

ITEM 20  
MANAGER'S REPORT NO. 35  
COUNCIL MEETING 91/05/27

TO: MUNICIPAL MANAGER 1991 MAY 22

FROM: DIRECTOR PLANNING &  
BUILDING INSPECTION

SUBJECT: REQUEST FOR REMOVAL OF RESTRICTIVE COVENANT  
6719 BRANTFORD AVENUE

PURPOSE: To provide Council with a recommendation on the request by the owner of the subject property to amend the restrictive covenant limiting the development of the property to that which was presented on a plan of development at the 1990 May 29 Public Hearing.

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RECOMMENDATION:

- 1) THAT Council not give favourable consideration to the request to amend the Section 215 restrictive covenant on the subject property.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 On 1991 May 06, Council received a delegation from Mrs. Teresa Marando, the owner of the subject property, to request that the restrictive covenant on the subject property be amended to permit the development of additional gross floor area in the cellar of the single-family dwelling currently under construction on the property.
- At that time, Council directed staff to prepare a report on the request, including past history on the rezoning of the property and the pertinent Public Hearings.
- 1.2 On 1988 May 02, Council received a report on a request by Mr. & Mrs. Marando to rezone (Rezoning Reference #6/88) the property at 6715 Brantford Avenue from R5 Residential District to R9 Residential District to enable the subdivision of the site into two lots to construct two single-family dwellings. On the basis of utilizing established criteria for assessing rezonings to the R9 District to assess the application, this Department supported the application to rezone to the R9 District. No information was provided or special consideration requested at that time regarding the size of the proposed single-family dwellings. The Public Hearing for Rezoning Reference #6/88 was held on 1988 June 21. This rezoning was given Final Adoption on 1988 December 12.

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1.3 On 1989 September 25, Council received a report (copy attached as Appendix 1) on a request by Mr. & Mrs. Marando to rezone (Rezoning Reference #71/89) the property at 6719 Brantford Avenue (one of the two lots created through rezoning to the R9 District) to R9a Residential District in order to permit the development of a single-family dwelling having a floor area greater than that permitted under the prevailing zoning.

The report noted that with the approved R9 District rezoning of the site and the subdivision into two lots, the permitted development density increased by 149.5 m<sup>2</sup> (1,609.2 sq. ft.) or 40%, while if the subject site were to be rezoned to the R9a District, the permitted development density of the two lots would increase by 261.5 m<sup>2</sup> (2,814.8 sq. ft.) or 70% of the original development density. The report concluded that in light of the predominantly moderate-sized single-family dwellings in the area, the inappropriateness of permitting a dramatic increase in permitted development density on this site and the potential shadow casting and privacy concerns related to the sites to the north and west, that rezoning the site to the R9a Residential District would not be compatible with the surrounding neighbourhood.

At that time, Council adopted the recommendation that Council not give favourable consideration to the rezoning request.

1.3 On 1989 October 02, Council received a delegation from Mr. & Mrs. Marando, which requested that Council reconsider its decision on the application to the R9a District. In the delegations' presentation, Mrs. Marando stated that their proposal would not utilize the full density potential that R9a zoning would allow, but that the dwelling would be approximately 3,600 sq. ft. in size. At that time, Council reconsidered the rezoning application and referred the application to the Planning and Building Inspection Department for further consideration.

On 1989 October 23, Council authorized staff to work with the applicant towards the submission of a suitable plan of development based on certain considerations. These considerations included the recommendation that 3,600 sq. ft. be set as the maximum size of the dwelling, in keeping with Mrs. Marando's presentation.

1.4 A further report was submitted to Council on 1990 April 30 regarding Rezoning Reference #71/89 (copy attached as Appendix 2), indicating that the applicant had submitted a plan of development suitable for presentation to a Public Hearing. In keeping with the stipulated maximum size of the dwelling, the development plans indicated a Floor Area Ratio of 0.52 and a development density of 329 m<sup>2</sup> (3,543 sq. ft.). This represented an overall increase in potential density, over the original site, by a factor of 1.57.

The Public Hearing rezoning report for the 1990 May 29 Public Hearing included the background on this rezoning and the pertinent development statistics. Based on this information, three individuals expressed support for the rezoning and one individual expressed opposition to the rezoning at the Public Hearing.

