

TO: MUNICIPAL MANAGER
1992 JANUARY 14

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: ACCESS TO PROPOSED APARTMENT BUILDING
7237 HALIFAX STREET
REZONING REFERENCE #18/91

PURPOSE: To propose direct vehicular access from Halifax Street as an acceptable alternative for the proposed apartment building at 7237 Halifax Street.

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RECOMMENDATIONS:

- 1) THAT the Planning and Building Department be authorized to work with the applicant towards the preparation of a plan of development based on RM1 or RM2 density and suitable for presentation to a Public Hearing, and incorporating either vehicular access by registered easement, or directly from Halifax Street.
- 2) THAT copies of this report be sent to Mr. Bob Rennie, 6712 East Hastings Street, Burnaby, B.C., V5B 1S5, the applicant for Rezoning Reference #18/91, and to the Council, Strata Plan NW 2752, c/o Mr. Rick Tingle, #311 - 1695 Augusta Avenue, Burnaby, B.C., V5A 4S8.

R E P O R T

1.0 BACKGROUND:

On 1991 July 22, Council received a first report (see attached copy) regarding the subject rezoning application for an apartment building at 7237 Halifax Avenue. This report outlined the history of the rezoning for the adjacent Augusta Springs apartment development which had proceeded without including the subject property, on the basis that it would form the site for a future integrated second phase development. To assist in achieving this, a covenant was registered over the Augusta Springs development site agreeing to future provision of an easement providing access, visitor parking, and common use of recreational facilities for the future development on the subject site. It had been anticipated that the development on the subject site would be based on RM1 density, however the current rezoning application proposed RM2 density, and preliminary architectural plans were submitted which indicated that a suitable three-storey development with underground parking and suitable setbacks could be developed at this higher density.

PLANNING AND BUILDING
ACCESS TO PROPOSED APARTMENT BUILDING
7237 HALIFAX STREET
REZONING REFERENCE #18/91
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Council adopted the following recommendation in this regard on 1991 July 22:

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"THAT the Planning and Building Department be authorized to work with the applicant towards the preparation of a plan of development based on RM2 density and suitable for presentation to a Public Hearing, following deposit of the required easement in the Land Title Office."

On 1991 August 14, a delegation from the Augusta Springs Strata Council appeared before Council to express concern regarding the potential effect of the easement on their development. At that time, Council requested a report regarding the current rezoning application, addressing the possibility of developing it as an independent site with direct vehicular access from Halifax Street.

2.0 DISCUSSION:

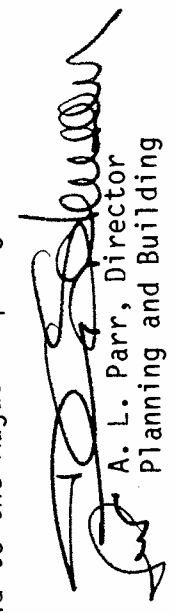
Transportation Planning staff of this Department and Traffic staff of the Engineering Department have both confirmed that direct access to the subject site from Halifax Street would be acceptable, though the more integrated solution would be preferred.

Staff have also written the applicant for the subject rezoning to request his comments regarding the feasibility and desirability of Halifax access from the developer's point of view. A response to this letter has been received from the Solicitor for the owners of the property (see attached copy). This letter notes that there is disagreement regarding the enforceability of the covenant. It also suggests that the parking requirements and setbacks for the proposed development should be reduced below the applicable minimums, if access to the site is to be directly from Halifax Street rather than integrated with the existing Augusta Springs development.

3.0 CONCLUSION:

Given the concerns expressed by the Augusta Springs development, the acceptability of direct access from Halifax Street from the Transportation Planning and Traffic points of view, and the disagreement between the parties regarding the enforceability of the access easement covenant, it is recommended that independent development of the subject site with direct access from Halifax Street be acknowledged as an acceptable alternative to utilization of the access easement. It is considered that the issue of the potential access easement should be resolved directly between the owners of the two properties involved, with no action by the Municipality to either enforce or release the covenant previously registered in this regard at this time. Applicable standards for the development, including setbacks and required parking, should be met by the plan of development for the site, regardless of which access alternative is pursued by the applicant. Either RM1 density (as previously planned) or RM2 density (if a suitable plan of development is submitted) is considered potentially appropriate for the subject site.

It is recommended that staff be authorized to work with the applicant on the basis of the alternatives outlined above, and that copies of this report be sent to the applicant and to the Augusta Springs Strata Council.


