PLANNING AND DEVELOPMENT COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

SUBJECT: PROPOSED ZONING BYLAW AMENDMENTS – JUNE 2020

RECOMMENDATIONS:

1. THAT Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report, for advancement to a future Public Hearing.

2. THAT the "Locational Guidelines for Cyber Centres" ***attached*** as part of Attachment #1 to this report , which were endorsed by Council at the Open Council meeting held on 2002 May 06, be repealed.

3. THAT all references to "amusement arcades" and "arcades" in the "Locational Guidelines for Pool/Billiard Halls and Amusement Arcades" ***attached*** as part of Attachment #2 to this report, which were approved by Council at the Open Council meeting held on 1993 November 29, be repealed.

REPORT

The Planning and Development Committee, at its meeting held on 2020 June 23, received and adopted the *attached* report proposing a number of text amendments to the Burnaby Zoning Bylaw.

Respectfully submitted,

Councillor P. Calendino
Chair

Councillor S. Dhaliwal
Vice Chair

Copied to: City Manager
Director Planning and Building
Director Finance
City Solicitor
Chief Licence Inspector
RCMP Officer-In-Charge

City of Burnaby

Item .....
Meeting.....2020 June 23

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 June 17

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: *Bylaw Text Amdmt*

SUBJECT: PROPOSED ZONING BYLAW AMENDMENTS – JUNE 2020

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

RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report, for advancement to a future Public Hearing.

2. **THAT** the "Locational Guidelines for Cyber Centres" ***attached*** as part of Attachment #1 to this report , which were endorsed by Council at the Open Council meeting held on 2002 May 06, be repealed.

3. **THAT** all references to "amusement arcades" and "arcades" in the "Locational Guidelines for Pool/Billiard Halls and Amusement Arcades" ***attached*** as part of Attachment #2 to this Report, which were approved by Council at the Open Council meeting held on 1993 November 29, be repealed.

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.

This report presents eight Zoning Bylaw amendments regarding:

1) secondary suites;
2) cyber centres and amusement arcades;
3) uses, structures, and equipment permitted outside of an enclosed building;
4) home occupations in the RM3s Multiple Family Residential District;
5) usable open space;
6) off-street parking for cafes, restaurants, and liquor licence establishments having more than 50 seats;

7) shared use of off-street parking spaces for two or more uses; and,
8) off-street parking for manufacturing and industrial uses, and storage yards.

2.0 POLICY

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

- **A Connected Community**
  - Social connection – Enhance social connections throughout Burnaby.
  - Partnership – Work collaboratively with businesses, educational institutions, associations, other communities and governments.

- **A Healthy Community**
  - Community involvement – Encourage residents and businesses to give back and to invest in the community.

- **A Dynamic Community**
  - Economic opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries.

3.0 PROPOSED ZONING BYLAW TEXT AMENDMENTS

3.1 Secondary Suites

Issue

The Burnaby Zoning Bylaw limits the maximum floor area of a secondary suite to 90 m^2 (970 sq. ft.), or 40% of the gross floor area of the principal building, whichever is less. These requirements were originally introduced to the Zoning Bylaw in line with the provisions of the then-current BC Building Code. The maximum floor area requirements for secondary suites was removed from the BCBC 2018 (BCBC) to allow for larger family oriented secondary suites. This BCBC 2018 change warrants a full review of the secondary suite regulations in the Zoning Bylaw.

Discussion

According to Section 3.0 of the Zoning Bylaw, secondary suites are permitted as an accessory use to single family dwellings in a number of R Residential, A Agricultural, and RM6 Hastings Village Multiple Family Residential Districts, subject to the following conditions:

- it should be limited to one secondary suite in a dwelling;
- the secondary suite shall have a minimum floor area of 32.0 m^2 (345.0 sq. ft.), and a maximum floor area of 90.0 m^2 (970.0 sq. ft.), or 40% of the gross floor area of the principal building, whichever is less, in line with the BCBC 2012; the secondary suite and the principal building shall not be subdivided by way of strata plan, air space plan or otherwise;

- the secondary suite shall not be permitted in a single family dwelling that contains an in-law suite; and,
- care facilities, boarding, lodging and rooming houses, home occupations with on-site client services, and the keeping of boarders and lodgers are not permitted in a single family dwelling that contains a secondary suite, including within the secondary suite.

These requirements were introduced to the Zoning Bylaw in 2014, as part of the secondary suite program. The purpose of these requirements are to provide accessible affordable rental housing as an accessory use in existing single family residential neighbourhoods, while maintaining the low density character of those neighbourhoods.

Effective 2019 December 12, the Province introduced several amendments in the BCBC 2018, in an effort to remove barriers to the creation of more affordable housing, including secondary suites. The changes introduced in the BCBC 2018 were aimed at increasing the options for the design and construction of more secondary suites in a wider range of building types (such as side by side two family dwellings), and to remove secondary suite size restrictions. The changes in the BCBC 2018 provide municipalities the opportunity to review their zoning bylaws regarding the construction of secondary suites, and make appropriate amendments, if desired.

The provision of family-oriented housing in a variety of residential neighbourhoods, and increasing the supply of affordable rental housing are two of the recommendations provided in the final report of the Mayor's Task Force on Community Housing. The changes to BCBC 2018 facilitate the construction of accessible and affordable rental housing with a focus on family-oriented units in existing neighbourhoods. As such, staff conducted a review of the secondary suite requirements of the Zoning Bylaw in line with the BCBC 2018 changes.

According to the Zoning Bylaw, only one secondary suite is permitted as an accessory use to a single family dwelling, and the secondary suite shall be occupied by only one family, which is limited to three unrelated non-transient persons living together. Removing the size restrictions on secondary suites (90.0 m^2 (970.0 sq. ft.) of floor area, or 40% of the gross floor area of the principal building, whichever is less) would facilitate the construction of larger secondary suites that are more suitable for larger families. However, this could also facilitate the illegal conversion of a single, large secondary suite into multiple smaller secondary suites or two family dwellings, or lead to the creation of additional bedrooms for rent to more than three unrelated individuals. The potential for abuse of the additional secondary suite floor area would defeat the goal of creating additional accessory dwellings while maintaining the low density of single family residential neighbourhoods and neighbourhood character.

To remove barriers to the construction of larger, family–oriented secondary suites, while minimizing the possibility of the construction of multiple secondary suites, or additional rental rooms for the accommodation of unrelated individuals beyond what is permitted under the Zoning Bylaw, it is recommended that the 90.0 m^2 (970.0 sq. ft.) size restriction be removed from the Zoning Bylaw, while the maximum 40% floor area requirement continues to apply.

It should be noted that other Zoning Bylaw requirements related to secondary suites which emphasize the accessory nature of these dwelling units, such as a maximum of one secondary suite in a dwelling, the prohibition of subdivision of the secondary suite, or restriction on the construction of a secondary suite in a single family dwelling containing an in-law suite, is proposed to remain unchanged. It is also recommended that these requirements, including the maximum of one secondary suite in a single

family dwelling, and the maximum number of unrelated tenants living together in a secondary suite, be brought to the attention of home owners when the supplementary utility fees payment is made for a rental secondary suite. The provision of this information - in the form of a brochure, or in the supplementary utility fees declaration form – will help ensure that property owners are aware of these requirements.

The housekeeping review of the Zoning Bylaw pertaining to secondary suites triggers the following Zoning Bylaw amendments. It should be noted that the existing requirements of the Zoning Bylaw related to secondary suites, other than the following amendments, will remain unchanged.

- location of the new secondary suites within the principal building:

  Section 6.9(6) of the Zoning Bylaw stipulates that in the R1, R2, R3, R4, R5, and R9 Districts, on a lot developed with a single family dwelling, a cellar exceeding a floor area of 32.0 m^2 (345.0 sq. ft.) shall meet the requirements of the BCBC and all other requirements of the Zoning Bylaw for a secondary suite. The original intent of this Section was to facilitate the construction of secondary suites in a cellar exceeding 32.0 m^2 (345.0 sq. ft.) by requiring that the cellar be "suite ready." The "suite ready" condition for a cellar would require the installation of certain basic utilities, fire safety systems and other BCBC requirements for a future secondary suite, which would otherwise be difficult and costly to install after construction of the cellar is completed.

