



The Corporation of the District of Central Saanich

SPECIAL COUNCIL REPORT

For the Special Council meeting on Monday, January 22, 2024

Re: Development Approval Process and Efficiencies

RECOMMENDATIONS:

1. A) *That Delegation of Authority Bylaw Amendment No. 2, 2167 be introduced and given first and second reading second, and*
B) *That Bylaw No. 2167 be given third reading.*
2. A) *That Public Notice Bylaw No. 2169 be introduced and given first and second reading; and*
B) *That Bylaw No. 2169 be given third reading.*
3. A) *That Development Applications Procedure Bylaw Amendment No. 2, 2170 be introduced and given first and second reading; and*
B) *That Bylaw No. 2170 be given third reading.*
4. *That Council's Policy 01.PLAN Development Applications Process be adopted as amended.*

NOTE: This report is one of four companion reports being presented to Council at the January 22, 2024 meeting to advancing housing strategies in response to a number of provincial legislative requirements, previously identified Council initiatives, and Official Community Plan policies.

PURPOSE:

This report addresses Phase 1 of the Implementation Plan summarized in the staff report “Provincial Housing Legislation Summary and Implementation Plan” to Council dated January 22, 2024, to expedite the District’s development approvals process and increase efficiency. The purpose of this report is to amend the Development Applications Procedures Bylaw and the Council Policy – Development Applications Process, amend the Delegation of Authority Bylaw, and to propose a new Public Notice Bylaw. A summary of the proposed bylaw and policy changes are included in Appendix A.

BACKGROUND:

This report addresses the legislative changes to the *Community Charter* and the *Local Government Act* intended to speed up development approvals to build more housing. The staff report Provincial Housing Legislation Implementation Plan dated January 22, 2024, provided a high-level overview of the Ministry of Municipal Affairs Development Approvals Process Review (DAPR) and the options for municipalities to improve development approval process and efficiency. This report focuses on amendments to the District’s bylaws and policies as they relate to development approvals to:

- Streamline the bylaw approval process when a public hearing is not permitted;
- Delegation of authority to the Director of Planning and Building for approval of Development Permits for cottages and Temporary Use Permit renewals;
- Streamline notification timing for Opportunity to be Heard for Development Variance Permits, Development Permits with Variances, and Temporary Use Permits; and implement a Public Notice Bylaw.

DISCUSSION:

Public Hearings and Bylaw Adoption Process

Public hearings are intended to provide the opportunity for the public to provide feedback with respect to an amendment to a land use bylaw. In the past, Council had the option of waiving a public hearing where a bylaw amendment would be consistent with the Official Community Plan (OCP). In 2019 the Province changed the *Local Government Act (LGA)* so public hearings would not be required where consistent with the OCP, with an option that Council could choose to hold the public hearing if they wish to do so. The recent amendments to the *LGA* do not allow Council to hold a public hearing where the amendment bylaw is consistent with the OCP.

The bylaw adoption process when a public hearing is required will remain consistent with the District’s current process shown in Figure 1. If a development proposal requires a covenant or the bylaw to be signed by Ministry of Transportation and Infrastructure (MoTI) this must be finalized prior to Council’s consideration of adopting a bylaw. At minimum this process requires four meetings of Council to adopt a land use amendment bylaw.

Figure 1: Current Bylaw Adoption Process with a Public Hearing



With the changes to the *Local Government Act*, land use bylaw amendments consistent with the Official Community Plan are not permitted to hold a public hearing. In this case, notification is required prior to Council’s consideration of first reading of the amendment bylaw. Three readings of the bylaw can be given in one night (refer to Figure 2 below). The changes to the *Local Government Act (LGA)* and the *Community Charter* encourage expedited development approvals, particularly when they are consistent with the OCP. It should be noted that Section 480 of the *LGA* has not been amended and continues to allow municipal Councils to consider adoption of a bylaw the same night as third reading. Section 480 of the *LGA* is specific to land use bylaw amendments.

Figure 2: Proposed Bylaw Adoption Process with no Public Hearing as per the LGA



The District has an Advisory Planning Commission (APC) that provides an independent review of a development application as referred to by Council. Currently, upon referral, the APC will occur after first reading, but before the public hearing as indicated in Figure 1 above. The APC meets once a month and depending on scheduling the APC meeting, the bylaw approval process could be delayed by three to six weeks. Figure 3 shows the proposed bylaw adoption process with a referral to APC.