A. L. Parr, Director
Planning and Building

THE CORPORATION OF THE DISTRICT OF BURNABY

PLANNING & BUILDING INSPECTION
REZONING REFERENCE #18/91
1991 JULY 22

ITEM #5

1.0 GENERAL INFORMATION:

- 1.1 Applicant: Bob Rennie
6712 E. Hastings Street
Burnaby, B.C.
V5B 1S5
- 1.2 Subject: Application for the rezoning of:
Lot 1, D.L. 135, Plan 14053
- From:** R4 Residential District
- To:** CD Comprehensive Development District
(based on RM2 Multiple Family
Residential District use and density).
- 1.3 Address: 7237 Halifax Street
- 1.4 Location: The subject site is located on the north side of Halifax Street between Duthie Avenue and Augusta Avenue (see attached sketches#1 and #2).
- 1.5 Size: The site, including adjacent rights-of-way to be closed and incorporated into it, has a frontage of 35.2 m (115 ft.) on Halifax Street and a depth of 38.1 m (125 ft.). The site area is approximately 1,340 m² (14,400 sq. ft.).
- 1.6 Services: The Director Engineering will be requested to provide all relevant servicing information.
- 1.7 Rezoning Purpose: The purpose of the proposed rezoning bylaw amendment is to accommodate development of a three-storey apartment building.

2.0 BACKGROUND:

- 2.1 The subject site is located in Community Plan Seven and was intended to form part of a site to the north and east which was recently developed for RM3 density three-storey apartment development (Rezoning Reference #20/86 and RZ #20/86A). A small lot subdivision is located to the west of the subject site and senior citizens' housing, which is currently being renovated and expanded, is located to the south across Halifax Street.
- 2.2 At the time of the initial rezoning application for the adjacent apartment site, the applicant was encouraged by Council to include the subject property (as well as three other properties fronting on Halifax Street which had initially been excluded) in the site assembly for apartment redevelopment. The other three properties were acquired, but efforts to include the subject property, including an offer representing a premium above market value, were unsuccessful. At the suggestion of the applicant, an approach was accepted by the Municipality whereby the subject property would be developed as an integrated future phase of the adjacent apartment development which proceeded at that time. In the report recommending the Public Hearing for that apartment development (Item 11, Manager's Report No. 50, Council Meeting 86/09/02), this approach was described as follows:

"The subject site will be consolidated into one parcel and developed as Phase I of the overall redevelopment. 7237 Halifax Street together with the adjacent road and lane rights-of-way will be developed as the integrated Phase II. Covenants and easements will be provided to ensure access through the Phase I underground parking to the future Phase II underground parking, as well as to provide for the common use of the visitors' parking, recreational facilities, and communal open space to be developed as part of Phase I. The required visitors' parking for Phase II is to be pre-built as part of Phase I.

The integrated Phase II development would consist of a six to eight unit comprehensive development based on RMI guidelines, with a maximum floor area ratio of 0.6, with underground parking developed as an extension of the adjacent Phase I underground parking. This would be the subject of a future rezoning".

In line with this approach, and because the co-operation of the owners of 7237 Halifax Street to the registration of an easement could not be obtained at the time, a covenant was registered over the apartment development site (1655 Augusta Avenue) agreeing to future provision of an easement providing access, visitor parking, and common use of recreational facilities for the property (7237 Halifax Street) to be developed as a second phase of the development. It should be noted that although the subject property was intended to be developed as a physically integrated second phase of the adjacent development, it was not anticipated that it would be consolidated with it or form part of the same strata corporation.

Registration of the subject access easement is now being pursued by the current applicant's lawyer in conjunction with the current rezoning application and intended apartment redevelopment of the subject property.

3.0 GENERAL COMMENTS:

- 3.1 As noted above, the rezoning for the adjacent Phase I site (1655 Augusta Avenue) anticipated redevelopment of the current subject (Phase II) site at RMI density (Floor Area Ratio of 0.6), for an apartment building of six to eight units. This lower proposed density (compared to the Phase I RMI density with 1.1 Floor Area Ratio) was based on the relatively small area of the site (resulting in a larger proportion utilized for required setbacks) and the location adjacent to the existing small lot developed in Preliminary architectural plans have however been submitted in conjunction with the current rezoning application indicating that a suitable three-storey 12-unit development at RM2 density (Floor Area Ratio of 0.9) with underground parking and suitable setbacks could be developed on the subject site. It is recommended that Council authorize staff to work with the developer towards preparation of a plan of development suitable for presentation to a Public Hearing on this basis.

