



Council Report

For the Meeting of March 10, 2016

To: Council **Date:** February 15, 2016
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Bylaw Amendments Related to Development Permit Exemptions and Delegation – Update

RECOMMENDATION

That Council:

1. Give first reading to Bylaw No. 16-027, Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 20).
2. Consider consultation under Section 475(2)(b) of the *Local Government Act* and determine that no referrals are necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board, and the provincial and federal governments and their agencies due to the nature of the proposed amendments.
3. Give second reading to Bylaw No. 16-027, Official Community Plan Amendment Bylaw, 2012, Amendment Bylaw (No. 20).
4. Refer Bylaw No. 16-027, Official Community Plan (OCP) Amendment Bylaw, 2012, Amendment Bylaw (No. 20), for consideration at a Public Hearing.
5. Allow an opportunity for public comment regarding Bylaw No. 16-028, Land Use Procedures Bylaw, 2016, concurrent with the Public Hearing for OCP Amendment Bylaw No. 20.
6. After the Public Hearing consider adopting Bylaw No. 16-027, Official Community Plan (OCP) Amendment Bylaw, 2012, Amendment Bylaw (No. 20), and Bylaw No. 16-028 Land Use Procedures Bylaw, 2016.

LEGISLATIVE AUTHORITY

In accordance with Section 472 of the *Local Government Act*, Council may adopt one or more official community plans. During the development or amendment of an official community plan, Council must provide opportunities for consultation as set out in Section 475 of the *Local Government Act*. Pursuant to Section 137(1)(b) of the *Community Charter*, the power to amend an Official Community Plan Bylaw is subject to the same approval and other requirements as the power to adopt a new Official Community Plan Bylaw.

In accordance with Section 460 of the *Local Government Act*, if a local government has adopted an official community plan or a zoning bylaw it must define procedures under which an owner may apply for an amendment to the plan or obtain a permit under Part 14 of the *Local Government Act*.

EXECUTIVE SUMMARY

The purpose of this report is to bring forward, for Council's consideration, an Official Community Plan (OCP) Amendment Bylaw as well as amendments to the Land Use Procedures Bylaw, as directed by Council's motion from November 26, 2015 (Attachment 1). Additionally, the proposed bylaws advance a number of other amendments intended to clarify and simplify the language and to ensure accuracy and thoroughness.

The Official Community Plan Amendment Bylaw (Attachment 2) serves to:

1. Exempt the construction, placement or alteration of a building or structure that has a total floor area no greater than 9.2m² (100ft²) from requiring development permits in the following areas:
 - a. DPA 4: Town Centres
 - b. DPA 5: Large Urban Villages
 - c. DPA 6A: Small Urban Villages
 - d. DPA 7A: Corridors
 - e. DPA 10A: Rock Bay
 - f. DPA 13: Core Songhees
 - g. DPA 14: Cathedral Hill Precinct
 - h. DPA 15A: Intensive Residential Small Lot
 - i. DPA 15B: Intensive Residential Panhandle Lot
 - j. DPA 15D: Intensive Residential Duplex
 - k. DPA 16: General Form and Character.
2. Exempt changes to existing landscaping, other than landscaping identified in a development permit for the property from requiring development permits in the following areas:
 - a. DPA 5: Large Urban Villages
 - b. DPA 6A: Small Urban Villages
 - c. DPA 7A: Corridors
 - d. DPA 10A: Rock Bay
 - e. DPA 11: James Bay and Outer Harbour
 - f. DPA 13: Core Songhees
 - g. DPA 14: Cathedral Hill Precinct.
3. Clarify the language in Appendix A of the OCP so it is clear when a permit is not required (an exemption) versus when a permit is required, to improve its user-friendliness.

The Land Use Procedures Bylaw Amendment (Attachment 3) serves to:

1. Delegate approval authority to staff for the following types of development applications, when consistent with relevant policy:
 - a. New buildings, building additions, structures and equipment in Development Permit Area (DPA) 16: General Form and Character, DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage;
 - b. New buildings, building additions, structures and equipment that do not exceed 100m² floor area in:
 - i. DPA 2 (HC): Core Business
 - ii. DPA 3 (HC): Core Mixed-Use Residential

- iii. DPA 4: Town Centres
- iv. DPA 5: Large Urban Villages
- v. DPA 6A: Small Urban Villages
- vi. DPA 6B (HC): Small Urban Villages Heritage
- vii. DPA 7A: Corridors
- viii. DPA 7B (HC): Corridors Heritage
- ix. DPA 10A: Rock Bay
- x. DPA 10B (HC): Rock Bay Heritage
- xi. DPA 11: James Bay and Outer Harbour
- xii. DPA 12 (HC): Legislative Precinct
- xiii. DPA 13: Core Songhees
- xiv. DPA 14: Cathedral Hill Precinct;
- c. Accessory Buildings in:
 - i. DPA 15A: Intensive Residential Small Lot
 - ii. DPA 15B: Intensive Residential Panhandle Lot
 - iii. DPA 15D: Intensive Residential Duplex;
- d. Floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour located in the FWM Zone, Fisherman's Wharf Marine District;
- e. Floating buildings, floating building additions and floating structures that do not exceed 100m² in floor area in all DPAs;
- f. Renewals of up to two years for previously approved (unlapsed and unchanged) Development Permits where there have been no intervening policy changes;
- g. Renewals of up to two years for previously approved (unlapsed and unchanged) Heritage Alteration Permits where there have been no intervening policy changes;
- h. Replacement of exterior materials on existing buildings;
- i. Temporary buildings and structures that do not exceed 100m² in floor area and where removal is secured by a legal agreement limiting permanence to two years;
- j. Temporary construction trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring;
- k. Temporary residential unit sales trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring;
- l. Changes to landscaping where applicable design guidelines exist or where identified within an approved plan.

2. Simplify and clarify language in the Land Use Procedures Bylaw to:

- a. update references to be consistent with the *Official Community Plan, 2012*;
- b. clarify the sign bylaw variance process;
- c. set a time limit for cancelling applications which are inactive;
- d. clarify fee schedules;
- e. clarify notification requirements for Heritage Revitalization Agreements;
- f. introduce new procedures for Rezoning Application site sign requirements.

3. Update the Land Use Procedures Bylaw to:

- a. reflect the current numbering of the *Local Government Act*;
- b. incorporate changes to enable Temporary Use Permits to be processed as intended by the *Local Government Act*;
- c. include recent changes to City governance practices.

PURPOSE

The purpose of this report is to bring forward an Official Community Plan (OCP) Amendment Bylaw as well as a Land Use Procedures Amendment Bylaw for Council's consideration, as directed by Council's motion from November 26, 2015. The proposed OCP Amendment Bylaw will exempt the need for development permits for buildings and structures with a floor area no greater than 9.2m² as well as for the replacement of existing landscaping where the landscaping does not form part of an approved development permit. The Land Use Procedures Bylaw Amendment will delegate authority to staff to review and potentially approve a number of minor changes to buildings and landscaping as well as to approve small additions in some Development Permit Areas and Heritage Conservation Areas as noted above. Delegated authority would not extend to any circumstances where variances are required and would not expand the current limited role that staff have in relation to reviewing and approving minor changes and improvements to buildings that are on the City's Heritage Register including those that are designated.

BACKGROUND

The proposed OCP Amendment Bylaw (Attachment 2) and Land Use Procedures Bylaw Amendment (Attachment 3) have both been prepared based on a Council motion from November 26, 2015 (Attachment 1). As directed by Council on November 14, 2013 (minutes included as Attachment 4), the proposed Land Use Procedures Bylaw Amendment also includes amendments related to:

- updating references to be consistent with the *Official Community Plan, 2012*;
- clarifying sign bylaw variance process;
- setting a time limit for cancelling applications which are inactive;
- clarifying fee schedules;
- clarifying notification requirements for Heritage Revitalization Agreements;
- introducing new procedures for Rezoning Application site sign requirements

The delay in advancing these amendments was in part due to competing priorities and partially because it was more efficient to roll-in the Council's direction related to changes needed to establish a degree of delegated authority.

Finally, the proposed Land Use Procedures Bylaw Amendments also advances, for Council's consideration, changes to the City's method of processing Temporary Use Permits. The City's practice to date has been to treat temporary commercial and industrial permits like rezoning applications which is not particularly efficient, is not the normal process used by other municipalities and is not consistent with the *Local Government Act*.

ISSUES & ANALYSIS

The following sections detail a number of updates and changes that have been included in the proposed bylaws, recommended for Council's consideration, in order to advance bylaws which will be as thorough and accurate in their approach, as possible.

Official Community Plan Amendment

Omission of DPA 7A in Council Motion

Staff have noted a minor typographical error from the related Council minutes from November 26, 2015 related to the proposed development permit exemption for buildings and structures not greater than 9.2m². However, the staff report from November 26, 2015, that was presented to Planning and Land Use Committee and Council identified both DPA 10A: Rock Bay as well as DPA 7A: Corridors. Therefore, although the Council motion did not reference DPA 7A: Corridors, the proposed OCP Amendment Bylaw does include DPA 7A: Corridors.

Development Permit Requirements for Landscaping Changes in DPA 15A, DPA 15B, DPA 15D and Landscaping in DPAs 15A, 15B, 15C, 15D, 15 E and DPA 16.

The intent of the original Council motion and staff report from November 26, 2015, included exempting changes to existing landscaping within various development permit areas including DPA 15A, DPA 15B, DPA 15D and DPA 16. However, through further review, staff confirmed that the provisions contained in Section 489 of the *Local Government Act* do not require a development permit for the alteration of land (landscaping) within Development Permit Areas 15A, 15B, 15C, 15D and 16, after the initial construction and landscaping associated with a Development Permit is complete. Therefore, these Development Permit Areas have not been identified within the attached OCP Amendment Bylaw, because they are in essence already exempt.

