

Memo



Date: September 9, 2011
File: TA11-0009/OCP11-0006
To: City Manager
From: Land Use Management Department, Community Sustainability Division
Subject: Text Amendment to Zoning Bylaw related to Downtown Plan Charrette

Report Prepared By: Luke Turri

Recommendation:

THAT Text Amendment No. TA11-0009 to amend City of Kelowna Zoning Bylaw No. 8000, by amending the C7 - Central Business Commercial zone to reflect the recommendations of the Downtown Plan Charrette, as outlined in "Schedule A" and "Diagram B" of the report of the Land Use Management Department dated September 9, 2011 be considered by Council;

AND THAT Bylaw No. 10568 be amended at first reading, to include policy wording on sightline angles for high-rise development and consideration for mid-rise development, as outlined in the report of the Land Use Management Department dated September 9, 2011;

AND FURTHER THAT the bylaw be forwarded to a Public Hearing in conjunction with OCP11-0006.

Purpose:

The purpose of this report is to advance changes to the Zoning Bylaw related to the Downtown Plan Charette, in conjunction with OCP amendments presented to Council for initial consideration at the August 8, 2011 Council meeting.

Background:

Based upon Council direction on June 27, 2011, and further input on July 25, 2011, staff are advancing OCP and Zoning bylaw amendments to move forward with the recommendations from the Downtown Plan Charette of June 2011.

The proposed OCP amendments (OCP11-0006) were given initial consideration at the August 8, 2011 Council meeting. This text amendment recommendation seeks to have zoning regulations that are consistent with the proposed OCP amendments. The supporting Zoning Bylaw changes referenced during the OCP amendment discussion are as follows:

Tower Separation Regulation

The Downtown Plan Charette process established general consensus on encouraging additional residential density for Downtown. Community input through the charrette focused on creating and maintaining a livable city, with strong urban design at the forefront. While taller building heights were generally encouraged, the location, design and spacing of taller buildings were fundamental considerations of the public input process, and support for increased heights.

A handwritten signature in the bottom right corner of the page.

Strong support was given to protect views through spatial separation and architectural expression.

As identified in the Charette, it is important to reiterate that the building heights proposed in the Downtown Building Heights Map do not imply or recommend that all development reach this maximum height potential. Rather, site-specific consideration of each development is required to ensure an overall improvement to the urban design and public realm of the Downtown.

In consideration of the above, the criteria for evaluation of tall buildings must assess: surrounding context, shadowing, impacts on privacy, view corridors and the overall skyline, distances from adjacent towers, impacts on nearby heritage buildings, as well as the overall form and massing of taller buildings. To help achieve these objectives, regulations are proposed for the Zoning Bylaw to achieve adequate separation distances between towers. For the purposes of the Zoning Bylaw, a “tower” will be considered any portion of a building greater than 22.0m in height (generally above 6 storeys).

The recommendations presented respond to the outcomes of the Charrette and a review of best urban planning practices in larger urban centres regarding tower height and separation regulations.

The proposed changes are summarized below, and detailed in “Schedule A”:

Proposed Tower Setback Regulations

	Existing Regulation (portion of building above 15m)	Proposed Additional Regulation (portion of building above 22m)
Building setback from lot line abutting a street.	3.0m Daylight angle regulations also apply, as per Diagram B.	No changes proposed.
Building setback from interior lot line.	4.0m (only within Areas 1 and 2)	15.0m All C7 properties.
Building setback from lot line abutting a lane.	3.0m (only within Areas 1 and 2) Daylight angle regulations also apply, as per Diagram B.	10.0m All C7 properties.
Separation distance between more than one tower on the same property.	None currently specified.	30m

Under the existing C7 zone, there is little consideration for spacing between towers, particularly along abutting lot lines. Without providing for adequate separation distances between towers, several problems arise, including:

- Privacy issues for residents in adjacent buildings
- The creation of unfavorable wind conditions
- Extensive shadowing and limitations on light and sky views, both at street-level and for surrounding views
- Encouragement of a “first-in” development scenario, without protecting for the viability of development on neighbouring parcels

