

RKHCA Requested Changes to Proposed Bylaw 27P2011

1. The City of Calgary Land Use Bylaw, being Bylaw 1P2007 of the City of Calgary, is hereby further amended as follows:

- (a) Insert a new section 170.2 as follows:

"170.2 "Contextual Semi-detached Dwelling"

- (a) means a **building** that:
- (i) contains two **Dwelling Units** located side by side and separated by a common party wall extending from foundation to roof; and
 - (ii) meets all of the rules specified for the **use** in a district;
- (b) is a **use** within the Residential Group in Schedule A to this Bylaw;
- (c) requires a minimum of 2.0 **motor vehicle parking stalls** per **Dwelling Unit**; and
- (d) does not require **bicycle parking stalls – class 1** or **class 2.**"
- (b) Delete the text in sections 347(1)(d) and replace with the following:
- "(d) must not have a roof slope less than 4:12 within 1.5 metres of the horizontal plane forming the maximum **building height**;
- (e) must not be located on a **parcel** where the difference between the **average building reference points** is greater than 2.4 metres; and
- (f) must not have an exterior entrance to a **basement** except where:
- (i) the exterior entrance is located on the same façade as the **at-grade** entrance to a **walkout basement**;
 - (ii) the exterior entrance provides access to a **basement level private garage**; or
 - (iii) the exterior entrance provides access to a **Secondary Suite.**"

(c) Delete the text in section 347(2)(c) and replace with the following:

- “(c) must not have a **balcony** with a height greater than 6.0 metres, when measured vertically at any point from **grade** to the platform of the **balcony**.”

Requested Change – Reduce the maximum balcony height to 5.4 metres.

Rationale – The RKHCA agrees with City Administration’s statement that “third floor balconies have a larger potential to create overlooking issues, and more often require application of discretion to ensure they are in an appropriate location”, but does not agree that the above rule as currently proposed is adequate to address these concerns. The RKHCA has recently encountered a situation in which the developer of a pair of three storey single detached dwellings with third floor balconies is proposing to pile excess soil up against the sides of the dwellings, creating steeply sloped side yards, so that he can take the position that the developments’ third floor balconies satisfy this rule. DBA has approved these developments as contextual single detached dwellings despite the fact that the term “grade” is defined to exclude “artificial embankments” and that these piles of soil will potentially cause surface water to pool and/or be redirected onto the adjacent properties. Reducing the maximum height to 5.4m should have little or no impact on second floor balconies but would make it virtually impossible for a third floor balcony to qualify, and therefore should eliminate the incentive to engage in grade manipulation.

- (d) Insert a new section 347(6) as follows:

“(6) Where a **private garage** is attached to a **Contextual Single Detached Dwelling**, the maximum **building coverage** is the maximum **parcel coverage** which must be reduced by 21.0 square metres for each required **motor vehicle parking stall**.”

Requested Change – Reword to provide that the maximum parcel coverage of contextual single detached dwellings is to be reduced by 42.0 metres for each required motor vehicle parking stall where either the parcel width is not less than 9.0 metres or the area of the parcel is not less than 270 square metres.

Rationale – The rule as proposed should be okay for narrow lot contextual single detached dwellings, which under Section 443 LUB are required to have 2 parking stalls, but will not appropriately limit the floor area of wide lot contextual single detached dwellings, which under Section 443 LUB are only required to have 1 motor vehicle parking stall. Alternatively,

Section 443 LUB could be amended to apply the 2.0 motor vehicle parking stall requirement to all contextual single detached dwellings.

- (e) Insert a new section 347.1 as follows:

“Contextual Semi-detached Dwelling

347.1 (1) A Contextual Semi-detached Dwelling:

- (a) must have:
- (i) the principal front façade of one **unit** staggered a minimum of 0.6 metres behind the principal front façade of the other **unit**; and
 - (ii) the principal rear façade of one **unit** staggered a minimum of 0.6 metres behind the principal rear façade of the other **unit**;
- (b) must have façade articulation for each **unit**, by including:
- (i) a portion of the front façade of each **unit** recessed or projecting forward from the remainder of the front façade of that **unit**, with the projecting or recessed portion having a minimum dimension of:
 - (A) 2.0 metres in width;
 - (B) 0.6 metres in depth; and
 - (C) 2.4 metres in height; or
 - (ii) a **porch** that projects from the front façade a minimum dimension of:
 - (A) 2.0 metres in width; and
 - (B) 1.2 metres in depth;
- (c) located on a **corner parcel** must have an exterior entrance which is visible from the **street** side of the **corner parcel**;

- (d) must not have vehicular access from the **lane** to an attached **private garage**;
- (e) must not have windows that are located beyond the rear façade of a **contextually adjacent building** on an adjoining **parcel** unless:

Requested Change – Add the words “on the near side” after the word “façade”.