Updated Numbering and Language Clarity

The proposed OCP Amendment Bylaw also includes updated references to specific sections of the *Local Government Act* which were recently renumbered. These reference updates have been restricted to the Overview section of Appendix A until a more comprehensive update of the OCP is completed. The OCP Amendment Bylaw also includes minor amendments to the language contained within the Overview section of Appendix A to improve clarity and interpretation of when a development permit is required. The suggested changes to the existing language do not alter the overall intent or scope of the existing language.

Land Use Procedures Bylaw

Updated Numbering and Language Clarity

The proposed Land Use Procedures Amendment Bylaw includes updated references to specific sections of the *Local Government Act* which were recently renumbered. It also simplifies and clarifies language to make the Bylaw more user-friendly, without changing the intent of the original content; this work is consistent with the direction provided by Council on November 14, 2013.

Governance Changes

A number of changes have been incorporated into the proposed Land Use Procedures Amendment Bylaw in order to reflect recent changes to the City's governance structure and to allow for maximum flexibility to incorporate future changes. Recommended changes include items like changing references to specific Committees of Council (Planning and Land Use Committee) to a more general term and to clarify the distinction between a public hearing (rezoning applications) and an opportunity for comment at a meeting of Council (variance applications).

Clarification Regarding Extent of Delegation for Heritage Registered and Designated Properties

The proposed amendments to the Land Use Procedures Bylaw have been drafted to not expand the current scope of staff authority that is in place to review and approve minor changes and improvements to heritage registered and designated buildings; however, the table included as an appendix to the August 27, 2015 Planning and Land Use Committee Report (attached) indicates that no delegated authority at all, was recommended for these types of properties. If there was absolutely no delegated authority for these situations, there would be an increase of approximately 20 to 30 reports and applications per year, needing to be considered by Council. It is recommended that the current approach remain as is, where any additions (of any size) to heritage buildings would be referred to Council; however, staff would continue to review and potentially approve items such as landscaping and replacement of exterior materials when consistent with approved guidelines. New areas of delegated authority in relation to heritage properties would be limited to a one time renewal of previously approved Heritage Alteration Permits where there has been no change to the proposal, regulations or policy and temporary trailers associated with the construction and marketing of projects.

Temporary Use Permits

After legal review and advice, it was determined that temporary commercial and industrial use permits should follow the process of a permit (versus a rezoning) which will make processing quicker, less costly for applicants and will make better use of Council and staff time. Additionally, it provides Council with a more expedient method to “try out” uses on a temporary basis and is consistent with recommendations and feedback received at the Development Summit. The OCP designates the entire City as appropriate for Temporary Use Permits which is a necessary precondition for Council to consider Temporary Use Permits. The process used to date has been the same as a rezoning application; however, by processing as a rezoning the processing requirements and length of time is increased as compared to the processing of a permit. There has only been one Temporary Use Permit since the adoption of the OCP in 2012, which may in part be due to the onerous nature of the process. The processing time and cost will be shorter for the applicant, and there is still an opportunity for public comment prior to Council’s consideration of these types of permits.

OPTIONS & IMPACTS

1. Provide first and second reading to the proposed OCP Amendment Bylaw and Land Use Procedures Bylaw Amendment and refer to a Public Hearing for further consideration **(Recommended)**.

This option would continue to support Council’s previous direction from November 26, 2015, and will allow Council to receive additional feedback through a Public Hearing prior to Council’s consideration and decision.

2. Maintain Status Quo

If Council does not advance the proposed OCP Amendment Bylaw and Land Use Procedures Bylaw to a Public Hearing, the limitations of the current system will persist and staff would need to seek further direction as to whether Council would like these types of applications to come to Council for a decision in the future. This status quo approach would make it more difficult to achieve the objectives of the *Development Summit Action Plan* and the *City of Victoria Strategic Plan 2015-2018* related to improving application process times.

2015 - 2018 Strategic Plan

The proposed development permit exemptions and delegations help to directly support the following 2016 Outcomes of the Strategic Plan:

- reduced processing time for all types of applications from building permits to rezoning
- streamlined land use policies.

Impacts to 2015 - 2018 Financial Plan

There are no additional financial resources required to prepare the proposed OCP Amendment Bylaw or Land Use Procedure Bylaw Amendment.

Official Community Plan (OCP), 2012 - Consistency Statement

The proposed development permit exemptions and delegations are consistent with the Adaptive Management chapter, which contemplates periodic updates and refinements to ensure the OCP is able to deliver and support its various broad objectives and actions.

CONCLUSIONS

The proposed development permit exemptions and delegations are a positive initiative that will support the streamlining of the development approval process and reduce the overall volume of development applications. The proposed changes are also consistent with the previous Council direction from November 26, 2015, and in direct support of the City's *Strategic Plan* and the *Development Summit Action Plan*.

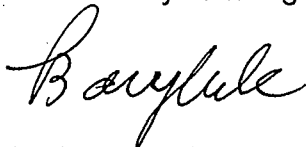
Respectfully submitted,



Robert Batallas
Senior Planner
Community Planning Division

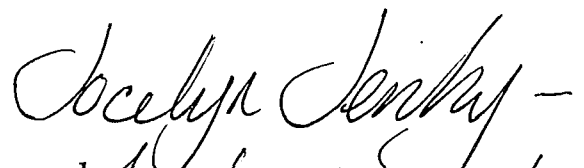


Jonathan Tinney, Director
Sustainable Planning and Community
Development Department



Lucina Baryluk,
Senior Process Planner
Development Services Division

Report accepted and recommended by the City Manager:


Date: March 4, 2016

List of Attachments

- Attachment 1: Council Motion – November 26, 2015
- Attachment 2: Proposed OCP Amendment Bylaw (Bylaw 16-027)
- Attachment 3: Proposed Land Use Procedures Bylaw, 2016 (Bylaw 16-028)
- Attachment 4: Council Motion – November 14, 2013.
- Attachment 5: November 16, 2015 and August 27, 2015 Planning and Land Use Committee Reports

REPORTS OF THE COMMITTEES

3. Planning and Land Use Committee – November 26, 2015

1. Delegated Authority and Exemptions for Development Permits:

It was moved by Councillor Alto, seconded by Councillor Lucas,:

1. Prepare an Official Community Plan (OCP) Amendment Bylaw:

- a. To exempt buildings and structures with a floor area no greater than 9.2m² (100ft²) from requiring development permits in the following designated areas:

- i. DPA 4: Town Centres
- ii. DPA 5: Large Urban Villages
- iii. DPA 6A: Small Urban Villages
- iv. DPA 10A: Rock Bay
- v. DPA 10A: Rock Bay
- vi. DPA 13: Core Songhees
- vii. DPA 14: Cathedral Hill Precinct
- viii. DPA 15A: Intensive Residential Small Lot
- ix. DPA 15B: Intensive Residential Panhandle
- x. DPA 15D: Intensive Residential Duplex
- xi. DPA 16: General Form and Character

- b. To exempt changes to existing landscaping (where the landscaping does not form part of an approved plan) from requiring development permits in the following designated areas:

- i. DPA 5: Large Urban Villages
- ii. DPA 6A: Small Urban Villages
- iii. DPA 7A: Corridors
- iv. DPA 10A: Rock Bay
- v. DPA 11: James Bay and Outer Harbour
- vi. DPA 13: Core Songhees
- vii. DPA 14: Cathedral Hill Precinct
- viii. DPA 15A: Intensive Residential Small Lot
- ix. DPA 15B: Intensive Residential Panhandle Lot
- x. DPA 15D: Intensive Residential Duplex
- xi. DPA 16: General Form and Character

- c. To clarify language in Appendix A of the OCP so it is clear when a permit is not required (an exemption) versus when a permit is required, to improve its user-friendliness.

2. Prepare a Land Use Procedures amendment bylaw to delegate approval authority to staff for the following types of development applications, when consistent with relevant policy:

- a. New buildings, building additions, structures and equipment in Development Permit Area (DPA) 16: General Form and Character, DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage.
- b. New buildings, building additions, structures and equipment that do not exceed 100m² floor area in:
 - i. DPA 2 (HC): Core Business
 - ii. DPA 3 (HC): Core Mixed-Use Residential
 - iii. DPA 4: Town Centres
 - iv. DPA 5: Large Urban Villages
 - v. DPA 6A: Small Urban Villages

- vi. DPA 6B (HC): Small Urban Villages Heritage
- vii. DPA 7A: Corridors
- viii. DPA 7B (HC): Corridors Heritage
- ix. DPA 10A: Rock Bay
- x. DPA 10B (HC): Rock Bay Heritage
- xi. DPA 11: James Bay and Outer Harbour
- xii. DPA 12 (HC): Legislative Precinct
- xiii. DPA 13: Core Songhees
- xiv. DPA 14: Cathedral Hill Precinct
- c. Accessory Building in:
 - i. DPA 15A: Intensive Residential Small Lot
 - ii. DPA 15B: Intensive Residential Panhandle Lot
 - iii. DPA 15D: Intensive Residential Duplex
- d. Floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour located in the FWM Zone, Fisherman's Wharf Marine District.
- e. Floating buildings, floating building additions and floating structures that do not exceed 100m² in floor area in all DPAs.
- f. Renewals of up to two years for previously approved (unlapsed and unchanged) Development Permits where there have been no intervening policy changes.
- g. Renewals of up to two years for previously approved (unlapsed and unchanged) Heritage Alteration Permits where there have been no intervening policy changes.
- h. Replacement of exterior materials on existing buildings.
- i. Temporary buildings and structures that do not exceed 100m² in floor area and where removal is secured by a legal agreement limiting permanence to two years.
- j. Temporary construction trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring.
- k. Temporary residential unit sales trailers on private property where a legal agreement is in place to secure its removal within six months of receiving an Occupancy Permit or within six months of a Building Permit expiring.
- l. Changes to landscaping where applicable design guidelines exist or where identified within an approved plan.
- 3. Develop and implement a process to monitor and evaluate the effectiveness and impacts of the proposed delegation authority and report to Council at six months and one year on the effectiveness of the system. After one year, that Council will consider an annual review.