  Section 6.9(6) of the Bylaw facilitates the addition of a future secondary suite, however it limits the location of any new secondary suite to the cellar if the cellar exceeds a floor area of 32.0 m^2 (345.0 sq. ft.), as it requires that a cellar exceeding 32.0 m^2 (345.0 sq. ft.) meet the secondary suite requirements of the BCBC, instead of "suite ready" requirements. Although the majority of Building Permit applications propose to locate secondary suites in the cellar, there is also a growing aging population, with associated mobility issues, that requires the flexibility and ability to locate secondary suites anywhere within the building. To address this concern, it is recommended that Section 6.9(6) be amended as follows:

  - the reference to BCBC and other requirements of the Zoning Bylaw for secondary suites be replaced with the "suite ready" requirements. This ensures that basic utilities, fire safety systems and other BCBC requirements for a secondary suite, which would otherwise be difficult and costly to install for the future addition of a secondary suite in the cellar, are met at the time of construction of the cellar.

  - the "suite ready" requirements would only apply to a cellar in a single family dwelling where no secondary suite is constructed or proposed to be constructed anywhere within the dwelling. This requirement eliminates the potential for future illegal conversion of a cellar to a secondary suite, in a single family dwelling that already contains a secondary suite.

  The proposed amendment to Section 6.9(6) enables the addition of a provision to the Zoning Bylaw stipulating that a secondary suite may be located anywhere within the principal building without increasing the potential for illegal construction of multiple secondary suites in a single family dwelling.

  It is further recommended that a new definition for "suite ready" be added to the Zoning Bylaw as being "constructed to a standard, as determined by the Chief Building Inspector, which facilitates the future conversion of that portion of a building to a secondary suite in accordance

with the British Columbia Building Code". This definition enables the Chief Building Inspector to require the basic utilities, fire safety systems and other BCBC requirements that are fundamental for the future addition of a secondary suite, at the time of construction of a cellar.

- Minimum floor area of a secondary suite:

  According to the Zoning Bylaw, the gross floor area of a secondary suite shall not be less than 32.0 m^2 (345.0 sq. ft.). Considering that secondary suites are a form of rental housing, and to be consistent with the minimum floor area requirements for rental units in purpose-built rental housing as defined in Section 6.10(2.1) of the Zoning Bylaw, it is recommended that the minimum floor area of secondary suites be reduced to 30.0 m^2 (322.93 sq. ft.). It is further recommended that all references to secondary suite minimum floor area be updated accordingly, throughout the Zoning Bylaw.

- Addition of a new Section 6.7.1 regulating the construction of secondary suites:

  Currently, the definition of "accessory use" in Section 3.0 of the Zoning Bylaw contains the regulations related to secondary suites. However, in general, Section 6.0 of the Zoning Bylaw includes the supplementary regulations for all uses, buildings and structures. In order to be consistent with other uses, it is recommended that the secondary suite regulations be located under a new Section 6.7.1 in the Zoning Bylaw. It is further recommended that all references to secondary suite requirements under the current Section 3.0 be replaced with Section 6.7.1 throughout the Zoning Bylaw.

- Ceiling height in a basement or cellar:

  Section 6.9(2) of the Zoning Bylaw requires that the height of a basement or cellar, measured between floor and ceiling surfaces, shall not be less than 2.3 m (7.5 ft.). This requirement exceeds the minimum ceiling height requirement of the BCBC, which requires a minimum ceiling height of 2.1 m (6.9 ft.) for living spaces, including secondary suites. According to the BCBC, the required ceiling height may be reduced to 2.0 m (6.6 ft.), measured from a floor to the underside of beams, in common hallways and stairs.

  The BCBC requires a minimum ceiling height of 1.95 m (6.4 ft.) (1.85 m (6.1 ft.) under beams and ducts) in new secondary suites constructed in existing dwelling units, in order to facilitate the construction of secondary suites where the ceiling height is less than the BCBC requirements.

  The minimum ceiling height requirement of the Zoning Bylaw precludes the construction of secondary suites in a basement or cellar in existing single family dwellings where the ceiling height is less than 2.3 m (7.5 ft.). Considering that the BCBC, as a provincial regulation, establishes the minimum requirements for safety, health, accessibility, and structural protection of buildings, it is recommended that Section 6.9(2) of the Zoning Bylaw be repealed in its entirety. If Council adopts this recommendation, the minimum ceiling height of all floors of a building, including basements or cellars, shall comply with the minimum ceiling height requirements of the BCBC.

Recommended Bylaw Amendments

1. **THAT** Section 3.0 of the Zoning Bylaw be amended by repealing subsection (3) under the definition of "accessory use" in its entirety.

2. **THAT** the definition of "dwelling, single family" in Section 3.0 of the Zoning Bylaw be amended by replacing the words "the Accessory Use provisions of Section 3" with the words "Section 6.7.1".

3. **THAT** Section 3.0 of the Zoning Bylaw be amended by adding a new definition for "suite ready" with wording the same or similar to the following:

   "SUITE READY" means constructed to a standard, as determined by the Chief Building Inspector, which facilitates the future conversion of that portion of a building to a secondary suite in accordance with the British Columbia Building Code.

4. **THAT** Section 6.7.1 be added to the Zoning Bylaw with wording the same or similar to the following:

   "6.7.1 Secondary Suites:

   (1) A secondary suite may be permitted as an accessory use to a single family dwelling in an R1, R2, R3, R4, R5, R6, R9, R10, R11, R12, RM6, A1, A2, and A3 District, subject to the following conditions:

   (a) only one secondary suite shall be permitted in a single family dwelling;

   (b) a secondary suite shall not be permitted in a single family dwelling that contains an in-law suite;

   (c) a secondary suite may be located anywhere within a single family dwelling;

   (d) a secondary suite shall meet the requirements for a secondary suite under the British Columbia Building Code;

   (e) a secondary suite shall have a minimum floor area of 30.0 m^2 (322.93 sq. ft.);

   (f) the floor area of a secondary suite shall not exceed forty percent (40%) of the gross floor area of the principal building;

(g) a secondary suite and the principal building shall at all times remain a single parcel under a single title and shall not be subdivided into separate parcels by way of strata plan, air space plan or otherwise;

(h) 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.

5. **THAT** Section 6.9(2) of the Zoning Bylaw be repealed in its entirety.

6. **THAT** Section 6.9(6) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

(6) In the R1, R2, R3, R4, R5, and R9 Districts, on a lot developed with a single family dwelling, a cellar exceeding a floor area of 30.0 m^2 (322.93 sq. ft.) shall be suite ready, except where there is an existing secondary suite constructed in the single family dwelling, or where a secondary suite is proposed to be constructed anywhere within the single family dwelling.

7. **THAT** Section 6.10(1) of the Zoning Bylaw be amended by replacing the words "32 m^2 (345 sq. ft.)" with the words "30.0 m^2 (322.93 sq. ft.)".

3.2 Cyber Centres and Amusement Arcades

Issue

Advancements in personal computing and video game technology over the past two decades have revolutionized the way in which people access the internet and play video games. This has largely affected the conventional standalone amusement arcade and cyber centre business model. As such, there is a need to update the Zoning Bylaw to reflect the new realities of digital entertainment, and to remove barriers in attracting entertainment establishments in Burnaby.

Discussion

In the Zoning Bylaw, "cyber centres" are permitted in the C3e General Commercial District, and C4e Service Commercial District, while "amusement arcades" are permitted in the C3c and C4c Districts. These uses are currently permitted subject to a site specific rezoning to ensure that each application is assessed on its own merit, and that the public has an opportunity to provide input. Cyber centre and amusement arcade are defined in Section 3.0 of the Zoning Bylaw as follows:

"Amusement arcade" means a commercial undertaking containing six or more pinball, videogame or other game machines available for the use of its patrons, but does not include an establishment holding a Class "A", "C", "D", "F" or "I" licence under the Liquor Control and Licensing Act, a club or lodge nor a children's amusement facility where game machines are designed primarily for the use of children under the age of thirteen.

"Cyber centre" means a commercial establishment that has available for the use of its patrons six or more computer terminals or other electronic devices that provide or are capable of providing access to the internet or other computer network system, but does not include a school, college, university or other educational institution or a public library.

The introduction of cyber centres and amusement arcades into the Zoning Bylaw as distinct land uses, subject to a site specific rezoning and Council-adopted locational and operational guidelines, was in response to concerns related to the dominant use of these establishments for online video gaming by youth and young adults, and the potential for violence, gang activities and online gambling.

However, individuals can now access the internet and play video games in almost any location and at any time on their personal cellular and gaming devices. This ease of access, and the time and uncertainty associated with the rezoning requirement for such establishments, have significantly reduced interest in establishing conventional standalone amusement arcades and cyber centres. In addition, monitoring of Burnaby's few existing amusement arcades and cyber centres has indicated that violence, gang activities, and online gambling have never been an issue in these establishments.