Figure 3: Proposed Bylaw Adoption Process with no Public Hearing with Referral to the APC



Council may opt not to forward an application to APC, and in this case, they may consider three readings in one night to allow adoption of a bylaw in two meetings of Council as shown in Figure 2. Amendments

to update the proposed bylaw approval processes in Council's Development Applications Process Policy are included in Appendix B. These amendments continue to enable referral to APC by Council.

Delegation of Authority

The Province's Development Approvals Process Review (DAPR) report identified delegation of authority as a tool to expedite development approvals. The *Local Government Act* allows Council to delegate approval of Development Permits and minor Development Variance Permits to the Director of Planning and Building. Council has already delegated the approval to issue specific development permits to the Director, including:

- Development Permits for Riparian and Sensitive Aquatic Ecosystem
- Development Permits for Sensitive Terrestrial Ecosystem
- Development Permits for Marine Shoreline Development
- Development Permits for Form & Character (minor, for exterior changes to an existing building or site, for a minor addition or structure to an existing building) for Light Industrial/Arterial Commercial/Residential Multi-family and Mixed-use/Brentwood Bay Village/Moodyville/Tourist Commercial/Commercial Marina
- Renewal of a Development Permit where substantial construction has not commenced.

To support expanding the supply of affordable, attainable, and rental housing by improving the efficiency of development approvals, staff have identified the following options for delegation of authority:

- Renewal of Temporary Use Permits;
- Development Permits for Cottages (within the Urban Containment Boundary);
- Development Permits for Small-Scale, Multi-Unit Housing (SMMUH) up to four (4) units to align with the Provincial legislation; and
- Minor Development Variance Permits with guidelines.

Temporary Use Permit (TUP) Renewal

A Temporary Use Permit (TUP) allows a use not currently permitted in a zone on a temporary basis. A TUP is valid for three years and can be renewed for a further three years, allowing a total of six years for the use. Delegation of the renewal of a TUP to the Director is currently requested from Council during consideration of the initial TUP application. Staff recommend adding the delegation of the renewal to the Delegation of Authority Bylaw with the following conditions (Appendix C):

- The notification of the initial permit clearly stated that the temporary use may be considered for a period of up to six (6) years.
- No ongoing bylaw enforcement issues or history of complaints related to the use.
- That permit terms and conditions remain the same or be more stringent in nature such that the approved temporary uses are not expanded.

Development Permits for Cottages

Cottages are detached accessory dwelling units permitted within the Urban Containment Boundary, provided they are limited to one storey, incidental, subordinate and exclusively devoted to the principal residential use. The OCP supports continuing the use of a Development Permit process for proposals within the Urban Containment Boundary to ensure sensitive design and consistency with guidelines.

The District recently implemented Intensive Residential Development Permit Area design guidelines (2020) as a part of the Residential Infill and Densification Project which have specific criteria for detached accessory dwellings and cottages within the Urban Containment Boundary (UCB) (Appendix G). In addition to development permit guidelines the Land Use Bylaw regulates cottages in the UCB as follows:

- Limiting the height to one-storey*;
- Not permitted on a property containing a two-family dwelling*;
- Only permitted on lots 500m² or greater*;
- Not permitted on a panhandle lot within the Urban Settlement Area*;
- Must be occupied for rental purposes only and not rented for less than 30 days*;
- Must not be used as a Bed and Breakfast or short-term vacation rental;
- One off-street parking space must be provided*;
- No basements are permitted;
- Must not be stratified and secured by covenant is required on title to prohibit stratification*.

**Denotes requirements that could change subject to the zoning review and implementation of the Provincial Housing Legislation for Small Scale, Multi-Unit Housing (Bill 44 – Residential Development) and will be reviewed in Phase 2 of the Provincial Housing Legislation Implementation Plan.*

Currently, a cottage in the UCB requires a development permit approved by Council, which may take upwards of four months for approval. To support an expedited process Council may wish to consider delegating approval of a cottage development permit to the Director of Planning and Building. Suggested criteria for a delegated approval process for cottages include:

- The proposal meets all aspects of Part 4, Section 12 and Section 13 of the Land Use Bylaw (summarized in the bullet points above and may be subject to future Provincial legislation amendments);
- No variances are required; and
- The proposal generally confirms to the recently implemented Intensive Residential Development Permit Area Design Guidelines.