Carried Unanimously

Council meeting
November 26, 2015

NO. 16-027

A BYLAW OF THE CITY OF VICTORIA

The purpose of this bylaw is to amend the Official Community Plan to exempt certain types of development, in certain areas of the City, from the requirement to obtain a development permit.

Under its statutory powers, including Sections 471 to 475 and 488 to 491 of the *Local Government Act*, the Council of The Corporation of the City of Victoria, in an open meeting assembled, enacts the following provisions:

1. This Bylaw may be cited as the "OFFICIAL COMMUNITY PLAN BYLAW, 2012, AMENDMENT BYLAW (NO. 20)".
2. Bylaw No. 12-013, Official Community Plan Bylaw, 2012, is amended in Schedule A by making the following changes to Appendix A, "Development Permit Areas and Heritage Conservation Areas":
 - a) In "Overview", subsections 1(b)(i) and (ii) are deleted and replaced with the following:
 - (i) the provisions of each of those designated areas shall apply, and
 - (ii) an exemption relating to one designated area only relieves the requirement for a permit under that designation, not under other designations applicable to the land;
 - b) In "Overview", Subsection 2(a) is deleted and replaced with the following:

"(a) Development Permit Areas: In accordance with Section 488(4) of the Local Government Act, a Development Permit is not required in any designated Development Permit Areas under any of the following conditions:";
 - c) In "Overview", Subsection 2(b) is deleted and replaced with the following:

"(b) HCAs: In accordance with section 614(3)(a) of the Local Government Act, a heritage alteration permit is not required in any designated heritage conservation areas under any of the following conditions:";
 - d) In "DPA 4: Town Centres", the following subsection is added as a specific exemption, immediately after subsection 2(b)(ii):

"(iii) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, that does not exceed 9.2m²."

and the existing text in subsection 2(b) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsection.
 - e) In "DPA 5: Large Urban Villages", the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

- e) In "DPA 5: Large Urban Villages", the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

- "(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²; or
- (4) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsections.

- f) In "DPA 6A: Small Urban Villages", the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

- "(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²; or
- (4) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsections.

- g) In "DPA 7A: Corridors", the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

- "(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²; or
- (4) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsections.

- h) In "DPA 10A: Rock Bay", the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

- "(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²; or
- (4) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsections.

- i) In "DPA 11: James Bay and Outer Harbour", the following subsection is added as a specific exemption, immediately after subsection 2(b)(i) (2):

"(3) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsection.

- j) In "DPA 13: Core Songhees", the following subsections are inserted as specific exemptions immediately after subsection 2(b)(i) (2):

"(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²;

(4) changes to existing landscaping, other than landscaping identified in a development permit for the property; or"

and the existing subsection 2(b)(i) (3) is renumbered subsection 2(b)(i) (5).

- k) In "DPA 14: Cathedral Hill Precinct" the following subsections are added as specific exemptions, immediately after subsection 2(b)(i) (2):

"(3) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²; or

(4) changes to existing landscaping, other than landscaping identified in a development permit for the property."

and the existing text in subsection 2(b)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsections.

- l) In "DPA 15A: Intensive Residential – Small Lot" the following subsection is added as a specific exemption, immediately after subsection 2(c)(i) (3):

"(4) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²."

and the existing text in subsection 2(c)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsection.

- m) In "DPA 15B: Intensive Residential – Panhandle Lot" the following subsection is added as a specific exemption, immediately after subsection 2(c)(i) (5):

"(6) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m²."

n) In “DPA 15D: Intensive Residential – Duplex” the following subsection is added as a specific exemption, immediately after subsection 2(c)(i) (6):

and the existing text in subsection 2(c)(i) is revised by making any punctuation or grammatical changes necessary to accommodate the new subsection.

“(5) the construction, placement or alteration of a building or structure having a total floor area, including any floor area to be added by alteration, no greater than 9.2m².”

READ A FIRST TIME the day of 2016.

READ A SECOND TIME the _____ day of _____ 2016.

Public Hearing held on the _____ day of _____ 2016.

READ A THIRD TIME the _____ day of _____ 2016.

ADOPTED on the _____ day of _____ 2016.

MAYOR

LAND USE PROCEDURES BYLAW**A BYLAW OF THE CITY OF VICTORIA**

A Bylaw to define procedures under which an owner of land may apply for an amendment to the Official Community Plan or the Zoning Regulation Bylaw, for the issuance of a permit, to impose application fees, to specify notification distances, and to delegate Council's authority to make decisions in certain circumstances.

WHEREAS:

A local government that has adopted an official community plan bylaw or a zoning bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for a permit under Part 14 of the *Local Government Act*; and

The Council of the City of Victoria has adopted an official community plan and a zoning bylaw; and

A local government may, by bylaw, impose application fees for an application to initiate changes to an official community plan or zoning bylaw, the issuance of a permit under Part 14 or Section 617 of the *Local Government Act*, or an amendment to a land use contract or a heritage revitalization agreement; and

A local government may by bylaw specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permits; and

The Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality;

NOW THEREFORE, the Council of the City of Victoria, in open meeting assembled, enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

1. Title
2. Repeal
3. Severability
4. Definitions
5. Applications Subject to this Bylaw

PART 2 – APPLICATIONS

6. Pre-Application Community Meeting Requirements
7. Notification Distance
8. Waiving a Community Meeting
9. Applications Forms

10. Application Requirements
11. Evidence of Participation in a Community Meeting
12. Declared value of buildable floor area
13. Declared value of construction
14. Receipt of Applications
15. Incomplete applications
16. Notification of incomplete applications
17. Application referral
18. Application review summary
19. Council referral
20. Application Fee
21. Refund
22. Refund of administration fee
23. Cancellation of Applications
24. Reapplication – cancelled file
25. Application Sign Posting Requirements – permits
26. Application Sign Posting Requirements – other applications
27. Public hearing
28. Right to waive a public hearing
29. Opportunity for public comment
30. Notice of public hearing
31. Notice of opportunity for public comment
32. Notice requirements for temporary use permits or development variance permit
33. Reapplications

PART 3 – DELEGATION AND RECONSIDERATION

34. Types of Permits
35. Referral
36. Referral consideration
37. Council reconsideration
38. Time limit for reconsideration

- 39. Notice of reconsideration
- 40. Representation to Council
- 41. Council's authority

SCHEDULES

- Schedule A Application Fees
- Schedule B Procedures for Sign Posting– Permits
- Schedule C Procedures for Sign Posting – Other Applications
- Schedule D Delegated Approvals

PART 1 – INTRODUCTORY PROVISIONS

Title

- 1. This Bylaw may be cited as the "LAND USE PROCEDURES BYLAW, 2016".

Repeal

- 2. Bylaw No. 09-048, the "Land Use Procedures Bylaw" is repealed.

Severability

- 3. If any Section, subsection, sentence clause or phrase forming part of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed from the Bylaw without affecting the validity of the Bylaw or any remaining portion of the Bylaw.

Definitions

- 4. In this bylaw,
 - "**ADP**" means
the City's Advisory Design Panel
 - "**CALUC**" means
Community Association Land Use Committee
 - "**Committee**" means
a select or standing committee of Council
 - "**Community Meeting**" means
a public meeting held in association with a Community Association Land Use Committee operating under the Community Association Land Use Committee Procedures for Processing Rezoning and Variance Applications as approved by a resolution of Council

“development permit” or “DP” means

a permit authorized by Section 490 of the *Local Government Act*

“development variance permit” or “DVP” means

a permit authorized by Section 489 of the *Local Government Act*

“Director” means

the City's Director of Sustainable Planning and Community Development Department

“HAPL” means

the City's Heritage Advisory Panel;

“heritage alteration permit” means

a permit authorized by Section 617 of the *Local Government Act*

“heritage revitalization agreement” means

an agreement authorized by Section 610 of the *Local Government Act*

“Official Community Plan” or “OCP” means

the City's Official Community Plan Bylaw, 2012

“public comment” means

members of the public addressing Council, other than at a public hearing, regarding the subject matter of a decision Council proposes to make

“public hearing” means

a public hearing that is required to be held under the *Local Government Act* before Council adopts a bylaw

“TRG” means

the Technical Review Group composed of City of Victoria staff

“zoning bylaw” means

the City's Zoning Regulation Bylaw

Applications subject to this bylaw

5. This bylaw establishes fees and procedures in relation to applications for:
 - (a) an amendment to the zoning bylaw;
 - (b) an amendment to the OCP;
 - (c) an amendment to a land use contract;
 - (d) a temporary commercial or industrial use permit;

- (e) a heritage revitalization agreement;
- (f) a development variance permit;
- (g) a development permit;
- (h) a heritage alteration permit.