Given that the land use impacts or concerns associated with conventional standalone amusement arcades and cyber centres are negligible, it is recommended that the site specific rezoning requirement to allow such establishments be eliminated. The purpose of this recommendation is to update the Zoning Bylaw to reflect the new realities of digital entertainment, and to remove barriers that currently deter new forms of entertainment venues from locating in Burnaby. Should Council adopt this recommendation, the C3e and C4e Districts, which were specifically created to allow cyber centres would be repealed in its entirety, and "amusement arcades" would be removed from the C3c and C4c Districts as a permitted use. It is also recommended that the "Locational Guidelines for Cyber Centres", which were endorsed by Council at the Open Council meeting held on 2002 May 06, and are ***attached*** hereto as Attachment #1, and all references to "amusement arcades" and "arcades" in the "Locational Guidelines for Pool/Billiard Halls and Amusement Arcades", which were approved by Council at the Open Council meeting held on 1993 November 29, and are ***attached*** hereto as Attachment #2, be repealed.

Cyber centres and amusement arcades most closely resemble the "public assembly and entertainment use" which is permitted in the C2, C3, C4, C8, and C9 Commercial Districts. However, to monitor these land uses, and to ensure that any related concerns can be addressed on a case by case basis, it is recommended that cyber centres and amusement arcades continue to be permitted under a distinct use category, rather than the general public assembly and entertainment use. According to the Burnaby Business Licence Bylaw, the Chief Licence Inspector may impose terms and conditions on a Business Licence to address issues and complaints associated with a business. As such, any future concerns related to the operation of these establishments, such as noise, outside gathering of customers, or extended hours of operation can be resolved by imposing conditions on the establishment's Business Licence.

Considering that today's cyber centres and amusement arcades are mostly used for digital entertainment, and to simplify the Zoning Bylaw, it is recommended that these land uses be repealed and replaced with a new "cyber entertainment use" which will be added to Section 3.0 of the Zoning Bylaw, as follows:

"CYBER ENTERTAINMENT USE" *means a commercial establishment that has available for the use of its patrons for entertainment purposes six or more:*

(a) *games machines; and/or*

(b) *computers or other electronic devices that provide access to:*
(i) *the internet or other electronic communication network;*
(ii) *videogames; and/or*
(iii) *virtual realities.*

According to this definition, any assembly and entertainment use utilizing computers or other electronic devices, such as eSport facilities, would be considered a "cyber entertainment use" which will be permitted as an outright permitted use in the C2, C3, C4, C8, and C9 Districts. The "cyber entertainment use" will be excluded from the "public assembly and entertainment use."
Schedule VIII – Off-Street Parking of the Zoning Bylaw regulates the required off-street parking for all permitted land uses. Considering that the "cyber entertainment use" is recommended to be introduced to the Zoning Bylaw, the required off-street parking should also be established for this use.

Currently, the required off-street parking for "cyber centre" is 1 parking space per 5 terminals, and for other recreational uses, such as miniature golf courses, skating rinks, trampoline centres, and similar uses, is 1 parking space per 46.0 m^2 (495.16 sq. ft.) of gross floor area, plus 1 parking space for each 10 spectator seats. Considering that "cyber entertainment use" are recreational in nature, it is recommended that the same off-street parking requirement, with the exception of required parking for spectator seats, apply to cyber entertainment use. The established off-street parking requirement will facilitate the accommodation of "cyber entertainment use" in C Districts, as it is consistent with the required off-street parking for most permitted uses in Commercial Districts.

It is further recommended that the required off-street loading for office building, places of public assembly, and other similar uses apply to entertainment uses, such as "cyber entertainment use."

Recommended Bylaw Amendments

8. **THAT** Section 3.0 of the Zoning Bylaw be amended by deleting the definitions of "cyber centre" and "amusement arcade" in their entirety.

9. **THAT** Section 3.0 of the Zoning Bylaw be amended by adding a new definition for "cyber entertainment use" with wording the same or similar to the following:

   "CYBER ENTERTAINMENT USE" *means a commercial establishment that has available for the use of its patrons for entertainment purposes six or more:*

(a) *games machines; and/or*
(b) *computers or other electronic devices that provide access to:*
(i) *the internet or other electronic communication network;*
(ii) *videogames; and/or*
(iii) *virtual realities.*

10. **THAT** the definition of "public assembly and entertainment use" in Section 3.0 of the Zoning Bylaw be amended by replacing the words "amusement arcades" with the words "cyber entertainment uses".

11. **THAT** Sections 302.1(22), 303.1(32), 304.1(41), 308.2(23), and 309.2(21) be added to the Zoning Bylaw with wording the same or similar to the following:

Cyber entertainment uses.

12. **THAT** Sections 303.1B(2), 303.1D, 304.1A(2), and 304.1B of the Zoning Bylaw be repealed in their entirety.

13. **THAT** Section 800.4(35) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

(35) Cyber entertainment uses.	*1 for each 46 m^2 (495.16 sq. ft.) of gross floor area.*

14. **THAT** Section 900.4(2) of the Zoning Bylaw be amended by adding the words "place for entertainment purposes," after the words "place of public assembly,".

3.3 Uses, Structures, and Equipment Permitted Outside of an Enclosed Building

Issue

The Zoning Bylaw in most C Commercial, M Industrial, B Business, as well as the P9 Marine Districts requires that all permitted uses and undertakings, with the exception of a number of uses, shall be located within a completely enclosed building. This requirement restricts the location of certain other uses, structures and equipment which should be located in an open area due to safety concerns and other considerations. As such, an amendment to the Zoning Bylaw is required to exempt the certain particular uses, structures and equipment from the enclosure requirement of the Bylaw.

Discussion

Currently, the "conditions of use" requirements of the Zoning Bylaw require that in the P9 Marine District, and in all C, M, and B Districts, except the C5, C6, C7, M3, and M6 Districts, all permitted uses and undertaking should be conducted within a completely enclosed building, with the exception of a number of uses, such as parking and loading facilities. The uses exempted from the enclosure requirement of the Zoning Bylaw include most permitted uses that cannot be located within an enclosed building due to safety concerns, or those activities which are required to be conducted in an open space.

Section 3.0 of the Zoning Bylaw defines " a completely enclosed building" as a building separated on all sides from adjacent open spaces, or from other buildings or structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

To simplify the reading of the Zoning Bylaw, and to ensure the exemptions from the enclosure requirements of the Bylaw are applied consistently, it is recommended that references to the exemptions under the "conditions of use" section in all C, M, and B Districts, except the C5, C6, C7, M3, and M6 Districts, as well as the P9 Marine District, be repealed in their entirety. It is further recommended that a new Section 6.27 be added to the Zoning Bylaw to list all those uses that are currently exempted from having to be conducted within a completely enclosed building under the various "conditions of use" sections in the C (except C5, C6, C7), M (except M3 and M6), and B Districts. Section 6.27 will also include permitted uses that cannot be located within an enclosed building due to safety concerns, such as fueling installations, or are more suitably located in an open space for accessibility purposes, but which currently are not exempted from the enclosure requirements of the Zoning Bylaw. These uses are as follows:

- industrial or marina fueling installations;
- public works yards;
- public utility installations;
- public transportation depots;
- car washing establishments; and,
- lunch bars.

In addition, it is recommended that the following new uses, structures and equipment be added to Section 6.27 of the Zoning Bylaw:

- Film production trucks and trailers used in conjunction with production studios for radio, television, motion picture, theatre, dance and similar productions:

  Rehearsal and production studios for radio, television, motion picture, and similar productions are permitted in the M1, M2, M3, M4, and M5 Districts, provided that they are conducted within a completely enclosed building. However, there is an increasing interest in conducting many of the associated activities, such as wardrobe, make up, and catering, in production trucks and trailers instead of within the building. The production trucks and trailers can easily move from one site to one another and serve different productions. The production trucks and trailers may also be used for storage and transport of equipment. This recommendation would allow the use of production trucks and trailers for activities associated with rehearsal, broadcasting, and film production, which otherwise should be conducted within an enclosed building.

