



Planning and Land Use Committee Report

For the Meeting of November 26, 2015

To: Planning and Land Use Committee **Date:** November 16, 2015
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Delegated Authority and Exemptions for Development Permits

RECOMMENDATION

1. Prepare an Official Community Plan (OCP) Amendment Bylaw:
 - a. to exempt buildings and structures with a floor area no greater than 9.2m² (100ft²) from requiring development permits in the following designated areas:
 - i. DPA 4: Town Centres
 - ii. DPA 5: Large Urban Villages
 - iii. DPA 6A: Small Urban Villages
 - iv. DPA 7A: Corridors
 - v. DPA 10A: Rock Bay
 - vi. DPA 13: Core Songhees
 - vii. DPA 14: Cathedral Hill Precinct
 - viii. DPA 15A: Intensive Residential Small Lot
 - ix. DPA 15B: Intensive Residential Panhandle
 - x. DPA 15D: Intensive Residential Duplex
 - xi. DPA 16: General Form and Character;
 - b. to exempt changes to existing landscaping (where the landscaping does not form part of an approved plan) from requiring development permits in the following designated areas:
 - i. DPA 5: Large Urban Villages
 - ii. DPA 6A: Small Urban Villages
 - iii. DPA 7A: Corridors
 - iv. DPA 10A: Rock Bay
 - v. DPA 11: James Bay and Outer Harbour
 - vi. DPA 13: Core Songhees
 - vii. DPA 14: Cathedral Hill Precinct
 - viii. DPA 15A: Intensive Residential Small Lot
 - ix. DPA 15B: Intensive Residential Panhandle Lot
 - x. DPA 15D: Intensive Residential Duplex
 - xi. DPA 16: General Form and Character;

- c. to clarify language in Appendix A of the OCP so it is clear when a permit is not required (an exemption) versus when a permit is required, to improve its user-friendliness.
2. Prepare a Land Use Procedures amendment bylaw to delegate approval authority to staff for the following types of development applications, when consistent with relevant policy:
 - a. new buildings, building additions, structures and equipment in Development Permit Area (DPA) 16: General Form and Character, DPA 10A: Rock Bay, and DPA 10B (HC): Rock Bay Heritage;
 - b. new buildings, building additions, structures and equipment that do not exceed 100m² floor area in:
 - i. DPA 2 (HC): Core Business
 - ii. DPA 3 (HC): Core Mixed-Use Residential
 - iii. DPA 4: Town Centres
 - iv. DPA 5: Large Urban Villages
 - v. DPA 6A: Small Urban Villages
 - vi. DPA 6B (HC): Small Urban Villages Heritage
 - vii. DPA 7A: Corridors
 - viii. DPA 7B (HC): Corridors Heritage
 - ix. DPA 10A: Rock Bay
 - x. DPA 10B (HC): Rock Bay Heritage
 - xi. DPA 11: James Bay and Outer Harbour
 - xii. DPA 12 (HC): Legislative Precinct
 - xiii. DPA 13: Core Songhees
 - xiv. DPA 14: Cathedral Hill Precinct;
 - c. accessory buildings in:
 - i. DPA15A: Intensive Residential Small Lot
 - ii. DPA15B: Intensive Residential Panhandle Lot
 - iii. DPA15D: Intensive Residential Duplex;
 - d. floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour located in the FWM Zone, Fisherman's Wharf Marine District;
 - e. floating buildings, floating building additions and floating structures that do not exceed 100m² in floor area in all DPAs;
 - f. renewals of up to two years for previously approved (unlapsed and unchanged) development permits where there have been no intervening policy changes;
 - g. renewals of up to two years for previously approved (unlapsed and unchanged) Heritage Alteration Permits where there have been no intervening policy changes;
 - h. replacement of exterior materials on existing buildings;
 - i. temporary buildings and structures that do not exceed 100m² in floor area and where removal is secured by a legal agreement limiting permanence to two years;
 - j. temporary construction trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring;
 - k. temporary residential unit sales trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring;
 - l. changes to landscaping where applicable design guidelines exist or where identified within an approved plan.

3. Develop and implement a process to monitor and evaluate the effectiveness and benefits of the proposed delegation authority and report to Council at six months and one year on the effectiveness of the system.

EXECUTIVE SUMMARY

The purpose of this report is to advise Council about the public input received on a proposed initiative to exempt certain forms of development from a development permit and to delegate approval authority to staff for certain types of developments. This initiative was originally considered by the Planning and Land Use Committee on September 10, 2015, at which time Council directed staff to seek public feedback on the proposed recommendations and report back. Staff consulted with the Heritage Advisory Panel, Advisory Design Panel, Community Association Land Use Committees (CALUCs) and the Urban Development Institute. A few comments were received and staff have proposed a limited number of changes to the original recommendations as described in this report. The proposed initiative does not alter or impact the requirements for community consultation on proposed developments as described in the *Land Use Procedures Bylaw*.