PART 2 - APPLICATIONS

Pre-application community meeting requirements

6. Before submitting an application to initiate changes to the OCP or the zoning bylaw the applicant must:
 - (a) pay to the City the community meeting notification fee as calculated in accordance with Schedule A of this Bylaw; and,
 - (b) arrange and participate in a Community Meeting.

Notification Distance

7. The City will provide notification of the date of the scheduled Community Meeting to the owners and occupiers of properties located within:
 - (a) 100 metres of the property that is the subject of the application (the "subject property") if the application is for one of the matters listed in Section 26 of this Bylaw;
 - (b) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and also requires an amendment to the Urban Place Designation for the subject property in the *Official Community Plan*; or
 - (c) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and requires the creation of or amendment to guidelines in the *Official Community Plan* for one or more Development Permit Areas or Heritage Conservation Areas.

Waiving a Community Meeting

8. The requirement to arrange and participate in a Community Meeting in relation to an application may be waived:
 - (a) in writing by the CALUC in the area in which the proposed development is located;
 - (b) by the Director if, in the Director's opinion, the applicant has made reasonable attempts to hold a Community Meeting;
 - (c) by Council.

Application Forms

9. The Director is authorized to establish and revise the application form for any application to be used from time to time pursuant to this Bylaw.

Application requirements

10. All applications must be submitted to the Director on the form provided by the City for the purpose of the application, and must be accompanied by:
 - (a) all of the information and supporting documents specified in the application form;
 - (b) the fees set out in Schedule A to this Bylaw.

Evidence of participation in a Community Meeting

11. If a Community Meeting was required in relation to an application, the applicant must submit evidence that the applicant has participated in the Community Meeting.

Declared value of buildable floor area

12. An application for an amendment to the zoning bylaw, or for a heritage revitalization agreement or amendment, must include a declaration of the value of the buildable floor area permitted under the amendment or agreement, as certified by a qualified professional.

Declared value of construction

13. An application for a development permit or a heritage alteration permit must include a declaration of the value of construction proposed under the permit, as certified by a qualified professional.

Receipt of applications

14. If a person submits a complete application to the Director, the Director must process the application.

Incomplete applications

15. If a person submits an incomplete application to the Director, the Director may:
 - (a) process the application; or
 - (b) refuse to process the application.

Notification of incomplete applications

16. If the Director refuses to process an incomplete application, the Director must inform the applicant, either verbally or in writing, why the application is incomplete.

Application Referral

17. When processing an application, the Director may refer the application to other agencies or associations, the TRG, or other staff members.

Application Review Summary

18. When processing an application the Director may provide an applicant with a summary of any feedback the Director receives following the referrals contemplated in Section 17.

Council Referral

19. Council or a Committee of Council may refer a development permit application or a heritage alteration permit to ADP or HAPL or a joint meeting of ADP and HAPL for its recommendations concerning the design of the application or other matters within the ADP's or HAPL's terms of reference.

Application fee

20. The application fee for an application under this Bylaw is the sum of the following amounts, each of which is set out in, or must be calculated in accordance with, Schedule A:
 - (a) the pre-application fee for the community meeting;
 - (b) the base application fee;
 - (c) the large project fee;
 - (d) the administration fee; and
 - (e) the resubmission fee.

Refund

21. An applicant who has paid the base application fee, or the large project fee, or both, is entitled to:
 - (a) a 90% refund if the application is formally withdrawn prior to the review of the application by the TRG;
 - (b) a 75% refund if the application is withdrawn or cancelled after the TRG review but prior to being placed on an agenda for a Committee of Council.

Refund of administration fee

22. An applicant who has paid the administration fee in relation to an application is entitled to a refund of that fee if the application is cancelled, withdrawn or abandoned, and the applicant requests a refund, before the City has incurred any expenses in relation to the giving notice of a public hearing, the waiver of a public hearing, or an opportunity for public comment in relation to the application.

Cancellation of Applications

23. If an application has been accepted by the Director for processing and further information from the applicant is requested after review by the Director, TRG Committee or Council, the applicant is required to provide the requested information within 6 months. If the applicant does not provide the requested information within 6 months of the request, the City will provide a final written notification to the applicant and if the requested information is not provided within 3 months of the final written notification, the file will be closed.

Reapplication - cancelled file

24. An applicant wishing to reopen a closed file must submit a new application and pay the applicable fee prescribed in Schedule A of this Bylaw, but the one year waiting period for reapplications under Section 33 of this Bylaw does not apply.

Application Sign Posting Requirements - Permits

25. A person who submits an application for any of the following must post signage in compliance with Schedule B of this Bylaw:
- (a) development variance permit;
 - (b) development permit with variances;
 - (c) heritage alteration permit with variances
 - (d) a temporary commercial or industrial use permit.

Application Sign Posting Requirements – Other applications

26. A person who submits an application for any of the following must post signage in compliance with Schedule C of this Bylaw:
- (a) a *Zoning Regulation Bylaw* amendment;
 - (b) an *Official Community Plan Bylaw* amendment;
 - (c) an application to amend a land use contract, if the amendment relates to the use or density of an area covered by the contract;
 - (d) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.

Public hearing

27. In accordance with the *Local Government Act*, a public hearing is required before Council adopts a bylaw to:
- (a) amend the zoning bylaw;
 - (b) amend the OCP;
 - (c) amend a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (d) enter into or amend a heritage revitalization agreement, if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.

Right to waive a public hearing

28. Council may waive the holding of a public hearing in relation to a zoning amendment bylaw if the proposed amendment is consisted with the OCP.

Opportunity for public comment

29. Council may provide an opportunity for public comment before passing a resolution to issue:
- (a) a development variance permit, other than a permit that varies a bylaw under Section 526 of the *Local Government Act*;
 - (b) a development permit with variances;

- (c) a heritage alteration permit with variances; or,
- (d) a temporary commercial or industrial use permit.

Notice of public hearing

30. The distance specified for the purpose of the notification of a public hearing required in relation to any of the following is 100 m:
- (a) an amendment to the zoning bylaw;
 - (b) an amendment to the OCP;
 - (c) an amendment to a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (d) a heritage revitalization agreement bylaw.

Notice of opportunity for public comment

31. If Council proposes to provide an opportunity for public comment, the City will mail or otherwise deliver notice of the opportunity to the owners and occupiers of all parcels that are the subject of, or that are adjacent to the parcels that are the subject of, the permit in relation to which Council proposes to make a decision.

Notice requirements for temporary use permits or development variance permit

32. For clarity, nothing in this bylaw affects or modifies, or shall be construed as an attempt to affect or modify, the City's obligation, under Section 494 or Section 499 of the *Local Government Act*, to give notice of a proposed resolution to issue a temporary use permit or a development variance permit.

Reapplications

33. If the Council does not approve an application submitted in accordance with this bylaw, a person must not submit the same application within one year of the date of Council's decision to not approve the application. However, Council may, by an affirmative vote of at least 2/3 of its members that are eligible to vote on the reapplication, allow a person to reapply within the one year period.

PART 3 – DELEGATION AND RECONSIDERATION

Types of permits

34. Council delegates to the Director the authority to issue the types of permits listed in column A of the table attached as Schedule D to this Bylaw, in the areas listed in column B, accordance with the conditions set out column C.

Referral

35. Before exercising the delegated authority to make a decision under this Bylaw, the Director may refer an application to other agencies or associations, ADP, HAPL, the TRG, or other staff as required.

Referral consideration

36. If the Director refers an application as contemplated in Section 35 above, the Director must consider but is not bound to accept any recommendations or comments of the body or bodies to which the Director has referred the application.

Council reconsideration

37. If an application is refused, or if the applicant objects to a proposed provision of the permit or approval, the applicant may request that Council reconsider the decision of the Director in accordance with the provisions for reconsideration set out in this Part.

Time limit for reconsideration

38. Within 10 days of being notified in writing of a decision of the Director, the applicant may apply to the City's Corporate Administrator to have Council reconsider a decision of the Director.

Notice of reconsideration

39. The City's Corporate Administrator must give the applicant at least 10 days notice of the time and place of Council's reconsideration, and of the applicant's right to appear before Council to make representations concerning the application.

Representation to Council

40. A person exercising the right of reconsideration may make oral or written submission to Council and may appoint a representative to make representation.

Council's authority

41. Council may either confirm the decision made by the Director or substitute its own decision, including conditions of a permit or additional conditions of the permit.

READ A FIRST TIME on the day of 2016.

READ A SECOND TIME on the day of 2016.

READ A THIRD TIME on the day of 2016.

ADOPTED on the day of 2016.

CORPORATE ADMINISTRATOR

MAYOR

**City of Victoria
Bylaw No. 16-028**

Schedule A

APPLICATION FEES

1 Pre-application fee

The pre-application fee, for giving notice of a Community Meeting, is:

- (1) \$400.00 if notice of a Community Meeting must be given to owners and occupiers of properties within 100 metres of the subject property; or,
- (2) \$800 if notice of a Community Meeting must be given to owners and occupiers of properties within 200 metres of the subject property.

2 Base application fee

- (1) The base application fee for the following applications is \$1400:
 - (a) a *Zoning Regulation Bylaw* amendment;
 - (b) an *Official Community Plan* amendment;
 - (c) an application to amend a land use contract, if the if the amendment relates to density or use of an area covered by the contract;
 - (d) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.
- (2) For applications that would enable the creation of new small lots as defined in the OCP, the base application fee is applicable to each potential new small lot.
- (3) The base application fee for Development Permits and Heritage Alteration Permits with or without variances is outlined in the following table plus \$250 for each variance that is requested or proposed in the application, based on the declared value of the construction that is contemplated in the application, as follows:

Declared Value of Construction:	Base Application Fee
Less than \$25,000	\$200
\$25,000 to \$2,000,000	\$500

- (4) The base application fee for a Development Variance Permit is \$500, plus \$250 for each variance that is requested or proposed in the application.

