

4. **Committee of the Whole – January 12, 2017**

9. **Development Permit with Variance No. 00019 for 1040 Alston Street (Vic West)**

Motion:

It was moved by Councillor Coleman, seconded by Councillor Alto, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00019 for 1040 Alston Street, in accordance with:

1. Plans date stamped December 20, 2016.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the rear yard setback from 6.00m to 3.18m (to deck stairs);
3. The Development Permit lapsing two years from the date of this resolution."

Carried Unanimously

3.7 Development Permit with Variances No. 00019 for 1040 Alston Street (Vic West)

Committee received a report dated December 30, 2016, from the Director of Sustainable Planning and Community Development, providing information and recommendations regarding a Development Permit with Variances Application to extend a rear deck and to allow for previous alterations that were completed without permit at the property located at 1040 Alston Street.

Motion: It was moved by Councillor Alto, seconded by Councillor Coleman, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00019 for 1040 Alston Street, in accordance with:

1. Plans date stamped December 20, 2016.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the rear yard setback from 6.00m to 3.18m (to deck stairs);
3. The Development Permit lapsing two years from the date of this resolution.

CARRIED UNANIMOUSLY 16/COTW



Committee of the Whole Report

For the Meeting of January 12, 2016

To: Committee of the Whole **Date:** December 30, 2016

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Development Permit with Variance Application No. 00019 for 1040 Alston Street

RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00019 for 1040 Alston Street, in accordance with:

1. Plans date stamped December 20, 2016.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the rear yard setback from 6.00m to 3.18m (to deck stairs);
3. The Development Permit lapsing two years from the date of this resolution.

LEGISLATIVE AUTHORITY

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Community Plan*. A Development Permit may vary or supplement the *Zoning Regulation Bylaw* but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variance Application for the property located at 1040 Alston Street. The proposal is to extend a rear deck and to allow for previous alterations that were completed without permits. The variance is related to reducing the rear yard setback.

The following points were considered in assessing this application:

- the proposal is consistent with the objectives of Development Permit Area 15A: Intensive Residential – Small Lot of the *Official Community Plan (OCP) 2012*
- the proposal is consistent with the *Small Lot House Design Guidelines 2002*
- the applicant has registered a Clean Hands Covenant on title to address the alterations that have been made to the building without the required permits
- the proposed variance relates to the illegal construction of rear yard exterior stairs and is required to facilitate the retention of these stairs. The extension of the rear deck is the only new construction proposed with this application.

BACKGROUND

Description of Proposal

The proposal is to extend a rear deck and to allow for previous alterations that were completed without permits to be retained. Specific details include:

- a variance was granted on July 12, 2001 reducing the rear yard setback from 6.00m to 4.70m to accommodate a deck, which is now being proposed to be expanded slightly, but not within the rear yard setback
- wood stairs and landing to access the rear yard have been added to the deck without permits and will be legalized with this development permit and subsequent building permit
- there are no proposed changes to the exterior of the building other than the replacement and minor extension of the rear yard deck.

The proposed variances are related to reducing the rear yard setback from 6.00m to 3.18m (to accommodate existing stairs)

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation Impacts

The applicant has not identified any active transportation impacts associated with this application.

Public Realm Improvements

No public realm improvements are proposed in association with this Development Permit Application.

Existing Site Development and Development Potential

The site is presently a small lot single-family dwelling.

Data Table

The following data table compares the proposal with the existing R1-S2 Zone, Restricted Small Lot (Two Storey) District. An asterisk is used to identify where the proposal is less stringent than the existing zone. A double asterisk is used to identify existing legal non-conformities.

Zoning Criteria	Proposal	Zone Standard R1-S2
Site area (m ²) - minimum	271.66	260.00
Lot width (m) - minimum	13.07	10.00
Site coverage % - maximum	35.60	40.00
Setbacks (m) - minimum		
Front	6.00	6.00
Rear	3.18* (to deck stairs) 4.78** (to deck)	6.00
Side (north)	1.50	1.50
Side (south)	1.50 (to cantilever), 2.02 (to deck)	1.50
Parking - minimum	1	1

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on December 29, 2016 the application was referred for a 30-day comment period to the Victoria West CALUC. At the time of writing this report a letter from the CALUC had not been received.

