City of Burnaby

Meeting 2017 November 28

COMMITTEE REPORT

TO:	CHAIR AND MEMBERS PLANNING AND DEVELOPMENT COMMITTEE	**DATE:**	2017 November 23
FROM:	DIRECTOR PLANNING AND BUILDING	FILE: *Reference:*	42000 20 *Bylaw Text Amendment*

SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENTS 2017 NOVEMBER

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 six Zoning Bylaw amendments regarding 1) clarifying definitions of certain dwelling types; 2) front yard averaging; 3) side lot lines and yards; 4) corner and through lots; 5) car wash stalls in RM6, C8 and C9 Districts; and, 6) FAR exemption for amenity spaces in housing facilities catering to older adults.

2.0 PROPOSED BYLAW TEXT AMENDMENTS

2.1 Clarifying Definitions of Certain Dwelling Types

Issue

Definitions of dwelling types in the Zoning Bylaw are inconsistent in their reference to occupancy by permanent residents despite the intent that all dwelling units in Residential zones are for the purpose of permanent residences rather than transient accommodations.

Discussion

In Section 3.0 of the Zoning Bylaw, the definitions of "Apartment Building", "Dwelling, Multiple Family", "Dwelling, Single Family" and "Dwelling, Two Family" all contain references to dwelling units within these dwelling types as being "occupied or intended to be occupied as the permanent home or residence by one family only". This reference is not included in the definitions of other dwelling types (such as "Dwelling, Duplex", "Dwelling, Row Housing", "Dwelling, Semi-Detached", "Dwelling, Townhouse", "Multi-Family Flex Unit" and "Secondary Suites"), although these dwelling types are likewise intended for occupancy as permanent homes or residences.

In order to ensure consistency, it is recommended that the definition of "Dwelling Unit" be amended to include the permanent residence requirement and that such text be removed from the current definitions of "Apartment Building", "Dwelling, Multiple Family", "Dwelling, Single Family" and "Dwelling, Two Family" (in order to avoid duplication of the bylaw requirement for permanent residence).

Since the definitions of all residential dwelling types include a reference to "Dwelling Unit", the proposed amendment to the definition of "Dwelling Unit" to incorporate the permanent residence requirement would clearly distinguish these dwelling types from more temporary accommodations such as boarding and lodging houses and hotels. A further amendment to the definition of "Motel or Auto Court" to delete the reference to "dwelling unit" is needed, so that the permanent residence requirement is not incorporated into this land use.

It is also recommended that the definition of "Accessory Use" be amended to emphasize that boarders or lodgers, boarding, lodging or rooming houses, childcare facilities, group homes, private hospitals, supportive housing facilities and home occupations are prohibited in a single family dwelling containing a secondary suite, in both the principle dwelling unit as well as the secondary suite, as currently stated in the bylaw regulating these uses in dwellings with secondary suites.

Multi-family flex-units are defined as being a strata-titled apartment or townhouse dwelling unit containing a defined area for a potential second rental accommodation, subject to certain conditions. To clarify that the rental accommodation may be used as the permanent residence of a further family, it is proposed that the definition of multi-family flex units be amended to reflect this option.

Currently, the definitions of "Apartment Building" and "Dwelling, Multiple Family" in the Zoning Bylaw appear to refer to the same type of housing development. To differentiate between the two forms of housing, it is recommended that "Apartment Building" be defined to mean a multiple family dwelling where access to the dwelling units is via a shared corridor. Likewise, it would be helpful to add a definition for "Apartment" to mean a dwelling unit in an apartment building.

Recommended Bylaw Amendments

1. **THAT** the definition of "Dwelling Unit" be amended with wording the same or similar to the following:

   "DWELLING UNIT" means one or more habitable rooms constituting one self-contained unit with a separate entrance, which is occupied or intended to be occupied as the permanent home or residence of one family only and contains not more than one kitchen or one set of cooking facilities.

2. **THAT** the definitions of "Dwelling, Multiple Family" and "Dwelling, Two Family" be amended by deleting the text "each of which is occupied or intended to be occupied as the permanent home or residence of one family only".

3. **THAT** the definition of "Dwelling, Single Family" be amended by deleting the text "which is occupied or intended to be occupied as the permanent home or residence of one family only".

4. **THAT** the definition of "Apartment Building" be amended with wording the same or similar to the following:

   "APARTMENT BUILDING" means a multiple family dwelling where dwelling units are primarily accessed via a shared corridor.