- (5) The base application fee for a Development Permit for subdivision only is \$250 for each new lot that is proposed to be created in the application.
- (6) The base application fee for a permit which the Director is authorized to issue is \$200.
- (7) There is no application fee for a heritage alteration permit without variances for single family dwellings or duplexes.

3 Administration Fee

- (1) The administration fee for an application to amend a bylaw that requires a public hearing, payable when the Council forwards the bylaw to a public hearing, is \$1200.00.
- (2) The administration fee for an application in respect of which Council provides an opportunity for public comment, payable when Council determines the date of the opportunity for public comment, is \$200.00.

4 Large Project Fee

- (1) The Large Project Fee for applications to amend the zoning bylaw or amend or enter into a heritage revitalization agreement applies if the value of the total buildable floor area permitted under the proposed amendment or agreement exceeds \$2 million.
- (2) The value of the total buildable floor area shall be calculated as follows:
 - (a) The site area used in the calculation of the Large Project Fee includes all lots subject to the application.
 - (b) For the purpose of calculating the Large Project Fee, the maximum floor space ratio or building floor area is used that is possible under the *Zoning Regulation Bylaw Amendment* or Heritage Revitalization Agreement bylaw (as the case may be), not the amount of floor area proposed by the application.

Step 1 – Calculation of Value of Buildable Floor Area						
Site area (m ²)	X	Maximum FSR	X	Cost per m ²	=	Value of buildable floor area

Step 2 - Calculation of Large Project Fee						
Value of buildable floor area (from Step 1)	-	\$2,000,000	X	0.001	=	Large Project Fee

- (3) The Large Project Fee for an application to amend the zoning bylaw or amend or enter into a heritage revitalization agreement shall be calculated as follows:
- (4) The Large Project Fee for a development permit or a heritage alteration permit application applies if the value of the construction value under the proposed amendment or agreement exceeds \$2 million.

- (5) The construction value shall be calculated as follows:

Step 1 – Calculation of Construction Value of Building				
Total floor area including basement (m ²)	X	Cost per m ²	=	Construction value of building

- (6) The Large Project Fee for a development permit or a heritage alteration permit application shall be calculated as follows:

Step 2 - Calculation of Large Project Fee						
Construction value of building (from Step 1)	-	\$2,000,000	X	0.001	=	Large Project Fee

- (7) If an application subject to the Large Project Fee under both section 4(1) and 4(4) of this Schedule, the Large Project Fee will only be assessed once for the application.

5 Resubmission fee

- (1) If the plans submitted in support of the application require revisions as set out in an Application Review Summary as provided by the TRG, revised plans will be reviewed by City staff and no additional fees will be charged. If the revised plans do not address the requirements as set out in the Application Review Summary, a fee of \$500 shall be required for each subsequent resubmission until all technical requirements have been addressed to the satisfaction of the Director.
- (2) If revised plans are a result of changes proposed by the applicant, and not requested by staff, Committee, Council, ADP or HAPL, then an additional fee of \$500 shall be required for each new submission.
- (3) There is no resubmission fee when an applicant resubmits revised plans in response to comments arising from Committee, Council, ADP or HAPL.

**City of Victoria
Bylaw No. 16-028**

Schedule B

PROCEDURES FOR SIGN POSTING – PERMITS

1. For the following applications, a notice sign or signs shall be posted on the property or properties subject to the application:
 - (a) Development variance permit;
 - (b) Development permit with variances;
 - (c) Heritage alteration permit with variances;
 - (d) Temporary commercial or industrial use permit.
2. The City shall determine the specifications, format, and information content of the sign or signs.
3. The applicant shall:
 - (a) obtain the sign or signs from the City or obtain the specifications for the sign from the City;
 - (b) post the sign or signs on the subject property for a minimum of 10 days prior to the date of the Council's meeting concerning the application;
 - (c) post additional meeting notices and additional signs if required;
 - (d) maintain the sign or signs on the subject property for the required time period.
4. The sign or signs shall be posted in a prominent location, clearly visible from the street, on each frontage and lot subject to the application. Staff may specify siting and siting changes.

**City of Victoria
Bylaw No. 16-028**

Schedule C

PROCEDURES FOR SIGN POSTING – OTHER APPLICATIONS

1. For the following applications a notice sign or signs shall be posted on the property or properties subject to the application:
 - (a) rezoning;
 - (b) application to amend a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (c) official community plan bylaw amendment;
 - (d) heritage revitalization agreement, if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.
2. The City shall determine the specifications, format, and content of the sign or signs, and provide the specifications to the applicant or the applicant's agent.
3. The applicant shall, at its sole expense:
 - (e) prepare the sign or signs in accordance with the specifications provided by the City;
 - (f) post the sign or signs on the subject property for a minimum of 10 days prior to the initial Committee meeting;
 - (g) post additional meeting notices and additional signs if required by the City;
 - (h) maintain the sign or signs on the subject property until the Public Hearing for the application has been held.
4. The sign or signs shall be posted in a prominent location, clearly visible from the street, on each frontage and lot subject to the application. Staff may specify siting and siting changes.

**City of Victoria
Bylaw No. 16-028**

Schedule D

DELEGATED APPROVALS

The Director is authorized to issue the types of permits listed in Column A, in the areas set out in Column B, subject to the conditions specified in Column C of the following table.

A. Permit Types	B. DPAs and HCAs	C. Conditions
DP for new buildings, building additions, structures and equipment	DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 16: General Form and Character	Permit valid for two years from the date of issuance.
HAP without variances for a single family dwelling or duplex	All DP Areas	The Director is satisfied that the application is consistent with any applicable guidelines in the OCP. Permit valid for two years from the date of issuance.
DP or HAP authorizing minor amendments to plans attached to or referenced in an existing approved permit	All DP Areas	The Director is satisfied that the proposed amendments are substantially in accord with the terms and conditions of the original approved permit, including variances and are consistent with the guidelines under the OCP. The expiry date of the original permit applies.
DP or HAP for the renewal of an existing valid DP or HAP	All DP Areas	The permit being renewed must be: <ul style="list-style-type: none"> o unlapsed at the time of application; o unchanged from the original application; and o not subject to any new policies or regulations. Permit valid for two years from the date of issuance.
DP for new buildings, building additions, structures and equipment	DPA 8: Victoria Arm - Gorge Waterway	The guidelines set out in the OCP must be satisfied. Permit is valid for two years from the date of issuance.
DP for new buildings, building additions, structures and equipment that are less than 100 m ² in floor area	DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed-Use Residential DPA 4: Town Centres DPA 5: Large Urban Villages DPA 6A: Small Urban Villages DPA 6B (HC): Small Urban Villages Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 10A: Rock Bay	Permit is valid for two years from the date of issuance.

A. Permit Types	B. DPAs and HCAs	C. Conditions
	DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct	
DP for an accessory building or buildings	DPA 15A: Intensive Residential - Small Lot DPA 15B: Intensive Residential - Panhandle DPA 15D: Intensive Residential - Duplex	Permit is valid for two years from the date of issuance.
DP for floating buildings, floating building additions or floating structures of any size	Fisherman's Wharf Marine District Zone within DPA 11: James Bay and Outer Harbour	Permit is valid for two years from the date of issuance.
DP for floating buildings, floating building additions and floating structures that do not exceed 100 m ² in floor area	All DP Areas	Permit is valid for two years from the date of issuance.
DP or HAP for the replacement of exterior materials on existing buildings	All DP Areas	Permit is valid for two years from the date of issuance.
DP or HAP for landscaping changes where there is an approved DP or HAP where no occupancy permit has been issued	DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed-Use Residential DPA 4: Town Centres DPA 5: Large Urban Village DPA 6A: Small Urban Village DPA 6B (HC): Small Urban Village Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm-Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct DPA 15A: Intensive Residential - Small Lot DPA 15B: Intensive Residential - Panhandle DPA 15C: Intensive Residential - Rockland DPA 15D: Intensive Residential - Duplex DPA 15E: Intensive Residential - Garden Suites DPA 16: General Form and Character HCA 1: Traditional Residential	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit.
DP or HAP for landscaping changes where there is an approved DP or HAP after the occupancy permit has been issued	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 5: Large Urban Village DPA 6A: Small Urban Village DPA 6B (HC): Small Urban Village Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm-Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit

A. Permit Types	B. DPAs and HCAs	C. Conditions
	DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct	
Landscaping changes without an approved Development Permit or Heritage Alteration Permit	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 6B (HC): Small Urban Villages Heritage DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm - Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10B (HC): Rock Bay Heritage DPA 12 (HC): Legislative Precinct HCA 1: Traditional Residential	The proposed guidelines must comply with applicable guidelines. Permit is valid for two years from the date of issuance. A landscape security may be required to ensure compliance with the approved plans.
Temporary buildings and structures that do not exceed 100 m ² in floor area	All DP Areas	Temporary buildings and structures located on private property. Covenant in place to ensure removal of temporary buildings or structures within two years from the date of issuance of the Development Permit for the temporary building or structure.
Temporary construction trailers and temporary residential unit sales trailers	All DP Areas	Temporary construction trailers and temporary residential unit sales trailers located on private property. Covenant is in place to ensure removal of temporary construction trailers and temporary residential unit sales trailers subject to the following time frame: <ul style="list-style-type: none"> o Six months after the date the City issues an Occupancy Permit for the principal building or structure on the property; or o Six months after the date that the principal building or structure on the property is no longer the subject of a valid and subsisting Building Permit; or o If neither a Building Permit or Occupancy Permit is required or will be issued for the principal building on the property, then two years from the date of issuance of the Development Permit for the temporary construction trailers and temporary residential unit sales trailer.

