304/77.

oad allowances

ity where there have been reserved to the Crown ectly along the boundary lines of each section, and e to make those roads, the council may by bylaw ad, and in that behalf expropriate so much of the : necessary to make a road in place of the road n, and in exchange for it grant to the owner of the so much of the road allowance as shall be replaced ses of this section the reserved road allowances are ich they are situate.

district municipality may enter on any land and take clay or other material which may be required in the air of roads, bridges or other public works. between the parties, or appraised and awarded under ial taken, or for damage caused to the owner or persons suffer. damage, shall be paid within 6

Council powers

578. (1) The council may by bylaw

- (a) establish, widen, alter, relocate or divert a highway or a portion of it;
- (b) stop up and close to traffic a highway or a portion of it, or reopen a highway or portion of it which has been stopped up and closed to traffic;
- (c) establish quarries, sand and gravel pits either in or out of the municipality for the purpose of acquiring material for municipal public works;
- (d) assign the name or number of a highway; the bylaw shall have no force or effect unless and until a certified copy is filed in the land title office of the district in which the land is situate; and
- (e) alter the name or number assigned to a highway if the bylaw is adopted by an affirmative vote of at least 2/3 of all the members of council, and on deposit of a certified copy of the bylaw the Registrar of Titles concerned shall note the change of name or number on any subdivision plan in his office which dedicated the highway and on any plan filed or deposited in his office on which the highway is named.



- (2) The council may
 - (a) lay out, construct, maintain and improve highways or any portion of them;

- (b) construct, repair, maintain, improve and care for sidewalks and boulevards on highways, and plant, care for and remove grass, shrubs, trees and other plants on them;
- (c) open and operate quarries, sand and gravel pits acquired by the municipality;
- (d) clean, oil and water highways, and provide lighting for highways, and do the other things necessary for the safe use and preservation of highways; and
- (e) authorize the engineer or other official at his discretion to temporarily close a highway or part of it to traffic, or to control traffic, during the time work is in progress.

- (3) In addition to any other powers dealing with the acquisition of real property which the council may exercise, the council may by bylaw enter on, expropriate, break up, take or enter into possession of and use any real property in any way necessary or convenient for any purpose mentioned in subsections (1) and (2) without the consent of the owners of the real property but subject to Division (4) of Part 12.

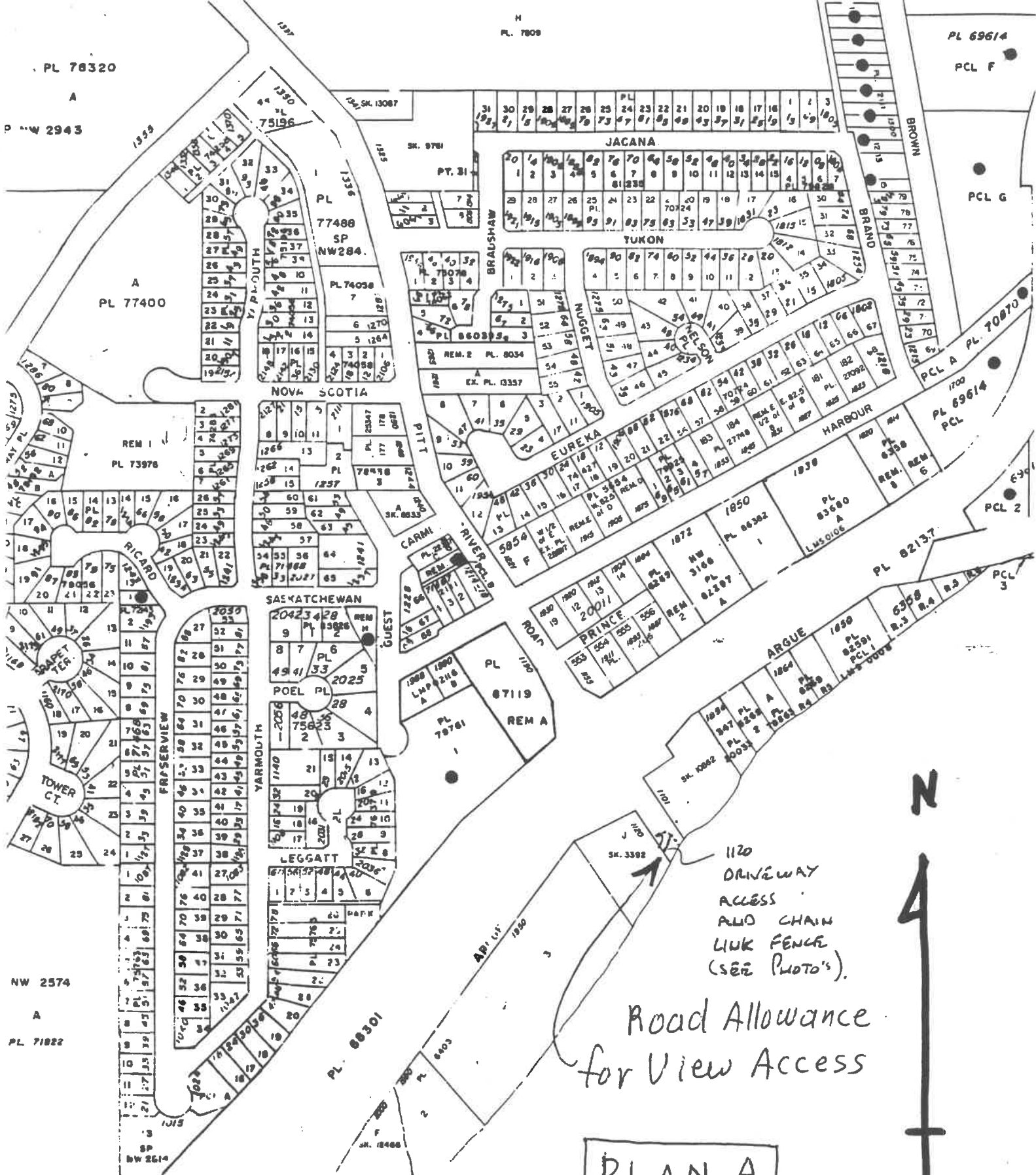
- (4) The council may by bylaw enter into an agreement with an owner of land for reserving any part of the land for highway purposes, including the condition that the land reserved shall remain unencumbered by buildings or structures, and the agreement shall have the force and effect of a restrictive covenant running with the land and shall be registered in the land title office by the municipality.