5. **THAT** Section 3.0 of the Zoning Bylaw be amended to add a definition of "Apartment" with wording the same or similar to the following:

   "APARTMENT" means a dwelling unit within an apartment building.

6. **THAT** the following highlighted text be added to the condition in section (3.0)(f) of the definition of "Accessory Use":

   (f) neither the keeping of boarders or lodgers, the operation of a boarding, lodging or rooming house, the operation of a child care facility or home- based child care facility, the operation of a group home, private hospital or supportive housing facility nor the operation of a home occupation that includes on-site client services shall be permitted in a single family dwelling that contains a secondary suite, ***including within the secondary suite.***

7. **THAT** the following condition be added as subsection (f) in the definition of "Multi-Family Flex-Unit":

   (f) may be occupied as the permanent home or residence of one additional family only.

8. **THAT** the definition of "Motel or Auto Court" be amended with wording the same or similar to the following:

> ***"MOTEL OR AUTO COURT"*** *means a group of two or more detached or semi-detached buildings, providing self-contained accommodation that is primarily for transient motorists and which may have its own cooking facilities and bathroom with a water closet, wash basin and bath or shower.*

2.2 Front Yard Averaging

Issue

Section 6.12(2.1) of the Zoning Bylaw provides conditions for determining the average front yard depth applicable to R Residential District properties that are subject to front yard averaging. The conditions address circumstances where it is appropriate to exclude an adjacent lot from the calculation of average front yard depth, or apply a standard front setback, such as where an adjacent lot is vacant, fronts onto a different street, or is separated by a street or a lane. However, the conditions do not address other situations that warrant similar consideration, such as where an adjacent lot is a panhandle lot or is in a zoning district other than an R District.

Discussion

Section 6.12(2.1) of the Zoning Bylaw states:

> *For lots in R1, R2, R3, R4, R5, R9, R10, R11, and R12 Districts, where front yard averaging of the two adjacent lots on each side of the lot is applicable, the following conditions shall apply in determining the average front yard depth:*
>
> *(i) where an adjacent lot is vacant, the front yard shall be deemed to have a depth of a required front yard;*
>
> *(ii) if one or more of the adjacent lots front on a different street or if one or more of the adjacent lots are separated by a street or lane, then such adjacent lots shall not be used in computing the average depth;*
>
> *(iii) where the lot is adjacent to a flanking street or lane, the average depth shall be computed using the remainder of the adjacent lots.*

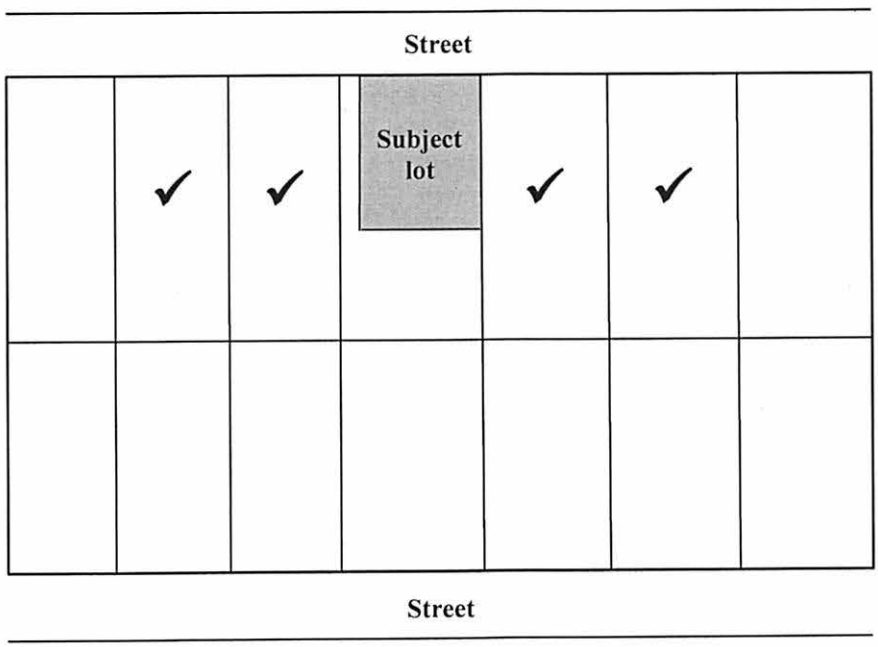
Front yard averaging, as detailed in Section 6.12(2.1) of the Zoning Bylaw, is a technique used to determine an appropriate front yard setback for new development in areas where existing setbacks significantly exceed Zoning Bylaw requirements. By averaging the existing setbacks of the two adjacent lots on either side, and applying this average to the lot undergoing development, this technique helps to integrate new development into existing streetscapes. However, there are circumstances where an adjacent lot may be vacant or may have little relationship to the frontage of the subject lot. Section 6.12(2.1) addresses the latter by excluding adjacent lots that front onto a different street, or are separated by a street or lane; for vacant lots, it applies the minimum required setback.

