

PLANNING AND DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENTS – 2017 JANUARY

RECOMMENDATION:

1. THAT Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 2.0 of this report, for advancement to a Public Hearing at a future date.

REPORT

The Planning and Development Committee, at its meeting held on 2017 January 31, received and adopted the attached report proposing a number of text amendments to the Burnaby Zoning Bylaw.

Respectfully submitted,

Councillor C. Jordan
Chair

Councillor D. Johnston
Vice Chair

Councillor S. Dhaliwal
Member

Copied to: City Manager Director Planning & Building Director Public Safety & Community Services Director Engineering Chief Building Inspector Chief Licence Inspector City Solicitor

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 2017 January 26

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Bylaw Text Amendment

SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENTS – 2017 JANUARY

PURPOSE: To propose a number of text amendments to the Burnaby Zoning Bylaw.

RECOMMENDATION:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 2.0 of this report, for advancement to a Public Hearing at a future date.

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 bylaw and the general need to update the 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 bylaw, and to respond to changes in related legislation and changes in forms of development, land uses, and social trends.

This report presents five Zoning Bylaw text amendments regarding: (1) required parking spaces for liquor licence and similar establishments for the sale and consumption of food or beverages on the premises; (2) mobile retail carts; (3) public assembly and entertainment uses; (4) maximum height of fences/walls located anywhere on a property; and (5) minimum clearance of required off-street parking spaces.

2.0 PROPOSED BYLAW TEXT AMENDMENTS

2.1 Parking Requirements for Liquor Licence and Similar Establishments

Issue

Section 800.4(19) of the Zoning Bylaw requires “liquor licence and similar establishments for the sale and consumption of food or beverage on the premises” to provide one parking space per

five seats, regardless of the number of seats in the facility. This contrasts from the parking requirements for “restaurants or eating establishments”, which have varying parking requirements based on the number of seats. The parking standard in Section 800.4(19) therefore unnecessarily restricts the permitted number of seats in liquor licence and similar establishments with 50 seats or less.

Discussion

On July 20, 2016, Council received a report regarding a lounge endorsement application for Dageraad Brewing, a liquor manufacturer located at #114 and #116 – 3191 Thunderbird Crescent. The purpose of the application was to propose an accessory lounge¹ with a total area of approximately 79.19 m² (852 sq.ft.) and a maximum of 50 seats. The report supported the proposed accessory lounge use and also recommended a text amendment to the parking requirements of the Zoning Bylaw.

“Liquor licence and similar establishments for the sale and consumption of food or beverages on the premises” are similar to “restaurants and eating establishments” with regards to parking needs. However, the Zoning Bylaw defines different parking requirements for these two uses. Section 800.4(19) of the Zoning Bylaw requires liquor licence and similar establishments to provide one parking space per five seats. This differs from the parking requirements for restaurants and eating establishments, which are as follows:

- a) establishments with more than 50 seats: one parking space per five seats;
- b) establishments with 50 seats or less not located in a shopping centre: one parking space per 46 m² (495 sq.ft.) of gross floor area; and,
- c) establishments with 50 seats or less located in a shopping centre: equal number to that required for a retail store occupying equal floor space in a shopping centre.

Based on these requirements, the Zoning Bylaw requires more parking spaces for liquor licence and similar establishments than the same size restaurant or eating establishment with 50 seats or less. In many cases, this parking requirement unnecessarily restricts the permitted number of seats in liquor licence and similar establishments with less than 50 seats. For instance, based on the eight parking spaces available at the subject site for Dageraad Brewing lounge customers, the maximum number of seats permitted is 40. A restaurant occupying the same space would be permitted 50 seats. A text amendment to the parking requirements of the Zoning Bylaw is therefore recommended in order to align the parking requirements of “liquor licence and similar

¹ A liquor licence establishment requires a liquor primary licence or a liquor primary club licence under the *Liquor Control and Licensing Act*. An “accessory lounge” is distinct from a liquor licence establishment in that a lounge endorsement is an accessory use that is permitted as an endorsement to a liquor manufacturer’s licence. The accessory lounge use is considered as a “similar establishment” to the liquor licence establishment in the Zoning Bylaw.

establishments for the sale and consumption of food or beverages on the premises” with that of “restaurants and eating establishments”.

It should be noted that the implications of the proposed text amendment on other existing liquor licence and similar establishments in the City would be minimal, as only three existing establishments (two within hotels and one within a bowling alley) have 50 seats or less. The parking requirements for establishments having more than 50 seats would remain the same.