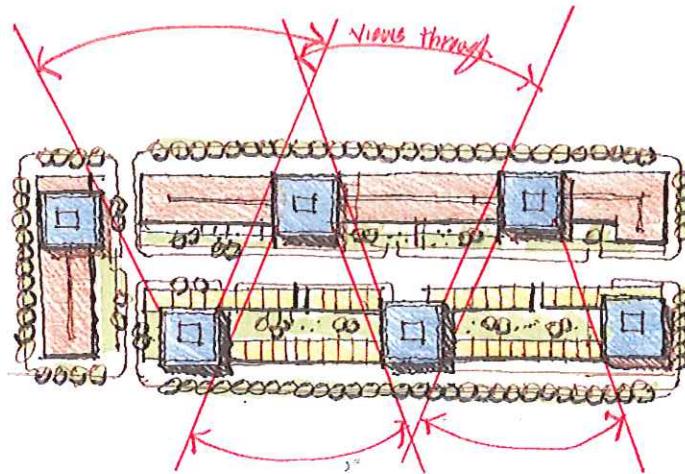
The extent of the tower setbacks follows the recommendations of the Downtown Plan Charrette. Across an abutting property line, the 15m setback creates a minimum 30m separation between towers. Across a laneway, the 10m setback creates a minimum 26-27m setback, depending on the width of the lane. These distances relate closely to the width of a typical road right-of-way in the Downtown (20-30m), and require that a development accommodate appropriate spacing within its own property.

In conjunction with the Building Height Map and OCP policy, the proposed tower regulations provide detailed guidance related to supportable building heights in the Downtown. The regulations also provide a level of certainty for neighbouring property owners, affording equal opportunities for development throughout the Downtown Urban Centre.

OCP Building Height Policy

The tower setbacks proposed above create adequate separation between towers. However, on their own, they would not achieve the “checkerboard” pattern which developed during the Charrette, and was presented as the preferred model for tower development. This type of regulation cannot be placed within the Zoning Bylaw, as the Zoning Bylaw cannot control development siting based on off-site development. As such, to support this pattern of development an addition to the OCP building height policy is proposed below.

The below diagram illustrates the desired “checkerboard” pattern and sightline angles:



It is important to note that the proposed view angles would not apply to buildings under 44.0m (~12 storeys) in height (low to mid-rise buildings), as the new wording would only apply to buildings over-and-above the current Zoning Bylaw maximum height of 44.0m. In tandem with the tower setback regulations proposed in the Zoning Bylaw these changes aim to maintain a high-quality of urban design and a welcoming public realm within the Downtown should high-rise development be proposed. At the same time, mid-rise development (between 22m-44m) is still welcomed and encouraged for the Downtown. To this end, it is also recommended that proposed additions to the building height policy also include policy direction for mid-rise development.

Based on the above, it is recommended that proposed changes to OCP Policy 5.5.1 (as per OCP11-0006) include additional wording, as shown below underlined:

For all properties where height variances are required, a minimum separation distance of 36.5m (120 ft.) will be sought between adjacent towers where there are floor plates larger than 697 sq.m (7,500 sq. ft.) and a minimum separation distance of 30.5m (100 ft)

will be sought between towers where floor plates are less than 697 sq.m (7,500 sq.ft.). In addition, where a height variance is required, adequate view corridors shall be provided between towers. For blocks a minimum of 100m in width, any portion of a building above 44.0m should be sited to afford existing surrounding tower development on the same block a 40 degree panoramic view, measured from the closest building face parallel to the lot line fronting a street.

Council may consider variances to the tower setbacks distances in the Zoning Bylaw for mid-rise (22m-44m) development, provided that the overall development conforms to OCP building height policy.

Ground level activity (“Choice-of-use” at-grade)

Currently, the C7 zone requires that any development which includes residential uses must provide a “functional commercial space” on the first floor for all abutting road frontages. The intent of this regulation is to encourage mixed-use developments with active streetscapes. However, the Downtown Plan Charrette identified that requiring commercial at-grade for all commercially-designated properties in the Downtown may detract from the viability of primary retail corridors - while forcing commercial uses in areas which may not be viable.