Mr. Marando subsequently entered into a Section 215 restrictive covenant limiting the development of the property to the plan that was presented to the Public Hearing for the rezoning, and the covenant was registered at the Land Title Office. Rezoning Reference #71/89 was given Final Adoption on 1990 July 23. A Building Permit was issued in accordance with the approved design plans and the dwelling is presently under construction.

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**2.0 CURRENT PROPOSAL:**

2.1 The request put forward by Mrs. Marando in her recent delegation was that Council agree to amend the present registered agreement (a Section 215 Covenant) that limits the development of the property, by replacing it with one that would permit construction of an additional 522 square feet of living area in the dwelling.

In subsequent discussions, staff have been informed that the proposed change would take the form of a conversion of an area of the crawl space (essentially the southerly 1/3 of the dwelling) to create a large additional room. The area is clearly shown on the Public Hearing plan as crawl space with only vents and an access passage, but the building as framed to date has introduced windows into this area. The area of the crawl space as described is calculated to be 531 square feet, which would result in a Floor Area Ratio slightly over 0.60 and a gross floor area of 4,074 square feet, whereas the maximum that could be approved under R9a zoning, if the covenant were deleted, would be 4,065 square feet.

In essence, the proposal to amend the Restrictive Covenant in this case amounts to removal of the condition that restricted the maximum floor area, which would defeat its purpose. If approval were granted, this would allow an overall increase in density, over the original site, by a factor of 1.70.

**3.0 GENERAL DISCUSSION:**

3.1 The background information provided above will serve to summarize the background relating to the rezoning and development of the subject site in order to outline the changes in permitted development density on the site, the concerns that were expressed over rezoning the site to the R9a District and certain assertions that were made, upon which further Council and staff consideration were given regarding the proposed rezoning. Specifically, staff would again note that Council reconsideration was given to Rezoning Reference #71/89 after the applicant stated the dwelling would be approximately 3,600 sq. ft. in size and, accordingly, a development plan was submitted to the Public Hearing indicating a dwelling 329 m<sup>2</sup> (3,543 sq. ft.) in size.

3.2 The other significant concern of staff is that the importance of the registered restrictive covenants for R "a" rezonings may not be taken seriously by applicants. The Municipality enters into the covenants after considerable and thorough assessment of the rezoning proposal by staff and Council, as well as the opportunity for public input through a Public Hearing. Planning and Building Inspection Department staff stress the importance of applicants presenting their final development plans for consideration and possible advancement to a Public Hearing, due to the site-specific rezoning assessment and the required registration of a restrictive covenant.

3.3 In consideration of the subject request to amend the registered restrictive covenant on the site at 6719 Brantford Avenue, the amendment to the restrictive covenant being considered by Council for the property at 7437 Burris Street, and the above-noted concerns regarding consideration of such changes, it appears necessary to assess the overall policy effects of considering amendments to restrictive covenants and how such requests should be processed. Accordingly, staff are preparing a report for submission to Council within the next month proposing a standard procedure for considering requests to amend registered restrictive covenants for R "a" zoned properties.

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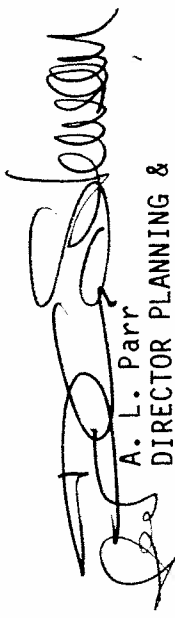
**4.0 CONCLUSION:**

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- 4.1 In light of the considerable and inappropriate increase in development density on the site, the original concerns that were expressed over rezoning the subject property to the R9a District and the assurances to Council that the proposed single-family dwelling would not be over 3,600 sq. ft. in size, which was included as information presented to the Public Hearing for Rezoning Reference #71/89, this Department recommends that Council not amend the Section 215 restrictive covenant on this property.

*AW*  
BW:ap

Attach.

