
TO: CITY MANAGER **DATE:** 2016 Sep 27

FROM: DIRECTOR PARKS, RECREATION & **FILE:** 02430-07
CULTURAL SERVICES

**SUBJECT: UNAUTHORIZED STRUCTURES ON PARKLAND ADJACENT TO 3785
EDINBURGH STREET AND THE PROPOSAL FOR A COMMUNITY
GARDEN**

PURPOSE: To respond to the delegation by Mr. Frederic Couton regarding the
proposed establishment of a community garden at 3785 Edinburgh Street.

RECOMMENDATIONS:

1. **THAT** the unauthorized structures erected by Mr. Frederic Couton on park property across the laneway from 3785 Edinburgh be removed.
2. **THAT** staff provide Mr. Couton with information on existing community gardens in Burnaby and on the considerations for their establishment within the City.
3. **THAT** a copy of this report be sent to Mr. Couton.

REPORT

Mr. Frederic Couton of 3785 Edinburgh Street appeared as a delegation at the Council Meeting on 2016 September 19. During July and August of this year Mr. Couton had cleared a section of park property across the laneway from the southern extent of his property without permission from the City. He had then erected a small retaining wall, and a raised planting bed with the intent of growing a garden on the park property. Staff received a complaint from a community member shortly after this activity commenced, and after examination and investigation, staff placed a notice on the raised planting bed directing that it be removed. Mr. Couton contacted staff shortly after the notice was placed, and indicated a desire to keep the raised planting bed on park property in its present location as a community garden. The purpose of his appearance before Council was to advocate that the raised planting bed be allowed to remain on public parkland for this purpose. This report responds to Mr. Couton's request.

1.0 Unauthorized Structures on Park Property

Section 5 of Burnaby's Park Regulation Bylaw provides that:

"No person shall cut, break, injure, damage, deface, destroy, foul or pollute any personal property or any tree, shrub, plant, turf or flower in or on any park."

Further, Section 23 provides that:

"No person shall, without first obtaining the written permission of the Administrator erect any tent, building, shelter or any other structure or works in or on any park."

Burnaby's Street & Traffic bylaw contains similar protections for a wider range of public lands such as boulevards, road allowances and utility rights of way.

The purpose of these regulations is to protect public and parkland, held by the City for the collective benefit and enjoyment of all citizens, from damage and degradation. The purpose is also to conserve undeveloped green space or environmentally sensitive areas in their natural state. The boundaries between parkland and developed residential, commercial or industrial areas are particularly vulnerable to encroachment.

Encroachment can take several forms, from unauthorized pruning or clearing vegetation across a laneway which may inadvertently cause damage to the park, to the parking of vehicles or the storage and deposition of personal property or garbage in a park, to the construction of unauthorized structures which are used by individuals or groups for a variety of activities. For example, between Boundary Road and Gilmore Street there have been 9 incidents of encroachment into Montrose Park along the north portion of the laneway behind Edinburgh Street since 2012 including the erection of unauthorized structures (planting beds, bollards) the construction of retaining walls, fire pits, picnic tables, benches, parking pads and drive ways for boats and trailers, the storage of construction materials and other personal property, and the general removal of trees and vegetation from the park edge. The City acts on these incidents on a complaint basis, and compliance is usually achieved with the cooperation of community members once notice is given and staff have had a chance to discuss the issues with the offenders.

Erecting structures without permission, or other unauthorized personal uses of parkland represents an attempt to exclusively use common property for personal gain or benefit. The intent of Burnaby's bylaws which aim to protect common property is also to guard against the pressure on it from adjacent property owners who would use public property as an extension of their own, often at the expense of or to the exclusion of the public.

2.0 Community Gardens

After a citizen complaint had been received and a notice had been issued to Mr. Couton to remove the planting beds, he proposed that the beds remain and function as a community garden. There are community gardens in Burnaby, notably the facility operated on City property at 7528 Meadow Avenue in south Burnaby by the Burnaby and Region Allotment Gardens Association (BARAGA) and at 3885 & 3897 Pender Street in north Burnaby. These gardens are operated by community associations. There are also community gardens operating at educational facilities such as SFU, BCIT and Burnaby Schools as well as gardens on private property operated by non-profit societies and individuals.

