



Governance and Priorities Committee Report

Date: November 8, 2013 **From:** Jim Handy, Development Agreement Facilitator
Subject: Delegation of Development Permit and Heritage Alteration Permit Applications

Executive Summary

The purpose of this report is to provide Council with information, analysis and recommendations in response to a Council motion directing staff to outline a detailed approval process, staff resources and application processing timelines associated with an option for delegating the authority to staff to approve Development Permits (DPs) and Heritage Alteration Permits (HAPs).

On June 21, 2012, a report was presented to the Governance and Priorities Committee (GPC) whereby staff had explored several options for Council's consideration in terms of delegating approval authority for DPs and HAPs. The GPC requested that staff further investigate Delegation Option #5 which involved the delegation of all DPs and HAPs, including those proposing a variance, with certain exclusions. An analysis of possible exclusion options was also requested in addition to information regarding applications that had previously come before Council but would not come before Council under Delegation Option #5. Council endorsed this motion on June 28, 2012.

This report responds to the issues raised in the Council motion and also discusses the following:

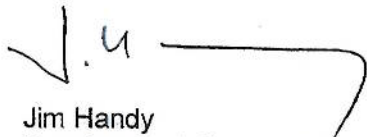
- community involvement in the delegated process
- a plan to implement the delegated process.

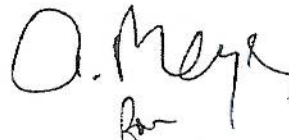
Recommendation

1. That Council identify the following Delegation Option as the preferred option:
 - (a) Continue to delegate the following applications to the Director of Sustainable Planning and Community Development:
 - i) Minor Development Permit and Minor Heritage Alteration Permit applications,
 - ii) Development Permit applications for development in Development Permit Area 8, Victoria Arm – Gorge Waterway, and
 - iii) Development Permit applications and Heritage Alteration Permit applications for a single family dwelling or duplex;

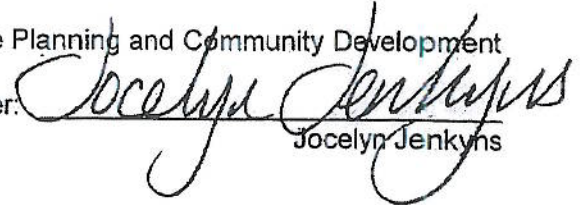
- (b) Delegate the decisions on all Development Permit applications and Heritage Alteration Permit applications, with or without variances, to the Director of Sustainable Planning and Community Development, with the exception of:
 - i) applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas (as defined in the *Official Community Plan*) that:
 - propose a variance
 - propose a new building exceeding 100 m² floor space
 - propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater
 - propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register,
 - ii) Any applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the *Zoning Regulation Bylaw*,
 - iii) Any applications which require Council approval of a bylaw not associated with:
 - a Housing Agreement
 - a Heritage Designation
 - a Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property,
 - iv) Any applications that would propose an amendment to or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a bylaw and where the City of Victoria is party to that agreement;
 - (c) Delegate the first application for the renewal of any Development Permit or Heritage Alteration Permit that has not yet lapsed to the Director of Sustainable Planning and Community Development, where:
 - i) the proposed plans are not substantially different from the previously approved plans and do not, in the opinion of the Director of Sustainable Planning and Community Development, significantly affect the integrity of the building design or the form and character of the development on the lands,
 - ii) there has been no substantive change to the City policy and/or regulations that are applicable to the development proposed by the Development Permit or Heritage Alteration Permit;
 - (d) The Director of Sustainable Planning and Community Development may, at his/her discretion, refer any delegated application to Council for consideration.
2. That Council instruct staff to consult the public and industry consistent with the proposed engagement process in relation to the preferred delegation option and report back to Council on the results.

Respectfully submitted,


Jim Handy
Development Agreement
Facilitator


for
Deb Day
Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:


Jocelyn Jenkyns

JH:aw

1.0 Purpose

The purpose of this report is to provide Council with information, analysis and recommendations in response to a Council motion directing staff to outline a detailed approval process, staff resources and application processing timelines associated with an option for delegating the authority to staff to approve Development Permits (DPs) and Heritage Alteration Permits (HAPs).

Council also requested an analysis of possible exclusion options from delegated authority and information regarding applications that had previously come before Council but would not come before Council under Delegation Option #5 (Delegation with Variances and Exclusions).

2.0 Background

The proposed *Official Community Plan* (OCP) was presented to the Governance and Priorities Committee (GPC) on April 5, 2012. As part of the discussions relating to the proposed OCP, it was recognized that a new City-wide Development Permit Area (DPA 16) was proposed and that development proposals within this area would require a DP and be subject to the current established DP application process.

As a result of this discussion, the GPC expressed a desire to more generally explore methods that would expedite the current processes for DPs and HAPs in all Development Permit Areas and, as a result, the following motion was approved:

"Be It Resolved that Council direct staff to investigate the feasibility of delegating authority to staff to issue development permits and heritage alteration permits in order to streamline and accelerate the development permit and heritage alteration permit application processes and to prepare a report for Council's consideration outlining a range of delegation options."

On June 21, 2012, the GPC considered a report (attached as Appendix 4) which explored several options in terms of delegating approval authority. These options can be summarized as follows:

- Option # 1 – No Delegation
- Option # 2 – Maintain Status Quo
- Option # 3 – Delegation (No Variances and Exclusions)
- Option # 4 – Delegation (No Variances)
- Option # 5 – Delegation (With Variances and Exclusions)
- Option # 6 – Full Delegation.

The GPC recommended that Council select Option #5: Delegation (with Variances and Exclusions) as the preferred Option for delegating DP and HAP approval authority and directed staff to:

1. Report back outlining a detailed approval process, staff resources and application processing timelines; and
2. Report back with information regarding applications that had come before Committee and which applications would not come before Committee under Option #5, including with exclusion options.

Council endorsed this motion at its meeting on June 28, 2012.

2.1 Relevant Provincial Legislation

Where development is proposed on a property located within a designated Development Permit Area and that development is not specifically exempted in the OCP, a DP is required. If the proposal results in a variance or variances to the *Zoning Regulation Bylaw* (that does not relate to land use or density) then the application is considered as a DP with variance(s).

Where a development is proposed which does not require a DP (for example a single family dwelling in Development Permit Area 16: General Form and Character) but would result in a variance or variances to the *Zoning Regulation Bylaw* then a Development Variance Permit (DVP) application is required.

When reviewing a DP application, matters such as the form and character of the development, building appearance and landscaping are considered whereas, when determining a DVP, only the matter of a variance from the *Zoning Regulation Bylaw* is under consideration.

Section 154 of the *Community Charter* and Section 920 of the *Local Government Act* enable Council to delegate its authority to approve DPs and HAPs. This delegated approval authority includes the authority to approve DPs and HAPs with variances. However, the *Local Government Act*, in Section 922 (8), is clear that Council cannot delegate the authority to approve DVPs:

"As a restriction on section 176 (1) (e) [corporate powers - delegation] of this Act and section 154 [delegation of council authority] of the Community Charter, a local government may not delegate the issuance of a development variance permit."

The reason for this is that DPs are governed by previously approved Council policy in the form of the OCP, Neighbourhood Plans and adopted design guidelines. As such, any delegated authority must be exercised within the limits of the established guidelines that have been approved by Council. There are no previously approved guidelines in the context of DVPs and Council must make these decisions on a case by case basis.

While the Director of Sustainable Planning and Community Development would have authority to decline a DP application or HAP application under delegated authority, the *Local Government Act*, in Section 920 (12), entitles the owner of the land subject to a DP decision to have Council reconsider the matter. Therefore, in the event staff decide that a DP application is not supportable, a Decision Letter would be issued outlining the rationale for this decision. Following the issuance of this letter, an applicant would have to apply to the City to have Council reconsider the application within a specified timeline. For clarification, this right of appeal is solely limited to the owner of the land subject to that decision, or an agent authorized to act on behalf of the owner, in the event that the Director of Sustainable Planning and Community Development declines a DP application under delegated powers.

Under this appeal process, staff would prepare a brief report to Council attaching the decision letter, the appeal request from the property owner or their agent and any comments received as part of any community consultation. There is no legal requirement to hold a Public Hearing in association with this appeal process.

The *Local Government Act* does not give the same reconsideration provisions to HAPs and, therefore, staff would have outright authority to decline applications where, in the opinion of staff, the proposal would not be consistent with the purpose of the heritage protection of the property. However, under the *Community Charter*, "a council may establish any terms and conditions it considers appropriate" when delegating its powers to "an officer or employee of the municipality" and, as such, Council may consider applying similar reconsideration procedures to both HAPs and DPs.

Where a DP or HAP proposes a variance, any part of the *Zoning Regulation Bylaw* can be varied with the exception of land use and density. For land use and density changes, a Rezoning application would be required. This would require Council review and a Public Hearing. Section 154 (2) (a) of the *Community Charter* states that a Council may not delegate the making of a bylaw and, therefore, staff cannot be delegated the authority to approve Rezoning applications.