Panhandle lots

Panhandle lots contain a narrow strip of land, or "panhandle" attached to the main portion of the lot. Generally, the narrow panhandle serves an access function from an abutting street and provides inadequate width for the siting of buildings. As such, the principal building on a panhandle lot is often distant from the front lot line, with a front yard setback that far exceeds those on neighbouring properties. Depending on the depth of the panhandle, which is often the depth of one or more adjacent lots, the residence will have little to no visual relationship to the street or to the properties abutting the panhandle. In such cases, the front yard setback, being both inordinately large and irrelevant to the character of the streetscape, may skew the average for no purpose.

It is therefore recommended that panhandle lots be excluded from front yard averaging calculations. It is further recommended that the average be derived from the two other lots nearest the subject site, as shown in Figure 1 below. In order to have a reference to a "panhandle lot," it is recommended that the term be defined in Section 3.0 of the bylaw.

Figure 1: Front yard averaging with proposed exclusion of panhandle lots



✓ = included in front yard averaging

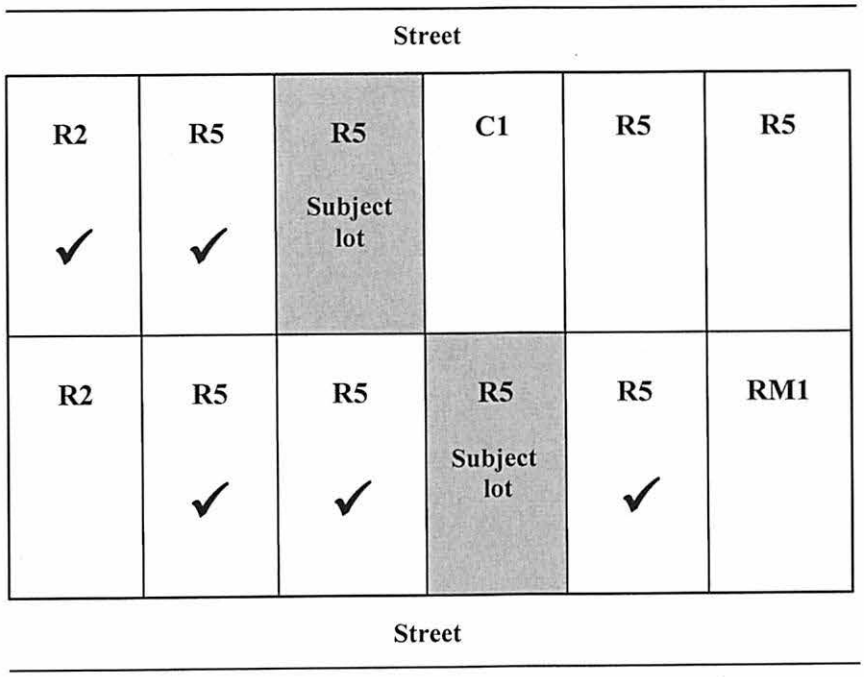
Lots outside of R Districts

Similarly, it is recommended that Section 6.12(2.1) of the Zoning Bylaw be amended to exclude lots in zoning districts other than R Residential Districts from front yard averaging calculations. This section was adopted in 1991, following a comprehensive review of bulk regulations for single family homes. It was intended to help maintain the character and pattern of established R Residential District neighbourhoods, particularly those with uniform streetscapes and generous front yard setbacks.