This Application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 15A: Intensive Residential – Small Lot, which encourages infill development that is compatible with the surrounding neighbourhood. The proposal will have no impact on the existing streetscape character and will not adversely impact adjacent properties. The *Small Lot House Design Guidelines* encourage the use of landscaping to increase the visual separation between residences. Existing mature landscaping along the perimeter of the subject property ensures the proposed deck expansion and existing stairs do not negatively impact the adjacent properties' privacy.

Other Considerations

Clean Hands Policy Compliance

The Clean Hands Policy for Planning Approvals is in place to deal with situations on properties where there is a development application which requires Council's approval and where there is evidence of illegal construction. In this case, exterior stairs were added to the rear deck of the house without permits. The applicant has registered a Clean Hands Covenant on title to address the illegal construction pending the outcome of this Development Permit with Variance Application.

CONCLUSIONS

This proposal to extend the rear yard deck and reduce the rear yard setback is consistent with Development Permit 15A: Intensive Residential – Small Lot. The proposed variance will not have a substantial impact on the adjacent properties. Staff recommend that Council consider supporting this application.

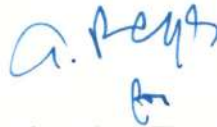
ALTERNATE MOTION

That Council decline Development Permit with Variance Application No. 00019 for the property located at 1040 Alston Street.

Respectfully submitted,



Alec Johnston
Planner
Development Services Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

