

ITEM	13
MANAGER'S REPORT NO.	51
COUNCIL MEETING	1979 07 30

Re: REQUEST FOR REZONING OF PROPERTIES
 6100, 6200 AND 6300 MALVERN AVENUE
 (Item 22, Report No. 41, 1979 June 11)
 (Item 11, Report No. 43, 1979 June 18)
 (Item 17, Supplementary Report No. 43, 1979 June 18)

Following is a report from the Director of Planning regarding the proposed rezoning of a portion of Malvern Avenue.

RECOMMENDATION:

1. THAT the recommendations of the Director of Planning be adopted.

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PLANNING DEPARTMENT
 1979 JULY 18

TO: MUNICIPAL MANAGER
 FROM: DIRECTOR OF PLANNING
 SUBJECT: REQUEST FOR REZONING
 6100, 6200, 6300 MALVERN AVENUE

RECOMMENDATIONS:

1. THAT Council initiate the rezoning of the Malvern Avenue properties, as illustrated on Sketches #2 #3 attached to this report, to the R3 Residential District and that a bylaw be prepared and advanced to a Public Hearing on 1979 October 16.
2. THAT a copy of this report be sent to all the residents and owners of property in the study area.

REPORT

1.0 BACKGROUND INFORMATION

- 1.1 On 1979 June 11, Council received a report from the Planning Department regarding a request from Mr. and Mrs. D. Chow and others for consideration of rezoning properties on Malvern Avenue between Burris and Morley Streets from the R5 Residential District to a designation that restricts development to single family dwellings. On that occasion, the following recommendation was adopted:

"THAT Council authorize the Planning Department to conduct a more detailed examination of the general area in which the concerned residents live with a further report to be submitted in the near future."

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1.2 Subsequently, on 1979 June 18, Council received a report from the Chief Building Inspector regarding the construction of a new duplex at 6116/6118 Malvern Avenue. This report indicated that the architectural design of the proposed building, as per the plans submitted for the building permit, were not considered to be consistent with the design of the majority of homes in the neighbourhood and strictly in a design sense could have a depreciating effect on the value of other dwellings in the immediate area. Upon receipt of alternate building plans which illustrated an improvement to the architectural design of the duplex, the Chief Building Inspector advanced the processing of the building permit accordingly.

2.0 GENERAL INFORMATION

2.1 Upon further examination of the situation and for the purposes of this study, the Planning Department has delineated an area that represents the logical boundaries for the residential neighbourhood in which the petitioners live (refer to Sketch #1 attached). The study area is essentially homogeneous with respect to the age, size and condition of homes and as such may be regarded essentially as an established single family residential neighbourhood.

Geographically, the study area is situated within the northern portion of a relatively large R5 Residential District area of the Municipality. Immediately northwest and northeast lies a well-established R1 residential area in which some of the larger homes in the Municipality have been built and to the south and west lie Imperial Street and Walker Avenue, two residential collector streets. The area generally slopes to the northwest towards Deer Lake. The R5 residential area located to the south and the west beyond Imperial Street and Walker Avenue is occupied by housing similar in size, age and condition to those found in the study area but has a significantly greater number of duplexes that have been constructed within the last five to eight years.

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2.2 The Planning Department has conducted a detailed field survey of the study area which indicates that the majority of properties are occupied by well-maintained, single family dwellings ranging between ten and twenty years of age. There are however two existing duplexes in the area and one that has commenced construction as referenced in the 1979 June 18 report from the Chief Building Inspector. The zoning of the area is presently R5 which is intended to provide for the use and development of single and two-family dwellings on smaller lots, while preserving the basic minimum densities in the mature residential areas of the Municipality. Rest homes and boarding houses (limited to not more than five patients or boarders and provided that such facilities occupy a single family dwelling) are also permitted in this District. The following lot area and width requirements apply to single family and two family dwellings in the R5 District:

- (1) Each lot for a single-family dwelling shall have an area of not less than 560 m² (6,027.99 sq.ft.) and a width of not less than 15.0 m (49.21 ft.).
- (2) Each lot for a two-family dwelling shall have an area of not less than 670 m² (7,212.06 sq.ft.) and a width of not less than 18.5 m (60.70 feet).