- 3.2 The submitted preliminary architectural plans for the subject site incorporate access through the underground parking garage of the adjacent site as had been intended and provided for. Transportation Planning and Engineering staff concur with this approach and advise that access to the proposed apartment development directly from Halifax Street is undesirable. As noted above, the applicant's lawyer is currently pursuing registration of the access easement required in this regard. Planning staff and the Municipal Solicitor have concluded that the subject rezoning application should not proceed to Public Hearing until this has been accomplished.
- 3.3 The Director Engineering will be requested to prepare an estimate for any services necessary to serve the site.
- 3.4 The subject site, including the adjacent road and lane rights-of-way will need to be consolidated into one legal parcel. A Road Closing Bylaw with sale of the closed rights-of-way to the developer will be recommended in this regard. An easement will be required to protect existing sewers in the closed rights-of-way.
- 3.5 The proposed development will comply with the minimum unit sizes of the condominium guidelines adopted by Council.
- 3.6 A Neighbourhood Parkland Acquisition Charge, which is currently \$1,397 per unit, will apply to the proposed development.
- 3.7 In conjunction with the adjacent previous rezoning, it was ascertained that undergrounding of existing overhead wiring adjacent to the site was not feasible.
- 3.8 A complete outline of all proposed prerequisite conditions to the rezoning will be included in a more detailed report to be submitted at a future date prior to advancing to a Public Hearing.
- 4.1 THAT the Planning and Building Inspection Department be authorized to work with the applicant towards the preparation of a plan of development based on RM2 density and suitable for presentation to a Public Hearing, following deposit of the required easement to the Land Title Office.

4.0 RECOMMENDATION:


RR:ap

Attach.

c.c. Municipal Solicitor
Director Engineering

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CAZ

July 10, 1991

Corporation of the
District of Burnaby
4949 Canada Way,
Burnaby, B.C.

RE: 7237 HALIFAX ST., BURNABY, B.C.

Dear Sirs:

We request that the property be rezoned from R4 to CD (RM2). The purpose is to amalgamate 7237 Halifax St., Burnaby with the pending road closure to the west and to the north at which time the duplex will be demolished.

We will then construct a 12 unit strata title apartment with access through Augusta Street where easements are already in place since April 1987.

Thank you for your consideration.

Yours sincerely,



Bob Rennie
Agent for Mr. & Mrs. J. & A. Padula

BR/da



6712 E. Hastings St.

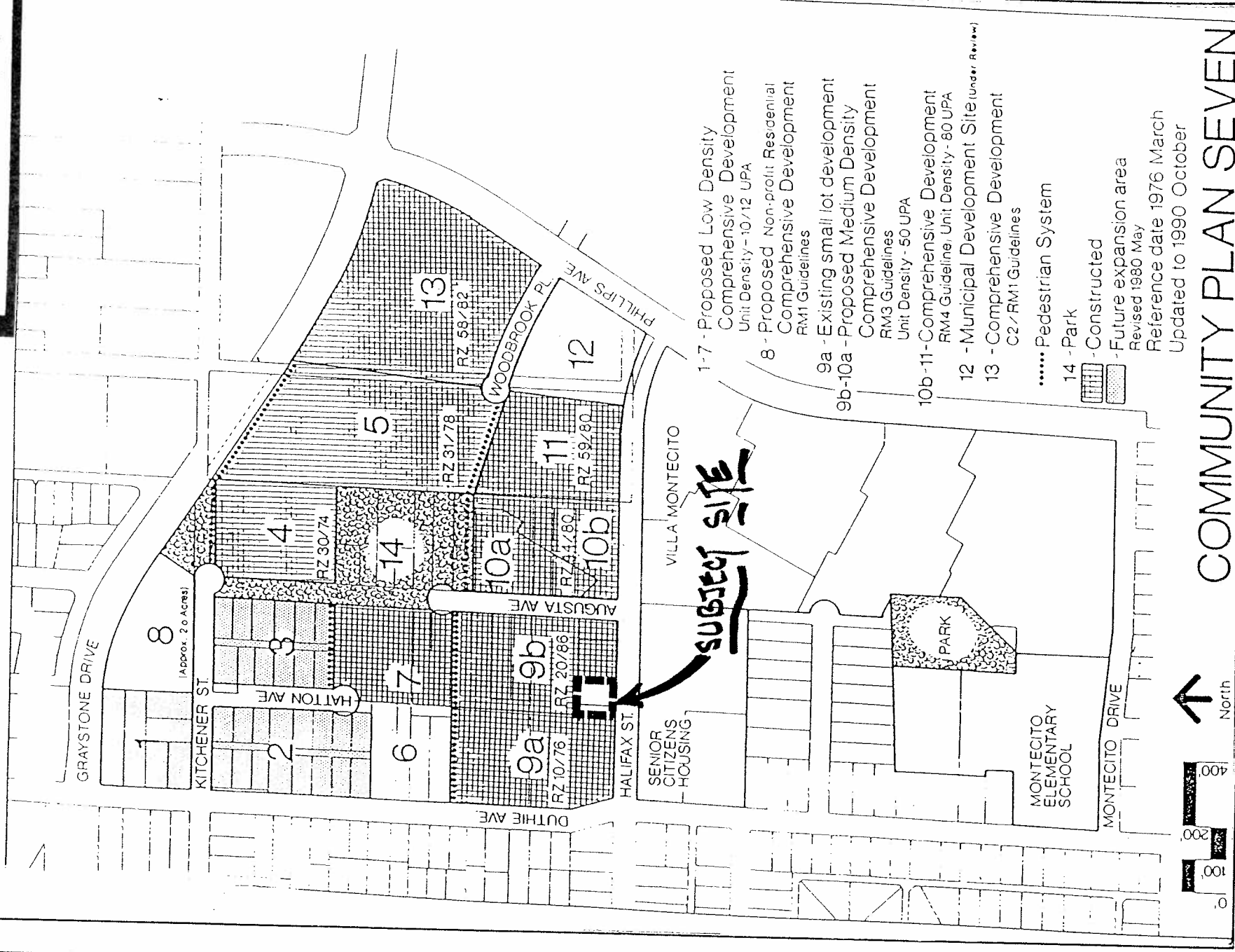
Burnaby, B.C.