  
A. L. Parr  
DIRECTOR PLANNING &  
BUILDING INSPECTION

THE CORPORATION OF THE DISTRICT

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ITEM # 14

PLANNING & BUILDING INSPECTION  
REZONING REFERENCE #71/89  
1989 SEPTEMBER 25

**1.0 GENERAL INFORMATION:**

- 1.1 Applicant: Francesco Marando  
2710 East 1st Avenue  
Vancouver, B.C.  
V5M 1A7
- 1.2 Subject: Application for the rezoning of:  
Lot 1, D.L. 92, Plan 80166  
From: R9 Residential District  
To: R9a Residential District  
6719 Brantford Avenue
- 1.3 Address: The subject site is located on the west side of Brantford Avenue between Imperial Street and Stanley Street (refer to attached sketch).
- 1.4 Location: The site is rectangular in shape with an area of 629.4 m<sup>2</sup> (6,775 sq. ft.), with a width of 14.9 m (48.9 ft.) and a depth of 42.1 m (138 ft.).
- 1.5 Size: The Director Engineering will be requested to provide all relevant servicing information.
- 1.6 Services: The purpose of the proposed rezoning bylaw amendment is to permit the development of a single-family dwelling having a floor area greater than that permitted under the prevailing zoning.
- 1.7 Rezoning Purpose: The purpose of the proposed rezoning bylaw amendment is to permit the development of a single-family dwelling having a floor area greater than that permitted under the prevailing zoning.

**2.0 NEIGHBOURHOOD CHARACTERISTICS:**

- 2.1 The subject site is currently vacant, with the site sloping to the northwest. Single-family dwellings are located to the north, south, east and west of the site. Vehicular access is available from Brantford Avenue, which is constructed to an interim standard and from a rear lane.

**3.0 BACKGROUND INFORMATION:**

- 3.1 On 1988 July 11, Council gave Final Adoption to Bylaw No. 9023, which amended the text of the Burnaby Zoning Bylaw. The subject text amendment established a minimum lot area and width for the R "a" designation zoning equal to 150% of the minimum lot area and width in the pertinent R District.
- The text amendment established a minimum lot area of 505 m<sup>2</sup> (5,435.9 sq. ft.) and a minimum lot width of 14 m (45.9 ft.) for the R9a<sub>2</sub> Zoning District. The subject site has a lot area of 629.4 m<sup>2</sup> (6,775 sq. ft.) and a lot width of 14.9 m (48.8 ft.) and is thus eligible for rezoning to the R9a Residential District.

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**4.0 GENERAL DISCUSSION:**

- 4.1 Under the current R9 Residential District zoning, the permitted density of development for the subject site shall not exceed 265 m<sup>2</sup> (2,852 sq. ft.) of gross floor area. Under the proposed R9a District zoning, a development density of up to 0.60 or 377.6 m<sup>2</sup> (4,065 sq. ft.) could be permitted on the subject site.
- 4.2 The subject site is located on Brantford Avenue, which has a mixture of housing stock in terms of dwelling size and age and single and two-family dwellings, but is still predominantly characterized by older, moderately sized single-family dwellings. The larger, more massive single family dwellings along Brantford Avenue have been built after the properties have been rezoned to the R9 Residential District and subdivided into smaller lots.
- The property to the north located at 6701 Brantford Avenue is occupied by a moderately sized two-storey single-family dwelling. The development of a larger, and particularly a deeper dwelling on the subject site, would likely subject the property at 6701 Brantford Avenue to excessive shadow casting and a potential lack of privacy in the rear yard. The properties north of the subject site slope down towards the lane, allowing these dwellings to avoid a large or imposing appearance from the street.
- To the west, the lots across the lane are predominantly occupied by older two-storey single-family dwellings. These lots are lower than the residential properties fronting on Brantford Avenue, creating a situation where the development of larger dwellings on the west side of Brantford Avenue may produce potential overlook/privacy concerns for the properties across the lane.
- Across Brantford Avenue to the east, the lots are predominantly occupied by modest sized, single-family dwellings. These dwellings are largely one storey on a cellar.
- The properties to the south, which are zoned R9 Residential District, are occupied by larger, deep single-family dwellings, which minimize the building setbacks and appear relatively massive along Brantford Avenue. These dwellings are not considered to be in keeping with the general character of the residential neighbourhood or compatible with the adjacent dwellings.
- 4.3 For the information of Council, the permitted development density of the former property located at 6715 Brantford Avenue - from which the subject site was subdivided - was 370 m<sup>2</sup> (3,982.8 sq. ft.). The current development density of the two resultant R9 District zoned properties is 519.5 m<sup>2</sup> (5,592 sq. ft.), while if the subject site were to be rezoned to the R9a District, the development density of the two properties would be 631.5 m<sup>2</sup> (6,797.6 sq. ft.).