A total of 183 properties zoned R5 are found within the study area of which 58 or approximately 33% (including the two existing duplexes and one under construction) have sufficient lot area and width to permit the construction of a two family dwelling (refer to sketches #2 and #3). The general age, size and condition of the existing dwellings on these 58 properties have been taken into consideration as a means of determining to what extent one could expect demolition and construction of new duplexes to take place. In this regard, only two or perhaps three of the eligible properties would likely be redeveloped for duplexes within the next few years. However, additional duplex development would be anticipated over the years to come as existing structures mature and demolition/redevelopment at a higher density becomes feasible.

3.0 GENERAL DISCUSSION

3.1 Consistent with the policy of Council as implemented through the Zoning Bylaw, residential accommodation of varying types and densities are to be provided in the Municipality and located in areas where complementary services and amenities required by its residents may be readily available. In order to effectively achieve these goals it is essential at the same time to maintain the stability and preserve the character of established single family dwellings wherever possible.

3.2 At the present time, the study area can be most accurately characterized as a single family neighbourhood notwithstanding its prevailing zoning which permits both single family and duplexes uses.

The fundamental considerations of zoning, to which Municipal Council must have due regard in regulating the use of land, include the following as set out in Section 702(2) of the Municipal Act and reflected in Section 2 of the Burnaby Zoning Bylaw under the caption "Purpose":

- "(1) The promotion of health, safety, convenience and welfare of the public.
- (2) The prevention of the overcrowding of land, and preservation of the amenities peculiar to any zone.
- (3) The securing of adequate light, air and access.
- (4) The value of the land and the nature of its present and prospective use and occupancy.
- (5) The character of each zone, the character of the buildings already erected and the peculiar suitability of the zone for particular uses.
- (6) The conservation of property values."

3.3 Retention of the R5 designation will permit further development of duplexes which could threaten the stability and erode the predominant character of the neighbourhood. Further duplex development would thus represent an intrusion into the neighbourhood generating feelings of instability and uncertainty among its residents as clearly demonstrated by the concerns expressed regarding 6116/18 Malvern Avenue.

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3.4 The residents' request would require rezoning the study area (exclusive of the P3 zoned area occupied by the Morley Elementary School) to either the R1, R2 or R3 Zoning District in order to restrict development to single family dwellings. These districts require the satisfaction of the following lot area and width regulations:

	LOT AREA	LOT WIDTH
R1..	890 m ² (9,580.19 sq.ft.)	24.5 m (80.38 ft.)
R2..	670 m ² (7,212.06 sq.ft.)	18.5 m (60.70 ft.)
R3..	560 m ² (6,027.99 sq.ft.)	15.0 m (49.27 ft.)

As illustrated by these regulations, the R3 district appears to be most appropriate since the majority of the properties in the study area are able to satisfy these requirements. Furthermore minimum area, lot width and front, rear and side yard building setbacks of the R3 District are identical with those of the R5 District, such that no new non-conformity would be incurred on existing single family lots.

3.5 Should rezoning be initiated and approved as requested, the Planning Department advises that the entire study area should be included. In so doing, a zoning change could not be viewed as discriminatory, will avoid creating an unwarranted spot zoning situation, and will be confined to an area that can be geographically distinguished as a neighbourhood. However, rezoning would render the two existing duplexes and the one under construction non-conforming with respect to use. These duplexes would, therefore, be subject to the provisions of Section 705 of the Municipal Act (attached for Council's reference). It would of course remove the possibility for future duplex development on those properties that presently possess such development potential.

