

CITY OF BURNABY

HOUSING COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

SUBJECT: ZONING BYLAW TEXT AMENDMENTS – 2005 MAY

RECOMMENDATION:

1. **THAT** Council authorize the preparation of bylaws amending the Burnaby Zoning Bylaw as outlined in Section 2.0 of this report and that the bylaws be forwarded to First Reading and to a Public Hearing.

REPORT

The Housing Committee, at its Open meeting held on 2005 May 24, received and adopted the *attached* report proposing three text amendments to the Burnaby Zoning Bylaw to clarify certain aspects of the bylaw.

Respectfully submitted,

Councillor C. Redman
Chair

Councillor D. Johnston
Vice Chair

Councillor C. Jordan
Member

COPY: CITY MANAGER CHIEF LICENCE INSPECTOR CHIEF BUILDING INSPECTOR CITY SOLICITOR DIRECTOR PLANNING AND BUILDING

TO: CHAIR AND MEMBERS
HOUSING COMMITTEE

2005 May 17

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: ZONING BYLAW TEXT AMENDMENTS - 2005 May

PURPOSE: To propose three text amendments to the Burnaby Zoning Bylaw.

RECOMMENDATION:

1. THAT Council be requested to authorize the preparation of bylaws amending the Burnaby Zoning Bylaw as outlined in Section 2.0 of this report and that the bylaws be forwarded to First Reading and to a Public Hearing.

REPORT

1.0 BACKGROUND INFORMATION

As part of the ongoing fine tuning of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the bylaw and the general need to update the bylaw, text amendments are brought forward for Committee and Council consideration from time to time. This report proposes three such proposed text amendments

2.0 PROPOSED BYLAW TEXT AMENDMENTS

2.1 *Fences in R10 Zoned Properties*

Issue

The Zoning Bylaw limits the height of fences on properties in general and specifically prohibits fences to the front of the principal building facing the front yard in the R10 Residential Districts. Fences are not currently defined in the Burnaby Zoning Bylaw. Recently, a series of structures were erected on an R10 District zoned property which mimicked a fence and for which it would have been advantageous to have a more precise definition of what is not intended to be permitted to be constructed in the R10 District.

Discussion

The basic limitations for fences are detailed in Section 6.14 (5) of the Zoning Bylaw and have not changed significantly since the adoption of the original 1965 Zoning Bylaw. For example, fences are limited to a height of 1m (3.28 ft.) in the required front yard of a property. This regulation was included in the 1965 Burnaby Zoning Bylaw in order to avoid creating a walled effect between private properties and the public realm, which would reduce the appearance and livability of our public and quasi private spaces along

the street. In 1991, a further restriction on the location of fences was introduced as part of the introduction of the R10 Residential District. The R10 District was introduced into the Zoning Bylaw and certain single family residential areas of Burnaby have been rezoned to R10 District in order to provide for low scale development in mature single-family areas with a consistent low scale character. The creation of the R10 District and the rezoning of the Brentwood single-family residential area to the R10 District happened as a result of a citizen initiated request to control development. As part of the regulatory package of meeting these publicly desired objectives, a section was included in the R10 District which states "..... a fence not higher than 1.8m (5.9 ft.) may be located to the rear of the face of the principal building facing the front yard". As such, this regulation specifically precluded the construction of a fence along the front property line. The purpose of this regulation was to maintain a common, open space appearance along the streetscapes in the area consistent with the existing built-up area.

A case has recently come to light where several evenly spaced masonry pillars were constructed in the front yard of an R10 zoned property. This is contrary to the intent of the regulation not permitting fences in the front yard of R10 zoned properties, which has been pointed out by some adjacent neighbours. However, as there was no precise definition of a fence to be utilized, the masonry pillars were not required to be removed. In order to address this situation and ensure that structures are not permitted to be erected in front of the principal building which are intended to screen or enclose an area of the front yard in R10 District zoned properties, it is proposed that the section of the bylaw dealing with fences in the R10 District be clarified. It is clear from the above case that a number of separate structures together with landscaping can be utilized to physically delineate and screen a front yard without necessarily being considered to be a fence. It is therefore recommended that the Zoning bylaw be amended to prohibit any structures in front of the principal building face in the R10 District, with the exception of two pillars, each of which are a maximum of two feet in width and 4.9 ft. in height. Permitting two pillars in the front yard will allow for the erection of an address post or a post with a small light without affording the opportunity to screen or delineate the front yard from the street.

Recommended Bylaw Amendment

That the Section 110.12 (1) be deleted and replaced with the following:

110.12 Structures in Front of Principal Buildings

- (1) No structures, other than two pillars, each of which are a maximum of 0.6m (2 ft.) in width and 1.5m (4.92 ft.) in height, are permitted in front of the face of the principal building facing the front yard.

2.2 Commercial Dry Cleaning Establishments

Issue

The Burnaby Zoning Bylaw currently has three different examples listed for cleaning establishments under personal service establishments in various commercial zoning districts. Upon review, these examples appear to be overlapping and somewhat unclear in meaning. The Zoning Bylaw needs to be clarified in this regard to ensure that the appropriate types of cleaning establishments are permitted in certain commercial zoning districts, while eliminating redundant land use categories or examples.

