

ITEM 6
MANAGER'S REPORT NO. 73
COUNCIL MEETING Nov. 15/76

Re: VIEW PROTECTION REGULATIONS
5181 DUNDAS STREET

Following is a report from the Director of Planning regarding view protection regulations.

RECOMMENDATION:

1. THAT the Director of Planning's recommendations be adopted.

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Planning Department
November 10, 1976

TO: MUNICIPAL MANAGER

FROM: DIRECTOR OF PLANNING

RE: VIEW PROTECTION REGULATIONS: 5181 DUNDAS STREET-LOT 58, BLOCK 54,
D.L. 189, PLAN 4953

A. BACKGROUND

Mr. Harry Kirkpatrick, 12 North Springer Avenue, appeared before Council on September 27, 1976, as spokesman for a group of "Capitol Hill Tax-payers" to protest the construction of a new dwelling on the above described property which would allegedly obstruct the view of the neighbouring residences. Also included on the Council agenda was a report from the Chief Building Inspector which provided a summary of the procedures followed and the actions taken preceding this development.

The Council, in considering Mr. Kirkpatrick's submission on the matter, requested the Planning Department to bring forward a report on methods which might be utilized in the future to eliminate instances where the development of an individual property, even though conforming to the requirements of the Burnaby Zoning By-law, could have a detrimental effect on the view of neighbouring properties.

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B. EXISTING REGULATIONS

There is no existing Municipal by-law which provides specifically for view protection in the placement and design of residential buildings. The only references to this subject in the Burnaby Zoning By-law are the "Conditions of Use" clauses of the RM4 and RM5 Districts, both of which permit the development of high rise apartment buildings. These particular clauses read as follows: "the building or buildings on a lot shall be designed and sited in a manner which does not unnecessarily obstruct view from the surrounding residential areas".

While these requirements apply only to the RM4 and RM5 categories, there is an aspect of view protection in many of the other existing regulations of the Zoning By-law, even though such protection is not a stated objective. Front yard setback standards, for example, help to preserve the view along a street. Side yard and maximum lot coverage requirements ensure the provision of open spaces and assist in preventing the obstruction of views. Building height controls perform a like function. Similarly, zoning provisions relating to permitted yard projections, distances between buildings on the same lot, accessory buildings, fences and landscaping effect views, as do the requirements for the underground placement of services and utilities in residential subdivisions under the subdivision regulations.

C. POSSIBLE VIEW PROTECTION MEASURES

There are a number of methods that, if applied, could possibly provide a more direct control of view protection. These might include:

- (1) The creation of a series of sub-zones within the existing residential districts in which certain regulatory standards would be superimposed upon existing basic use district (i.e. similar to the relationship between the M3a sub-category and the M3 District). This technique would involve the application of more restrictive standards for a certain area, or areas, than those specified under the basic use district category. Such standards might, for example, include reduced maximum building heights and, possibly, greater front and side yard setbacks.
- (2) The creation of a completely separate zoning district with standards designed to ensure, to a greater degree than is presently possible, the preservation of views in certain sections of the Municipality.
- (3) The adoption of an administrative review procedure in certain designated view areas of the Municipality within which site plans would be examined with respect to the siting of buildings in relation to neighbouring and surrounding structures.

The above possibilities were referred to the Municipal Solicitor who indicated that there would be no legal impediment to the first and second of them. However, the third item would have no legal validity and so long as the applicant satisfied all Municipal by-laws, he could not be refused a building permit.

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D. IMPLEMENTATION CONSIDERATIONS

If it were decided to proceed with either of the first two possible view protection methods, as briefly described in the preceding section, it would first be necessary to designate those sections of the Municipality which could reasonably be considered as "view protection areas".

Such a determination would primarily involve the identification of hill-sides or sections of sloping terrain which overlook features that are worthy of viewing (i.e. an imposing structure or development complex, mountains, a body of water, a park etc.). In the Municipality these might, for example, include Burrard Inlet and the mountains beyond, Burnaby Lake, Deer Lake, the civic centre complex, Robert Burnaby Park, Central Park, the Fraser River, etc.

Once the proposed "view protection areas" had been identified, it would then be necessary to spell out in detail the various standards which could be applied with the objective of preserving, as much as possible, the ability of seeing a particular feature without interference.

The most direct way of protecting views is through the control of building height, bulk and spacing. While these are all controlled by existing Zoning By-law regulations, even though view protection is not a stated objective, more stringent measures would result from the use of the sub-zone or separate zoning district techniques.

