

BLANK WALLS FACING CITY OWNED LAND

EXECUTIVE SUMMARY

The Alberta Building Code (the Code) contains requirements for a physical or spatial separation of buildings to limit the probability of fire spreading from one building to another adjacent building. As a way of reducing this probability the Code limits the number and size of openings (i.e. windows and doors) in the exposed building face depending on the distance to the property line. In essence, the lesser the distance to the property line, the smaller area of openings is permitted. This rule applies whether or not the land adjacent to the building face is vacant land, park, environmental reserve or otherwise.

Administration has reviewed the Report on Building Code Unprotected Opening Setback Equivalencies (OE97-15) against current policy and legislation. The review has determined that the Code continues to allow equivalency solutions to satisfy the technical setback requirements of the Code.

ADMINISTRATION RECOMMENDATION(S)

That the SPC on Planning and Urban Development recommends that Council receive this report for information.

RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2014 APRIL 09:

That the Administration Recommendation contained in Report PUD2014-0176 be approved.

PREVIOUS COUNCIL DIRECTION / POLICY

At the 2013 August 29 meeting of Council, Councillor Carra brought forward NM2013-26, Blank Walls on City Owned Municipal Reserve, Park, Environmental Reserve or Otherwise Undevelopable Lands. The Notice of Motion was approved as follows:

NOW THEREFORE BE IT RESOLVED that Council direct Administration to review and update the Report On Building Code Unprotected Opening Setback Equivalencies (OE97-15) taking into account the current Alberta Building Code as well as policies in the Calgary Municipal Plan and report back to Council through the SPC on Planning and Urban Development, by April 2014.

AND FURTHER BE IT RESOLVED that Council direct Administration to explore the development of policy that enables and encourages the activation of land adjacent to city owned municipal reserve, park, environmental reserve or otherwise undevelopable lands with residential and commercial activities appropriate to vibrant, complete communities.

BACKGROUND

The Alberta Building Code (the Code) requires that “unprotected openings” in a building (i.e. window and door openings) be restricted in size and number within a limiting distance setback from the property line of a parcel. The aim of the restriction is to reduce the likelihood of fire spreading from one building to another. This rule applies whether or not the parcel adjacent to the site is vacant.

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As such, development and redevelopment of parcels adjacent to undeveloped lands including municipal reserve, park, environmental reserve, or undeveloped areas owned by The City must comply with the limiting distance setback and limit the size and number of windows.

In 1997, Council adopted OE97-15 Report on Building Code Unprotected Opening Equivalencies (OE97-15). The key recommendation in OE97-15 was to allow owners of land immediately adjacent to City owned parcels, who wish to extend their “limiting distance”, to apply to The City to acquire a “restricted development” easement which would then allow bigger windows.

Council, through NM2013-26, has asked for review of that policy against the current Alberta Building Code and city policies. It has further asked that Administration explore the development of policy that enables and encourages larger windows and openings onto City-owned lands such as municipal reserve, park, environmental reserve or otherwise undevelopable lands.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The policy established by OE97-15 addresses different types of City-owned land, and specifies an approach to the calculation of the limiting distance with the use of easements to achieve equivalency.

The current Code, the *Alberta Building Code 2006*, sets out the technical requirements for the design and construction of new buildings and to the alteration of existing buildings. However, the Code has changed since 1997 and now describes the objectives that the provisions are intended to achieve, and allows the use of alternatives or ‘equivalencies’ that result in the building or its components functioning in a way that fulfills the objectives of the Code.

As such if an owner wants to increase the size of windows but the building face is too close to the property line according to the Code requirements, the building or its components (the windows or doors) will need to offer a solution that provides the equivalent safety and protection from the spread of fire that is the objective of the rule. Equivalencies are typically a change in the building’s technical components that would, in the opinion of a Safety Codes Officer for The City, offer the same fire protection or safety as intended by the Code.

Technical solutions include the use of windows and doors with fire shutters, sprinklering the building, or specifically engineered glass or glass block. The use of technical solutions to meet the objectives of the Code is the typical and preferred practice for satisfying equivalencies. The use of technical solutions affords the opportunity to ensure a building meets the Code requirements, and requires no further City processes that might delay a permit.