- Food trucks as an accessory food service for the use of the employees of an establishment:

  Currently, the operation of food trucks for the retail sale of foods and beverages is not permitted in Burnaby, except as part of farmers' market operations. However, there is an increasing interest from businesses and manufacturers to use food trucks in order to provide daily food services to their employees. The intended use of food trucks can help businesses and manufacturers to repurpose existing kitchen and dining areas for the expansion of their operations and activities. While food trucks could currently be permitted as an accessory use, their location is currently restricted in all districts except the M3 District, as the Zoning Bylaw

requires that all uses shall be located within an enclosed building. The exemption of food trucks from being housed within an enclosed building would permit food trucks as an accessory use. It should be noted that in the absence of a food truck program for the retail sale of food and beverages to the public, this recommendation would only allow food trucks that are operated by or on behalf of the owner or manager of the establishment, for the use of their employees.

- Storage tanks, including the storage of petroleum products:

  Storage tanks for the storage of liquid, gas and other substances accessory to industrial/manufacturing activities or other operations, which cannot be located within an enclosed building due to safety concerns or size of the tanks, may be located in an open area.

- HVAC, air intake and exhaust units, emergency generators, and other electrical or mechanical equipment, provided that they are not a principal component of the primary activities conducted under the principal or accessory uses on a lot

  HVAC, air intake and exhaust units for parkades, and other electrical or mechanical equipment proposed to be located outside of an enclosed building, may be located in an open area. It should be noted that electrical or mechanical equipment only includes the accessory equipment that provides necessary services and support for the operation of primary activities, and should not include any component of the primary operations. Examples of such equipment include cooling systems for data centres, and air condensing units for frozen food manufacturing.

Section 6.15 of the Zoning Bylaw requires screening for storage yards, parking areas, loading areas, and display yards, to improve the visual impacts of these outdoor uses on neighbouring properties and streetscapes. Should Council adopt the above noted recommendations, it is further recommended that Section 6.15 of the Zoning Bylaw be amended to include the following screening requirements:

- screening for public works yards, similar to storage yards, as required by Section 6.15(2) of the Zoning Bylaw.

- screening of 1.8 m (5.91 ft.) in height for industrial fueling installations or public utility installations along any boundary of the property abutting a lot in an A, R, or RM District, or separated therefrom by a lane, similar to gasoline service stations and display yards.

- screening of 1.8 m (5.91 ft.) in height to screen storage tanks, HVAC, air intake and exhaust units in parkades, emergency generators, and other electrical or mechanical equipment that are not a principal component of the primary activities conducted under the principal or accessory uses, listed in Section 6.27(22) and 6.27(23) of the Bylaw, provided that they are located outside of an enclosed building, in the RM, C, M, B and P Districts.

Recommended Bylaw Amendments

15. **THAT** Section 6.15(2) of the Zoning Bylaw be amended by adding the words "and public works yards" after the words "storage yards".

16. **THAT** Section 6.15(3) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

    (3) Parking Areas, Loading Areas, Display Yards, and Similar Uses:

17. **THAT** Section 6.15(3)(b)(ii) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

    (ii) where any display yard, industrial fueling installation, or public utility installation abuts a lot in an A, R, or RM District, or is separated therefrom by a lane.

18. **THAT** Section 6.15(3)(b)(iii) be added to the Zoning Bylaw with wording the same or similar to the following:

    (iii) where any storage tank or equipment, listed in Sections 6.27(22) and 6.27(23) of this bylaw, is located outside of an enclosed building, in the RM, C, M, B, and P Districts.

19. **THAT** Section 6.27 be added to the Zoning Bylaw with wording the same or similar to the following:

    6.27 ***Uses, Structures, and Equipment Permitted Outside of an Enclosed Building:***

    In C, M, B, and P9 Districts, where the following uses, structures, or equipment are permitted, they may be located outside of a completely enclosed building:

    (1) Parking and loading facilities.
    (2) Gasoline service stations.
    (3) Industrial or marina fueling installations.
    (4) Outdoor produce shops.
    (5) Outdoor garden shops.
    (6) Outdoor play areas.
    (7) Agricultural uses, excluding commercial nurseries and greenhouses.
    (8) Display yards.
    (9) Storage yards.
    (10) Public works yards.
    (11) Public utility installations.
    (12) Public transportation depots.
    (13) Car washing establishments.
    (14) Film production trucks and trailers used in conjunction with production studios for radio, television, motion picture, theatre, dance and similar productions.
    (15) Food trucks as accessory food service for the use of the employees of an establishment, provided that they are operated by, or on behalf of the owner or manager of the establishment.

(16) Outdoor seating at cafes, restaurants or other facilities where food or drink is served.
(17) Mobile retail carts, including but not limited to, mobile food carts.
(18) Lunch bars.
(19) Hoist and launching ramps.
(20) Facilities and installations related to the transshipment of goods and materials.
(21) Outdoor storage of boats associated with water-oriented uses.
(22) Storage tanks, including the storage of petroleum products.
(23) HVAC, air intake and exhaust units, emergency generators, and other electrical or mechanical equipment, provided that they are not a principal component of the primary activities conducted under the principal or the accessory uses on a lot.

20. **THAT** Sections 301.2(1), 302.2(1), 303.2(1), 304.2(1), 308.3(1), 309.3(1), 401.2(1), 402.2(1), 404.2(1), 405.2(1), 407.2(2), 408.2(2), 451.2(2), 452.2(2), and 509.2(2) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

All uses and undertakings shall be conducted within a completely enclosed building, except as provided for in Section 6.27 of this Bylaw.

3.4 Home Occupation in the RM3s Multiple Family Residential District

Issue

Currently, the Zoning Bylaw does not allow the establishment of home occupation in the RM3s Multiple Family Residential District, similar to other RM and RMs Districts within the City.

Discussion

According to Section 203.2 of the Zoning Bylaw, land uses permitted in the RM3s District include all uses permitted in the RM3 District, excluding uses permitted in the R6 District, dormitory units or groups of dormitory units, and boarding, lodging and rooming houses. The exclusion of uses permitted in the R6 District results in the prohibition of home occupation in the RM3s District. Home occupation, which is a permitted use in all other RM and RMs Districts, appears to have been excluded from the RM3s District erroneously. As such, to be consistent with the permitted uses in other RM and RMs Districts, it is recommended that home occupation be added to the permitted uses in the RM3s District.

Recommended Bylaw Amendments

21. **THAT** Section 203.2 of the Zoning Bylaw be repealed and replaced with wording same or similar to the following:

(1) Uses permitted in the RM3 District, excluding uses permitted in the R6 District, dormitory units or groups of dormitory units, and boarding, lodging and rooming houses.

(2) Home occupations.

3.5 Usable Open Space

Issue

There is a need to update the Zoning Bylaw with respect to "usable open space" requirements to bring the Zoning Bylaw in line with certain previous Zoning Bylaw amendments which removed the usable open space requirements in the RM Districts without revising other sections of the Zoning Bylaw accordingly.

Discussion

On 2018 December 03, Council adopted a Zoning Bylaw amendment to establish rental-only zoning sub-districts in a number of districts where multiple family dwellings are permitted. As part of this amendment, the "usable open space" requirements of the RM Districts were repealed to bring the Zoning Bylaw in line with today's design guidelines and principles for the development of multiple family dwellings and mixed-use developments.

However, the Zoning Bylaw still requires the provision of "usable open space" in townhouse developments located in the R8 Residential District. Considering that townhouse dwellings are a form of multiple family development where each dwelling unit has individual direct access to the outside, it is recommended that the "usable open space" requirement in the R8 District be repealed. It is further recommended that the definition of "usable open space" in Section 3.0 of the Zoning Bylaw, and any reference to usable open space throughout the Zoning Bylaw, be repealed.

Recommended Bylaw Amendments

22. **THAT** the definition of "Bedroom" in Section 3.0 of the Zoning Bylaw be amended by removing the words "or usable open space requirements."

23. **THAT** the definition of "usable open space" in Section 3.0 of the Zoning Bylaw be repealed in its entirety.

24. **THAT** Section 7.3(2)(f) of the Zoning Bylaw be amended by removing the words "and usable open space."

25. **THAT** Section 108.6 of the Zoning Bylaw be repealed in its entirety.

3.6 Off-Street Parking for Cafes, Restaurants, and Liquor Licence Establishments Having More Than 50 Seats

Issue

The off-street parking requirement of the Zoning Bylaw for cafes, restaurants, and similar establishments having 50 seats or more is significantly higher than the off-street parking requirement for similar establishments with 50 seats or less. An amendment to off-street parking requirement of such establishments with more than 50 seats is required to remove barriers in establishment of such facilities in commercial areas.