Rationale – City Administration has advised the RKHCA that where the rear façade of a contextually adjacent dwelling is articulated, they currently interpret the words “rear façade” to mean the rearmost façade. As a result, as currently drafted/interpreted this rule will allow a proposed development to have side-facing windows that directly overlook any rear deck or other rear amenity space that is adjacent to the articulated portion of the rear façade of the contextually adjacent dwelling. Adding the words “on the near side” should make it clear that for the purposes of this section the relevant rear façade of a contextually adjacent dwelling that has an articulated rear façade is the portion of the rear façade that is closest to the proposed development.

- (i) the window is located below the second **storey**;

Requested Change – Replace the words “below the second storey” with the words “in the basement”.

Rationale – The RKHCA feels that main floor side-facing windows also have significant potential to create overlooking and privacy issues for adjacent properties (particularly on parcels that slope down towards the rear), as 1.85m high fences are often not sufficient to prevent overlooking, occupants tend to spend much more of their waking hours on the main floor and the 1.2m side setbacks are not wide enough to allow for trees or shrubs to be planted to prevent overlooking and preserve privacy.

- (ii) the window is located on the rear façade;

- (iii) the glass in the window is entirely obscured;
or
 - (iv) there is a minimum distance of 1.5 metres between the finished floor and the bottom of the window sill; and
- (f) must not have a roof slope less than 4:12 within 1.5 metres of the horizontal plane forming the maximum **building height**;
- (g) must not be located on a **parcel** where the difference between the **average building reference points** is greater than 2.4 metres;
- (h) must not have an exterior entrance from **grade**:
- (i) directly accessing an internal stairwell; or
 - (ii) located on a side façade, except on the **street** side of a **corner parcel**; and
- (i) must not have an exterior entrance to a **basement** except where:
- (i) the exterior entrance is located on the same façade as the at-**grade** entrance to a **walkout basement**; or
 - (ii) the exterior entrance provides access to a **basement** level **private garage**.

(2) A Contextual Semi-detached Dwelling:

- (a) may have a **balcony** located on a side façade where:
- (i) it forms part of the front façade and is not recessed back more than 4.5 metres from the front façade; or
 - (ii) it is on the **street** side of a **corner parcel**;
- (b) may have a **balcony** located on a rear façade where:

- (i) it does not form part of the side façade unless the side façade is on the **street** side of a **corner parcel**;
- (ii) a **privacy wall** is provided where the **balcony** is facing a **side property line** shared with a **contextually adjacent building**; and
- (iii) the **privacy wall** is a minimum of 2.0 metres in height and a maximum of 3.0 metres in height; and

Requested Change – Add a similar privacy wall requirement for rear decks on both contextual semi-detached dwellings and contextual single detached dwellings, except that in both cases the minimum height should be 1.5 metres and the maximum height should be 2.0 metres.

Rationale -- The RKHCA feels that rear decks (which are defined in the LUB as being at least 0.6m above grade) also have significant potential to create overlooking and privacy issues for adjacent properties (particularly on parcels that slope down towards the rear), as 1.85m high fences are not sufficient to prevent overlooking and the 1.2m side setbacks are not wide enough to allow for trees or shrubs to be planted to prevent overlooking and preserve privacy. The lower minimum and maximum heights will allow more air and light to reach the deck and rear windows.

- .(c) must not have a **balcony** with a height greater than 6.0 metres, when measured vertically at any point from **grade** to the platform of the **balcony**.

Requested Change – Reduce the maximum balcony height to 5.4 metres.

Rationale -- Same as described above for the same change to paragraph 347(2)(c).

- (3) The maximum **building depth** of a **Contextual Semi-detached Dwelling** is the greater of:
 - (a) 60.0 per cent of the **parcel depth**; or

(b) the **contextual building depth average**.

- (4) Where a **private garage** is attached to a **Contextual Semi-detached Dwelling**, the maximum **building coverage** is the maximum **parcel coverage** which must be reduced by 21.0 square metres for each required **motor vehicle parking stall**."

(f) Insert a new section 147.2 as follows:

Requested Changes -- This new section should be section number 347.2, to follow immediately after the new contextual semi-detached dwelling section, and should be reworded as follows.

347.2 Tree Requirement for Contextual Single Detached and Contextual Semi-detached Dwellings

Rationale -- As the intention of this section is to encourage both the retention of existing trees and the planting of new trees, it should be described as a tree requirement, not as a planting requirement.

