



Item.....
Meeting..... 2021 May 31

COUNCIL REPORT

TO: ACTING CITY MANAGER **DATE:** 2021 May 26

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 42000 20
Reference: Rental Zoning

SUBJECT: PROPOSED DENSITY TRANSFER POLICY FOR SITES SUBJECT TO RENTAL USE ZONING

PURPOSE: To seek Council adoption of the proposed density transfer policy between sites subject to rental use zoning.

RECOMMENDATION:

1. **THAT** Council adopt a density transfer policy for sites in Burnaby that are subject to the Rental Use Zoning Policy, as described in Section 5.0 of this report.

REPORT

1.0 INTRODUCTION

The transfer of density from one lot to another to achieve various planning, housing, and development objectives is a tool used in Metro Vancouver and in major metropolitan areas across North America. In Burnaby, while it is typically expected that the permitted density on a site be utilized in situ, from time to time, density transfer has been permitted to promote retention of heritage buildings and to manage form and density of subdivided parcels in multi-phased, master planned developments.

With the adoption and implementation of rental use zoning and other related housing policy measures in Burnaby, it has become evident that a policy framework for evaluating density transfer proposals for sites subject to rental use zoning is necessary, in order to provide clarity as to when such proposals can be supported.

2.0 CITY POLICIES

The proposed density transfer policy for sites that are subject to the Rental Use Zoning Policy aligns the following City policies: Corporate Strategic Plan (2017), Regional Context Statement (2013), Official Community Plan (1998), Economic Development Strategy (2007), Social Sustainability Strategy (2011), Environmental Sustainability Strategy (2016), and Mayor’s Task Force on Community Housing Final Report (2019).

3.0 BACKGROUND

In Fall 2018, the Planning Department initiated efforts to develop a policy and associated Zoning Bylaw text amendments to institute rental tenure zoning. On 2019 May 27, Council adopted the Rental Use Zoning Policy and Initial Implementation Framework, and on 2020 March 09, adopted the Finalized Rental Use Zoning Policy. Briefly, the Rental Use Zoning Policy requires, among other things, the provision of replacement and/or inclusionary non-market rental housing on all RM3(s), RM4(s), and RM5(s) sites undergoing rezoning within designated community plan areas across the City. The provision of rental tenure uses is accommodated using RMr zoning. To support the capital costs of developing the non-market units, additional market density (density offset) is provided.

Implementation of Rental Use Zoning and other initiatives arising from the Mayor’s Task Force on Community Housing are well underway. There are currently over 60 rezoning applications in stream that have a replacement and/or inclusionary non-market rental housing component, including almost 40 applications that were in-stream and in varying stages of approval at the time of initial policy development. As these applications continue to advance, it has become evident that in some circumstances, it is challenging or infeasible to achieve the required non-market rental housing and the market units generated by the permissible density on a single site while maintaining appropriate building height and relationships with adjacent development. One solution has been to transfer density between or among the sites, where the applicant owns two or more sites undergoing rezoning.

4.0 DENSITY TRANSFER: OVERVIEW, EXAMPLES, WARRANTING CIRCUMSTANCES AND BENEFITS

4.1 Overview

All properties in the City have a land use designation under the Official Community Plan or a Council-adopted community plan. The Burnaby Zoning Bylaw specifies the permitted density for various land uses (zones). Under a density transfer scenario, the density associated with the designated land use of a “generating site” is moved to and combined with that of a “recipient site”. This requires concurrent Comprehensive Development rezoning of both the generating and recipient sites. The density transfer is identified in the suitable plans of development and Public Hearing reports, as well as documented in Section 219 Covenants (Density Allocation) registered on the titles of both sites to ensure that the density of development complies with the approved zoning for the sites.

4.2 Examples

There are four recent examples of density transfer that have been considered by the Planning and Development Committee and/or Council. These are summarized below.

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Example 1: Byrnepark and Olive (Edmonds Town Centre and Metrotown Downtown)

This first example of density transfer following Council adoption of the Rental Use Zoning Policy involves two sites in South Burnaby: Site 1 at 6438 Byrnepark Drive in the Edmonds Town Centre and Site 2 at 5900 Olive Avenue in the Metrotown Downtown Plan area, 4.2 km away. As noted in the Public Hearing report for Rezoning Reference #18-09, which received Final Adoption on 2020 July 27, use of the density offset provisions of the Rental Use Zoning Policy was neither available nor feasible on Site 1, given the presence of a watercourse and the site's sloping topography, community plan context, and underlying RM2 zoning. However, to support the provision of inclusionary non-market rental units on a (now formerly) City-owned site that would otherwise not have required inclusionary rental under the Rental Use Zoning Policy, density offset was allocated to the portion of the site supporting the inclusionary rental units and transferred offsite to Site 2, which is currently under rezoning by the same applicant (Rezoning Reference #17-10001). The expected resulting form of development at Site 2, which is designated for RM5s/RM5r development, was considered suitable for the transfer to occur given its high-density designation. On this premise, Site 2 is expected to advance to Public Hearing in mid to late 2021.