Discussion

Currently, the Zoning Bylaw requires 1 parking space for each 5 seats for restaurants and liquor licence establishments having more than 50 seats in total, and drive-in restaurants. The required off-street parking for restaurants and liquor licence establishments located outside of a shopping centre, having 50 seats or less, is 1 parking space for each 46 m^2 (495.16 sq. ft.). The required off-street parking for restaurants and similar establishments having more than 50 seats is significantly more than similar establishments with 50 seats or less.

Originally, the required off-street parking for all restaurants were calculated based on the number of seats. On 1986 August 18, Council adopted an amendment to the parking requirement of the Zoning Bylaw for restaurants and similar establishments having 50 seats or less in line with the required parking for retail and other commercial uses. The purpose of this amendment was to facilitate the establishment of restaurants in commercial areas where a general parking ratio of 1 parking space per 46 m^2 (495.16 sq. ft.) was applied. However, at the time, it was decided that a higher parking ratio of 1 parking space per 5 seats should continue to apply to restaurants with over 50 seats, as these restaurants were realized as significant destination and parking demand generators.

In general, a dining room occupies approximately 60% of a restaurant's floor area, with the remaining area allocated to kitchen, cooking area, food preparation and storage. Restaurant seating capacity is calculated based on the floor area occupied by each seat which depends on the type of dining establishment (fine dining, fast food, etc.). Considering that the average floor area allotted for each seat based on the type of establishment is the same for different sized restaurants, it is recommended that the required off-street parking for restaurants having 50 seats or more be amended in line with the required parking for smaller restaurants and other commercial uses.

According to Sections 800.4(19), 800.4(19a), and 800.4(19b) of the Zoning Bylaw, the same off-street parking should be required for liquor licence establishments and restaurants with similar seating capacity. The original intent of these sections was to regulate required off-street parking for a liquor licence establishment as a principal use. "Liquor licence establishment" is defined as an establishment selling or dispensing liquor for which a liquor primary licence or a liquor primary club licence is required under the *Liquor Control and Licensing Act.* As such, any use such as a public assembly and entertainment use (i.e. karaoke box) with a liquor primary licence or a liquor primary club licence should be considered a liquor licence establishment, which requires the same off-street parking as a restaurant.

The required off-street parking is generally defined based on the parking needs for the primary activities. The accessory sales or dispensing of liquor in an establishment where different primary activities are conducted, such as a karaoke box, do not impact the parking needs beyond the parking requirement of the Zoning Bylaw for the principal use. As such, it is recommended that "liquor licence establishments" in Sections 800.4(19), 800.4(19a), and 800.4(19b) of the Zoning Bylaw be replaced with "similar establishments where food and/or beverage are sold for consumption of food or beverage on the premises." Should Council adopt the recommended bylaw, the parking ratio of 1 parking space per 46 m^2 (495.16 sq. ft.) will only apply to establishments where the sale or consumption of food or beverage on the premise is the principal use.

Recommended Bylaw Amendments

26. THAT Sections 800.4(19), 800.4(19a), and 800.4(19b) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

(19)	*Drive-in restaurants, cafes, restaurants, and similar establishments where food and/or beverage are sold for consumption on the premises, provided that such establishments are not located in a shopping centre.*	*1 for each 46 m^2 (495.16 sq.ft.) of gross floor area.*
(19a)	*Cafes, restaurants, and similar establishments where food and/or beverage are sold for consumption on the premises, provided that such establishments are located in a shopping centre.*	*Equal number to that required for a retail store occupying equal floor space in a shopping centre.*

3.7 Shared Use of Off-Street Parking Spaces for Two or More Uses

Issue

Currently the off-street parking for any use, regardless of the hours of operation, should be provided on the assumption that the use is operating 24 hours a day, seven days a week. This requirement restricts the shared use of a commercial or industrial unit by various individual uses which do not have overlapping hours of operation, if the provided off-street parking is less than the sum of the requirements for each individual use. An amendment to the parking requirement of the Zoning Bylaw is required to facilitate the shared use of commercial and industrial buildings by various individual uses where the uses' hours of operation do not overlap.

Discussion

According to the Zoning Bylaw, all required off-street parking spaces shall be used only for the purpose of accommodating the vehicles of persons who make use of the principal building or use for which the parking area is provided. This provision has been interpreted to require that parking for each individual use should be provided on 24/7 basis, precludes the location of multiple uses where their hours of operation do not overlap, in a building or a unit, if the provided off-street parking is less than the sum of the requirements for the various individual uses.

Section 800.5(2) of the Zoning Bylaw, stipulates that off-street parking spaces may be used collectively by two or more uses, excluding dwellings located in residential districts, provided that the total number of parking spaces is not less than the sum of the requirements for the various individual uses, and that such parking facilities are located not more than 122 m (400.26 ft.) from any use to be served. This provision facilitates the establishment of a use or multiple uses on a property where the required off-

street parking cannot be provided on-site, but the excess parking within a 122 m (400.26 ft.) distance may be allocated to such uses on a 24/7 basis.

Considering that the provision of excess parking within a 122 m (400.26 ft.) distance and on a 24/7 basis is not always an option, to facilitate the location of multiple uses on a property where total provided parking spaces are less than the sum of the requirements for the various individual uses, it is recommended that the shared use of off-street parking spaces by two or more buildings or uses be permitted subject to the following conditions:

- the hours of operation for such uses do not overlap significantly;
- the provided off-street parking is located not more than 122 m (400.26 ft.) from the uses to be served; and,
- the provided off-street parking for each use at any given time during the hours of operation meet the off-street parking requirement of the Zoning Bylaw for such a use.

Application of a Preliminary Plan Approval (PPA) for the shared use of off-street parking between two or more uses is required to ensure access to such parking at any given time during the hours of operation for the associated uses. The off-street parking spaces located on another property are typically secured by way of a lease or easement agreement between the two properties, and a Section 219 Covenant.

Recommended Bylaw Amendments

27. **THAT** Sections 800.5(4) be added to the Zoning Bylaw with wording the same or similar to the following:

    (4) Shared use of off-street parking spaces by two or more uses, except for dwelling units in residential districts, may be permitted, provided that the hours of operation for such uses do not overlap significantly, and that the shared off-street parking spaces are located not more than 122 m (400.26 ft.) from the uses to be served. The off-street parking for any use at any given time during its hours of operation shall be provided and used in accordance with this Schedule.

3.8 Off-street Parking for Manufacturing and Industrial Uses, and Storage Yards

Issue

There is a need to amend the required off-street parking for various industrial uses to simplify the administration of the Zoning Bylaw, provide greater clarity in application of the Zoning Bylaw, maintain equity in treatment of similar uses, and to revise the parking ratio based on actual parking needs.

Discussion

Sections 800.4(23) and 800.4(24) of the Zoning Bylaw regulate the required off-street parking for various industrial uses, including manufacturing, warehousing, display yards, storage yards, and similar uses. There are a number of challenges and issues related to the application of these sections which are described as follows:

- the required off-street parking for manufacturing, warehousing, storage yards, display yards, laboratories, and other uses specified in these sections is calculated based on the number of employees, or gross floor area of the establishment, whichever is greater. Calculation of off-street parking based on the number of employees requires that any change due to expansion or change of use be recorded over time. As calculating off-street parking based on the number of employees can be a time consuming process, staff generally use gross floor area to calculate the required off-street parking.

- the required off-street parking for display, rental and retail sales purposes accessory to manufacturing/industrial uses and storage yards under Section 800.4(23), is 1 per 93.0 m² (1,001.08 sq. ft.) of gross floor area or lot area, whereas the required off-street parking for similar uses accessory to warehousing and storage buildings under Section 800.4(24) is 1 per 46.0 m² (495.16 sq. ft.) of gross floor area.

- the required off-street parking for storage yards is 1 per 93.0 m² (1,001.08 sq. ft.) of gross floor area, or 1 per each 3 employees, whichever is greater. Considering that a storage yard is defined as an area outside of an enclosed building, calculation of the required off-street parking based on gross floor area is irrelevant.

To address the above mentioned issues, to simplify the application of off-street parking requirements for industrial uses, and improve consistency in application of the Zoning Bylaw, the following recommendations are provided:

- to simplify the administration of the Zoning Bylaw, it is recommended that off-street parking requirements based on the number of employees be removed from Sections 800.4(23) and 800.4(24) of the Zoning Bylaw. Required off-street parking for manufacturing/industrial buildings and uses, research facilities and laboratories, servicing and repair establishments or other similar uses, warehousing, storage buildings, whole sale establishments, and other similar uses will be calculated based on gross floor area.

