
COMMUNITY DEVELOPMENT COMMITTEE**D***HIS WORSHIP, THE MAYOR
AND COUNCILLORS***SUBJECT: ZONING BYLAW TEXT AMENDMENTS – 2006 (MARCH)****RECOMMENDATION:**

1. THAT Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw as outlined in Section 2.0 of this report and that the bylaw be advanced to First Reading and to the 2006 May 30 Public Hearing.

REPORT

The Community Development Committee, at its Open meeting held on March 28, received and adopted the *attached* report proposing text amendments to the Zoning Bylaw regarding retail building supply establishments in the M1 and M2 zoning districts, Fraser River flood plain requirements and home occupations in accessory buildings. The Committee advised that these text amendments provide clarifications and improvements to the wording of the bylaw and respond to changes in related legislation and changes in forms of development, land uses and social trends.

Respectfully submitted,

Councillor Colleen Jordan
ChairCouncillor Dan Johnston
Vice ChairCouncillor G. Evans
Member

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| COPY: CITY MANAGER DIRECTOR PLANNING & BUILDING CHIEF LICENCE INSPECTOR CHIEF BUILDING INSPECTOR CITY SOLICITOR |
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TO: CHAIR AND MEMBERS
COMMUNITY DEVELOPMENT
COMMITTEE

DATE: 2006 March 23

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: ZONING BYLAW TEXT AMENDMENTS - 2006 (MARCH)

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

RECOMMENDATION:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw as outlined in Section 2.0 of this report and that the bylaw be advanced to First Reading and to a Public Hearing at a future date.

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 bylaw and the general need to update the 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 bylaw, and to respond to changes in related legislation and changes in forms of development, land uses and social trends.

2.0 PROPOSED BYLAW TEXT AMENDMENTS**2.1 *Retail Building Supply Establishments in the M1 and M2 Zoning Districts*****Issue**

In June 1999, as part of the process to implement OCP policy directions related to the future development of the City's industrial land base, Council authorized the pursuit of an incremental approach to the amendment of the City's existing industrial zoning districts to support City objectives for the more intensive use of designated industrial lands for industrial purposes. As part of this review, the appropriateness of permitting retail

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building supply establishments in the M1 Manufacturing District and the M2 General Industrial District has been examined.

Discussion

On 2003 September 29, Council received a report regarding a text amendment to the Zoning Bylaw relating to retail building supply establishments. At that time, Council authorized the preparation of a bylaw amending the Burnaby Zoning Bylaw to exclude retail building supply establishments from the M3 Heavy Industrial District. The zoning bylaw text amendment was given Final Adoption on 2003 December 1.

Retail building supply establishments are currently permitted in the M1 and M2 industrial districts, as well as the C4 Service Commercial District. The past approach to include this use within the industrial zoning districts reflected, in part, the similarity of the building supply business with industrial activities related to traditional needs for outdoor storage yards, the relationship of the business to the building industry, and the receipt and shipment of a larger size and volume of goods by truck.

Within the context of protecting and supporting more intensive industrial use of the City's existing land base, it is considered beneficial to limit opportunities for retail building supply establishments to locate within designated industrial lands in Burnaby. At the same time, it is acknowledged that concerns arise regarding creating legal non-conformity through the removal of this land use category relative to the existing retail building supply establishments in Burnaby. There are currently five retail building supply establishments in Burnaby which have either M1 or M2 industrial district zoning. The one operating business (Home Depot – 3950 Henning Drive) with the M1 zoning, however, is actually zoned Comprehensive Development (based on M1 District guidelines) and its legal status would not be affected by the removal of this land use category from the M1 zoning district. In continuing the incremental approach to amending the City industrial zoning districts in order to support the OCP directions for designated industrial land and recognizing the remaining existing four retail building supply establishments are on M2 zoned properties in Burnaby, three amendments are recommended. They are:

- 1) the removal of this use from the M1 Manufacturing District.
- 2) requiring all proposals for new retail building supply establishments on M2 zoned sites to be rezoned to CD Comprehensive Development District (based on M2 District guidelines) and

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- 3) recognizing the existing M2 zoned retail building supply establishments in the Zoning Bylaw as legally conforming.

The four retail building supply establishments on M2 District zoned sites are Standard Building Supplies – 4925 Still Creek Avenue, Curtis Lumber Co. – 5289 Byrne Road, Dick’s Lumber & Building Supply – 2580 Gilmore Avenue and H and H Re-store – 2475 Douglas Road. Recognizing the existing M2 zoned retail building supply establishments in the Zoning Bylaw as legally conforming can be done through noting a date of existence which corresponds to the text amendment similar to that done with existing self-serve gas stations.

