



PLANNING AND DEVELOPMENT COMMITTEE A G E N D A

Tuesday, May 26, 2020, 1:00 p.m.
Council Chamber, City Hall
4949 Canada Way, Burnaby, BC

	Pages
1. <u>CALL TO ORDER</u>	
2. <u>MINUTES</u>	
2.1 Minutes of the Planning and Development Committee Open meeting held on 2020 April 20.	3
3. <u>CORRESPONDENCE</u>	
3.1 Memorandum from Deputy City Clerk - Re: Pattullo Bridge Replacement	6
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4.4 Report from the Director of Planning and Building Re: Proposed Zoning Bylaw and Building Bylaw Amendments - Fences and Retaining Walls	50
5. <u>NEW BUSINESS</u>	

6. INQUIRIES

7. CLOSED

Public excluded according to Sections 90 and 92 of the Community Charter to consider negotiations and related discussions respecting the proposed provision of a municipal service(s) that are at the preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

8. ADJOURNMENT



PLANNING AND DEVELOPMENT COMMITTEE M I N U T E S

**Monday, April 20, 2020, 2:30 p.m.
Council Chamber, City Hall
4949 Canada Way, Burnaby, BC**

PRESENT: Councillor Pietro Calendino, Chair
Councillor Sav Dhaliwal, Vice Chair
Councillor Joe Keithley, Member
Councillor Paul McDonell, Member (*participated electronically*)
Councillor James Wang, Member
His Worship, Mayor Mike Hurley

Mr. Ed Kozak, Director Planning & Building
Mr. Johannes Schumann, Assistant Director Planning & Building
Ms. Kate O'Connell, City Clerk
Ms. Eva Prior, Administrative Officer

1. **CALL TO ORDER**

The Chair called the Open Committee meeting to order at 2:34 p.m. The City Clerk concluded the roll call. Due to the COVID-19 pandemic, all members participated in person with the exception of Councillor Paul McDonell, who participated by electronic means.

For the benefit of the member who participated electronically, the City Clerk reviewed the staff present at the meeting.

The Chair, Councillor Pietro Calendino, recognized the ancestral and unceded homelands of the hən̓q̓əmin̓əm̓ and Skwxwú7mesh speaking peoples, and extended appreciation for the opportunity to hold a meeting on this shared territory.

2. **MINUTES**

2.1 **Minutes of the Planning and Development Committee Open meeting held on 2020 February 25.**

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the minutes of the Planning and Development Committee meeting held on 2020 February 25 be now adopted.

CARRIED UNANIMOUSLY

2.2 **Minutes of the Planning and Development Committee Open meeting held on 2020 April 14.**

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the minutes of the Planning and Development Committee meeting held on 2020 April 14 be now adopted.

CARRIED UNANIMOUSLY

3. **NEW BUSINESS**

There were no items of new business brought before the Committee at this time.

4. **INQUIRIES**

There were no inquiries brought before the Committee at this time.

5. **CLOSED**

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the Committee, in accordance with Sections 90 and 92 of the Community Charter, do now resolve itself into a Closed meeting from which the public is excluded to consider negotiations and related discussions respecting the proposed provision of a municipal service(s) that are at the preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

CARRIED UNANIMOUSLY

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the Open Committee meeting do now recess at 2:45 p.m.

CARRIED UNANIMOUSLY

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the Open Committee meeting do now reconvene at 3:50 p.m.

CARRIED UNANIMOUSLY

6. **ADJOURNMENT**

MOVED BY COUNCILLOR KEITHLEY
SECONDED BY COUNCILLOR WANG

THAT the Planning and Development Committee meeting do now adjourn at 3:50 p.m.

CARRIED UNANIMOUSLY

CHAIR

ADMINISTRATIVE OFFICER



Office of the City Clerk

K. O'Connell, City Clerk
B. Zeinabova, Deputy City Clerk

INTER-OFFICE MEMORANDUM

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 2020 FEBRUARY 26

FROM: DEPUTY CITY CLERK


FILE: 02410-20

SUBJECT: PATTULLO BRIDGE REPLACEMENT
NEW BUSINESS, COUNCIL MEETING 2020 FEBRUARY 24

Under the New Business portion of the 2020 February 24 Council meeting, Councillor Dhaliwal referred to Item A) of the Council Correspondence package received up to 2020 February 20 from Nathan Davidowicz regarding traffic concerns due to a new Pattullo Bridge, and supporting a connector between McBride Boulevard and Highway 1. Councillor Dhaliwal requested further review of the Burnaby Transportation Plan.

Arising from discussion, Council adopted the following motion:

THAT this item of correspondence be **REFERRED** to the Planning and Development Committee



Blanka Zeinabova
Deputy City Clerk

BZ:rj

Copied to: Director Planning and Building

Our Vision: A world-class city committed to creating and sustaining the best quality of life for our entire community.

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Please circulate to Mayor and Councillors.

Thank You
Nathan Davidowicz

Note from Dir. Planning and Building:

The Province (Ministry of Transportation and Infrastructure) is replacing the 82-year-old Pattullo Bridge with a new bridge of the same capacity (four lanes). The Stormont-McBride Connector was included in City plans since 1973, but was not executed by the Province at the time of the Highway 1 expansion, as it was deemed not to be a priority. The current draft Transportation Plan does not include the Stormont-McBride Connector.

----- Forwarded message -----

From: **Nathan Davidowicz** <nathan.davidowicz@burnaby.ca>
Date: Mon, Feb 10, 2020, 6:02 PM
Subject: New Pattullo Bridge
To: Chris Campbell Bby Now <ccampbell@burnabynow.com>
Cc: Nathan Davidowicz <nathan.davidowicz@burnaby.ca>, <dgodfrey@burnabynow.com>

I attended the announcement today.
Not a single person from Burnaby. No Mayor/Cllrs
No M.L.A.s(M.P.s are all in Ottawa)

Someone made a mistake at the Ministry (MOTI) the prov staff dont understand how important that Bridge for Burnaby.

Both Burnaby and NW will suffer from additional traffic from the new wider bridge where each lane of traffic can carry about 30% more traffic per hour than the old Bridge (approx. 900 vs 1200 vehicles per lane per hour)

The only solution is what was proposed when Hwy 1 was constructed. A direct connector/ link from Hwy 1 to the New Pattullo Bridge from the Cariboo/ storemont interchange via tunnel/road to McBride Blvd than over the Bridge.

Both Mayors Hurley and Cote support the connector (it be somewhat similar to the Cassiar connector that was built in the 1990s connecting to 2nd Narrows/Ironworkers Bridge)

How long do we have to wait for the connector?

Yours Truly
Nathan Davidowicz

Copied to:
City Manager
Dir. Corporate Services
Dir. Planning and Building
Dir. Engineering

Planning and Development Committee
2020 March 24
Correspondence

From: Nathan Davidowicz [REDACTED]
Sent: Tuesday, March 17, 2020 11:03 AM
To: Clerks <Clerks@burnaby.ca>
Subject: Pages 6 and 9 report on New Burnaby Transportation Plan phase 2

Dear Clerk;
 Could you please give my comments to P&D Cttee

Page 6

6.1 2. Mode Split 3. ZE

These targets depends on prov targets thru CleanBC.

I know that other cities have better targets.

One way is to move all targets by at least five years so they are 2025 2035 2045. But if we move very fast we might be able to combine both the 2040 and 2050 dates into a single date of 2035 or 2037.

Page 9

19. Work with TransLink ...

Comments; TransLink does not do everything and best to omit the name or Change to read " Prov Govt/TransLink/Metro Vancouver Regional District/adjacent cities"
 same comment for no.24

Yours truly
 Nathan Davidowicz
 [REDACTED]



Item
Meeting 2020 May 26

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 May 20

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Non-Medical Cannabis

SUBJECT: GOVERNMENT CANNABIS STORE GUIDELINES

PURPOSE: To recommend guidelines regarding the location of government cannabis stores.

RECOMMENDATIONS:

1. **THAT** the Committee recommend Council adopt the proposed guidelines for government cannabis stores, as discussed in Section 4.0 of this report.
2. **THAT** a copy of this report be forwarded to Mark Long and Rory Mandryk, the respective applicants for Rezoning References #19-16 and #19-17, BC Liquor Distribution Branch, 3383 Gilmore Way, Burnaby, BC V5G 4S1.

REPORT

1.0 INTRODUCTION

The purpose of this report is to provide information on cannabis retail sales in British Columbia and to recommend guidelines for assessing rezoning applications for government cannabis stores on a case-by-case basis. If adopted, these guidelines will help ensure the appropriate location, size, and operation of government cannabis stores in Burnaby's four Town Centres.

2.0 POLICY

The subject approach aligns with the following goals and sub-goals of the Corporate Strategic Plan:

A Connected Community

- Partnership - Work collaboratively with businesses, educational institutions, associations, other communities, and governments.

An Inclusive Community

- Create a sense of community - Provide opportunities that encourage and welcome all community members and create a sense of belonging.

A Dynamic Community

- Economic opportunity - Foster an environment that attracts new and supports existing jobs, businesses and industries.

To: Planning and Development Committee
 From: Director Planning and Building
 Re: Government Cannabis Store Guidelines
 2020 May 20..... Page 2

3.0 BACKGROUND

- 3.1 Stemming from the Federal government’s legalization of the use of non-medical cannabis by adults on 2018 October 17, the Province’s *Cannabis Distribution Act* establishes a public wholesale distribution monopoly to be administered by the Liquor Distribution Branch (LDB), as well as public cannabis retail sales, both in stores and online. The government cannabis stores are operated by the LDB under the brand name of BC Cannabis Stores. In addition, the *Cannabis Control and Licensing Act* establishes a non-medical cannabis retail licensing regime for non-government stores, similar to the current licensing regime for private liquor stores. Local government is responsible for zoning, business licensing, and other local matters related to cannabis retail stores, to the extent prescribed by the Province. In British Columbia, there are currently 16 government cannabis stores and 228 private cannabis stores open or opening soon. Within Metro Vancouver, there are no government cannabis stores; 28 private cannabis stores are open or opening soon in Vancouver, two are open in Port Coquitlam, one in North Vancouver, one in Port Moody, one on Bowen Island, and one in Maple Ridge.
- 3.2 The 2018 July 23 report to Council recommended text amendments to the Burnaby Zoning Bylaw to create the C2i Community Commercial District and the C3i General Commercial District to accommodate government cannabis stores. This approach ensures that all government cannabis stores – defined in the Zoning Bylaw as a “retail store established by the government under the *Cannabis Distribution Act*, as amended or replaced from time to time, for the sale of cannabis and cannabis accessories to consumers” – are assessed for suitability of location through the rezoning process, to allow for the evaluation of each proposal on its own merits, and to provide an opportunity for public comment through a Public Hearing. On 2018 September 24, Council granted Final Adoption to the proposed text amendments.

The 2018 July 23 report also recommended that Council approve a non-medical cannabis regulatory approach. This approach considers the location of only government cannabis stores, limited to one store in each of the four Town Centres in the initial phase of cannabis store establishment in Burnaby, a measured approach which allows the City to assess community impacts while ensuring reasonable access to legal cannabis products. The report acknowledged that in the future, subject to further review, supporting private cannabis stores (licensee cannabis stores) could serve a supplemental role to government cannabis stores.

The report also recommended that guidelines for assessing rezoning applications for government cannabis retail stores be advanced to Council along with the first rezoning application for a government cannabis store. On 2019 June 10, Council received reports from the Planning and Building Department regarding the first two rezoning applications for government cannabis stores – Rezoning Reference #19-16 for commercial space within the Old Orchard Shopping Centre in the Metrotown Town Centre and Rezoning Reference #19-17 for commercial space within the Kings Crossing mixed-use development in the Edmonds Town Centre.

To: Planning and Development Committee
 From: Director Planning and Building
 Re: Government Cannabis Store Guidelines
 2020 May 20..... Page 3

- 3.3 This report outlines recommended guidelines for assessing rezoning applications for government cannabis stores. If the guidelines are adopted by Council, the first two government cannabis store rezoning applications referenced above, which generally meet the guidelines, will be further reviewed. Should the proposals for those stores be supported, the applicants will be required to submit suitable plans of development prior to the applications being recommended for advancement to Public Hearing.

4.0 DISCUSSION

- 4.1 The Planning Department's support for individual applications would be dependent upon each applicant demonstrating that the proposed store would be generally compatible with nearby existing and planned uses. Guidelines for assessing rezoning applications for government cannabis stores are required in order to provide a higher degree of certainty regarding appropriate location, store size, and operational criteria. The proposed guidelines (see Attachment #1 *attached*) generally resemble the guidelines applicable to liquor store rezonings, but are applicable only to government cannabis stores. In addition, while the guidelines applicable to liquor stores do not refer to specific minimum distances from other land uses, given a review of other Metro Vancouver municipalities' requirements¹ and the potential sensitive nature of this new land use, a minimum distance of 200 m is recommended. This recommended distance is based on a review of minimum distances from various land uses in each Town Centre in order to find a balance between appropriate land use separation and a reasonable amount of designated commercial/mixed-use sites (see Sketches #1 to #4 *attached*). The land uses referred to in the guidelines are generally those that, based on past policy for other locational guidelines and on the requirements of other Metro Vancouver municipalities, are considered to be most sensitive with respect to youth in the community.
- 4.2 With regards to locational criteria for assessing rezoning applications to the C2i and C3i Commercial Districts, it is recommended that there be a rational distribution throughout the City, with one government cannabis store established in each Town Centre. Distance, where applicable, would be measured from the main entrance of a store to the property line of a school site, to the edge of a playground, or to the main entrance of a community/recreation centre, community resource centre, neighbourhood house, or youth centre. Discretion regarding distance may be applied as applications are assessed on a case-by-case basis, taking into account factors such as orientation of the development, major physical barriers between uses, and traffic flow from the site. Furthermore, in the future, the land uses mentioned below would not be precluded from locating in proximity to an existing government cannabis store, provided the operator is fully aware of the government store.

¹ Eight Metro Vancouver municipalities currently permit retail cannabis stores, all of which are regulated by specific minimum distance requirements from various uses.

To: *Planning and Development Committee*
 From: *Director Planning and Building*
 Re: *Government Cannabis Store Guidelines*
 2020 May 20..... Page 4

The core locational criteria that would be considered include:

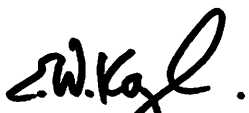
1. A location within one of the four designated Town Centres on a site that is designated for commercial or mixed commercial/residential uses (maximum of one government cannabis store per each Town Centre).
 2. General observance of a minimum 200 m (656 ft.) separation from the following uses:
 - a) public and private schools;
 - b) public playgrounds; and,
 - c) community/recreation centres, community resource centres, neighbourhood houses, and youth centres.
 3. Observance of an appropriate relationship to the following adjacent uses in terms of their direct proximity or orientation to the government cannabis store:
 - a) residential and mixed-use developments;
 - b) café/restaurant outdoor patios;
 - c) public parks; and,
 - d) potential “sensitive” uses such as temporary shelters or group homes.
 4. Adequate vehicular and pedestrian circulation on the site, including the satisfaction of all parking requirements; safe, convenient and non-intrusive means of vehicular access to the site; and, avoidance of any undue traffic impacts on the surrounding area.
- 4.3 With regards to store size, government cannabis stores are typically 186 m² (2,000 sq. ft.) to 465 m² (5,000 sq. ft.). Therefore, government cannabis stores should not exceed a gross floor area of 465 m² (5,000 sq. ft.).
- 4.4 Regarding operational criteria, given that hours of operation could have impacts on adjoining land uses, especially residential, hours should be determined through the rezoning process and based on any anticipated community impacts. The established business hours would be formalized through the registration of a Section 219 Covenant. The general pattern of operating hours of the commercial businesses in the subject development, as well as the Town Centre location, may inform the specific operating hours recommended for each government cannabis store. It is noted that government cannabis store operating hours are typically 10 am to 10 pm, seven days a week.
- It is also recommended that government cannabis stores have a security plan, as well as a strategy to ensure they are good neighbours. In addition, government cannabis stores would be required to post signs regarding any relevant smoking regulations.
- 4.5 Should Council adopt the guidelines outlined above, they would be used to evaluate relevant rezoning applications for government cannabis stores and facilitate their appropriate location, size, and operation. In addition, the rezoning process would ensure the opportunity for community input through a mandatory Public Hearing.

To: *Planning and Development Committee*
 From: *Director Planning and Building*
 Re: *Government Cannabis Store Guidelines*
 2020 May 20..... Page 5

If private cannabis stores become a permitted use in the future, following the establishment of one government cannabis store in each Town Centre, the guidelines would be reviewed and amended for Council's consideration.

5.0 CONCLUSION

This report provides Council with information on recommended guidelines for assessing rezoning applications for government cannabis stores on a case-by-case basis. It is recommended that Council adopt the proposed guidelines, which will help ensure the appropriate location, size, and operation of government cannabis stores in Burnaby's four Town Centres. If adopted by Council, the first two rezoning applications for government cannabis stores, which generally meet the proposed guidelines, will be further reviewed. Should the proposals for those stores be supportable, the applicants will be required to submit suitable plans of development prior to the applications being recommended for advancement to Public Hearing.



E. W. Kozak, Director
 PLANNING AND BUILDING

LS:tn

Attachments

cc: City Manager
 Director Engineering
 Director Finance
 Director Public Safety and Community Services
 Director Parks, Recreation, and Cultural Services
 Fire Chief
 Officer-in-Charge – RCMP
 Chief Building Inspector
 Chief Licence Inspector
 City Solicitor
 City Clerk

ATTACHMENT #1

Guidelines for Assessing Rezoning Applications for Government Cannabis Stores (C2i and C3i Commercial Districts)

The Planning Department's support for individual applications for government cannabis stores would be dependent upon each applicant demonstrating that the proposed store would be generally compatible with nearby existing and planned uses. The following guidelines for assessing rezoning applications are intended to provide a higher degree of certainty as to the appropriate location, size, and operation of government cannabis stores.

