



Committee of the Whole Report For the Meeting of January 19, 2023

To: Committee of the Whole **Date:** January 5, 2023

From: Karen Hoesel, Director, Sustainable Planning and Community Development

Subject: **Delegation of Minor Variances associated with Development Variance Permits, Development Permits and Heritage Alteration Permits**

RECOMMENDATION

That Council direct staff to:

1. Seek input from the Urban Development Institute and Community Association Land Use Committees relating to the delegation of minor variances.
2. Prepare draft Land Use Procedures Bylaw amendments to delegate minor variances associated with Development Variance Permits, Development Permits and Heritage Alteration Permits to the Director of Sustainable Planning and Community Development.
3. Bring forward the draft Land Use Procedures Bylaw amendments for Council's consideration along with any feedback received.

EXECUTIVE SUMMARY

The purpose of this report is to seek direction from Council related to delegating minor variances associated with Development Variance Permits, Development Permits, and Heritage Alteration Permits.

The *Local Government Act* enables the delegation of Development Permits and Heritage Alteration Permits, with or without variances and, in late 2021, the province amended the *Act* to also enable local governments to delegate Development Variance Permit approvals to its officers or employees for minor variances. The intent of the recent amendment is to provide options for local governments to shorten timelines associated with development approvals.

Some benefits of expanding the current level of delegated authority to allow staff to deal with additional minor variances include reduced application processing times for applicants, reduced application fees for applicants, fewer items on Committee of the Whole and Council meeting agendas and reduced staff time required to process applications. Ultimately, expanded delegated authority has the potential to advance housing applications through the system more quickly when only minor variances are required. It would also help free up staff resources, allowing staff to spend more time on complex applications that require Council consideration, by streaming a broader range of minor variances out of the Council review process.

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Staff recommend that the City seek input from the Urban Development Institute and the Community Association Land Use Committees and prepare Land Use Procedures Bylaw amendments to delegate certain minor variances associated with Development Variance Permits, Development Permits, and Heritage Alteration Permits to the Director of Sustainable Planning and Community Services and bring forward recommendations for Council's consideration.

PURPOSE

The purpose of this report is to provide Council with information related to recent changes to the *Local Government Act* that enables local governments to delegate certain Development Variance Permit (DVP) approvals and to seek direction related to this change as well as expanding the range of delegated variances associated with Development Permits (DP), and Heritage Alteration Permits (HAP).

BACKGROUND

Local Government Act

The *Local Government Act* enables the delegation of DPs and HAPs, with or without variances, to its officers or employees. In keeping with this legislation, a range of delegated authority has already been established within the City of Victoria. Some examples of Development Permit with Variance (DPV) application types which are eligible for delegated authority when they meet approved design guidelines include: variances to reduce the required number of vehicle parking stalls by five or fewer (if associated with commercial, institutional, or industrial uses), variances to reduce the required number of bicycle parking stalls by six or fewer (if associated with commercial, institutional, or industrial uses), certain variances associated with accessible parking, and variances associated with affordable housing.

On November 25, 2021, Bill 26 – the Municipal Affairs Statutes Amendment Act (No. 2), 2021 was given royal assent, which amended the *Local Government Act* to also allow local governments to delegate DVP approvals for minor variances. The intent is to provide more options for local governments to shorten timelines associated with development approvals.

The scope of the minor variances outlined in the new Bill is limited to:

- siting, size and dimensions of buildings, structures and permitted uses
- off-street parking and loading space requirements
- regulation of signs
- screening and landscaping to mask or separate uses or to preserve, protect, restore and enhance natural environment.

Land Use Procedures Bylaw

The City's *Land Use Procedures Bylaw* (LUPB) defines procedures under which an owner of land may apply for development applications including Official Community Plan amendments, zoning bylaw amendments and various types of permits which may include variances. It also sets application fees, specifies notification distances, and delegates Council's authority to make decisions in certain circumstances.

Application Types: Development Permit with Variances vs Development Variance Permit

DPVs are used in instances when an application is subject to design guidelines contained in one of the City's many Development Permit Areas (DPAs) and a proposal seeks a variance to the City's zoning bylaws, while DVPs are used in instances when no DPA guidelines apply and a Development Permit is not required.

For example,

- Construction of a small lot house in the R1-S2 Zone, Restricted Small Lot (Two Storey) District, that does not meet the setback requirements, would require approval of a DPV and the Small Lot House Design Guidelines would apply.
- Construction of a single-family dwelling in the R1-B Zone, Single Family Dwelling District, that does not meet the setback requirements, would not require a Development Permit (DP) and would therefore require a DVP where no design guidelines would apply.

All DPVs and DVPs that require Council approval are currently placed on a Committee of the Whole agenda and then, under the City's existing practice, require a subsequent Opportunity for Public Comment (i.e., a non-statutory public hearing in accordance with the LUPB) regardless of how minor the variances are that are being proposed.

Current Level of Delegated Authority in relation to Variances

As noted above, under the current LUPB, the only variances that are delegated are DPVs for number of vehicle stalls (limited to five or fewer if related to commercial, institutional, or industrial uses), for number of bicycle stalls (limited to six or fewer if related to commercial, institutional, or industrial uses), for certain variances associated with accessible parking, and for variances associated with residential developments with secured affordability (Rapid Deployment of Affordable Housing (RDAH) initiative).

The scope of the variances initially delegated to staff was intentionally limited as a way to "pilot" the new delegated authority. Although this current level of delegated authority has resulted in few applications (see table below), it has been successful in accelerating their approval processes.