It should be noted that, given the aforementioned clause in the *Community Charter*, in the event that a development proposal associated with a DP and/or HAP requires the making of a bylaw (e.g. in association with a Housing Agreement), the bylaw itself must be approved by Council. Given this legal requirement, staff recommend that where an application meets the criteria for delegated authority and requires the making of a commonly used standard bylaw, such as a Housing Agreement, Heritage Designation or Heritage Revitalization Agreement (HRA), then the decision to approve the application will continue to be delegated but the bylaw will be referred to Council for approval. Where any other bylaw is required or a HRA proposes a variance to the *Zoning Regulation Bylaw* affecting land use or density, then both the application and the bylaw would be referred to Council for approval. However, should Council decide that the consideration of the application and the associated bylaw should not be separated then an alternative option is provided in section 3.4.3 of this report.

In light of the above, delegated options are limited to the consideration of DPs and HAPs, including those that propose a variance.

2.2 Land Use Procedures Bylaw

The City's *Land Use Procedures Bylaw* outlines procedures for determining applications relating to land use (Rezoning applications, DPs, DVPs, HAPs etc.), public meetings, sign posting, details of application fees and refunds and, amongst other items, the authority of staff to make delegated decisions. The delegation of authority is currently limited to:

- applications made for a DP or HAP for a single family dwelling or duplex or any class of development identified by Council
- when an application is made for a DP for a development in Development Permit Area 29, Victoria Arm – Gorge Waterway, under the OCP
- minor amendments to Council-approved DP and HAPs.

It should be noted that Development Permit Area 29 is now referred to as Development Permit Area 8, Victoria Arm – Gorge Waterway in the new OCP and the *Land Use Procedures Bylaw* will be updated to reflect this.

The retention of this delegated authority is reflected in the staff recommendation. Amendments to this bylaw would be required if Council decides to pursue the option of delegating additional decision-making powers to staff.

2.3 Current Process

A summary of the City's current DP application and HAP application processes are attached as Appendix 1 with an associated flowchart. The process time frame can only be approximated as it can vary greatly depending on the complexity of an application, whether or not the project involves variances or how quickly the applicant responds to staff suggestions and requests for information.

3.0 Council's Preferred Delegated Option (Option 5 – Delegation with Variances and Exclusions)

3.1 Analysis and Exclusions

To support the analytical component of this work, staff reviewed all DP and HAP applications submitted from January 2009 until July 2012. The following data was collected from those files where available:

- file reference number
- address
- description of proposal
- the neighbourhood area applicable to the application site
- the Urban Place Designation (as defined in the new OCP) as applicable to the application site
- whether a variance was approved by Council
- the degree of variance (measured by percentage) from the *Zoning Regulation Bylaw* standard
- proposed Floor Space Ratio (FSR)
- proposed number of residential units (approved)
- proposed floor area
- the staff recommendation
- the Council decision.

As they did not represent a complete data set, information was not collected from applications which, at the time of data collection, had not been considered by Council (this included applications under review, applications reviewed or withdrawn and those converted to Minor DPs). At the time the statistics were collected, the new OCP had not yet been adopted and, as such, DVPs that would now fall under Development Permit Area 16 and would now be required to be considered as DPs with Variances, were not assessed. Furthermore, DPs issued as part of proposals relating to a small lot rezoning were not assessed as they do not generate a specific DP file reference.

On the basis of the available data, the following key points were identified:

- 114 DPs and HAPs were considered by Council

- more than half of all HAPs considered related to addresses in the Downtown neighbourhood area; the majority of these were situated within the Core Historic Urban Place Designation as defined in the new OCP
- almost half of all DP and HAP applications related to addresses in just two neighbourhoods; the largest share of applications (32%) were situated within the Downtown neighbourhood area, followed by the Fairfield neighbourhood (16%)
- 39% of all DPs and HAPs considered by Council proposed a variance from the *Zoning Regulation Bylaw* (conversely 61% of all applications analyzed did not propose a variance)
- 72% of all variances allowed were related to parking and setbacks; half of these allowed a variance that was 50% or greater from the requirements outlined in the applicable section of the *Zoning Regulation Bylaw*
- In terms of decision-making;
 - Council moved the staff recommendation, without amendments, on 96 occasions
 - the staff recommendation was amended (but the decision to approve or decline was consistent with the recommendation) on 11 occasions
 - Council reversed the staff recommendation to decline an application on 6 occasions
 - Council reversed the staff recommendation to approve an application on 1 occasion.

Further detailed information relating to this data is attached as Appendix 2 to this report.

3.2 Possible Exclusions from Delegated Authority

Council requested that staff investigate a delegation option where authority would be given to staff to determine all DP and HAP files, including those proposing a variance, with the exception of applications meeting certain criteria which would then be excluded. Applications which were "excluded" from Delegated Authority would be referred to Council for decision. There are several criteria that could be used to identify possible exclusions. These could include:

- specific variance types (i.e. building height, setbacks, etc.)
- variances which exceed a specified threshold (i.e. a 10% variance from the *Zoning Regulation Bylaw* standard)
- geographic areas (i.e. Old Town, Inner Harbour, etc.)
- developments based on scale (i.e. number of residential units, floor area, height, etc.)
- specific uses (i.e. those that may be deemed to be potentially more sensitive in nature)
- Heritage-Designated buildings or buildings listed on the Heritage Register
- DP and HAP renewals
- DP and HAP applications that propose an amendment to, or the discharge of, an existing Master Development Agreement (MDA), Section 219 Covenant or other legal agreement.

Some of the above exclusion options may not be appropriate for the reasons outlined below.

3.2.1 Exclusion of Developments from Delegated Authority based on Scale Alone

It is considered that scale alone is not always a good indicator of planning sensitivity. For example, a building which is 10 storeys tall may or may not be considered tall subject to its context. Such a building may be proposed in a zone which allows for a significantly taller building and may be within an area characterized by taller buildings. The same issue could apply when considering floor space ratio.

The number of residential units is also not considered to be a good indication of scale. For example, as a result of a smaller footprint, 20 bachelor studios could potentially be situated in a similar sized or smaller building than 10 two or three-bedroom apartments.

Staff considered that scale, in terms of height and massing and the degree of variance proposed from the *Zoning Regulation Bylaw*, would be more effective in terms of assessing planning sensitivities. The rationale for this is outlined in Section 3.3.3 of this report.

3.2.2 Exclusion of Specific Uses from Delegated Authority

Staff do not think it is appropriate to exclude specific uses from delegated authority based on potential sensitivity. A use which may appear less sensitive, such as a residential dwelling, may generate a great degree of local concern, whereas more traditionally sensitive operations may not raise significant levels of concern within a specific context (i.e. within a non-residential context). Furthermore, land use is not a DP consideration and, hence, if the *Zoning Regulation Bylaw* permits a specific use, the appropriateness of that use is not in question at the DP stage.

3.2.3 Exclusion of Heritage-Designated Buildings or Buildings Listed on the Heritage Register

Several of the HAPs approved by Council since the beginning of 2009 proposed relatively minor building renovations (for example, storefront repairs, replacement windows, etc.). As these may be projects that can have a positive impact, in terms of the longevity of heritage resources in the City, it may be beneficial to expedite these applications if possible.

3.3 Proposed Exclusions from Delegated Authority and Rationale

Staff have identified a rationale for four exclusion criteria that could be implemented and these are:

- geographic exclusion from delegated authority (with delegation of specific DPs and HAPs that are relatively minor in nature)
- exclusion of variances from delegated authority to allow Council to consider potential building height and massing impacts
- renewal of DPs and HAPs that have not lapsed where the plans do not significantly differ from those previously approved.
- DP and HAP applications that propose an amendment to, or the discharge of legal agreements.

3.3.1 Rationale for Delegated Authority with Geographic Exclusions

The Downtown neighbourhood of Victoria makes up the heart of the region's Metropolitan Core and functions as the regional centre for business, employment, culture, entertainment and tourism. The Downtown consists primarily of three Urban Place Designations as identified in the OCP, including Core Historic, Core Inner Harbour/Legislative District and Core Business. These areas are identified in the map attached as Appendix 5.

The Core Inner Harbour/Legislative District is recognized both locally and internationally for its picturesque quality, vitality and character. Its waterfront setting attracts tourists, visitors, workers and residents year round and is noted as a world class Gateway.

The Core Historic area, as defined by the OCP, forms the primary hub for retail, entertainment and tourism within the City. The concentration of rehabilitated heritage buildings and attractive streetscapes also serves to attract other uses and activities, including offices, hotels, restaurants, personal service businesses, arts and culture.

For the reasons outlined above, these areas are arguably the most sensitive, from a planning perspective, within the City and, therefore, it is considered that DP applications and HAP applications in these areas should continue to be dealt with by Council.

While the sensitivities of the Core Business area are also recognized, this area is not necessarily characterized by the same level of sensitivities as the Core Inner Harbour/Legislative and Core Historic Districts. This is the main employment area not just for Victoria but for the region as a whole and it could be argued that streamlined decision-making could support economic development in the Downtown. While it is recommended that applications within the Core Business Urban Place Designation be delegated to staff, Council may wish to give consideration to excluding certain applications within the Core Business area from delegated authority. This could include proposals which affect Heritage-Designated buildings or buildings listed on the Heritage Register. Option 2 reflects this possibility.