The removal of this use from the M1 Manufacturing District and requiring Comprehensive Development District zoning accommodating this use for M2 District zoned sites would serve to help protect the City’s inventory of designated industrial lands for primary industrial uses. Retail building supply would remain a permitted use within the C4 Service Commercial District. In addition to retail building supply establishments being a permitted use in the C4 District, consideration could also be given to the rezoning of an appropriate industrial site to Comprehensive Development District (based on M2 District guidelines), based on land use compatibility, location and design considerations. Wholesalers and manufacturers of building supplies and materials would remain as permitted uses in the M1, M2, and M3 Districts, as would the storage of new materials within an approved yard area. Accessory retail sales are also permitted related to a principal industrial use, such as a lumber yard or window manufacture. It is also noted that the City has provided an appropriate opportunity for the development of a large retail building supply establishment under CD commercial zoning within the adopted Byrne Road and Marine Way Commercial Precinct Plan.

Recommended Bylaw Amendments

- a) **THAT** retail building supply establishments be excluded from the M1 Manufacturing District.
- b) **THAT** retail building supply establishments existing as of the date of Council adoption of this report continue as a permitted use in the M2 District.
- c) **THAT** retail building supply establishments be listed as a permitted use in the M2 General Industrial District, subject to CD Comprehensive Development District zoning.
- d) **THAT** the four existing M2 zoned retail building establishments mentioned above be forwarded a copy of this report.

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2.2 *Fraser River Flood Plain Requirements*

Issue

Provincial government amendments through the Flood Hazard Statutes Act have made a sub-section of the Zoning Bylaw dealing with an appeal to the Deputy Minister of Environment redundant

Discussion

Section 6.18 of the Zoning Bylaw provides regulations with respect to flood proofing within the Fraser River Flood Plain. Within Section 6.18, Section 6.18 (c) provided a mechanism through the Deputy Minister of Environment for reduction of the flood proofing requirements. Through amendments to the pertinent Provincial Acts in recent years, the Province has reduced their involvement in the implementation of floodproofing regulations, including no longer involving the Ministry in consideration of any reductions in local government floodproofing requirements. Therefore Section 6.18 (c) of the Zoning Bylaw, which requires the approval of the Deputy Minister of Environment for any reductions in the floodproofing requirements in the Zoning Bylaw, is now redundant and should be deleted.

Recommended Bylaw Amendment:

That Section 6.18 (c) be deleted.

2.3 *Home Occupations in Accessory Buildings*

Issue

The question as to whether a home occupation is permitted to be carried on within an accessory building on a single or two family dwelling lot has arisen on occasion. The Zoning Bylaw is unclear on this matter and a clear statement in this regard would be useful in dealing with current and future home occupations.

Discussion

Home based businesses represent a significant form of economic activity, both in Canada and specifically in Burnaby, with over 1,780 home based business licenses in Burnaby. The types of home based businesses permitted in Burnaby is quite wide ranging as is evident in the following definition of Home Occupation in the Zoning Bylaw.

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“**HOME OCCUPATION** means an occupation or profession that is incidental to the use of a dwelling unit for residential purposes, or to the residential use of a lot occupied by a dwelling and includes:

- (a) the office or studio of a person engaged in business, art, health, crafts or instruction;
- (b) the keeping of not more than two boarders or lodgers in each dwelling unit;
- (c) the operation of a family child care centre.”

The Zoning Bylaw also includes several important restrictions on the operation of home based businesses which are included in the Supplementary Regulations section. These include no structural alterations to the dwelling, no exterior indication that the building is being used for any purpose other than a dwelling, no stock in trade shall be kept on the premises and no person who is not a resident in the dwelling shall be employed in such an occupation.

The vast majority of the home based businesses in Burnaby operate with little neighbourhood impact and result in no complaints being submitted to the City. However, there is the occasional home based business which creates problems in the single-family neighbourhoods. A fundamental base of the home occupation concept is that it is to be incidental to the use of a dwelling unit or that the primary use of the property is still to be the single or two-family residential use. In addition, it is stipulated in the Zoning Bylaw that the use of accessory buildings are to be ancillary to the principal use being made of the lot, which in this case is the single-family residential use. Permitting an accessory residential building, which is more typically a storage shed or a garage, to potentially be used for a home occupation use under our existing definition, brings into question the concept of keeping the home based businesses incidental to the residential use. Requiring home occupations to be within the residential dwellings assists in maintaining the home based business as a more casual activity, which is integral to the residential function of the dwelling, while allowing home occupations within accessory buildings results in the use taking on more of a principal use type function. Concerns have also been raised regarding the safety of permitting home occupations in accessory buildings, which are not constructed for dwelling purposes, as well as the potential for abuse of regulations governing home occupations, particularly the requirement that ‘no stock in trade’ be kept on the premises.

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Recommended Bylaw Amendment:

THAT the definition of Home Occupation be amended to the following:

“HOME OCCUPATION” means an occupation or profession that is incidental to the use of a dwelling unit for residential purposes, is wholly contained within the dwelling unit and includes:

- (a) the office or studio of a person engaged in business, art, health, crafts or instruction,
- (b) the keeping of not more than two boarders or lodgers in each dwelling unit,
- (c) the operation of a family child care centre.



J. S. Belhouse
DIRECTOR PLANNING AND BUILDING

BW:gk

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

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