

ITEM	10
MANAGER'S REPORT NO.	1
COUNCIL MEETING	1980 01 07

RE: STORAGE OF VEHICLES IN APARTMENT BUILDING PARKING AREAS AT
5050 SANDERS STREET AND 4200 MAYBERRY AVENUE

The following is a report from the Chief Licence Inspector regarding rental of parking spaces for storage of vehicles in apartment building parking areas.

RECOMMENDATION:

1. THAT the recommendations of the Chief Licence Inspector be adopted.

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TO: MUNICIPAL MANAGER

1979 December 31

FROM: CHIEF LICENCE INSPECTOR

RE: STORAGE OF VEHICLES IN APARTMENT BUILDING PARKING AREAS AT
5050 SANDERS STREET AND 4200 MAYBERRY AVENUE

RECOMMENDATIONS:

1. THAT the Chief Licence Inspector be authorized to order that the rental of parking spaces for storage at 5050 Sanders Street and 4200 Mayberry Avenue to persons other than those resident in the respective apartment buildings at those addresses be discontinued within 90 days; and
2. THAT a copy of this report be sent to Mr. J.E. Macdonald, c/o Seaburn Storage, 8116 Strathearn Avenue, Burnaby, B.C., V5J 3Y7 and to the owners of the apartment buildings involved: Earl and Jennie Lohn Limited, 302 Greensborough Place, Vancouver, B.C., and the Chairman, Owners of Strata Plan NW 524, 4200 Mayberry Avenue, Burnaby, B.C.

REPORT

At its meeting of 1979 December 10, Council received the attached report (Item 20, Manager's Report No. 83) concerning the rental of parking space for storage of vehicles in the referenced underground parking garages, primarily vintage cars owned by persons non-resident in the apartment buildings involved.

The report was tabled to provide an opportunity for Mr. J.E. Macdonald, operator of the storage facilities, to present his comments on the use.

Mr. Macdonald appeared before Council on 1979 December 17 and requested that the conclusion contained in the previously mentioned Council report be reviewed. Following discussion, Council requested a further staff report to clarify the following two points:

1. What the implications would be if the vehicle storage operation were conducted by a non-profit organization, rather than as a commercial venture; and
2. Would acceptance of the storage use as a non-profit operation create a precedent that would create problems in other situations.

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With respect to the first question, Council is advised that the fundamental issue in this case is the matter of land use in a residential district. Whether the parking spaces are used for storage by a non-profit organization not requiring a business licence, or as a commercial business venture whereby the operator is liable for a licence, is incidental to the basic question of the land use. As stated in the report of 1979 December 10 the rental of storage space in residential districts, for purposes other than those which are strictly accessory to the residential occupancy of the site, is not permitted under the Burnaby Zoning By-law. Use of such parking spaces is limited to residents of the site and their guests.

As a result, there is no question of a licence because the use is not permitted in the residential zoning applicable to the properties involved. Further, if the provisions of the by-law are observed, no problem with respect to precedent would be created.

The provision of storage space for vehicles or other goods is permitted in the industrial zoning districts M1 through M5, and should be conducted in those zones. Such use, in an appropriate zone, could be conducted as a commercial business or by a non-profit organization.

With reference to the present operations at 5050 Sanders Street and 4200 Mayberry Avenue, the non-accessory storage use is not permitted in these zones and we have no alternative but to issue an order that the rental of storage space at those addresses to persons other than those resident in the respective apartment buildings be discontinued. As previously suggested, it is felt reasonable to provide a 90-day period for cessation of the use, and it is my intention to make such an order unless Council should otherwise direct.


P.A. Kenzie
CHIEF LICENCE INSPECTOR

PK:jh
Attach.

cc: Director of Planning
Municipal Treasurer

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RE: STORAGE OF VEHICLES IN APARTMENT BUILDING PARKING AREAS AT
5050 SANDERS STREET AND 4200 MAYBERRY AVENUE

Following is a report from the Director of Planning and the Chief Licence Inspector regarding storage of vehicles in apartment building parking areas.

RECOMMENDATION:

1. THAT the recommendations of the Director of Planning and the Chief Licence Inspector be adopted.

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TO: MUNICIPAL MANAGER

1979 DECEMBER 05

FROM: DIRECTOR OF PLANNING AND
CHIEF LICENCE INSPECTOR

SUBJECT: STORAGE OF VEHICLES IN APARTMENT BUILDING PARKING
AREAS AT 5050 SANDERS STREET AND 4200 MAYBERRY AVENUE

RECOMMENDATION

1. THAT this report be received for information purposes, with the understanding that the Chief Licence Inspector will order that the commercial rental of storage space at 5050 Sanders Street and 4200 Mayberry Avenue to persons other than those resident in the respective apartment buildings at those addresses, be discontinued within 90 days, and
2. THAT a copy of this report be sent to Mr. J.E. Macdonald, c/o Seaburn Storage, 8116 Strathearn Avenue, Burnaby, B.C. V5J 3Y7 and to the owners of the apartment buildings involved: Earl and Jennie Lohn Limited, 302 Greensborough Place, Vancouver, B.C., and the Chairman, Owners of Strata Plan NW 524, 4200 Mayberry Avenue, Burnaby, B.C.