Locational Criteria:

A rational distribution of government cannabis stores within the City is desired, with a maximum of one government store to be established within each of Burnaby's four Town Centres. The core locational criteria that would be considered in assessing a rezoning application for a government cannabis store would include:

1. A location within one of the four designated Town Centres in which the store would serve as a component of an overall development (maximum of one government cannabis store per each Town Centre).
2. General observance of a minimum 200 m (656 ft.) separation from the following uses:¹
 - a) public and private schools;
 - b) public playgrounds; and,
 - c) community/recreation centres, community resource centres, neighbourhood houses, and youth centres.
3. Observance of an appropriate relationship to the following adjacent uses in terms of their direct proximity or orientation to the government cannabis store:
 - a) residential and mixed-use developments;
 - b) café/restaurant outdoor patios;
 - c) public parks; and,
 - d) potential "sensitive" uses such as temporary shelters or group homes.
4. Adequate vehicular and pedestrian circulation on the site, including the satisfaction of all parking requirements; safe, convenient and non-intrusive means of vehicular access to the site; and, avoidance of any undue traffic impacts on the surrounding area.

¹ Distance would be measured from the main entrance of a store to the property line of a school site, to the edge of a playground, or to the main entrance of a community/recreation centre, community resource centre, neighbourhood house, or youth centre. Discretion regarding distance may be applied as applications are assessed on a case-by-case basis, taking into account factors such as orientation of the development, major physical barriers between uses, and traffic flow from the site.

**Guidelines for Assessing Rezoning Applications for
Government Cannabis Stores
(C2i and C3i Districts).....Page 2**

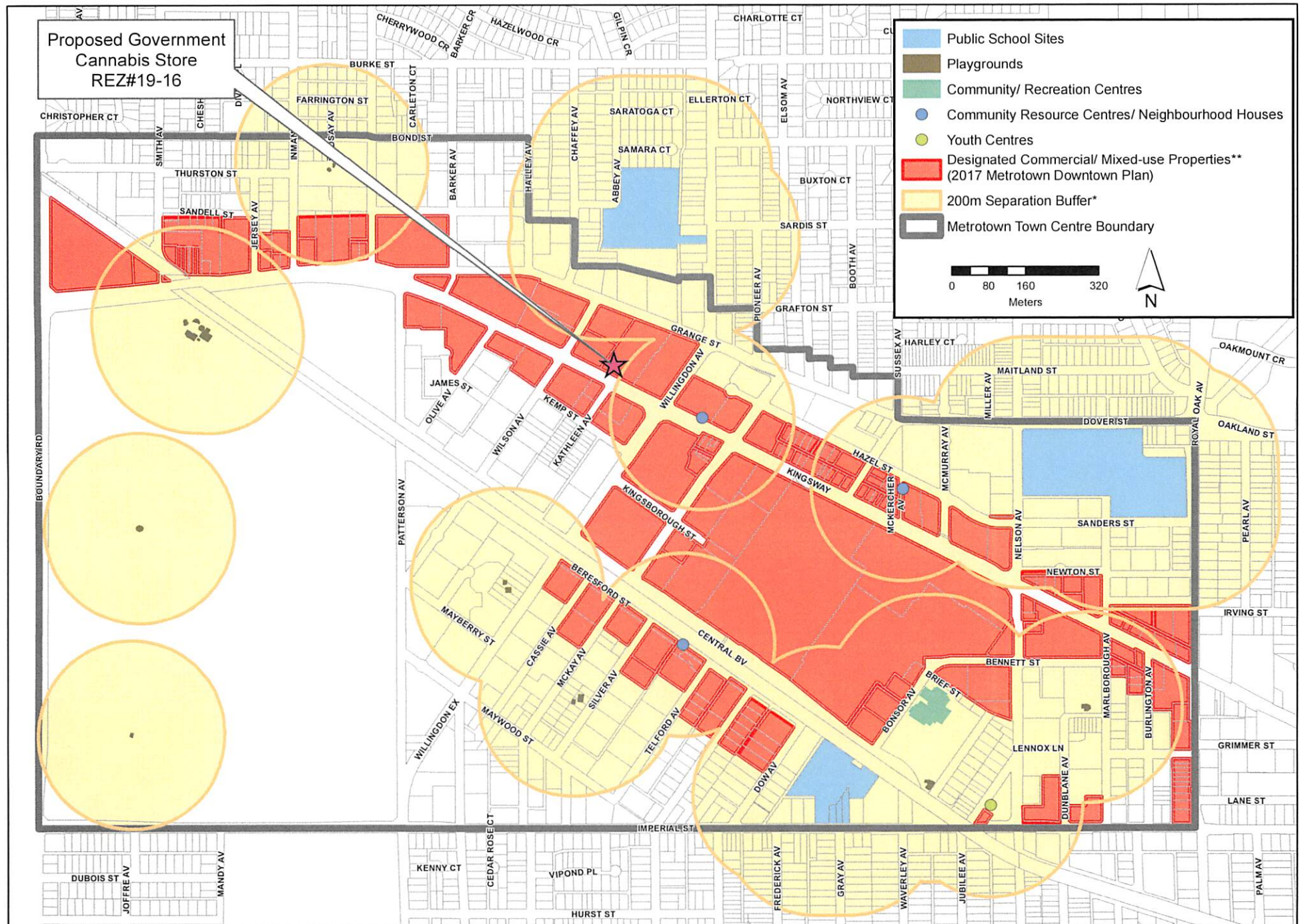
Store Size:

With regards to store size, government cannabis stores are typically 186 m² (2,000 sq. ft.) to 465 m² (5,000 sq. ft.). Therefore, government cannabis stores should not exceed a gross floor area of 465 m² (5,000 sq. ft.).

Operational Criteria:

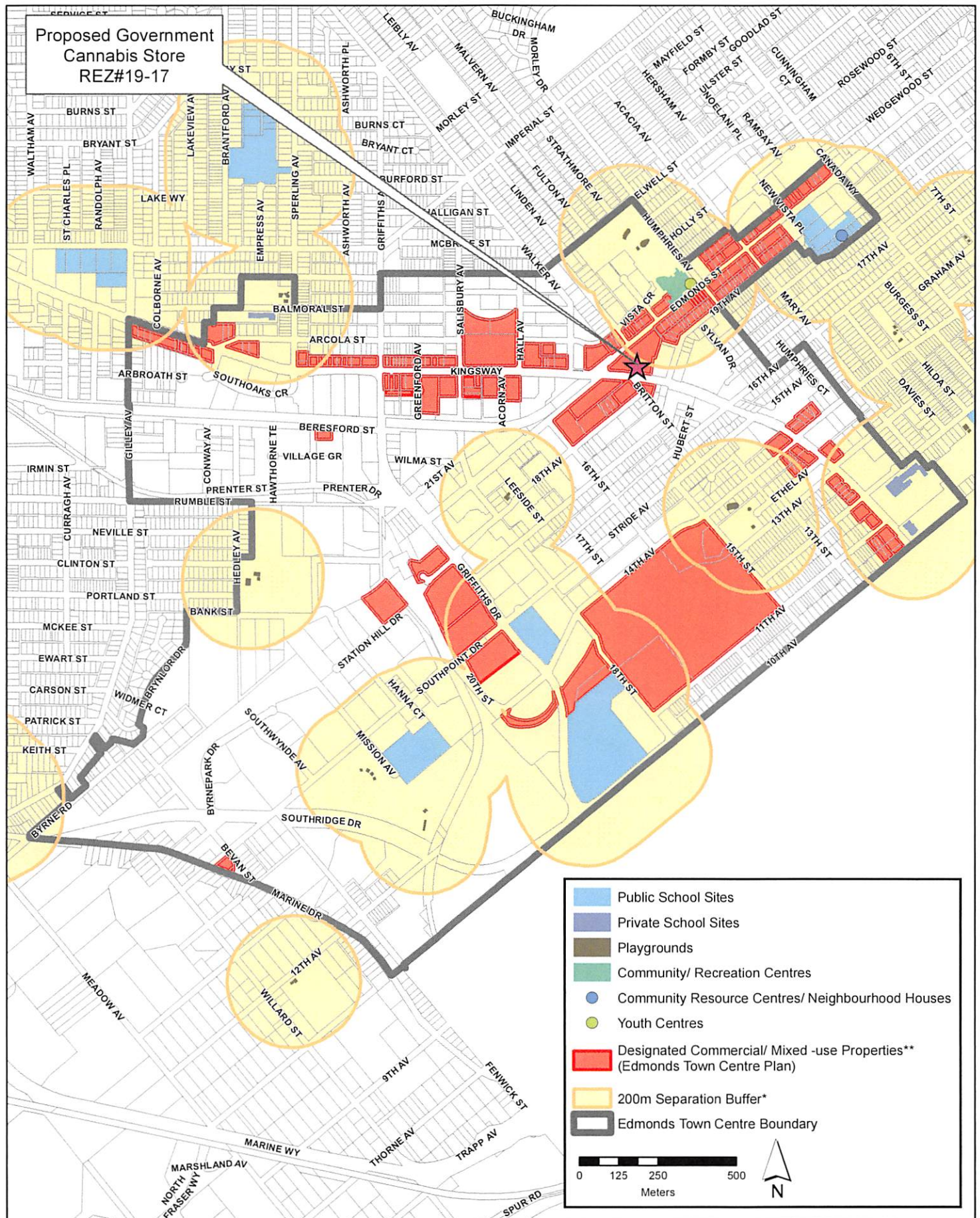
With regards to operational criteria, given that hours of operation could have impacts on adjoining land uses, especially residential, hours should be determined through the rezoning process and based on any anticipated community impacts. The established business hours would be formalized through the registration of a Section 219 Covenant. The general pattern of operating hours of the commercial businesses in the subject development, as well as the Town Centre location, may inform the specific operating hours recommended for each government cannabis store.

Government cannabis stores should have a security plan, as well as a strategy to ensure they are good neighbours. In addition, government cannabis stores would be required to post signs regarding Burnaby's smoking bylaw, when it has been adopted by Council.



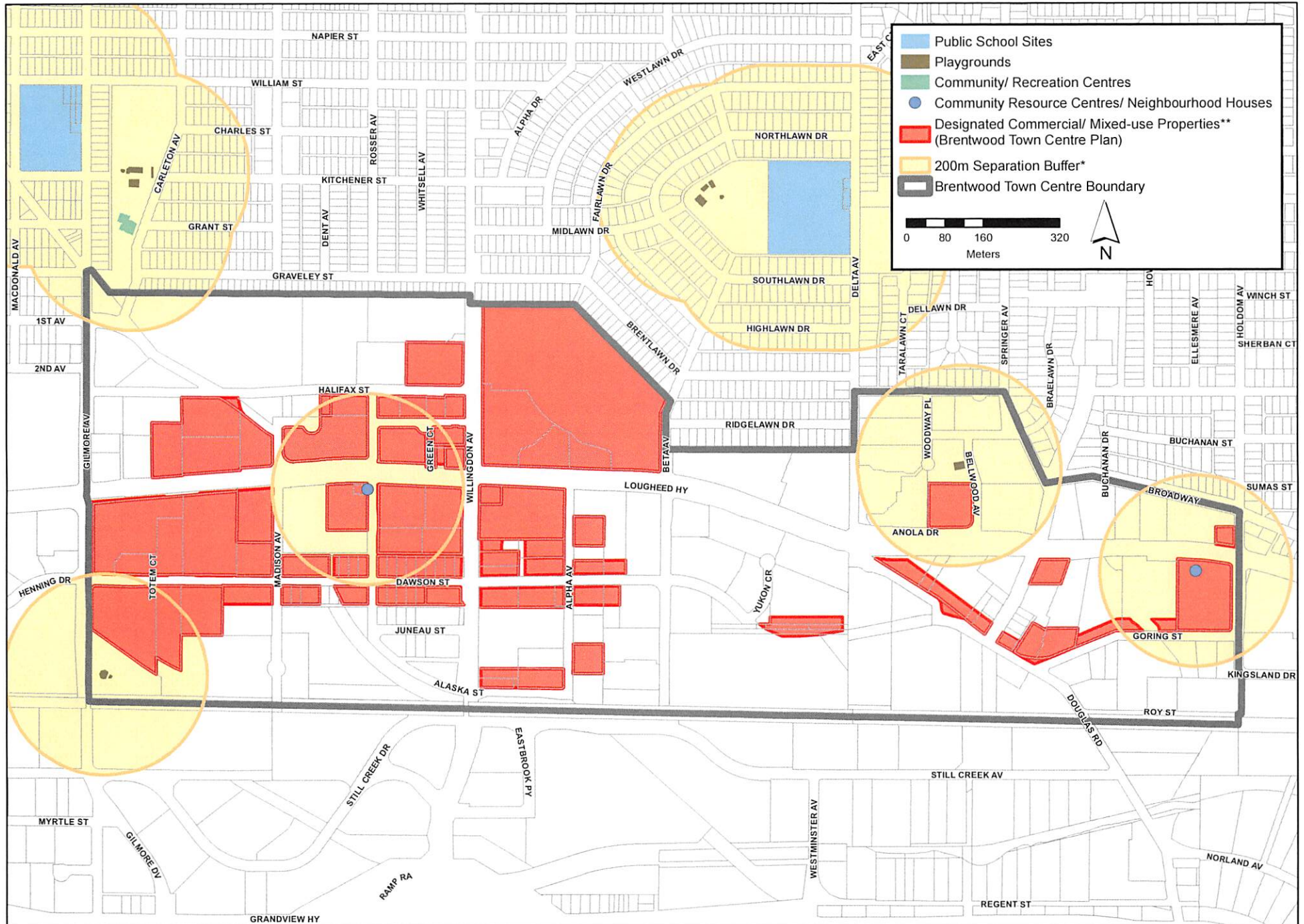
*Buffer measured from the property line of a school site, from the edge of a playground, or from the main entrance of a community/ recreation centre, community resource centre/ neighbourhood house, or youth centre.

**Only those commercial/ mixed-use designated properties that support C2i or C3i District zoning would be considered for a government cannabis store.



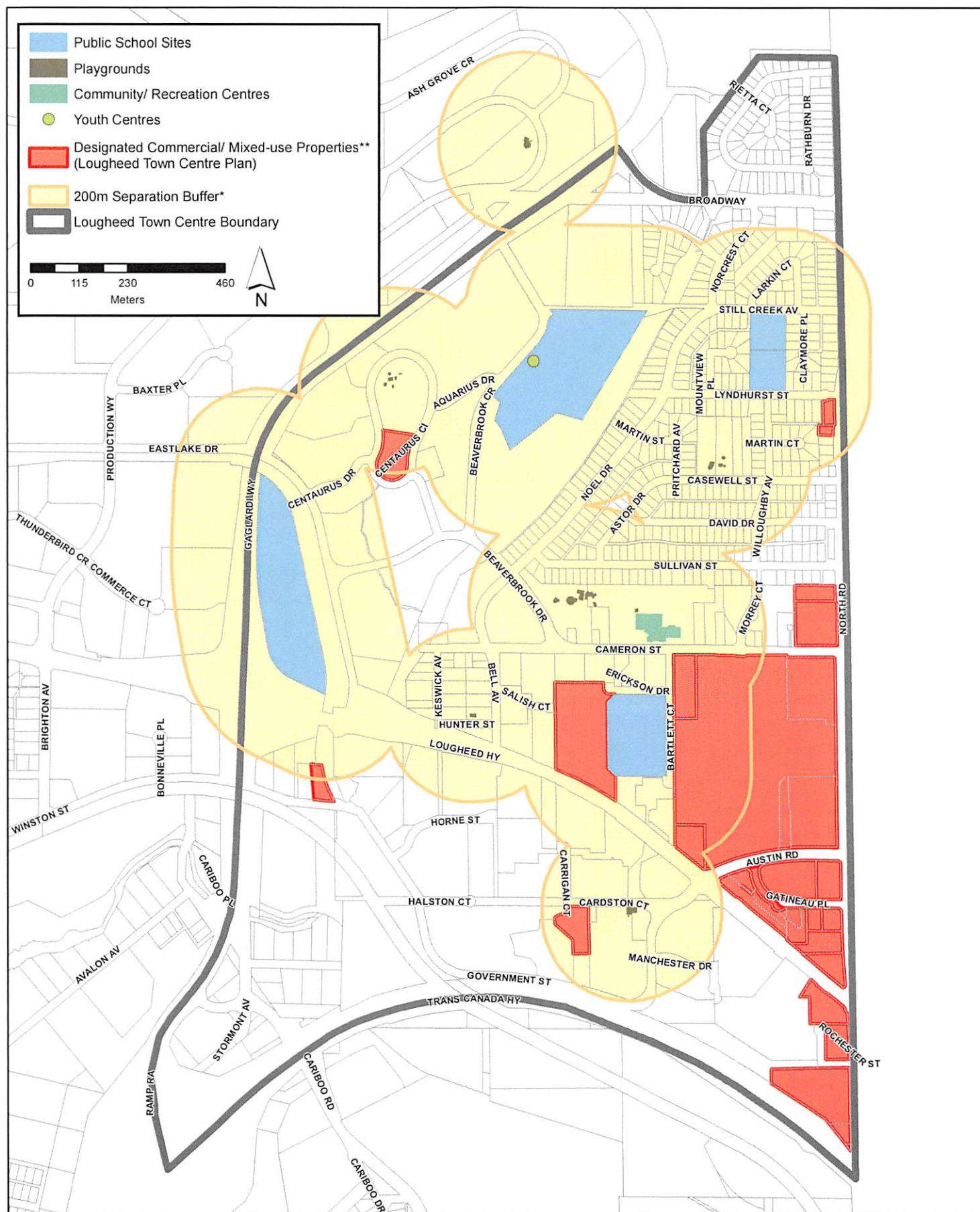
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**Only those commercial/ mixed-use designated properties that support C2i or C3i District zoning would be considered for a government cannabis store.



Meeting 2020 May 26
COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 May 20

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 90400 01
Reference: Cycling

SUBJECT: 2020 ACTIVE TRANSPORTATION PROGRAM

PURPOSE: To request funding in support of programs that promote active transportation in 2020.

