



COUNCIL AGENDA/INFORMATION

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<input checked="" type="checkbox"/> Reg. Council	Date: Dec 14, 2009	Item # 10
<input type="checkbox"/> Supplemental	Date: _____	Item # _____

 Director	 CAO
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DISTRICT OF WEST VANCOUVER

750 - 17<sup>TH</sup> STREET, WEST VANCOUVER, BC V7V 3T3

COUNCIL REPORT

Date: November 30, 2009 File: 0510-04 4112 Burkehill  
From: Gordon Reid, Land and Property Agent  
Subject: Road Closure and Removal of Highway Dedication Bylaw 4626, 2009 adjacent to 4112 Burkehill Road

**RECOMMENDED THAT:**

1. Road Closure and Removal of Highway Dedication Bylaw 4626, 2009 be read a first, second and third time in short form.
2. Council authorize staff to issue statutory notices of Road Closure and Removal of Highway Dedication Bylaw 4626, 2009 setting February 1, 2010 as the deadline for written and oral submissions.

**Purpose**

**1.0 Background**

- 1.1 Prior Resolutions – at a Closed Meeting of Council on December 7, 2009, Council approved in principle the disposition of a 10 foot strip of unopened road allowance to the owner of adjacent property known as 4112 Burkehill Road, subject to Council adoption (in its unfettered discretion) of the subject Road Closure and Removal of Highway Dedication Bylaw.
- 1.2 History – At the December 7, 2009 Closed Meeting, Council authorized staff to secure an agreement of sale for the area of road proposed for closure and disposition. This has now been accomplished and public notification will occur once Council has given first, second and third reading of the proposed road closure bylaw.

**2.0 Policy**

- 2.1 Policy- Council must approve the disposition of municipally owned lands.
- 2.2 Bylaw – In accordance with the *Community Charter*, road closures and removal of highway dedication are accomplished through bylaw adoption.
- 2.3 Pursuant to section 40 of the *Community Charter*, the process for disposing of road for the purpose of consolidation with an adjacent property is as follows:

#379413

- (a) Council concurrently gives first, second and third reading to the proposed highway closure and removal of dedication bylaw;
- (b) Staff publish statutory notices of disposition once each week for two consecutive weeks. These notices include a date, set at least 30 days from publication of the second notice, for the submission of written and oral comment for the highway closure and for the disposition of the closed road;
- (c) Pursuant to section 41(3) of the *Community Charter*, if the proposed road closure is within 800 metres of an arterial highway, the District must refer the bylaw to the Ministry of Transportation (through the local Ministry office) for approval after third reading. Most road closures in the District are caught by this provision due to the location of the Upper Levels Trans Canada Highway and Taylor Way through the community. Adoption of the bylaw cannot occur until the bylaw is approved by the Ministry;
- (d) After the opportunity for making representations has been provided, Council may (but is not obliged to) adopt the highway closure and removal of dedication bylaw;
- (e) To complete the process, the District's and purchaser's lawyers prepare closing documents and attend to registration of the documents to transfer title to the closed road to the adjacent property owner as set out in the agreement of sale. A certified copy of the highway closure and removal of dedication bylaw is filed at the Land Title Office with the transfer, concurrently with the consolidation plans and any other required legal documents.

2.4 Reference to Corporate Business Plan – to realize the best value on District land assets in terms of desired use and return on investment.

### **3.0 Analysis**

#### **3.1 Discussion**

The owner of 4112 Burkehill wishes to redevelop the property. 4112 Burkehill is a pie-shaped lot with a narrow frontage and a steep slope at the rear. Expanding the width of the site will allow the building envelope to move closer to the new north boundary, closer to the street where frontage has been expanded by 10 ft., and further from the steepest portions of 4112 Burkehill Road.

This 10 ft. strip of unopened road is not needed to provide legal access, nor is it used for or needed in the future for municipal utilities. It cannot practically be used to benefit other surrounding properties in terms of access or subdivision, nor is it suitable for a public trail.

An October 2009 independent appraisal of the unopened 10 ft. strip, having an area of 1502 square feet, indicated a value of \$80,000. Given the area and width

of this strip, Council accepted a price of \$80,000 plus administrative, legal and survey costs incurred by the District to close the road, obtain Ministry of Transportation approval of the bylaw, and raise title prior to consolidation.

The owner of 4112 Burkehill Road has signed the agreement of sale and has provided the required deposit.

- 3.2 Environmental Implications – none.
- 3.3 Social Implications – none.
- 3.4 Financial implications - The proceeds from the disposition of unused roads are placed in the Endowment Fund which exists to fund capital projects.
- 3.5 Consultation - District legal counsel, Manager of Planning and Manager Community Development. Public consultation will occur through disposition notices, bylaw readings and neighbourhood notification.


