

THE CORPORATION OF THE  
**CITY OF WHITE ROCK**  
CORPORATE REPORT



**DATE:** March 25, 2024  
**TO:** Mayor and Council  
**FROM:** Anne Berry, Director of Planning and Development Services  
**SUBJECT:** Proposed Zoning Amendment Bylaw to Include Air Space Parcels

---

**RECOMMENDATIONS**

THAT Council:

1. Receive for information the corporate report dated March 25, 2024, from the Director of Planning and Development Services, titled " Proposed Zoning Amendment Bylaw to Include Air Space Parcels;"
  2. Give first, second, and third readings to " White Rock Zoning Bylaw, 2012, No. 2000, Amendment (Air Space) Bylaw, 2024, No. 2499; and
  3. Waive the Public Hearing requirement in accordance with Section 464(2) and 467 of the *Local Government Act* for " White Rock Zoning Bylaw, 2012, No. 2000, Amendment (Air Space) Bylaw, 2024, No. 2499."
- 

**EXECUTIVE SUMMARY**

This report introduces proposed text amendments to the *White Rock Zoning Bylaw, 2012 No. 2000* to facilitate air space parcel subdivisions.

The Zoning Bylaw currently is silent on Air Space Parcel (ASP) subdivisions. In order to modernize the Zoning Bylaw a housekeeping amendment to the Zoning Bylaw is required.

The draft Zoning Bylaw Amendment is included as "Appendix A" to this report.

**INTRODUCTION/BACKGROUND**

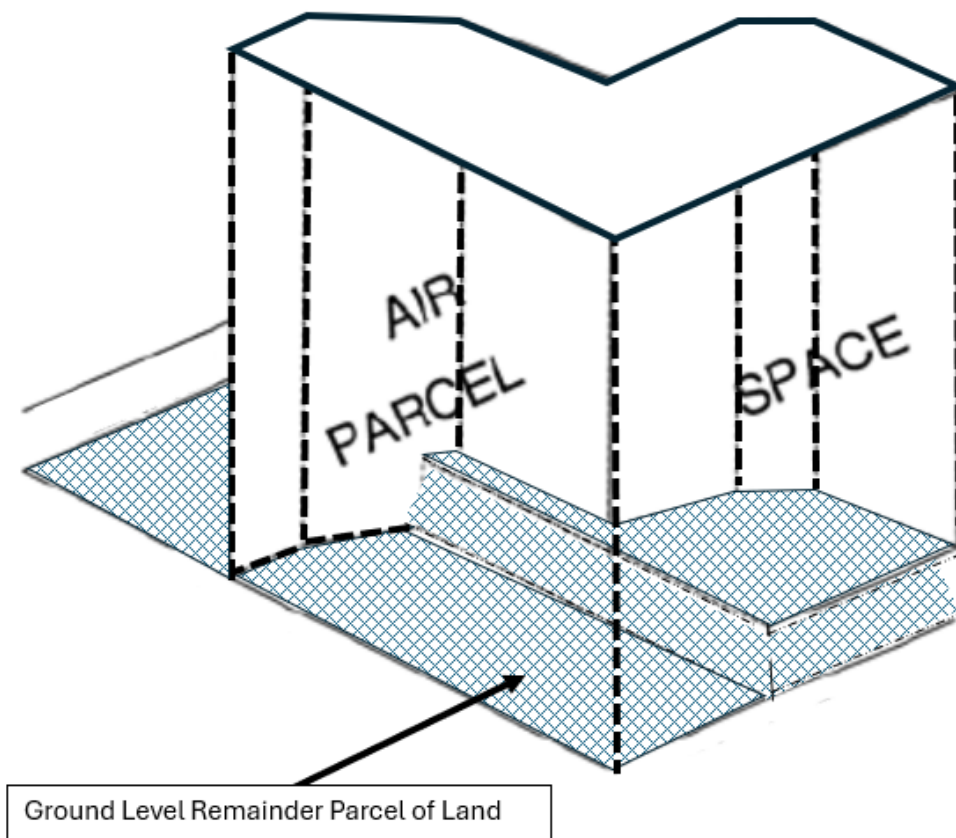
The City has received an application to create an Air Space parcel at 1588 Johnston Road. In reviewing this application against the Zoning Bylaw staff identified an omission of Air Space Parcel subdivision language within the Zoning Bylaw. The City has processed Air Space Parcel subdivisions in the past and it was an oversight that Air Space Parcels had not been included in previous updates to the Zoning Bylaw.