With the approved R9 District rezoning of the site and the subdivision into two lots, the permitted development density increased by 149.5 m<sup>2</sup> (1,609.2 sq. ft.) or 40%, while if the subject site were to be rezoned to the R9a District, the permitted development density of the two lots would increase by 261.5 m<sup>2</sup> (2,814.8 sq. ft.) or 70% of the original permitted development density. This level of increase in permitted development density is generally not considered appropriate in predominantly single-family residential areas and is not considered compatible with the established development in the neighbourhood.

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**5.0 CONCLUSION:**

5.1 In light of the predominantly moderate-sized single-family dwellings in the area, the inappropriateness of permitting a dramatic increase in permitted development density on this site and the potential shadow casting and privacy concerns related to the adjacent properties to the north and west, the Planning and Building Inspection Department would conclude that rezoning the site to the R9a Residential District would not be compatible with the surrounding neighbourhood.

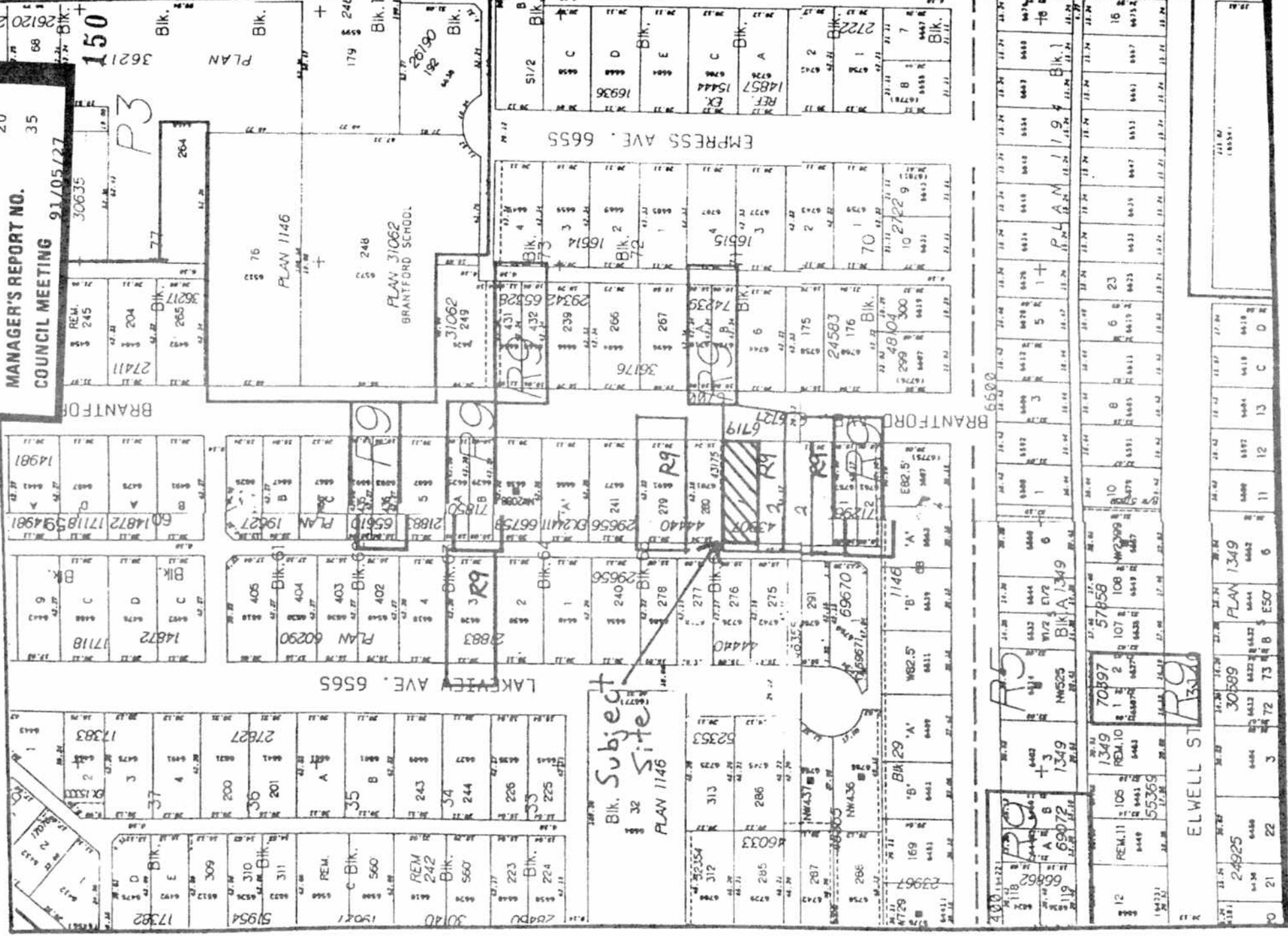
**6.0 RECOMMENDATION:**

6.1 THAT Council not give favourable consideration to this rezoning request.

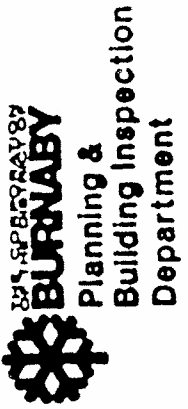
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Attachments

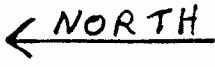
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Date 1989 Sept.  
 Scale 1:2000  
 Drawn By



Rezoning Reference # 71/89





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R.Z. 71/89

August 30, 1989

Planning Department  
Burnaby, B.C.

Attn. Municipal Clerk

Dear Sir :

Re : 6719 Brantford Avenue, Re-zoning application

I hereby make application to re-zone the  
subject property from residential R9 to residential R9A.

I intend to construct one new single family  
dwelling.

Yours Truly,

*F. Magarinos*  
Francesco Marando  
2710 East 1st Ave.  
Vancouver, B.C.

V5M 1A7

Tel : 255-7868

APPENDIX 2

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RE: REZONING REFERENCE NO. 71/89  
6719 BRANTFORD AVENUE

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

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

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TO: MUNICIPAL MANAGER 1990 APRIL 24