REPORTS OF THE COMMITTEE

Governance and Priorities Committee – November 7, 2013

Amendment to Land Use Procedures Bylaw to Update References to OCP and other minor changes

It was moved by Councillor Alto, seconded by Councillor Madoff, that Council approve:

1. That the City Solicitor be instructed to prepare a consolidated version of the *Land Use Procedures Bylaw* incorporating the changes as proposed in this report and further minor changes for legal purposes as required.
2. That the City Solicitor be instructed to prepare an amendment to the *Sign Bylaw* to provide for an amendment by way of a Development Variance Permit specific to signs and associated fees.

Carried Unanimously



Planning and Land Use Committee Report

For the Meeting of September 10, 2015

To: Planning and Land Use Committee **Date:** August 27, 2015

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Delegated Authority and Exemptions for Development Permits

RECOMMENDATIONS

That Committee forward this report to Council for consideration and that Council direct staff to:

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

2. Undertake public consultation to receive feedback on the proposed Official Community Plan amendment bylaw and report back to Council with a summary of comments received prior to a Public Hearing.
3. Prepare a Land Use Procedures amendment bylaw to delegate approval authority to staff for the following types of development applications when consistent with relevant policy:
 - a. new buildings, building additions, structures and equipment in Development Permit Area (DPA) 16: General Form and Character, DPA 10A: Rock Bay, and DPA 10B (HC): Rock Bay Heritage;
 - b. new buildings, building additions, structures and equipment that do not exceed 100m² floor area in:
 - i. DPA 2 (HC): Core Business
 - ii. DPA 3 (HC): Core Mixed-Use Residential
 - iii. DPA 4: Town Centres
 - iv. DPA 5: Large Urban Villages
 - v. DPA 6A: Small Urban Villages
 - vi. DPA 6B (HC): Small Urban Villages Heritage
 - vii. DPA 7A: Corridors
 - viii. DPA 7B (HC): Corridors Heritage
 - ix. DPA 10A: Rock Bay
 - x. DPA 10B (HC): Rock Bay Heritage
 - xi. DPA 11: James Bay and Outer Harbour
 - xii. DPA 12 (HC): Legislative Precinct
 - xiii. DPA 13: Core Songhees
 - xiv. DPA 14: Cathedral Hill Precinct;
 - c. accessory buildings in:
 - i. DPA 15A: Intensive Residential Small Lot
 - ii. DPA 15B: Intensive Residential Panhandle Lot
 - iii. DPA 15D: Intensive Residential Duplex;
 - d. floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour located in the FWM Zone, Fisherman's Wharf Marine District;
 - e. floating buildings, floating building additions and floating structures that do not exceed 100m² in floor area in all DPAs;
 - f. renewals of up to two years for previously approved (unlapsed and unchanged) development permits where there have been no intervening policy changes;
 - g. renewals of up to two years for previously approved (unlapsed and unchanged) heritage alteration permits where there have been no intervening policy changes;
 - h. replacement of exterior materials on existing buildings;
 - i. temporary buildings and structures that do not exceed 100m² in floor area and where removal is secured by a legal agreement limiting permanence to five years;
 - j. temporary construction trailers on private property;
 - k. temporary residential unit sales trailers on private property;
 - l. changes to landscaping where applicable design guidelines exist or where identified within an approved plan.
4. Develop and implement a process to monitor and evaluate the effectiveness and benefits of the proposed delegation authority initiative and report to Council with an annual summary of findings and recommendations.

EXECUTIVE SUMMARY

The purpose of this report is to seek direction from Council to advance two key initiatives that are in direct support of the *City of Victoria Strategic Plan 2015-2018*, annual Development

Summit feedback, and the *Official Community Plan* (OCP) monitoring and evaluation program. The first initiative is to prepare an Official Community Plan amendment bylaw to exempt certain forms of 'minor' development (small scale buildings/structures and changes to existing landscaping) from requiring development permits within specific Development Permit Areas and associated with these proposed amendments, to provide improved language in the OCP so it is clear when a permit is and is not required. The minor forms of development that are proposed to be exempted from development permits typically have minimal impacts on the form and character of the surrounding area including the public realm and could be adequately reviewed through the *Zoning Regulation Bylaw* in combination with the proposed conditions described in Attachment 1.

The second initiative is to prepare an amendment to the *Land Use Procedures Bylaw* to provide staff with delegated authority to review and approve a range of development permit (DP) and heritage alteration permit (HAP) applications when they are consistent with approved City policy. Both of these initiatives were identified through the Development Summits as a means to reduce the overall volume of development applications and a way to streamline the development application process.

The delegation approach would also help to streamline the review process for a number of relatively straight-forward development proposals, shortening timelines for applicants and reducing the number of applications that need to be processed through to a Council decision point. It is anticipated that processing times for delegated applications would be typically reduced from approximately three to four months down to two to four weeks. A number of informal review processes would also be regularized with the implementation of this approach, enhancing staff's ability to review and respond to development and business requirements related to needing temporary structures as well as building maintenance and upgrades. Staff also propose to monitor and evaluate the overall effectiveness and benefits of the delegated authority initiative and provide Council with an annual summary of outcomes and recommendations.

If Council endorses the proposed development permit exemptions, staff will report back to Council with an Official Community Plan amendment bylaw that will be subject to a Public Hearing process in accordance with the requirements of the *Local Government Act*. Similarly, if Council endorses the proposed delegation authority initiative, staff will report back to Council with a Land Use Procedures Bylaw amendment and a detailed outline of the administrative review process for the proposed delegated development permit and heritage alteration permit applications for Council's consideration.

PURPOSE

The purpose of this report is to provide Council with information, analysis and recommendations to support Council's consideration of exempting specific forms of minor development from requiring development permits and to establish a system of delegated authority to enable staff to review and approve a range of development permit (DP) and heritage alteration permit (HAP) applications when they are consistent with established City policy. These initiatives have been identified as key outcomes from the annual Development Summits and also provide a means to streamline development applications in support of the *City of Victoria Strategic Plan 2015-2018* and the OCP monitoring and evaluation program.

BACKGROUND

Previous Council Consideration of Delegated Authority

Over the past three years, a series of reports and Council workshops have been advanced for Council's consideration which explored the possibility of delegating authority to staff to approve a range of DPs and HAPs. Copies of these Council reports and minutes are included in Attachments 4, 5 and 6 for reference. Council initially directed staff to explore the possibility of developing a delegated authority option that included delegating some types of variance applications to staff, which was reflected in Council's selection of Option #5 from the range of delegation options (below) that were presented to Council in 2012:

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

Upon receiving information on this approach on December 12, 2013, Council requested a more limited form of delegation and posed a number of questions related to how to ensure adequate community input and whether there was a way to forward applications to Council for a decision, particularly in instances when consultation was part of the existing process. A follow-up workshop was held on September 18, 2014, where staff brought forward a report focused on a more limited version of delegation, but still with variances and some exemptions; however, a final conclusion was not reached and a number of concerns continued to be expressed by Council related to a number of topics.

The approach being advanced for Council's consideration via this report strives to address these concerns by limiting the range of delegation to applications without variances. At the same time, this initiative along with the proposed DP exemptions described in this report, provide an opportunity to advance a number of key goals targeted at streamlining development application processing that are noted in the Strategic Plan and articulated at the 2014 and 2015 Development Summits, at which participants discussed the need to simplify and speed up the review process for routine applications while freeing up staff time to focus on more complex applications.

While this report presents a key opportunity to advance the current Development Summit outcomes it should be noted that staff will be consulting with the development industry and communities (CALUCs) for feedback on the proposed Development Summit Action Plan that is anticipated to be presented to Council in October 2015. Regardless, the proposed initiatives described in this report continue to be reinforced through the outcomes of the last Development Summit.

ISSUES AND ANALYSIS

1. Development Permit Exemptions

Volume of Development Permit Minor Applications

Staff have identified that over a 24 month period (July 31, 2013 - July 31, 2015) the City received a total of 125 development permit minor applications (DPM) of which six were for small scale buildings and structures and five were for changes to landscaping. While these types of

developments do not represent a significant portion of the applications received, they are appropriate candidates to exempt from requiring a DP to assist with reducing application volumes to improve City responsiveness to business, and allowing staff to redirect their energies to more complex applications.

Proposed Approach

The proposed development permit exemptions described in Attachment 1 are restricted to specific Development Permit Areas for certain types of development considered to be 'minor' in nature due to their limited size, scale, and impact. This includes the development of small scale buildings and structures that are less than 9.2m² (100ft²) as well as changes or replacement of existing landscaping when the landscaping is not associated with a previously-approved development permit. Currently, these types of minor developments are typically processed through a DPM which requires application fees and additional time from staff to review and process. However, based on past experience, staff have identified that these scenarios are primarily administrative processes that generally do not add value to the final result.

Affected Areas

Attachment 1 identifies the proposed development permit exemptions including the specific Development Permit Areas where they would apply. The proposed exemptions would not apply in Heritage Conservation Areas (HCA) or to properties identified on the *City of Victoria Heritage Register*.