Example 2: Wilson and Kathleen (Metrotown Downtown)

This example involves two RM5s/RM5r designated sites in the Central Park East neighbourhood of the Metrotown Downtown Plan area, located approximately 150 m apart. Site 1 is at 5977 Wilson Avenue and Site 2 is at 5970, 5986, and 5994 Kathleen Avenue. The sites were the subjects of Rezoning References #17-32 and #19-42 respectively. As detailed in the Public Hearing reports that were advanced to Council on 2020 May 25, the applicant proposed that a portion of the RM5s market density (including supplemental base and bonus density) and a portion of the RM5r rental density be transferred between the two sites, such that Site 1 is a market strata-only site and Site 2 is a rental-only site with a mix of policy-required replacement and inclusionary non-market units, plus additional market rental units above the policy obligation. Both rezoning applications received Final Adoption on 2021 February 22.

Example 3: Cassie/McKay, Silver, Maywood, and Telford (Metrotown Downtown)

The third example involves four RM4s/RM4r sites in the Maywood neighbourhood of the Metrotown Downtown Plan area, located within 300m of one another: Site 1 at 6366 Cassie Avenue and 6433 McKay Avenue, Site 2 at 6444 Silver Avenue, Site 3 at 4355 Maywood Street, and Site 4 at 6630 Telford Avenue. The sites are currently the subjects of Rezoning References #17-34, #17-39, #18-21, and #18-23 respectively. As discussed in a report endorsed by the Planning and Development Committee on 2020 November 24 and subsequently adopted by Council on December 07, the applicant proposes that RM4s market density (including supplemental base and bonus density) and RM4r rental density be transferred among the four sites. Sites 1, 2, and 3 are proposed as market strata-only sites and Site 4 a rental-only site supporting all the policy-required replacement and inclusionary (non-market) units generated from all four sites, as well as additional market and CMHC market median rental units above the policy

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obligation. The four rezonings are anticipated to advance to Public Hearing in mid to late 2021. As this proposal involves phased development on separate sites, with the whole of the non-market rental housing obligation being delivered in the first phase, the City would enter into a Phased Development Agreement with the owner.

Example 4: Austin/Gatineau and Carrigan (Lougheed Town Centre)

The fourth example involves two sites in the Lougheed Town Centre: Site 1 at 9850 Austin Road and 9858/9898 Gatineau Place, which is designated for RM5s/RM5r/C3 development, and Site 2 at 3846 Carrigan Court, which is currently designated for RM3s/RM3r development and located approximately 500m away. The sites are currently the subjects of Rezoning References #20-18 and #18-32 respectively. As noted in the Initial Report for Rezoning Reference #20-18, which was adopted by Council on 2020 December 07, the applicant proposes to transfer the RM5r density (including the non-market rental housing obligation generated by Site 1) that cannot be appropriately accommodated on Site 1 to Site 2. Site 1 is proposed to support a mixed-use market strata and commercial development, with buildings in the range of 75 to 85 storeys in height, and Site 2 would be an integrated, mixed-tenure and mixed-income development comprised of low, medium, and high-rise buildings with market strata, market rental, and non-market rental components.

4.3 Warranting Circumstances and Benefits

Each example illustrates circumstances warranting consideration of density transfer. Support for density transfer has yielded or would yield additional benefits to the City and the broader community. This is discussed below.

4.3.1 In-Stream Application Status

As aforementioned, almost 40 rezoning applications were in stream while the Rental Use Zoning Policy was being developed. These rezonings were ultimately referred back to staff to work with the applicant to incorporate non-market rental housing. Several of these applications, including those cited in Examples 2 and 3, had designs that were well advanced. In these cases, density transfer, and the shift of the policy-required non-market rental units to another site has enabled the architectural concept developed to-date to remain largely intact, which significantly reduces the time for further design development and municipal approval.

