



Committee of the Whole Report For the Meeting of October 4, 2018

To: Committee of the Whole **Date:** September 24 2018
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Zoning Bylaw 2018 – Floor Area Definition

RECOMMENDATION

That Council:

1. Maintain the current definition of floor area in *Zoning Bylaw 2018*.
2. Direct staff to develop design guidelines for exterior hallways and exterior staircases as part of Council's consideration of an update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan* that address the following objectives:
 - a. Discourage the use of exterior hallways and exterior staircases except where their design achieves City urban design objectives or supports adaptive re-use of heritage buildings.
 - b. Ensure that exterior hallways and exterior staircases are designed to complement and integrate with the overall building design and the adjacent streetscape character while avoiding a design that appears solely as a functional component of the building when viewed from the adjacent street.
 - c. Where an exterior hallway or exterior staircase faces directly toward an adjacent residential property, consider opportunities to mitigate any impacts on the adjacent residential property as they relate to overlooking, loss of privacy, noise transmission and spillover of light through such strategies, but not limited to: architectural screening, materials and finishes, light shielding, increased setbacks and the overall location and siting of these exterior building elements.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations affecting the definition of floor area in the recently approved *Zoning Bylaw 2018*. Specifically, this report examines if *Zoning Bylaw 2018* should be amended to exclude exterior hallways and exterior staircases from the calculation of floor area for new buildings where the bylaw applies (Old Town and Central Business District).

The new definition of floor area was developed in response to comments received through public consultation on *Zoning Bylaw 2018*. During this consultation, concerns were raised that excluding exterior hallways and staircases from the calculation of floor area may encourage these types of building elements, resulting in increased building bulk and liveability impacts. At the public

hearing for *Zoning Bylaw 2018*, concerns were also raised that including these elements in the calculation of floor area would impact the ability of new projects to achieve expected floor space ratios (FSR). Therefore, Council directed staff to examine the impacts of this definition further and report back to Committee of the Whole for further consideration.

While exterior hallways and staircases are now included in the calculation of floor area, staff believe that the updated definition would not impact achievable FSR as other building elements have now been excluded, specifically bicycle parking and rooftop structures. Provisions have been included in the new bylaw to ensure these new rules only apply to new buildings, to avoid creating non-conforming conditions for existing buildings. While exterior hallways and staircases are now included in FSR calculations, they are still permitted and would be subject to development permit considerations. There are some existing examples of exterior hallways and exterior staircases in the city that have been designed well and successfully incorporated into building designs.

For these reasons, staff recommend that the definition remain unchanged, and that new development permit area guidelines be developed and included in the *Old Town Design Guidelines* and *Downtown Core Area Plan* update to ensure that future buildings considering these features are appropriately designed.

PURPOSE

The purpose of this report is to present Council with information, analysis and recommendations related to the definition of floor area specific to exterior hallways and staircases in response to concerns raised at the public hearing for the recently approved *Zoning Bylaw 2018*.

BACKGROUND

Zoning Bylaw 2018 was approved by Council on July 26, 2018 following a public hearing; however, as part of the public hearing, Council discussed some of the potential impacts of achieving zoned density based on the new definition of floor area which now includes exterior hallways and exterior staircases for the purpose of calculating density. This new definition was developed based on input received through the public engagement process for *Zoning Bylaw 2018*, and through the current review and update of the *Old Town Design Guidelines*. However, in response to these concerns Council passed a motion to direct staff to examine the issue of exterior staircases and exterior hallways as they relate to floor space ratios and report back to Committee of the Whole.

ISSUES & ANALYSIS

Key considerations related to the new definition of floor area are summarized as follows:

1. Ability to achieve Zoned Density

Zoning Bylaw 2018 includes updated regulations and definitions that differ from those in the previous *Zoning Regulation Bylaw*; such as, a new floor area definition that now includes exterior hallways and exterior staircases for the purpose of calculating density. This means that under the new *Zoning Bylaw 2018*, these exterior building elements are considered as floor area and contribute toward the overall building density. However, at the same time, the new zoning bylaw has also introduced other provisions that provide greater flexibility for calculating density. For example, the floor area definition now excludes the area of rooftop structures (enclosed or unenclosed), as well as, the area used to provide required (long and short-term) bicycle parking.