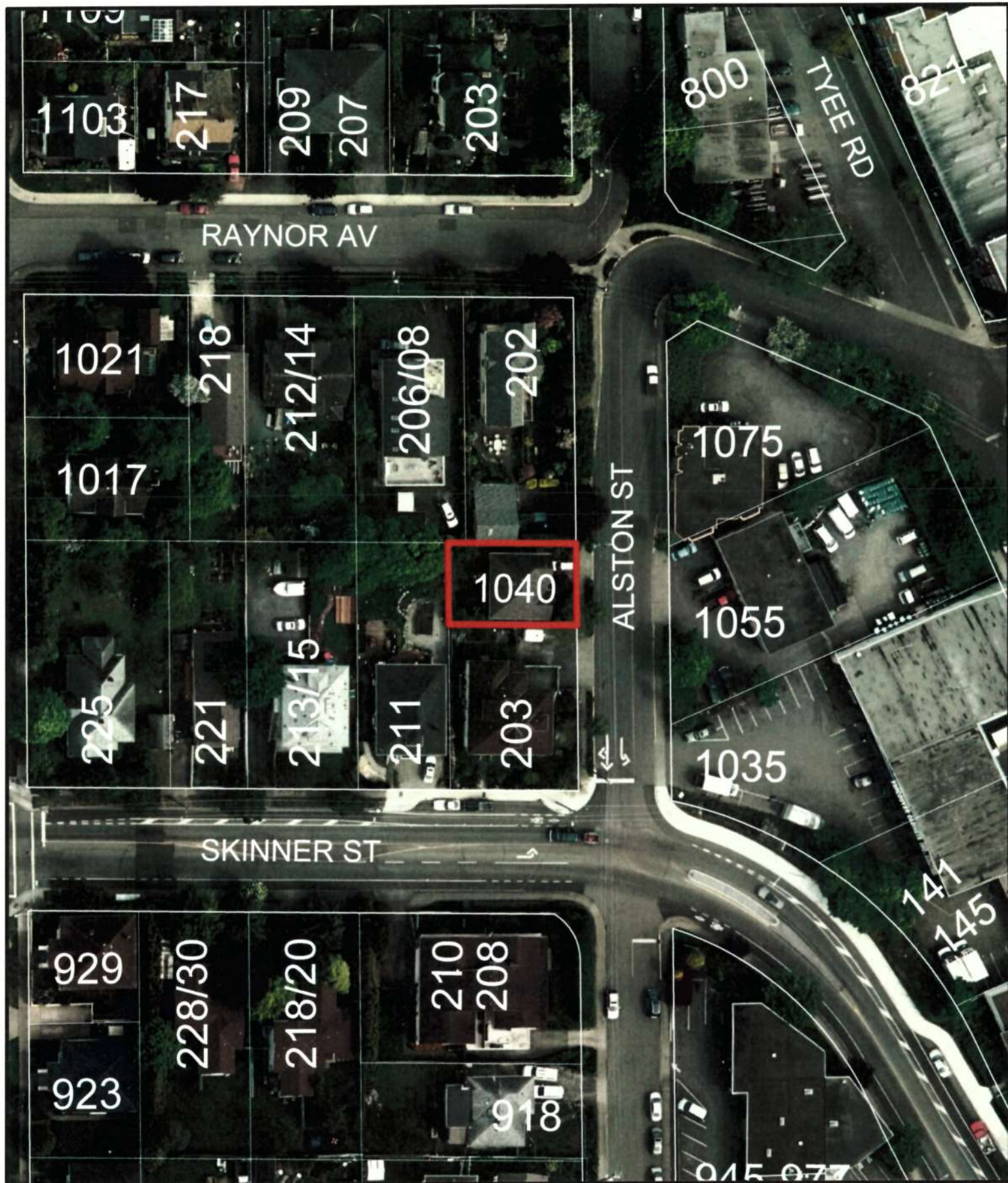


Date:

January 4, 2016

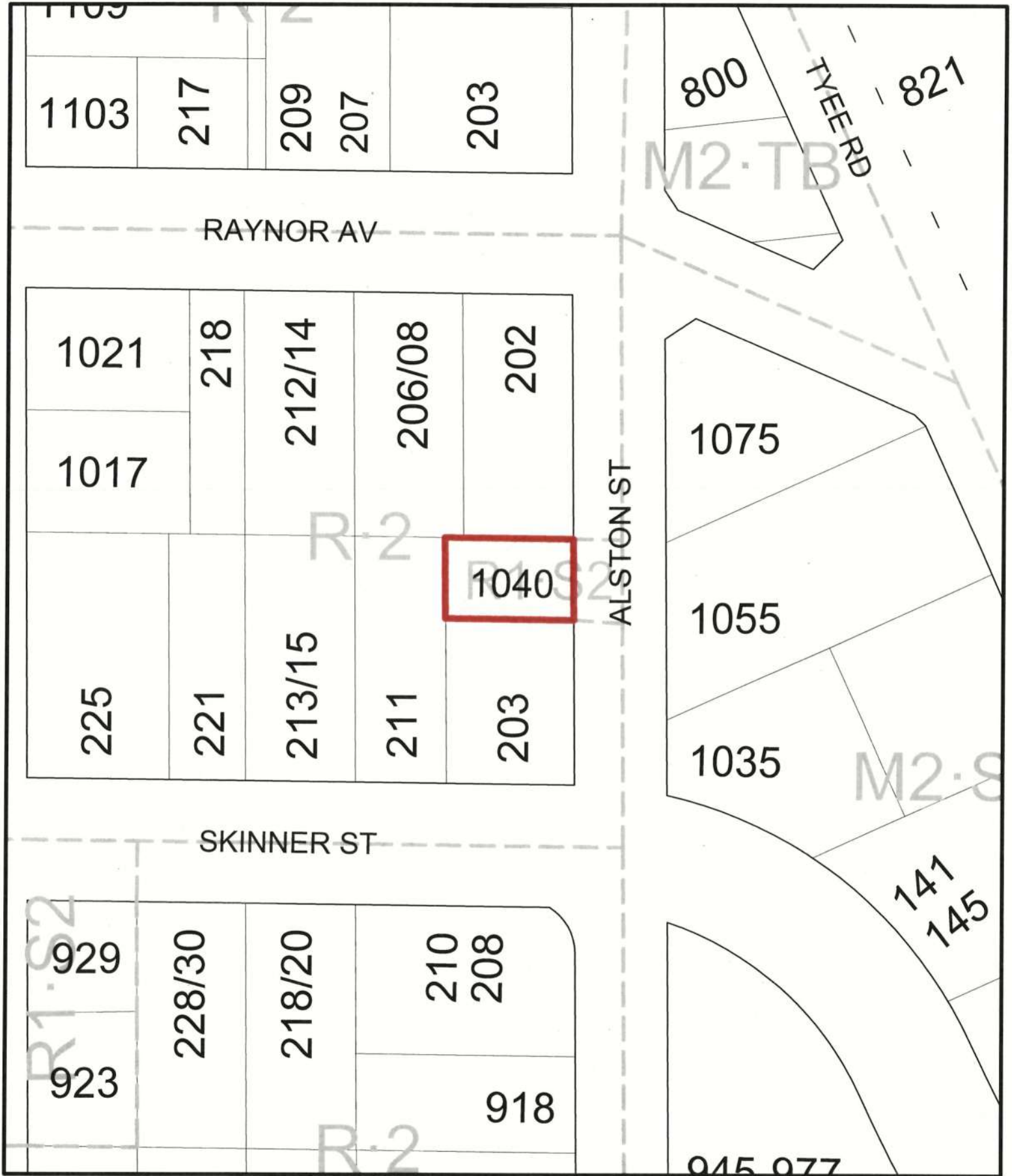
List of Attachments

- Aerial Map
- Zoning Map
- Applicant's letter to Mayor and Council dated November 8, 2016
- Neighbourhood Correspondence
- Site Plan date stamped December 21, 2016



1040 Alston Street
Development Permit with Variance #00019





RAYNOR AV

ALSTON ST

SKINNER ST



1040 Alston Street
Development Permit with Variance #00019



City of Victoria
1 Centennial Square
Victoria, BC, V8W 1P6

November 8, 2016

To: Mayor and Council

Re: Clarification of Recital C in Restrictive Covenant on 1040 Alston Street

I have signed and registered a restrictive covenant on my property as required by City Planners. Recital C states I constructed unlawful improvements (a staircase) without obtaining a development permit, but that does not accurately reflect the situation.

In 2002 I purchased the property at 1040 Alston Street. When I bought this house, a staircase was attached to the rear balcony/deck. This is confirmed in a physical inspection report.

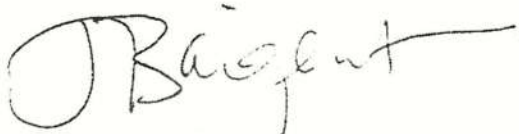
The house was new and the builder signed a Property Disclosure Statement that a final building inspection had been approved, final occupancy permit obtained and that no additions or alterations had been made without a required permit.

Since buying the house I have modified the existing stairs by changing the direction of the lower half of the staircase to better access the garden. I did this in good faith, assuming there were no outstanding issues.

Last year it became evident that the balcony/deck joists were rotting because of poor construction and no water guarding. It was during a conversation with City Planners about my application for a minor development permit to replace those joists, that I learned the City had no record of a permit for the staircase. (The balcony/deck is legal non-conforming.)

In summary, to clarify the information in Recital C, I did not create this situation, I inherited it, and I am now trying to correct it.

Jane Baigent



1040 Alston Street
Victoria, BC
V9A 7P6

25 September 2016

LETTER OF SUPPORT

Re: 1040 Alston Street

To the Planning Department of the City of Victoria,
And to Mayor and Council.

Please accept this letter as support of the proposed construction and repair of the back deck/stairway at 1040 Alston Street.

We own the property west of (to the rear of) 1040 Alston Street. We understand Jane is applying to the City for permits necessary to repair the deck in her back garden. We understand the existing staircase and the two new supporting posts for the existing deck would be in the rear setback of her property. There are trees, landscaping, and a fence between our properties, which obscure the deck and staircase. We have no objections to this project.

I can be reached directly at [REDACTED] for any additional information.

Sincerely,

Megan Parrish
Homeowner
211 Skinner Street
Victoria, BC
V9A 3B2

To the Planning Department of the City of Victoria,
and to Mayor and Council.

We own the property north of 1040 Alston Street. We understand Jane Baigent is applying to the City for permits necessary to repair the deck in the back garden of her property. We understand the existing staircase and the two new supporting posts for the existing deck would be in the rear setback of the property. There are trees, landscaping, and a workshop between our properties which obscure most of the deck and staircase. We have no objections to this project.