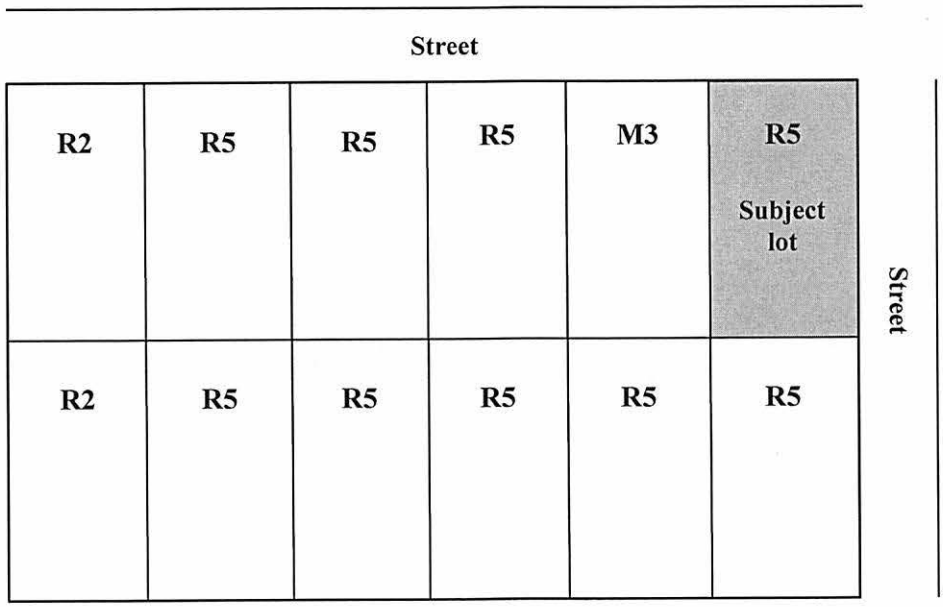
The required setbacks on neighbouring non-R District lots may vary significantly from those required in R Districts and, if included, may skew the average and defeat the intent of the bylaw. For instance, the required front yard setback in most C Commercial Districts is 2 m (6.5 ft.); if a C District lot were included in a front yard averaging calculation, the resulting average could be less than the required minimum front yard setback, despite the much greater setbacks of other adjacent lots.

For these reasons, it is recommended that non-R District lots be excluded when calculating the front yard average of an R District lot. It is also recommended that any lots located beyond the non-R District lot also be excluded, as the visual continuity of the streetscape is unlikely to extend that far. The above recommendations are illustrated in Figure 2 below.

Figure 2: Front yard averaging with proposed exclusion of non-R District lot



✓ = included in front yard averaging calculation



No front yard averaging applies

Recommended Bylaw Amendments

1. **THAT** Section 3.0 of the Zoning Bylaw be amended to add a definition of "Lot, Panhandle" with wording the same or similar to the following:

   "LOT, PANHANDLE" *means a lot created under subdivision that gains street frontage through a narrow strip of land that is an integral part of the lot, but provides inadequate width for the siting of buildings.*

2. **THAT** Section 6.12(2.1) of the Zoning Bylaw be amended to include a condition that

   - excludes panhandle lots from front yard averaging calculations, and,
   - specifies that, in circumstances where an adjacent lot is a panhandle lot, the average be derived from the two other lots nearest the subject site.

3. **THAT** Section 6.12(2.1) of the Zoning Bylaw be amended to include a condition that

   - includes only R Residential District lots in front yard averaging calculations, and,
   - specifies that any lots located beyond the non-R District lot be excluded from front yard averaging calculations.

2.3 Side Lot Lines and Yards

Issue

The requirement for side lot lines to intersect a front lot line is impracticable on some irregular lots such as L-shaped lots or panhandle lots, where a side lot line may only intersect with a lot line appropriately considered a rear lot line, or another side lot line. Similarly, the requirement for a side yard to extend from the front yard to the rear yard cannot be achieved on through lots and irregular lots with no rear yard.