RECOMMENDATION:

1. **THAT** Council be requested to authorize the expenditure of \$17,050 from the Boards, Committees and Commissions budget for programs that promote active transportation in 2020, as outlined in this report.

REPORT

1.0 BACKGROUND

Burnaby has a rich history of encouraging walking and cycling initiatives as important aspects of the City's efforts aimed at providing greater access and choice for its residents. In 1998, the City introduced a Cycling Promotion Program to support cycling initiatives which would complement the expansion and improvement of cycling infrastructure across the City. In 2017, this evolved into the Cycling and Walking Program with the inclusion of walking initiatives focused on supporting healthier, more active lifestyles for Burnaby residents.

This year, in alignment with the next phase of Burnaby's *Transportation Plan* update, the program is broadening again to become the "Active Transportation Program", to facilitate the inclusion of many new forms of human-powered mobility beyond walking and cycling. Active Transportation is more inclusive and includes rolling using a skateboard, in-line skates, scooters, wheelchair, or other wheel-based forms of human-powered transportation.

Through these programs, Council has funded a number of initiatives to promote cycling and walking, both through City efforts and by supporting the work of others. In 2019, this included:

- The Burnaby Bike Map;
- Bike to Work Week;
- Bike to School Program;
- StreetWise Cycling Courses;
- Community Cycling Initiatives;

To: Planning and Development Committee
 From: Director Planning and Building
 Re: 2020 Active Transportation Program
 2020 May 20 Page 2

- Burnaby Walking Maps – Metrotown; and,
- Walking Initiatives.

The Burnaby Bike and Walking Maps are published annually by the City. The other programs listed above are offered by the non-profit group, HUB Cycling, and local community groups. Through support of external programs, the City contributes to community-based initiatives which support both cycling and walking and also receives sponsorship recognition as part of event advertising. The Program contributes to broader community and individual benefits, such as improved fitness, less pollution, and reduced greenhouse gas emissions. Available data from the last ten years indicates we have achieved much including:



90,000+ cycling and walking maps printed and distributed



Hundreds of cycling courses delivered across the city



Over 560,000km of cycling supported



Over 118 tonnes of GHG emissions avoided

This report also provides an overview of active transportation infrastructure constructed by the City in the last year.

2.0 POLICY

The 2020 Active Transportation Program is aligned with the City's *Corporate Strategic Plan* by supporting the following goals and sub-goals of the *Plan*:

- A Safe Community
 - Transportation safety –
Make City streets, pathways, trails and sidewalks safer
- A Connected Community
 - Geographic connection –
Ensure that people can move easily through all areas of Burnaby, using any form of transportation
- An Inclusive Community
 - Serve a diverse community –
Ensure City services fully meet the needs of our dynamic community
- A Healthy Community
 - Healthy life –
Encourages opportunities for healthy living and well-being

To: Planning and Development Committee
 From: Director Planning and Building
 Re: 2020 Active Transportation Program
 2020 May 20 Page 3

- Healthy environment –
 Enhance our environmental health, resilience and sustainability

The City's three Sustainability Strategies all identify the provision of transportation choices and promotion of alternative modes as key strategic transportation goals for Burnaby. The Council-adopted Vision, Themes and Goals guiding the update of Burnaby's *Transportation Plan* place continued emphasis on supporting travel choices that are enjoyable and supportive of our quality of life, and offer "*accessible and safe mobility in support of a healthy, green, prosperous and connected community.*" Council's declaration of a climate emergency, and commitment to reducing carbon emissions further emphasizes the need for accelerating adoption of active transportation as a primary mode of travel within the city.

3.0 CYCLING AND WALKING INFRASTRUCTURE

The City continues to construct the infrastructure required to encourage active mobility for its citizens through various capital and development programs. In 2019, a total of 5.7 km of such improvements were built throughout the city, including 4.0 km of new sidewalks and 1.7 km of new or improved bike routes.

Bike route works included the Kensington Urban Trail connecting the Central Valley Greenway with the Deer Lake Precinct, portions of the Fraser Foreshore Trail, and enhancements to the Trans Canada Trail in North Burnaby. Sidewalk construction typically consisted of shorter projects scattered throughout the city. Bike route and sidewalk construction for 2019 is illustrated in *Figure 1*.

In 2020, apart from the regular sidewalk program, multi-use paths are planned for Gilmore Diversion over Highway 1, and beside Deer Lake Avenue.

4.0 PROPOSED 2020 PROGRAM

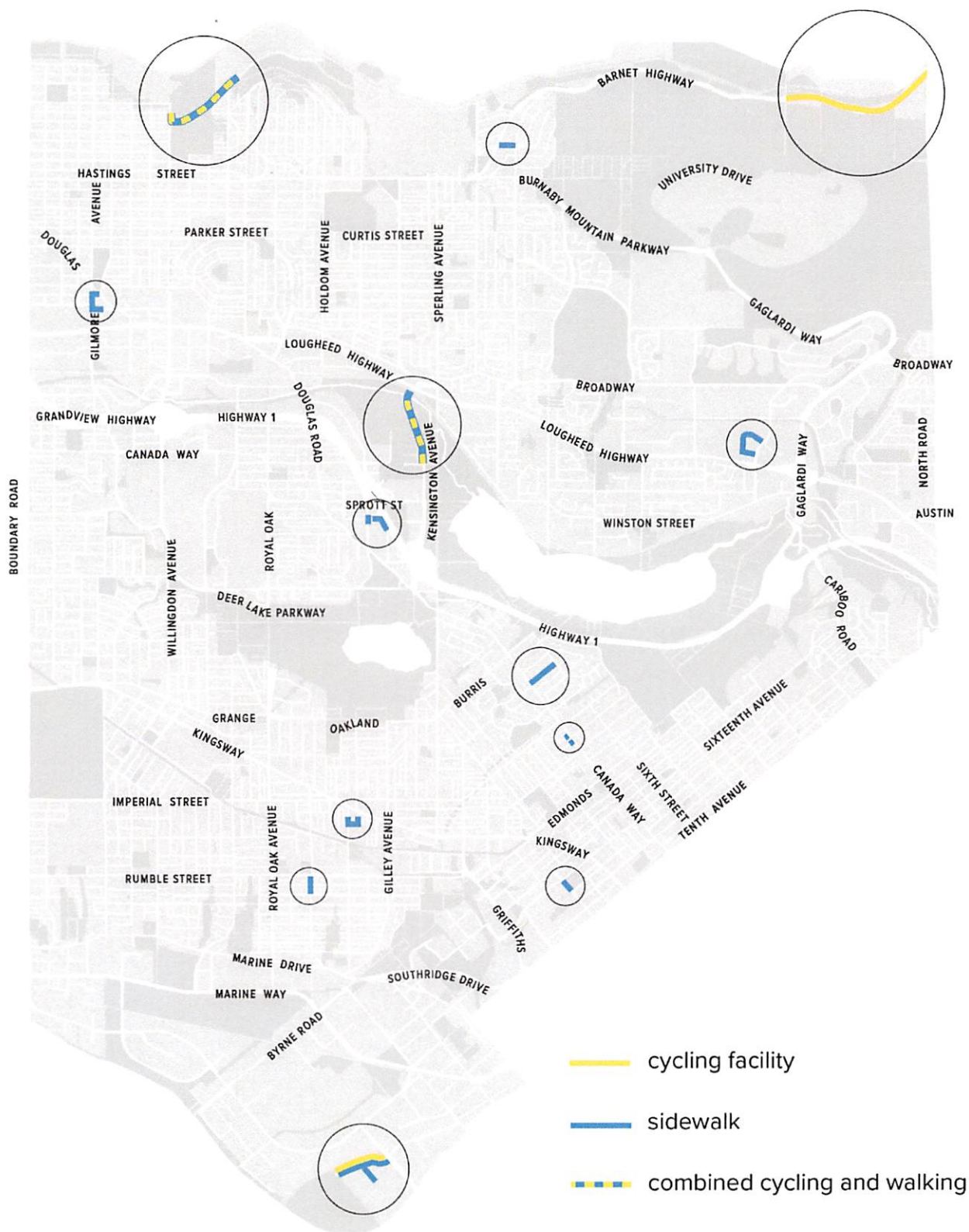
This year it is proposed that the program be expanded to include an Active School Travel initiative, beginning with a pilot for the 2020/2021 school year.

The delivery of some initiatives will be affected by the current pandemic, and physical distancing requirements that are likely to evolve over the course of the year. Staff propose that City support be continued for initiatives that are substantially consistent with the descriptions in this report, even if some adaptation is required. Support would not be provided for any events that are cancelled. The recommended 2020 expenditure is thus an upset limit, with actual expenditures depending on conditions that are not yet known.

The proposed 2020 Active Transportation Program has ten components, as discussed below.

To: Planning and Development Committee
 From: Director Planning and Building
 Re: 2020 Active Transportation Program
 2020 May 20 Page 4

Figure 1: Sidewalk and Bike Route Construction in 2019



To: Planning and Development Committee
 From: Director Planning and Building
 Re: 2020 Active Transportation Program
 2020 May 20 Page 5

4.1 Burnaby Bike Map

The Burnaby Bike Map provides essential and current information needed to navigate the City by bicycle. Each year, staff update the Bike Map to include newly-constructed routes. Printed copies are available to the public free-of-charge at City facilities including community and recreational centres, libraries, and City Hall. The map is also available on the City's website (Burnaby.ca/bikemap).

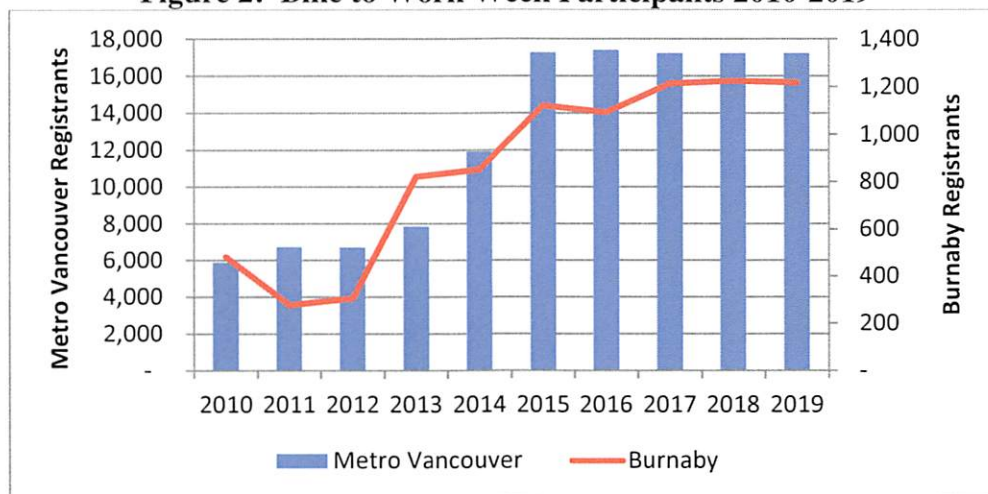
Despite the opportunity to access the Bike Map online, demand for the printed version (available at civic facilities and events) has remained high. However, with an anticipated decrease in trips to civic facilities and events due to the pandemic, it is recommended that a print run of 4,000 copies (half the usual) be prepared in 2020, at a cost of \$1,400.

4.2 Bike to Work Week

Bike to Work Week is an event organised by the non-profit group, HUB Cycling, to promote cycling and encourage people to commute by bicycle. Held twice a year, in the spring and fall, the week-long events promote cycling through a program that combines incentives, workplace camaraderie, healthy living and environmental responsibility. Pop-up Commuter Stations provide information on routes, free food and beverages, prize draws, and free bike mechanic services. Participants are entered in daily and grand prize draws, and organizations that log the most trips are recognized with Workplace Awards.

Burnaby's participation in Bike to Work Week has seen steady growth over the last decade (*Figure 2*), mirroring the regional continued pattern of growth. Collectively, Burnaby participants logged 6,400 cycle trips for a total of 71,000 kilometres and in doing so, avoided the emission of 15.4 tonnes of greenhouse gases.

Figure 2: Bike to Work Week Participants 2010-2019



HUB Cycling, through its partnership with other organizations, was able to leverage the funding to provide seven Commuter Stations in Burnaby. HUB and City staff were in attendance at the

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stations to promote cycling in Burnaby and to engage with some of the 600+ riders that stopped at the stations (*Figure 3*).

Figure 3: Burnaby Commuter Station (Gilmore at CVG)



Arising from the pandemic, in lieu of Commuter Stations and large celebrations for the spring event, HUB is proposing support of a digital ‘Go By Bike Week’ campaign aimed at encouraging people to cycle safely, support mental health and wellbeing, and support local communities. The campaign will include a series of events both on and offline, with daily prize give-aways and contests aimed at promoting cycling as a healthy means of transportation during these times.

The Fall Bike to Work event is scheduled for October, with programming currently anticipated to be similar to previous years.

In 2019, the City provided sponsorship of \$4,200 for Bike to Work Week, which supported two Commuter Stations and detailed data collection. This year, in recognition of the pandemic, HUB Cycling is proposing a digital cycling promotion campaign plan to replace the spring event, and a regular event in the fall with two Commuter Stations and detailed data collection in Burnaby, in return for a City contribution of \$4,000. Staff recommend that the City provide sponsorship of \$4,000 to cover the cost of providing these services.

4.3 Bike to School Programming

HUB Cycling also organizes a Bike to School program (*Figure 4*) that enables and encourages thousands of Metro Vancouver youth annually to see cycling as a safe and enjoyable mode of transportation in their community. Through in-class and on-bike instruction, students learn the rules and responsibilities of riding on city streets and bike paths, and get hands-on practice with fundamental cycling skills on school-grounds and local neighbourhood streets. HUB’s fleet of bikes includes a range of specialized adaptive bikes which are available to children with physical and cognitive differences to help achieve 100% participation.

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Last year, the City's sponsorship supported training for four classes of Grade 3 to 5 students. HUB Cycling, through its partnership with other organizations, was also able to deliver additional courses to five classes of Grades 3 – 5 students and four classes of Grades 5 – 7 students.

Figure 4: Bike Road Skills Training



In order to offer this program again in 2020, HUB Cycling requests a contribution of \$2,750 from the City of Burnaby. HUB Cycling will also be liaising with the School District to seek their support for the event, scheduled for the fall. Building on the success of previous years, staff recommend that the City offer \$2,750 in support of this program in 2020.

4.4 StreetWise Cycling Courses

Cycling can be an important mode of transportation for newcomers, some of whom may find car ownership or transit fares a financial burden. HUB Cycling's StreetWise Cycling Courses (**Figure 5**) provides would-be cyclists, primarily adults, with the skills to feel safe and comfortable riding in traffic. The courses are free to participants so that cost is not a barrier to participation.

The City provided sponsorship for one specialized immigrant-focused course in 2019 at a cost of \$2,800. The course was delivered by HUB Cycling in partnership with the Edmonds & Windsor Neighbourhood Resource, and reached 11 participants.

The course, which combines classroom and on-road training, is taught by certified cycling trainers. Results have shown that rates of cycling increase dramatically and consistently after attending one of these courses, as do confidence levels.

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Figure 5: Streetwise Cycling Course – Immigrant Learn to Ride Course

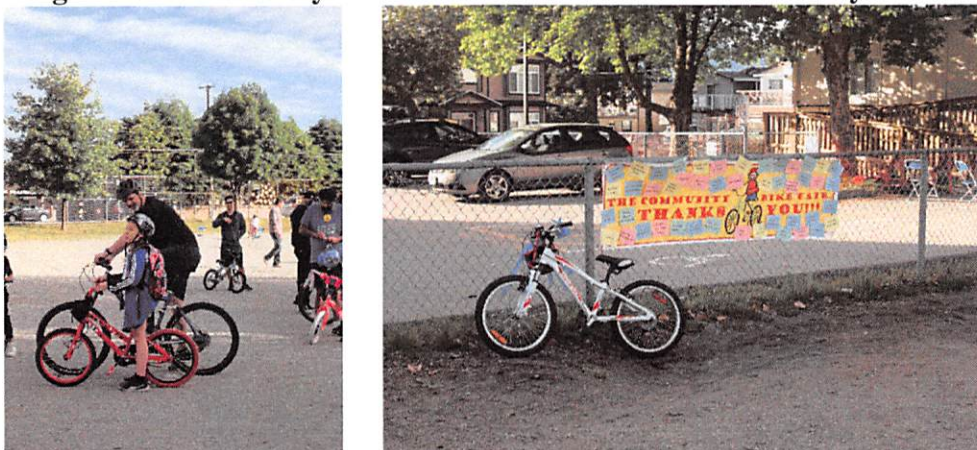


For 2020, HUB Cycling is proposing to hold one course for 24 participants in Burnaby, delivered in partnership with Burnaby-based immigrant service organizations, in return for continuing City support of \$2,800. Staff recommend that the City offer \$2,800 for this program in 2020.

4.5 Community Cycling Initiatives

Since 2012, staff have supported the efforts of local community organizations advancing cycling initiatives in Burnaby. In June 2019, staff supported Community Bike Fairs at Gilmore and Second Street Community Schools (**Figure 6**), through the provision of materials and promotion of the events through City social media channels and the Community Events Calendar.

Figure 6: Community Bike Fair at Second Street Community School



In 2020, staff recommend continued support of these initiatives through provision of relevant information and data as required, in-kind goods, and promotion.

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4.6 Active and Safe Routes to School (Pilot Project)

In order to accelerate the adoption of active transportation as a primary mode of travel within the City, it is proposed that a new pilot be undertaken in conjunction with School District 41. Working with one school, the pilot will utilize the *Active and Safe Routes to School Toolkit*, an online resource, to determine which activities are best suited to the school community's needs with programming designed to help encourage more active trips to school. Staff would facilitate the delivery of the program by a Community School Coordinator, potentially at Gilmore Community School, with grant funding providing for the materials, activities and support.

Staff recommend that the City provide a grant of \$1,500 to cover the cost of undertaking the pilot consisting of a focused activity designed to encourage more active school trips.