3.3.2 Rationale for Delegation within the Geographic Exclusion Areas

The data collected indicates that 58% of the DP applications and HAP applications in the Core Inner Harbour/Legislative and Core Historic Districts that have been submitted to and considered by Council between January 2009 and July 2012, have had one or more of the following characteristics:

- no additional floor space was proposed
- the work related to restoration works associated with the re-use of a building
- the work proposed alterations to heritage buildings that were minor in scope
- where a new building was proposed, the associated floor space was approximately 100 m² or less
- where a building addition was proposed, the associated floor space was less than 100 m².

Of these, 60% did not propose a variance and the applications were predominantly HAPs.

Whilst the unique sensitivities of the Core Inner Harbour/Legislative and Core Historic Districts are recognized, it could be argued that streamlining applications for development that is

relatively minor in its scope and does not propose a variance could be beneficial to business and property owners in these areas. Therefore, it is recommended that those applications which, while requiring a DP or HAP, are more minor in nature, could be considered by staff by virtue of delegated authority regardless of being located within the Geographic Exclusion Area. These applications could be defined as follows:

Applications that:

- do not propose a variance
- do not propose a new building exceeding 100 m² floor space
- do not propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater
- do not propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register.

3.3.3 Exclude Variances Associated with Potential Building Height and Massing Impacts from Delegated Authority

Of the 115 DP and HAP applications considered from the beginning of 2009 until July 2012, 38% allowed a variance. The majority of the variances (72%) related to parking and setbacks, and half of those occurrences allowed a 50% or greater variance from the *Zoning Regulation Bylaw* standard. This is largely as a result of parking and setback requirements often representing a relatively small number value and, therefore, any variance appears significant when viewed as a percentage. On this basis, staff do not recommend that parking and setback variances be considered as an exclusion. An example of what could occur if such variance exclusions were considered based on degree (percentage) of variance would be a scenario whereby parking variances equal or greater than 50% were excluded, then an application proposing a variance from 2 parking stalls to 1 (50% variance from *Zoning Regulation Bylaw* standard) would be referred to Council and Public Hearing whereas a variance from 100 stalls to 51, a 49 stall shortfall (49% variance from *Zoning Regulation Bylaw* standard), would be dealt with under delegated authority. Therefore, this approach clearly does not satisfactorily reflect potential impacts.

It could be argued that variances that have height and massing implications are often of most concern due to issues of context, privacy, overshadowing, visual dominance and so on. It is considered that a variance greater than 25% from the *Zoning Regulation Bylaw* standard, in relation to Building Height and Site Coverage, could be an appropriate threshold for referral of a file to Council and Public Hearing. This may allow for a half-storey to be added to a two-storey building, which may be more appropriate within a local context, to be determined by staff, whereas a variance of greater than 25% is likely to represent an additional storey or more to buildings that exceed three storeys, whereby the resulting impacts could be deemed to be more significant.

Data collected indicates that applications proposing such a height and site coverage variance account for less than 3% of the variances allowed.

3.3.4 Exclude DP and HAP Renewals

DPs and HAPs normally lapse two years from the date of approval when development has not substantially commenced. In the event that an applicant wishes to renew an existing permit that

has not lapsed, regardless of whether or not a variance is proposed, it may be reasonable to consider the first application for renewal under delegated authority where the proposal does not significantly affect the integrity of the previously approved building design or the form and character of the development on the lands. As part of the review of such applications, staff will also assess whether there has been a change in circumstance (e.g. change in City policy) since the previous permit was approved and will consider whether the proposal still complies with City policy.

3.3.5 Exclude DP and HAP Applications that Propose an Amendment to, or the Discharge of Legal Agreements that do not Require the making of a Bylaw.

The City may require a developer to enter into legal agreements with the City at the Rezoning application stage. Typical legal agreements include MDA's, Statutory Right-of-Ways (SRWs) and Section 219 Covenants. In contrast, the City can only request that the developer enters into such agreements in association with a DP, hence, this is not a common occurrence and when it does occur, it is when the requested legal agreement is usually mutually beneficial to both parties. However, it is not uncommon for a DP to propose an amendment to or the discharge of a legal agreement. For example, the developer of The Railyards entered into a MDA with the City at the rezoning stage of the process. The Railyards MDA requires that the developer provide certain public amenities in association with specific phases of the development. In this case, the developer has made two separate requests to amend the MDA concurrently with the submission of a DP to postpone the delivery of the amenities to future phases.

In light of the above, staff recommend that DPs and HAPs proposing an amendment to or the discharge of a legal agreement should be referred to Council for consideration. It should be noted that the legal agreements discussed in this section are those that do not require the making of a bylaw as those items are discussed separately in section 2.1 of this report. Furthermore, this would only apply where the City of Victoria is a party to the legal agreement concerned and does not relate to any agreements made solely between third parties.

3.4 Options

In light of the rationale outlined in the preceding section of this report, it is recognized there are several elements, including variations of exclusion options, that could be included as part of a final delegation option. A table outlining potential variations to the recommended option criteria is attached as Appendix 3.

Staff recommends proceeding with Option 1 (see Section 3.4.1 below).

3.4.1 Delegation Option 1 (Recommended)

1. Continue to delegate the following applications to the Director of Sustainable Planning and Community Development:
 - (a) Minor Development Permit applications and Minor Heritage Alteration Permit applications;
 - (b) Development Permit applications for a development in Development Permit Area 8, Victoria Arm – Gorge Waterway;
 - (c) Development Permit applications and Heritage Alteration Permit applications for a single family dwelling or duplex;

2. Delegate the decisions on all Development Permit applications and Heritage Alteration Permit applications, with or without variances, to the Director of Sustainable Planning and Community Development, with the exception of:
 - (a) Applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas (as defined in the Official Community Plan) that:
 - propose a variance
 - propose a new building exceeding 100 m² floor space
 - propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater
 - propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register;
 - (b) Any applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the *Zoning Regulation Bylaw*;
 - (c) Any applications which require Council approval of a bylaw not associated with:
 - a Housing Agreement.
 - a Heritage Designation
 - a Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property;
 - (d) Any applications that would propose an amendment to or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a bylaw and where the City of Victoria is party to that agreement.
3. Delegate the first application for the renewal of any Development Permit or Heritage Alteration Permit that has not yet lapsed to the Director of Sustainable Planning and Community Development where:
 - (a) the proposed plans are not substantially different from the previously approved plans and do not, in the opinion of the Director of Sustainable Planning and Community Development, significantly affect the integrity of the building design or the form and character of the development on the lands;
 - (b) there has been no substantive change to the City policy and/or regulations that are applicable to the development proposed by the Development Permit or Heritage Alteration Permit.
4. The Director of Sustainable Planning and Community Development may, at his/her discretion, refer any delegated application to Council for consideration.

3.4.2 Delegation Option 2

Council may wish to consider excluding some proposals in the Core Business Urban Place Designation, as defined in the OCP, from delegated authority, namely those that could affect Heritage-Designated buildings or buildings listed on the Heritage Register. Should Council wish to pursue this, the delegation option could be worded as follows:

As Delegation Option 1, plus the addition of the following criteria:

2. e) Heritage Alteration Permit applications within the Core Business Urban Place Designation (as defined in the *Official Community Plan*) that:
 - propose a variance
 - propose a new building exceeding 100 m² floor space
 - propose a building addition, either exceeding 100 m² floor space or increasing the height of the existing building by 1 m or greater
 - propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register.

3.4.3 Delegation Option 3

As outlined in Section 2.1 of this report, in the event that a development proposal associated with a DP and/or an HAP requires the making of a bylaw (e.g. in association with a Housing Agreement), the bylaw itself must be approved by Council. Given this legal requirement, staff have recommended that where an application meets the criteria for delegated authority and requires the making of a commonly used standard bylaw then the decision to approve the application continue to be delegated but the bylaw be referred to Council for approval. Where a non-standard or project-specific bylaw is required or an HRA proposes a variance to the *Zoning Regulation Bylaw* affecting land use or density, then both the application and the bylaw would be referred to Council for approval. However, should Council decide that the consideration of the application and the associated bylaw should not be separated then an alternate option is as follows:

As Delegation Option 1 but substituting the following wording for criteria 2.(c):

Any applications which require Council approval of a bylaw.

3.5 Recommended Option and Impact Analysis

It is considered that, given the unique sensitivities of the Core Historic and Core Inner Harbour/Legislative Areas, it is appropriate to exclude applications in these areas from delegated authority with the exception of applications which are relatively minor in nature. It is also considered appropriate to exclude the first application to renew any DPs and HAPs where the proposal does not significantly differ from an existing approval. Applications proposing significant variances to building height and massing should also be excluded from delegation.

As a bylaw must be approved by Council, it is recommended that any application with an associated bylaw is also excluded from delegated authority where the bylaw is not associated with a standard Housing Agreement, HRA (which does not propose a variance relating to use or density) or Heritage Designation. In the event that Council does not wish to separate applications from associated bylaws, an alternative recommendation is provided as Option 3.

Staff also recommend that DPs and HAPs which propose an amendment to or the discharge of a legal agreement (e.g. an MDA), where the City of Victoria is a party to that agreement, be referred to Council for consideration.

A clause has also been added which allows the Director of the Sustainable Planning and Community Development Department to refer any delegated application to Council at their discretion.

Given the above, staff recommends that Council direct staff to proceed with the further work necessary to consider approval of and implement Delegation Option 1 as identified in Section 3.4.1 above.