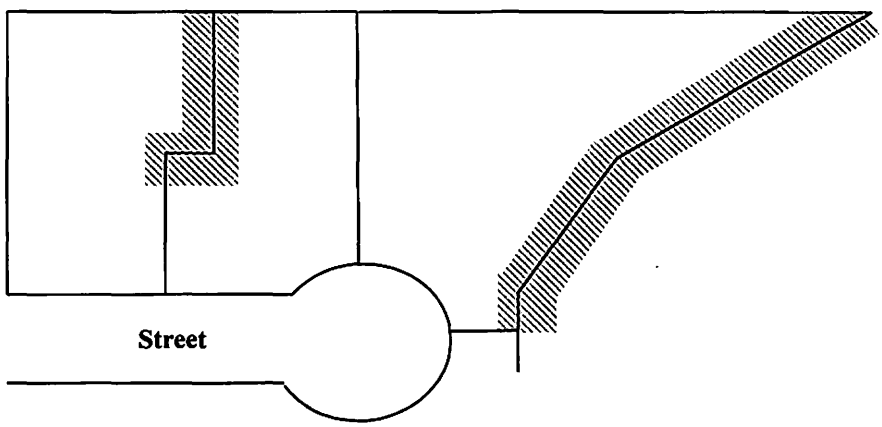
Discussion

Section 3.0 of the Zoning Bylaw states:

> *"LOT LINE, SIDE" means a lot line marking the boundary between two lots, or between a lot and a lane, or between a lot and a public street in the case of a corner lot of which one or both ends intersect a front lot line.*
>
> *"YARD, SIDE" means that portion of the lot, extending from the front yard to the rear yard, between the side line of the lot and a line drawn parallel thereto. The width of such yard shall mean the perpendicular distance between the side line of the lot and the parallel line.*
>
> *"YARD, FRONT" means that portion of the lot, extending from one side lot line to the other, between the front line of the lot and a line drawn parallel thereto. The depth of such yard shall mean the perpendicular distance between the front line of the lot and the parallel line. In the case of a through lot there shall be two such front yards.*
>
> *"YARD, REAR" means that portion of the lot, extending from one side lot line to the other, between the rear line of the lot and a line drawn parallel thereto. The depth of such yard shall mean the perpendicular distance between the rear line of the lot and the parallel line.*

Based on these definitions, side lot lines must intersect a front lot line; however, on some irregularly shaped lots, such as L-shaped lots or panhandle lots, lot lines that would be appropriately considered a side lot line intersect only a rear lot line, or another side lot line. As shown in Figure 3, these lot lines do not qualify as side lot lines. Although they function as side lot lines (i.e., the boundary between two lots) because they do not intersect a front lot line, they cannot be regulated as such.

Figure 3.0: Examples of side lot lines that are inconsistent with current lot line definitions



In order to broaden the definition of a side lot line to encompass those found on irregularly shaped lots, it is recommended that any lot line, other than a front lot line or a rear lot line, to be regulated as a side lot line subject to the required side yard setback.

A companion amendment is recommended to the definition of a side yard, which requires side yards to extend from the front yard to the rear yard. This is impracticable on through lots, which have two front yards instead of a front and a rear, and on irregular shaped lots such as those described above. In order to reflect the range of lot shapes and the varying relationships of side lot lines to front and rear lot lines, it is recommended that the clause "extending from the front yard to the rear yard" be replaced with the clause "extending the length of the side lot line."

In addition, there may be instances where a rear yard or front yard cannot extend between two side yards; for clarity, it is recommended that these definitions be similarly amended to require the yard to extend the length of the lot line.

Lastly, for clarity, it is recommended that the term "line of the lot," which is used in the side yard, front yard, and rear yard definitions, be replaced with the defined term, "lot line."

Recommended Bylaw Amendments

1. **THAT** the definition of "Lot Line, Side" in Section 3.0 of the Zoning Bylaw be amended to clarify that a side lot line need not intersect a front lot line, and instead is any line that is not a front lot line or a rear lot line.

2. **THAT** the definition of "Yard, Side" in Section 3.0 of the Zoning Bylaw be amended to replace the words "extending from the front yard to the rear yard" with the words "extending the length of the side lot line."

3. **THAT** the definition of "Yard, Front" in Section 3.0 of the Zoning Bylaw be amended to replace the words "extending from one side lot line to another" with the words "extending the length of the front lot line."

4. **THAT** the definition of "Yard, Rear" in Section 3.0 of the Zoning Bylaw be amended to replace the words "extending from one side lot line to another" with the words "extending the length of the rear lot line."

5. **THAT** the term "line of the lot" be replaced with the term "lot line" wherever it appears.

2.4 Corner Lots and Through Lots

Issue

The regulations that apply to through lots and corner lots vary; however, some lots meet both definitions.