4.7 Workplace Cycling Workshop

In conjunction with the City's Green Team and the Burnaby Library, the City has facilitated workplace cycling workshops for staff since 2017. The workshops, delivered by certified cycling trainers through HUB Cycling, include interactive lunch n' learn sessions aimed at encouraging staff to try cycling to work in advance of Bike to Work Week, and information on topics such as beginner bike maintenance, commuting skills, and fall and winter cycling. Staff recommend continued support of this initiative with funding of \$600 to cover the cost of providing one workshop in advance of the fall Bike to Work Week. The usual spring workshop would be cancelled due to the pandemic.

4.8 Burnaby Walking Maps

Since 1998, one of the means of advancing the City's goal of promoting alternative modes of transportation has been the production and distribution of the Burnaby Bike Map. Building on the reach and success of the Bike Map, and the continued enhancement of the public realm within our town centres, staff have been developing neighbourhood walking maps. These maps aim to engage and support citizens in the pursuit of healthier, more active lifestyles. They also help to encourage visitors to explore the City on foot and thus support local tourism.

The first Burnaby Walking Map, focusing on Metrotown, was produced in 2018 (*Figure 7*). With Council's declaration of a climate emergency and more people discovering their neighbourhoods during the pandemic, it is recommended that this initiative be expanded to include the other three Town Centres. Made available online, with printed copies distributed to City facilities, the maps have been well received by the public. Given the success of the initial print run of the map, staff recommend the development, production and distribution of 2,000 walking maps per Town Centre at a total cost of \$4,000.

4.9 Walking Challenge

The Burnaby Healthier Community Partnership (HCP) is a partnership of the City of Burnaby, Burnaby School District 41, Fraser Health, and the Burnaby Division of Family Practice. A similar partnership exists in New Westminster. Working in collaboration with the New West Walkers Caucus, a five-week "Walk30" challenge was hosted in each community in both 2018 and 2019.

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(Figure 8). Participants were encouraged to walk 30 minutes each day for the duration of the challenge. Through this initiative, participants in 2019 logged over 1 million minutes of walking for an average of 40 minutes a day per person.

Figure 7: Metrotown Walking Map

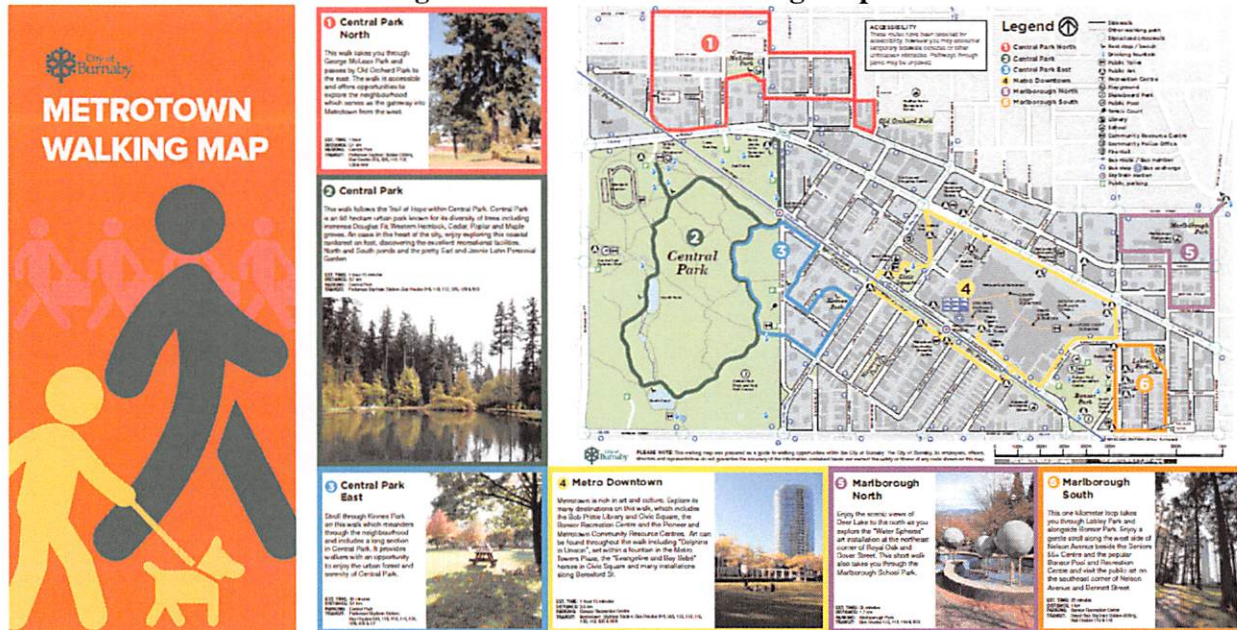


Figure 8: Walking Challenge Participants



In 2019, the challenge also included a “Feet on the Street” forum hosted by the Burnaby Neighbourhood House on May 30, 2019. Participants were able to hear a key note speaker, take part in a guided walk, and attend breakout workshops focused on urban design, walking advocacy, and health, while enjoying a meal with community members interested in promoting walking.

In 2020, the HCPs will partner with Better Environmentally Sound Transportation (BEST) to deliver the Walk30 challenge in both cities, focusing on active transportation, and promoting

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walking as a primary mode of travel for all purposes. While the spring event has been postponed due to the pandemic, staff recommend continued support of this initiative with staff time.

4.10 Jane's Walk

Held globally, Jane's Walk is a movement of free, citizen-led walking tours inspired by author and activist Jane Jacobs. The walks are aimed at engaging citizens in story-telling about their communities, whilst exploring their cities and connecting with neighbours.

Since 2015, staff have facilitated these citizen-led walking tours in Burnaby by hosting a web page where walk leaders could list their events. Staff recommend continued support of this initiative.

5.0 CONCLUSION

The Burnaby Bike Map, Bike to Work Week, Bike to School Program, StreetWise Cycling Courses, and local community cycling initiatives such as Community Bike Fairs are well-established means for encouraging greater travel by bicycle. The walking initiatives such as Jane's Walk, walking maps and the Walking Challenge continues to raise the profile of walking in the community and that of organizations, such as the City, that support active transportation. This report recommends the expenditure of \$17,050 to promote Active Transportation in Burnaby in 2020, as follows:

- Burnaby Bike Map, \$1,400;
- Bike to Work Week, \$4,000;
- Bike to School Programming, \$2,750;
- StreetWise Cycling Courses, \$2,800;
- Active and Safe Routes to School Pilot, \$1,500,
- Workplace Cycle Workshop, \$600, and,
- Burnaby Walking Maps, \$4,000.

In keeping with our past cycling and walking promotion expenditures, it is recommended that Council be requested to authorize the expenditure of \$17,050 from the Boards, Committees and Commissions budget for this year's Active Transportation Program, as outlined in this report. For those services contracted to HUB Cycling, HUB will invoice the City for actual services undertaken within the envelope identified above.


 E.W. Kozak, Director
 PLANNING AND BUILDING

LL:tn

cc: City Manager
 Director Public Safety and Community Services
 City Clerk

Director Engineering
 Director Parks, Recreation and Cultural Services



Meeting 2020 May 26

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 May 20

FROM: DIRECTOR PLANNING AND BUILDING
DIRECTOR PUBLIC SAFETY AND
COMMUNITY SERVICES

FILE: 16000 20
Reference: Short Term Rentals

SUBJECT: REGULATORY AND ENFORCEMENT FRAMEWORK FOR SHORT
TERM RENTALS IN BURNABY

PURPOSE: To propose regulatory and enforcement framework for short term rentals in Burnaby.

RECOMMENDATIONS

1. **THAT** the Committee recommend Council
 - a. support the proposed regulatory and enforcement framework for short term rentals in Burnaby and that it form the basis of initial public engagement;
 - b. authorize staff to engage a third party data monitoring firm to provide detailed and ongoing data on short term rental activity in Burnaby to assist with the proposed enforcement program;
 - c. authorize staff to bring forward a report with the necessary amendments to the Zoning Bylaw, Business Licence Bylaw, the Business Licence Fees Bylaw and Bylaw Notice Enforcement Bylaw; and,
 - d. authorize the Finance Department to provide an analysis on the guidelines and limitations related to the use of the Municipal and Regional District Tax (MRDT) revenues from short term rentals for affordable housing initiatives.

REPORT**1.0 INTRODUCTION**

At its meeting on 2019 January 29, the Planning and Development Committee directed staff to bring forward a policy framework and related bylaw amendments to improve regulations for short term rentals in Burnaby. This report seeks Council endorsement of a proposed regulatory and enforcement framework to short term rentals in advance of developing an enforcement regime and proposing bylaw amendments to the business licensing framework.

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Short term renting of residences to tourists and visitors is a growing phenomenon throughout the world. These rentals operate outside the regulatory framework of traditional tourist accommodations such as hotels, and outside the framework of long term rental housing. Studies have shown that the use of online platforms has facilitated the rapid growth of short term rentals and concerns have been raised that this growth has impacted both the supply and affordability of long term rental housing, as well as the liveability and security of residential neighbourhoods and buildings. At the same time, this activity supports increased tourism, options for home based accommodations and economic use of residential property. This report responds to the Committee's direction and proposes an approach to regulating short term rentals.

2.0 POLICY FRAMEWORK

The proposed approach is supported by the following City-wide policies:

The Official Community Plan

- Residential Goals
 - Goal 3: To maintain and improve neighbourhood livability and stability
 - Goal 4: To help ensure that the needs of people with special and affordable housing requirements are met.
- Social Planning Goal
 - To facilitate the development and ongoing sustainability of a community which enhances the physical, social, psychological and cultural well-being of Burnaby residents.

The Social Sustainability Strategy

- Strategic Priority 1 – Meeting Basic Needs
- Strategic Priority 5 – Enhancing Neighbourhoods

The Economic Development Strategy

- G1: Building a Strong, Livable, Healthy Community
- S6: Tourism, Sport/Tournaments, Arts/Culture, Retail – Work with Tourism Burnaby to promote billeting and the availability of bed and breakfast accommodations

Further to the above, the proposed approach also aligns with the following goals and sub-goals of the *Corporate Strategic Plan*:

- ***A Safe Community***
 - Crime prevention and reduction – Ensure citizens and businesses feel safe in our community
- ***An Inclusive Community***
 - Serve a diverse community – Ensure City services fully meet the needs of our dynamic community

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- ***A Dynamic Community***
 - Economic opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries
 - Community development – Manage change by balancing economic development with environmental protection and maintaining a sense of belonging
- ***A Thriving Organization***
 - Communication – Practice open and transparent communication among staff, Council and the community

3.0 BACKGROUND

3.1 Short Term Rentals Overview

Short term rentals are typically considered to be the commercial rental of beds, bedrooms or entire dwelling units for a period of less than a month (~<30 nights at a time) for the purpose of accommodating tourists and visitors. Municipalities regulate various types of visitor and tourist accommodation within their jurisdictions through zoning and business licensing, most often within commercial areas and along highways or other major arterials. These types of accommodations typically include everything from hotels and motels, to bed and breakfasts and time-share vacation condominiums. Recently, there has been a growth in the use of private residences, both occupied and vacant, for tourist and visitor accommodations. Tourists and visitors can now access a multitude of listings available for short term rental through one-stop online platforms (e.g. Airbnb, VRBO, etc.). These platforms, for a fee, enable listing, searching and booking residential accommodation for short term stays. Property owners can offer an entire unit, individual rooms in a unit or a bed in a shared room for a set price. The online platforms often allow prospective visitors to filter their search results according to their preferences.

Distinguishing between residential uses and short term tourist or visitor accommodation has become more difficult with the emergence of various online platforms. The physical aspects of residential buildings and tourist accommodations are getting more difficult to distinguish, with bed and breakfasts operating out of residences and hotels offering self-catering suites as accommodations. As short term rentals of residences become more popular, many municipalities have adopted or are considering regulatory frameworks that clarify this differentiation.

The short term rental market has been evolving. The concept of vacation rentals and bed and breakfasts have been around for a long time, but the introduction of new online marketplaces has made sharing residences for use by visitors and tourists much easier. To best understand this marketplace the following terminology is provided:

- ***Host:*** a person who is operating a short term rental in a residence. This person might be a property owner, a tenant or a third party hired by the property owner/tenant to operate the short term rental.

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- **Listing:** an advertisement for a short term rental on an online platform. There may be multiple listings for one property.
- **Booking transaction:** a reservation and payment agreement made between a host and a guest party to rent a residence or part of a residence for a short term.
- **Guest party:** the person or group of people that booked the short term rental and will occupy the space reserved for a short term period.
- **Entire home listing:** an advertisement for the short term rental of an entire dwelling unit. If booked, the guest party will not share the space with anyone else.
- **Private room listing:** an advertisement for the short term rental of a room within a residence. If booked, the guest party may be sharing the common space with others, either the long term resident of the residence or other guest parties occupying other private rooms within the residence, during the short term rental.
- **Shared room listing:** an advertisement for the short term rental of a shared space (e.g. a bedroom or living room) in a dwelling unit. If booked, the guest party may share the space where they will be sleeping with other people. This is similar to renting out beds, much like a hostel setting, or a couch in someone's living room.

3.2 Snapshot of Short Term Rental Market in Burnaby

Collecting accurate and detailed data on short term rental operations is difficult for municipalities to obtain without the assistance of third parties or purchase of advanced technologies. Listings fluctuate on a daily basis as information is added or removed frequently. Listing data can be obtained in one of three ways:

- a) through hiring a third party that scrapes listing and booking information from the worldwide web;
- b) a few global municipalities (e.g. Vancouver, San Francisco, Amsterdam) have been able to negotiate Memorandums of Understanding with Airbnb to obtain data, but not with other online platforms; and/or
- c) by increasing staff and technology resources for staff to scrape the worldwide web and undertake investigative work to obtain listing data.

There are a few third party data monitoring firms that provide data and analysis services to local governments seeking to enforce short term rental regulations across several online platforms. One of those firms is Host Compliance Inc. which provided basic overview data to staff in 2020 January. This data included a snapshot that showed:

- 1,583 listings in 1,438 unique dwelling units;
- 55% of all listings were for an entire residence, 45% for a private room in a residence and a few for a shared room in a residence;
- highest density of listings appeared to be in the Metrotown area, though listings existed throughout Burnaby;
- average nightly rate charged in Burnaby was \$80;

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- 79% of listings were in single family homes;
- there was a 20% increase in listings and 24% increase in the number of dwelling units being used for short term rentals in 2019; and,
- this data was pulled from 54 different online platforms.

On a regional basis, research out of McGill University (2017) indicated that the Vancouver Census Metropolitan Area (CMA) region (similar to Metro Vancouver) has:

- the highest ratio of active listings per population when compared with Toronto and Montreal;
- one active Airbnb listing per 123 people and one active listing per 51 homes;
- 64% of listings in the Vancouver CMA are located in the City of Vancouver with the rest of the listings being hosted in suburbs, primarily inner suburbs along transit corridors;
- 61% of listings were for entire units; and,
- greatest growth pressure for future listings is anticipated along SkyTrain lines, particularly in Burnaby,¹ likely due to lower nightly rates than Vancouver, and proximity and shorter travel times to major destinations in City of Vancouver.

3.3 Tourist Accommodations in Burnaby

Tourism is an important economic sector in Burnaby and across Metro Vancouver. To appeal to a variety of potential visitors, varying types of tourist accommodation can be offered. Tourism Burnaby indicates that tourist accommodations in Burnaby include:

- 1,317 hotel and inn rooms;
- dorm rooms at Simon Fraser University during the summer; and,
- a small number of bed and breakfasts offering rooms throughout the community.

Tourism Burnaby estimated that in 2017 Burnaby hotels had an 80% occupancy rate, which is the same as the regional average of 79.9%.² Short term rentals are a more recent addition to tourist accommodation choices being offered and occupancy rate statistics are more difficult to calculate and obtain due to there being a multitude of platforms offering listings and diverse availability between different listings.

There appears to be some response from the hotel industry to tourists and visitors demands for self-catering units and additional space. A recent example would be the Element Hotel by Westin at Willingdon and Kingsway. All rooms in this hotel include a kitchenette and over 50 suites are also available which are similar to an apartment in layout and size.

¹ Wachsmuth et al. Short-term Cities: Airbnb's impact on Canadian Housing Markets, 2017.

² Destination BC. Provincial Tourism Indicators 2019 Year-In-Review, March 2020.

https://www.destinationbc.ca/content/uploads/2019/06/Provincial-Tourism-Indicators_2018-Year-in-Review_FNL.pdf

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3.4 Market Rental Housing in Burnaby

Rental housing is an important part of Burnaby's housing continuum, providing a range of housing options for persons who are unable to afford or choose not to enter homeownership. Burnaby's Housing Profile 2019 estimated approximately 31,600 units of market rental housing in Burnaby, which includes the rental of single family dwellings, secondary suites, two family (duplex) dwellings, multi-family purpose-built rental units and multi-family strata rented units. There continues to be high demand for rental housing as evidenced by Burnaby's 2019 rental vacancy rate of 1.3%, down from 2.0% in 2018. A healthy vacancy rate is generally considered to be between 3-4%.

Short term rentals can affect the rental housing supply when vacant dwelling units that could otherwise be rented to long term tenants are offered as nightly accommodation for tourists and visitors. Secondary rental housing units, such as secondary suites and strata apartment units, represent nearly 65% of Burnaby's total estimated rental housing stock. CMHC's Rental Market Report 2017 for Vancouver CMA advises that the secondary rental market represents a larger share of the rental supply in the Metro Vancouver region than in other large metropolitan areas in Canada, such as Montreal and Toronto.

3.5 Provincial Taxation of Short Term Rentals

The Provincial government is responsible for taxation of short term accommodations under the *Provincial Sales Tax Act*. In 2018, the Provincial government announced that it had reached an agreement with Airbnb that would see that online platform collect and remit the 8% provincial sales tax (PST) and up to 3% municipal and regional district tax (MRDT) on all short term accommodations booked through its website. MRDT is set at 2% in Burnaby. The Provincial government also announced that it is pursuing similar agreements with other short term rental platforms, such as VRBO, but as yet, have not been successful. Over \$14 million in tax revenue was remitted to the Provincial government in the first six months of implementation of the agreement with Airbnb. The application of these taxes to online short term rentals contributes towards leveling the playing field between traditional tourist accommodations and the emergence of short term rentals in residences.