PURPOSE

The purpose of this report is to advise Council about the public input that has been received on the initiative to consider delegated authority and exemptions for certain types of development permits and to recommend next steps.

BACKGROUND

At the Council meeting of September 10, 2015:

It was moved by Councillor Alto, seconded by Councillor Madoff, that Council refer the Delegated Authority and Exemptions for Development Permits report to the Heritage Advisory Panel, Advisory Design Panel, Community Association Land Use Committees (CALUCs), and the Urban Development Institute, inviting comment on the report and recommendations by October 30th and that staff report back to Planning and Land Use Committee in November on input received and any proposed adjustments to the recommendations.

Carried Unanimously

Following this direction, staff referred this proposed initiative to the Community Association Land Use Committees (CALUC), the Heritage Advisory Panel, the Advisory Design Panel and the Urban Development Institute (UDI). At the close of the October 30, 2015, comment period, minutes were received by both Panels, the James Bay Neighbourhood Association, the Rockland Land Use Committee and the UDI. A compilation of all of the comments received is included as Attachment 1.

ISSUES & ANALYSIS

Staff have reviewed all comments that were received and propose a number of changes to the original recommendations as described below. In addition, staff have identified the rationale for those comments where no further change is proposed by staff. It should also be noted that the proposed delegated authority initiative does not alter the existing review process for Development Permit Applications. The only change is that, for a limited range of development permits without

variances, the final decision point will be shifted from Council to staff. All other development permits not identified in this report and those with variances will continue to require consideration by Council. This proposed initiative also retains the existing referral process with communities as described in the CALUC Terms of Reference, as well as referrals to the Advisory Design Panel and the Heritage Advisory Panel based on the existing Terms of Reference for these Council-appointed committees.

1. Proposed changes based on comments received (Delegated Authority)

a. Temporary Buildings and Structures (Time limitation)

- In consideration of comments from the Rockland Neighbourhood Association, it is proposed that the time limitation for temporary buildings and structures be reduced from five years to two years. A two year time limit aligns with the typical time limit for development permits and better supports the intent of these structures as being temporary.

b. Temporary Construction and Residential Sales Trailers on Private Property (Time limitation)

- In consideration of comments from the Rockland Neighbourhood Association, it is proposed that staff will continue to require a legal agreement (Covenant) to ensure the removal of temporary construction and temporary residential sales trailers from private property within six months of receiving an occupancy permit (project completion) or within six months of a building permit expiring. Additional conditions may also be included within the legal agreement based on the complexity of the project as identified through the Development Permit Application. It is also important to note that while the development permit is proposed to be delegated to staff, the Covenant will continue to require consideration and approval from Council.

c. Communication of Delegated Applications

- In consideration of comments from the Heritage Advisory Panel and the James Bay Neighbourhood Association, staff propose to provide Council with a monthly summary of all delegated development permits that have been received as well as approved. This summary may also identify those applications that have been referred to Council, Advisory Design Panel and Heritage Advisory Panel. These monthly summaries can also be made available to the general public through the City of Victoria website. In addition, the City of Victoria will continue to identify all active Rezoning Applications and Development Permit Applications through VicMap which is publicly accessible through the City of Victoria website. VicMap identifies the application type, permit number, municipal address, date received and a general description of each project/application.

2. Response to other comments

a. Referrals to Heritage Advisory Panel

The Heritage Advisory Panel has suggested that Council direct staff to seek guidance from the Panel on matters affecting the heritage values of the City regardless of the area and/or nature of the application.

- Staff do not recommend any changes to the recommendations described in this report, however as part of the administrative process, staff recommend that all development permit applications that involve buildings with potential heritage value as well as those immediately adjacent to a heritage property would be referred to the Heritage Advisory Panel for review and comments.

b. Creation of Statements of Significance for all Heritage Conservation Areas DPA (HC)

The Heritage Advisory Panel has suggested that Council direct staff to create Statements of Significance for all Heritage Conservation Areas to ensure that staff know what values are to be protected in these areas.