Based on the DP and HAP data collected, should the above option be adopted, it is estimated that 21% of DP and HAP applications would still be determined by Council (24 applications from the 114 applications determined by Council between January 2009 and July 2012) while the remaining applications would be considered under delegated authority.

While Council would still be determining all Rezoning applications, DVP applications and Heritage Designation applications, it should be noted that, where Rezoning applications and DP applications and/or HAP applications are submitted concurrently, only the Rezoning application would be referred to Council where the DP and/or HAP meet the criteria for delegated authority. The exception to this would be Small Lot Rezoning applications and Rezoning applications proposing a Duplex or a Garden Suite, whereby a DP is considered and approved under the Rezoning application (i.e. a DP is not submitted independently of the Rezoning application).

Table 4 in Appendix 2 identifies all applications determined by Council between January 2009 and July 2012 and those files that would be affected by the aforementioned delegation option.

4.0 Delegated Process

The following is a description of the likely DP application and HAP application processes should Council delegate authority to staff to approve these types of permits. The process time frame could vary significantly depending on the complexity of an application, whether or not Advisory Design Panel or Heritage Advisory Committee review is appropriate, or how quickly the applicant responds to staff suggestions or requests for information. It should also be noted that processes I – VI (below) are consistent with the current DP application and HAP application process differing only for DP applications and HAP applications with a variance where notice posting and neighbour consultation takes place on receipt of an application, given that there is no longer a requirement to hold a Public Hearing.

Applications which are excluded from Delegated Authority would continue to be reviewed under the current established process (see Appendix 1).

Following application submission, DP and HAP applications could follow the delegated process outlined below:

I. Staff Review of Application

The application would be reviewed by the relevant City departments. Staff would review the application against the relevant policy, design guidelines, bylaws and any other pertinent regulations to determine project supportability. Staff from the various departments would hold a "Technical Review Committee" (TRC) meeting to discuss the application and identify any issues. The TRC minutes would then subsequently be sent to the applicant clearly identifying any outstanding issues that need to be resolved prior to a decision being made.

Estimated time: 2 - 4 weeks

II. Community Consultation

If a DP application or HAP application includes variances, the application would be referred to the Community Association Land Use Committee (CALUC) who would be invited to provide comments within 30 days (consistent with current practice). Furthermore, a notice would be posted at the application site advertising the proposal and the owners and occupiers of adjacent parcels would be notified of the application in writing. The notice posting and neighbour consultation currently occurs 10 days prior to the Public Hearing, therefore, in the absence of a Public Hearing, this consultation would occur concurrently with the CALUC referral. A decision would not be made by staff during this consultation period.

Staff will consider any comments received regarding the DP or HAP with variances in the 30-day consultation period prior to issuing a decision.

Estimated Time: 5 weeks (if a variance is proposed)

III. Applicant Responds to Outstanding Issues

Staff comments, as outlined in the TRC minutes, could require that the applicant submit amended plans and/or additional information to support the application. It often takes the applicant several weeks to make plan revisions and submit a revised application package to the City although this very much depends on the range and significance of the issues that need to be addressed and the applicant's response time, both of which cannot be accurately anticipated.

This process may not be required if no issues are raised in relation to the review of the initial submission.

Estimated time: 2 - 8 weeks

IV. 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 they are in a position to make a decision.

Estimated time: 2 weeks (based on a single iteration of revised plans being required)

V. Advisory Design Panel or Heritage Advisory Committee Review

Subject to the nature of the application (i.e. scale, location, complexity, etc.) and at the discretion of the Director of Sustainable Planning and Community Development Department, staff may bring a proposal before the Advisory Design Panel or Heritage Advisory Committee for review and input. Staff would prepare a report to the Panel or Committee, prepare an agenda, attend the meeting and provide a brief presentation, and subsequently a motion from the meeting would be prepared.

Estimated time: 2 – 4 weeks (dependent on monthly meeting schedule)

VI. *Design Revisions*

If an application goes before the Advisory Design Panel or Heritage Advisory Committee, there may be design changes as a result of suggestions by the Panel or Committee. Staff would need to conduct a review of any design changes. Again, the timeline associated with this process could vary significantly depending on the applicant's response time.

Estimated time: 2 – 4 weeks

VII. *Staff Decision*

When it is determined by staff that: i) the application is acceptable and should be approved, or ii) the application is unacceptable and should be declined, a Decision Letter would then be prepared, clearly outlining the rationale for the decision, based on relevant City policy and design guidelines.

If approved, staff would then issue the DP or HAP and have the document registered on property title.

Estimated Time: 1 week

VIII. *Reconsideration of Staff Decision to Decline a DP*

While the Director of Sustainable Planning and Community Development would have authority to decline a DP application or HAP application under delegated authority, the *Local Government Act*, Section 920 (12), entitles the owner of the land subject to a DP decision to have Council reconsider the matter. Although the *Local Government Act* does not give the same reconsideration provisions to HAPs, under the *Community Charter* Council may consider applying similar reconsiderations powers to both HAPs and DPs. Therefore, in the event staff decide that a DP or HAP application is not supportable, a Decision Letter would be issued outlining the rationale for this decision. Following the issuance of this letter, an applicant would have to apply to the City to have Council reconsider the application within a specified timeline.

The *Local Government Act* does not specify a timeline for reconsideration of applications and, therefore, a specific process should be prepared to address this issue should Council wish to proceed with approving delegated authority. However, a review of delegated authority administered by other municipalities indicated that typically the applicant is given 30 days to apply to have their application reconsidered.

Under this process, staff would prepare a brief report to Council attaching the decision letter, the appeal request from the property owner or their agent and any comments received as part of the community consultation. There is no legal requirement to hold a Public Hearing in association with this appeal process.

Estimated Time: 8 weeks

4.1 Timeline Summary

Based on the above process, it is estimated that where applications are supportable and no revisions or additional information is required, an approval could be issued for a DP application or HAP application with no variances within 2-4 weeks and, where a variance is proposed, in just over 30 days. This timeline could be significantly affected by the following factors:

- the complexity of a project
- whether the design needs to be altered significantly to meet application design guidelines
- whether additional supporting information (i.e. specialist consultant reports) is required
- applicant response times to requests for amended plans and/or additional information
- whether or not a project needs to be reviewed by the Advisory Design Panel or Heritage Advisory Committee
- whether staff do not support the application and the applicant requests that the proposal be reconsidered by Council.

The actual timeline associated with the aforementioned factors is not easily quantifiable; however, most of these issues are not unique to a delegated process.

5.0 Issues

The following issues were identified during the analysis of DP and HAP delegation:

- transparency of process
- CALUC involvement and community consultation
- staff resources.

6.0 Analysis

6.1 Transparency of Process

The opportunities for transparency of information under the current system compared to a delegated system are outlined below.

Current Council Approval Process	Delegated Process
Application available at City Hall Development Centre for public view during office hours.	Application available at City Hall Development Centre for public view during office hours.
Staff available to answer and questions about application.	Staff available to answer and questions about application.
If a DP or HAP application includes variances, the application would be referred to the Community Association Land Use Committee (CALUC) who would be invited to provide comments within 30 days.	If a DP application or HAP application includes variances, the application would be referred to the Community Association Land Use Committee (CALUC) who would be invited to provide comments within 30 days. Furthermore, a notice would be posted at the application site advertising the proposal and

	the owners and occupiers of adjacent parcels would be notified of the application in writing.
Staff review and consider comments from the public and neighbourhood associations.	Staff review and consider comments from the public and neighbourhood associations.
Staff internally review applications and will be considering applications in light of City policy and Design Guidelines, all of which have been subject to public consultation.	Staff internally review applications and will be considering applications in light of City policy and Design Guidelines, all of which are public and have been subject to public consultation.
Application presented to PLUC or GPC in open meeting.	No PLUC or GPC meeting.
Subject to the nature of the application (i.e. scale, location, complexity, etc.) and at the discretion of the Director of Sustainable Planning and Community Development a proposal may be presented to Advisory Design Panel or Heritage Advisory Committee in open meeting.	Subject to the nature of the application (i.e. scale, location, complexity, etc.) and at the discretion of the Director of Sustainable Planning and Community Development a proposal may be presented to Advisory Design Panel or Heritage Advisory Committee in open meeting.
Council Meeting to make decision on DP or HAP application (Public Hearing where a variance is proposed).	Staff prepare and issue decision letter.
Where a Public Hearing related to a variance is required, the application would be subject to notification and sign posting.	No Public Hearing. Sign posting occurs earlier in process.
End of process.	Applicant can request that a delegated decision to decline an application be referred to Council for a decision in an open Council meeting.

The primary differences between the DP and HAP process, under a Council process versus a staff delegation process, is that there would be no PLUC meeting, Council Meeting or Council Public Hearing to consider the application where an application is considered under delegated authority. In a delegated process, a member of the public would still have the opportunity to visit City Hall to view an application package or discuss the application with City staff. Where a variance is proposed, the application would still be subject to the same level of public consultation that occurs under the current process albeit the public notice and letter to owners and occupiers of adjacent parcels would occur on receipt of the application rather than 10 days in advance of a Public Hearing. In addition, should an applicant not receive approval from staff, they would have the opportunity to request that their proposal be reconsidered by Council at an open Council meeting. It should also be reiterated that, under delegated authority, staff must consider applications in light of the City policy and Design Guidelines, all of which are public and have been subject to public consultation and have received the approval of Council.