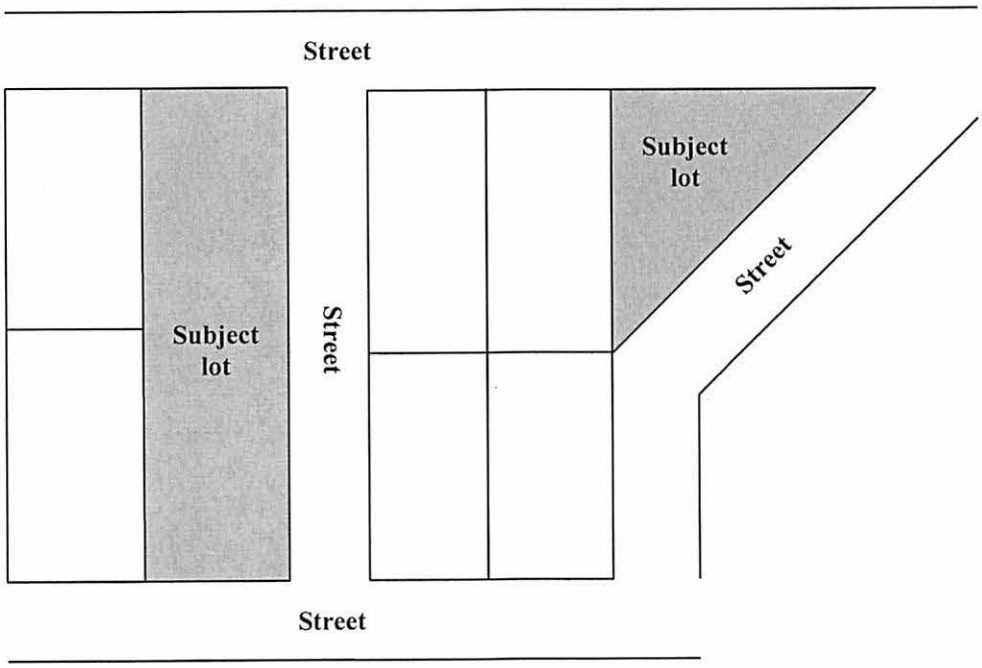
Discussion

Section 3.0 of the Zoning Bylaw states:

> *"LOT, CORNER" means a lot at the intersection or junction of two or more streets.*
>
> *"LOT, THROUGH" means a lot abutting two parallel or approximately parallel streets.*
>
> *"LOT LINE, FRONT" means the boundary line of the lot and the street on which the lot abuts. In the case of a corner lot, a lot line abutting a street shall be considered a front line if the adjacent lots front on the same street, except that only one front lot line need be provided. In the case of a through lot, the lot lines abutting two parallel or approximately parallel streets shall both be considered as front lot lines.*

In most cases, a through lot and a corner lot can be easily distinguished according to the above definitions. However, in some cases, a lot may be located at the intersection of three streets, and thus qualify as both a corner lot and a through lot. Alternatively, a lot may be configured as a triangle, with two sides flanking intersecting streets that may be considered approximately parallel to each other. Both examples are shown below in Figure 4.