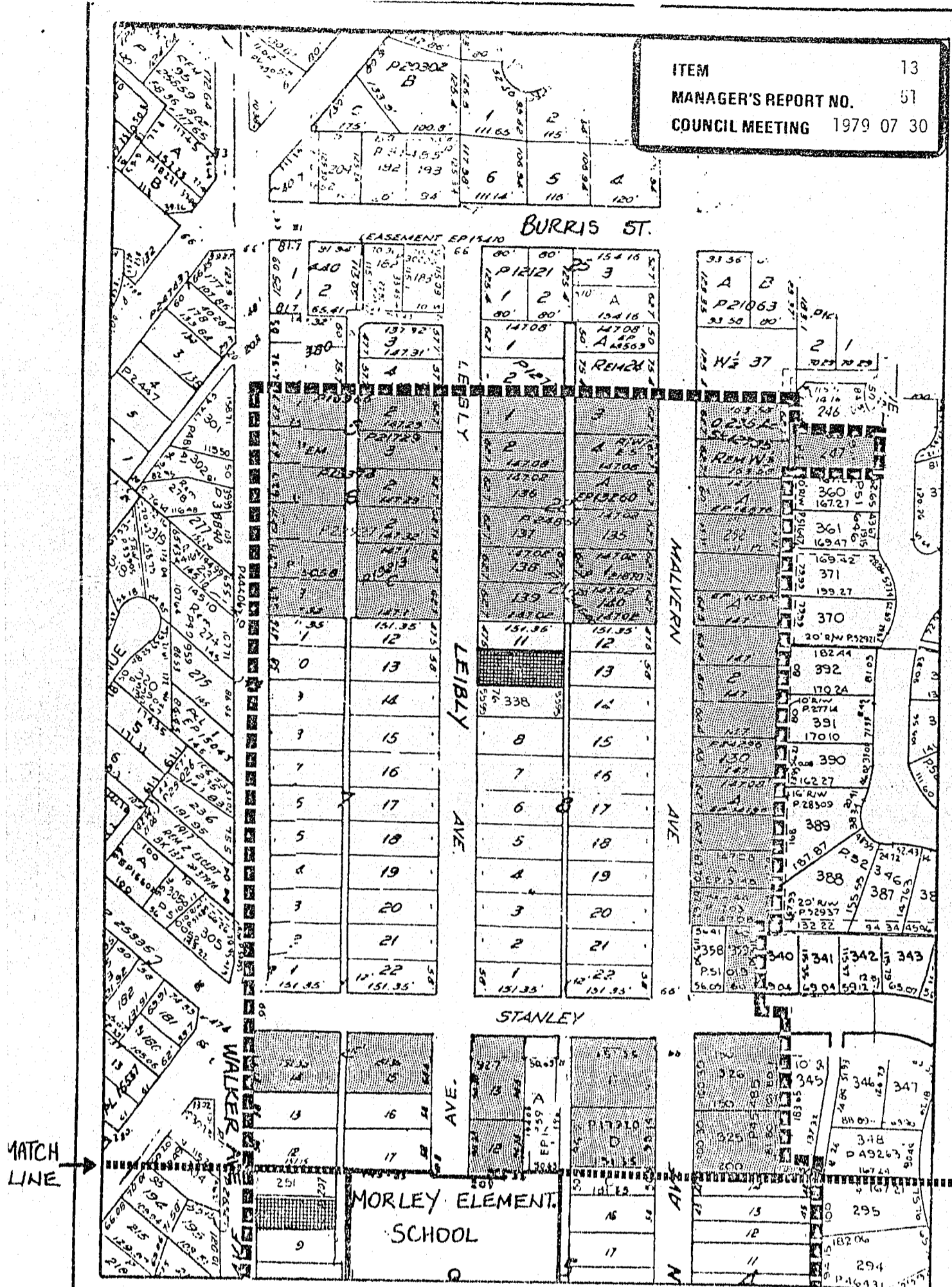
4.0 CONCLUSION

In view of the foregoing analysis, the Planning Department is of the opinion that rezoning the study area to the R3 District would be an appropriate course of action to take towards preserving the neighbourhood's existing stability and character. Rezoning would remove the potential for further duplex development and would represent an appropriate gradation of densities between the existing R1 area to the northwest and northeast and the R5 area to the southeast and southwest.