It is recommended to only require commercial at-grade (specifically retail uses) along designated corridors, allowing the market to determine what use (e.g. commercial vs. residential) activates the ground floor for other secondary corridors. While the ground level would still need to incorporate an active use, ground-orientated residential would now be an option for these secondary corridors (e.g. St. Paul, Lawrence, Leon, Bertram). These changes are summarized in Appendix A.

In acknowledgement of the above, a minor amendment is proposed to the C7 zone to add “multiple dwelling housing” as a principal use. Currently, residential uses in these zones fall under “apartment housing” or “apartment hotel” use categories. The “multiple dwelling housing” category would provide greater clarity by explicitly permitting ground-orientated housing (i.e. row housing, stacked townhomes) as an appropriate use in C7 zone. For consistency, the addition is also proposed for the C4 zone, which is predominant in other Urban Centre locations.

The proposed changes to the at-grade uses regulation would still achieve the goals of active streetscapes, increase the range of development options within these areas, and protect the economic viability of principal retail corridors.

Incentives for lower building heights in Bernard Ave/Water St character area

Through the Downtown Plan Charrette process, strong support was given to keep building heights to four storeys or lower for the “character area” of Bernard Avenue (east of Ellis Street), preserving the street’s historic scale. However, the existing Zoning Bylaw allows for up to 22.0m (approximately 6 storeys) in this area. Rather than reduce the existing development potential of these properties, an incentive approach is recommended to achieve desired building heights.

A new regulation is proposed which would eliminate the parking requirement for any development which is no greater than 15.0m/4 storeys in height. Any development in excess of this height would be required to meet the full parking requirement of the Zoning Bylaw.

Legal/Statutory Procedural Requirements:

In order to implement the recommendations of the Downtown Charrette, amendments to the Official Community Plan and Zoning Bylaw will be needed, as noted in this report.

Existing Policy:

Kelowna Official Community Plan 2030

Kelowna OCP 2030 provides a number of existing policies related to tower siting, form and massing:

Revitalization Design Guidelines¹:

Building Design

- Mitigate the effect of shadowing on public areas. A visual assessment sun/shadow study is required for those developments greater than 5 storeys in height;

View Corridors

- Preserve and protect existing views, and where possible, create new views at the pedestrian level for any public or semi-public space;
- Reinforce views to and from developments (i.e. through the placement of seating, open spaces, circulation routes and massing of buildings);
- Retain extensive views (including from afar) to both the Lake and to the mountains, and special care should be taken with respect to massing of new developments on street ends from the pedestrian level and from other strategic locations;
- Design new developments that take into account the view characteristics of adjacent ground floor public areas, of surrounding buildings as well as the view potential of the proposed building itself.

Tower Design

- Design towers that are sited, shaped, and oriented along their longest axis in order to enhance the views to and through the skyline;
- Incorporate tower forms and the upper portions of buildings as integral yet distinct elements of the overall building design. Tower tops are encouraged to have trellising and roof projections that are fundamental expressions of the building structure and contain substantial landscaping;
- Evaluate tower buildings with respect to their compatibility with surrounding structures and contribution to the general skyline.
- Incorporate architecture that expresses a slender verticality, particularly in its upper elements. Design buildings greater than ten floors that are tall, slender towers rather than bulkier towers of the same floor space ratio;
- Design new buildings to take into account microclimatic effects, including shading of adjacent areas (i.e., reduce the casting of long shadows on high volume pedestrian areas) and wind tunneling;
- Integrate new developments with the established urban pattern through siting and building design by utilizing transitional structures, setbacks, landscaping, etc.;
- Enhance towers with elements such as gazebos, trellises, and pergolas providing visual interest and usability of rooftop spaces;

¹ Kelowna OCP 2030 - Chapter 14: Urban Design Development Permit Areas

- Design podiums to provide an animated pedestrian environment with the use of street wall massing, articulation, and overall design. Podiums should highlight their active uses and disguise any parking or ancillary uses.

In addition to existing policies, the following building height policies are proposed through OCP11-0006.