FROM: DIRECTOR PLANNING &  
BUILDING INSPECTION

SUBJECT: REZONING REFERENCE #71/89  
6719 BRANTFORD AVENUE  
LOT 1, D.L. 92, PLAN 80166

FROM: R9 RESIDENTIAL DISTRICT  
TO: R9a RESIDENTIAL DISTRICT

(SEE ATTACHED SKETCH)

PURPOSE: To seek Council authorization to forward this rezoning to First Reading and a Public Hearing.

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RECOMMENDATION:

- 1) THAT a Rezoning Bylaw be prepared and advanced to First Reading on 1990 May 07 and to a Public Hearing on 1990 May 29 at 7:30 p.m., and that the following be established as prerequisites to the rezoning:
  - a) The submission of a suitable plan of development reflecting a compatible relationship with the surrounding neighbourhood.
  - b) That the owner enter into a covenant certifying that the land shall be developed only in accordance with the plan submitted.

R E P O R T

1.0 REZONING PURPOSE:

- 1.1 The purpose of the proposed rezoning bylaw amendment is to permit the development of a single-family dwelling with a floor area greater than that permitted under the prevailing residential zoning.

2.0 BACKGROUND INFORMATION:

- 2.1 On 1989 September 26, Council received a report from the Director Planning and Building Inspection regarding Rezoning Reference #71/89 which involves a request to rezone the subject property at 6719 Brantford Avenue to R9a Residential District.

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1990 APRIL 24

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The report concluded that in light of the predominantly moderate-sized single-family dwellings in the area, the inappropriateness of permitting a dramatic increase in permitted development density on the site and the potential shadow casting and privacy concerns related to the adjacent properties to the north and west, the Planning and Building Inspection Department would conclude that rezoning the site to the R9a District would not be compatible with the surrounding neighbourhood.

At that time, Council adopted the recommendation that favourable consideration not be given to this rezoning request.

2.2 On 1989 October 10, Council received a delegation from the owner of the subject property, Mrs. Teresa Marando. Mrs. Marando requested that Council reconsider their decision on the rezoning application in order to advance the rezoning to a Public Hearing.

