

RE: HEDGE HEIGHT REGULATIONS

ITEM	20
MANAGER'S REPORT NO.	50
COUNCIL MEETING	1983 07 25

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning and Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1983 July 20
FROM: DIRECTOR PLANNING & BUILDING INSPECTION
SUBJECT: HEDGE HEIGHT REGULATIONS

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RECOMMENDATION:

1. THAT Council approve the preparation of a by-law to be advanced to First Reading on 1983 August 08 to permit the introduction of the proposed amendments as described in Section "F" into the Burnaby Zoning By-law, and that these amendments be advanced to a Public Hearing on Tuesday, 1983 August 23 at 19:30h.

R E P O R T

A. BACKGROUND:

In September of 1980 the Board of Variance, following consideration of an appeal concerning the height of a hedge, requested comments from the Planning & Building Inspection Department on the Zoning By-law regulations governing hedge heights. In the report which followed, the practicability of continuing to regulate hedge heights was questioned and the suggestion made that consideration be given to the deletion of such controls from the Zoning By-law. The Board of Variance, on 1980 October 02, indicated its concurrence with the conclusions reached in the report as outlined above.

B. EXISTING REGULATIONS:

The Zoning By-law in Section 6.14, under the heading of "Fences" establishes a number of regulations pertaining to fences, walls and hedges. In Residential Districts, the height of a hedge, in both front and rear yards, is limited to 1.8m (6 feet). This also applies to the height of a fence to the rear of a required front yard, while the front yard requirement for a fence specifies that the height not be greater than 1m (3-1/2 feet).

Height limitations are also set out in Section 6.13 of the By-law that are designed to ensure the maintenance of vision clearance at street and lane intersections. These regulations provide for a maximum height for a fence or wall of 1m (3-1/2 feet) and specify that no hedge, bush, shrub, tree or other growth shall be maintained or allowed to grow so as to obstruct vision clearance in such areas.

In a survey of neighbouring municipalities, it has been determined that, in the majority of cases, hedge heights are not regulated in residential districts. These include Vancouver, New Westminster, Surrey, Delta and the three North Shore municipalities. On the other hand, hedge height limitations similar to those in Burnaby apply in Richmond and Coquitlam. All of these nine jurisdictions, however, exercise control on vision clearance in areas which are critical for traffic safety reasons.

C. CHARACTERISTICS AND USE OF HEDGES:

A hedge is commonly considered to be a barrier or boundary formed by a row of shrubs or low trees. Hedges are generally used to provide a visual, physical or noise barrier or a definition of space, to afford a wind break, to provide shade, or to accomplish erosion control. Further, hedges often provide greater privacy than fences because they are frequently higher and denser than common form of fencing, particularly in residential settings.

Many quality residential areas have developed a special ambience due to the proliferation of hedges of a variety of types and sizes. Good examples are found in the Southwest Marine Drive, Shaughnessy/Kerrisdale and British Properties areas, as well as in established neighbourhoods in Burnaby such as the Deer Lake and Government Road areas. The character of these areas is greatly influenced by the spatial structuring afforded by major hedges and in the colour, texture and seasonal variations that are displayed.

It is particularly because of the great variety that exists that it is difficult to adequately categorize and legislate hedge growth. Many of the best examples are very natural and originate as nothing more than an informal grouping of native species that over time develop into the dominant form of a major hedge.

D. HEDGE REGULATION CONSIDERATIONS:

Under the present Zoning By-law regulations, hedges are treated in the same manner as fences, walls or other man-made structures where height is fixed at the time of construction, whereas a hedge as a living, growing thing will continue to develop over time. Further, there is no definition of "hedge" in the Zoning By-law.

This has resulted in a certain amount of ambiguity as to what constitutes a hedge as distinguished from groves or other groupings of trees and shrubs, whether occurring naturally or as a result of some intentional landscape treatment. It is also noted that the current regulations do not include individual trees or groups of trees, with the exception of where such growth occurs within the designated vision clearance areas under Section 6.13.

These problems of regulatory controls and interpretation are reflected in the various appeals which the Board of Variance has been obliged to deal with in attempting to referee disputes involving natural growth hedge heights. The fact that most appeals are determined individually and on their own merits, suggests a need for clarification.

This could take the form of either inserting more detailed controls into the Zoning By-law in order to remove, insofar as possible, existing ambiguities or, alternatively, of deleting the hedge height regulations from Section 6.14. For the latter case, the basis for such appeals would be removed. If this were to occur, any conflict

between neighbours over hedge heights on private property would, as in the case of tree heights, be considered as a civil matter between property owners and the Municipality would have no responsibility to mediate such differences.

One possible concern that could result from the deregulation of hedges is that presented by solar energy considerations, which are going to be a matter of increasing importance in the future. However, it is considered unlikely that municipalities will attempt to exercise regulatory control over natural growth in this regard. It is felt that the preservation of solar exposure in an overall sense in the community will be more affected by buildings than by the common types of hedges encountered in this area.

E. CONCLUSIONS:


There have, over the years, been a considerable number of disputes and arguments between neighbours concerning hedges in residential areas. These have mainly resulted from dissatisfaction with the existing hedge regulations or from the problems involved in making a definitive determination of what actually constitutes a hedge.

Some critics of the existing height regulations for hedges have pointed out that it is not realistic to attempt to legislate the maximum height of a hedge (which is an aggregation of natural, growing things) without at the same time regulating the maximum height of individual plants (as, for example, individual trees or, for that matter, a uniform grouping of trees along a property line). The reason for this point of view is that the growth of a number of individual plantings may over time create the same effect as what one would consider to be a hedge, whereas it may not have been intended to serve the purpose of a "fence, wall or other structure".

For these reasons, it is proposed that the requirements spelled out for hedges under the Fence regulations (Section 6.14) be removed by an appropriate amendment of the Zoning By-law. The result of this course of action, if approved by council, would be that "fences, walls, or other structures not being a building" would continue to be regulated but the restrictions on hedges would no longer apply except where they are located within the designated vision clearance triangles set out in Section 6.13 of the By-law/

F. PROPOSED ZONING BY-LAW TEXT AMENDMENTS:

The amendment of Burnaby Zoning By-law 1965 to permit the deletion of all references to hedges as contained in clauses (1), (2), (4), (5), (5)(a), (5)(c), (5)(d) and (5)(e) of Section 6.14 (Fences).


A.L. Parr
DIRECTOR PLANNING &
BUILDING INSPECTION

RBC/mcb

cc: Chief Building Inspector
Municipal Clerk
Director Engineering
Municipal Solicitor
Secretary - Board of Variance
Assistant Director - Long Range Planning & Research