In determining appropriate building height, the City will take into account such factors as:

- *Contextual fit into the surrounding urban fabric.*
- *Shadowing of the public realm.*
- *View impacts.*
- *Overlook and privacy impacts on neighbouring properties.*
- *Impacts on the overall skyline.*
- *Distance between adjacent buildings above 22m in height.*
- *Impacts on adjacent or nearby heritage structures.*
- *Building form and massing to mitigate negative impacts on buildings over 22m in height.*

For all properties where height variances are required, a minimum separation distance of 36.5m (120ft) will be sought between adjacent towers where there are floor plates larger than 697 sq.m (7,500sq.ft.) and a minimum separation distance of 30.5m (100ft) will be sought between towers where floor plates are less than 697sq.m (7,500sq.ft).

Report prepared by:

Luke Turri, Urban Land Use Planner

Reviewed by:



Signe Bagh, Director, Policy & Planning



Shelley Gambacort, Director, Land Use Management

Approved for inclusion:



Jim Paterson, General Manager, Community Sustainability

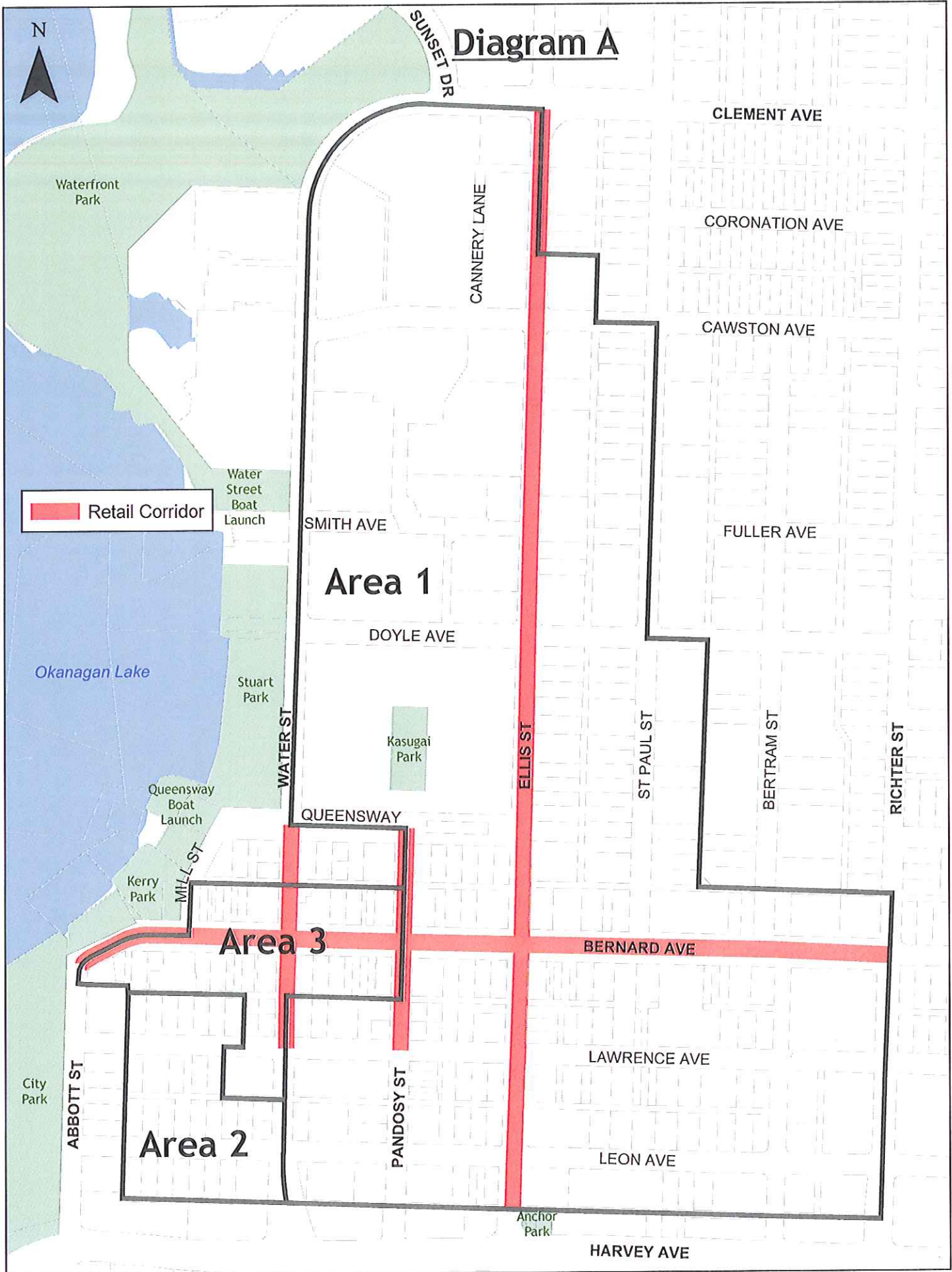
Attachments:

Schedule "A" - Proposed Text Amendments

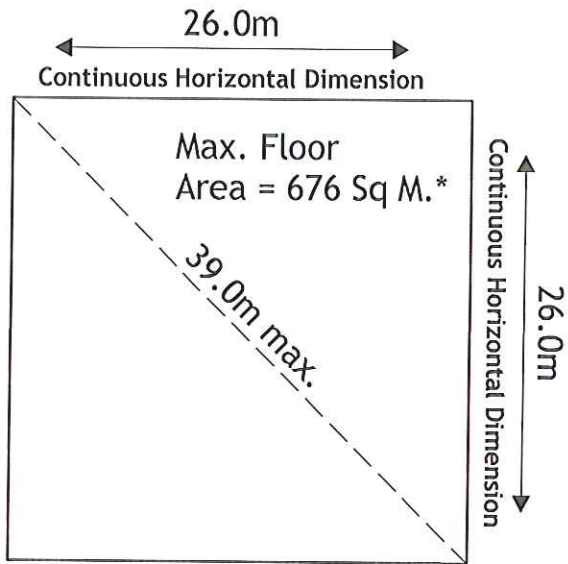
Proposed "Diagram A"

Proposed "Diagram B"

Diagram A

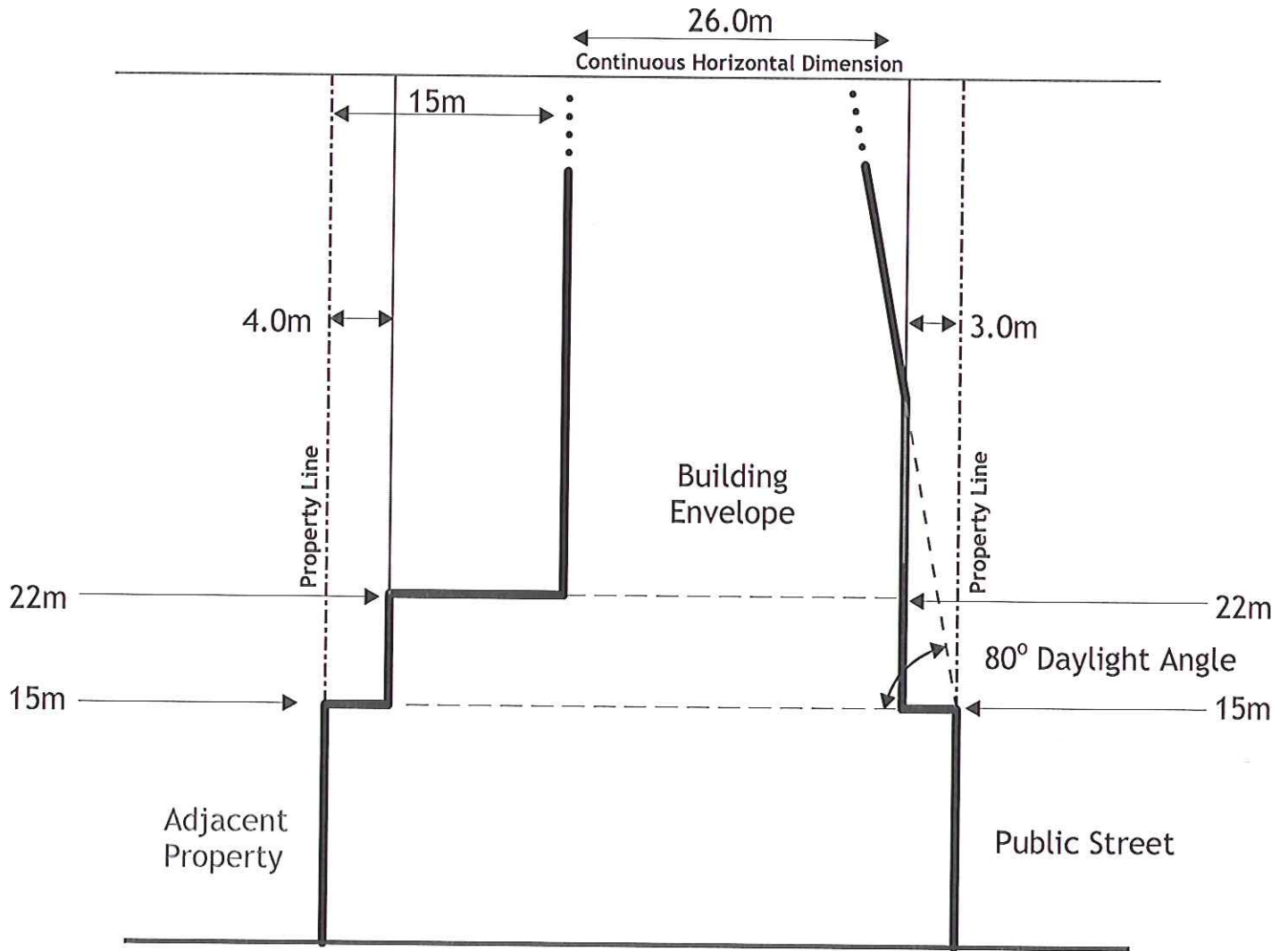


C7 - Diagram B



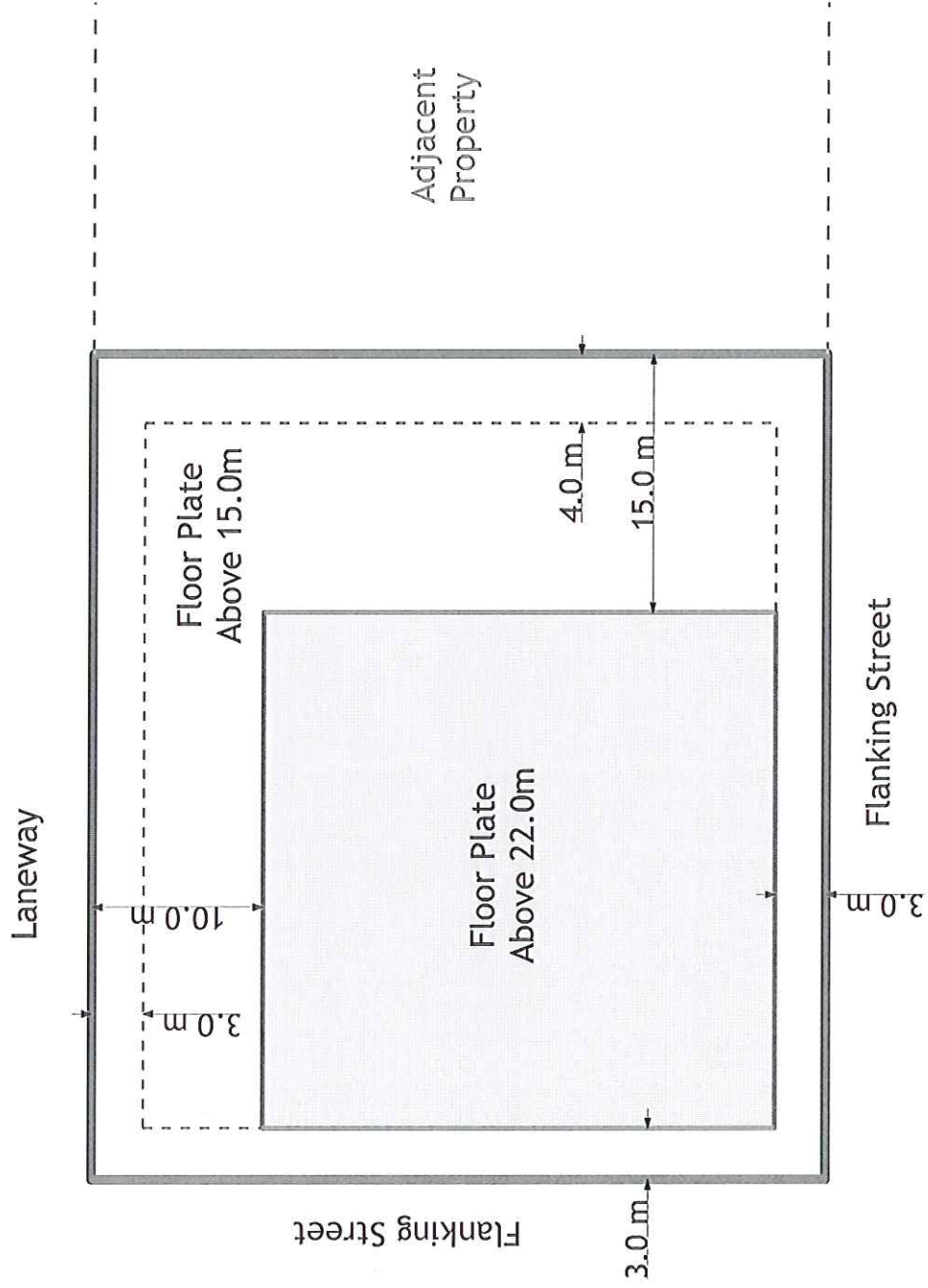
* can have an additional 5% providing all other provisions of bylaw are met.