Recommended Bylaw Amendment

1. **THAT** Section 800.4(19) of the Zoning Bylaw be amended to require liquor licence and similar establishments for the sale and consumption of food or beverages on the premises having more than 50 seats, to provide one parking space for each five seats.
2. **THAT** Section 800.4(19a) of the Zoning Bylaw be amended to require liquor licence and similar establishments for the sale and consumption of food or beverages on the premises having 50 seats or less and are not located in a shopping centre, to provide one parking space per 46 m² (495.16 sq.ft.) of gross floor area.
3. **THAT** Section 800.4(19b) of the Zoning Bylaw be amended to require liquor licence and similar establishments for the sale and consumption of food or beverages on the premises that are located in a shopping centre and have 50 seats or less to provide an equal number of parking spaces to that required for a retail store occupying equal floor space in a shopping centre.

2.2 Mobile Retail Carts

Issue

The mobile retail cart² is a permitted use in the C2 Community Commercial, C3 General Commercial, C4 Service Commercial, C8 Urban Village Commercial (Hastings), and M1 Manufacturing Districts. These zoning districts require that all permitted businesses and undertakings be conducted within a completely enclosed building, as a condition of use. This limits the location and operation of mobile retail carts in the subject districts to the indoors..

Discussion

The Zoning Bylaw requires that all permitted businesses and undertakings in most commercial and industrial districts be located within an enclosed building, with the exception of certain outdoor uses.

² A mobile retail cart is defined in the Zoning Bylaw as a cart having maximum ground coverage of 3.72 m² (40 sq.ft.) that is capable of being moved by one person and is intended for use as a temporary location for the retail of goods or services on an appropriately zoned property.

“Mobile retail carts” were first introduced as a permitted use in Burnaby when the Zoning Bylaw was amended in 1993, to permit their operation in the finished and pedestrian-oriented open spaces in the C3 District. The Bylaw was also amended to exclude mobile retail carts from being enclosed within a building. In 1995, the Zoning Bylaw was further amended to permit “mobile retail carts” as an accessory use to principal retail uses in the C2, C4, C8, M1, M2 and M3 Districts. The Bylaw was not amended at that time to exclude mobile retail carts operating in the C2, C4, C8, M1 and M2 districts from being enclosed within a building.

Considering mobile retail cart businesses often operate outdoors and cater to pedestrians, it is recommended that mobile retail carts be excluded from being enclosed within a building in the subject districts of C2, C4, C8, M1 and M2.

Recommended Bylaw Amendment

1. **THAT** Section 302.2(1) of the Zoning Bylaw (C2 Community Commercial District’s Conditions of Use) be amended to include “mobile retail cart”.
2. **THAT** Section 304.2(1) of the Zoning Bylaw (C4 Service Commercial District’s Conditions of Use) be amended to include “mobile retail cart”.
3. **THAT** Section 308.3(1) of the Zoning Bylaw (C8 Urban Village Commercial (Hastings) District’s Conditions of Use) be amended to include “mobile retail cart”.
4. **THAT** Section 401.2(1) of the Zoning Bylaw (M1 Manufacturing District’s Conditions of Use) be amended to include “mobile retail cart”.
5. **THAT** Section 402.2(1) of the Zoning Bylaw (M2 General Industrial District’s Conditions of Use) be amended to include “mobile retail cart”.

2.3 Public Assembly and Entertainment Uses

Issue

Public assembly and entertainment uses are permitted in the C2 Community Commercial, C3 General Commercial, C4 Service Commercial, and C8 and C9 Urban Village Commercial Districts. Each zoning district schedule lists examples of the type of public assembly and entertainment uses, but no definition is contained in the Bylaw. To address this matter, a definition is proposed.

Discussion

Due to the evolving nature of entertainment and lifestyle needs, many of the examples, such as catering establishments, roller rinks, and etc. that were specified at the time the Zoning Bylaw was first adopted in 1965 are no longer common or relevant. The inclusion of a definition for the

“public assembly and entertainment uses” in the Zoning Bylaw will support clarity in the Bylaw for accommodation of contemporary assembly/entertainment uses.

In order to better accommodate emerging uses while also addressing the community’s assembly/entertainment needs at the neighbourhood, local, and municipal levels, it is recommended that: (1) “Public Assembly and Entertainment Use” be defined in the Zoning Bylaw; and (2) “Public Assembly and Entertainment Use” be permitted in the C2, C3 and C4 Districts as a general use, with examples of specific uses only being provided in the definition. It is anticipated that this amendment would better accommodate assembly/entertainment uses that meet market demand and needs into the future. It should be noted the public assembly and entertainment uses are currently permitted in the C8 and C9 Districts without providing examples of specific uses.

Recommended Bylaw Amendment

1. **THAT** Section 3 of the Zoning Bylaw be amended to include a definition of “Public Assembly and Entertainment Use”, same or similar to the following definition:

“Public Assembly and Entertainment Use” means the use of a building or an establishment for assembly or entertainment, including bowling alleys, meeting halls, theaters, auditoriums, swimming pools, curling rinks and similar uses, but excludes amusement arcades, billiard halls, discotheques, gaming facilities and gaming houses.