These are significant changes that have been viewed as proactive measures to support the provision of cycling infrastructure in buildings; as well as, to not impact the provision of commonly required building systems such as mechanical equipment rooms or elevator penthouses. The ability to achieve the zoned density on an individual parcel is also dependent on a range of other variables such as lot size, topography, proposed use (commercial vs. residential), setbacks, parking, and the overall building design which is subject to development permit area (or heritage conservation area) guidelines.

2. Non-conformity

The new definition of floor area includes exterior hallways and exterior staircases in the calculation of floor area only for new buildings developed after the adoption of *Zoning Bylaw 2018*. This provision ensures that any existing building is not rendered as non-conforming because they currently contain an exterior hallway or exterior staircase.

3. Additional Building Bulk and Massing

Under the previous *Zoning Regulation Bylaw*, which still applies to most of the city, all unenclosed areas were exempt from floor area (density) calculations; however, the recent public engagement on *Zoning Bylaw 2018* identified this regulation as problematic as it was perceived to encourage exterior hallways and exterior staircases. The presence of these exterior building elements was also identified as contributing to bulkier buildings, along with other liveability impacts. In response, the definition of floor area within *Zoning Bylaw 2018* was amended to include exterior hallways and exterior staircases. This means that these exterior building elements and spaces will continue to be permitted; however, they are now considered floor area and used to calculate the overall building density.

At the same time, feedback received through public engagement identified that the potential impacts of these exterior elements can be largely mitigated if they are well designed with careful consideration for the surrounding context. For example, the Shutters building located at 66 Songhees Road was identified as an example of a building that has integrated these exterior building elements through an attractive and well-designed approach without creating overwhelming mass and bulk or liveability impacts on adjacent properties.



Example of residential building (Shutters) with exterior hallways and exterior staircase.



Example of commercial building with exterior hallways and exterior staircase.

4. Liveability

The presence of exterior hallways and exterior staircases can sometimes create liveability impacts on adjacent residential properties when these exterior building elements are located in

close proximity to residential windows, backyards, balconies and other private spaces. Key issues generally relate to overlooking, loss of privacy, noise transmission and spillover from light sources. While not all of these impacts can be regulated through the zoning bylaw, they can be largely addressed through design guidelines. Staff therefore recommend that the review and update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan* should include specific design guidelines that achieve the related design objectives, as outlined in this report, to help mitigate liveability impacts from exterior hallways and exterior staircases.

5. Potential to Exempt Exterior Hallways and Exterior Staircases through a Rezoning

While the new definition of floor area has been updated from the previous definition which has been in place since 1981, Council will retain the ability to consider exempting these exterior building elements from the calculation of floor area for specific developments if proposed as part of a rezoning application. The alteration of density within the zoning bylaw requires a rezoning in accordance with the requirements of the *Local Government Act*, as well as the opportunity for public input through consultation with the community association and a public hearing. This means in this context the floor area (used in the calculation of floor space ratio or density) cannot be relaxed or varied through any other means such as a development permit with variances. If Council does approve an exemption from floor area, then this amendment can be identified as site-specific regulations within the structure of *Zoning Bylaw 2018*.

In the event that Council does consider a rezoning application to exempt these exterior building elements, staff have recommended that the proposed development should also be reviewed for its ability to align and respond to the proposed design guidelines for exterior hallways and exterior staircases as outlined in this report. Lastly, if Council does approve an exemption from floor area, then these special regulations can be identified as site-specific regulations within the new structure of *Zoning Bylaw 2018*.

6. Design Guidelines

Staff have noted that most existing policy plans within the broader Downtown Core Area do not contain design guidelines to address the design and potential impacts from exterior hallways and exterior staircases. Therefore staff are seeking direction from Council to develop related design guidelines as part of the review and proposed update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan* that achieve the objectives outlined below. The subsequent implementation of these design guidelines will require Council to consider an amendment to the *Official Community Plan* so that the design guidelines can be specifically referenced within the appropriate development permit areas. If adopted in the OCP, then staff will be able to use the design guidelines to evaluate and consider the design of exterior hallways and exterior staircases on multi-unit residential and commercial buildings that are located within the Central Business District or Old Town as part of a development permit process. The review and update of the *Old Town Design Guidelines* is currently underway and it is anticipated that they will be presented to Council later this year.

