

ITEM	8
MANAGER'S REPORT NO.	46
COUNCIL MEETING	92/06/29

TO: ACTING MUNICIPAL MANAGER 1992 JUNE 22

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: CONSIDERATION OF FURTHER REQUESTS TO AMEND
RESTRICTIVE COVENANTS ON R "a" ZONED PROPERTIES

PURPOSE: To recommend a standard procedure to be utilized for
Council to consider requests to amend restrictive covenants
on properties zoned R "a" Residential District.

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RECOMMENDATION:

- 1) THAT Council approve the procedure outlined in Section 2.3 of this report to be utilized for Council to consider future requests to amend restrictive covenants on properties zoned R "a" Residential District.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 On 1991 May 27, Council received a report from the Director Planning and Building regarding a request from the owner of the property at 6719 Brantford Avenue to amend the restrictive covenant which limits the development of the property to that presented on a plan of development previously approved in connection with the rezoning of the property to the R9a Residential District.

The report stated that in consideration of the subject request to amend the registered covenant, a separate request for amendment to the restrictive covenant for the property at 7437 Burris Street, and concerns noted in the report regarding consideration of such changes, it appeared necessary to assess the overall effects of amendments to these restrictive covenants and how such requests should be processed.

(For information, Council subsequently rejected the request involving 6719 Brantford Avenue, and approved the request involving 7437 Burris Street following an extensive public consultation process, including the holding of a Public Meeting.)

This report discusses the policy implications of Council considering such requests in the future, and recommends a standard process to be utilized.

2.0 GENERAL DISCUSSION:

2.1 The restrictive covenants registered on R "a" Residential District zoned properties in accordance with Section 215 of the Land Title Act limits the development of the property to that which is presented to a Public Hearing in connection with an application to rezone to the pertinent R "a" zoning category, and consequently approved as the suitable plan of development as a prerequisite condition in the rezoning process. The restrictive covenant for the property is prepared after staff have examined the plans in detail and determined that the proposed single-family dwelling would be compatible with the surrounding neighbourhood, through utilizing the Council-adopted R "a" District design guidelines and a site specific analysis, a Public Hearing has been held in order for the adjacent residents to be given an opportunity to provide public input on the proposed rezoning and Council has given the rezoning amendment bylaw Second Reading.

The Municipality enters into the restrictive 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. The registration of the restrictive covenant prevents applicants from later seeking and receiving a Building Permit for a dwelling which differs from that accepted by Council following the public input process, and which could be incompatible with the surrounding neighbourhood. In light of the importance of the consideration given to the plan of development for the rezoning, it is essential that the Municipality stress the seriousness of the registered restrictive covenants and the importance of applicants presenting their final development plans for consideration and possible advancement to a Public Hearing.

2.2 The Planning and Building Department does not issue a Building Permit for a dwelling in an R "a" District with a restrictive covenant registered against the property if the Building Permit proposal differs from the plan submitted and approved in connection with the pertinent rezoning application through:

- 1) altering the gross floor area permitted on the site;
- 2) changing the overall building bulk of the improvements on the site; or
- 3) altering the impact any improvements on the site would have on the adjacent properties through changes to the structures or their siting.

2.3 In consideration of the reliance placed on the covenants to ensure that the development conforms to that presented to Council and the public, it is recommended that any requests to alter restrictive covenants that present the changes noted in Section 2.2 above be processed in a manner similar to rezoning applications in terms of Council consideration and the collection of fees. In particular, the recommended procedure for staff and Council consideration of requests for amendments to restrictive covenants on R "a" District zoned properties is:

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1) The applicant submits a complete set of development plans showing the proposed development changes for the site with a letter explaining the proposed alterations. An application fee of \$850.00 (equivalent to the basic fee to cover the cost of processing minor rezoning applications) is also submitted with the letter and development plans.

The letter and development plans should be submitted prior to one of the regular rezoning application deadlines.

2) Staff will conduct a site visit and examine the development plans in detail, utilizing the Council-adopted R "a" District design guidelines and assessing the proposal on a site specific basis. A Council report would then be submitted in conjunction with the regularly-scheduled series of rezoning reports.

Based on staff's conclusions of the preceding assessment, the report would recommend that:

- a) Council not amend the registered restrictive covenant; or
- b) The requested amendment of the restrictive covenant be considered at a Public Meeting, to be held in conjunction with a regularly-scheduled Public Hearing and that consideration of the amendment be tabled until after the Public Meeting; or
- c) Staff be authorized to work with the applicant towards a suitable plan of development for presentation to a Public Meeting.

3) a) If Council concludes it would not be appropriate to amend the restrictive covenant, the applicant would receive a \$500.00 application fee refund (representing the advertising costs for the Public Meeting).

b) If Council advances consideration of the amendment of the restrictive covenant to a Public Meeting, public notification will be pursued in a manner identical to that required for Public Hearings, with the Municipality to arrange for the required newspaper ads and notification letters to adjacent owners and occupants and the applicant to arrange for the installation of a Public Meeting sign on the subject property.

The required Public Meeting on the amendment to the restrictive covenant would be held immediately after a regularly-scheduled Public Hearing and all public input would be considered.

c) If staff is authorized to work with the applicant towards the suitable plan of development, this Department will work with the applicant towards a plan of development which is compatible with the surrounding neighbourhood and submit a further report to Council when the plan of development has been submitted.

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4) The requested amendment of the restrictive covenant would then appear on the agenda of the next regularly-scheduled Council meeting as a Tabled item. Council could then by motion approve or reject the amendment to the restrictive covenant.

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5) If Council approves the amendment to the restrictive covenant, the Municipal Solicitor would then be requested to prepare a new restrictive covenant based on the new plan of development reflecting the approved alteration. Once the owner has executed all the pertinent documents and paid all the necessary document preparation and registration fees, the new restrictive covenant would be registered at the Land Title Office.

6) Once the restrictive covenant is registered, the Building Division would be in a position to issue an amended building permit reflecting the proposed development alteration and the new restrictive covenant.

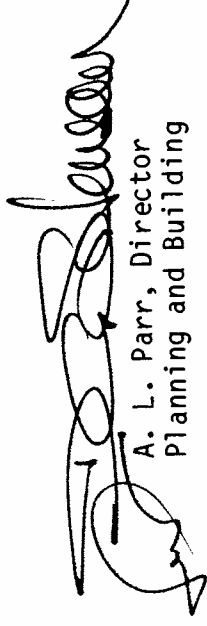
3.0 CONCLUSION:

3.1 In consideration of the importance of the process utilized to determine a suitable plan of development for R "a" District zoned properties, the importance of protecting the integrity of registered restrictive covenants and the staff and Council time necessary to consider proposed amendments to restrictive covenants, the above process is recommended to be utilized in order for Council to consider amendments to restrictive covenants on R "a" District zoned properties.

ALP

BW:cr

c.c. Municipal Solicitor
Municipal Clerk
Chief Building Inspector


A. L. Parr, Director
Planning and Building