- Staff do not recommend any changes to the proposed recommendations as the comment provided does not have a direct impact on the proposed initiative. However, the development of Statements of Significance for historic areas or districts is specifically supported through policy in the OCP. Therefore, staff recommend that this initiative will be explored through the upcoming process to update the Sustainable Planning and Community Development work program.

c. Increase floor area for exempted small scale buildings and structure

The Advisory Design Panel has suggested that the maximum floor area for small-scale buildings and structures that are proposed to be exempted from a development permit be increased from 9.2m² (100 ft²) to 20m² (215 ft²).

- Staff do not recommend any changes as the proposed maximum floor area of 9.2m² is intended to accommodate smaller-scale and common structures such as garden or storage sheds which typically do not have an impact on the surrounding area. The proposed increase in floor area may, in fact, result in greater impacts on adjacent properties.

d. Concern for visual appearance of small scale buildings and structures from the Public Right-of-Way

The Advisory Design Panel has suggested small-scale buildings and structures that are visible from the public Right-of-Way should not be exempted from a development permit.

- Staff do not recommend any changes to the proposed conditions for exempted small-scale buildings and structures because they are subject to the *Zoning Regulation Bylaw* requirements for accessory buildings which do not permit accessory buildings in the front yard of a property. In addition, the proposed maximum 9.2m² floor area is also meant to ensure that these buildings and structures are small scale and limit their potential impact and visual presence from the public realm.

e. Concern for cumulative development of small scale buildings and structures

The Advisory Design Panel has suggested that any subsequent small-scale building or structure should not be exempted within five years of a previous small-scale building or structure being developed.

- Staff do not recommend any changes to the proposed conditions for exempted small-scale buildings and structures because they are subject to the *Zoning Regulation*

Bylaw which has specific regulations for the placement and development of accessory buildings. The *Zoning Regulation Bylaw* also restricts the overall area of a parcel that can be covered by buildings or structures.

- f. Concern for delegated authority for new buildings, building additions and structures that do not exceed 100m² within DPA 7A: Corridors

The Rockland Neighbourhood Association has suggested that 100m² is too large. A more suitable reference might be 37m² (400 ft²) maximum total floor area of a garden suite. This would align with discussion on the future rezoning requirements on garden suites.

- Staff do not recommend any changes to the proposed conditions for delegated authority as the delegated authority will continue to ensure that all development permits are reviewed against the various design guidelines contained within the *Official Community Plan* for DPA 7A: Corridor.

- g. Concern that the residents of James Bay will be denied the opportunity to review developments on most commercial/industrial lands.

The James Bay Neighbourhood Association has expressed concern that the proposed initiative will limit their ability to review development applications and provide comments.

- Staff do not recommend any changes to the proposed conditions for delegated authority as the proposed initiative will continue to respect and adhere to the referral process with the CALUCs as described in the *Land Use Procedures Bylaw*. In addition, the proposed delegated authority only applies to development permits without variances, which do not require consultation with communities. Any development permit with a variance or a Rezoning Application would continue to require community consultation as well as consideration by Council.

- h. Concern that the proposed initiative will undermine the existing Memorandum of Understanding (MOU) between the James Bay Neighbourhood Association and the Greater Victoria Harbour Authority.

The James Bay Neighbourhood Association has expressed concern that the proposed initiative will undermine the terms and conditions of the MOU between the JBNA and the GVHA which was signed on October 3, 2013.

- The terms and conditions of the MOU remain unchanged and ensuring adherence to the MOU is a matter between the James Bay Neighbourhood Association and the Greater Victoria Harbour Authority. However, staff would continue to encourage the GVHA to consult with the JBNA as outlined in the MOU.

- i. Concern over the delegated authority for new buildings, building additions, structures and equipment that are less than 100m² within in DPA 11: James Bay and Outer Harbour.

The James Bay Neighbourhood Association has expressed concern that the proposed delegated authority described above is not appropriate on water lots as these developments may have significant impacts on nearby residents and businesses.

- Staff do not recommend any changes to the proposed conditions for delegated authority as all development permits within DPA 11, will continue to be reviewed against the design guidelines that are specifically identified in the OCP for DPA 11: James Bay and Outer Harbour. The proposed delegated authority only applies to development permits without variances, which do not require consultation with the communities. In addition, all other development permits not identified in this report and any development permit with a variance or a Rezoning Application will continue to require consideration by Council.