Doug Roberts 11-6-10 1:18 AM

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Deleted: Planting

(1) Trees required by this section:

- (a) are to be provided through the retention of existing healthy trees to the extent possible, and thereafter through the planting of new trees;

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Deleted: may

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Deleted: or the preservation of existing trees

Rationale -- This wording makes it clear that the first priority is to determine whether there are any existing healthy trees that can be retained.

- (b) must be provided on a **parcel** within 12 months of issuance of a **development completion permit**;

- (c) must be maintained on the **parcel** for a minimum of **60** months after issuance of a **development completion permit**;

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Rationale -- 24 months is too short and may encourage temporary stopgap measures designed to technically satisfy the tree requirement. In comparison the LUB provides that trees retained or planted to satisfy the landscaping requirements for multi-family developments are required to be maintained for the entire life of the development. The RKHCA feels that 60 months would be

sufficiently long to discourage temporary technical compliance while still giving homeowners reasonable flexibility to replace trees that outgrow their locations or are otherwise no longer considered appropriate.

- (d) must be of a species capable of healthy growth in Calgary and must conform to the standards of the Canadian Nursery Landscape Association;
- (e) to be taken into account for the purposes of this section, must have:
 - i. in the case of a deciduous tree, a minimum calliper at the time of retention or planting, as the case may be, of 50.0 millimetres; or
 - ii. in the case of a coniferous tree, a minimum height at the time of retention or planting, as the case may be, of 2.0 metres; and

Rationale -- This is not a substantive change, but merely a relocation of proposed subsections 347.2(5) and (6).

- (f) are not required to be shown on a plan that is part of an application for **development permit**.

(2) For each **Contextual Single Detached Dwelling** and **Contextual Semi-Detached Dwelling**, the trees provided on a **parcel**, including retained existing trees and new trees to be planted, shall:

- (a) be not less in number than 1.0 tree for every 3.5 metres of **parcel width**; and
- (b) together have an aggregate **calliper** at the time of retention or planting, as the case may be, of not less than 75.0 millimetres for every 3.5 metres of **parcel width**, and for these purposes a coniferous tree shall be considered to have a calliper equal to the quotient obtained by dividing its height in millimetres by a factor of 40.0.

Rationale -- The RKHCA is concerned that the proposed tree requirement of either two 50mm calliper/2m high trees (or three in the case of a contextual single detached dwelling on a wider lot) or one 85mm calliper/4m high tree per dwelling unit would:

Doug Roberts 11-6-10 1:29 AM

Deleted: (2) - A minimum of 2.0 trees must be provided for each **unit** of a **Contextual Semi-detached Dwelling**.

- 1) be far too easy and inexpensive to satisfy with newly planted trees to provide any incentive to retain existing healthy trees; and
- 2) by allowing 1 slightly larger tree to satisfy the 2-tree requirement and only requiring 1 extra tree on wider lots, likely result in fewer new trees being planted per dwelling unit than the minimum standard currently provided for in the Infill Guidelines.

A provision worded along the lines suggested above would effectively require at least:

- 1) 2 trees with a minimum aggregate calliper size of 150 mm (6 inches) on a standard 7.6m (25 foot) wide lot.
- 2) 4 trees with a minimum aggregate calliper size of 300 mm (12 inches) on a standard 15.2m (50ft) wide lot.

Minimum aggregate calliper size requirements along these lines should provide at least some incentive to retain one or more existing healthy trees, where possible, without being overly difficult or expensive to satisfy in situations where no existing trees exist or can be retained.

- (g) Insert “**Contextual Semi-detached Dwelling**,” before “**Contextual Single Detached Dwelling**” in sections 13(24)(a), 40(e), 122(3), 122(15), 154(a)(i), 154(d), 154(i), 339(3), 340(3), 358(2), 360(1), 435(1) and 438(1).
- (h) Replace “74.0” with “75.0” in sections 25(e), 338(3)(b), 346(4)(b), 563(2)(a) and 1110(2)(a).
- (i) Insert “**Contextual Semi-detached Dwelling** or a” before “**Contextual Single Detached Dwelling**” in sections 25(g).
- (j) Insert “**Contextual Semi-detached Dwelling** and a” before “**Semi-detached Dwelling**” in sections 337(1.2)(a) and 337(10)(a).
- (k) Insert a new subsection 425(1)(a.1) as follows:
“(a.1) **Contextual Semi-detached Dwelling**.”
- (l) Insert “**Contextual Semi-detached Dwelling** or a” before “**Semi-detached Dwelling**” in sections 429(d), 431(d) and 436(3).
- (m) Add “Contextual Semi-detached Dwelling” to the Residential Group in Schedule A.

2. This Bylaw comes into force on July 1, 2011.