At present, building heights in Single and Two-Family Residential Districts are limited to 35 feet. This figure could, for example, be reduced to, say 30 or 25 feet, in selected view protection areas. However, any such height limitation, which applied equally to all principal buildings in a given area, would have little effect on the preservation of views.

An alternative measure would be to establish a series of maximum permitted building heights which diminished as one proceeded downslope (i.e. 35, 30, 25, 20 feet). However, such a procedure would not provide much scope, nor ensure that all views would be preserved. A related problem to the use of this approach is that any existing dwellings within such an area would very likely become non conforming as to height.

Building bulk may well be of greater importance than height in preserving views (i.e. low rise buildings erected in a solid mass would likely have a view blocking effect more damaging than slim high rise towers). Building bulk is controlled through coverage and yard setbacks, particularly side yards. In the existing Zoning By-law maximum building coverages in Residential Districts vary between 30 and 40 percent, while minimum side yard widths range from 5 to 8 feet. The increased limiting of building bulk would, of course, involve a reduction in coverage and expanded side yard standards. It is considered that these measures, in order to be at all effective and provide a reasonably sized building envelope, would require larger than standard lots.

It should be noted, in this regard, that in most of the areas which might be considered for the application of view preservation measures the subdivision pattern has been established and considerable development has already occurred (i.e. Burnaby Heights, Capital Hill, Westridge, South Slope).

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The staggering of lots in new subdivisions is a possibility which may merit further considerations. Using this approach, the side lot lines of properties on one side of a street would line up with the mid points of the lots on the other side. In this way, the houses, rather than being directly opposite, would face upon a side yard. However, this would necessarily be of somewhat limited application and would not be particularly effective, except on steeply sloping land. In any case, such a measure could be employed under the existing regulations.

Front yard setbacks also have an important effect on view. It should be pointed out in this regard that the front yard setbacks specified for the various residential districts are minimum standards. There is, therefore, nothing to prevent a prospective homeowner or builder from setting his home back a greater distance than the specified depth, providing sufficient space is left to meet the rear yard requirement of the zone. The standard regulations, therefore, allow the individual a certain amount of flexibility in the placement of his house on the lot, which is considered desirable.

E. CONCLUSIONS

It is apparent that there are many problems involved in the establishment of more stringent controls designed to accomplish the objective of protecting views in residential districts. However, as pointed out earlier in the report, there is an aspect of view protection in many of the existing Zoning By-law regulations.

View protection requires that buildings be placed in such a manner that they do not obstruct each other's views. The spacing of buildings is a critical factor and one that is difficult to deal with in specific terms, such as the spelling out of reduced building height and site coverage standards, or increased side and front yard setbacks in a new zoning district or sub-district category.

View protection is largely a matter of good site planning and is a factor which is taken into account as part of the process involving rezonings and major development proposals. Under these circumstances, considerable success can be achieved in the preservation of views. In other cases, however, this would not apply under the existing Zoning By-law regulations.

Only where view protection includes provisions for administrative review of all site plans can the spacing of buildings be given adequate attention, and reviewing authorities can be charged with the responsibility of ensuring that views are not impaired.

This is, in essence, the third of the possible view protection measures described in Section "C" of the report. However, the Municipal Solicitor has indicated that such an approach has no legal validity.

It is concluded from the foregoing review that legally viable methods of attempting to eliminate instances where view obstructions may occasionally arise are not sufficiently flexible to effectively accomplish the desired objectives. In addition, the application of more stringent controls in certain designated areas of the Municipality would involve a considerable amount of time and effort which would not, in our opinion, be justified by the results achieved.

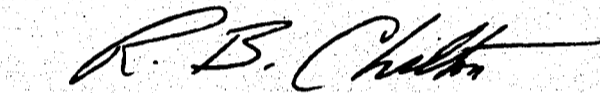
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F. RECOMMENDATIONS

It is recommended:

- (1) THAT the Council concur with the conclusions of this report and with the objective of view protection being one of the criteria used in reviewing rezoning and major development proposals.
- (2) THAT no steps be taken to add further restrictions to the residential building height, coverage or setback requirements of the Burnaby Zoning By-law.
- (3) THAT a copy of this report be sent to Mr. Harry Kirkpatrick 12 North Springer Avenue, Burnaby.


A. L. Parr
DIRECTOR OF PLANNING

REC/dm

cc Chief Building Inspector
Municipal Solicitor
Assistant Director-Long Range
Planning and Research