Provincial Tax Policy Branch staff advised that revenue generated from the PST collected and remitted by Airbnb, like that from other tourist accommodations such as hotels, goes into general funds in British Columbia, but the extra revenue generated enables the Provincial government to spend more on affordable housing. MRDT revenue is transferred to the municipal tourism association/non-profit where the tax is collected to fund tourism promotion activities. The 2% MRDT collected by traditional tourist accommodations provided by hotels and motels, as well as short term rentals on Airbnb, currently finances the annual operating budget of Tourism Burnaby. Affordable housing was added as a permissible use of MRDT funds in the 2018 Provincial Budget, to help address local housing needs. Local governments have the flexibility to define, identify, and fund affordable housing initiatives that they deem appropriate using MRDT revenue to meet local

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needs. Staff propose that options for allocating MRDT funds, generated from short term rentals in Burnaby, towards affordable housing initiatives be investigated further.

4.0 REGULATING SHORT TERM RENTALS

4.1 Best Practices in Regulating Short Term Rentals

In response to the growth of short term rentals of residences, many municipalities have sought to regulate this use. Municipalities in the United States and Europe were some of the first jurisdictions to adopt specific regulations. Staff undertook a wide review of adopted and proposed regulations in 17 municipalities across North America, the results of which are summarized in *Appendix 1 attached*.

A number of emerging best practices for regulating short term rentals have resulted from jurisdictions that have had regulations in place for the last few years. These include:

1. regulate rather than prohibit – bans on short term rentals have proven ineffective in eliminating this use;
2. simple regulations – simple and straightforward regulations and processes achieve greater voluntary compliance;
3. principal residences – permitting short term rentals only within dwelling units occupied as someone's principal residence is an effective regulation to reducing the impact of this use on long term rental supply and disruptions to neighbourhoods;
4. business licences – requiring a business licence helps to monitor the use and more easily identify non-compliance;
5. active enforcement – actively pursuing enforcement of regulations ensures they are applied in a comprehensive and equitable manner;
6. higher fines – fines for non-compliance should be high enough to be a deterrent for non-compliance;
7. obtain third party data – third party monitoring firms have the staff resources and tools necessary to verify compliance efficiently and cost effectively; and,
8. extensive communications – proactive, multi-faceted and widespread communication of regulations achieves higher rates of voluntary compliance.

4.2 Enforcement of Short Term Rentals in Burnaby

Complaints about short term rentals have increased in Burnaby in recent years. Between January 2014 and September 2019, the City received 263 complaints related to suspected short term rentals and boarding, lodging and rooming houses. The majority of complaints received were about activities occurring in single family dwellings. Other types of dwelling units comprise a smaller proportion of the complaints received. Complaints are most commonly received from nearby residential properties, but also from strata councils for high-rise buildings and in some cases, from former short term rental guests themselves.

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Most common complaints about short term rentals:

- a residence is being used as a hotel; or,
- too many people being accommodated in a residence.

Other complaints received:

- increased traffic and parking issues;
- safety concerns due to increased number of transient people in a neighbourhood; and,
- increased volume of garbage, unsightly premises, and noise resulting from parties hosted in houses.

It has become clear that the City's complaints-based approach does not address the majority of short term rentals operating in Burnaby in contravention of the Zoning Bylaw.

5.0 IMPACTS OF SHORT TERM RENTALS

There has been considerable global debate about the rise in popularity of short term rentals and their proliferation through the use of online platforms. Those in support of this use advise that there is demand from tourists for accommodation alternatives to traditional hotels; that local businesses outside traditional tourist areas benefit from increased tourist spending; and, that the income generated from short term rentals helps homeowners offset housing costs in an expensive housing market. Those who are concerned with the increasing popularity of short term rentals suggest that they are negatively impacting an already limited and expensive rental housing supply; creating nuisance and safety issues within buildings and neighbourhoods; and, are a source of unfair competition to more traditional tourist accommodations that are subject to various regulations. These impacts are discussed below.

5.1 Responding to Tourist/Visitor Demands

Short term rentals respond to tourist and visitor demands for accommodation in certain areas of the city or desire to have a "local's experience" as short term rentals are often located in a greater variety of neighbourhoods than hotels. Short term rentals also appeal to tourists who wish to self-cater and have access to a kitchen, or families with children, who are attracted to those rentals that have multiple rooms. Short term rentals in residences also provide additional accommodation options during peak tourist and visitor seasons when hotel occupancy is greater and supply is constrained.

5.2 Supports Neighbourhood Businesses

Businesses in residential neighbourhoods benefit from tourist dollars spent in these non-traditional tourist areas when tourists patronize local restaurants, grocery stores, and other stores and services commonly available to residents in a neighbourhood. However, if short term rentals become

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concentrated in an area, the types of businesses that choose to locate in these neighbourhoods could change and begin catering more to a transient population than a permanent one.

5.3 Defrays High Cost of Living and Homeownership or Rental Housing Costs

Income generated from short term rentals helps to defray the high cost of living and housing costs for homeowners and tenants in the region's expensive housing market. While the high cost of housing can also be offset by renting a space to a long term tenant, operators may prefer the flexibility of renting a room or unit as a short term rental rather than entering into a tenancy agreement with a long term tenant.

5.4 Impact on Rental Housing Supply and Affordability

The most common concern regarding short term rentals is the conversion of long term rental housing into short term rentals for tourists and visitors. These conversions have the potential to reduce the supply of rental housing available for long term renters primarily when entire units are offered on a nightly basis, as opposed to a private or shared room in a unit already occupied as a permanent residence.³ Additionally, the potential for increased rental income and exemption from the responsibilities of the *Residential Tenancy Act* incentivize renting an entire unit for a nightly fee to visitors or tourists instead of renting to a longer term tenant. Furthermore, increased competition between potential tenants for a reduced supply in an already tight rental market creates an environment in which landlords can demand higher rents, impacting rental affordability.

5.5 Nuisance and Safety Impacts to Buildings and Neighbourhoods

Introducing commercial uses into residential buildings and neighbourhoods creates the potential for conflicts to arise. Tourist and visitor accommodation is typically permitted in commercial areas as opposed to residential areas due to its inherently more intensive use. Potential negative impacts associated with short term rentals in residential areas include:

- **Noise:** large groups staying together in a short term rental, lack of awareness or respect for commonly held quiet hours in a building or neighbourhood, inconsistent and inconvenient arrival and departure times, and guests being in vacation mode may contribute to increased noise associated with short term rentals.
- **Safety:** strangers accessing private and semi-private areas of a building may result in residents experiencing real and perceived impacts to personal safety and the safety of property. Provision of security fobs to strangers for access to otherwise secure buildings is commonly of concern.
- **Nuisance:** increased pressure on on-street or visitor parking, increased volume and improper disposal of garbage and recycling, and poor guest behaviour in a building or

³ Private or shared rooms may also be a source of long term rentals in roommate situations.

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neighbourhood may be of concern, particularly when there is limited oversight or absent hosts.

5.6 Unfair Advantage over Traditional Forms of Tourist Accommodation

Hotels and other forms of tourist accommodations are regulated by provincial and municipal governments through taxation, business licencing, and building and fire code safety inspections. Short term rentals are not subject to the same oversight and have been able to operate without application of similar costs or regulatory scrutiny.

6.0 DISCUSSION

In considering a short term rental policy, the City first needs to determine the objectives it wishes to achieve and the policy approach that will achieve the desired objectives. Using existing City policies, complaints records, and the research in other municipalities, the following objectives for Burnaby are proposed:

- protect long term rental housing supply;
- maintain and improve neighbourhood livability and stability;
- support economic opportunities, including tourism in Burnaby and opportunities for Burnaby residents and local businesses; and,
- provide regulatory program that is clear and inspires high levels of compliance.

Current language in the Zoning Bylaw does not refer to “short term rentals”, home-sharing, bed and breakfasts, or “Airbnbs” or “VRBOs”, terms commonly used today when referring to tourist accommodations or vacation rentals in residential dwelling units. As such, the City’s regulatory framework does not effectively contemplate short term rentals as a use and clarity is needed due to the growth of this use.

Permitting short term rentals only within dwelling units that serve as the permanent residence of a household provides strong support for protecting the long term rental housing supply and could also contribute toward maintaining the livability and stability of neighbourhoods by upholding the primary use of residences for residential use. Permitting short term rentals in a limited way would accommodate alternative economic opportunities to renting to a long term tenant by permitting residents to generate income by sharing their homes with tourists and visitors.

The lack of clarity in the City’s regulatory framework also inadequately responds to current challenges with enforcement. At present it is difficult to distinguish short term rentals from long term rentals under existing use categories and definitions. Moreover, compliance levels would continue to be difficult to ascertain without business licence requirements and monitoring of short term rental activity provided through agreements with online platforms or from third party data monitoring firms. To provide the needed clarity for this use, the Zoning Bylaw will need to define the use, differentiate it from other uses, and permit it in appropriate zoning districts. The Business

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Licence Bylaw and Business Licence Fees Bylaw would also need to be amended to regulate short term rentals and define a business licence program to aid with enforcement. Further, the Bylaw Notice Enforcement Bylaw would need to be amended to define the contraventions and associated penalties.

For the above reasons, staff propose a regulatory and enforcement framework that provides clarity on this use and establishes a process for regulating and monitoring it in Burnaby. The framework is also anticipated to increase compliance levels throughout Burnaby and is outlined in Sections 7.0 and 8.0 below.

7.0 RECOMMENDED REGULATORY AND ENFORCEMENT FRAMEWORK TO SHORT TERM RENTALS

Based on the objectives mentioned above and the research of other municipalities' regulations, staff propose that homeowners (in the case of strata properties, only if permitted under strata bylaws), or tenants with their landlord's permission, holding a valid business licence be permitted to rent part or all of their principal residence on a short term basis. Short term rentals within secondary suites and homes with secondary suites, as well as flex suites and homes with flex suites would not be permitted. Renting non-principal residences (i.e. dwelling units not occupied by a homeowner or tenant on a permanent basis) would not be permitted. All short term rentals would be required to be within a legal dwelling unit (i.e. not a vehicle, tent, trailer, shed, etc.). Each principal residence would be permitted to host one guest booking at a time of a maximum of four unrelated people or a family of six related people per booking. Short term rentals would also be precluded from purpose built rental units. The following sections elaborate on the proposed regulatory and enforcement framework for short term rentals.

7.1 Use of Principal Residences Only

It is recommended that short term rental regulations maintain that the primary use of all dwelling units be as a permanent home for one family, not as transient accommodations. Short term rentals within principal residences would be permitted as an accessory use. This would maintain the primary use of the housing supply as residential and avoid permanent conversion of housing units to commercial uses. It would also reduce the likelihood that tenanted dwelling units will be removed from the rental housing supply and converted to tourist accommodation. Confirmation of permanent occupancy, strata bylaw compliance in the case of stratified property owners, and written permission from the landlord in the case of tenants, are proposed to be required as part of a new business licencing process.

7.2 Number of Guests

A balanced number of guests that could rent rooms within a principal residence (occupied by the permanent owner or tenant) as a short term rental is anticipated to reduce neighbourhood impacts of short term rentals. It could also increase economic opportunities for Burnaby residents and enable visiting families to stay together at one property as an alternative to a hotel room. As it is

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likely that families are utilizing short term rentals in Burnaby residences already, this approach could legitimize some short term rentals anticipated to already be operating in the city. In an effort to mitigate an increase in disruption within neighbourhoods and multi-family buildings, it is proposed that one guest party of a maximum of four unrelated guests or a family of six related guests be permitted to rent a principal residence short term at one time.

7.3 Rental of Entire Principal Residence

Many tourists and visitors prefer to rent entire dwelling units for their accommodation as they provide more privacy, independence, and an opportunity to save money by having access to a kitchen. Permitting Burnaby residents to rent out their principal residence to tourists or visitors while they are away from home would not appreciably reduce the stock of long term rental housing as it would limit entire unit rentals to residences that are already occupied long term by the owner or a tenant. It would also provide more opportunities for property owners and tenants to earn additional income by attracting tourists or visitors to stay in their residence while they (the principal owner or tenant) are away.

7.4 Secondary Suites and Flex Suites

Council adopted the Secondary Suite program in 2013 in an effort to legalize this significant supply of affordable rental housing in the community. The program included restrictions on accessory uses within secondary suites given the compounding impacts of accessory uses. More recently, bylaw text amendments were adopted in 2018 to clarify the prohibition of several accessory uses within a secondary suite and the home that contains a secondary suite. Staff propose that short term rentals be added to the list of accessory uses precluded from homes containing a secondary suite and secondary suites themselves, as it would help to maintain this supply of housing for long term renters and potentially mitigate intensifying effects that could be attributed to short term rentals. For similar reasons, staff propose that short term rentals be precluded from flex suites and homes with flex suites.

7.5 Purpose Built Rental Housing

Rental use zoning was adopted by Council in 2018 to increase the supply and improve affordability of rental housing in Burnaby. It seeks to protect existing, and incentivize the construction of new, rental housing. Recognizing the critical shortage of affordable purpose built rental housing in Burnaby, staff propose that short term rentals not be permitted in these rental units to ensure that this supply of affordable rental housing continues to be protected for long term renters.

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8.0 BUSINESS LICENSING AND ENFORCEMENT

8.1 Business Licences

Staff propose that a new regulatory framework to this use include the requirement of a business licence. There are several benefits to considering the introduction of a business licence process. First, it provides a clear path to the legitimization of short term rental operations that comply with the City's regulations. Business licences would also provide the City with information about short term rental activities in Burnaby and assist with monitoring and reporting on this use. It would also provide the City with more enforcement options, including issuing a bylaw violation notice if a short term rental were operating without a licence. Additionally, the introduction of a business licence fee would help to offset some of the costs of enforcement activities.

In order to obtain a business licence, operators would have to:

1. submit an application form along with mandatory documentation (proof of principal residence, and where applicable a letter of permission from strata and/or letter of permission from landlord);
2. pay a business licence fee;
3. agree to conform to the short term rental regulations and all City bylaws; and,
4. operators would be provided with information about responsible short term rental operations when they receive their business licence.

Operators will also be asked to review and distribute the following information:

1. guest guidelines that will inform guests about relevant City bylaws (e.g. quiet hours, parking restrictions, garbage and recycling information and schedules, etc.);
2. fire safety information, including a fire plan; and,
3. neighbour notification form to distribute to neighbours with important contact information.

Fees for a business licence are proposed to be based on a cost recovery model.

8.2 Advertising and Booking Requirements

Staff propose that the following requirements be applied to the advertisement of short term rentals in Burnaby:

- advertising a short term rental is not permitted without a valid business licence;
- a valid business licence number must be included in any short term rental advertisement;
- only one short term rental may be advertised per business licence; and,
- a hard copy of the business licence must be posted within the short term rental unit.

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8.3 Enforcement

Enforcement activities for short term rentals are currently conducted on a complaint basis only. Staff propose implementing an active approach to enforcement. Most municipalities with recently adopted short term rental regulations have chosen to undertake an active enforcement program, at least in the short term, in an effort to apply the new regulations in a comprehensive and equitable manner. This would involve actively searching various online platforms for short term rental ads, working with a third party data monitoring firm to receive ongoing detailed data and supporting evidence regarding short term rental activity in Burnaby and potentially hiring additional staff dedicated to this topic area. Engaging a third party is necessary to acquire a comprehensive inventory of current and future short term rental activity as staff do not have the technological expertise or software necessary to gather the detailed data in-house.

The proposed enforcement framework would prioritize enforcement actions in the following order:

1. first, enforce against operations that are not permitted by the new regulatory framework;
2. second, bring those operations that could be legalized into compliance through the business licence process; and,
3. third, investigate other suspected operations that arise through complaints.

The proposed approach is anticipated to require three full time investigators and 1-2 administrative staff.

9.0 NEXT STEPS

The regulatory and enforcement framework as described above in Sections 7.0 and 8.0 are presented as a basis for advancing to the next steps in developing a business licence and active enforcement program for short term rentals in Burnaby. This approach would form the basis of a public consultation process to gather feedback on the proposed framework. The preliminary activities associated with this work is proposed as follows:

1. Council consideration of the proposed framework as outlined in this report;
2. undertake concurrently;
 - o development of detailed zoning and business licence regulations and an active enforcement implementation program;
 - o engaging a third party to provide detailed data about short term rental activity in Burnaby to serve as a baseline of activity;
 - o development and implementation of a public engagement and communications strategy for informing the public about the advancement of short term rental regulations and rolling out the short term rentals program once adopted;
3. report back to Committee and Council with draft bylaw amendments and the detailed enforcement program;

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4. Council adoption of bylaw amendments; and,
5. undertake an active approach to enforcement of the Short Term Rental Program.

10.0 CONCLUSION

This report presents an overview of short term rentals, their regulation in other municipalities, potential impacts and local context, as well as recommendations for a regulatory and enforcement approach for this activity in Burnaby. In summary, the proposed regulatory and enforcement framework to short term rentals would:

- permit short term rentals as an accessory use in all legal dwelling units that are occupied by a homeowner or tenant on a permanent basis (subject to strata and/or landlord permission) except in secondary suites, homes that contain a secondary suite, flex suites or homes with a flex suite, or any purpose built rental unit;
- permit one short term rental booking per property for a guest party of no more than four unrelated people or a family of six related people at a time;
- permit homeowners and tenants to offer their entire principal residence as a short term rental while they are away from home;
- require a business licence to operate a short term rental; and,
- include undertaking an active enforcement program and engaging a third party data monitoring firm to provide detailed data regarding short term rental activity in Burnaby to assist with this active enforcement approach.