The delegated approval process would take approximately 30 days from the date a complete application is made to the District. This process includes referrals to other departments (Engineering, Building, Fire) for comments and confirmation that the zoning and development permit guidelines are met. The proposed amendments to the Delegation of Authority Bylaw are included in Appendix C.

To support homeowners with financing rental units on their property, the Province has released the BC Housing Secondary Suite Incentive Program which will provide at least 3,000 homeowners access a rebate of up to \$40,000 to convert part of their property into a secondary suite as of April 1, 2024 (Appendix H). For the loan to be forgiven, the homeowner must continue to live in the home, and the suite must be rented out below market rates for at least 5 years. This loan applies to new legal self-contained units with a kitchen and full bathroom (improvements are not eligible), laneway homes/garden suites are eligible, where a building permit was issued on or after April 1, 2023. Homeowners wishing to take advantage of the program would benefit from an expedited approval process.

Minor Development Permits and Development Variance Permits

With respect to the Small Scale, Multi-Unit Housing (SSMUH) Provincial legislation to be implemented in the District's Land Use Bylaw by June 30, 2024, further consideration for delegation of authority of Development Permits to the Director of Planning and Building may be considered for up to four units. The legislative changes also allow for delegation of authority for Development Variance Permits with parameters set out in guideline. Staff will bring a report to Council considering further delegation of authority following implementation of SSMUH zoning.

Opportunity to be Heard Notification Process

The *Local Government Act* requires notification for Development Permit with Variances, Development Variance Permits, and Temporary Use Permits that are to be approved by Council. Like the bylaw approval

process, these types of development applications can be streamlined to reduce the amount of time it is considered for approval. Currently, Development Permit with Variances, Development Variance Permits, and Temporary Use Permits are introduced at a meeting of Council and referred by Council to the Advisory Planning Commission (APC). Following the APC staff provide notification as per the Development Application Procedures Bylaw that notifies the public of the application to be considered by Council as shown in Figure 4.

Figure 4 – Current Timing of Notification of an Opportunity to be Heard in Approval Process



It is recommended that notification is sent out prior to the first meeting of Council where the item is to be introduced to enable approval efficiency. This meets the legislative requirements to notify of Council’s consideration of the application. Council then may either decide on the application the same night the application is introduced or refer the application to the APC which effectively defers the decision to a future meeting of Council following comments received from the APC. Further notification would not be required as the initial notification would meet the legislative notification requirements. Figure 5 shows the notification of the application prior to the first meeting of Council. The application may be decided on at the first meeting as shown or the decision may be deferred where Council wishes to receive input from the APC.

Figure 5 – Proposed Timing of Notification of an Opportunity to be Heard in Approval Process



Appendix B includes the proposed amendments to Council’s Development Applications Process Policy.

Public Notice

Public Notices are informational documents published in advance of matters of public interest such as public meetings, elections, public hearings, and disposition of land. These notices inform the public of opportunities to provide input and participate in local government decision-making. By legislation notices are required to include information on how, when, and where the public can request further information and/or provide input to Council.

Previously, the District was required under the *Community Charter* to advertise some public notices in the local newspaper. Bill 26 Municipal Affairs Statutes Amendment Act No. 2 was adopted in February 2022 changing the provisions for public notice, giving local governments the option to adopt a bylaw to provide for alternative means of notice publication to a newspaper. Section 94 of the *Community Charter* considers alternate notification to a newspaper ad by allowing notification by two other sources in addition to the “public notice posting place” which includes the digital screen in the lobby of the District Hall and the District website. Other sources include the social media accounts for the municipality. The *Local Government Act* has also been amended to remove references to newspaper requirements for publications and now defaults to Section 94 of the *Community Charter*.

Prior to adopting a Public Notice Bylaw, Council must consider the following principles as per Ministerial Order 52/2022 (Appendix E):

- The means of publication should be **reliable** (provides factual information and publication takes place at least once a month or if the publication is a website, the website is updated once a month);
- The means of publication are **suitable** for providing notices (information is displayed legibly, a notice can be published by the required date, a notice can be reviewed more than once during the period from the date of publication until the date of the matter for which the notice is required); and
- The means of publication are **accessible** (directed or made available to a diverse audience or readership and are easily found).