At that time, Council brought Rezoning Reference #71/89 back for reconsideration and referred the application to the Planning and Building Inspection Department for further consideration.

2.3 The Planning and Building Inspection Department subsequently reported back to Council on the site specific considerations involved in constructing a larger single-family dwelling on this property. The report noted that Mrs. Marando stated in her presentation to Council that the dwelling would be approximately 3,600 sq. ft. in size. It was recommended that 3,600 sq. ft. be set as the maximum size of dwelling to be considered by staff in working with the applicant. In considering the site specific circumstances, the report indicated that the plan of development should indicate a dwelling which does not greatly exceed the dwelling to the north in terms of building depth, does not include large deck areas on the north or west side of the dwelling, which minimizes building height, and indicates screening along the rear and side property lines.

At that time, Council adopted the recommendation that staff be authorized to work with the applicant towards the submission of a suitable plan of development based on the above considerations.

2.4 The applicant has now submitted a plan of development suitable for presentation to a Public Hearing.

3.0 GENERAL DISCUSSION:

3.1 The applicant has submitted a plan of development for the construction of a 329 m<sup>2</sup> (3,543 sq. ft.) single-family dwelling. This would result in a Floor Area Ratio of 0.52.

3.2 With respect to the above site-specific comments on the proposed single-family dwelling, the building plans indicate a dwelling which is under 3,600 sq. ft. in size, the depth of the dwelling is limited to 11 ft. longer than the dwelling to the north, and a deck is located at the main floor level at the rear, well set back from the properties to the north and west. The dwelling is 26.8 ft. high at the street elevation, with the height being 30.9 ft. high at the rear of the dwelling and screening is indicated along the rear and side property lines.

3.3 Staff have also assessed the plan of development for this rezoning application utilizing the urban design guidelines adopted by Council on 1989 January 03 for R "a" rezonings and would offer the following comments:

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- a) The proposed single-family dwelling has a two-storey appearance, which is similar to the adjacent dwellings. 154

b) The siting of the dwelling generally respects the existing front yard setback pattern.

c) The dwelling depth is under the 60 ft. maximum recommended depth, with a deep rear yard.

d) The side yard setbacks shown are 4.92 ft. on the south side and 6.04 ft. on the north side, which is greater than the R9 District minimum setbacks, but not double the R9 side yard setbacks recommended for R "a" zoned properties, which would require 7.88 ft. side yard setbacks.

e) The proposed dwelling provides some variety in the building face with two projecting bays, a porch and the second floor set slightly back.

f) As previously noted, the deck at the rear is modest in size and located well back from the properties to the north and the west, for which privacy and shading concerns are the greatest, while the side windows are generally small and non-intrusive in terms of privacy.

g) There is no existing landscaping to be retained, but the plan of development includes screening along the rear and side property lines.

#### 4.0 DEVELOPMENT STATISTICS:

4.1 Site Area: 629.4 m<sup>2</sup> (6,775 sq.ft.)

Lot Coverage Permitted: 40%

Lot Coverage Shown: 34%

4.2 Building Height Permitted: 2 - 1/2 storeys  
9.0 m (29.53 ft.)

Building Height Shown: 26.8 ft.

4.3 Development Density Permitted under R9 Designation: 265 m<sup>2</sup> (2,852 sq. ft.)

4.4 Floor Area Ratio and Development Density permitted under the R9a Designation: 377.6 m<sup>2</sup> (4,065 sq. ft.)

Floor Area Ratio and Development Density shown: 0.52  
329 m<sup>2</sup> (3,543 sq. ft.) for the subject site

PLANNING & BUILDING INSPECTION

REZONING REFERENCE  
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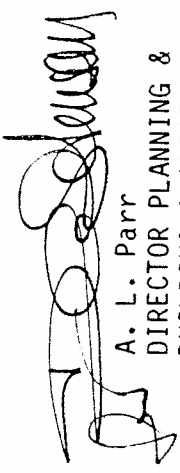
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As this Department has now received a suitable plan of development, it is appropriate to forward this application to a Public Hearing.

*AP*  
BW:ap

Attachments

cc: Municipal Clerk

  
A. L. Parr  
DIRECTOR PLANNING &  
BUILDING INSPECTION