- (5) A number of the agreements may be grouped in the same bylaw so long as the terms and conditions for each respective agreement are given.

RS1960-255-513: 1978-25-334: (amended 1987-23-102, not in force, amendment not included).

Regulation of highways

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IT COQUITLAM

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COMMITTEE

DEC 21 1992

THE CORPORATION OF THE
CITY OF PORT COQUITLAM

IN COMMITTEE

MEMORANDUM

TO: Mayor and Councillors
DATE: December 15, 1992

FROM: Bryan R. Kirk
City Administrator

RE: Potential Land Sale - Lot 2, District Lot 290, Plan LMP 7676 (2300 Block, Lobb Avenue and West of Mary Hill Road)

RECOMMENDATION:

THAT Lot 2, District Lot 290, Plan LMP 7676 (2300 Block, Lobb Avenue and West of Mary Hill Road), measuring 1.63 acres, be tendered for sale at an upset minimum price of \$500,000;

AND FURTHER THAT Lot 2, District Lot 290, Plan LMP 7676 be rezoned (RS-2) Small Lot Residential.

BACKGROUND AND COMMENTS:

Attached is a copy of the appraisal's summary sheet. A complete copy of the appraisal is available from the Administration Department.

This property is currently zoned Agricultural (A-1).

A copy of a map is attached.