This framework reflects a balanced consideration of a mix of objectives. It is recommended that Council support in principle the proposed framework. It is also recommended that staff engage a third party to provide detailed data about short term rental activity in Burnaby to inform the development and implementation of the detailed business licence and enforcement program and necessary bylaw amendments for short term rentals in Burnaby. It is further recommended that the Finance Department provide an analysis on the guidelines and limitations related to the use of MRDT revenue generated from short term rental activity in Burnaby for affordable housing initiatives. A future report will be brought forward for Committee and Council consideration of the necessary bylaw amendments that will form the regulatory and enforcement program for short term rentals.


 E.W. Kozak, Director
 PLANNING AND BUILDING


 Dave Critchley, Director
 PUBLIC SAFETY & COMMUNITY SERVICES

CS:sa/tn

Attachment

cc: *City Manager*
City Solicitor

Director Finance
City Clerk

Chief Licence Inspector

Appendix 1: Municipal Regulations for Short Term Rentals

Jurisdiction	Vacancy Rate 2018	Operator Licence or Registration	Operator Fees	Dwelling Type	Principal Residence Only	Sleeping Unit Cap	Entire Unit Permitted	Night Cap	Safety Provisions	Nuisance Provisions
Nelson, B.C.	0%	3 types of short term rental business licences: - Year Round - May – Aug - 31 days	\$200-\$400 + \$500 deposit	SF and MF dwelling units	Yes	No	Yes (if principal residence)	Yes, see BL types	Premises inspected every 3yrs;	Provide guests and neighbours with 24/7 contact person; ownership required; max 3/block;
Tofino, B.C.	n/a	Business licence	\$450-\$900	SFDs; secondary suites and accessory dwelling units also permitted	No	3 max; 6 people max	Yes (but must be located on operator's principal residence property)	No	Not specified	1 per property; 1 additional parking space required;
City of North Vancouver, B.C.	0.8%	Accessory Boarding business licence	\$10.50 per bedroom used for boarding	SF and MF dwelling units	Yes	1-2 room max; 2 person max	No	No	Not specified	1 on-site parking stall per boarder
Richmond, B.C.	0.7%	Bed and breakfast business licence; boarding does not require a business licence	B&B licence \$162	Boarding and Lodging - SF and MF dwellings; B&B - SF dwellings only	Yes	2 boarders max; 3 B&B rooms max	No	No	Not specified	Owner operator required; not permitted in dwellings that already have a secondary suite, granny flat or coach house; B&Bs not permitted in homes that already have a boarding and lodging use.

Jurisdiction	Vacancy Rate	Operator Licence or Registration	Operator Fees	Dwelling Type	Principal Residence Only	Sleeping Unit Cap	Entire Unit Permitted	Night Cap	Safety Provisions	Nuisance Provisions
Coquitlam, B.C.	1.2%	Bed and breakfast business licence	\$85	Bed and breakfast in SF and MF dwelling units	Yes	1 family or 2 boarders max.	Yes (if principal residence)	No	Initial inspection of premises, compliance with Building and Fire Codes	Max 40% of dwelling unit floor space to be used for bed and breakfast use; must not create parking or traffic disturbance; permission from strata council required
Delta, B.C.	1.3%	Not required	No fee	SFD (some zones only)	Yes	2 boarders max	No	No	Not specified	
Port Coquitlam, B.C.	1.2%	Bed and Breakfast business licence	\$90	SFD (some zones only)	Yes	2 sleeping units; max 4 people	No	No	Not specified	
Surrey, B.C.	0.3%	Bed and breakfast business licence	\$105	SFD	Yes	6 people max.	No	No	Inspection of premises prior to business licence approval; compliance with Building and Fire Code	Building must not contain secondary suite; 1-2 additional on-site parking spaces;
Vancouver, B.C.	0.8%	Short term rental business licence	\$49 + one time processing fee of \$54	SF and MF dwelling units	Yes	2 ppl per sleeping unit	Yes (if principal residence)	No	fire plan posted at entrance and exit points; smoke detectors and fire extinguishers; subject to audits and inspections; must have appropriate insurance	Provide guests with 24/7 contact; Must have strata permission; must have owner permission; operator responsible for ensuring no unreasonable disturbance or nuisance

Jurisdiction	Vacancy Rate	Operator Licence or Registration	Operator Fees	Dwelling Type	Principal Residence Only	Sleeping Unit Cap	Entire Unit Permitted	Night Cap	Safety Provisions	Nuisance Provisions
Toronto, Ont.	1.1%	Operator registration and online platform business licence	Online platform licence - \$5000 one time fee + \$1 per night booked STR operator license - \$50/yr	SF and MF dwelling units	Yes	3 rooms max per unit	Yes (if principal residence)	180 nights per year	Building and Fire Code compliance; 24 hr contact and emergency information provided to guests;	Operator responsible for ensuring compliance with all City bylaws and regulations
San Francisco, CA	2.7%	Registration of business and approved as certified operator by City	\$90+ business registration fee based on income; MTI \geq \$484	SF and MF dwelling units	Yes, operator must reside there a minimum of 275 days per year	No	Yes (if principal residence)	Yes, 90 night limit if renting entire unit	Liability insurance required; Property owner/homeowner association notification	Operator responsible for complying with all City bylaws and regulations; Registration number displayed; self-report STR activities every 3 months;
Portland, OR	2.4%	Accessory STR permit and business licence	\$178 two-year permit fee; \$62 renewal fee after two years	SF and MF dwelling units; cap on number of MF units permitted	Yes, operator must reside there a minimum of 270 days per year	5 max	Type A: Yes (if principal residence) Type B: accessory dwelling units permitted in addition to principal unit	No	Fire and building safety requirements; inspection of dwelling unit	Neighbour notification letter;
Santa Monica, CA	2.0%	Short term rental operator registration	\$75+ Business Licence Tax	SF and MF dwelling units	Yes	No	No	No	Fire and building safety requirements	

Jurisdiction	Vacancy Rate	Operator Licence or Registration	Operator Fees	Dwelling Type	Principal Residence Only	Sleeping Unit Cap	Entire Unit Permitted	Night Cap	Safety Provisions	Nuisance Provisions
Seattle, WA	2.5%	Short term rental operator business licence and online platform business licence	TBD	SF and MF dwelling units	No (principal residence includes secondary suite, granny flat or accessory dwelling unit plus one additional unit)	No	Yes (1 investment property)	No	Signed declaration that unit complies with building and fire codes, safety information posted in unit for guests	Operator responsible for providing 24 hour / 7 days contact number
Philadelphia, PA	7.1%	Commercial Activity business licence	No fee	SF and MF dwelling units	Yes	No	Yes (if principal residence)	180 nights per year	Not specified	Operator responsible for ensuring guests limit hours in which they have visitors on site; providing information for garbage and recycling; providing information about fines and penalties for noise and disturbances.



Item
Meeting 2020 May 26

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 May 20

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Bylaw Text Amdmt

**SUBJECT: PROPOSED ZONING BYLAW AND BUILDING BYLAW
AMENDMENTS – FENCES AND RETAINING WALLS**

PURPOSE: To propose text amendments to the Burnaby Zoning Bylaw and Building Bylaw regarding fences and retaining walls.

RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw to update requirements with respect to fences and retaining walls, as outlined in Section 3.0 of this report, for advancement to a future Public Hearing.
2. **THAT** Council be requested to authorize the preparation of a bylaw amending the Building Bylaw to impose requirements with respect to fences and retaining walls, as outlined in Section 4.0 of this report.

REPORT

1.0 BACKGROUND INFORMATION

As part of the ongoing review of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the Zoning Bylaw and the general need to update the Zoning Bylaw, text amendments are brought forward from time to time. These text amendment reports are submitted in order to provide clarification and improvements to the wording of the Zoning Bylaw, and to respond to changes in related legislation and changes in forms of development, land uses and social trends. The requirements relating to fences and retaining walls are being brought forward for review at this time.

Section 6.14 of the Zoning Bylaw which regulates the configuration of fences, walls, and other structures not being a building, has not been reviewed in detail since 1965. These provisions require a thorough review to ensure that they meet today's design guidelines for screening and security purposes, as well as to improve the streetscapes and the visual impact of fences and retaining walls on neighbouring properties.

The Building Bylaw specifically excludes fences and retaining walls from the permitting process. While this exclusion is appropriate for the construction of fences and smaller retaining walls incorporated in residential landscaping, given current development practices on sloped sites, it has

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resulted in the unregulated construction of significant earth retaining structures, some of which have been undertaken without the benefit of appropriate engineering.

To address the above noted issues, a review of the Zoning Bylaw and the Building Bylaw regarding the construction of fences and retaining walls is necessary. As part of this review, staff conducted a review of best practices and other municipalities' Zoning and Building Bylaws including Coquitlam, Maple Ridge, Pitt Meadows, New Westminster, and The District of North Vancouver. All Bylaws regulate retaining walls and fences, and require permits for the construction of retaining walls exceeding a certain height. A number of these jurisdictions, particularly those municipalities with topography similar to that of Burnaby, provide the public with retaining wall guidelines in order to enhance public understanding of how their bylaws are applied.

Staff also reviewed the "Professional Practice Guidelines - Retaining Wall Design" issued by the Engineers & Geoscientists BC on geotechnical and structural aspects of retaining walls in order to address geotechnical and structural safety concerns.

As an outcome of this review, it is recommended that:

- Section 6.14 of the Zoning Bylaw be divided into two new sections: Section 6.14.1 regulating retaining walls, and Section 6.14.2 regulating fences and free-standing walls;
- the fence and retaining wall requirements of the Zoning Bylaw be updated; and,
- the Building Bylaw be amended to require a permit for certain types of retaining walls, in order to address safety concerns.

This report reviews the Zoning Bylaw and the Building Bylaw requirements related to fences and retaining walls, and recommends a number of amendments to these regulations.

2.0 POLICY

The advancement of the proposed Zoning Bylaw and Building Bylaw amendments align with the following goals and sub-goals of the Corporate Strategic Plan:

- **A Safe Community**
 - Crime prevention and reduction – Ensure citizens and businesses feel safe in our community.
- **A Connected Community**
 - Partnership –Work collaboratively with businesses, educational institutions, associations, other communities and governments.
- **A Healthy Community**
 - Healthy Environment – Enhance our environmental health, resilience and sustainability.

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3.0 PROPOSED ZONING BYLAW TEXT AMENDMENTS

3.1 Issue

Section 6.14 of the Zoning Bylaw regulates the construction of fences, walls or other structures not being a building. This Section was originally introduced to the Zoning Bylaw in 1965, and except for minor revisions has not been amended substantially since. The requirements related to retaining walls are limited and do not provide explicit provisions to control dimensions and design of retaining walls. In addition, under the current Building Bylaw, no formal permitting process is in place for retaining walls. This combination of factors has resulted in the construction of large and imposing retaining walls that negatively impact adjacent streetscapes, and neighbouring properties' views and privacy.

The Planning and Development Committee (PDC) had previously received a delegation with respect to the construction of sizeable retaining walls on private property within the City and referred the matter to staff for a further review. Section 3.0 of this report reviews the Zoning Bylaw requirements related to fences and retaining walls, and recommends a number of amendments to these regulations.

3.2 Discussion

The configuration of fences, walls and other structures not being a building is regulated by Section 6.14 of the Zoning Bylaw. The terms “fence” and “wall” refer to space enclosing structures that are not part of a building, and are used for security, privacy or screening purposes on a property. The term “other structure not being a building” refers to construction such as retaining walls, trellises, outdoor play area equipment, and similar construction. In applying the current regulations, “retaining walls” have been distinguished from “walls” as they enclose spaces, as well as perform the geotechnical function of retaining terrain.

In order to address fences and retaining walls issues, it has become apparent that a thorough review of Section 6.14 of the Zoning Bylaw is necessary with the purpose of:

- 1) simplifying the Zoning Bylaw pertaining to fences and retaining walls;
- 2) improving consistency in the application of the Zoning Bylaw throughout the City;
- 3) updating the regulations pertaining to fences and retaining walls in order to maintain an improved streetscape, ensuring safety and privacy, and responding to the needs of different uses;
- 4) regulating the design of retaining walls to prevent the occurrence of large and imposing retaining walls; and,
- 5) addressing safety concerns related to retaining wall construction.

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3.2.1 Retaining walls

3.2.1.1 Current Zoning Bylaw Requirements for Retaining Walls

The Burnaby Zoning Bylaw does not provide explicit regulations for the construction of retaining walls. In the absence of such regulations, Section 6.14(1) has been interpreted to provide general direction governing the construction of retaining walls. Section 6.14(1) of the Bylaw states that:

“Any fence, wall or other structure not being a building, which exceeds the height limitations specified in this section shall comply with the height and setback requirements prescribed for buildings within the zoning district in which it is located.”

A retaining wall is considered an “other structure not being a building”. Retaining wall height restrictions therefore correspond to the height limitations set for fences and free-standing walls. Where a retaining wall is located within the required yards specified for the zoning district in which it is located, its height is restricted to:

- a maximum of 1.07 m (3.51 ft.) where it is located in a required front yard;
- a maximum of 1.8 m (5.91 ft.) where it is located to the rear of a required front yard in all districts, with the exception of the C4 Service Commercial, and M Industrial Districts;
- a maximum of 2.4 m (7.87 ft.) where it is located to the rear of a required front yard in the C4 and M Districts;
- a maximum of 1.8 m (5.91 ft.) where it is located anywhere on a lot in the R8 Residential District;
- in the R Residential Districts, where a retaining wall is located on a rear property line abutting a side line of an adjoining lot, the retaining wall’s height may not exceed the maximum permitted height on a side line of the adjoining lot, at the point of abutment; and,
- where a retaining wall is located outside of the required yards specified for the zoning district in which it is located, its height is limited to the maximum permitted building height in that zoning district.

The addition of specific regulations to the Zoning Bylaw concerning the construction of retaining walls has become necessary for the following reasons:

- lack of clarity due to absence of an explicit reference to retaining walls;

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- absence of explicit regulations regarding the siting of multiple adjacent retaining walls, materials used in the construction of retaining walls, and the method to measure retaining wall height;
- an increase in the construction of substantial retaining walls, and combination of retaining walls and fences with substantial height, which can overshadow neighbouring properties, and degrade the overall character and aesthetics of neighbourhoods; and,
- an increase in the use of retaining walls in the construction of buildings and infrastructure.

Accordingly, it is recommended that a new Section 6.14.1 be established to regulate retaining walls, and the following regulations be included in this section of the Zoning Bylaw:

3.2.1.2 Proposed Zoning Bylaw Requirements for Retaining Walls

Retaining wall height

To maintain human-scale in the construction of retaining walls, and to prevent the location of retaining walls that overshadow neighbouring properties, it is recommended that retaining walls located anywhere on a property shall not exceed a maximum height of 1.2 m (3.94 ft.). It is generally recognized that it is easy and safe to construct retaining walls measuring 1.2 m or less in height without an engineered design.

Given different terrain throughout the City, the maximum 1.2 m (3.94 ft.) height may not be sufficient in many developments. Considering that currently there is no mechanism to vary the height of retaining walls outside of the CD Comprehensive Development rezoning process, it is recommended that retaining walls that are a condition of subdivision approval, or provide exclusive access or light to a basement or cellar be exempted from the proposed retaining wall maximum height requirement. It should be noted that retaining walls exceeding 1.2 m (3.94 ft.) due to steep terrain, or other siting restrictions, may be permitted through a Board of Variance application subject to the proponent demonstrating a hardship.

Should Council adopt the recommended Zoning Bylaw amendments, the existing retaining walls exceeding 1.2 m (3.94 ft.) in height which were constructed with a Building Permit would become legally non-conforming structures, and subject to the applicable provisions of the Local Government Act.

Where a retaining wall is required to exceed 1.2 m (3.94 ft.) in height, terracing of the retaining wall with a minimum required horizontal distance between each wall segment shall apply. The minimum required horizontal distance shall be equal to the height of the adjacent retaining wall with a greater height, which results in an average incline of not more than forty five degrees (45°). The terracing requirement will ensure that combinations of multiple retaining walls will not unduly overshadow neighbouring properties or streets.

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According to this requirement, a retaining wall with a greater height is required to have a greater horizontal distance from the adjacent wall segment. According to the “Professional Practice Guidelines - Retaining Wall Design” issued by the Engineers & Geoscientists BC, it is generally recognized that a slope of 45° is deemed stable without an engineered design.

It is further recommended that the horizontal distance between retaining walls be suitably landscaped and maintained. This requirement is to reduce the visual significance of multiple adjacent retaining walls by adding natural landscape features to this combination. This regulation also requires that the horizontal distance between adjacent wall segments be relatively level, given that a sloped ground supported by a retaining wall will increase the overall height of the retaining wall where multiple retaining walls are combined.

Method to measure retaining wall height

To improve consistency in application of the retaining wall regulations, it is necessary to define a method to measure the height of retaining walls.

It is recommended that retaining wall height be measured from the lower of natural or finished grade at the base of the retaining wall to the surface of the ground or water which it supports. Accordingly, the height of the exposed face of a retaining wall is considered retaining wall height. Where terracing is required, each retaining wall segment shall be measured separately and not exceed a maximum height of 1.2 m (3.94 ft.). Terraced retaining walls steeper than the ratio of 1 to 1 vertical to horizontal would be considered a single retaining wall for the purpose of determining retaining wall height.

Definition of retaining wall

Currently, the Zoning Bylaw does not define the term “retaining wall.” To clarify the application of the new Section 6.14.1, and to minimize confusion in the interpretation of this section, it is recommended that a definition of “retaining wall” be added to Section 3.0 of the Zoning Bylaw. The proposed definition will differentiate a retaining wall from a fence, given that a retaining wall holds back earth, or water in the case of landscaping ponds or some forms of swimming pools, while a fence provides screening and enclosure.

Generally a retaining wall is a vertical or near vertical structure constructed of reinforced concrete, precast concrete such as Allan block or lock block, wood or rocks. Some retained soil systems may use various reinforced soil technology instead of a constructed retaining wall structure to stabilize slopes. It should be noted that these retained soil systems will also be subject to the retaining wall requirements of the Zoning Bylaw.

Accordingly, it is recommended that the term “retaining wall” be defined as “a structure, not being a building, designed to hold back, stabilize or support water, soil, rocks, or similar geotechnical materials.”