And.
 PDS:lf
 Attachment

A. L. Parr
 A. L. PARR
 DIRECTOR OF PLANNING

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Date
1979/JUNE

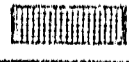
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Drawn By

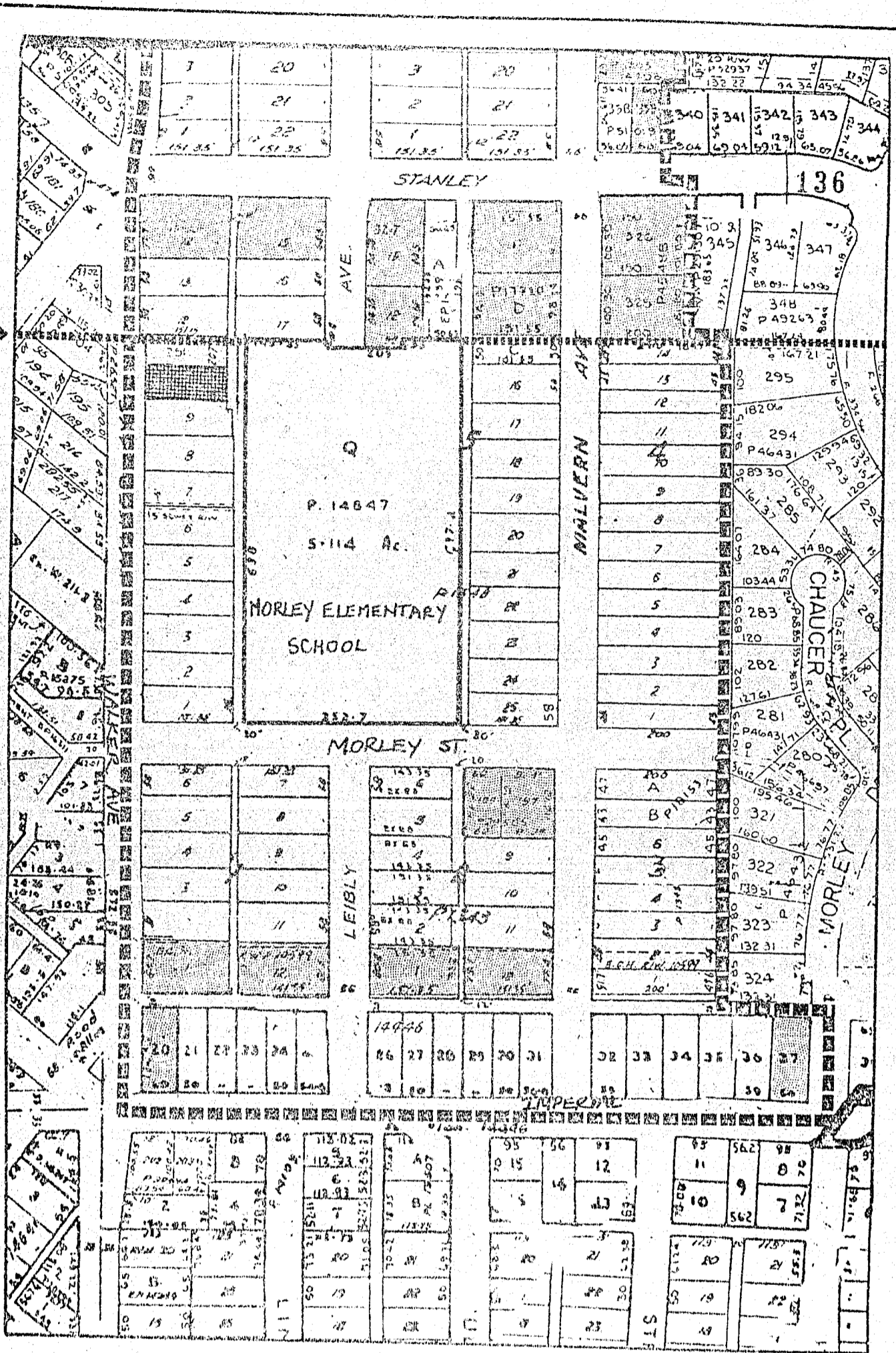
 Burnaby Planning Department

SKETCH #2

 POTENTIAL DUPLEX SITE

 EXISTING DUPLEX

MATCH LINE →



Date
1979/JUNE

Scale
1:2400

Drawn By



Burnaby Planning Department

SKETCH #3

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POTENTIAL DUPLEX SITE
EXISTING DUPLEX

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- Amendment or repeal of zoning by-law.** **704.** (1) No zoning by-law shall be adopted, amended, or repealed except after a hearing under section 703, and except upon the affirmative vote of at least two-thirds of all the members of the Council.
- (2) A member of the Council who was not present at the public hearing may vote on the adoption, amendment, or repeal of a zoning by-law, provided that an oral or written report of the public hearing has been given to him. 1957, c. 57, s. 701; 1961, c. 43, s. 43; 1972, c. 36, s. 30; 1972 (2nd Sess.), c. 9, s. 2.
- Buildings or structures under construction.** **705.** (1) A building or structure lawfully under construction at the time of the coming into force of a zoning by-law shall, for the purpose of that by-law, be deemed to be a building or structure existing at that time.
- Non-conforming use.** (2) A lawful use of premises existing at the time of the adoption of a zoning by-law, although such use does not conform to the provisions of the by-law, may be continued; but if such non-conforming use is discontinued for a period of thirty days, any future use of those premises shall, subject to the provisions of this section, be in conformity with the provisions of the zoning by-law.
