

ITEM 27
MANAGER'S REPORT NO. 72
COUNCIL MEETING 92/11/23

TO: CITY MANAGER 1992 NOVEMBER 10
FROM: ACTING DIRECTOR PLANNING AND BUILDING
SUBJECT: BURNABY ZONING BYLAW - MINOR TEXT AMENDMENTS
MOBILE RETAIL AND FOOD CARTS/ OUTDOOR PATIO SEATING
PURPOSE: To propose minor text amendments to the Zoning Bylaw to recognize outdoor patio seating as a permitted use in the C1, C2, C3 and C4 Districts, and to provide for limited opportunities for mobile retail and food carts on sites zoned CD Comprehensive Development District (based on C3 District guidelines).

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RECOMMENDATION:

1. THAT the City Solicitor be requested to prepare the necessary amending bylaw to reflect the amendments outlined in this report, and that the pertinent bylaw be advanced to the first available Public Hearing.

R E P O R T

1.0 INTRODUCTION

- 1.1 From time to time in the course of administering the Zoning Bylaw staff become aware of the need for minor adjustments to the bylaw to reflect emerging needs and demands related to changes in lifestyle, community aspirations, technological change, or the way of doing business. These matters are evaluated in terms of the purpose of the bylaw and Burnaby's land use objectives, and where appropriate, recommendations are advanced to update the text of the bylaw to maintain its currency.
- 1.2 This report deals with two items that have been considered recently that are considered minor in their relative impact in terms of the overall scope of the bylaw, but that will allow a reasonable opportunity for development and land use reflecting current demands within the general intent of the bylaw. If Council agrees that the amendments are justified, it would be appropriate to ask the Solicitor to prepare the text amendments in bylaw form and advance them for First Reading and Public Hearing.
- 1.3 Both items relate to one of the Social Planning Policy Goals for Metrotown outlined in the 1992 October 19 report to Council from the Community Issues and Social Planning Committee. Under the section, Humanizing Elements, street front/sidewalk/store front activities for designated areas of Metrotown to enliven those streets and attract pedestrians are encouraged. The following text amendments are both considered supportive of the above ongoing action to support social planning goals for Metrotown.

2.0 OUTDOOR PATIO SEATING

- 2.1 Over the last several years, seasonal outdoor patio seating has been permitted in Burnaby in connection with a number of eating and drinking establishments, such as restaurants, hotel lounges and neighbourhood public houses. Liquor Control and Licensing

Branch regulations permit outdoor patio seating in connection with Class "A" facilities such as Hotel pubs and lounges, private clubs and recreational facilities, Class "B" restaurants, Class "D" Neighbourhood public houses and Class "F" Marine public houses. On 1988 October 03, Council adopted a policy that requires applications for outdoor patio seating in connection with Class "A" liquor licences, Class "D" Neighbourhood pubs and Class "F" Marine pubs to be forwarded to Council for their consideration and that applications for outdoor patio seating for Class "B" restaurants continue to be processed at a staff level through the preliminary plan approval process.

2.2 Since Council adopted this policy, the process has worked well and a number of outdoor patio seating areas have been developed in connection with restaurants, neighbourhood pubs and a hotel lounge. The outdoor seating areas have provided a greater scope of experiences for patrons of the above facilities and have brought more life and vitality to the streets of Burnaby, as a rapidly urbanizing city, while creating no significant problems related to nuisance factors or compatibility with adjacent land uses.

2.3 The Conditions of Use in the C1, C2 and C3 Commercial Districts of the Burnaby Zoning Bylaw state that "every business or undertaking shall be conducted within a completely enclosed building except for parking and loading facilities, gasoline service stations and outdoor garden shops". As a result, outdoor patio seating is not presently expressly authorized in the C1, C2 and C3 Commercial zoning districts.

In light of the previously discussed positive attributes related to this type of development and the lack of concerns regarding this use, it is proposed that outdoor patio seating be included as an exception to the Conditions of Use in the C1, C2 and C3 zoning districts, where the primary seating area is indoors.

3.0 MOBILE RETAIL AND FOOD CARTS

3.1 The Planning and Building Department and the Licence Office of the Finance Department have received a significant number of enquiries over the past several years regarding the establishment of small outdoor retail food carts on private property. The Conditions of Use sections of the Burnaby Zoning Bylaw discussed in Section 2.3 above also preclude the establishment of such outdoor food and retail carts in Burnaby.

3.2 The provision of mobile food and retail carts is a well-established business practice in many urban areas across North America and is considered to be a positive contribution to the activity and vitality in an urban centre such as Burnaby. While the establishment of a limited number of small mobile food and retail outlets may be a positive addition to the outdoor experience of people living in, working in and visiting Burnaby, the provision of such carts should be properly controlled to ensure that they do not detract from the quality visual image of Burnaby or create nuisances for surrounding land uses.

In consideration of the above, this Department supports permitting limited numbers of outdoor mobile food and retail carts in locations in Burnaby which are highly urban in nature and are essentially public open spaces, such as plaza areas outside of a major shopping centre. It is therefore proposed that mobile retail and food carts be included as a permitted use on sites zoned CD Comprehensive Development District (based on C3 General Commercial District guidelines) in order to permit this type of

cart to be part of the urban experience of public open spaces in Burnaby. Public open spaces do not include parking or loading areas, landscaped areas or pedestrian walkways, but are finished, pedestrian oriented, open public spaces. It should be clearly understood that the proposed text amendment would not affect the regulations governing mobile carts on public street and lane rights-of-way, which is regulated by the Burnaby Business Licence Bylaw and the Street and Traffic Bylaw.

3.3 In reviewing this proposed amendment, staff assessed the provision of mobile retail and food carts in terms of the physical quality of the public open space, pedestrian traffic flow, avoiding permanent structures and health concerns. In order to sufficiently address these concerns, it is recommended that the Bylaw amendment reflect the following regulations:

- 1) Each cart must be mobile in nature with no permanent fixtures. A cart must be able to be moved by one person to be considered mobile.
- 2) Each cart to be a maximum of 2 m² (21.5 sq.ft.) in ground coverage area.
- 3) That there be a maximum of 4 carts permitted per public open space area.
- 4) That each cart be in compliance with the B.C. Health Act Regulations Governing the Sanitation and Operation of Food Premises as determined by the Environmental Health Division.


As part of the Preliminary Plan Approval (PPA) process, staff will assess each application to ensure that the cart(s) are located in such a manner as to avoid interference with pedestrian flow or creating a hazard. Seating would not be permitted integral to a mobile cart, but existing adjacent public seating areas may be used. Each application for a mobile food or retail cart would be circulated to Engineering, Fire Prevention, Environmental Health and Building through the PPA process, and any pertinent requirements would be adhered to prior to issuance of the PPA.

4.0 CONCLUSION

- 4.1 Based on the foregoing, it is recommended that the above text amendments be prepared for consideration and forwarding to a Public Hearing in order to permit a greater vitality and variety of outdoor experiences in Burnaby and to maintain the currency of the Zoning Bylaw.

BW:lf:yg

cc: City Solicitor
Chief Building Inspector
Chief License Inspector
Acting Chief Public Health Inspector
Chief Fire Prevention Officer


D. G. Stenson, Acting Director
Planning & Building

