

ITEM 16  
MANAGER'S REPORT NO. 1  
COUNCIL MEETING 87/01/05

RE: APPLICATION FOR RESIDENTIAL BUILDING PERMIT  
4361 VICTORY STREET

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1986 December 29  
FROM: DIRECTOR PLANNING & BUILDING INSPECTION  
SUBJECT: APPLICATION FOR RESIDENTIAL BUILDING PERMIT  
4361 VICTORY STREET

RECOMMENDATIONS:

1. THAT Council advise the applicant for a Building Permit for 4361 Victory Street that it is not prepared to issue the permit as the dwelling proposed is considered to be of such design that it would depreciate the value of other buildings or structures in the area in which it is proposed to be erected.
2. THAT Council by resolution direct staff to prepare amendments to the Burnaby Zoning Bylaw 1965 to control the bulk of buildings that may be constructed in the single- and two-family zoning districts.

**R E P O R T**

The Building Inspection Division is in receipt of an application for a building permit for a new single-family dwelling at 4361 Victory Street. Due to the size of the proposed building, its inappropriate relationship to the development characteristic of the neighbourhood, and its expected impact on adjacent properties, this report is submitted for Council consideration.

This property is situated in an R5 single- and two-family district, and has a lot area of 8,448.7 square feet. The proposal is for construction of a two-storey, single-family dwelling with an in-law suite in the lowest level (cellar). The submitted plans indicate 100% finishing of the cellar area, resulting in development of a total of 8,024 square feet of finished floor area in the complete project, not including an attached two-car garage.

The relevant statistics for the proposal are as follows:

PROPOSED

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- Large residence with eight bedrooms, eight bathrooms, two recreation rooms, one family room, two kitchens, one breakfast room, one dining room, one living room, one living/dining room, 3 sets of laundry facilities, a sewing room, a large prayer room, and numerous other ancillary floor areas.

	<u>Maximum Permitted</u>	<u>Proposed</u>
- Lot Coverage:	40 %	39.99%
- Building Height:	32.12 feet	27 feet +
- Storeys	2-1/2 storeys	2 storeys plus fully finished cellar

Plans for the proposed dwelling are available for viewing in the Building Inspection Division and will be on hand in the Council Chamber at the meeting of 1987 January 05.

The building volume produced by this amount of accommodation would greatly exceed that of any of the existing dwellings in the area, and while this in itself is not unusual (given the trend toward larger houses), the magnitude of the architectural disparity between this building and others in the area would be extreme.

We are advised that in decisions handed down by the Court of Revision in recent years, a decrease in assessment has been allowed in instances where existing residences adjacent new, unusually large dwellings have been injuriously affected by excessive shading, view obstruction, loss of privacy, or loss of reasonable window outlooks. While there have not been widespread cases of such appeals, we understand that assessment revisions have been granted where such direct adverse effects are produced on neighbouring properties, reducing their value.

The Burnaby Building Bylaw 1973 contains a provision (Section 10.[1]), Attachment #1) for referral to Council of an application for a building or structure, the design of which in the opinion of the Chief Building Inspector depreciates the value of other buildings in the area. In such an event, Council shall decide whether or not a building permit shall be issued. In this instance, due to the massive building volume proposed to be developed and its relationship to adjacent residential buildings, it does not seem unreasonable to expect that the value of existing structures would be depreciated. This situation is felt by staff to warrant Council consideration.

Council is aware of the trend in the single-family residential construction market toward unusually large dwellings that attempt to take full advantage of the maximum bulk permitted under the bylaws, and the impact that this has on established neighbourhoods. This phenomenon is not limited to Burnaby but is occurring also in Vancouver and other jurisdictions in the Lower Mainland. Staff have reported to Council on text amendments to deal with this situation in Burnaby, and the Housing Committee (Council sitting as Committee-of-the-Whole) has requested a review of certain items as well as an examination of the advisability of introducing a Floor Area Ratio-type control mechanism that would relate permitted building bulk to lot area. These matters are progressing and a further report will be submitted to Council shortly, with recommendations for amendments to the Zoning Bylaw.

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Prior to the adoption of any Bylaw changes, when applications are received for building permits for extraordinarily large houses, staff are obliged to proceed with processing under the Building Bylaw or to refer the application to Council under Section 10.(1) where in the Building Inspector's opinion the design would depreciate the value of other buildings or structures in the area. A preferred alternative for any future instances would be to have in place a Council resolution directing that preparation of an amendment to the Zoning Bylaw be commenced. Based on such a resolution, Council would be in a position to consider withholding of such permits under Section 981 of the Municipal Act (Attachment #2), pending adoption of the amendments, if it determined such a course of action to be appropriate.

Accordingly, it is being recommended that Council consider the specific development proposal that has been submitted for 4361 Victory Street and decide on whether or not a building permit should be issued, and further that Council resolve to commence the preparation of Bylaw amendments on the understanding that a further report with recommendations will be submitted on or before 1987 January 26.

DGS:lf

cc: Municipal Solicitor  
Chief Building Inspector

*[Handwritten signature]*  
A.L. Parr  
Director Planning &  
Building Inspection

10. (1) It shall be unlawful for any person to erect any building or other structure, the architectural design of which would depreciate the value of other buildings or structures in the area in which it is proposed to be erected. The Building Inspector, upon any application for a building permit for a building or structure of a design which, in his opinion, depreciates the value of other buildings or structures in the area in which it is proposed to be erected may, without issuing such permit, refer the application to the Council and the Council shall decide whether or not a building permit shall be issued.

**Withholding of permits and licences**

981. (1) Where a local government passes a resolution identifying what it considers to be a conflict between a development proposed in an application for a building permit and

- (a) an official community plan,
- (b) a rural land use bylaw, or
- (c) a bylaw under sections 963 to 966 or 969

that is under preparation, the local government may direct that the permit be withheld for a period of 30 days, commencing on the day the application for the permit was made.

(2) Subsection (1) does not apply unless a local government has, by resolution at least 7 days prior to the application for a building permit, commenced the preparation of a plan or bylaw that is in conflict with the application.

(3) During the 30 day period referred to in subsection (1), the local government shall consider the application for the permit and may

- (a) direct the permit be withheld for a further 60 days, or
- (b) grant the permit, but impose conditions in it that would be in the public interest, having regard to the plan or bylaw that is under preparation.

(4) If the local government does not, within the 60 day period, adopt a plan or bylaw referred to in subsection (1), 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.

(5) Where the council passes a resolution under subsection (1), the council may direct that a business licence, in respect of the same land, be withheld for a period not exceeding 90 days where the council considers that the use to which the land would be put and to which the business licence application relates would be contrary to the use that would be permitted by the bylaw that is under preparation.