Canada V5B 1S5

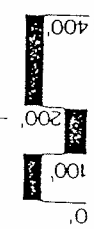
Fax: (604) 298-8788

Tel: (604) 298-8777

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 COUNCIL MEETING 92/01/20



COMMUNITY PLAN SEVEN



Date: July 1991

Scale: N.F.S.

Drawn By: J.P.C.

REZONING REFERENCE # 18/91

DAVID R. WAY LAW OFFICE
BARRISTER & SOLICITOR
NOTARY PUBLIC

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DAVID R. WAY
B. Comm., LL.B.

Telephone (604) 937-7791
Fax (604) 937-3340
Toll Free (Lower Mainland) 420-6641

Our File No. P 5,373
Your File No.

Corporation of the
District of Burnaby,
4949 Canada Way,
Burnaby, B.C.
V5G 1M2

January 3, 1992

Attention: A.L. Parr and R. Ringer,
Planning Department

Re: Padula, J. & A. - 7237 Halifax Street,
Burnaby, B.C. - Rezoning Reference #18/91

I am solicitor for Mr. and Mrs. Padula, and confirm that on November 28, 1991, the Registrar of Titles at New Westminster granted my clients' application for an Order cancelling road and lane portions surrounding their lands and consolidating the same with their property. Please refer to Mr. Devonshire in your legal department for particulars in this regard.

I refer to your letter of October 3, 1991 to Rennie & Associates, and the purpose of this letter is to advise of my clients' position in regard to the access issue, as follows:

1. On behalf of Padula, I have made claim against the Augustas Springs Complex for an easement to be provided in accordance with the registered covenant granted by the original developer in your favour;
2. The Augustas Springs owners are reluctant to agree to the easement, and in fact, the necessary resolution to approve the easement was not passed at their annual meeting in September 1991;
3. Their solicitor has advised that he considers the covenant to be unenforceable but has given no substantive reasons for his opinion. In turn, I have stated that, in my opinion, the covenant is enforceable;
4. My clients have reviewed this matter with their technical consultants, who have advised that replacing the intended access through Augustas Springs with direct access

Corporation of the
District of Burnaby

January 3, 1992

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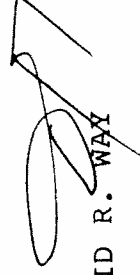
to Halifax would be acceptable providing certain conditions are met, namely:

- (a) that the site is rezoned under a designation which would allow the entire building to be moved to the east and not be restricted by any 20-foot side-yard restrictions (I understand this zoning would be "CD");
- (b) that minimum parking requirements be relaxed. In this regard, my client was intending to obtain three or four parking stalls in the Augustas Springs complex and therefore has designed the building to accommodate 17 stalls. I understand that 20 stalls would be required to meet normal zoning regulations. The designer has indicated that, at this stage, he is unaware as to whether more than 17 stalls could be incorporated in the building where access is to Halifax. A minimum of 17 stalls would be provided in any event, and more if space allowed depending on the accessing design;
- (c) generally, assuming CD zoning is granted, that RM guidelines would not be imposed so as to restrict my clients from developing the property in accordance with the above.

Subject to the above conditions being met, my clients have no objection to access to Halifax, and in fact, would fully support any decision by you in this regard. This would obviously alleviate the necessity to pursue my clients' claim against Augustas Springs for access purposes, and which would enable you to release your registered covenant as it now applies against Augustas Springs.

I trust the above outlines my clients' position sufficiently for your purposes, and if you require further particulars, please advise.

Yours truly,



DAVID R. WAX

DRW/cb

F

pc: Mr. and Mrs. J. Padula
W. Koper
V. Stusiak