Illustrative Floor Plan @ 15m



Illustrative Building Section

Proposed Diagram B - (2 of 2)



Building Setbacks Above 15.0m and 22.0m in Height

Schedule 'A' - List of Amendments to Zoning Bylaw No. 8000 (TA11-0009)

Topic	Section	Existing	Proposed
Ground-orientated housing	Amend 14.4.2 (C4 Zone Principal Uses) & 14.7.2 (C7 Zone Principal Uses)	Various uses.	Add "multiple dwelling housing" as a Principal Use.
Tower spacing	Add 14.7.5(l)	n/a	<p>Any portion of a building above 22.0m in height must maintain a minimum setback of:</p> <ul style="list-style-type: none"> • 15.0m from any property line abutting another property line. • 10.0m from any property line abutting a lane. • 30.0m between more than one tower on the same property. <p>The above setbacks will be measured from the nearest exterior building face, exclusive of unenclosed balconies.</p>
Retail at-grade	Replace 14.7.6(d)	<p>Except in Area 2, as shown on C7 - Diagram A and Diagram C, attached to this bylaw, a building incorporating residential and other uses shall provide a functional commercial space on the first floor, which must occupy a minimum of 90% of all street frontages, OR a minimum of 75% on secondary street frontages provided 100% of the principal frontage has a functional commercial space. Access driveways and other portions of the street frontage not used as building will not be considered for the purpose of this calculation.</p>	<p>All buildings along an identified "Retail Corridor", as shown on C7 - Diagram A, attached to this bylaw, shall provide a functional, retail commercial space on the first floor, which must occupy a minimum of 90% of the street frontage.</p>
	Add 14.7.6(f)	n/a	<p>All development within the C7 zone must provide an active commercial or residential use at-grade along all street frontages (e.g. retail, office space, ground-orientated residential units), which must occupy a minimum of 90% of the street frontages, OR a minimum of 75% on secondary street frontages provided 100% of the principal frontage has an active commercial or residential space. Access driveways and other portions of the street frontage not used as building will not be considered for the purpose of this calculation.</p>
Elimination of Parking Requirements for Downtown Heritage Area	Add 14.7.6(g)	n/a	<p>Within Area 3, as shown on C7 - Diagram A, attached to this bylaw, buildings less than or equal to 15.0m in height shall not be required to meet the vehicle parking space requirements of Section 8.1 of this Bylaw. Any buildings greater than 15.0m in height shall fully conform to Section 8.1.</p>

Diagram A	Diagram A for C7 zone	Existing Diagram A of Area 1 and 2.	To be replaced with amended Diagram A.
Diagram B	Diagram B for C7 zone (Illustrative Building Section)	Existing Diagram B.	To be replaced with amended Diagram B.