Figure 4: Examples of lots that qualify as both corner lots and through lots

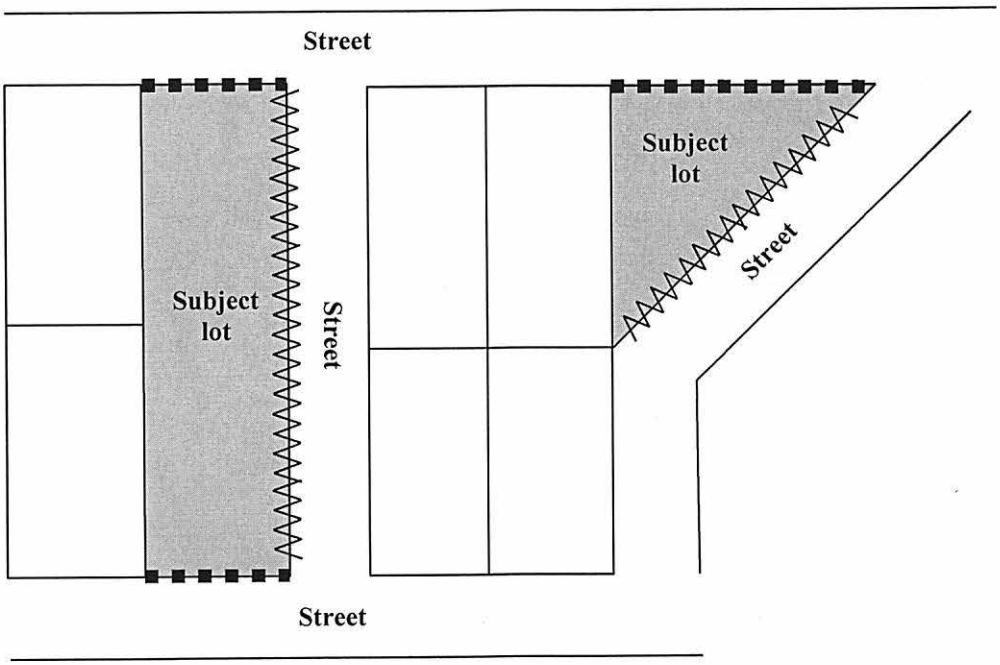


In such cases, it is unclear which lot lines are to be considered front lot lines, and subject to a front yard setback. As noted in the definitions, a corner lot requires only one front lot line, whereas a through lot requires two front lot lines, and two front yard setbacks. For corner lots in many zoning districts, the required setback for the side lot line flanking the street is greater than that required for standard lots.

For regular lots at the intersection of three streets, the requirement for two front yard setbacks and a flanking side yard setback can generally be accommodated, as the front yard setback in many zoning districts is less than the minimum required rear yard setback. However, for triangular shaped lots and other irregular shaped lots, the requirement for a front yard setback along the angled lot line, which is significantly longer than the other two lot lines maybe onerous.

It is therefore recommended that the Bylaw be clarified to require two front lot lines for corner lots that meet both definitions. In order to exclude triangular and other irregularly shaped lots from this requirement, it is further recommended that these lots be subject to one front lot line and one flanking side lot line, with the latter located along the longest line abutting a street. The above recommendations are illustrated in Figure 5 below.

Figure 5: Proposed front and flanking side lot lines on lots that qualify as both corner lots and through lots



■ ■ ■ ■ = front lot line

/\/\/\ = flanking side lot line

Recommended Bylaw Amendment

1. **THAT** the definition of "LOT LINE, FRONT" in Section 3.0 of the Zoning Bylaw, be amended to specify that corner lots that are also through lots shall be considered to have two front lot lines; except that triangular or irregular corner lots shall have one front lot line along the shortest line abutting a street and one flanking side lot line along the longest line abutting a street.

2.5 Car Wash Stalls in RM6, C8 and C9 Districts

Issue

Car wash stalls are required in all zoning districts that permit multiple family residential development, with the exception of the RM6 Hastings Village Multiple Family Residential District, the C8 Urban Village Commercial (Hastings) District, and the C9 Urban Village Commercial District. As the need for car wash stalls in multiple family developments is no different in these districts, inclusion of car wash stalls in these districts is recommended.

Discussion

Section 3.0 of the Zoning Bylaw states:

> *"CAR WASH STALL" means a space that*
> *a) has minimum dimensions 3.0.7m (12.14 ft.) x 5.5 m (18.04 ft.),*
> *b) is located in an underground parking area or in a roofed covered area integrated with a building,*
> *c) provides a facility for washing vehicles, and*
> *d) drains to a sanitary sewer.*

Sections 201.10, 202.10, 203.10, 204.12, 205.12, 207.12, and 511.14 of the Zoning Bylaw state:

> *One car wash stall with a "No Parking" sign affixed to it shall be provided for each 100 dwelling units.*

Car wash stalls provide a designated area for vehicle washing that ensures proper collection and discharge of waste water into the sanitary sewer system. As such, the requirement for at least one car wash stall per 100 dwelling units in the RM1, RM2, RM3, RM4, and RM5 Multiple Family Residential Districts was adopted in 1990. At that time, no other multiple family residential districts existed in Burnaby.

In 1993, the RM6 Hastings Village Multiple Family Residential District and the C8 Urban Village Commercial (Hastings) District were established, followed by the C9 Urban Village Commercial District in 2000. These Districts permit multiple family residential development of a scale and design similar to that permitted in the RM3 Multiple Family District.

At the time these Districts were established, car wash stalls were not specifically established as a requirement. It is noted that multiple family residential buildings that have been developed under Comprehensive Development (CD) based on these Districts have included car wash stalls at a similar ratio. However, should a property in one of these Districts redevelop under existing zoning, car wash stalls would not be required.

