

SUPPLEMENTARY

1996 November 21

TO: CITY MANAGER

FROM: DIRECTOR PLANNING & BUILDING

SUBJECT: 4205 ALBERT STREET -
SECTION 215 COVENANT TO RESTRICT SUBDIVISION

PURPOSE: To inform Council of the status of a property at 4205 Albert St. in response to a letter submitted by the property owner which appears elsewhere on this agenda.

RECOMMENDATION:

1. **THAT** a copy of this report be sent to:

Mr. John Juginovic
5448 Tye Court
Burnaby, B.C. V5B 2J1

REPORT

BACKGROUND:

The subject property which has a width of 20.12 m (66 ft.) and an area of 748 sq. m. (8051 sq. ft.) is located within the Hastings Street Community Plan (see **attachment**). Under the Community Plan, the block in which the subject property is located will retain the prevailing R5 zoning. The block front, in which the lot is located, contains 12 small lots (80% of the lots in the block front) therefore the subject property qualifies for small lot subdivision. As such, the assessed value, as determined by the Court of Revision, reflects this potential. And, while Mr. Juginovic has owned the property for approximately 10-1/2 years, he does not qualify under Section 26(4) of the Assessment Act for assessment relief as the property has not been used as his principal place of residence for a continuous 10 year period.

CURRENT SITUATION:

Earlier this year, Mr. Juginovic appealed the assessed value of the property to the Assessment Appeal Board but was unsuccessful in his attempt to have the assessed value reduced.

The essence of Mr. Juginovic's appeal, as set out in the Appeal Board's decision dated October 03, is that he does not have any plans to subdivide the property and therefore the lot should not be assessed as if it had subdivision potential. It was his opinion that the value of the property as determined by the Court of Revision (\$436,000 for land and improvements) was incorrect, and that the land should be assessed in the range of \$315,800 to \$376,300. The Board did not agree and confirmed the Court of Revision's values.

Subsequently, Mr. Juginovic has requested that Burnaby enter into a Section 215 covenant to restrict the potential for subdivision in order to reduce the value of his land.

Section 215 of the Land Title Act enables the City to enter into, for example as a condition of certain development approvals, an agreement in the form of a covenant registered on the title of a property in respect of the use of land or a building, future building on or subdivision of a parcel of land, or certain conditions with respect to sale or transfer of the land, However, there is no reason, in this case, for the City to require such a covenant.

Staff have explained to Mr. Juginovic the options that are available to the owner of the property under its present zoning (to retain the present single-family dwelling use, to rebuild with a single-family or two-family dwelling or to subdivide into two small single-family lots), and that registration of a covenant as he suggests, solely for the purpose of reducing the property's value, would not reflect the intent of the present zoning or further the public interest. Also the registration of such a covenant for the purpose desired by Mr. Juginovic, could be construed to be an indirect contravention of Section 291 of the Municipal Act which prohibits Council from granting a person certain particular privileges, including exemption from a tax.

If Mr. Juginovic wishes to change the situation for his lot specifically, he is entitled to seek rezoning to a category (R2, R3) that would restrict the property's use to single-family. Staff have offered to provide him with information on how to submit an application for rezoning if he chooses to pursue this course of action.