Discussion

The land use category personal service establishment is included in the C1 Neighbourhood Commercial District, C2 Community Commercial District, C3 General Commercial District, C4 Service Commercial District, C8 Urban Commercial District (Hastings) and the C9 Urban Village Commercial District. Included in the personal service category in the C4 District are dry cleaning establishments and laundrettes, while the examples included in the C1, C2, C3, C8 and C9 commercial zoning districts are:

- 1) dry cleaning establishments (for the collection and delivery of articles but not for the treatment, cleaning or processing of such articles),
- 2) dry cleaning shops (automatic self-service only) and
- 3) laundrettes. In the C1, C2 and C3 Districts, the phrase "(automatic self-service only)" appears after the term laundrette.

It is clear from reviewing these terms that there are some redundancies and that the above three land use classifications should be reduced to two in order to avoid confusion and redundancies. More importantly, these examples do not appear to permit the typical small cleaning establishment where an individual may drop off a laundry item for cleaning and the item is cleaned on the premises.

Laundries and dry cleaning establishments are a permitted use in the M1 Manufacturing District, M2 General Industrial District, M3 Heavy Industrial District, M4 Special Industrial District and the M5 Light Industrial District. The intent of this land use category is to permit larger cleaning plants which are oriented to institutional and corporate customers to be located in industrial areas. This land use category in the industrial zoning districts does not require any adjustments.

In addition to permitting larger dry cleaning plants in industrial areas, the intent of the Zoning Bylaw is to permit self serve and service laundromats and small dry cleaning

establishments oriented to individual consumers with small dry cleaning demands where the laundry items are cleaned on the premises. In order to clarify and re-affirm the meaning of the terms in the commercial zoning districts it is recommended that the term laundrette be deleted from the Bylaw and the terminology of the other two examples relating to cleaning be amended and simplified to permit self-serve and service laundromats and small dry cleaning establishments oriented to the individual consumer.

Recommended Bylaw Amendments

It is recommended that:

- 1) the term dry cleaning shops be deleted from the C1, C2, C3, C8 and C9 commercial districts.
- 2) the phrase 'laundrette (automatic self-service only)' be deleted from the C1, C2 and C3 commercial zoning districts and replaced with the term 'laundromat'.
- 3) the term laundrette be deleted from the C4, C8 and C9 commercial zoning districts and replaced with the term 'laundromat'.
- 4) the phrase "(for the collection and delivery of articles but not for the treatment, cleaning or processing of such articles)" which appears after "dry cleaning establishments" in the C1, C2, C3, C8 and C9 commercial zoning districts be deleted.

2.3 Mausoleum Definition

Issue

The Burnaby Zoning Bylaw includes a definition of Mausoleum, the purpose of which is to define a structure which accommodates a use, with the use being the entombment of human remains. In light of a recent development enquiry, it is considered useful to clarify that, for the purposes of this Bylaw, 'human remains' is meant to include cremated remains.

Discussion

The P4 Cemetery District in the Burnaby Zoning Bylaw stipulates that crematoria and public mausoleum must be located within a cemetery and must be located not less than 61m (200.13 ft) from any lot in an A, R or RM District. The Zoning Bylaw was amended in 1999 to include the following definition of Mausoleum.

"MAUSOLEUM means a building or structure used or intended to be used for the entombment of human remains and that extends vertically by more than 0.35m (1 ft.), at any point, above the lower of

- a) *the natural grade, or*
- b) *the finished ground level at the base of the exposed wall of the building or structure."*

This text amendment was adopted largely in response to public concerns expressed regarding the potential development of a sloped portion of a cemetery site. The primary concerns expressed regarding future development of this area focussed on unsightly development and unacceptable loss of privacy related to a mausoleum type function and the steep slope of the land. It is clear from the report which recommended the text amendment that the purpose was to limit the development of structures which contain the remains of human beings after death within the 200 foot setback area and not to distinguish between the type of remains that would be included within the structure. It has come to our attention, however, that the definition of "human remains" in the Cemetery and Funeral Services Act specifically excludes cremated remains. While definitions in local government bylaws are not required to duplicate definitions in Provincial or Federal government Acts or regulations, it would be useful to clarify that the definition of Mausoleum in the Zoning Bylaw is intended to include all human remains, including those which are cremated.

Recommended Bvlaw Amendment

It is recommended that the definition of Mausoleum in Section 3 of the Zoning Bylaw be amended to replace the term "human remains" with the words "all human remains, including those cremated."

3.0 CONCLUSION

The above zoning bylaw text amendments are proposed in order to clarify certain aspects of the bylaw. It is recommended that the Committee request Council approval of the above proposed text amendments and authorize the preparation of a bylaw to be forwarded to First Reading and to a Public Hearing.

J. S. Belhouse
for J. S. Belhouse
Director Planning and Building

BW/gk

- cc: City Manager
- Chief Licence Inspector
- Chief Building Inspector
- City Clerk
- City Solicitor