In the interest of improving transparency in a delegated process, the City could implement the following strategies:

- include a detailed list of all current applications and their status on the City's website
- have the staff decision letter available at the Development Services counter for public viewing.

6.2 CALUC Involvement and Community Consultation

CALUC involvement in the application process would not be affected by implementing a delegated process. At present, for DPs and HAPs without a variance, the application is not forwarded to the CALUC. If a DP or HAP includes a variance, staff forward the application package to the applicable CALUC for a 30-day comment period. This notification process would not change if a delegated option were implemented.

While it is recommended that an applicant for a variance consult with the CALUC, there is no requirement for them to do so. Applicants are required to consult with a CALUC in the rezoning process, even before the City will accept a Rezoning application. This process will not change, as the option to delegate to staff only involves DP applications and HAP applications.

Where a DP or HAP includes a variance, additional community notification occurs currently at least 10 days prior to the Public Hearing in the form of a notice posted at the application site and letters which are sent to immediate neighbours. As delegated authority would eliminate the Public Hearing requirement, staff recommend that, to maintain the equivalent level of public notification, a notice is still posted at the application site and immediate neighbours consulted at the same time the CALUC notification is issued. The notice and letters would describe the proposal and, similar to the CALUC notification, invite comments within a 30-day period.

6.3 Staff Resources

The implementation of a form of delegated authority is likely to have resource implications as staff amend existing bylaws and procedures as required. However, once the process is established some workloads may be reduced, particularly those relating to the preparation of staff reports and presentation materials associated with DPs and HAPs.

Should Council approve the form of delegated authority recommended in this report, it is anticipated that approximately 65% of all planning-related applications (Rezoning applications, Development Variance Permits, Development Permits and Heritage Alteration Permits) would still be referred to Council. Staff workloads resulting from pre-application discussions, Minor Development Permits, special departmental projects, general enquiries and other day to day departmental responsibilities are unlikely to be affected by changes to the DP or HAP process. Any resources that are made available as a result of delegated authority could be redirected to assist with these responsibilities.

Notwithstanding the above, the consideration of a DP or HAP under delegated authority would still require significant resources and new processes associated with the delegation of authority, such as the reconsideration of DPs, would have to be administered by staff.

Notwithstanding the impact on staff resources, the key benefit to having delegated authority relates to application processing times and the associated benefits for applicants.

7.0 Policy, Design Guidelines, Committees to help Guide Decisions

The City has a strong framework of Planning Policy and Design Guidelines to help guide decision-making. Under the current Council approval process, when staff provide a recommendation to Council, that recommendation is formulated based on a thorough analysis of Planning Policy and Design Guidelines, as well as sound planning principles and practice.

With delegated authority, staff would be legally required to base decisions on the policy and design guideline framework at the City. All of the policy and design guidelines that would help to guide decisions have been approved by City Council following a Public Hearing.

In addition to using City Policy and Design Guidelines to help guide decision-making, when deemed appropriate, DP applications and HAP applications may be referred to the Advisory Design Panel and/or the Heritage Advisory Committee. Although a review by these advisory bodies does add time to the approval process, in many cases this review can be beneficial to a project.

8.0 Implementation of Delegated Process

Subject to Council approving a form of delegation, it will be necessary to undertake an implementation strategy to ensure that:

- affected City processes, bylaws and information are amended as necessary
- the City website is updated as necessary with all revised documents and the list of DPs and HAPs is readily accessible
- customers (i.e. public, neighbourhood associations and developers) are aware of the process change in advance of the date that delegated authority takes effect
- a date has been identified for the delegated authority to take place and a transition plan for in-stream applications is established.

8.1 External Consultation

It is considered appropriate to consult the public regarding the preferred delegation option. It is envisaged that this consultation exercise would take place in the form of an open house event. This event would be advertised in the newspaper with individual written invitations being sent to the Urban Development Institute (UDI) and all CALUC's.

It is recommended that Council first identify the form of a preferred delegation option prior to consulting externally. Prior to the implementation of delegated authority, staff would report back to Council with the results of the stakeholder engagement event.

8.2 Amendments to City Bylaw and other Documentation

The City's *Land Use Procedures Bylaw* identifies procedures pursuant to the consideration of DP applications and HAP applications. In the event that Council pursue any delegated option, this Bylaw must be amended to be consistent with that option and clearly outline the steps in the associated approval process.

In addition to the *Land Use Procedures Bylaw*, it will be necessary to amend other documentation such as the DP Application Package and the HAP Application Package.

8.3 Monitoring

In the event that Council wishes to pursue a delegation option and it is put in place, it is recommended that the new process be monitored for a minimum period of three years. This timeline is required to evaluate developments that have been approved under delegated authority and are either completely built or construction has commenced. After this monitoring

period, staff would report back to Council outlining the effectiveness of the delegated authority, particularly with respect to streamlining the DP and HAP process and thus enhancing customer service. In the event that any issues arise in relation to the delegated process, staff may bring this to Council's attention within the suggested three year monitoring period.

8.4 Implementation Plan

Given the above, staff recommends that the City proceed on the following basis:

- a) Council identify a preferred delegation option as the basis for stakeholder engagement and consultation;
- b) Stakeholder engagement occurs;
- c) Staff report back to Council with feedback from the stakeholder engagement exercise;
- d) Staff prepare an amendment to the *Land Use Procedures Bylaw* to reflect the processes associated with the preferred delegation option;
- e) Staff report back to Council with:
 - a proposed *Land Use Procedures Bylaw* amendment
 - a proposed effective date for implementation of delegated authority;
- f) Following the effective date, staff monitor the consideration of DPs and HAPs under the delegated process for a period of three years and report back to Council with the results of the monitoring exercise.

9.0 Options

Option 1 (recommended)

1. That Council identify the following Delegation Option as the preferred option:
 - (a) Continue to delegate the following applications to the Director of Sustainable Planning and Community Development:
 - i) Minor Development Permit applications and Minor Heritage Alteration Permit applications,
 - ii) a Development Permit application for a development in Development Permit Area 8, Victoria Arm – Gorge Waterway,
 - iii) Development Permit applications and Heritage Alteration Permit applications for a single family dwelling and duplex;
 - (b) Delegate the decisions on all Development Permit applications and Heritage Alteration Permit applications, with or without variances, to the Director of Sustainable Planning and Community Development, with the exception of:
 - i) applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas (as defined in the *Official Community Plan*) that:
 - propose a variance
 - propose a new building exceeding 100 m² floor space
 - propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater

- propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register,
 - ii) any applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the *Zoning Regulation Bylaw*,
 - iii) any applications which require Council approval of a bylaw not associated with:
 - a Housing Agreement.
 - a Heritage Designation
 - a Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property,
 - iv) any applications that would propose an amendment to, or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a bylaw and where the City of Victoria is party to that agreement;
 - (c) Delegate the first application for the renewal of any Development Permit or Heritage Alteration Permit that has not yet lapsed to the Director of Sustainable Planning and Community Development where:
 - i) the proposed plans are not substantially different from the previously approved plans and do not, in the opinion of the Director of Sustainable Planning and Community Development, significantly affect the integrity of the building design or the form and character of the development on the lands,
 - ii) there has been no substantive change to City policy and/or regulations that are applicable to the development proposed by the Development Permit or Heritage Alteration Permit;
 - (d) The Director of Sustainable Planning and Community Development may, at his/her discretion, refer any delegated application to Council for consideration.
2. That Council instruct the Director of Sustainable Planning and Community Development to consult the public and industry consistent with the proposed engagement process in relation to the preferred delegation option and report back to Council on the results.

Option 2

That Council direct staff to investigate an alternative Delegation Option.

Option 3

That Council direct staff to continue processing applications under the current process.

10.0 Conclusion

Staff has prepared a preferred Delegation Option for Council's consideration based on the Council motion that directed staff to investigate Delegation Option #5: Delegation (with Variances and Exclusions).

It is considered that, given the unique sensitivities of the Core Historic and Core Inner Harbour/Legislative Areas, it is appropriate to exclude applications in these areas from delegated authority with the exception of applications which are relatively minor in nature. It is also considered appropriate to exclude the first application to renew any DPs and HAPs where the proposal does not significantly differ from an existing approval. Applications proposing significant variances to building height and massing should also be excluded from delegation.

As a bylaw must be approved by Council, it is recommended that any application with an associated bylaw is also excluded from delegated authority where the bylaw is not associated with a standard Housing Agreement, HRA (which does not propose a change to use or density) or Heritage Designation.

Staff also recommend that DPs and HAPs which propose an amendment to or the discharge of a legal agreement (e.g. an MDA), where the City of Victoria is party to that agreement, be referred to Council for consideration.

A clause has also been added which allows the Director of Sustainable Planning and Community Development to refer any delegated application to Council at his/her discretion.

It is recommended that, prior to the implementation of delegated authority, staff would undertake public engagement and consultation based on the preferred delegation option and report back to Council with the results.