#### **4.0 Options**

- 4.1 Council can give first, second and third readings to the bylaw, thereby allowing for public notification, public representation and Ministry of Transportation approval prior to considering it for adoption,

OR

Council can reject the road closure bylaw and reject the proposed disposition.

Author:

  
Gordon Reid, Land and Property Agent

Appendix 1: Explanatory Plan of Road Closure  
Appendix 2: Copy of Bylaw 4626, 2009





District of West Vancouver

**ROAD CLOSURE AND REMOVAL OF  
HIGHWAY DEDICATION Bylaw No. 4626,  
2009**

Effective Date –

**ROAD CLOSURE AND REMOVAL OF  
HIGHWAY DEDICATION Bylaw No. 4626,  
2009**

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District of West Vancouver

## **ROAD CLOSURE AND REMOVAL OF HIGHWAY DEDICATION Bylaw No. 4626, 2009**

A bylaw to close up and remove the dedication of a highway adjacent to 4112  
Burkehill Road, West Vancouver

WHEREAS under the Community Charter a Council may close a highway to traffic, remove the dedication of a highway and dispose of municipal land; and

WHEREAS Council has posted and published notices of its intention to close the highway referred to in this bylaw and remove its dedication, and has provided an opportunity for persons who consider they are affected to make representations to Council; and

WHEREAS Council does not consider that the closure will affect the transmission or distribution facilities or works of utility operators;

NOW THEREFORE, the Council of the District of West Vancouver enacts as follows:

### **Part 1 Citation**

- 1.1 This bylaw may be cited as Road Closure and Removal of Highway Dedication Bylaw No. 4626, 2009.

### **Part 2 Severability**

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsequent, paragraph, subparagraph, clause or phrase.

### Part 3 Substantive Provisions

- 3.1 Attached to this bylaw as Schedule "A" and forming part of this bylaw is a copy of an Explanatory Plan of highway closure (the "Plan");
- 3.2 The portion of highway dedicated by Plan 9252 shown as Closed Road on the Plan is closed to all types of traffic;
- 3.3 The dedication as a highway of the Closed Road is removed;
- 3.4 The Mayor and Clerk are authorized to execute and deliver such transfers, deeds of land, plans and other documents as are required to effect this road closure and removal of highway dedication and to transfer title to the Closed Road to the owner of the adjacent parcel of land, having a civic address of 4112 Burkehill Road and legally described as Parcel Identifier: 009-753-311 Lot 4 Block 2 of Block J District Lot 582 Plan 9109 ("Lot 4"), concurrently with a plan or plans being deposited in the Land Title Office consolidating the Closed Road with Lot 4.

### Schedules

Schedule A – Explanatory Plan of Highway Closure dated \_\_\_\_\_, 2009

READ A FIRST TIME on [Date]

READ A SECOND TIME on [Date]

READ A THIRD TIME on [Date]

APPROVED BY THE MINISTER RESPONSIBLE FOR THE HIGHWAY ACT ON \_\_\_\_\_, \_\_\_\_\_

ADOPTED by the Council on [Date].