- Extension of non-conforming use.** (3) A lawful use of a building or structure existing at the time of the adoption of the zoning by-law, although such use does not conform to the provisions of the zoning by-law, may be extended throughout the building or structure, but no structural alterations except those required by Statute or by by-law or those allowed by the Board of Variance shall be made therein or thereto.
- Damaged or destroyed structures.** (4) Where any building or structure the use of which does not conform to the provisions of an applicable zoning by-law is damaged or destroyed to the extent of seventy-five per centum or more of its value above its foundations, as determined by the building inspector, whose decision shall be subject to review by the Board of Variance, it shall not be repaired or reconstructed, except for a conforming use in accordance with the zoning by-law.
- Change of tenants of no effect.** (5) A change of tenants or occupants of any premises or building or structure shall not be deemed to affect the use of the premises or building or structure within the meaning of this section. 1957, c. 42, s. 702; 1958, c. 32, s. 308; 1968, c. 33, s. 168.
- Zoning by-law no cause for compensation.** **706.** (1) Property shall be deemed not to be taken or injuriously affected by reason of the adoption of a zoning by-law under this Division, or by reason of the amendment or repeal of a zoning by-law.
- (2) Subsection (1) does not apply when land is zoned exclusively for public use. 1957, c. 42, s. 703; 1958, c. 32, s. 309; 1962, c. 41, s. 29; 1965, c. 28, s. 20.
- Building permit withheld pending adoption of plan or zoning by-law.** **707.** (1) Prior to the adoption of a zoning by-law, or of an official community plan, or of an amendment to a zoning by-law, or of an alteration, addition, or extension to the official community plan, the Council may cause to be withheld the issuance of a building permit for a period of thirty days from the date of the application. 3251