Signed. Lars Forss Rosemary Mueller

Date: 2016 09 26

September 26, 2016

To the Planning Department of the City of Victoria,
and to Mayor and Council:

We own the property south of 1040 Alston Street. We understand Jane is applying to the City for permits necessary to repair the rear deck. We understand the existing staircase and the two new supporting posts for the existing deck would be in the rear setback of the property. There are trees, landscaping and a fence between our properties which obscure the deck and staircase. We have no concerns with the existing structure or any objections to this project.

Sincerely,

Maggie and Jessica Cross


September 30, 2016

To the Planning Department of the City of Victoria,
and to Mayor and Council:

We own the property northwest of 1040 Alston Street.

We understand Jane Baigent is applying to the City for permits necessary to repair the deck in the back garden of her property. We understand the existing staircase and the two new supporting posts for the existing deck would be in the rear setback of her property. In regards to the sight-lines, there are trees, landscaping, and a neighbour's workshop which obscure our view of the deck and staircase.

We have no objections to this project.

Sincerely,



Chris and Margaret Emslie
208 Raynor Ave
Victoria, BC
V9A3A2




To the Permits and Inspections Department,
and to the Mayor and City Council of Victoria BC.

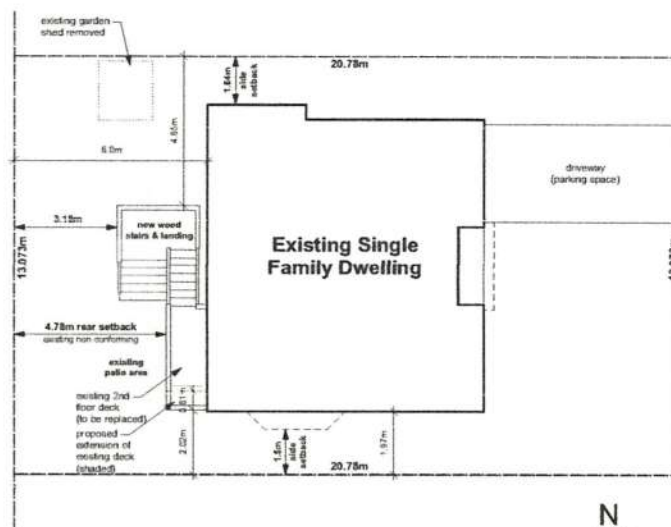
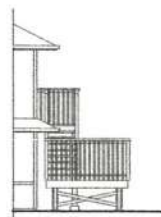
We own the property at 206 Raynor Ave. Jane Baigent of 1040 Alston Street has informed us that she is applying to the City for permits necessary to repair the deck in her back yard, and that the existing staircase and the two new supporting posts for the existing deck would be in the rear setback of the property. The area being worked on is not visible from our property, but regardless of whether it would be visible, we have no objections to this project.

Signed: F Kohler

Dated: September 26, 2016

for Julie Dery and Fred Kohler
206 Raynor Ave
Victoria, BC V9A 3A2


DEC 20 2016



1 Site Plan
1:100



2	Dec 16/16	Revised/re-issued for DVP appl.
1	Oct 04/16	Issued for DVP application

REVISIONS

821 Intervale Avenue
Victoria, B. C. V9A 6K7

Phone: 384-9031 Fax: 384-9036
Email: heelsdesigns@shaw.ca

LEGAL

Lot A, Section 31,
Esquimaux District, Plan VWP 72542

OWNERS

Jane Baigent
1040 Alston Street
Victoria, B. C. V8A 7P8
phone: (250) 582-6979
email: janebaigent@gmail.com

ZONING & USAGE

R1-S2
Restricted Small Lot (Two-Storey) District
No change to single family usage

■ LOT SIZE

271.00 sq m (2,924 sq ft)

SITE COVERAGE

maximum permitted - 40.0% (106.7 sq m)
proposed coverage - 34.5% (93.7 sq m)

PROJECT

Baigent Residence

1040 Alston Street
Victoria, B. C.

Proposed Rear Deck Repair

SHEET TITLE

Site Plan, Project Data, Floor Plans & Elevations

PROJECT NO: 2016-14

DWG. SCALE: as noted

ISSUE DATE: Dec. 16, 2016

DWG. NO.

A1

1 of 1