However, in limited cases where an owner is unwilling to offer a technical solution, a restrictive covenant over the adjacent land, to restrict or prohibit the development in a specific area, may be considered in order to meet the rules in the Code by increasing the distance calculation. The width of the restrictive covenant can be considered as part of the limiting distance calculation and may be an acceptable equivalent solution to satisfy the Code requirements. The same

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requirement for a restrictive covenant to meet the Code requirements would exist whether the adjacent land was privately-owned, or whether it is City-owned land.

Since the adoption of the recommendations in OE97-15 Administration has been reviewing each application and reviewing restrictive covenants as part of the applications. Building Regulations will continue to review applications for compliance with the Code including any solutions offered as equivalencies.

However, the review of requests for restrictive covenants, on City-owned land, and the valuation of City-owned land are done by Office of Land Servicing & Housing in conjunction with business unit land stewards pursuant to the requirements for dispositions of land under the *Municipal Government Act*. As the solutions presented in OE97-15 involve the City processes for disposition of land, the review of OE97-15 with respect to land dispositions and the findings will be presented for consideration to Land and Asset Strategy Committee (LAS) in April 2014.

Stakeholder Engagement, Research and Communication

Several City business units have been reviewing OE97-15, including Building Regulations, Corporate Properties & Buildings, Office of Land Servicing & Housing, Law, and Parks acting as stewards of City owned parcels.

Strategic Alignment

The use of equivalencies as outlined in this report allows an opportunity for the development of private parcels to take advantage of adjacent public open space. The restrictive covenants as an equivalency may have impacts on City-owned lands as well as on the public, and as such these impacts are being reviewed and will be presented in the report to LAS in April. The alignment with the policies in the Municipal Development Plan will also be reviewed and presented at LAS.

Social, Environmental, Economic (External)

Social

Having public parks, open spaces and amenities that promote public safety is an important principle in the overall scheme of open space planning. Having an opportunity to provide an increase in the size of openings overlooking open spaces and parks is supportive of this principle.

Environmental

No implications are identified.

Economic (External)

Parks and open space add character and visual interest to the community which makes investment more attractive. Maximizing open space vistas for individual land owners helps to encourage high-quality investment in other areas around these spaces.

Financial Capacity

Current and Future Operating Budget:

No implications for Planning, Development & Assessment are identified.

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Current and Future Capital Budget:

No implications for Planning, Development & Assessment are identified. There may be capital and operating impacts to other business units and The City arising from the dispositions of land, it is anticipated that those impacts will be addressed in the report to LAS.

Risk Assessment

There are potential risks for The City in granting restrictive covenants over City owned undeveloped lands in favour of adjacent owners. It has been Administration's experience with development of parcels adjacent to City owned undeveloped land, some landowners have taken over more and more of the adjacent public undeveloped land including constructing inappropriate developments such as patios, irrigation systems, driveways, private recreational amenities and the removal of trees or other plant material from the City owned lands. The effect is that the City owned undeveloped land is developed so that it appears to be part of the adjacent land owner's private yard. This discourages public use of City open space lands and could be viewed as negatively impacting parks policy of 10% green space in neighbourhoods in favour of a single adjacent landowner. In addition, in some cases subsequent landowners were unaware of their limited rights over the City owned undeveloped land or where their property ended creating enforcement issues for The City.

REASON(S) FOR RECOMMENDATION(S):

This report provides a review and update on the authority under the Alberta Building Code to accept technical solutions or a restrictive covenant to meet the objectives of the Alberta Building Code requirements, as outlined in the Report On Building Code Unprotected Opening Setback Equivalencies (OE97-15).

OE97-15 is still under review with respect to City policies for parks and open space, and with respect to legislated processes for disposition of land. This review and an exploration of alternatives or policies that may enable or encourage the activation of land adjacent to city owned municipal reserve, park, environmental reserve or otherwise undevelopable lands is expected to be presented at the Land and Asset Strategy Committee in 2014 April. This work will be done by the Parks and Corporate Properties and Buildings (CPB) Business Units.