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Clerk

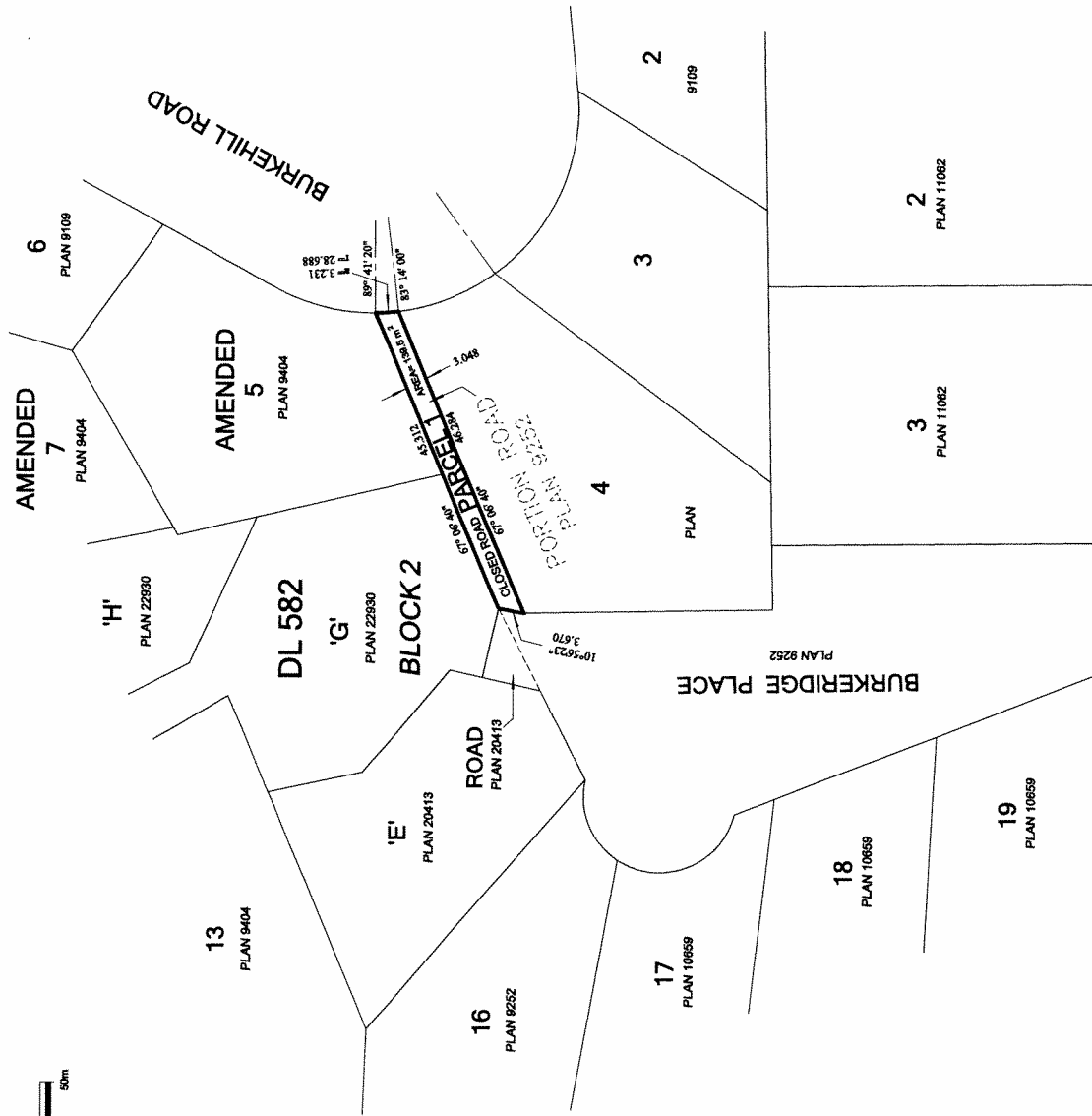
# SCHEDULE A

**EXPLANATORY PLAN TO ACCOMPANY AN APPLICATION FOR THE REGISTRATION OF TITLE IN THE NAME OF THE DISTRICT OF WEST VANCOUVER BY LAW No. 4626, 2009 FOR A PORTION OF ROAD DEDICATED BY PLAN 9252, DISTRICT LOT 582, GROUP 1, NEW WESTMINSTER DISTRICT**

BCGS 92G034



THE INTENDED PLOT SIZE OF THIS PLAN IS 560 mm IN WIDTH BY 432 mm IN HEIGHT (C SIZE) WHEN PLOTTED AT A SCALE OF 1:500. ALL DISTANCES ARE IN METRES OR DECIMALS THEREOF UNLESS OTHERWISE NOTED.



BEARINGS ARE ASTRONOMIC AND DERIVED FROM PLAN 9252

THE PLAN WAS COMPLETED AND CHECKED, AND THE CHECKLIST FILED UNDER # 104,988, ON THE 10TH DAY OF DECEMBER, 2009 BY THE REGISTRAR. THE PLAN IS CORRECT IN ACCORDANCE WITH LAND TITLE OFFICE RECORDS

*Handwritten signature*

B.C.L.S.

THIS PLAN LIES WITHIN THE GREATER VANCOUVER REGIONAL DISTRICT

BURKERIDGE PLACE

PLAN BCP

DEPOSITED IN THE LAND TITLE OFFICE AT NEW WESTMINSTER, B.C., THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

REGISTRAR

OWNER: THE DISTRICT OF WEST VANCOUVER

MAYOR: \_\_\_\_\_ PRINT NAME \_\_\_\_\_

CLERK: \_\_\_\_\_ PRINT NAME \_\_\_\_\_

WITNESS AS TO BOTH SIGNATURES

PRINT NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

OCCUPATION \_\_\_\_\_

HOBBS, WINTER & MACDONALD,  
B.C. LAND SURVEYORS,  
115-603 HARBOURSIDE DRIVE,  
NORTH VANCOUVER, B.C., V7P 3R9  
TEL: 604-686-1371 FAX: 604-686-5204  
EMAIL: [enr@hwmwysp.com](mailto:enr@hwmwysp.com)

008-753-311 (LOT 4)  
4112 BURKEHILL ROAD  
N50M4E25 WV

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