REPORT

During the enquiry portion of the Council meeting of 1979 October 15, a question was raised whether it would be possible for parking spaces in apartment buildings to be used by persons other than residents of that building. It was noted that a situation had come to the attention of a member of Council in which parking spaces in underground parking areas of two high rise apartment projects were being leased for use by people other than tenants of the building.

The Chief Licence Inspector and Planning Department staff have completed an investigation into this matter and are able to report as follows.

It has been determined that the premises in question are apartment buildings located at 5050 Sanders Street and 4200 Mayberry Avenue. In both these locations, underground parking garages have been provided to meet the parking requirements for the residents of the buildings and visitors. Both parking garages contain approved enclosed areas which contain 13 and 18 parking spaces respectively, and the fenced enclosure in each case was requested to provide an added degree of security for certain of the parking spaces.

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During May of 1979, a complaint by a former user of one of the parking spaces in the secure area at 4200 Mayberry was received by the Licence Department. This complaint indicated that portions of the parking garage were being used for storage of vehicles owned by persons not resident on the site. Upon investigation, the Chief Licence Inspector received the understanding that the space in question was being rented by members of the Canadian Vintage Car Club, and that as such it was not being operated as a commercial venture and, in any event, this organization would not be licensable. As a result, no action was taken at that time.

As a result of our further more recent investigations, however, we have learned that this facility is indeed being operated as a commercial venture, by Seaburn Storage, a division of Seaburn Construction Limited 8116 Strathearn Avenue, Burnaby. According to evidence received, the space is being advertised and rented on a monthly basis as dry, locked space to store vintage cars or other vehicles. Significantly, rental of these spaces is not restricted to residents of the apartment buildings on the sites, but rather is offered to the general public on the basis of a commercial parking facility.

The storage areas consist of fenced-off areas of the underground parking structures, with chain link fencing and locking gates; access by persons renting space within the enclosure is made by arrangement with the operator, Mr. J.E. Macdonald, and we are told that no repair or other work is permitted to take place on the premises. Typically, occupancy is for the storage of vintage cars before or after restoration by the owners, and in most cases constitutes long term storage with infrequent access requirements. Mr. Macdonald indicates that while he considers that residents of the buildings should have the first opportunity to rent spaces, and while some of the users are indeed residents of the apartment buildings, the majority reside elsewhere and simply rent the space as extra storage.

We are informed that Mr. Macdonald is a past President of the Canadian Vintage Car Club, that he still has an involvement with the organization, and that several of the spaces involved are still rented by Club members.

While we have no record to date of complaints from tenants of the buildings or others resident in the area with respect to congestion, lack of sufficient tenant parking, or other impacts due to this facility being operated by Seaburn Storage, it is a fact that rental of storage space in residential districts, for purposes other than those which are strictly accessory to the residential occupancy of the lot, is not permitted under the By-law. Specifically, Section 800.5(1) of the Zoning By-law clearly sets out the regulations concerning the use of required off-street parking spaces and prohibits the use of these areas for storage of goods of any kind:

- "(1) All required off-street parking spaces shall be used only for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or tenants who make use of the principal building or use for which the parking area is provided, and such parking area shall not be used for off-street loading, driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind."

Moreover, the uses permitted in the RM Multiple Family Residential District and the CD By-laws relating to these particular sites do not include commercial storage use.

As a result, we are able to confirm that the use being conducted by Seaburn Storage at both these locations is illegal, and Mr. Macdonald has been so advised.

For information, the creation of secure fenced areas within the parking facilities of an apartment complex is not in itself illegal, and in fact is often desired by apartment tenants for the safeguarding of recreational vehicles and the like. However, the use of these areas for commercial storage purposes or indeed for any use other than those set out in the Zoning By-law and the approved CD plan (i.e. parking spaces for residents and guests of the residential premises) is unlawful.

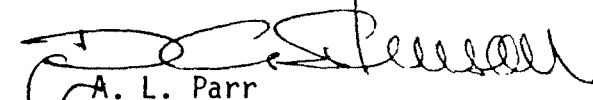
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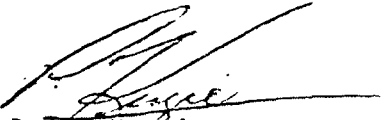
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In conclusion, a licence could not be issued for the use presently being conducted and as such we have no alternative but to issue an order that the commercial rental of storage space at 5050 Sanders Street and 4200 Mayberry Avenue to persons other than those resident in the respective apartment buildings at those addresses be discontinued. In this present case, individuals renting space from Seaburn Storage will require a reasonable time to make alternative arrangements for storage of their vehicles in a legal fashion elsewhere (industrial sites, "mini-warehouses", are examples of permissible accommodations for such uses). To avoid undue hardship for these individuals, it is suggested that a 90 day period be allowed for cessation of the present use, rather than the 30 day period that is normally allowed.

Unless Council should otherwise direct, it is the intention of the Chief Licence Inspector to make such an order; staff will be pleased to provide any assistance possible in advising present users of situations in which their cars may be legally stored in other zoning districts in the Municipality.

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A. L. Parr
DIRECTOR OF PLANNING


P. A. Kenzie
CHIEF LICENCE INSPECTOR

DGS/ds

cc Chief Building
Inspector