Swimming pools and landscaping ponds contain retaining structures which hold back water, and therefore, shall comply with the retaining wall requirements of the Zoning

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Bylaw. However, only swimming pools with exposed walls have visual impacts on neighbouring properties and streetscapes. Accordingly, it is recommended that only swimming pools with exposed retaining structures be subject to the retaining wall requirements of the Zoning Bylaw. This recommendation would exempt in-ground swimming pools or landscaping ponds from the retaining wall requirements of the Zoning Bylaw.

3.2.2 Fences and free-standing walls

3.2.2.1 Current Zoning Bylaw Requirements for fences and free-standing walls

Section 6.14 of the Zoning Bylaw regulates the erection of fences and free-standing walls throughout the City. The fencing regulations of the Zoning Bylaw require that:

- with the exception of vision clearance area, fences or free-standing walls shall not exceed 1.07 m (3.51 ft.) in height in a required front yard, and 1.8 m (5.91 ft.) to the rear of a required front yard, with the exception of the C4 and M Districts where fence height may increase to 2.4 m (7.87 ft.) where it is located to the rear of a required front yard;
- in the R8 District, fences or free-standing walls not exceeding 1.8 m (5.91 ft.) in height may be located in any required yard, subject to the vision clearance requirements of the Zoning Bylaw;
- fences or free-standing walls located outside of the required yards shall not exceed the prescribed building height within the zoning district in which they are located;
- in the R Districts, fences or free-standing walls located on a rear property line abutting neighbouring property's side line shall not exceed the fence height permitted on the side line of the neighbouring property at the point of abutment;
- open mesh or chain link fences not exceeding 3.5 m (11.48 ft.) in height may be erected anywhere on cemeteries, public playgrounds, parks, playfields, elementary or high school areas, and in the M Districts; and
- the height of a fence or free-standing wall is measured from the average grade to the highest point of the structure within 900 mm (2.95 ft.) of both sides of such fence or free-standing wall. An exception to this requirement is a fence erected above a retaining wall on a property line, where the 900 mm (2.95 ft.) beyond the retaining wall is not included in the calculation. Where a fence is erected above a retaining wall, that portion of a retaining wall which projects above the surface of the ground which it supports is considered a fence.

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3.2.2.2 Proposed Zoning Bylaw Requirements for fences and free-standing walls

In general, the current fence height requirements of the Zoning Bylaw within the required yards seem to be adequate as they provide privacy to the rear of the required front yards, while maintaining a consistent human-scale streetscape along the properties' frontage by requiring an appropriate fence height. However, to add clarity to the Zoning Bylaw, improve consistency in application of the Zoning Bylaw, and meet today's design objectives, the following amendments to the new Section 6.14.2, regulating fences and free-standing walls are recommended:

Maximum height of fences and free-standing walls outside of the required yards

According to Section 6.14(1) of the Zoning Bylaw, any fence or wall exceeding the height limitations specified in Section 6.14 shall comply with the height and setback requirements prescribed for buildings within the zoning district in which it is located.

The construction of fences and free-standing walls with the same height as the principal building outside of the required yards visually impact the neighbouring properties and streetscapes, particularly in residential areas where the required yards are not adequate to alleviate the imposing impacts of such structures. To maintain human-scale in construction of these structures, and reduce their imposing impacts on adjacent properties and streetscapes, while meeting the screening and enclosure purposes, it is recommended that in all districts, with the exception of M Districts, all fences located to the rear of front yard shall comply with the required fence height within the yards to the rear of front yard.

The exception of the M Districts from the above noted recommendation is to allow the construction of adequate screening around loading areas for security and aesthetic purposes.

If Council adopts the proposed recommendation, fence height to the rear of the required front yard will be limited to 1.8 m (5.91 ft.) in all zoning districts, except the C4 and M Districts. Fence height to the rear of the required front yard in the C4 and M Districts shall not exceed 2.4 m (7.87 ft.), excluding the areas outside of the required yards in the M Districts where the fence height shall be limited to the maximum height prescribed for principal buildings within the zoning district in which it is located.

Maximum height of arbors, archways, and gates

Section 6.14(5)(a) of the Zoning Bylaw requires that fences or walls, excluding screening and outdoor play area enclosures located in a required front yard shall not exceed 1.07 m (3.51 ft.) in height. Section 6.14(5)(b) limits fence or wall height to a maximum height of 1.8 m (5.91 ft.) where it is located to the rear of a required front yard in all districts other than the C4 and M Districts. Arbors, archways and gates are generally greater than 1.8 m (5.91 ft.) in height and therefore, are effectively prohibited by the Zoning Bylaw. It is desirable to permit these structures as they improve streetscapes by defining human-scale entrances to properties along the street.

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It is recommended that arbors, archways and gates be exempted from the proposed fence height requirement of the Zoning Bylaw, similar to the current exemption for outdoor play area enclosures. Furthermore, to prevent the construction of imposing entrances which degrade the streetscapes' human-scale, particularly in residential neighbourhoods, it is recommended that arbors, archways, and gates be limited to a maximum height of 2.6 m (8.53 ft.) and a maximum width of 1.8 m (5.91 ft.). This provision would only apply to structures which serve as an entrance to a property, and does not include any attached structure to such entrance which provides enclosure or screening on any other part of the property.

Storage yards' screening in A Districts

Section 6.15(2)(b)(i) of the Zoning Bylaw requires that in A, C4 and M Districts, any part of a lot used as an outdoor storage area shall be enclosed by a solid 2.4 m (7.87 ft.) high screening on any side not facing directly upon the principal building. The outdoor storage area in the A, C4 and M Districts is not permitted in a required front yard or any required yard abutting a lot in an R or RM Multiple Family Residential Districts. To meet the screening requirement, Section 6.14(5)(c) allows for an increased fence height to a maximum of 2.4 m (7.87 ft.) where it is located to the rear of the required front yard, in the C4 and M Districts. However, in other districts, including A Districts, such fences or walls may not exceed 1.8 m (5.91 ft.) in height.

Exclusion of the A Districts from Section 6.14(5)(c) precludes the construction of a 2.4 m (7.87 ft.) high screening which encloses outdoor storage areas in the A District, as required by Section 6.15(2)(b)(i) of the Zoning Bylaw. To address this issue, it is recommended that in the A Districts, fences or free-standing walls not exceeding 2.4 m (7.87 ft.) in height be permitted to the rear of a required front yard, similar to the C4 and M Districts.

Maximum height of structures not being a building, other than fences and retaining walls

Section 6.14(1) of the Zoning Bylaw stipulates that "structures not being a building" shall comply with the required fence height where they are located within the required yards, and with the prescribed building height where located outside of the required yards. The Zoning Bylaw defines "structure" as anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. "Structures not being a building", other than fences and retaining walls, may include a variety of structures constructed for different purposes, including:

- trellises, fish ponds, flag poles, or similar landscape features;
- exterior heating and cooling equipment, heat pumps, emergency generators, swimming pools and their accessory heating and filtration equipment, and similar equipment providing accessory services for the operation of a building; and

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- storage tanks, outdoor play area equipment, and similar structures that are ancillary to the principal use of a building or property.

The new Sections 6.14.1 and 6.14.2 of the Zoning Bylaw are intended to only regulate fences and retaining walls. Therefore, it is recommended that the provision pertaining to height and location of the structures not being a building, other than fences and retaining walls, be moved to other sections of the Zoning Bylaw regulating accessory buildings and structures. The recommended bylaw amendments related to structures not being a building, other than fences and retaining walls, are as follows:

- structures not being a building have different forms and sizes, many of which may have imposing impacts on adjacent properties and streetscapes, such as storage tanks, and some accessory service equipment. In addition, some of these structures, such as emergency generators, and heating and cooling equipment may become a nuisance to neighbouring properties due to noise, vibration and emission of exhaust. The required yards, especially in the residential neighbourhoods, are not adequate to mitigate the visual, noise and vibration impacts of these structures. To maintain a maximum height that is consistent with the prescribed fence height within the required yards, and to minimize any imposing impacts on the neighbouring properties, it is recommended that Section 6.2(2) of the Zoning Bylaw be amended by restricting the location of any non-building structures, other than fences and retaining walls, within the required front and side yards, in all districts. This recommendation is in line with the current requirement of the Zoning Bylaw restricting the location of accessory buildings within the required front and side yards.
- restricting the construction of any non-building structures, other than fences and retaining walls, within the required front and side yards will restrict the location of utility, fire and servicing equipment where their location is required within front yards. Section 6.12 of the Zoning Bylaw specifies the structures which may project into the required yards. To permit the location of utility, fire and servicing equipment in any required yard where it is necessary, it is recommended that this equipment be added to this section of the Zoning Bylaw.
- Section 6.12 of the Zoning Bylaw specifies accessory structures and features which may project into required yards, including arbors, trellises, monuments and similar landscape features. To ensure these structures will not have an imposing impact on adjacent properties and streetscapes, it is recommended that a new Section 6.6(1)(e) be added to the Zoning Bylaw requiring that the height of such projections shall comply with the fence height requirements of the zoning district in which they are located.
- the current Section 6.14(1) of the Zoning Bylaw requires that a structure not being a building located outside of a required yard shall comply with the prescribed building height within the zoning district in which it is located. In general,

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structures not being a building are accessory in nature. To ensure these structures will not have an imposing impact on the neighbouring properties, given the required yards depths in the R and RM Districts, it is recommended that a new Section 6.6(2)(h) be added to the Zoning Bylaw restricting the height of such structures to 4.6 m (15.09 ft.), in line with the required height of accessory buildings in these districts. It should be noted that such height restriction is not recommended in the A, C, M, and P Districts to allow the location of mechanical and operational equipment, storage tanks, and other accessory service facilities with a wide range of height requirement, outside of the required front and side yards.

Fences on school sites and public parks

Section 6.14(6) of the Zoning Bylaw states that open mesh or chain link type fences not exceeding 3.5 m (11.48 ft.) in height may be erected anywhere on cemetery, public playground, park, playfield, elementary or high school areas, and in the M Districts.

In the absence of a definition for playground or playfield, and to simplify the Zoning Bylaw, it is recommended that the terms “public playground”, “park”, and “playfield” be replaced with the term “public park”. It is also recommended that the term “elementary or high school areas” be replaced with the term “schools”. These recommendations are to ensure that a maximum 3.5 m (11.48 ft.) high open mesh or chain link fence may be located anywhere on a school site, or in a public park.

Furthermore, it is recommended that open mesh or chain link type fences up to a maximum height of 3.5 m (11.48 ft.) be permitted in the P Districts to allow the construction of a security fence, where it is needed. Examples of such uses are police stations, public services and utilities which are outright permitted uses in the P Districts.

The addition of barbed wires, razor wires, or similar materials to open mesh or chain link fence shall be permitted for security purposes in the M Districts, or for correctional institutions permitted in the P7 District.

Fences on sports fields

Currently, fences enclosing sports fields, golf courses, tennis courts, and similar uses are limited to a maximum height of 1.07 m (3.51 ft.) in a front yard, 1.8 m (5.91 ft.) to the rear of the required front yard, and to a maximum height prescribed for a principal building where located outside of the required yards. These fences generally provide an enclosure around the area used for sports to ensure the safety of pedestrians or cars using the adjacent streets or properties. Considering that the height of such fences can vary depending on the type of sport, size of the facility, proximity of the facility to the neighboring properties and roads, and age and skill level of players, it is recommended that fences which delineate the area used as sports fields, golf courses, golf driving ranges, tennis courts and similar uses be exempted from the fence height requirements of the Zoning Bylaw. The recommended exemption will allow a flexible fence height that meets the needs of different sports facilities.

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Fence material and design patterns

Currently, Section 6.14 of the Zoning Bylaw does not regulate materials used in the construction of fences or walls. This lack of regulation can result in the construction of sizable blank concrete walls where a fence is located above a retaining wall, and both are made of blank concrete blocks. This concern is exacerbated under the current Zoning Bylaw as the combined height of a fence and retaining wall may be increased up to 2.14 m (7.02 ft.) where located in a front yard, 3.6 m (11.8 ft.) where located to the rear of a front yard, in all districts excluding the C4 and M Districts, and 4.8 m (15.75 ft.) where located to the rear of the front yard in the C4 and M Districts.

In order to improve the aesthetics of such combined structures, it is recommended that different materials and design patterns be used in the construction of a combined fence and retaining wall. This requirement will result in visually dissimilar wall sections with less imposing impacts on neighbouring properties or adjacent streetscapes.

Furthermore, barbed wire, razor wire or similar materials with sharp projections may be used on a property where its use requires further protection and security, such as on industrial properties, or for correctional institutions. As such, to limit the use of such materials which present a safety hazard to residents, particularly in residential neighbourhoods, it is recommended that these materials only be permitted in the M Districts, or for correctional institutions.

Fences on the rear lot line in the R Districts

Section 6.14(5)(d) of the Zoning Bylaw requires that in the R Districts, where the rear line of a lot abuts a side line of an adjoining lot, the fence height on such rear lot line may not exceed the height permitted on the adjacent side line, at the point of abutment. This requirement is to ensure that in such circumstances, fence height located on a rear lot line is equal to the fence height located on the side lot line of the adjoining lot, to prevent the construction of an imposing fence. However, this requirement may limit the fence height to a maximum of 1.07 m (3.51 ft.) for a portion of the rear yard abutting the adjoining lot's front yard. As such, to provide adequate enclosure and privacy along the rear lot lines of all properties, it is recommended that Section 6.14(5)(d) of the Zoning Bylaw be repealed in its entirety. Should Council adopt this recommendation, fences located on the rear lot line of all single and two family residential properties may not exceed a height of 1.8 m (5.91 ft.), regardless of the orientation of such a property.

Definition of "fence"

Currently, the Zoning Bylaw does not define the term "fence or wall". In the absence of a definition, Section 6.14 has been used to regulate the location and height of the structures providing enclosure and screening on properties. However, to clarify the application of

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Section 6.14, and to minimize confusion in interpretation of the Zoning Bylaw, it is recommended that the definition of “fence” be added to Section 3 of the Zoning Bylaw.

It is recommended that the term “fence” be defined as “a structure, not being a building, used as an enclosure or for screening purposes around all or part of a lot.” The proposed definition recognizes a fence as a structure that provides enclosure and screening, and includes any free-standing wall that fulfills this same function. Accordingly, it is recommended that the term “wall” be removed from any section of the Zoning Bylaw where it is associated with the term “fence”, to avoid repetition.

Furthermore, it is recommended that the definition of “structure” be amended in line with the proposed definition of “fence”. Section 3 of the Zoning Bylaw defines “structure” as anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, with the exception of fences and walls that are less than the maximum fence height permitted in any district. As such, in order to consider all fences as a structure, it is required that the exclusion of fences with height less than the maximum permitted height be removed from the definition of “structure.” It should be noted that it is not clear why fences and walls were specifically excluded from the definition of “structure” which was originally introduced to the Zoning Bylaw in 1965, and has not been amended since then.

Fence height in the R8 Residential District

Section 6.14(5)(e) of the Zoning Bylaw states that fences not exceeding 1.8 m (5.91 ft.) in height may be located anywhere on a lot that is zoned R8 District. The R8 District is one of the residential districts which permits the construction of single and two family dwellings, as well as townhouse dwellings. Generally, single and two family dwellings are permitted as an outright permitted use in any R and RM Districts, and townhouse dwellings are permitted in any RM Districts as well as in the R8 District. In the R and RM Districts, other than the R8 District, fences may not exceed 1.07 m (3.51 ft.) in height in a required front yard, and 1.8 m (5.91 ft.) to the rear of a required front yard.

It should be noted that it is not clear why in the R8 District, fence height in a front yard is not consistent with the permitted fence height in other R and RM Districts where single and two family dwellings and townhouse dwellings are similarly permitted. To simplify the Zoning Bylaw and improve consistency in application of the Zoning Bylaw, it is recommended that Section 6.14(5)(e) of the Zoning Bylaw be repealed in its entirety. Should Council adopt this recommendation, any fence in the required front yard in the R and RM Districts may not exceed a maximum height of 1.07 m (3.51 ft.).

3.2.3 Related Zoning Bylaw Amendments

Vision clearance at intersections

Section 6.13(1) of the Zoning Bylaw requires that no fence, wall or structure other than a permitted street canopy in a C2, C3 or C4 District or a permitted principal building shall

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be erected to a greater height than 1.07 m (3.51 ft.) in vision clearance areas. The purpose of this Section is to minimize the obstruction of vision clearance, which is the area bounded by intersecting lot lines at a street corner or a lane corner, to ensure safe maneuvering of vehicles.

Should Council adopt the definitions of “fence” and “retaining wall” as “a structure not being a building”, it is recommended that Section 6.13(1) of the Bylaw be amended by replacing the term “no fence, wall or structure” with the term “no structure” to add clarity to the Zoning Bylaw and simplify its reading. As such, the term “structure” will include anything that is defined as a structure in the Zoning Bylaw, including fences or retaining walls.

Exclusion of fences or retaining walls from a number of sections of the Zoning Bylaw

Currently, “fences and walls that are less than the maximum fence height permitted in any district” are excluded from the definition of “structure” in Section 3 of the Zoning Bylaw. Following the addition of a definition for “fence” and “retaining wall” as a “structure,” further amendments to a number of sections of the Zoning Bylaw would be required to avoid subjecting fences and retaining walls to the same regulations as other structures where it is not desirable. Accordingly, it is recommended that the term “excluding fences and retaining walls” be added after the term “structures” in the following sections of the Zoning Bylaw:

- definition of “lot coverage” in Section 3 of the Zoning Bylaw: the Zoning Bylaw defines “lot coverage” as the combined area covered by all buildings and structures on the lot, excluding a number of projections such as bay windows, sun shades, balconies and uncovered swimming pools. Fences are essentially for screening, and retaining walls are landscape features which are not intended to count towards lot coverage, similar to the excluded building projections.
- definition of “building, completely enclosed” in Section 3 of the Zoning Bylaw: the Zoning Bylaw defines “completely enclosed building” as “a building separated on all sides from the adjacent open spaces, or from other buildings or structures, by a permanent roof and by exterior walls.” The term “structure” under this definition is not intended to include any landscape or screening features, or retaining walls.
- Section 6.6(1)(a) of the Zoning Bylaw restricts the construction of an accessory building or structure on any lot prior to the construction of a principal building or structure, or establishment of a principal use. This section is not intended to prohibit the construction of a security fence, screening, or a retaining wall on a property prior to construction of a principal building.
- Section 6.6(1)(b) of the Zoning Bylaw states that an accessory building or structure attached to a principal building shall comply with the requirements of the Zoning Bylaw applicable to the principal building. This section is not intended to subject fences and retaining walls to the principal building requirements of the Zoning

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Bylaw. Should Council adopt the recommendations of this report, fences and retaining walls shall comply with the new Sections 6.14.1 and 6.14.2 of the Zoning Bylaw.