- to maintain equity in treatment of similar accessory uses, it is recommended that the same off-street parking requirement apply to indoor display, rental or retail sales purposes accessory to manufacturing/industrial uses, warehousing, storage buildings and similar uses [1 per 46.0 m² (495.16 sq. ft.) of gross floor area]. The recommended off-street parking for accessory display, rental or retail purposes is similar to off-street parking for commercial uses, subject to Section 800.4(20) of the Zoning Bylaw.

- to align the required off-street parking with actual parking needs for storage yards, and to maximize the industrial use of properties by reducing the excessive number of off-street parking beyond actual parking needs, it is recommended that the following off-street parking requirements apply to storage yards:

    - 0.25 parking space per 100 m² (1,076.39 sq. ft.) of the lot area used as storage yard up to 4,000 m² (43,055 sq. ft.), plus 0.1 parking space per additional 100 m² (1,076.39 sq. ft.) exceeding 4,000 m² (43,055 sq. ft.).

The recommended off-street parking requirements for storage yards are based on the observations that: (a) parking demand in storage yards is minimal, as it is limited to infrequent visits of the equipment operators or contractors' employees for occasional pick up or drop off of materials and equipment; (b) larger storage yards do not result in greater parking needs, as the majority of lot area in existing storage yards is used for outdoor storage of contractors' equipment or machinery; and (c) the recommended off-street parking requirements are consistent with actual parking needs of existing storage yards in Burnaby.

The proposed off-street parking requirements for storage yards is based on a reduced parking space to lot area ratio. These requirements ensure that on larger sites, open areas are preserved for storage purposes instead of provision of excessive off-street parking. Therefore, for storage yards that exceed a lot area of 4,000 m^2 (43,055 sq. ft.), a lower parking ratio will apply. The proposed approach ensures the provision of adequate parking for customers and employees, while maximizing the use of the property for its primary intended purpose as a storage yard.

The Zoning Bylaw defines storage yards as an area outside of an enclosed building where contractors' or construction materials and equipment are stored. Accordingly, additional off-street parking should be provided for customers and employees of the building located on a property used as a storage yard. Such buildings are generally used for office, storage or retail purposes.

Section 800.4 of the Zoning Bylaw stipulates that where the required off-street parking for a specific use is not mentioned in the Zoning Bylaw, the off-street parking requirement shall be the same as for a similar use. However, for clarity and consistency purposes, it is recommended that off-street parking requirements for a number of uses be added to Section 800.4 of the Zoning Bylaw, where appropriate. These uses include greenhouses and nurseries with recommended off-street parking similar to warehousing and storage [1 for each 186 m^2 (2,002.15 sq. ft.) of gross floor area], and rehearsal and production studios with required off-street parking similar to industrial uses and manufacturing for that portion of the lot area used for production and staging [1 for each 93 m^2 (1,001.04 sq. ft.) of gross floor area], and with required off-street parking similar to warehousing and storage buildings for that portion of the lot area used for storage purposes [1 for each 186 m^2 (2,002.09 sq. ft.)].

Recommended Bylaw Amendments

28. THAT Sections 800.4(23) and 800.4(24) of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

(23)	*Manufacturing and industrial buildings and uses, research facilities and laboratories, servicing and repair establishments and other similar uses.*	*for each 93 m^2 (1,001.04 sq. ft.) of gross floor area, plus 1 for each 46 m^2 (495.14 sq. ft.) of gross floor area used for indoor display, rental or retail sales purposes.*
(24)	*Warehousing, storage buildings, greenhouses and nurseries, wholesale establishments and other similar uses.*	*1 for each 186 m^2 (2,002.09 sq. ft.) of gross floor area, plus 1 for each 46 m^2 (495.14 sq. ft.) of gross floor area and/or of lot area used for display, rental or retail sales purposes.*

29. **THAT** Sections 800.4(39), 800.4(40), and 800.4(41) be added to the Zoning Bylaw with wording the same or similar to the following:

(39)	*Display yards.*	*1 for each 93 m² (1,001.04 sq. ft.) of lot area used for outdoor display, rental, or sales purposes.*
(40)	*Storage yards, junk yards and automobile wrecking yards.*	*0.25 for each 100 m² (1,076.39 sq. ft.) of lot area up to 4,000 m² (43,055.64 sq. ft.), plus 0.1 for each additional 100 m² (1,076.39 sq. ft.) of lot area exceeding 4,000 m² (43,055.64 sq. ft.) used for outdoor storage purposes.*
(41)	*Rehearsal and production studios.*	*1 for each 93 m² (1,001.04 sq. ft.) of gross floor area, and/or of lot area used for production and staging, and 1 for each 186 m² (2,002.09 sq. ft.) of gross floor area and/or of lot area used for storage purposes.*

4.0 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. It is recommended that Council approve the above proposed amendments, as outlined in Sections 3.0 of this report, and direct that the Zoning Bylaw text amendment be advanced to a future Public Hearing.

E. W. Kozak, Director
PLANNING AND BUILDING

PS:tn

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

Attachment #1

Item	04
Manager's Report No.	13
Council Meeting	02/05/06

TO: CITY MANAGER 2002 APRIL 25

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: **INTERNET CAFES (CYBER CENTRES)**
PROPOSED TEXT AMENDMENT

PURPOSE: To respond to points raised by Council regarding the proposed amendments to the Zoning and Burnaby Business Licence Bylaws related to cyber centres, and to propose adjustments to the said amendments.

RECOMMENDATIONS:

1. **THAT** Council authorize the City Solicitor to prepare bylaws amending the Burnaby Zoning Bylaw and the Burnaby Business Licence Bylaw as outlined in Appendix 1, ***attached***.

2. **THAT** Council endorse Locational Guidelines for cyber centres as presented in Appendix 2, ***attached***.

REPORT

1.0 BACKGROUND

Council, at its meeting held on 2002 March 25, received a report from this department which recommended a number of amendments to the Burnaby Zoning and Burnaby Business Licence Bylaws related to internet café (cyber centre) uses. The report proposed a definition of cyber centre, inclusion of cyber centres in the "c" subscript within the C3 General Commercial and C4 Service Commercial Districts, and a host of amendments to the Burnaby Business Licence Bylaw to address operational concerns regarding cyber centres. It was also proposed that the Council-adopted locational criteria for pool/billiard halls and amusement arcades be used in evaluating cyber centre proposals. Council subsequently referred the report back to staff to respond to the questions and concerns raised by Council. This report is in response to that request.

2.0 AREAS OF CONCERN

The concerns raised by members of Council include: reviewing the locational guidelines in terms of including a uniform 400 m. distance requirement from various uses and a review of the feasibility of requiring screening devices designed to prevent access to pornography and online gambling. A discussion of those issues is provided below.

2.1 *Revision of Locational Guidelines*

Issue:

- Require a minimum 400 m. separation from potentially conflicting land uses, such as schools, seniors' housing and residential areas.

Comment:

- The locational guidelines appended to the 2002 March 25 report were intended to provide policy guidance for assessment of applications with the understanding that each application would be assessed on a site specific basis, taking into account the orientation of the development, major physical barriers between uses, traffic flow to/from the site, and the Community Plan designation for properties in close proximity to the proposed establishments. The guidelines stipulated minimum separations from various uses. For example: 100 meters from residentially zoned properties and seniors housing; 100 meters from hospitals and rest homes; 400 meters from public and private elementary and secondary schools, and various other institutional-type uses. Some members of Council expressed a desire to amend the guidelines to require a uniform 400 meter separation of cyber centres from the aforementioned uses.

- It is noted that these locational requirements would further restrict the siting of cyber cafes to core commercial areas. This adjustment, however, is considered supportable based on the desire to have cyber centres locate in town centre areas, and adequately separated from residential uses. Given that the locational guidelines for cyber centres were originally proposed to be included in the Council adopted locational guidelines for amusement arcades and billiard halls, the aforementioned amendments require the locational guidelines for cyber centres to be adopted separately. Therefore, the uniform 400 m. separation requirement has been reflected in the locational guidelines presented in Appendix 2, ***attached***.

- As it is now proposed to have cyber centres evaluated separately from amusement arcade uses, proposals to amend the Zoning Bylaw must be made accordingly. In line with this, a new subscript zoning category to accommodate cyber centres in the C3 General Commercial and C4 Service Commercial Districts – the "e" District – is proposed. This new zoning subcategory recognizes cyber centres as unique uses unto themselves, and will allow Council to assess each application on an individual basis.

2.2 *Feasibility of Screening Devices*

Issue:

- Utilize screening devices to prevent access to illegal web sites.

