



Committee of the Whole Report

For the Meeting of April 2, 2020

To: Committee of the Whole **Date:** March 31, 2020

From: Karen Hoes, Director of Sustainable Planning and Community Development

Subject: Development Application Processes – Considerations to Address COVID-19 Pandemic

RECOMMENDATION

That Council direct staff to report back on modifications to development application processes, as detailed in this report, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes.

EXECUTIVE SUMMARY

The purpose of this report is to seek direction from Council on several aspects of the development application review processes to ensure the ongoing construction of housing and to enhance the ability of the development and trades industries to both weather and recover from the COVID-19 pandemic.

Staff have identified a number of features of the development application review process that require modification to ensure the continued smooth processing of applications, while complying with public health orders and meeting the transparency and accountability of land use processes, including:

- the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings
- processes and referrals to advisory committees
- processes related to the requirement for an Opportunity for Public Comment (OPC) that is linked with variance applications
- opportunities to expand delegated authority to staff to deal with minor variances and some subsets of development, particularly in relation to affordable housing
- opportunities to reconsider the requirement for public hearings associated with rezoning applications both in terms of the form they take and when they are required.

This report provides a brief discussion of each of these topics along with a series of recommended or already in-process next steps.

PURPOSE

The purpose of this report is to seek direction from Council on several aspects of the development application review processes, in order to ensure the ongoing construction of housing and to enhance the ability of the development and trades industries to both weather and recover from the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes.

BACKGROUND & ANALYSIS

British Columbia's Provincial Health Officer issued an Order on March 16, 2020 that applies to local governments and, among other things, limits gatherings to a maximum of 50 people. New orders continue to be issued, regarding both the specific functions of local government as well as the pandemic in general. Given these evolving circumstances, staff have considered the development application processes and have provided a discussion, a description of actions that are already in process, and ideas for next steps related to the following topics:

- pre-application requirements for CALUC Community Meetings
- referral to advisory committees
- Opportunity for Public Comment requirement associated with variance applications
- delegated authority
- Public Hearing requirement associated with rezoning applications.

This preliminary report has been prepared with a view to bringing forward more detailed reports on these topics as well as addressing any other matters that emerge as the work is advanced. The list above represents both the sequence that the reports will likely be advanced along with the immediacy that staff anticipate processing challenges to be experienced.

Pre-Application Requirement for CALUC Community Meetings

The *Land Use Procedures Bylaw* requires applicants to arrange and participate in a Community Meeting to be held in association with a Community Association Land Use Committee (CALUC) in advance of an application for an Official Community Plan or Zoning Bylaw Amendment. The bylaw also lays out circumstances in which a CALUC, Director of Sustainable Planning and Community Development, or Council can waive this requirement.

As a result of the public health order that sets limits on the number of people participating at public gatherings and establishes social distancing measures, it is currently not possible for CALUC Community Meetings to occur in person. This creates a situation where staff are not able to accept submission of applications where this step has not been followed or waived by the CALUC. Staff are aware of a number of CALUC Community meetings that have been cancelled because of the order as well as applications underway (including those for rental and affordable housing) which have not yet had a chance to participate in a CALUC Community Meeting.

As part of the pre-application process, these meetings provide an opportunity for developers to meet with community, get input, and potentially improve their applications, so establishing alternative ways to achieve this is desirable. To this end, staff are initiating a focused discussion with the CALUCs and the Urban Development Institute to solicit ideas on alternate forms of engagement that may work to facilitate public and CALUC dialogue with the applicant related to the development application process, and staff will report back to Council on this.

Referral to Advisory Committees

Section 15 of the *Land Use Procedures Bylaw* stipulates that when processing an application, the Director may, but is not required to, refer an application to other agencies or associations, the Technical Review Group (TRG - an interdisciplinary staff review group), advisory committees or other staff members.

As part of the response to COVID-19 advisory committee meetings are currently interrupted and although applications could be referred to advisory committees, such as the Advisory Design Panel (ADP) and the Heritage Advisory Panel (HAPI), the referral would result in an indefinite postponement of the application. Recently, the Minister of Public Safety and Solicitor General issued a new order related to public meetings which will enable new ways for advisory committees to meet and conduct business.

Staff have begun to explore options to resume the work of advisory committees, including the potential to hold electronic meetings, and will report back to Council. Additionally, the report will provide recommendations related to a previous Council direction to refer some delegated applications to advisory bodies. In the past, this step added onto the timeframe required to process applications; however, it may now create a processing barrier.