2. **THAT** Section 302.1(7) of the Zoning Bylaw (C2 Community Commercial District’s Permitted Uses) be replaced with the same or similar wording as follows:

Public assembly and entertainment uses, excluding drive-in theatres.

3. **THAT** Section 303.1(13) of the Zoning Bylaw (C3 General Commercial District’s Permitted Uses) be replaced with the same or similar wording as follows:

Public assembly and entertainment uses, excluding drive-in theatres.

4. **THAT** Section 304.1(23) of the Zoning Bylaw (C4 Service Commercial District’s Permitted Uses) be replaced with the same or similar wording as follows:

Public assembly and entertainment uses.

2.4 Maximum Height of Fences/Walls Located Anywhere on the Property

Issue

Sections 6.14(5)(a) of the Zoning Bylaw allows fences or walls not greater than 1.0 m (3.28 ft.) in height to be located anywhere on a property in all zoning districts. Section 6.13(1) further

regulates this maximum 1.0 m (3.28 ft.) height within defined vision clearance areas at intersections. This specified height is not consistent with the BC Building Code's (BCBC) minimum height requirement for exterior guards.

Discussion

Section 9.8.8.3(1) of the 2012 BCBC requires that all exterior guards, with some exceptions, be not less than 1.07 m (3.51 ft.) in height. However, sections 6.13(1) and 6.14(5a) of Zoning Bylaw limits fence or wall height to a maximum 1.0 m (3.28 ft.).

The BCBC requires that all municipal bylaws regulating construction of buildings and structures comply with the Code. Accordingly, a variance to the Zoning Bylaw is required on a case by case basis to ensure the BCBC's minimum 1.07 m (3.51 ft.) height requirement is met. Considering the minor difference (0.07 m [0.23 ft.]) between the height limitation of the Zoning Bylaw and the minimum height requirement of the BCBC for the fence, wall, or guard, it is recommended that the height specifications in sections 6.13(1) and 6.14(5)(a) of the Zoning Bylaw be amended to be consistent with the minimum height requirement of the BCBC. The proposed amendment will not impact the Bylaw's objective of ensuring vision clearance at intersections.

Recommended Bylaw Amendment

1. **THAT** Section 6.13(1) of the Zoning Bylaw (Vision Clearance at Intersections) be amended to increase the maximum height of a fence, wall or structure, other than a permitted street canopy in a C2, C3 or C4 District or a permitted principal building, from 1.0 m (3.28 ft.) to 1.07 m (3.51 ft.).
2. **THAT** Section 6.14(5)(a) of the Zoning Bylaw (Fences) be amended to increase the maximum height of fences or walls located anywhere on the lot, in all zoning districts, from 1.0 m (3.28 ft.) to 1.07 m (3.51 ft.).

2.5 Minimum Clearance Required for Off-Street Parking Spaces

Issue

Section 800.7(2) of the Zoning Bylaw requires a minimum clear height of 2.1 m (6.89 ft.) for off-street parking spaces. This provision of the Bylaw is not consistent with the minimum height requirement of the British Columbia Building Code (BCBC) for a storage garage.

Discussion

The 2012 BCBC requires that the clear height in a storage garage shall be not less than 2.0 m (6.56 ft.). However, the Zoning Bylaw specifies a minimum clear height of 2.1 m (6.89 ft.) for off-street parking. The purpose of this bylaw provision is to ensure adequate ceiling height of the parking spaces.

To: Community Development Committee
From: Director Planning and Building
Re: Burnaby Zoning Bylaw Text Amendments – January 2017
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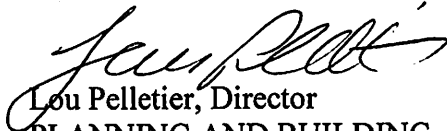
Given the BCBC requires that all municipal bylaws regulating construction of buildings and structures comply with the Code, it is recommended that Section 800.7(2) of the Zoning Bylaw be amended to reflect the minimum clear height requirement of the BCBC for a storage garage. The proposed amendment will not impact the Bylaw's objective of ensuring the adequate ceiling height of the parking spaces.

Recommended Bylaw Amendment

1. **THAT** Section 800.7(2) of the Zoning Bylaw (the minimum dimensions of off-street parking spaces) be amended to reduce the minimum height of the parking spaces from 2.1 m (6.89 ft.) to 2.0 m (6.56 ft.).

3.0 CONCLUSION

The above zoning bylaw text amendments are proposed in order to clarify certain aspects of the bylaw, make amendments in support of existing practices, as well as respond to changes in related legislation. It is recommended that Council approve the above proposed text amendments, as outlined in Section 2.0, of this report for advancement to a Public Hearing at a future date.


Lou Pelletier, Director
PLANNING AND BUILDING

PS:spf

cc: City Manager
Director Engineering
Director Public Safety and Community Services
Chief Building Inspector
Chief Licence Inspector
City Solicitor
City Clerk