- Section 6.16 of the Zoning Bylaw requires that any building or structure, except street canopies shall be located outside of a defined setback from the centre line of a number of streets. The purpose of this section is to facilitate the expansion of the subject streets, by restricting the location of any building or structure within the area to be dedicated for road expansion. As fences and retaining walls can be easily removed or relocated at the time of road expansion, it is recommended that these structures be permitted within the required building line setbacks.
- Section 407.5(1) of the Zoning Bylaw prohibits the location of a building or structure in the M7 Marine District 2 within 6.0 m (19.69 ft.) of a property's boundaries, except where the lot is abutting another M7-zoned lot, the setback may be reduced to 3.0 m (9.84 ft.). This section is not intended to restrict the location of security fences, screening or retaining walls on property lines, or within the required yards.
- section 509.5 of the Zoning Bylaw prohibits the location of a building or structure in the P9 Marine District 1 within 9.0 m (29.53 ft.) of a property's boundaries, except on a lot adjoining the High Water Mark where no setback is required. This section is not intended to restrict the location of security fences, screening or retaining walls on property lines or within the required yards.

Inclusion of “fence and retaining wall” in Section 700.2(2)

Section 700.2(2) lists all the requirements of the Zoning Bylaw which may be varied under a CD Comprehensive Development District, such as parking and loading, screening and landscaping. Considering that fences and retaining walls are generally provided for screening and landscaping purposes, it is recommended that the term “fence and retaining wall” be added to this section of the Zoning Bylaw. Should Council adopt this recommendation, the location and height of fences and retaining walls may be varied under a CD rezoning application.

Inclusion of “retaining wall” in Section 700.3(1)(e)

Section 700.3(1) of the Zoning Bylaw provides a list of information that is required to be provided in a comprehensive plan as part of a CD rezoning process. Subsection (e) includes “the location and treatment of open spaces, landscaping, fences and walls”. Considering that “fences” will include all walls that are not part of a building and provide screening and enclosure, it is recommended that the term “wall” be replaced with “retaining wall” in Section 700.3(1)(e) of the Zoning Bylaw. Should Council adopt this recommendation, it will be required to indicate the location of retaining walls on a comprehensive plan.

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Amendment to the definition of “Height”

Section 3 of the Zoning Bylaw defines “height” as a vertical dimension of a building or structure measured in accordance with Section 6.4. Fences and retaining walls are recommended to be defined as a structure with their height subject to the new Sections 6.14.1 and 6.14.2 of the Zoning Bylaw. To include all references to buildings and structures’ height requirements under the definition of “height”, it is recommended that the term “section 6.4” be replaced with “this Bylaw”.

3.3 Recommended Zoning Bylaw Amendments

1. **THAT** the definition of “Fence” and “Retaining Wall” be added to Section 3 of the Zoning Bylaw with wording the same or similar to the following:

“FENCE” means a structure, not being a building, used as an enclosure or for screening purposes around all or part of a lot.

“RETAINING WALL” means a structure, not being a building, designed to hold back, stabilize or support water, soil, rocks, or similar geotechnical materials. For the purpose of this bylaw, a retaining structure, not being a building, which does not have an exposed face and which is designed to hold back water shall not be considered a retaining wall.

2. **THAT** the definition of “Building, Completely Enclosed” in Section 3 of the Zoning Bylaw be amended by adding the text “excluding fences and retaining walls” after the text “structures.”
3. **THAT** the definition of “Height” in Section 3 of the Zoning Bylaw be amended with wording the same or similar to the following:

“HEIGHT” means the vertical dimension of a building or structure measured in accordance with this Bylaw.

4. **THAT** the definition of “Lot Coverage” in Section 3 of the Zoning Bylaw be amended by adding the bolded text as follows:

(a) belt courses, cornices, eaves, gutters, sills or other similar ornamental features;

(b) bay windows;

(c) chimneys, fire escapes and steps;

(d) canopies and sunshades;

(e) terraces;

(f) balconies;

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- (g) *uncovered swimming pools;*
 - (h) *fences and retaining walls; and*
 - (i) *parking areas that are:*
 - (i) *underground, or*
 - (ii) *open-sided and roofless.*
5. **THAT** the definition of “Screening” in Section 3 of the Zoning Bylaw be amended by deleting the text “wall.”
 6. **THAT** the definition of “Structure” in Section 3 of the Zoning Bylaw be amended with wording the same or similar to the following:

“STRUCTURE” means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
 7. **THAT** Section 6.2(2) of the Zoning Bylaw be amended with wording the same or similar to the following:

(2) No accessory building or structure, with the exception of fences and retaining walls, shall be located in any required front, or side yard, except as provided for in Sections 6.6 and 6.12 of this Bylaw.
 8. **THAT** Section 6.6 of the Zoning Bylaw be amended by adding the bolded text in the heading as follows:

*Accessory Buildings, **Structures**, and Uses:*
 9. **THAT** Sections 6.6(1)(a), 6.6(1)(b), 407.5(1), 509.5 of the Zoning Bylaw be amended by adding the text “excluding fences and retaining walls” after the text “structure”.
 10. **THAT** Section 6.6(1)(e) be added to the Zoning Bylaw with wording the same or similar to the following:

A structure listed in Section 6.12(1)(f) that projects into a required front, or side yard shall comply with the height requirements prescribed for fences within the zoning district in which it is located.
 11. **THAT** Section 6.6(2)(h) be added to the Zoning Bylaw with wording the same or similar to the following:

(h) In an R and RM District, an accessory structure not being a building, excluding a fence or a retaining wall, located outside of a required front yard or side yard, shall not exceed 4.6 m (15.1 ft.) in height.

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12. **THAT** Section 6.12(1) of the Zoning Bylaw be amended by adding the bolded text as follows:

The following features **and structures** may project into a required front, side or rear yard:

13. **THAT** Sections 6.12(1)(e), 404.2(3), and 404.2(4) of the Zoning Bylaw be amended by replacing the text “6.14” with “6.14.2.”
14. **THAT** Section 6.12(1)(k) be added to the Zoning Bylaw with wording the same or similar to the following:
- (k) Utility, fire and servicing equipment.*
15. **THAT** Section 6.13(1) of the Zoning Bylaw be amended by replacing the text “no fence, wall or structure” with “no structure.”
16. **THAT** Section 6.14 of the Burnaby Zoning Bylaw be repealed and replaced with Sections 6.14.1 and 6.14.2, with wording the same or similar to the following:

6.14.1 Retaining Walls:

- (1) In all zoning districts, retaining walls shall not exceed 1.2 m (3.94 ft.) in height, as measured at any point along the retaining wall.*
- (2) The height of a retaining wall shall be measured vertically from the lower of natural or finished grade at the base of the wall, to the surface of the ground or water which it supports.*
- (3) The shortest horizontal distance between the outer face of two adjacent retaining walls shall not be less than the height of the retaining wall with greater height.*
- (4) The horizontal distance between the adjacent retaining walls shall be relatively level, suitably landscaped, and properly maintained.*
- (5) Subsections (1), (3), and (4) of Section 6.14.1 shall not apply to retaining walls that are required:*
 - (a) as a condition of subdivision approval; or*
 - (b) to exclusively provide access or light to a basement or cellar.*
- (6) Any portion of a retaining wall that projects above the surface of the ground or water which it supports shall be considered a fence, and be subject to Section 6.14.2 of this Bylaw.*

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6.14.2 Fences:

- (1) *Subject to the vision clearance provisions of Section 6.13, the following height limitations shall apply to fences:*
 - (a) *In all zoning districts, except for required screening and outdoor play area enclosures, fences not exceeding 1.07 m (3.51 ft.) in height may be located within a required front yard.*
 - (b) *In all zoning districts, except A, C4 and M Districts, fences not exceeding 1.8 m (5.91 ft.) in height may be located anywhere on a lot to the rear of a required front yard.*
 - (c) *In A, C4 and M Districts, fences not exceeding 2.4 m (7.87 ft.) in height may be located anywhere on a lot to the rear of a required front yard.*
 - (d) *Notwithstanding paragraph (c) of Section 6.14.2(1), in M Districts, any fence located outside of the required yards shall not exceed the maximum height prescribed for principal buildings within the zoning district in which it is located.*
 - (e) *Notwithstanding paragraphs (a), (b), (c) of Section 6.14.2(1), arbors, archways, gates and similar structures which serve as an entrance to a property shall not exceed 2.6 m (8.53 ft.) in height, and 1.8 m (5.91 ft.) in width.*
- (2) *The height of a fence shall be determined by measurement from average grade within 900 mm (2.95 ft.) of both sides of such fence to the highest point of the fence. Where a fence is erected above a retaining wall along a property line, any portion of ground located beyond the retaining wall shall not be included in the calculation of average grade.*
- (3) *Notwithstanding subsection (1), and subject to the vision clearance provisions of Section 6.13, open mesh and chain link type fences erected on cemeteries, public parks, schools, and in the M or P Districts shall not exceed a height of 3.5 m (11.48 ft.). The addition of barbed wire, razor wire, or similar materials with sharp projections to such fences shall be permitted in the M District, and for correctional institutions permitted in the P7 District.*
- (4) *Subsection (1) shall not apply to fences that delineate the area used as sports fields, golf courses, golf driving ranges, tennis courts, and other similar uses. Such fences shall be subject to the vision clearance provisions of Section 6.13.*
- (5) *Barbed wire, razor wire, or similar materials with sharp projections shall not be used in the construction of a fence, except for correctional institutions permitted in the P7 District, or in the M Districts.*

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- (6) *Where a fence is located above a retaining wall, the fence shall be constructed with materials different from that used in the construction of the retaining wall, and in a manner that is visually dissimilar to the retaining wall.*
- 17. **THAT** Sections 6.15(2)(b), 401.1(17)(f), 403.1(15)(a)(ii), 403.1(15)(a)(iii), 800.7(4), and 900.6(3) be amended by deleting the text “or wall” or “walls”, as applicable.
- 18. **THAT** Section 6.16(7) of the Zoning Bylaw be amended by adding the bolded text with wording the same or similar to the following:
 - (7) *Nothing in this section prohibits the erection of a permitted street canopy, **fence, or retaining wall.***
- 19. **THAT** Section 110.12(1) of the Zoning Bylaw be amended by replacing the text “section 6.14(5)(b)” with “section 6.14.2(1)(b).”
- 20. **THAT** Section 110.12(2) of the Zoning Bylaw be amended with wording the same or similar to the following:
 - (2) *Notwithstanding Sections 6.14.2(1)(a), and 6.14.2(1)(e), no fence or other similar structure is permitted in front of the face of the principal building facing the front yard, except two or less pillars, each of which does not exceed 0.6 m (1.97 ft.) in width or 1.5 m (4.92 ft.) in height.*
- 21. **THAT** Section 700.2(2) of the Zoning Bylaw be amended by adding the bolded text with wording the same or similar to the following:
 - (2) *Exceptions to the applicable parking and loading, carwash stall, screening and landscaping, **fence and retaining wall**, minimum frontage of a business, projection into required yards and bulk regulations of this Bylaw may be permitted, provided that the floor area ratio and density for the development as a whole are in conformity with the applicable requirements of this Bylaw, and that such exception results in an improved relationship between the various parts of the proposed development.*
- 22. **THAT** the term “walls” in Section 700.3(1)(e) (CD District) of the Zoning Bylaw be replaced with “retaining walls.”

4.0 PROPOSED BUILDING BYLAW AMENDMENTS

4.1 Current Building Bylaw Requirements for Fences and Retaining Walls

Fences and free-standing walls may be constructed without a Building Permit in the City of Burnaby. However, if a builder chooses to document fences or walls under a Building Permit for a single family dwelling, staff reviews the fence height to ensure compliance with the Zoning Bylaw.

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Other landscape features including retaining walls may also be constructed without a Building Permit. An exception to this practice occurs when a Building Permit submission incorporates the proposed retaining walls. In such cases, the retaining walls are reviewed as part of the Building Permit approval process for the following reasons:

- the retaining walls may be required to support the foundation of the building, and as such, are considered an extension of the building's foundations; and
- the permit drawings could be interpreted as authorizing the construction of potentially non-compliant or unsafe retaining walls. An example is when a builder chooses to document retaining walls under a single family dwelling Building Permit. In such cases, staff reviews the retaining walls for compliance with the Zoning Bylaw and also requires that the retaining walls be captured under the umbrella of the structural engineer's letter of assurance. Because these practices are not readily apparent to applicants for Building Permits, they can result in delays in Building Permit processing.

4.2 Proposed Approach for Fences and Free-Standing Walls

Considering the absence of a permitting process for the construction of fences and free-standing walls does not give rise to any public safety concerns, it is recommended that the current procedure remain unchanged.

4.3 Proposed Building Bylaw Requirements for Retaining Walls

Retaining walls should be designed to withstand the loads imposed by the materials they retain, by the surcharge from the buildings or structures above, and by an earthquake. Retaining walls that support soil should also be adequately drained to prevent structural failure due to hydrostatic pressure.

The review of other municipalities' requirements regarding the construction of retaining walls indicates that most local governments in BC require a Building Permit for retaining structures that are 1.2 m (3.94 ft.) in height or greater. Some local governments also require that the horizontal distance between adjacent retaining walls be twice the height of the retaining wall. In several jurisdictions, retaining structures may exceed the general maximum height of 1.2 m (3.94 ft.) subject to a development variance permit and involvement of a professional engineer in the design and construction of the retaining structures.

The "Professional Practice Guidelines - Retaining Wall Design" issued by the Engineers & Geoscientists BC recommend that geotechnical and structural design be required for retaining walls that are over 1.2 m (3.94 ft.) in height, and for terraced retaining walls that are steeper than the ratio of 1:1 vertical to horizontal distance to ensure safety.

To ensure safety of retaining structures throughout the City, it is recommended that retaining walls greater than 1.2 m (3.94 ft.) in height, and terracing incorporating adjacent retaining walls, any of which are greater than 1.2 m (3.94 ft.) in height or are terraced at steeper than the ratio of 1:1

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vertical to horizontal, be subject to a Building Permit application. It is generally recognized that it is simple and safe to construct retaining walls 1.2 m (3.94 ft.) or less in height without certified engineering drawings.

Due to the complexity of the design and construction of retaining walls, site conditions including external loading conditions, soil bearing capacity and slope stability, and limited access for maintenance and repair, it is also recommended that the Chief Building Inspector be given authority to require a retaining wall be subject to a Building Permit application and professional engineer involvement in the design and construction of the retaining wall if in the opinion of the Chief Building Inspector such a retaining wall may affect the safety of the subject property or the adjacent properties.

It is proposed that a new definition for “retaining wall” be added to the Building Bylaw and that the definition of “structure”, which currently excludes all retaining walls, be amended to exclude only those retaining walls that are not subject to a Building Permit application.

Section 11(1) of the Building Bylaw sets out certain circumstances where the design and field review services of a registered professional, supported by letters of assurance, are required. It is also proposed to require a professional engineer be involved in the design and construction of retaining walls that are subject to a Building Permit application.

4.4 Recommended Building Bylaw Amendments

1. **THAT** Section 3 of the Building Bylaw be amended by adding the definition of “Retaining Wall” with wording the same or similar to the following:

“RETAINING WALL” means a structure designed to hold back, stabilize or support water, soil, rocks, or similar geotechnical materials.

2. **THAT** the definition of “Structure” in Section 3 of the Building Bylaw be amended by replacing the text “retaining walls” with “retaining walls other than those retaining walls described in sections 11(1)(c)(i), (ii), (iii), (iv) or (v)”
3. **THAT** Section 11(1)(c) be added to the Building Bylaw with wording the same or similar to the following:

(c) a retaining wall:

- (i) that is greater than 1.2 m (3.94 ft.) in height; or
- (ii) that is part of a group of two or more terraced retaining walls, any of which is greater than 1.2 m (3.94 ft) in height; or
- (iii) that is terraced at a ratio steeper than 1 to 1 vertical to horizontal with an adjacent retaining wall; or

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- (iv) that is part of a group of two or more terraced retaining walls, where the average slope of the entire group of terraced retaining walls is steeper than the ratio of 1 to 1 vertical to horizontal; or
- (v) in respect of which the Building Inspector considers that the site conditions, size or complexity of the design or construction of the retaining wall or group of retaining walls or an aspect of the retaining wall or group of retaining walls, so warrant to ensure the safety and protection of persons, the property or adjacent properties.

5.0 CONCLUSION

The above Zoning Bylaw text amendments are proposed in order to clarify certain aspects of zoning requirements, make amendments in support of existing practices and Council policies, and achieve other regulatory changes. The above Building Bylaw text amendments are proposed to impose a Building Permit requirement for retaining walls that meet certain criteria. It is recommended that Council approve the above proposed amendments, as outlined in Sections 3.0 and 4.0 of this report, and direct that the Zoning Bylaw text amendment be advanced to a future Public Hearing. The Building Bylaw amendments do not require a Public Hearing and will be brought forward to the next Council meeting for consideration and bylaw readings.


 E. W. Kozak, Director
 PLANNING AND BUILDING

PS/PK:tn

cc: City Manager
 Chief Building Inspector
 City Clerk

Director Parks, Recreation and Cultural Services
 City Solicitor