It is therefore recommended that the requirement for car wash stalls, identical to that found in other multiple-family residential districts, be added to the RM6 Hastings Village Multiple Family Residential District, the C8 Urban Village Commercial (Hastings) District, and the C9 Urban Village Commercial District.

Recommended Bylaw Amendment

1. **THAT** the following be added as a requirement in the RM6 Hastings Village Multiple Family Residential District, the C8 Urban Village Commercial (Hastings) District, and the C9 Urban Village Commercial District:

One car wash stall with a "No Parking" sign affixed to it shall be provided for each 100 dwelling units.

2.6 FAR Exemption for Amenity Spaces in Housing Facilities Catering to Older Adults

Issue

In order to maintain equity in the treatment of various types of facilities that often cater to older adults who require some level of personal or nursing care, it is recommended that category A supportive housing facilities and private hospitals be permitted a FAR exemption for amenity spaces.

Discussion

The Burnaby Zoning Bylaw defines "Private Hospital" and "Supportive Housing Facility" as follows:

> ***"HOSPITAL, PRIVATE"*** *means a house in which two or more patients, other than the spouse, parent or child of the owner or operator thereof, are living at the same time, and including a nursing home or convalescent home, but does not include a hospital as defined in this Bylaw or a hospital licensed under the Mental Hospitals Act.*
>
> ***"SUPPORTIVE HOUSING FACILITY"*** *means a housing facility that*
>
> *(a) contains two or more living units, each of which is occupied or intended to be occupied by not more than two persons, at least one of whom is fifty-five years of age or older;*
>
> *(b) contains common amenity spaces and dining facilities for the residents;*
>
> *(c) provides at least one meal a day for the residents; and,*
>
> *(d) provides continuous monitoring of the residents and on-site emergency medical response.*
>
> *'supportive housing facility, Category A' means a supportive housing facility in which the living units do not contain a kitchen or cooking facilities.*
>
> *'supportive housing facility, Category B' means a supportive housing facility in which the living units contain a kitchen or cooking facilities.*

The Zoning Bylaw defines amenity space for category B supportive housing facilities as:

> ***"AMENITY SPACE CATEGORY B SUPPORTIVE HOUSING"*** *means communal space in a category B supportive housing facility that is provided primarily for the use of the residents of the facility for dining, recreation, social activity, personal service, meeting or lobby purposes, together with associated circulation areas.*

Section 6.20(5)(i) of the Zoning Bylaw permits category B supportive housing facilities located in the RM and P Districts a 13.6% FAR exemption for amenity spaces. This figure was derived based on the typical amount of amenity space provided in supportive housing developments in Burnaby.

Category A supportive housing developments and private hospitals are not currently permitted any FAR exemption for amenity space, even though these types of facilities often also cater to older adults who require some level of personal or nursing care and provide a comparable amount of amenity space for residents. Recognizing the value that on-site amenity spaces have for residents, it is recommended that the Zoning Bylaw be amended to also permit a 13.6% FAR exemption for amenity spaces in category A supportive housing developments and private hospitals in the RM and P Districts. The most effective means of implementing this recommendation is to replace the definition of "Amenity Space Category B Supportive Housing" with a more general definition that applies to amenity spaces in private hospitals and supportive housing generally, and reference this new term in Section 6.20(5)(i) of the Zoning Bylaw (in place of "category B supportive housing").

Recommended Bylaw Amendments

1. **THAT** the definition of "Amenity Space Category B Supportive Housing" in Section 3.0 of the Zoning Bylaw be repealed and replaced with:

   "AMENITY SPACE, PRIVATE HOSPITAL AND SUPPORTIVE HOUSING FACILITY" *means communal space in a private hospital or category A or B supportive housing facility that is provided primarily for the use of the residents of the facility for dining, recreation, social activity, personal service, meeting or lobby purposes, together with associated circulation areas.*

2. **THAT** reference to category B supportive housing in the definition of "Amenity Space" in Section 3.0 of the Burnaby Zoning Bylaw be deleted.

3. **THAT** Section 6.20(5)(i) of the Burnaby Zoning Bylaw be amended to replace "category B supportive housing amenity space" with "private hospital and supportive housing facility amenity space".

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 and Council policies, and achieve other regulatory changes. 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

MN:eb

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

P:\Bylaw\Text Amdmt CNCL RPTS\Bylaw Text Amendments - Housekeeing 20171128.Docx