Bryan R. Kirk
City Administrator

Att.
/dp

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**SUMMARY OF SALIENT FACTS
AND IMPORTANT CONCLUSIONS**

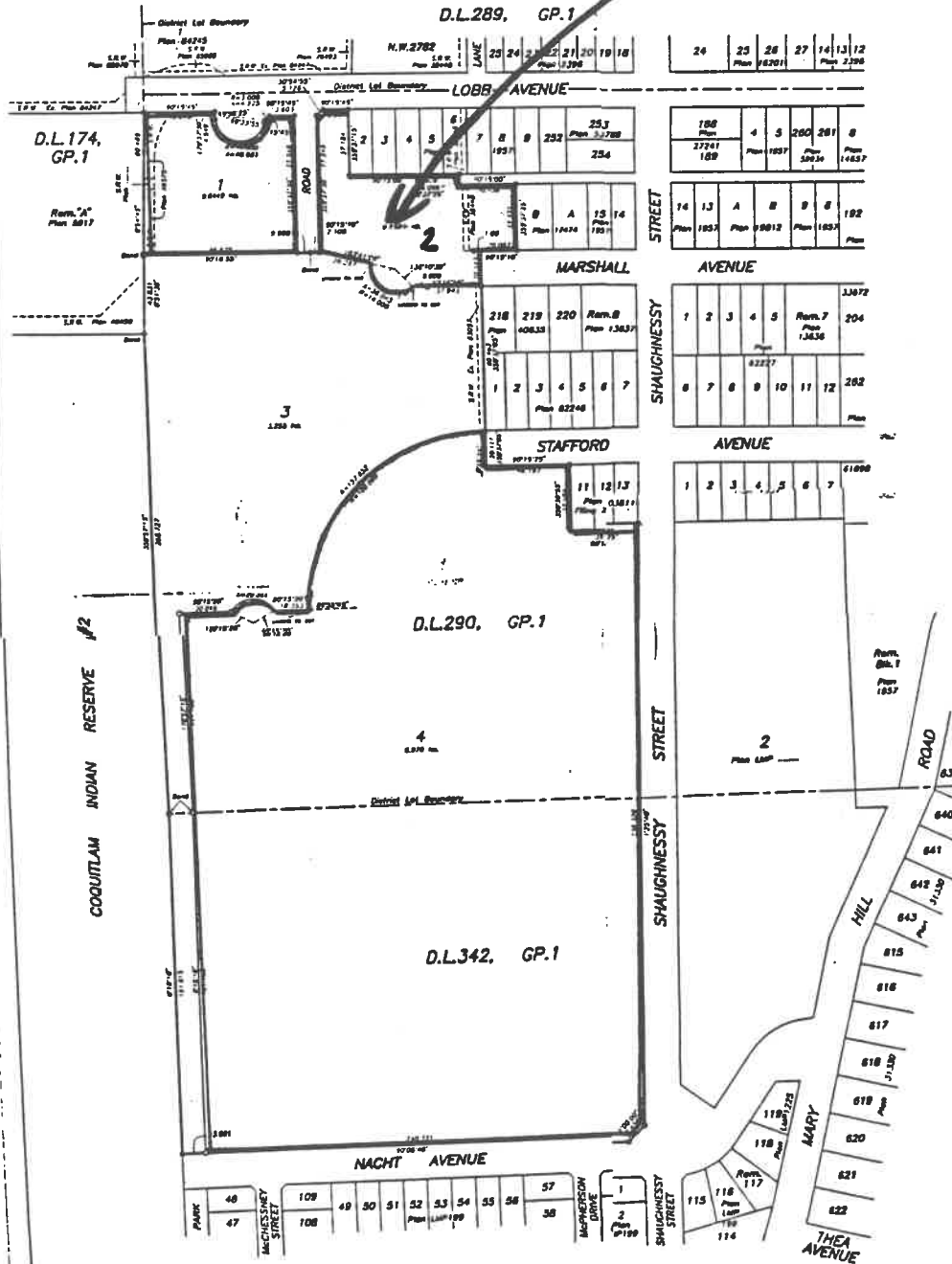
Location of Property	2300 Block Lobb Avenue and West of Mary Hill Road, Port Coquitlam, BC		
Date of Valuation	October 8, 1992		
Size of Land	Lot 1: 1.59 acre; Lot 2: 1.63 acre Lot 4: 22.19 acres		
Owner	The City of Port Coquitlam		
Zoning	(A-1) Agricultural		
Highest and Best Use	Lot 1: (RM-3) Townhouse Lot 2: (RS-2) Small Lot Residential Lot 4: (RS-2) Small Lot REsidential		
	<u>Lot 1</u>	<u>Lot 2</u>	<u>Lot 4</u>
Estimate of Value by Direct Comparison Approach	\$840,000	\$440,000	\$6,200,000
Estimate of Value by Subdivision Residual		\$527,000	\$6,500,000
Final Estimate of Value	\$840,000	\$500,000	\$6,300,000
Total	\$7,640,000	Subject to rezoning	

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SUBMISSION PLAN OF LOT 1
DISTRICT LOTS 290 AND 342, GROUP 1
NEW WESTMINSTER DISTRICT, PLAN LMP

SCALE: 1:1250
ROAD TO STREET



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LEGEND

1. Indicate standard for each lot found

2. Indicate standard for each lot found

CITY OF PORT COQUITLAM
MAYOR: AUTHORIZED SIGNATORY
CLERK: AUTHORIZED SIGNATORY
WITNESS AS TO SIGNATURES

Plan _____
Submitted in the Land Title Office
of New Westminster, B.C. this ____ day
of ____ 19____
REGISTERED
Approved under the Land Title Act
this ____ day of ____ 19____
CITY APPROVING OFFICER FOR
THE CITY OF PORT COQUITLAM
This plan has within the Greater
Vancouver Regional District.

L. Walter E. Firth, a British Columbia Land Surveyor,
of Port Coquitlam in British Columbia, hereby certifies
that I was present at and personally supervised the