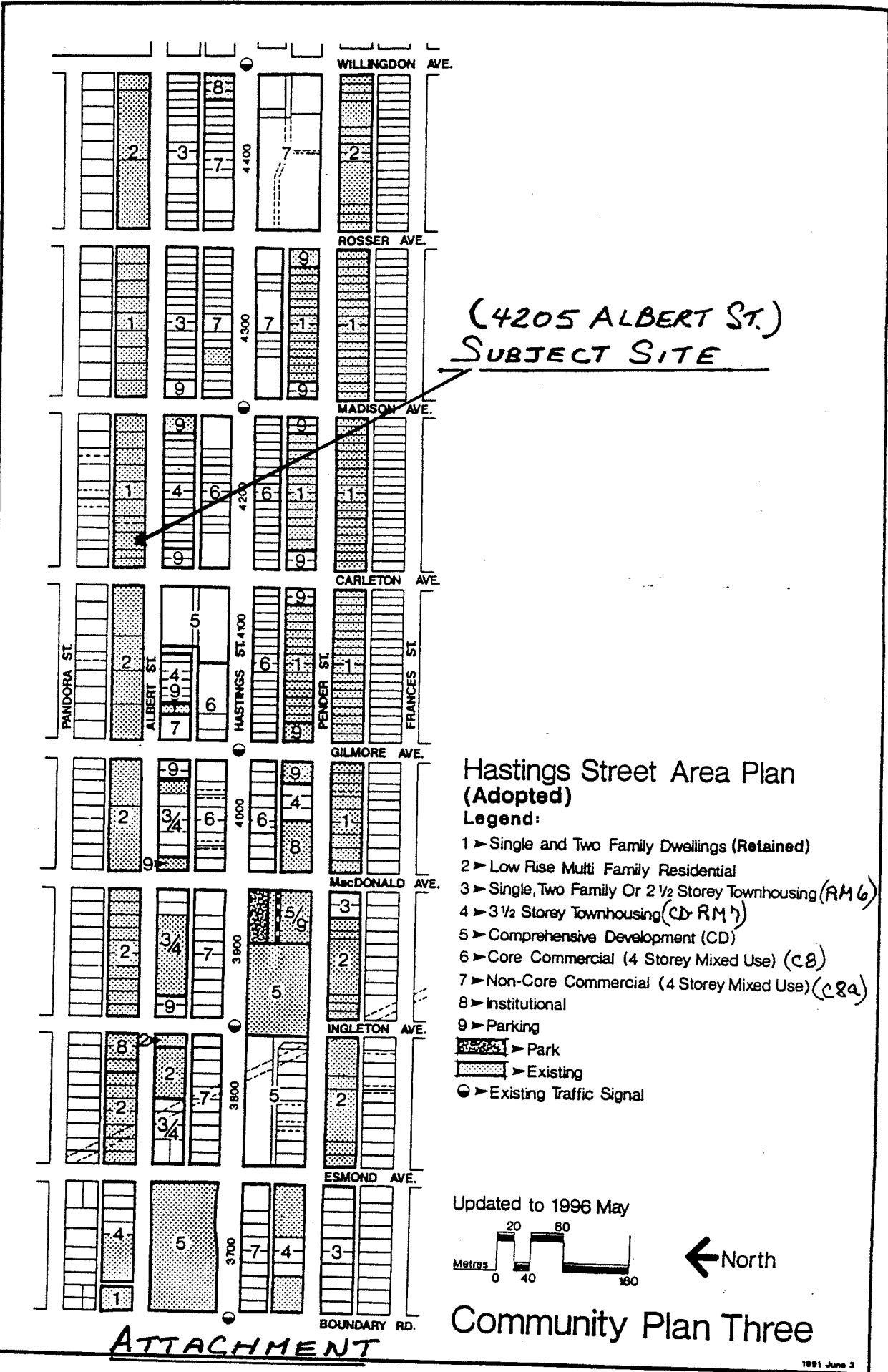
This is for the information of Council.



D.G. STENSON,
Director Planning & Building

AD:hr
Att.

cc: City Solicitor
Director Finance



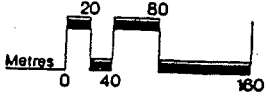
(4205 ALBERT ST.)
SUBJECT SITE

Hastings Street Area Plan (Adopted)

Legend:

- 1 ▶ Single and Two Family Dwellings (Retained)
- 2 ▶ Low Rise Multi Family Residential
- 3 ▶ Single, Two Family Or 2 1/2 Storey Townhousing (RM6)
- 4 ▶ 3 1/2 Storey Townhousing (CD R M N)
- 5 ▶ Comprehensive Development (CD)
- 6 ▶ Core Commercial (4 Storey Mixed Use) (CB)
- 7 ▶ Non-Core Commercial (4 Storey Mixed Use) (C2a)
- 8 ▶ Institutional
- 9 ▶ Parking
- ▶ Park
- ▶ Existing
- ▶ Existing Traffic Signal

Updated to 1996 May



Community Plan Three

ATTACHMENT