Ownership of land includes not only the physical surface but also the space above and below the surface as necessary for the ordinary use and enjoyment of the land. That space above or below the surface may be subdivided to create an air space parcel. An air space parcel is a 3- dimensional space that exists above or below ground. It is defined in section 138 of the *Land Title Act* as "a volumetric parcel, whether or not occupied in whole or in part by a building or other structure,

shown as such in an air space plan." The air space plan subdivides the air space above or below a parcel of land to create one or more air space parcels.<sup>1</sup>

The Applicant for the property at 1588 Johnston Road, like many other developers, sees the benefit of air space subdivisions. Air space subdivision can create two or more separate legal parcels and uses within the same building.<sup>2</sup> This allows a mixed-use building, for example residential and commercial, to be two separate parcels within one building. Each of these components of the building can create its own strata within the building avoiding some of the difficulties that occur with a mix residential and commercial strata.<sup>3</sup> Although they share the same building, each parcel controls a separate portion of the structure. The separation of the residential and commercial components often makes it easier to apportion costs for those building expenses that are not shared. As well, the owners of the commercial and residential portions of the development are free to occupy, manage and maintain their parcels to the exclusion of each other.<sup>4</sup>

The diagram below provides an example of an air space parcel subdivision. For example, the air space parcel could be residential and the ground level remainder parcel could be the commercial all within one building.



<sup>1</sup> Lindsay Parcels, "Increasing Use of Air Space parcels (To Infinity and Beyond)" (2012) LGMA Edition *Lidstone & Company*, 5 to 8

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid

## **ANALYSIS**

To modernize and provide certainty, as well as consistency for the creation of air space parcel subdivisions the following additions to the Zoning Bylaw Definition Section are proposed:

### **"Lot"**

- Current definition  
"lot" means an area designated as a separate and distinct entity on a legally recorded subdivision plan or description filed under the Land Title Act or Strata Property Act in the Land title Office or surveyed and registered under the Land Act. Distinction is provided for: a "fee-simple lot" which applies to lots created by subdivision under Part 7 of the Land Title Act; a "strata lot" which applies to lots created by subdivision under Part 14 of the Strata Property Act; and, a "lease lot" which applies to a parcel of land created by subdivision under Part 7 of the Land Title Act for the purpose of a lease of more than three (3) years.
- Proposed definition  
"lot" means a parcel of land, air, Crown Land or Lease registered in the Land Title Office but, for the purpose of this Bylaw, if a parcel of land is divided a strata lot in a bare land strata plan but does not include any other strata lots.

### **"Air Space Parcel"**

- Proposed definition  
"Air space parcel" means a volumetric parcel shown on an air space plan, whether or not occupied in whole or in part by a building or other structure.

## **ALTERNATIVES**

The following alternative options are available for Council's consideration:

1. Defer consideration of "White Rock Zoning Bylaw, 2012, No. 2000, Amendment (Air Space) Bylaw, 2024, No. 2499" pending further direction from Council.
2. Deny consideration of "White Rock Zoning Bylaw, 2012, No. 2000, Amendment (Air Space) Bylaw, 2024, No. 2499."

**CONCLUSION**

Air space parcel subdivisions are an integral part of the land development. With this amendment it will provide a seamless correction to existing air space subdivisions and also modernize the Zoning Bylaw to facilitate future air space parcel subdivisions.

Staff recommend the proposed text amendment to the Zoning Bylaw be adopted, to provide a modernized way to facilitate air space parcel subdivisions in White Rock.

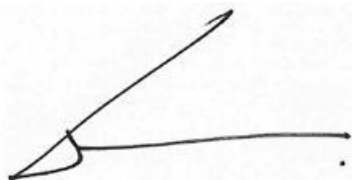
Respectfully submitted,



Anne Berry, MCIP, RPP  
Director, Planning and Development Services

**Comments from the Chief Administrative Officer**

I concur with the recommendations of this corporate report.



Guillermo Ferrero  
Chief Administrative Officer