

ITEM 6
MANAGER'S REPORT NO. 45
COUNCIL MEETING 1981 09 28

RE: PETITION FROM PROPERTY OWNERS ON 6167/74/95 AND 6211 MALVERN AVENUE
MALVERN AVENUE REZONING/DEFERMENT OF TWO FAMILY DWELLING BUILDING PERMITS
(ITEM 13, REPORT NO. 40, 1981 SEPTEMBER 08)
(ITEM 9, OF ITEM 14 REPORT NO. 43, 1981 SEPTEMBER 21)

MUNICIPAL MANAGER'S RECOMMENDATION:

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

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TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
SUBJECT: MALVERN AVENUE REZONING/DEFERMENT OF TWO FAMILY
DWELLING BUILDING PERMITS

1981 SEPTEMBER 21

RECOMMENDATIONS:

1. THAT Council direct that the Chief Building Inspector, upon receipt of any application to construct a two family dwelling in the Malvern Avenue area covered under Rezoning Reference #158/81, bring forward a report to Council for their consideration and direction relative to Section 724 of the Municipal Act; and
2. THAT a copy of this report be sent to the property owners on Malvern Avenue as outlined in the petition which appears on the Council agenda as well as all other owners within the area that are the subject of Rezoning Reference #158/81.

REPORT

Appearing on the Council Agenda is a petition from four property owners on Malvern Avenue who have requested that Council defer the issuance of building permits for the development of two family dwellings in their neighbourhood pending a final decision on the rezoning of the Malvern Avenue area.

On 1981 September 21, Council adopted the recommendation of the Planning Department to prepare and advance a bylaw amendment to rezone the Malvern Avenue area from R5 Residential District to R3 Residential District. The rezoning report concluded that in view of the prevailing development pattern of this area and the views expressed by many of the Malvern Avenue residents, that rezoning to the R3 District will assist towards maintaining the prevailing residential character.

In response to the petitioners request, the Planning Department advises that Council pursuant to Section 724 of the Municipal Act has the authority to withhold the issuance of a Building Permit pending adoption of an amendment to a zoning bylaw. For Council's reference, Section 724 of the Municipal Act has been attached. In consultation with the Chief Building Inspector, the Planning Department advises that the Building Department has to date received no application to construct a two family dwelling within the subject area. However, should the Building Department receive an application for the development of a two family dwelling in the effected area, prior to adoption of the rezoning bylaw amendment, the matter will be brought before Council at which time the Council may as it sees fit direct that the issuance of a Building Permit be withheld pursuant to Section 724 of the Municipal Act.


A. L. Parr,
DIRECTOR OF PLANNING

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Attachment

C.C. Chief Building Inspector

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Building permit withheld pending adoption of plan or bylaw



724. (1) Prior to the adoption of a zoning bylaw, an official community plan, an amendment to a zoning bylaw or 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 30 days from the date of the application.

(2) Where a permit is withheld, the application for it shall be considered by the council within the 30 days; and if the council believes the development proposed in the application would be at variance or in conflict with an official community plan in the course of preparation, or with an alteration, addition or extension in course of preparation to an official community plan, or with the zoning bylaw in course of preparation, or with an amendment in course of preparation to the zoning bylaw, the council may withhold the permit for a further 60 days, or the council may impose the conditions on the granting of the building permit that appear to be in the public interest.

(3) If the council does not within the 60 day period adopt a plan or bylaw, the owners of the land for which a building permit was withheld under this section are entitled to compensation for damages arising from the withholding of the building permit, and Division (4) of Part 12 applies.

(4) Where this section has been invoked, the council may withhold the issuance of a business licence for a period not exceeding 90 days.

RS1960-255-707; 1968-33-169.