Many municipalities are choosing to forgo the requirement for newspaper notices as per Section 94(2) of the *Community Charter* and adopting a Public Notice Bylaw. The current practice to advertise District business within a newspaper can impact Council agendas and development timelines when an advertisement is not published as expected and may potentially delay an item on a Council Agenda until the legislative notification has occurred. Further, if a submission deadline is not met an application may be set back a week because the Peninsula News Review is a weekly publishing. A Public Notice Bylaw would provide the District with increased flexibility and increased accessibility as well as greater control of the timing and publishing of notification related to District business accordingly and not have to rely on third party providers. There would also be a cost savings to the District as advertising public notices in local papers is significant.

The District currently utilizes the Peninsula News Review or the Times Colonist as an alternative to publish notifications. Print newspapers are delivered to those who either have a subscription or pay a fee for delivery. The Peninsula News Review provides an online version for public viewing as does the Times Colonist; however, the Times Colonist requires a subscription or may be accessed through the Victoria Public Library by members. The District has an online presence with a website that publishes Council agendas and minutes, notices, news, as well as other business and services provided by the District. The District also uses social media through Facebook, Instagram, and LinkedIn to announce news and has recently posted the community newsletter, "Community Focus" online. The legislative requirements for public notice can be met by utilizing the District's website and social media accounts as well as the public posting place in Municipal Hall and be deemed reliable, suitable, and accessible.

A draft Public Notice bylaw is included in Appendix F. The draft bylaw aligns with the Province's direction on notification by means of notification in the public notice place, posting on social media, and on the District's website and will provide clarity to District staff and the public about where to find public notices. The proposed bylaw includes discretionary notification requirements for newspaper advertisements to capture occasions when newspaper advertisements may be desired to the discretion of designated District staff or as directed by Council. Examples of advertisements that would utilize the discretionary newspaper advertisement are large public hearings for changes to the Official Community Plan, strategic projects or open house of the District, and other major projects.

With respect to development applications the *Local Government Act* requires notification prior to a public hearing or first reading. The District's Development Application Procedures Bylaw requires publications for public hearings in two newspaper ads published in two consecutive weeks. To streamline the development approval process it is recommended that the Development Applications Procedures Bylaw be amended to align with the draft Public Notice Bylaw as per Section 94(2) of the *Community Charter*. Amendments to Council's Development Applications Process Policy and the Development Application Procedures Bylaw are included in Appendix B and D.

IMPLICATIONS:

Strategic

The following are goals for the 2024-2027 Council Strategic Plan that align with the recommendations outlined in this report:

- Adapt and respond to emerging legislation that seek to remove barriers and incentivize a broader range of housing options.
- Support and encourage development proposals that expand housing diversity, including purpose built rental and legal suites.
- Improve internal processes through adoption of best practices, legislative authority, and new technology.

Legislative/Policy

Local Government Act Section 490(5) allows for delegation of authority of development permits to staff.

CONCLUSION:

This report addresses Phase 1 of the District’s Provincial Housing Legislation Implementation Plan for development approval process efficiency and alignment with the provincial legislation. Additional considerations resulting from the outcome of implementing SSMUH policies (Phase 2 of the Implementation Plan) are anticipated. The recommended amendments to the Development Application Procedures Bylaw, Council Policy Development Applications Process, and the Delegation Bylaw and proposes a new Public Notice Bylaw will better align the District with the recent changes to the *Community Charter* and *Local Government Act*.

Report written by:	Kerri Clark, Manager of Development Services
Respectfully submitted by:	Jarret Matanowitsch, Director of Planning and Building
Concurrence by:	Christine Culham, Chief Administrative Officer

ATTACHMENTS:

- Appendix A: Summary of Amendments to District Bylaws and Policies
- Appendix B: Draft Amendment to Council’s Policy 01.PLAN Development Applications Process
- Appendix C: Draft Delegation of Authority Amendment Bylaw #2167
- Appendix D: Draft Development Applications Procedures Amendment Bylaw #2170
- Appendix E: Ministerial Order 52/2022 (Public Notice Bylaw)
- Appendix F: Draft Public Notice Bylaw #2169
- Appendix G: Excerpt Intensive Residential Design Guidelines
- Appendix H: Secondary Suite Incentive Fact Program