Comment:

- Screening devices used to prevent access to certain areas on the world wide web are being used by other jurisdictions with varying degrees of success. To require them to be used by cyber centres to specifically prevent access to pornography or online gambling would not be considered practical. Screening devices are relatively unsophisticated software applications, and as such are susceptible to manipulation by the user. Considering their relatively high level of computer literacy, many youths and young adults would likely be able to circumvent software applications used to screen certain web sites. Therefore, the effectiveness of such screening devices is significantly reduced. Moreover, it is doubtful whether City staff would be able to effectively enforce such requirements (i.e., ensuring the presence of screening software) given the unobtrusiveness of such applications. Finally, it is noted that screening software, much like "anti-virus" software, requires continual updating to remain current, thus adding to enforcement problems.

- The issue of screening devices also has a moral component. To some degree, use of the devices can be likened to censorship, and thus raises the question of whether it is the City's responsibility to monitor and regulate what people should or should not be able to access on the internet at commercial establishments, especially in light of the fact that screening devices are not required on internet terminals at public libraries or other similar institutions. It should be noted that the Burnaby Public Library has a policy of not using screening devices on internet terminals at public libraries other than for those terminals in children's areas (an excerpt from the *Burnaby Public Library Policy Manual* is ***attached*** as Appendix 3 for Council's information). The commercial content filter which controls internet access in children's departments, however, while effective for monitoring children, would not be effective against savvy computer users who may be determined to gain access to otherwise restricted sites.

In light of the foregoing, screening device requirements are not being proposed at this time.

2.3 Limitations on Size

Issue:

- Further discussions with RCMP staff have revealed a desire to restrict the number of permitted terminals to below the fifty (50) which was originally proposed.

Comment:

- After further consulting with RCMP staff, who expressed concern over the potential for overcrowding at cyber centres, it is being proposed that the maximum number of permitted terminals in a cyber centre be reduced from fifty (50) to fifteen (15). It is felt that the concerns regarding potential overcrowding and establishing an appropriate place

for congregation would be allayed. Further, cyber centres of this size would be better suited for business, research and communication purposes, and function less as a *de facto* arcade use.

3.0 CONCLUSIONS

This report attempts to provide answers to the concerns raised by Council members about the proposed amendments to the Zoning Bylaw concerning cyber centres. Arising from further consideration of some of the issues raised by Council, revised amendments to the Zoning Bylaw and Burnaby Business Licence Bylaw are detailed in the ***attached*** Appendices 1 and 2. Three significant adjustments are noted. The first includes amending the locational guidelines to reflect a uniform 400 metre separation from potentially conflicting land uses, such as schools, seniors' housing and other residential areas. The second adjustment includes inclusion of the cyber centre use as a separate use from arcade uses, with its own distinct subscript zoning designation in the C3 General and C4 Service Commercial Districts. A third proposed adjustment involves reducing the maximum number of permitted terminals from fifty (50) to fifteen (15) with the size still being determined by available and designated parking. Given the concerns with internet cafes expressed throughout the previous report to Council, a number of amendments to the Burnaby Zoning Bylaw and the Burnaby Business Licence Bylaw are proposed which together, comprise a balanced approach in addressing the social and locational issues associated with internet cafes.

Staff propose to monitor the effectiveness of the foregoing measures pertaining to cyber centres on an ongoing basis. If concerns arise, and adjustments are required, staff will inform Council accordingly.

J.S. Belhouse
Director Planning and Building

EK:gk
Attach
cc: Chief Licence Inspector
RCMP Officer-In-Charge
City Solicitor
Director Finance

P:\gulzar\EK\Info Rpt on Internet Cafes

APPENDIX 1

Proposed Amendments To The Zoning Bylaw And Burnaby Business Licence Bylaw Related To Cyber Centre Uses

1.0 Zoning Bylaw

1.1 Definition

As it is desirable to have cyber centres as a discreet permitted use in the bylaw, a definition of the use must be provided. Therefore, it is proposed that Section 3 of the Burnaby Zoning Bylaw be amended to include a definition of "cyber centre" similar to the following:

> *'CYBER CENTRE means an establishment that provides six (6) or more computers and/or other electronic devices to a maximum of fifteen (15) for access to that system commonly referred to the "internet", e-mail, or for playing video games over the internet, and/or access to other computer software programs, to the public for compensation, but does not include internet access facilities provided at educational institutions or public libraries.'*

It is acknowledged that this definition does not distinguish internet cafes used for video gaming purposes from those used for communication or research. This is due largely to the impracticality of making such a distinction insofar as enforcement would be complex and difficult. It is therefore believed that an all encompassing single definition would function adequately in the context of the Zoning Bylaw text amendments put forth below, and that the overall process would not prove to be onerous on those establishments with a research or communication focus. The term "cyber centre" is used rather than "internet café" due to the latter connoting a principal use that includes the serving of food and/or drink.

1.2 Zoning

It is further proposed that Sections 303.1 and 304.1 of the Burnaby Zoning Bylaw be amended to included cyber centres as a permitted use in the C3 General Commercial and C4 Service Commercial Districts, subject to obtaining the "e" subscript zoning designation. The subscript zoning designation would require each internet café proposal to go through a rezoning, thus allowing public input into the process. Each application would be assessed on its own merits to ensure internet cafes are appropriately located in commercial areas with high pedestrian and vehicular traffic, and away from schools, residential uses, and other arcade-type establishments. Furthermore, the intent behind including internet cafes in the C3 and C4 zoning districts is to ensure they are centrally located in busy commercial areas where they can be effectively policed. It is noted that the use of subscript zoning is common in Burnaby. For example, restaurants in Industrial Zones are required to obtain an "r" designation, liquor stores in Commercial Districts an "a" designation, and Leisure Centres in Industrial Districts an "l" designation.

It is proposed that Schedule VIII of the Burnaby Zoning Bylaw be amended to include a parking requirement for internet cafes at a ratio of one space for every five terminals, which is appropriate given the potential for traffic to be generated by internet cafes. This standard was determined by applying the parking ratio for amusement arcades, which has worked satisfactorily since being adopted.

2.0 Burnaby Business Licence Bylaw

Dovetailing the recommended changes to the Burnaby Zoning Bylaw are proposed amendments to the Burnaby Business Licence Bylaw, which would largely address the operational issues associated with internet café uses. It is therefore proposed that the Burnaby Business Licence Bylaw be amended to include the definition of cyber centre as discussed above. Further, it is proposed that the following be included in the Burnaby Business Licence Bylaw as operational standards applying to internet cafes:

- The general business licence fee of $426.00 shall apply for new business licences, with $125.00 being the annual renewal fee in subsequent years of operation;

- "No Loitering" signs shall be posted at the front and rear of the business. In addition, a waiting area with not less than eight seats shall be provided for customers waiting to use a terminal. No outside waiting or seating area is permitted;

- The hours of business operation shall be between 7:00 a.m. through 12:00 a.m. only. There shall be no customers or patrons in or about the premises between the hours of 12:00 a.m. and 7:00 a.m., during any day of the week; and

- Employees shall be at least eighteen (18) years of age. There shall be a minimum of one (1) employee present at all times.

These proposed changes to the Burnaby Business Licence Bylaw are intended to work in conjunction with those proposed for the Burnaby Zoning Bylaw. Therefore, the two bylaws will work together as a set of regulations governing the location and manner of operations for internet cafes in Burnaby.

APPENDIX 2

Locational Guidelines for Cyber Centres

Although cyber centres are permitted only in Commercial Districts, their location must also be considered in relation to adjacent land-uses.

The Planning Department's support for individual applications would be dependent upon each applicant for rezoning demonstrating that the proposed development would be generally compatible with the adjacent existing and planned land uses and not present a nuisance factor.

The following guidelines would be used as references in assessing rezoning applications and in reporting to Council:

1. Rezonings to the C3e and C4e zoning districts should be considered only on properties currently zoned or designated for commercial use.

2. A reasonable separation and distribution of arcades, billiard halls and cyber centres in the area of the proposed C'e' rezoning should be maintained in order to avoid a concentration of such sensitive uses in any one area.

3. The proposed location, including the parking area, should be well-lit, relatively open to surveillance and not attractive as a "hang out" area.

4. Primary criteria for assessment would be the degree of separation of the cyber centre from certain land uses which could experience direct negative impacts and the time of day those negative impacts might apply. These impacts include, but are not limited to, increased noise, nuisance activity and a decrease in the liveability of residential developments in general.