Opportunity for Public Comment Requirement Associated with Variance Applications

Through its *Land Use Procedures Bylaw*, the City of Victoria provides for an Opportunity for Public Comment (OPC) in association with variance applications, with notice being sent to the adjoining owners and occupiers of property and an opportunity to speak in person at Council. This provision goes beyond the requisites of the *Local Government Act* (LGA), which does not require mailed notification nor OPCs.

Staff are aware of a number of applications for minor variances as well as projects for non-profit affordable housing which may benefit from being advanced without holding an OPC. Staff are therefore recommending a report back that would both examine alternate means of garnering public input as well as reducing the frequency that OPCs are required.

Delegated Authority

Another way of addressing some development application processing challenges, particularly as they relate to variances, is to expand the scope of variance applications that are currently delegated to staff. Like minor parking variances, it is possible to increase the types of variances that staff can review and potentially approve. This may also include some applications that the Board of Variance considers, which could be beneficial as the Board, also subject to the Provincial Health Officer's order, is not presently meeting. Like other topics noted in this report, staff recommend that the possibility of expanded delegated authority be explored and a subsequent report be prepared. Notably, variances cannot authorize increased density or changes to permitted uses.

Public Hearing Requirement Associated with Rezoning Applications

The *Local Government Act* allows for Councils to waive the requirement for Public Hearings in association with rezoning applications if the application is consistent with the Official Community Plan. A decision to waive a public hearing must be made by Council for each application individually.

This would likely be the most significant change that Council could consider making; however, for several affordable housing projects that are either currently at or are nearing the Public Hearing

phase, a report exploring this potential option may be warranted. In association with and as a prerequisite to this type of measure, staff also recommend that alternate means of conducting public hearings and gathering community input, normally heard at Public Hearings, be prepared.

IMPACTS

Accessibility Impact Statement

Modification of various development processes may have impacts on accessibility of the process. Future reports will discuss impacts where warranted, but any process changes will include consideration of opportunities for increasing accessibility options whenever possible.

2019 – 2022 Strategic Plan

The Strategic Plan contains a number of objectives which depend on viable and timely development activity. Therefore, although the proposed recommendation does not have direct Strategic Plan implications, any measures that promote continuation of processing of land use applications are likely to help achieve numerous Strategic Plan objectives, including increased supply of affordable and rental housing as well as maintaining a healthy economy. Future reports will provide more detailed review of alignment of individual proposals with the Strategic Plan.

Impacts to Financial Plan

The City annually receives significant fees in relation to development applications, with fees in 2018 and 2019 both being in the order of one million dollars per year. Therefore, although the recommended option has no direct financial plan implications, a decision affecting viability of continued processing of these applications during the pandemic is likely to affect City's revenues in 2020.

Official Community Plan Consistency Statement

This issue has no specific Official Community Plan implications.

OPTIONS

Option One (staff recommendation)

Direct staff to explore and report back on modifications that can be made to development application processes, while complying with public health orders and meeting the transparency and accountability of land use processes, including:

- pre-application requirements for CALUC Community Meetings
- referral to advisory committees
- Opportunity for Public Comment requirement associated with variance applications
- delegated authority
- Public Hearing requirement associated with rezoning applications.

Option Two

Provide alternate direction to staff on preferred approaches to addressing potential development application processing challenges.

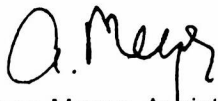
Option Three

Make no changes. This would likely result in development not moving forward, which would have negative consequences with regard to economy and positioning the City for recovery after COVID-19.

CONCLUSIONS

The Order from the Provincial Health Officer on March 16, 2020 has created the need for the City to analyse the potential implications resulting from the COVID-19 pandemic. In order to ensure the ongoing construction of housing and to enhance the ability of the development and trades industries to both weather and recover from the pandemic, staff are recommending that Council direct staff to report back on possible actions to advance modifications to the Development Application Review processes on an interim basis.

Respectfully submitted,

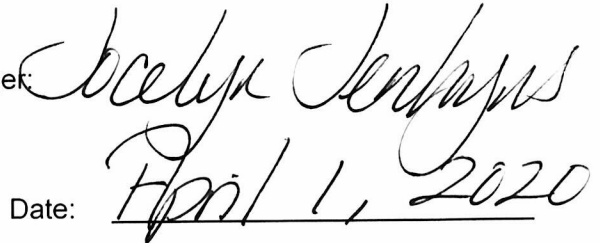


Alison Meyer, Assistant Director
Development Services



Karen Hoese, Director
Sustainable Planning Community Development
Department

Report accepted and recommended by the City Manager:


Date: April 1, 2020

E. LAND USE MATTERS

E.1 Development Application Processes - Considerations to Address COVID-19 Pandemic

Committee received a report dated March 31, 2020 from the Director of Sustainable Planning and Community Development seeking direction from Council on several aspects of the development application review processes to ensure the ongoing construction of housing and to enhance the ability of the development and trades industries to both weather and recover from the COVID-19 pandemic.