No DVPs are currently delegated to staff under the current LUPB because this was not an option under the legislation prior to recent amendments.

Number of Development Applications

As indicated in Table 1, a total of 240 non-delegated applications with variances (DVP, DPV, HAV) were received over the five-year period from 2017 to 2021 which resulted in an average of 48 applications per year. Of these, many have been associated with a concurrent Rezoning, DP or HAP application and would therefore not currently meet the criteria for delegation. Furthermore, variances that are not considered minor would not be delegated to staff.

Nonetheless, over the past four years, after the delegation of small parking variances associated with commercial, industrial and institutional uses to staff, 14 DDP with variance applications were received.

Table 1: Number of Development Applications by Type and Year

Year	REZ	Non-Delegated Permits without Variances		Non-Delegated Permits with Variances			Delegated Permits with/without Variances		
		DP	HAP	DVP	DPV	HAV	DP	HAP	DPV
2021	40	17	5	14	23	5	106	29	6
2020	28	12	0	16	20	4	115	29	4
2019	40	25	8	11	27	7	145	32	3
2018	49	18	3	19	37	5	127	32	1
2017	44	22	2	19	29	4	126	32	n/a
TOTAL	201	94	18	79	136	25	619	154	14
Average per year	40.2	18.8	3.6	15.8	27.2	5	123.8	30.8	2.8
REZ: Rezoning DP: Development Permit (without variances) HAP: Heritage Alteration Permit (without variances) DVP: Development Variance Permit DPV: Development Permit (with variances) HAV: Heritage Alteration Permit (with variances)									

ISSUES & ANALYSIS

Expanding the current level of delegated authority to deal with minor variances may result in a number of potential benefits related to the development application process including:

- reduced application processing times for applicants
- reduced application fees for applicants
- fewer applications on Committee of the Whole and Council meeting agendas
- reduced resources required to process applications, allowing planners to spend more time on complex applications that require Council consideration
- the potential to advance housing applications through the system more quickly when only minor variances are required.

Currently, non-delegated variance applications require approximately four to six months to process as they must be considered at a Committee of the Whole meeting before an Opportunity for Public Comment when Council considers approving the application at a Council Meeting. In comparison, it is anticipated that delegated variances could be approved in well under two months and sometimes in as little as two weeks if the submission is complete and consistent with the guidelines.

To realize these time-saving benefits, staff recommend investigating the delegation of minor DVPs to the Director of Sustainable Planning and Community Development. It is further recommended that delegation of similar variances when associated with DPs and HAPs, also be explored to further increase the number of files that benefit from streamlined processing.

Although in depth analysis and consultation is required to determine the potential variances and define appropriate parameters and guidelines applicable to variances, the following list, reflecting recent variance applications, offers a sampling of the types of variances that could be suitable candidates for delegation:

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- setbacks and site coverage to accommodate accessibility ramps
- setback for the location of rooftop mechanical screening from the outer edge of a roof
- setbacks to heat pumps and landscaping structures such as pergolas
- projections into setbacks for stairs, ramps, porches, and eaves
- siting and height variances where it can be demonstrated that there is a negligible impact on neighbours or the public realm
- distance from a parking stall to a street
- height clearance for underground parking stalls.

While a disadvantage of this proposal could be seen to be that there would be less public involvement in the variance process, it should be noted that past minor variances such as those noted above, have garnered little or no input from the community. It should also be noted that Council-adopted guidelines would be in place to guide staff review of the delegated permits.

Additionally, staff recommend that the City seek feedback from the Urban Development Institute (UDI) and the Community Association Land Use Committees (CALUCs) to inform the final recommended delegations and guidelines to be included in the bylaw amendment, which offers an avenue for input into the broader proposed change.

OPTIONS & IMPACTS

Option One – Seek Focused Input and Prepare Bylaws to Expand Delegated Authority (Recommendation)

Advantages: Amendments aimed at streamlining processes are advanced while benefiting from targeted feedback.

Disadvantages: Requesting Feedback lengthens the timeframe before Council can consider making the changes

Option Two - Direct staff to Expand Delegation without Seeking Input

Advantages: Changes could potentially be implemented more quickly.

Disadvantages: Community input would not inform the guidelines nor range of variances included in the potential expansion of delegation.

Option Three - Do not Expand Delegated Authority

Advantages: No further staff resources expended on this initiative.

Disadvantages: The vast majority of variances will continue to be referred to Council, extending processing timelines and consuming staff resources.

Accessibility Impact Statement

The proposed scope of work will not impact accessibility.

2019 – 2022 Strategic Plan

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Reducing development application processing times is consistent with the overall goals of the *Strategic Plan*.

Impacts to Financial Plan

The proposed scope of work will not impact the Financial Plan.

Official Community Plan Consistency Statement

Reducing development application processing times may help facilitate an increase in the construction of housing which is consistent with the OCP goals related to housing such as providing all residents with access to appropriate, secure, and affordable housing.

CONCLUSIONS

The recent changes to the *Local Government Act* enabling delegation of DVPs as well as expanding existing delegated approvals associated with DPs and HAPs provides an opportunity for the City to reduce application processing times and use City resources more efficiently. The recommendation, therefore, is to investigate the possibility of increasing the number of delegated applications associated with minor DVPs, DPVs and HAVs, to consult UDI and the CALUCs and to bring forward proposed bylaw amendments, informed by the consultation, for Council's consideration.

Respectfully submitted,

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Report accepted and recommended by the City Manager.