3. Proposed Delegation Process

Should Council delegate authority to staff to approve the types of development permits and heritage alteration permits outlined in this report, the following administrative process would be followed:

a. Staff Review of Application

When an application for a Development Permit or Heritage Alteration Permit is received at the City, staff create the file and circulate the plans across departments for a technical review of zoning; off-street parking and impacts to public Rights-of-Way (Engineering); landscaping and impacts to street trees (Parks), and life-safety considerations (Fire Department and Building Inspection). While this is occurring, the file manager (Planner) evaluates the Application for consistency with planning policy and any design guidelines stipulated within the *Official Community Plan*. Staff undertaking these reviews then come together at a meeting of the "Technical Review Group" (TRG) to collectively discuss the Application, determine if referral to Council's advisory panels is recommended and identify any issues. A summary of this review is subsequently sent to the applicant clearly identifying any outstanding issues that need to be resolved prior to advisory panel reviews or prior to a decision being made.

b. Applicant Response to Outstanding Issues

This step may not be required if there are no issues with the Application in relation to the review of the initial submission. If issues are identified as part of the TRG process, the applicant would undertake revisions to address the issues and resubmit updated plans.

c. Staff Review of Revised Plans

When revised plans or additional project information is submitted to the City, further staff review is required. This process would continue until staff are satisfied that the issues have been addressed.

d. Advisory Design Panel and Heritage Advisory Panel Reviews

Delegated development permits would be referred to the Advisory Design Panel, the Heritage Advisory Panel or a joint meeting of both Panels, depending on the nature of the proposal or the type of Development Permit Area or Heritage Conservation Area the property lies within. The following general guidance would be applied in determining referrals:

- New buildings, building additions, structures and equipment in excess of 100m² and located in Development Permit Area (DPA) 16: General Form and Character and DPA 10A: Rock Bay would be referred to the Advisory Design Panel.

- All new buildings, building additions, structures and equipment in excess of 100m² in DPA 10B (HC): Rock Bay Heritage would be referred to a joint meeting of the Advisory Design Panel and Heritage Advisory Panel.
- All development permit applications that involve buildings with potential heritage value as well as those immediately adjacent to a heritage property would be referred to the Heritage Advisory Panel for review and comments.

*Note: Heritage Alteration Permits for buildings with Heritage Designation or listed on the City's Heritage Register in this Heritage Conservation Area would not be delegated to staff and those would continue to be considered by the full Heritage Advisory Panel prior to Council consideration.

e. Applicant Design Revisions

If the advisory panels recommend design revisions, staff would work with the applicant to provide additional advice and guidance on how to address the Panel comments, and would review any design changes.

f. Staff Decision

When it is determined by staff that the application is acceptable and should be approved, a decision letter would be prepared, clearly outlining the rationale for the decision, based on relevant City policy and design guidelines.

If staff determines that the application cannot be supported, it would be referred to Council for a decision. The applicant would be advised of this and staff would prepare a report for consideration by Council's Planning and Land Use Committee.

g. Posting to City Website

City staff will maintain a monthly list of active and approved Development Permit Applications delegated to staff on the City's website. Staff also propose to provide a monthly summary of the delegated authority development permits to Council.

OPTIONS & IMPACTS

The options that were presented in the attached Planning and Land Use Committee report dated August 27, 2015, remain available to Council. These are summarized as follows, with more detailed rationale provided in the attached report:

1. Development Permit Exemptions:

- a. Option 1: Prepare an OCP amendment bylaw to permit the development permit exemptions outlined in this report and report back to Council in early 2016 (**recommended**).
- b. Option 2: Instead of exempting these items, delegate approval authority to staff to retain some design control.
- c. Option 3: Maintain status quo.

2. Development Permit Delegated Authority:

- a. Option 1: Prepare a Land Use Procedures amendment bylaw to delegate authority as outlined in this report and develop a system to monitor and evaluate the effectiveness and benefits of this approach and report back to Council in early 2016 (**recommended**).
- b. Option 2: Direct staff to discontinue work on this topic by deciding to not implement a system of delegated authority.

There are no additional impacts for consideration beyond those identified in the attached Planning and Land Use Committee report dated August 27, 2015. Please refer to the attached report which also identifies consistency with the *City of Victoria Strategic Plan, 2015-2018* and the *Official Community Plan*.

CONCLUSIONS

The proposed recommendations contained in this report reflect some of the public feedback received to date. These proposed development permit exemptions and delegation authority are positive initiatives that will streamline and expedite process for applicants, Council and staff. This initiative does not alter or impact the established community consultation requirements for development as described in the CALUC Terms of Reference.

Respectfully submitted,



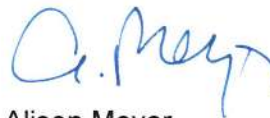
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Report accepted and recommended by the City Manager:



Date: November 19, 2015

List of Attachments

- Attachment 1: Summary of Public Feedback
- Attachment 2: Council minutes dated September 10, 2015
- Attachment 3: Planning and Land Use Committee Report dated August 27, 2015.