Members of the public and community groups interested in establishing a community garden or other urban agriculture initiatives can meet with City staff to discuss how the City might support their efforts and submit an expression of interest outlining their proposal. Expressions of interest for community gardens are considered on a case-by-case basis, and Burnaby citizens can pursue this interest as outlined in the New Community Gardens Information Sheet which is located on the City's website ([Attachment #1](#)). The Information Sheet outlines a number of criteria related to zoning, site size, quality and access which the site where Mr. Couton has chosen to build the planting beds does not meet.

Subsequent to installation of the raised bed, Mr. Couton contacted the Planning Department for information regarding submission of a formal request to establish a community garden. To date, a formal expression of interest has not been submitted for review by Parks, Recreation and Cultural Services Department.

3.0 Conclusion

While Mr. Couton has requested that the planting beds he erected be allowed to remain as a community garden, his progressive encroachment over a short period of time onto parkland led to a complaint and staff are obligated under the provisions of the bylaws to have the structures removed to protect the park. Staff therefore recommend that these structures be removed as soon as practically possible. Mr. Couton's interest in community gardens is recognized, and staff have provided him with relevant information as to the City's expectations for submission of a formal expression of interest in establishing a community garden. To date, a formal submission has not been received for review by Parks, Recreation and Cultural Department staff.

To: City Manager
From: Director Parks, Recreation & Cultural Services
Re: Unauthorized Structures on Parkland Adjacent
to 3785 Edinburgh Street
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A handwritten signature in blue ink that reads "D. Ellenwood". The signature is fluid and cursive, with the first name "D." and the last name "Ellenwood" clearly visible.

Dave Ellenwood
DIRECTOR PARKS, RECREATION & CULTURAL SERVICES

DE:tc

Attachment

P:\Council\161003\Unauthorized Structures on Parkland Adjacent to 3785 Edinburgh Street (2016.10.03)

cc: Director Engineering
Director Planning and Building

City of Burnaby New Community Garden Information Sheet

Expressions of interest for new community gardens are considered on a case-by-case basis, and are reviewed for a variety of factors including the following:

- Appropriate zoning (see below);
- Other possible and potentially conflicting or competing land uses or adjacent land uses;
- Access for service vehicles;
- Access to potable water;
- Site size and topography;
- Sun exposure;
- Soil quality, and evidence of site contamination from previous land uses;
- Potential to be secured at night (e.g. opportunities for natural surveillance);
- Demonstrated neighbourhood interest, support, and need;
- Applicant group's collective experience with gardening and volunteer management; and
- Partnerships or connections to existing Burnaby community gardens, non-profit groups and/or other Burnaby-based food security programs or projects.

Other factors will also be considered based on the specific application and/or proposed site(s). It is recommended that 10-15 initial members come together to express interest in establishing a new community garden. All initial members must be residents of Burnaby.

Appropriate Zoning:

- Community Gardens are permitted as a primary land use in A1, A2 or A3 Agricultural Zoning Districts, in the P3 Park and Public Use Zoning District, and in the M1, M2, M3 and M5 Industrial Districts. However, other possible and potentially conflicting or competing land uses or adjacent land uses may affect the suitability of sites within these Zoning Districts for community gardens.
- Urban Agriculture initiatives as an accessory (additional) or secondary land use can also potentially be included in other Zones, subject to a rezoning.
- The [Burnaby Zoning Bylaw can be viewed here](#).

Determining Zoning:

- To determinate zoning and ownership of the land(s) you wish to suggest for a new community garden, please visit [Burnaby Map \(www.burnaby.ca/City-Services/Maps/Burnaby-Map.html\)](http://www.burnaby.ca/City-Services/Maps/Burnaby-Map.html). Burnaby Map is the City's web-based mapping website.

- Zoom in on or enter the address of the proposed garden location into the top right-hand 'quick search' box.
- Select the 'identify' icon (see top of screen, fourth icon from left – blue circle with an 'i' in the middle).
- The icon will now appear in the middle of your screen. Click on the blue dot that appears in the middle of the icon. Then click the blue dot onto the proposed garden location. A box will appear that includes zoning designations and other information.

For more information, contact the Planning Department at 604-570-3623. Or, for other ideas about how you can get involved in growing some of your own food, visit the [Food Security](#) webpage.