4.3.2 Building Height Considerations

The policy requirement to provide replacement and/or inclusionary non-market rental housing on a development site relies on the ability for the applicant to utilize offset density to construct additional market housing, the proceeds of which offset the capital development costs of the non-market units. It has become apparent that in some cases, if all market, rental, and offset density provisions are utilized on a single site, the resultant building would exceed appropriate or feasible heights. For instance, in Example 1, the sloping Byrnespark site could not appropriately

accommodate density offset while maintaining a lower building form that is in keeping with the surrounding park setting and lower-scale development specified by the community plan. In Example 4, accommodating all density provisions on the Austin/Gatineau site would result in towers exceeding 100 storeys, which is not feasible from a financial and market absorption perspective, nor necessarily desirable from an urban form viewpoint. Reallocating density across two or more sites enables uptake of offset density provisions that are necessary to support development of non-market housing, while ensuring development fits in with the surrounding community context, and is financially feasible.

4.3.3 Potential to Achieve Additional Rental Housing

The ability to transfer density between or among sites can yield additional rental housing beyond the minimum requirements specified in the Rental Use Zoning Policy. It is noted that under the adopted policy, use of RMr density that is surplus to the housing obligation is voluntary and subject to Council approval. In Example 3, as part of the overall project proposal, the applicant is opting to use all remaining available RM4r density to provide additional rental housing. As a result, an additional 200 market rental and CMHC market median rental units will be provided. In Example 2, as part of the overall project proposal, the applicant voluntarily opted to utilize RM5s market density associated with Site 2 (including density bonus provisions) to provide market rental units, rather than market strata units, thus achieving a full rental site with 324 units. Had staff required outright application of the Rental Use Zoning Policy on Sites 1 and 2, with no ability to transfer density, Site 1 would have supported 62 replacement rental units and Site 2 approximately 21 inclusionary rental units, for a total of 83 units – 241 fewer rental units than what is currently proposed. Both examples illustrate that density transfer can remove regulatory barriers and allow the provision of additional rental housing. As such, density transfer is not considered to be a tool that subsidizes development, but rather one that enables the full potential for sites to be realized.

4.3.4 Potential for Enhanced Longevity and Viability of Rental Buildings

The provision of the non-market housing requirement of two or more sites together with additional market rental units on a single site, as seen in Examples 2 and 3, can enhance the longevity and viability of rental buildings, as compared to a common single site development scenario where strata market units are provided within a concrete high-rise building and policy-required non-market rental units are provided in a separate, low-rise wood frame building.

In both Examples 2 and 3, rental units are provided in a concrete building form, which offers greater longevity compared to wood frame buildings. The rental buildings offer a mix of rental rates, thereby creating a mixed-income community with residents from all socio-economic backgrounds. The inclusion of additional market rental units contributes to a higher income stream, which enhances the rental asset and helps to ensure appropriate levels of repair and maintenance, capital expenditures, and improvements. Finally, consolidated rental operations on a single site can be beneficial from a building operations perspective, lowering some costs through operational efficiencies and economies of scale.

4.3.5 Potential for Less Tenant Disruption

Density transfer has the potential to lessen the impact on tenants. As seen in Example 3, the proposed transfer of density and policy-required rental units among four sites, coupled with a phased development approach, means fewer displaced tenants than if the four sites were to develop independently. The required replacement units for all four sites are proposed to be constructed first, at Site 4. This enables existing tenants at two of the other sites, which are proposed to be redeveloped in a later phase, to be offered the right of first refusal for a new replacement rental unit at Site 4 without displacement.

4.4 Summary

In summary, the four examples illustrate some of the circumstances warranting consideration of density transfer and the benefits of transferring market and rental density between or among sites. However, given the many complexities to such a practice as noted, a clear and transparent policy on how density transfer proposals should be addressed is required. In this regard, Section 5.0 proposes a density transfer policy that can be used to assess the suitability of density transfer proposals, and provide Committee and Council with a basis to support or reject such proposals.

5.0 PROPOSED DENSITY TRANSFER POLICY

5.1 Policy Guidelines for Assessing Density Transfer Proposals

The following policy guidelines are proposed to be used when assessing a proposal for density transfer between two or more sites subject to the Rental Use Zoning Policy:

5.1.1 Eligibility Date

Guideline: A rezoning application proposing transfer of RMr density supporting policy-required non-market rental units to a recipient site, other than a site specific rezoning (SSR) application implementing an adopted master plan, must have a submission date of no later than 2021 March 09. Where an SSR application implementing an adopted master plan proposes transfer of RMr density supporting policy-required non-market rental units to a recipient site, the master plan must have a Council approval date of no later than 2021 March 09. There is no submission date requirement for the SSR application itself.