11.0 Recommendations

1. That Council identify the following Delegated Option as the preferred option:
 - (a) Continue to delegate the following applications to the Director of Sustainable Planning and Community Development:
 - i) Minor Development Permit and Minor Heritage Alteration Permit applications, and
 - ii) a Development Permit application for a development in Development Permit Area 8, Victoria Arm – Gorge Waterway, and
 - iii) Development Permit and Heritage Alteration Permit applications for a single family dwelling and duplex.
 - (b) Delegate the decisions on all Development Permit and Heritage Alteration Permit applications, with or without variances, to the Director of Sustainable Planning and Community Development with the exception of:
 - i) Applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas (as defined in the Official Community Plan) that:
 - propose a variance
 - propose a new building exceeding 100 m² floor space

- propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater
 - propose the demolition or partial demolition of a heritage-designated building or a building listed on the Heritage Register,
 - ii) Any applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the *Zoning Regulation Bylaw*,
 - iii) Any applications which require Council approval of a bylaw not associated with:
 - a Housing Agreement.
 - a Heritage Designation
 - a Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property,
 - iv) Any applications that would propose an amendment to, or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a Bylaw and where the City of Victoria is party to that agreement;
- (c) Delegate the first application for the renewal of any Development Permit or Heritage Alteration Permit that has not yet lapsed to the Director of Sustainable Planning and Community Development where:
- i) the proposed plans are not substantially different from the previously approved plans and do not, in the opinion of the Director of Sustainable Planning and Community Development, significantly affect the integrity of the building design or the form and character of the development on the lands,
 - ii) there has been no substantive change to City policy and/or regulations that are applicable to the development proposed by the Development Permit or Heritage Alteration Permit;
- (d) The Director of Sustainable Planning and Community Development may, at his/her discretion, refer any delegated application to Council for consideration.
2. That Council instruct the Director of Sustainable Planning and Community Development to consult the public and industry consistent with the proposed engagement process in relation to the preferred delegation option and report back to Council on the results.

APPENDIX 1: CURRENT PROCESS

Typically, following application submission, DP and HAP applications follow the process summarized below:

1. The application is reviewed by City staff (Development Services, Community Planning, Permits and Inspections, Engineering, Parks, Fire). If an application includes variances, the application is referred to the Community Association Land Use Committee (CALUC) (with 30 days for a reply). The referral to the CALUC is for information purposes and does not slow the processing of the application. If comments from the CALUC are received they are appended to the staff report.

Estimated time: 2 - 4 weeks

2. Comments resulting from the initial staff review are issued and could require that the applicant submits amended plans and/or additional information to support the application. On receipt of any requested information, a further staff review will be required and additional amendments and/or further information may be necessary. This process continues until staff are satisfied that they can proceed with preparing a report to the Planning and Land Use Standing Committee (PLUSC). The time frame relating to these negotiations is difficult to quantify as it depends on a number of variables, some of which are beyond the control of the City, such as the speed with which an applicant responds to staff comments and the complexity of the application.

Estimated time: 2 - 8 weeks

3. Prior to advancing to the PLUSC, depending on the application, staff may bring a proposal before the Advisory Design Panel or Heritage Advisory Committee for their review and input. Staff prepares a report to the Panel or Committee, prepares an agenda, attends the meeting and provides a brief presentation and subsequently minutes are prepared.

Estimated time: 2 - 4 weeks (depending on monthly meeting schedule)

4. Staff prepare the PLUSC Report with the recommendations. Depending on the volume of the applications being handled by each planner, the timing for completing each "competing" report may be affected.

Estimated time: 2 weeks

5. The PLUSC Report is circulated to senior management and then made available to the Agenda Committee in advance of the PLUSC meeting.

Estimated time: 2 weeks

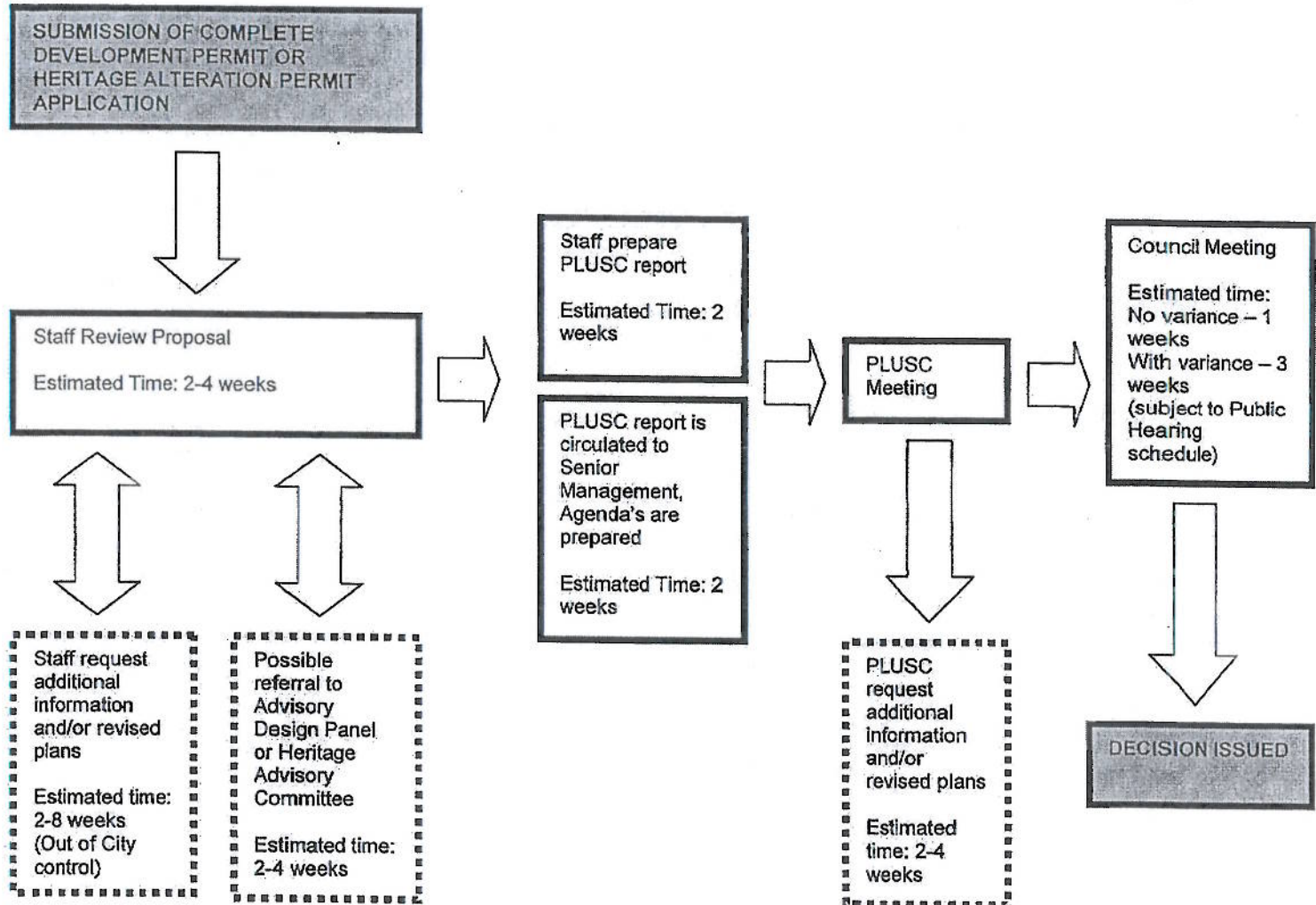
6. The PLUSC meeting is held, where PLUSC may recommend approval, changes, rejection or deferral, which Council considers at their next meeting. If changes or additional information (i.e. legal agreements) are required then the applicant must provide a satisfactory response prior to proceeding to Council. Again, this time frame is subject to variables outside the control of the City and, therefore, it is difficult to quantify.

Estimated time: 2 weeks

7. In the event that there are no variances proposed and all outstanding issues have been resolved, the application can proceed to Council. Where the application proposes variances, the application must be heard at a Public Hearing requiring that the item would initially be taken to Council to establish the date of a Public Hearing, as established in the City's *Land Use Procedures Bylaw*.

Estimated time: no variance - 1 weeks
with variance - 3 weeks (subject to Public Hearing schedule).

**CURRENT DEVELOPMENT PERMIT/HERITAGE ALTERATION PERMIT PROCESS FLOW
CHART (SUMMARY)**



———— Process that will occur
..... Process that may occur

APPENDIX 2: DEVELOPMENT PERMIT AND HERITAGE ALTERATION PERMIT APPLICATIONS

Notable Data:

- Number of applications submitted = 184
- Number of applications determined by Council = 114
- Number of applications proposing a variance = 45 (39%)
- Number of applications not proposing a variance = 69 (61%)
- Number of instances where staff recommended approval to Council = 102 (89%)
- Number of instances where staff recommended to Council that an application be declined = 12 (11%)
- Number of instances where Council moved the staff recommendation with no amendments = 96
- Number of instances where Council moved the staff recommendation with amendments = 11
- Number of instances where Council reversed the staff recommendation = 7 (6 of these occasions involved a staff recommendation to decline the application) (one instance where the recommendation requested "a ministerial exception to except signage")
- 67 of the 114 (59%) applications determined proposed applications that did not propose a new building exceeding 100m² and did not propose a building addition either exceeding 100m² or increasing the height of the existing building. Of these 40 (60%) did not propose a variance.