Statutory Consultation

The *Local Government Act* requires a local government to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by an OCP amendment. This consultation requirement is in addition to the Public Hearing requirement. The impact of the proposed OCP amendment is deemed to be limited as the proposed DP exemptions are minor in scale and are not deemed to alter the function or general design of the principal development. As a result, it is recommended that the appropriate consultation measures would include a newspaper notice of the proposed OCP amendment bylaw and a notice posted on the City's website inviting feedback and questions from the public and the opportunity to provide written or verbal comments to Council for their consideration. In addition, if Council directs staff to prepare an OCP amendment bylaw, staff will ensure that the proposed bylaw is communicated directly with the Community Association Land Use Committees as well as with the development industry. Staff will then report back to Council with a summary of the feedback in conjunction with the proposed OCP amendment bylaw.

2. Delegation Authority

Development Data

Council's direction to explore the development of a system of delegated authority was initiated with the adoption of the new OCP, when it was anticipated that the establishment of a new City-wide Development Permit Area (DPA 16,) would trigger additional applications which would be subject to the DP application process. The table below illustrates the increase in the number of applications that have been received over the past five years.

Application Volumes Related to Delegation Authority

Application Type	Old OCP, 1995		New OCP, 2012			Average Increase since July 29, 2012
	July 30, 2010 to July 29, 2011	July 30, 2011 to July 29, 2012	July 30, 2012 to July 29, 2013	July 30, 2013 to July 29, 2014	July 30, 2014 to July 29, 2015	
DP	25	20	42	52	48	110%
HAP	16	13	20	16	14	15%
REZ	31	23	26	36	30	14%
Total	72	56	88	104	92	46%

Although it would appear that the increase in applications is related to the OCP, the increase cannot be wholly attributed to the introduction of DPA 16. After analyzing 24 months of recent development permit applications, only four applications are purely a result of the introduction of the new DPA 16. All the other development permit applications would have been triggered because of a variance requirement or because the property was located in a Development Permit Area that existed prior to the introduction of the new OCP.

Nonetheless, as illustrated in the table, there has been a sharp increase (110%) in the number of DP applications as well as a more modest increase in other application types which happens to coincide with the introduction of the new OCP. This may in part be due to renewed interest in developing in the City because of the new policies that were introduced with the OCP or because of the positive development cycle that the City has been experiencing over the past few years.

Despite only four applications being triggered because of DPA 16, there were 20 applications with some form of variance located in DPA 16 that required additional processes because of this new DPA. These additional processes included reviewing applications for compliance with design guidelines, collecting and administering landscape deposits, monitoring building progress and conducting inspections to ensure compliance with approved development permit plans. There would have also been the need for some applicants to submit and for staff to review and administer minor change applications related to these files when design changes were requested. These processes were not required under the previous OCP and represent an increased regulatory burden for applicants and staff. So although there has not been a significant increase in the number of applications that can be attributed to DPA 16, there has been an overall increase in processes associated with its creation and delegating some degree of authority for certain types of applications will help to alleviate pressure on resources and improve approval times for applicants.

Recommended Approach

The recommended approach being advanced for Council's consideration would significantly reduce timelines for applicants and would streamline and simplify the process of moving applications through to a decision point for the application types that are suggested for delegation to staff. The recommended delegation items are for the most part, small scale in nature and for the few potential larger scale delegation types such as new buildings in DPA 16: General Form and Character, DPA 10A: Rock Bay, DPA 10B (HC): Rock Bay Heritage, DPA 11: James Bay and Outer Harbour (limited to Fisherman's Wharf) have the benefit of established design guidelines that they can be assessed against. In all instances, staff would prepare a weekly list that identifies all DP and HAP applications received as well as those that have been approved. This list would be provided to Council for information as well as posted on the City of

Victoria website. As part of the review process, staff would also be able to refer applications to the Advisory Design Panel and Heritage Advisory Panel.

Recommended for Immediate Implementation

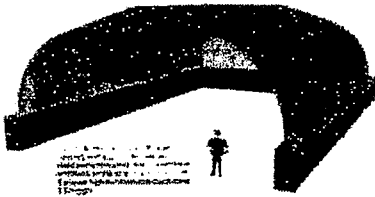
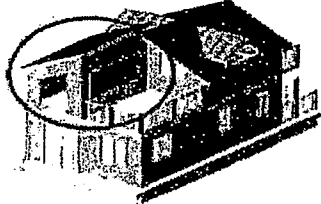

The approach being recommended for Council's consideration for immediate implementation is detailed in Attachment 2 of this report and is summarized below. This approach would delegate authority to staff to approve DP and HAP applications that do not include variances and that are consistent with zoning and relevant guidelines, within the following categories:

- all new buildings and building additions in DPA 16: General Form and Character, DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage
- new buildings and building additions that do not exceed 100 m² in floor area in:
 - DPA 2 (HC): Core Business
 - DPA 3 (HC): Core Mixed-Use Residential
 - DPA 4: Town Centres
 - DPA 5: Large Urban Villages
 - DPA 6A: Small Urban Villages
 - DPA 6B (HC): Small Urban Villages Heritage
 - DPA 7A: Corridors
 - DPA 7B (HC): Corridors Heritage
 - DPA 10A: Rock Bay
 - DPA 10B (HC): Rock Bay Heritage
 - DPA 11: James Bay and Outer Harbour
 - DPA 12 (HC): Legislative Precinct
 - DPA 13: Core Songhees
 - DPA 14: Cathedral Hill Precinct
- accessory buildings in:
 - DPA 15A: Intensive Residential Small Lot
 - DPA 15B: Intensive Residential Panhandle Lot
 - DPA 15D: Intensive Residential Duplex
- floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour in the FWM Zone, Fisherman's Wharf Marine District
- floating buildings, floating building additions and floating structures that do not exceed 100 m² in floor area
- renewals of up to two years for previously approved (unlapsed and unchanged) development permits where there have been no intervening policy changes
- renewals of up to two years for previously approved (unlapsed and unchanged) heritage alteration permits where there have been no intervening policy changes
- replacement of exterior materials on existing buildings
- temporary buildings that do not exceed 100m² in floor area where their removal is secured by a legal agreement
- temporary construction trailers
- temporary residential unit sales trailers - where they comply with the *Zoning Regulation Bylaw*.

This approach would result in a significant time-savings for applicants. Presently, based on existing targets, applications that fall into any of these categories typically take three to four months to process through to a point where a decision is rendered by Council. Under the proposed approach, where a DP or HAP application is supportable and no revisions or additional information is required it could be processed in two to four weeks. Below are few

examples to highlight the types of development applications that could be processed within this time frame. Additional examples are further described in Attachment 3.

Examples

Development Type	Sample Image	Processing Time
New industrial building in DPA 16		2 weeks
Addition to a floating building in DPA 11		2 Weeks
Renewal of a previously approved DP		4 weeks

Referrals to Council

The development permit application types that are proposed for delegated authority would still be analyzed to ensure consistency with established guidelines and policies imbedded in the City's OCP. In cases where an applicant is unwilling or unable to meet the guidelines, applications would be referred to Council as per the normal process. In this way, staff would not be authorized to decline applications and an appeal process would not be needed to address refusals.

Additionally, there may be instances where an application fits the criteria to be delegated to staff; however, in the opinion of staff, it may be preferable to refer the application to Council for a decision. The recommendation being put forward for Council's consideration is to amend the *Land Use Procedures Bylaw* to allow for this degree of discretion to be exercised by the Director of Sustainable Planning and Community Development.

Community Consultation for Delegation Authority

Staff recommend for Council's consideration that further consultation on the recommended approach is not necessary. The rationale for this is that the approach does not include any applications that would have previously been referred to CALUCs nor required notice to neighbours or signage. Additionally, the range of considerations that come into play when reviewing these types of applications is limited to guidelines and policies referenced in the OCP.

which were developed with the benefit of community consultation. Finally, as noted earlier in this report, participants at the Development Summit, which included a range of stakeholders, identified the potential for granting some form of delegated authority to staff as a key strategy that could be used to reduce timelines and streamline processes.

Alignment with Local Area Planning

The City is currently in the process of undertaking a local area planning process for the Burnside neighbourhood including the Rock Bay area which is currently subject to DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage. During phase I of public engagement throughout April to June 2015, feedback was received from business representatives in Rock Bay and the employment lands north of Bay Street that regulatory barriers could be reduced to encourage business incubation in the area. Delegating approval authority to staff for buildings within DPA 10A and DPA 10B would assist with this. It is anticipated that the local area planning process may result in the establishment of new guidelines for the Rock Bay area that will be used to review and consider future development applications. Under the proposed Delegation Authority initiative, staff would review and consider any applicable development permit applications in these Development Permit Areas based on the current guidelines that are identified in the OCP until such time as they are updated to reflect the new local area plan. This approach helps to support an immediate streamlining and improvement with the development review process while also recognizing that revised or new guidelines may result through the current local area planning process. This same rationale and approach would also apply within other areas of Victoria where future local area planning is undertaken.

Alignment with Economic Development Initiatives

As described earlier in this report, the proposed DP exemption and delegated authority initiatives provide alignment with the *City of Victoria Strategic Plan 2015-2018*. This alignment also extends to Objective 5 which seeks to create prosperity through economic development. The ability to streamline development application processing and improvements to service delivery provides a key component to encouraging further investment and development within Victoria.

OPTIONS AND IMPACTS

1. Development Permit Exemptions

Option 1: Prepare OCP Amendment Bylaw (Recommended)

This option would implement a specific action identified in the Strategic Plan and the feedback received at the annual Development Summits. Council has the option to advance this initiative by directing staff to prepare an OCP amendment bylaw which will be subject to a Public Hearing in accordance with the requirements of the *Local Government Act*. This means that Council would still have the opportunity to consider the amendment bylaw in conjunction with any comments or concerns that are received from the public. Similarly, Council may also seek to refine or limit the proposed exemptions described in Attachment 1 prior to directing staff to prepare the OCP amendment bylaw. Staff have identified the proposed development permit exemptions as a way to facilitate a more streamlined and efficient process for developers and property owners to undertake minor developments. This initiative will also help to reduce the volume of development applications, resulting in the potential to allocate more staff time to review and process more significant or complex applications.