Rationale: As previously noted, the initial Rental Use Zoning Policy was adopted on 2019 May 27, and the final policy was adopted on 2020 March 09. Policy requirements for the provision of replacement or inclusionary non-market rental housing in Burnaby are now widely known, and it is expected that development take place in accordance the adopted policy, including the provision of the housing obligation in situ, on the site subject to rezoning. This is the preference of staff. Requests to transfer RMr density supporting policy-required non-market rental units will therefore only be considered for: (a) the approximately 40 rezoning applications that were in stream at the time of policy development for the reasons described in Section 4.3.1; (b) rezoning applications

submitted within one year of the final policy being adopted, in recognition of the benefit of a transition period when introducing new policy; and (c) SSR applications implementing a master plan that was approved within one year of the final Rental Use Zoning Policy being adopted, in recognition that the multi-year master planning effort would not have captured rental policy requirements.

Rezoning applications proposing the transfer of density offset and/or RMr density surplus to the housing obligation are not subject to this eligibility date guideline.

5.1.2 Ownership

Guideline: The sites involved must be owned and rezoned by the same corporate entity.

Rationale: The intent of density transfer is not to sell density, but to achieve the benefits outlined in section 4.3. As such, it will be required that the generating and recipient sites involved be owned, rezoned, and developed by the same corporate entity.

5.1.3 Compatibility

Guideline: The resultant buildings on the sites must be compatible with adjacent development.

Rationale: The applicant must demonstrate that the resultant buildings, particularly any buildings accommodating transferred density, have appropriate relationships with adjacent development. Specifically, the resultant building must take into consideration the use, height, and form of any adjacent building that has already been developed in line with the adopted community plan, or is anticipated by further plan implementation. The intent is to ensure the resultant buildings meet the intent of the adopted community plan and any established design guidelines, and can be well integrated with the broader neighbourhood context.

5.1.4 Proximity

Guideline: The sites involved must be in close proximity, ideally within the same plan area.

Rationale: One intent of the Rental Use Zoning Policy is to ensure that areas undergoing new development include the provision of new, non-market rental housing. As such, if density transfer is proposed, the generating and recipient sites must be in close proximity, ideally within the same plan area. This is particularly important when replacement units are being provided; it is generally expected that tenants with the right of first refusal to return to a replacement unit be able to move back to the same plan area, where they likely have established connections to school, place of work, and other community services and supports.

5.1.5 Additional Rental Units

Guideline: If density transfer results in policy-required rental units being borne on a single site, additional RMr density above the required inclusionary and/or replacement component must be utilized.

Rationale: The Rental Use Zoning Policy notes that use of RMr density that is surplus to the housing obligation is voluntary. However, it is proposed that if density transfer results in the policy-required rental units being borne on a single site, additional RMr density above the required inclusionary and/or replacement obligation must be utilized to the greatest extent possible, while ensuring compatibility with adjacent development and a high level of building efficiency. The purpose is threefold: to create a mixed-income rental community, where rents include 20% below CMHC market median, CMHC market median, and market rates; to create a viable rental asset through some cross-subsidy; and to add to Burnaby’s rental stock in general.

5.2 Procedure for Advancing Rezoning Proposals with a Density Transfer Component

Development proposals with a density transfer component are proposed to be introduced to the Planning and Development Committee and to Council for consideration as follows:

- 1) The applicant submits a letter of intent or a rezoning application to the Planning Department.
- 2) Planning staff review the proposal using the guidelines outlined in Section 5.1 above.
- 3) Planning staff advance a report to the Planning and Development Committee with a recommendation to endorse, or not endorse, the density transfer proposal through the rezoning process.
- 4) The Planning and Development Committee advance the report to Council with a recommendation to support or not support the density transfer proposal through the rezoning process.
- 5) If the density transfer proposal is supported by Council, the proposal can be advanced through the rezoning process with the density transfer identified within the suitable plans of development, Public Hearing reports, and Section 219 Covenants (Density Allocation).

6.0 SUMMARY

Implementation of the Rental Use Zoning Policy has revealed that in some circumstances, it is challenging or infeasible to achieve the required non-market rental units and the market units generated by density permissible on a single site, while maintaining broader urban design, form, and community planning objectives, especially for sites with rezoning applications that were in-stream when the Rental Use Zoning Policy was under development and at time of approval by

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Council. One solution has been to transfer density between or among sites, where the developer owns two or more sites undergoing rezoning. To date, consideration has been given to four examples of density transfer between or among sites that are subject to rental use zoning. These examples highlight some of the constraints in accommodating all permitted density on site and illustrate that density transfer can yield benefits that are aligned with the City’s broader non-market housing and community planning objectives. Drawing upon these examples and benefits, it is recommended that Council adopt on the open agenda the density transfer policy outlined in Section 5.0 of this report, for sites in Burnaby that are subject to the Rental Use Zoning Policy. In so doing, there will be clarity as to when density transfer proposals can be supported.


E. W. Kozak, Director
PLANNING AND BUILDING

KH:tn

cc: Director Finance
Director Public Safety and Community Services
City Solicitor
City Clerk