Table 1 – Breakdown of Applications by Neighbourhood Area (January 2009 – July 2012)

Neighbourhood	No. of DP's	No. of HAP's	Total
Downtown	19	17	36
Fairfield	11	7	18
Rockland	4	4	8
Harris Green	9	0	9
North Park	1	0	1
Vic West	8	1	9
Burnside	6	0	6
N/S Jubilee	3	1	4
Gonzales	2	0	2
Harbour	2	0	2
Hillside Quadra	6	0	6
Rock Bay	2	0	2
Fernwood	2	0	2
James Bay	5	3	8
Oaklands	1	0	1
Totals	82	33	114

Table 2 – Breakdown of Applications by Urban Place Designation (as identified in the *Official Community Plan*)

Urban Place Designation	No. of DP's	No. of HAP's	Total
Core Historic	11	11	22
Core Business	7	5	12
Core Employment	2	0	2
Core Inner Harbour/Legislative	5	1	6
Core Songhees	4	0	4
Core Residential	8	1	9
General Employment	0	1	1
Industrial	0	0	0
Marine Industrial	1	0	1
Town Centre	3	0	3
Large Urban Village	11	0	11
Small Urban Village	3	0	3
Urban Residential	14	5	19
Traditional Residential	8	6	14
Public Facilities, Institutions, Parks and Open Space	2	3	5
Rail Corridor	0	0	0
Working Harbour	2	0	2
Marine	0	0	0
Totals	81	33	114

Table 3 – Type and Occurrence of Variance and Percentage Variance from Zone Standard

Type of Variance	Occurrence of Variance	Percentage Variance Allowed %										
		0-9.9	10-19.9	20-29.9	30-39.9	40-49.9	50-59.9	60-69.9	70-79.9	80-89.9	90-100	100+
Parking	25	5	1	4	2	0	3	3	0	1	6	0
Setbacks	29	3	3	0	4	5	0	3	1	3	7	0
Building Height	7	0	3	2	0	1	1	0	0	0	0	0
Fence height or size of ancillary structure	4	1	1	1	1	0	0	0	0	0	0	0
Floor Area, Site Area, Site Coverage	4	1	0	1	1	0	0	1	0	0	0	0
Other	6	3	0	0	0	0	0	0	0	0	2	1
Total*	75	13	8	8	8	6	4	7	1	4	15	1

*Does not include variances with no number value.

Table 4 – Applications (from January 2009 to July 2012) that would have been determined under the preferred delegation option

APPLICATION NO.	ADDRESS	DESCRIPTION	DELEGATED OR COUNCIL DECISION UNDER RECOMMENDED DELEGATION OPTION
DP#000149	301 Cook St	Development Permit to increase the seating of the existing pub from 65 seats to 163 seats	Delegated
DP#000150	1729 Oak Bay Ave	Development Permit to convert the building from College Fraternity to Resthome Class "B"	Delegated
DP#000151	947 Fort St	The proposal is for a six-storey mixed-use building	Delegated
DP#000152	325 Cook St	Development Permit to convert the main floor of the existing drycleaners to retail and convert parking area to food court area	Delegated
DP#000153	919 Pandora Ave	Development Permit for carport	Delegated
DP#000154	1007 Johnson St	The proposal is for the construction of a four-storey residential building	Delegated
DP#000155	920 Pandora Ave	Submitted for Development Permit for exterior changes to street facade and the addition of accessory buildings in the rear yard	Delegated
DP#000156	810 Humboldt St	Amend the Development Permit to remove the ground-level glass atrium from the current phase of the project	Delegated
DP#000157	787 Tyee Rd	Construct a multi-family residential project on Lot G of the Railyards site	Council
DP#000158	356 Harbour Rd	Development Permit to construct three-storey office/light-industrial building	Delegated
DP#000160	350 Harbour Rd	Construct a three-storey building comprised of 35 affordable rental apartment units. Surface parking is proposed as well as enclosed bicycle parking spaces	Delegated
DP#000161	1701 Douglas St	Development Permit to subdivide the site into three parcels	Delegated
DP#000162	1234 Wharf St	Development Permit to construct a front yard fence	Council
DP#000164	365 Waterfront Crescent	The proposal is to reduce the parking requirement by six stalls as well as the ceiling to floor clearance for another six stalls due to the intrusion of mechanical apparatus in a completed underground parking garage.	Delegated
DP#000165	770 Cormorant St	Exterior renovations	Delegated
DP#000166	370 Harbour Rd	Development Permit for construction of an 11-unit affordable housing unit building	Delegated
DP#000167	681 Herald St	Development Permit to renovate and convert the existing building from restaurant and transient accommodation to 17 rental suites	Council
DP#000168	1932 Oak Bay Ave	Development Permit to renovate and construct additions to the main and upper floors	Delegated
DP#000170	306 - 1665 Oak Bay Ave	Development Permit to construct a balcony enclosure	Delegated
DP#000172	2780 Shelbourne St	Development Permit to construct a new place of worship	Delegated
DP#000176	1620 Blanshard St and 733-741 Fisgard St	The proposal is for a 15-storey office building with ground level commercial use	Delegated

DP#000177	1992 Fairfield Rd	Development Permit to subdivide a parcel to create two lots	Delegated
DP#000180	728 Humboldt St	Patio enclosure	Delegated
DP#000182	895 Fort St	Installation of a metal fence	Delegated
DP#000183	351-355 Cook St and 1101-1107 Oscar St	A two-storey mixed-use building, with commercial uses at ground level and two residential units above	Delegated
DP#000187	923 Burdett Ave	Restoration and re-use of Mount St. Angela building for 9 seniors housing units and relocation of a Heritage-Designated dwelling. Two new four-storey buildings containing 56 residential units	Delegated
DP#000188	840 Fort St	Six-storey rear addition with commercial and residential uses	Delegated
DP#000189	814 Wharf St	Development Permit for landscaping and public art at Ships Point	Delegated
DP#000190	4-2631 Quadra St	Business signage	Delegated
DP#000193	1 Dallas Rd	for Development Permit for approval of an electrical equipment building	Delegated
DP#000195	608 Broughton St	Proposal for an 11-storey residential building with ground level commercial use	Council
DP#000196	555/575 Pembroke St	Proposal to renovate the existing warehouse building for ground-floor commercial use with 25 rental apartments on two upper floors	Delegated
DP#000197	1308 Gladstone Ave	Development Permit for exterior changes and product display	Delegated
DP#000198	1719 Davie St	Minor changes to the approved Development Permit	Delegated
DP#000201	1701 Douglas St	Development Permit for subdivision to create air space parcels in conjunction with rezoning	Delegated
DP#000203	849 Fort St	Development Permit to construct a 114 m ² upper-floor addition for offices	Delegated
DP#000204	1310-1314 Waddington Alley	Development Permit to construct nine residential units and ground-floor commercial	Council
DP#000205	771 Central Spur Rd - Lot E	To construct 19 townhouse units	Delegated
DP#000206	658-670 Herald St	Development Permit to allow for four residential units in the existing building	Council
DP#000207	517 Fisgard St	Development Permit to restore and reuse an existing heritage facade, introduce new brick clad streetwall and create a new contemporary structure	Council
DP#000208	15/21 Gorge Rd East	52-unit rental apartment building	Council
DP#000209	1000 Wharf St	Development Permit for the approval of the existing building on site	Council
DP#000211	95 Esquimalt Rd	Development Permit for car dealership	Delegated
DP#000212	211-213 Robertson St	Construction of two small-lot single family dwellings	Delegated
DP#000214	740 Hillside Ave	Construct an eight-storey office building with street-level retail space. The site also incorporates a separate lot zoned for a single-family dwelling	Delegated
DP#000215	847 Fort St	Development Permit for changes to the street facade of the existing building	Delegated
DP#000216	452 Moss St	Development Permit to construct new small-lot single-family dwelling	Delegated
DP#000217	254 Belleville St	Development Permit for relocation of administrative offices	Council