   Although the following separation criteria are intended to be definitive discretion may be applied from time to time. Applications will be assessed on a site specific basis, taking into account the orientation of the development, major physical barriers between uses, traffic flow from the site, and Community Plan designation for properties in proximity.

   It is recommended that, in general, sites zoned C3e and C4e have the following minimum separation from the current and/or designated uses listed below:

   a. 400 metres (1312 ft.) from residentially zoned properties and senior citizens housing project.

   b. 400 metres (1312 ft.) from hospitals and rest homes.

   c. 400 metres (1312 ft.) from public and private elementary and secondary schools.

d. 400 metres (1312 ft.) from licenced child care facilities, especially those providing out-of-school care, including those in residentially- zoned areas.

e. 400 metres (1312 ft.) from parks.

f. 400 metres (1312 ft.) from special institutional uses such as rehabilitation centres and half way houses.

g. 400 metres (1312 ft.) from licenced group homes.

In sites/uses such as outdoor shopping centres and individual commercial lots, the separation should be measured from the property lines of the commercial property, as the major impact of these uses is usually generated outside the actual building. However, if the site proposed for the use is in an enclosed mall, it is recommended that the above separation be measured from the actual tenant space, because the activity area, including the parking and potential patron hang out area, can be contained within the mall.

It should be noted that many strip commercial areas will be unable to fully satisfy all the specific guidelines noted, particularly those pertaining to residential areas.

APPENDIX 3

BURNABY PUBLIC LIBRARY

POLICY MANUAL

3.3 INTERNET POLICY

3.3.1 General

Burnaby Public Library provides access to the Internet as part of its mandate to meet the self-defined needs of its users. Amended 00 09 21

In accord with the Statement on Intellectual Freedom, the Library does not control, and assumes no responsibility for, information accessed on the Internet. Library users are responsible for the sites they visit and any text or images they print. As is the case with materials in the Library collection, any restriction of a child's access to the Internet is the responsibility of the parent or guardian. Amended 00 09 21

The Library will not filter Internet workstations in the adult areas of the Library.

Internet workstations in Children's Departments will have a commercial content filter which will allow parents and children to use workstations with controlled access. This policy is consistent with the book and materials collection policy which stresses children's collections be appropriate for the age and interests of children. It recognizes community expectations that the Children's Department will provide content and services suitable for children. Amended 01 08 02

The Library provides access to manuals and other information on using the Internet and recommended sites. Library staff may provide limited individual training on Internet use as time permits.

The Library reserves the right to restrict users access to Internet workstations when they have made inappropriate use of them. Adopted 97 02 20

Attachment #2

ITEM 11
MANAGER'S REPORT NO. 70
COUNCIL MEETING 93/11/29

TO: CITY MANAGER 1993 NOVEMBER 22

FROM: DIRECTOR PLANNING & BUILDING OUR FILE: 17.927

SUBJECT: **LOCATIONAL GUIDELINES FOR POOL/ BILLIARD HALLS AND AMUSEMENT ARCADES**

PURPOSE: To propose amendments to the draft locational guidelines for assessing rezoning applications for pool/billiard halls and amusement arcades reviewed by Council at its meeting of 1993 November 1.

RECOMMENDATION:

1. **THAT** Council approve the revised locational guidelines for assessing rezoning applications for pool/billiard halls and amusement arcades, presented in Appendix 1, ***attached.***

REPORT

1.0 INTRODUCTION

At its meeting of 1993 November 1, Council considered draft locational guidelines for assessing rezoning applications for pool/billiard halls and amusement arcades. Council requested that staff review the draft guidelines to consider offering more protection from such uses to residential areas, hospitals, rest homes, and child care facilities.

This report responds to that request from Council.

2.0 AMENDMENTS TO LOCATIONAL GUIDELINES

The amended guidelines are attached as Appendix 1. Changes from the original draft guidelines are as follows:

Beginning at Point 4, Paragraph 2:

The following separation criteria are not intended to be definitive. They are guidelines to which discretion will be applied. Applications will be assessed on a site specific basis, taking into account the orientation of the development, major physical barriers between uses, traffic flow from the site, **and Community Plan designation for properties in proximity.**

ITEM	11
MANAGER'S REPORT NO.	70
COUNCIL MEETING	93/11/29

It is recommended that, in general, sites **zoned** C2c, C3c and C4c have the following minimum separation from the **current and/or designated** zones/uses listed below:

a. **100 metres (328 ft.)** from residential properties and senior citizens' housing projects.

b. **100 metres (328 ft.)** from hospitals and rest homes.

c. 400 metres (1312 ft.) from **public and private elementary and secondary** schools.

d. 400 metres (1312 ft.0 from **licenced** child care facilities, especially those providing out-of-school care, **including those in residentially-zoned areas.**

3.0 CONCLUSION

The Zoning Bylaw text amendment regulating the location of pool/billiard halls and amusement arcades was adopted to ensure that new establishments locate in suitable locations with a minimum of social and neighbourhood disruption. The locational guidelines serve to further limit potential negative impacts from such establishments on vulnerable adjacent land uses.

Amending the separation for residential areas, senior citizen housing projects, hospitals and rest homes to 100 metres from 50 metres will offer those uses more protection from nuisance activities often associated with pool/billiard halls and amusement arcades. However, the initially proposed separation of 400 metres for child care facilities is considered sufficient, particularly in relation to the other separations proposed.

Applied strictly, the guidelines would restrict locational opportunities for pool/billiard halls and amusement arcades, with a few exceptions, to enclosed shopping malls. However, applied as they are intended - with discretion and flexibility - the guidelines will help to create a more appropriate balance between the establishment of pool/billiard and arcade businesses, and the need to protect adjacent residential and other sensitive uses.

D.G. Stenson, Director
PLANNING & BUILDING

JS\BW\db
Attachment
cc: Director Administrative & Community Services
Director Engineering
Director Finance
Director Recreation & Cultural Services
City Solicitor
Officer-in-Charge, RCMP
Chief Licence Inspector

APPENDIX 1

ITEM 11
MANAGER'S REPORT NO. 70
COUNCIL MEETING 93/11/29

Locational Guidelines for Pool/Billiard Halls and Amusement Arcades

Although pool/billiard halls and amusement arcades are permitted only in Commercial Districts, their location must also be considered in relation to adjacent land uses.

The Planning Department's support for individual applications would be dependent upon each applicant for rezoning demonstrating that the proposed development would be generally compatible with the adjacent existing and planned land uses and not present a nuisance factor.

The following guidelines would be used as references in assessing rezoning applications and in reporting to Council:

1. Rezonings to the C2c, C3c and C4c zoning districts should be considered only on properties currently zoned or designated for commercial use.

2. A reasonable separation and distribution of arcades and billiard halls in the area of the proposed Cc rezoning should be maintained in order to avoid a concentration of such sensitive uses in any one area.

3. The proposed location, including the parking area, should be well-lit, relatively open to surveillance and not attractive as a "hang out" area.

4. Primary criteria for assessment would be the degree of separation of the arcade or pool/billiard hall from certain land uses which could experience direct negative impacts and the time of day those negative impacts might apply. These impacts include, but are not limited to, increased noise, nuisance activity and a decrease in the liveability of residential developments in general.

   The following separation criteria are not intended to be definitive. They are guidelines to which discretion will be applied. Applications will be assessed on a site specific basis, taking into account the orientation of the development, major physical barriers between uses, traffic flow from the site, and Community Plan designation for properties in proximity.

   It is recommended that, in general, sites zoned C2c, C3c and C4c have the following minimum separation from the current and/or designated uses listed below:

   a. 100 metres (328 ft.) from residentially zoned properties and senior citizens housing projects.

b. 100 metres (328 ft.) from hospitals and rest homes.

c. 400 metres (1312 ft.) from public and private elementary and secondary schools.

d. 400 metres (1312 ft.) from licenced child care facilities, especially those providing out-of-school care, including those in residentially-zoned areas.

e. 400 metres (1312 ft.) from parks.

f. 400 metres (1312 ft.) from special institutional uses such as rehabilitation centres and half way houses.

g. 400 metres (1312 ft.) from licenced group homes.

In sites/uses such as outdoor shopping centres and individual commercial lots, the separation should be measured from the property lines of the commercial property, as the major impact of these uses is usually generated outside the actual building. However, if the site proposed for the use is in an enclosed mall, it is recommended that the above separation be measured from the actual tenant space, because the activity area, including the parking and potential patron hang out area, can be contained within the mall.

It should be noted that many strip commercial areas will be unable to fully satisfy all the specific guidelines noted, particularly those pertaining to residential areas.