Committee discussed the following:

- *Incorporating public comment and Community Association Land Use Committee participation*
- *Accommodating input from the public*
- *Options to follow approved process while maintaining social distance*
- *Participation in Public Hearings and Opportunity for Public Comments*
- *Ongoing conversations with the Province with respect to Public Hearings*
- *Process for staff research moving forward should this motion be adopted*

Moved By Mayor Helps

Seconded By Councillor Alto

That Council direct staff to report back on modifications to development application processes, as detailed in this report, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes.

Amendment:

Moved By Councillor Isitt

Seconded By Mayor Helps

That Council direct staff to report back on modifications to development application processes, as detailed in this report, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes:

- **the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings**
- **processes and referrals to advisory committees**

Amendment to the amendment:

Moved By Mayor Helps

Seconded By Councillor Alto

That Council direct staff to report back on modifications to development application processes, as detailed in this report, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes:

- **the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings**
- **processes and referrals to advisory committees**
- **processes related to the requirement for an Opportunity for Public Comment (OPC) that is linked with variance applications**
- **opportunities to expand delegated authority to staff to deal with minor variances and some subsets of development, particularly in relation to affordable housing**
- **opportunities to reconsider the requirement for public hearings associated with rezoning applications both in terms of the form they take and when they are required.**

Councillor Loveday requested that Council consider the 3 bulleted items in the amendment to the amendment and the 2 bulleted items in the amendment separately.

On the amendment to the amendment:

- **processes related to the requirement for an Opportunity for Public Comment (OPC) that is linked with variance applications**

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Loveday, Councillor Potts, Councillor Thornton-Joe and Councillor Young

OPPOSED (1): Councillor Isitt

CARRIED (7 to 1)

- **opportunities to expand delegated authority to staff to deal with minor variances and some subsets of development, particularly in relation to affordable housing**

FOR (5): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Potts and Councillor Thornton-Joe

OPPOSED (3): Councillor Isitt, Councillor Loveday and Councillor Young

CARRIED (5 to 3)

- **opportunities to reconsider the requirement for public hearings associated with rezoning applications both in terms of the form they take and when they are required.**

FOR (5): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Potts and Councillor Thornton-Joe

OPPOSED (3): Councillor Isitt, Councillor Loveday and Councillor Young

CARRIED (5 to 3)

On the amendment:

- **the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings**

CARRIED UNANIMOUSLY

- **processes and referrals to advisory committees**

FOR (7): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Isitt, Councillor Loveday, Councillor Potts and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (7 to 1)

On the main motion as amended:

That Council direct staff to report back on modifications to development application processes, as detailed in this report, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes:

- the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings
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- opportunities to expand delegated authority to staff to deal with minor variances and some subsets of development, particularly in relation to affordable housing
- opportunities to reconsider the requirement for public hearings associated with rezoning applications both in terms of the form they take and when they are required.

Amendment:

Moved By Mayor Helps

Seconded By Councillor Isitt

That Council direct staff to report back on modifications to development application processes, as detailed in this report **and including consideration of electronic participation of the public**, in order to continue to process applications through

the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes:

- the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings
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CARRIED UNANIMOUSLY

Amendment:

Moved By Mayor Helps

Seconded By Councillor Alto

That this matter be forwarded to the daytime Council meeting.

CARRIED UNANIMOUSLY

On the main motion as amended:

That Council direct staff to report back on modifications to development application processes, as detailed in this report and including consideration of electronic participation of the public, in order to continue to process applications through the COVID-19 pandemic, while complying with public health orders and meeting the transparency and accountability of land use processes:

- the Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications, particularly regarding the pre-submission requirement for CALUC Community Meetings
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- opportunities to reconsider the requirement for public hearings associated with rezoning applications both in terms of the form they take and when they

That this matter be forwarded to the daytime Council meeting.

FOR (6): Mayor Helps, Councillor Alto, Councillor Dubow, Councillor Potts, Councillor Thornton-Joe and Councillor Young

OPPOSED (2): Councillor Isitt and Councillor Loveday

CARRIED (6 to 2)

Motion to extend the meeting:

Moved By Councillor Alto

Seconded By Councillor Young

That the Committee of the Whole meeting be extended to 3:00 p.m.

CARRIED UNANIMOUSLY