Option 2: Delegate Approval Authority to Staff for These Items

An exemption for buildings under 9.2m² (100ft²) in size and changes to existing landscaping means that there would be no design review of these items. Should Council feel that evaluation and guidance is necessary, these could be added to the list of delegation items to staff, which would still result in some streamlining, but to a lesser extent.

Option 3: Maintain Status Quo

If Council directs staff to not prepare the recommended OCP amendment bylaw, the limitations of the current OCP will persist and staff would need to seek further direction as to whether Council would like these types of applications to come to Council for a decision in the future. This status quo approach would make it more difficult to achieve the objectives of the *Development Summit Action Plan* and the *City of Victoria Strategic Plan 2015-2018* related to improving application process times.

2. Delegation Authority

Option 1: Implement the proposed approach to delegate authority including a system to monitor and evaluate the effectiveness and benefits of this approach. **(Recommended)**

After the initial work of staff drafting and Council considering the necessary bylaw amendments, a degree of Council and staff time associated with what are typically straight-forward applications would be freed up and could be allocated to focusing on other key priorities. Additionally, key actions identified in the City's Strategic Plan as well as through the Development Summit would be achieved and positive outcomes related to streamlining development applications as a way to advance economic development goals would be realized. This approach also provides a system to report to Council on an annual basis with a summary of the overall effectiveness and benefits of the delegated authority initiative including recommendations.

Option 2: Direct staff to discontinue work on this topic by deciding to not implement a system of delegated authority

Considerable staff and Council time has already been expended exploring topics related to delegated authority. Stopping exploration and consideration of this topic would also free up a small amount of staff and Council time, but would not advance actions identified in the Strategic Plan or at the Development Summits, nor would it advance goals of economic development associated with streamlining development application processes.

2015 - 2018 Strategic Plan

The proposed development permit exemptions and delegation authority initiatives both help to directly support the following 2016 Outcomes of the Strategic Plan:

- reduced processing time for all types of applications from building permits to rezoning
- streamlined land use policies.

In addition, the recommended approach is also consistent with the Strategic Plan objective to "Strive for Excellence in Planning and Land Use," as it advances an opportunity for Council to

"make a decision with regard to whether we are going to delegate more decision-making authority to staff."

Impacts to 2015 - 2018 Financial Plan

There are no additional financial resources required to prepare the proposed OCP amendment bylaw. However, the proposed development permit exemptions may result in a minimal reduction of development permit fees as the DP exemption is only proposed for two types of minor development. The base fee for a development permit minor application is \$200 and during the 24-month period described earlier, the City received a total of 125 applications of which only 11 (8%) were for the types of minor development that are proposed for exemption. Therefore, it is estimated that the proposed exemption would have a minimal impact on the overall development permit fees that are collected each year.

Delegating approval authority of permits to staff would have no direct impact on the City's Financial Plan. However, the proposed delegated authority would result in fewer reports needing to be written by staff and processed through the Council review process each year. This would yield time and resource savings for applicants, Council and City staff including the ability to improve service levels by directing more staff time to review and process more complex development applications.

Official Community Plan (OCP), 2012 - Consistency Statement

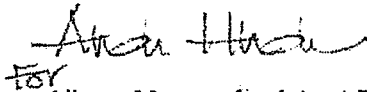
The proposed development permit exemptions are consistent with the Adaptive Management chapter, which contemplates periodic updates and refinements to ensure the OCP is able to deliver and support its various broad objectives and actions.

The proposed approach to delegated authority is consistent with the OCP and amendments to the OCP are not required. In particular, the recommended changes would support objectives identified in the Plan Administration section of the OCP which states, "That development is subject to additional oversight through tools available in legislation in designated areas of the city where more direction is required to address special conditions and plan goals and objectives." Additionally, it responds to a goal contained in the Adaptive Management section which is to "Incorporate knowledge accumulated through the adaptive management cycle into relevant plans, policies, management and operations in a coordinated and timely manner." The proposed approach to delegated authority still offers oversight in designated areas to ensure development proposals meet design guidelines where special conditions exist, while offering an adapted method that responds to the knowledge gained from monitoring and evaluating applications that have been received since the OCP was approved in 2012.

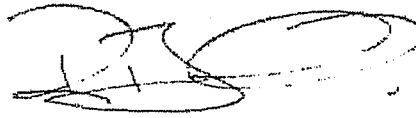
CONCLUSIONS

The proposed development permit exemptions and delegation authority are positive initiatives that will significantly streamline and expedite processes for applicants, Council and staff. The combined proposed changes would also result in fewer reports per year which would allow more staff time to be allocated to further improve service levels and processing times for more complex development applications. The proposed changes would also have the benefit of regularizing some informal practices that have been utilized to facilitate minor changes in development within Development Permit Areas as well as supporting economic development within the City of Victoria and advancing a number of goals that are articulated in the City's Strategic Plan and the recommendations flowing from the annual Development Summits.

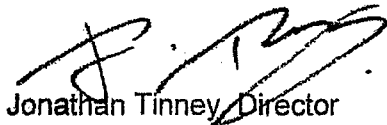
Respectfully submitted,


for

Alison Meyer, Assistant Director
Development Services Division

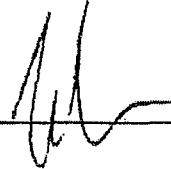


Robert Batallas, Senior Planner
Community Planning Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

Sept 4/15

List of Attachments

- Attachment 1: Proposed Development Permit Exemptions
- Attachment 2: Development Permit Application Types Recommended for Delegated Authority
- Attachment 3: Sample Photos and Plans of Potential Development Permit Applications for Delegated Authority
- Attachment 4: Governance and Priorities Committee Report dated June 7, 2012 and Approved Council Minutes
- Attachment 5: Governance and Priorities Committee Report dated November 8, 2013 and Approved Council Minutes
- Attachment 6: Planning and Land Use Committee Report dated September 4, 2014 and Approved Council Minutes.



Planning and Land Use Committee Report

For the Meeting of November 26, 2015

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

RECOMMENDATION

1. Prepare an Official Community Plan (OCP) Amendment Bylaw:

a. to exempt buildings and structures with a floor area no greater than 9.2m² (100ft²) from requiring development permits in the following designated areas:

- i. DPA 4: Town Centres
- ii. DPA 5: Large Urban Villages
- iii. DPA 6A: Small Urban Villages
- iv. DPA 7A: Corridors
- v. DPA 10A: Rock Bay
- vi. DPA 13: Core Songhees
- vii. DPA 14: Cathedral Hill Precinct
- viii. DPA 15A: Intensive Residential Small Lot
- ix. DPA 15B: Intensive Residential Panhandle
- x. DPA 15D: Intensive Residential Duplex
- xi. DPA 16: General Form and Character;

b. to exempt changes to existing landscaping (where the landscaping does not form part of an approved plan) from requiring development permits in the following designated areas:

- i. DPA 5: Large Urban Villages
- ii. DPA 6A: Small Urban Villages
- iii. DPA 7A: Corridors
- iv. DPA 10A: Rock Bay
- v. DPA 11: James Bay and Outer Harbour
- vi. DPA 13: Core Songhees
- vii. DPA 14: Cathedral Hill Precinct
- viii. DPA 15A: Intensive Residential Small Lot
- ix. DPA 15B: Intensive Residential Panhandle Lot
- x. DPA 15D: Intensive Residential Duplex
- xi. DPA 16: General Form and Character;

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

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

EXECUTIVE SUMMARY

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

PURPOSE

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

BACKGROUND

At the Council meeting of September 10, 2015:

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

Carried Unanimously

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

ISSUES & ANALYSIS

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

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

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

a. Temporary Buildings and Structures (Time limitation)

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

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

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

c. Communication of Delegated Applications

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

2. Response to other comments

a. Referrals to Heritage Advisory Panel

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Proposed Delegation Process

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

a. Staff Review of Application

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

b. Applicant Response to Outstanding Issues

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

c. Staff Review of Revised Plans

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

d. Advisory Design Panel and Heritage Advisory Panel Reviews

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

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

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

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

e. Applicant Design Revisions

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

f. Staff Decision

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

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

g. Posting to City Website

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

OPTIONS & IMPACTS

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

1. Development Permit Exemptions:

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

2. Development Permit Delegated Authority:

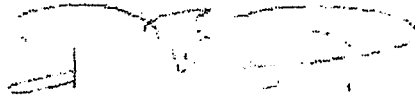
- a. Option 1: Prepare a Land Use Procedures amendment bylaw to delegate authority as outlined in this report and develop a system to monitor and evaluate the effectiveness and benefits of this approach and report back to Council in early 2016 (**recommended**).
- b. Option 2: Direct staff to discontinue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

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

CONCLUSIONS

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

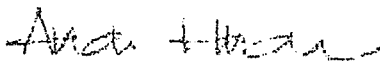
Respectfully submitted,



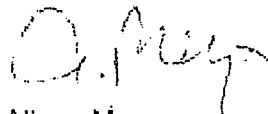
Robert Batallas, Senior Planner
Community Planning



Jonathan Tinney, Director
Sustainable Planning and Community Development



Andrea Hudson
Assistant Director, Community Planning



Alison Meyer
Assistant Director, Development Services

Report accepted and recommended by the City Manager:



Date: November 19, 2015

List of Attachments

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