- a. Discourage the use of exterior hallways and exterior staircases except where their design achieves City urban design objectives or supports adaptive re-use of heritage buildings.
- b. Ensure that exterior hallways and exterior staircases are designed to complement and integrate with the overall building design and the adjacent streetscape character while avoiding a design that appears solely as a functional component of the building when viewed from the adjacent street.
- c. Where an exterior hallway or exterior staircase faces directly toward an adjacent residential property, consider opportunities to mitigate any impacts on the adjacent

residential property as they relate to overlooking, loss of privacy, noise transmission and spillover of light through such strategies, but not limited to: architectural screening, materials and finishes, light shielding, increased setbacks and the overall location and siting of these exterior building elements.

7. Impacts from BC Energy Step Code

Staff have identified that the provision of external building elements, such as unenclosed hallways or staircases on multi-unit residential or commercial buildings, may impact a project's ability to meet the requirements of the *BC Energy Step Code* (adopted by Council and will be applied to projects applying for building permits on, or after, November 1, 2018). The Step Code requires applicants to work with their design team and an energy modeller to determine the energy impacts of new buildings and their features, and their ability to meet the energy performance targets outlined in the *Step Code*. Therefore, it is possible that there may be fewer buildings designed with these exterior building elements as they are often sources for heat loss/transfer.

OPTIONS AND IMPACTS

Option 1 (Recommended):

Maintain the current definition of floor area in *Zoning Bylaw 2018* and develop design guidelines for exterior hallways and exterior staircases as part of the review and update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan*.

This option continues to apply the updated floor area definition that includes exterior hallways and exterior staircases as part of the floor area calculation, thereby removing a perceived 'incentive' for these building elements. This option also gives staff direction for developing design guidelines for exterior hallways and exterior staircases as part of the review and update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan*.

Option 2:

Direct staff to amend the floor area definition in *Zoning Bylaw 2018* to exclude exterior hallways and exterior staircases, and develop design guidelines for exterior hallways and exterior staircases as part of the review and update of the *Old Town Design Guidelines* and the *Downtown Core Area Plan*.

This option would result in a definition of floor area that may encourage exterior hallways and exterior staircases; however, the design guidelines will provide a basis for evaluating and refining these building elements through a development permit process.

Accessibility Impact Statement

The potential amendments to the floor area definition outlined in this report do not have any impacts on accessibility.

2015 – 2018 Strategic Plan

The development of *Zoning Bylaw 2018* and its ongoing maintenance supports Objective 3: Strive for Excellence in Planning and Land Use, as *Zoning Bylaw 2018* provides updated regulations to better support development and community building. *Zoning Bylaw 2018* also supports Objective 5: Create Prosperity through Economic Development, as the new zoning regulations serve to facilitate increased investment and development within the Downtown Core Area.

Impacts to Financial Plan

Considering the floor area definition contained in *Zoning Bylaw 2018* will not have any impacts to the *Financial Plan*.

Official Community Plan Consistency Statement

This project is consistent with the *Official Community Plan* which supports the role of the Zoning Bylaw to help implement plan objectives, land uses, built forms and densities (policy 6.3). The implementation of the recommended design guidelines will require an amendment to the *Official Community Plan* to include them within development permit areas affecting the Downtown Core.

CONCLUSIONS

Staff recommend that the definition remain unchanged, and that new development permit area guidelines be developed and included in the *Old Town Design Guidelines* and *Downtown Core Area Plan* update to ensure that future buildings considering these features be appropriately designed.

Respectfully submitted,



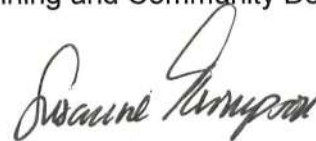
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Alt.



Jonathan Tinney, Director
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Report accepted and recommended by the City Manager:



Date:

Sept. 27/18

List of Attachments:

- Attachment A – Comparison of Floor Area Definitions