DP#000219	1029 View St	Development Permit to construct a 181-unit apartment building with ground-floor commercial and residential	Delegated
DP#000221	640 Michigan St	The proposal is to replace the existing surface parking lot with 88 dwelling units located in two buildings	Delegated
DP#000223	2551 Quadra St	Development Permit to convert the ground floor of a building from commercial use to residential use in the Quadra Village Development Permit Area	Delegated
DP#000224	240 Cook St / 1035 Sutlej St	To make changes to the original Development Permit with regard to landscaping and glass canopies over two residential entryways.	Delegated
DP#000225	230 Cook St	Development Permit to address the deficiencies in landscaping	Delegated
DP#000228	187/189 Dallas Rd	Development Permit to construct a temporary accessory building adjacent to a new, existing office building at Ogden Point	Delegated
DP#000229	1284-98 Gladstone/ 2002-2004 Fernwood	Development Permit to increase the total number of apartments from eight to ten	Delegated
DP#000230	257 Belleville St	Rezoning to construct a new 35-unit apartment building in place of the existing motel	Council
DP#000231	1090 Johnson St	Development Permit to construct a 10-storey 93 residential unit with ground-floor commercial building	Delegated
DP#000233	355 Cook St	Development Permit to increase the amount of restaurant seating to 50 seats	Delegated
DP#000234	15 & 21 Gorge Rd E.	52-unit rental apartment building	Delegated
DP#000235	1580 Hillside Ave	Development Permit for the renovation and expansion of Hillside Mall (renewal)	Delegated
DP#000237	1249 Richardson St	Permit changes to the exterior design and finish of a small-lot single-family dwelling	Delegated
DP#000238	1255 Richardson St	Permit changes to the exterior design and finish of a small-lot single-family dwelling	Delegated
DP#000239	726-46 Yates St	A 15-storey residential building accommodating 157 residential units, ground-level commercial use	Delegated
DP#000241	615 & 623 Fort St	A six-storey mixed-use building in Old Town that would include commercial use on the ground and second floors, and 51 rental housing units throughout the upper floors	Council
DP#000243	740 Hillside Ave & 747 Market St	Development Permit for modified design	Delegated
DP#000244	2560 Quadra St	Development Permit to construct 17 residential units with commercial on the ground floor	Delegated
DP#000245	195 Bay St	Development Permit to construct a two-storey addition to existing building for storage	Delegated
DP#000246	1310-1314 Waddington Alley	Application to permit residential use at ground level for live-work units	Council
DP#000248	755 Caledonia Ave	Development Permit for mixed-use residential/commercial office	Delegated
DP#000249	787 Tyee Rd	Phase 2 Development Permit to construct 21 strata condominium units next to the existing Phase 1 building	Delegated
DP#000250	341 Cook St	Development Permit for exterior changes	Delegated
DP#000251	615 & 623 Fort St	Development Permit for parking (nine spaces) on the west portion of the lot where the building was demolished	Delegated

Recommended Exclusions					
	Geographic Areas	Height and Massing Variances	Renewals	Bylaws	Legal Agreements
Recommended Exclusion Criteria	<p>DP and HAP applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas unless the application is considered relatively minor in nature.</p>	<p>DP and HAP applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the Zoning Regulation Bylaw.</p>	<p>DP and HAP renewals that have lapsed and/or the proposed plans are substantially different from the plans previously approved and/or the applicable City policy or design guidelines have substantially changed.</p>	<p>DP and HAP applications which require Council approval of a bylaw not associated with a Housing Agreement, a Heritage Designation or a Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property.</p>	<p>Any DP and HAP applications that would propose an amendment to, or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a Bylaw and where the City of Victoria is party to that agreement.</p>
Other Options for Recommended Exclusion Criteria	<ul style="list-style-type: none"> - Exclude additional Urban Place Designations (i.e. Core Business) - Exclude specific neighbourhoods - Exclude specific Development Permit Areas (as defined in the OCP) - Exclude Heritage Conservation Areas - Exclude all DPs and HAPs (including those that are minor in nature) - Redefine what qualifies as being minor in nature 	<ul style="list-style-type: none"> - Consider other methods of defining height and massing and amend exclusion criteria accordingly - Reconsider the percentage variance required to trigger an exclusion 	<ul style="list-style-type: none"> - Exclude all DP and HAP renewals - Delegate all DP and HAP renewals - Delegate all DP and HAP renewals that do not significantly differ from the previous approval - Delegate all DP and HAP renewals where there has not been any change to applicable City policy and/or design guidelines since the previous approval 	<ul style="list-style-type: none"> - Exclude all DPs and HAPs which require the making of a Bylaw - Reconsider which Bylaws could be divorced from the delegated consideration of a DP or HAP 	<ul style="list-style-type: none"> - Exclude all DPs and HAPs which require the execution, amendment or discharge of any legal agreement - Delegate all DPs and HAPs which require the execution, amendment or discharge of any legal agreement - Identify certain legal agreements that could be prepared, amended or discharged without referral to Council

3.3 Delegation of Development Permit and Heritage Alteration Permit Applications

Councillor Helps withdrew from the meeting at 10:03 a.m. and returned at 10:05 am.

Committee received a report dated November 8, 2013 from Sustainable Planning & Community Planning regarding the delegation of Development Permit and Heritage Alteration Permit Applications. The purpose of this report is to provide Council with information, analysis and recommendations in response to a Council motion directing staff to outline a detailed approval process, staff resources and application processing timelines associated with an option for delegating the authority to staff to approve Development Permits (DPs) and Heritage Alteration Permits (HAPs).

Action:

Councillor Helps moved that Committee recommends:

1. That Council identify the following Delegation Option as the preferred option:
 - a. Continue to delegate the following applications to the Director of Sustainable Planning & Community Development:
 - i. Minor Development Permit and Minor Heritage Alteration Permit applications,
 - ii. Development Permit applications for development in Development Permit Area 8, Victoria Arm – Gorge Waterway, and
 - iii. Development Permit applications and Heritage Alteration Permit applications for a single family dwelling or duplex;
 - b. Delegate the decisions on all Development Permit applications and Heritage Alteration Permit applications, with or without variances, to the Director of Sustainable Planning & Community Development, with the exception of:
 - i. Applications within the Core Historic and Core Inner Harbour/Legislative Urban Place Designation Areas (as defined in the *Official Community Plan*) that:
 - Propose a variance
 - Propose a new building exceeding 100 m² floor space
 - Propose a building addition exceeding 100 m² floor space and/or increasing the height of the existing building by 1 m or greater
 - Propose the demolition or partial demolition of a Heritage-Designated building or a building listed on the Heritage Register,
 - ii. Any applications that propose a building height and/or site coverage variance 25% or greater than the standard set out in the *Zoning Regulation Bylaw*.
 - iii. Any application which requires Council approval of a bylaw not associated with:
 - A Housing Agreement
 - A Heritage Designation
 - A Heritage Revitalization Agreement where the agreement does not permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property.

- iv. Any applications that would propose an amendment to or the discharge of a Master Development Agreement, Section 219 Covenant or any other legal agreement which does not require the making of a bylaw and where the City of Victoria is party to that agreement;
 - c. Delegate the first application for the renewal of any Development Permit or Heritage Alteration Permit that has not yet lapsed to the Director of Sustainable Planning & Community Development, where:
 - i. The proposed plans are not substantially different from the previously approved plans and do not, in the opinion of the Director of Sustainable Planning & Community Development, significantly affect the integrity of the building design or the form and character of the development on the lands,
 - ii. There has been no substantive change to the City policy and/or regulations that are applicable to the development proposed by the Development Permit or Heritage Alteration Permit;
 - d. The Director of Sustainable Planning & Community Development may, at his/her discretion, refer any delegated application to Council for consideration.
2. That Council instruct staff to consult the public and industry consistent with the proposed engagement process in relation to the preferred delegation option and report back to Council on the results.

Committee discussed the motion as follows:

- The proposed engagement process and clarity regarding what Council is seeking;
 - To inform, engage and consider feedback from stakeholders.
 - Being clear that the final decision rests with Council; receiving feedback and making a decision.
 - The suggestion that a non-statutory Public Hearing be held as a part of this process.
- Moving forward as proposed; concerns the delegated authority goes too far; complex applications need to be considered by Council and the public.
- Concerns related to how small lot rezoning and large building projects will be handled.

Mayor Fortin withdrew from the meeting at 10:32 a.m. Councillor Isitt assumed the Chair.

- Keeping Council informed on applications that have been approved and responding to the public's concerns;
 - Receiving a report from staff on the various applications that are underway.
- Staff's role in the delegation of applications;
 - The Director signs off on all applications; details on how reports flow up to the Director.

Mayor Fortin returned to the meeting at 10:37 a.m. and assumed the Chair.

- Concerns about the degree of delegation and the loss of public feedback to Council.

- Concerns about the scope of applications that are proposed to be delegated.
- The importance of time-saving opportunities but the need for accountability and consideration by elected officials.
- Receiving public input on this recommendation and moving forward with the changes.

Action: Mayor Fortin moved that the question be called.

DEFEATED 13/GPC710

For: Mayor Fortin

Against: Councillors Coleman, Gudgeon, Helps, Isitt, Madoff, Thornton-Joe and Young

Committee's discussion continued as follows:

- The appeal process;
 - There is no provision for an appeal by a member of the public; the applicant has the right to appeal.

Councillor Coleman withdrew from the meeting at 11:15 a.m. and returned at 11:17 a.m.

- A comparison of the applications that were approved by Council and approved by staff;
 - Noting that some of these applications went to Public Hearing in another form;
 - More clarity on where there are multiple applications for one location.
 - Flagging controversial projects to allow the public to be heard.
- Noting the many other opportunities to hear from the public and the delegation of authority freeing up time to respond to other issues.
- Receiving from staff a revised chart and convening a workshop on this matter;
 - Staff will require time to develop the other options.

Action: Councillor Isitt moved that Committee refer *Delegation of Development Permits and Heritage Alteration Permits* to a subsequent workshop with staff providing an alternate formula involving a lesser degree of delegation and an indication whether or not Public Hearings would be held.

Action: Councillor Madoff moved that Committee amend the motion as follows:

1. That Committee refer *Delegation of Development Permits and Heritage Alteration Permits* to a subsequent workshop with staff providing an alternate formula involving a lesser degree of delegation and indication whether or not Public Hearings would be held, and;
2. **For staff to report back and respond to issues and concerns identified by Committee at today's discussion.**

On the amendment:

CARRIED UNANIMOUSLY 13/GPC711

On the main motion as amended:

CARRIED UNANIMOUSLY 13/GPC712