



# The Corporation of the District of Central Saanich

## COMMITTEE OF THE WHOLE REPORT

For the Regular Council meeting on Monday, May 13, 2024

Re: Public Input for Development Applications – Council Policy

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### **RECOMMENDATION(S):**

That Council consider the following recommendation at the Regular Council Meeting on May 27, 2024:

*That Council Policy 03.PLAN Public Input For Development Applications be adopted.*

### **PURPOSE:**

The purpose of this report is to recommend a Public Input Policy for Development Applications. The policy would provide clarity to Council, District staff, and residents of Central Saanich on public input opportunities and requirements for development applications including:

- The types of applications that are subject to legislated or District enabled public input;
- When a public hearing can be held; and
- How written correspondence for development applications considered by Council is managed by the District.

### **BACKGROUND:**

On January 22, 2024 Council considered changes to the *Local Government Act* with respect to the provincial housing legislation. The Development Application Procedures Bylaw, Delegation Bylaw, and Council Policy – Development Applications Processes were amended and a new Public Notice Bylaw was adopted to align with the changes. A follow-up staff report to the February 12, 2024 Council meeting addressed potential issues with holding an Opportunity to be Heard for an application that is prohibited from holding a public hearing. At the Regular Council meeting of February 12, 2024 Council passed the following motion:

*“That staff prepare a Public Input Policy for Development Applications.”*

A Public Input Policy will provide clarity on the legislated public input requirements and the District’s supplementary public input requirements for development applications. This report proposes a public input policy that provides guidance on the format of public input for development applications based on the *Local Government Act* and other bylaws and policies of the District.

### **DISCUSSION:**

The Province’s local government housing initiatives identified that rezoning processes, including public hearings, for stand-alone housing projects contribute to lengthy delays and added costs, particularly for

housing that is already supported or encouraged in an Official Community Plan (OCP). To speed up the building of homes for people and to support pro-active planning, one-off, site-by-site public hearings for rezonings have been phased out for housing projects that are consistent with OCPs. Public hearings will continue to be required when local governments update or develop new OCPs or consider rezoning proposals that are not consistent with the OCP. By requiring the OCP to be updated more regularly, the public can be involved in shaping their communities earlier in the process.

The District adopted the OCP in 2023 with significant consultation with the community. The Residential Infill and Densification Project (2018/19) also supported policies in the current OCP. The District is currently working towards an update of the design guidelines which will provide the opportunity for the public to be more involved in the design and aesthetics of development. Development applications continue to be reviewed against the OCP, Zoning Bylaw, and other bylaws and policies of the District to determine suitability of land use and appropriate density.

Although the Province's direction to move away from public hearings for site specific development proposals that are consistent with the OCP may mean less public input in a specific rezoning application process, the District is mandated to review the OCP every five years. The public will have the opportunity to provide input on development expectations and shape the policy that guides development. The *Local Government Act* also requires public notification and public input opportunities for other types of development applications other than just for rezoning applications. This report provides an overview of the legislated public input requirements for development applications and includes a proposed Public Input for Development Applications Policy to provide clarity on the District's responsibilities and the opportunities for when the public can provide input.

### **Public Input**

The District must provide an opportunity for public input for specific types of development applications as per the *Local Government Act*. Table 1: Public Input Requirements by Development Application Type, on the next page, shows the legislated public input opportunity by development type that must be provided to residents as well as the supplemented opportunities provided by the District.

Public input is both written correspondence provided to the District via email, mail, or dropped off in person at the Municipal Hall or in-person input through attendance and speaking at a Council meeting. Both written and in-person public input are included as a part of the District's public record for a development application. The following sections highlight the opportunities for public input as indicated in Table 1 and are reflected in the proposed Council Policy, Public Input for Development Applications (Appendix A).

Table 1: Public Input Requirements by Development Application Type

Application Type		Notification Required as per the Local Government Act	Public Input		
			Written Input	In-Person Input	
				Opportunity to be Heard	Public Hearing
OCP Amendment				N/A	
Zoning Amendment	Public Hearing Required			N/A	
	Public Hearing Not Held or Prohibited			N/A	
Development Permit					
Development Permit with Variances					N/A
Development Variance Permit					N/A
Temporary Use Permit					N/A
Heritage Designation Bylaw				N/A	
Heritage Alteration Permit					
Frontage Exemption					
	Public Input Required as per the <i>Local Government Act</i> .				
	Public Input Opportunity – District Enabled Opportunity (not a legislative requirement).				
	Public input is not required as per the <i>Local Government Act</i> . The District will not provide notification as the decision whether to approve the application must not be based on public input.				

In-person Public Input

*Public Hearings*

Public hearings are required when updating or amending the OCP. Where a zoning amendment bylaw is not consistent with the OCP, a public hearing is required. This would typically also require an amendment to the OCP. The public hearing cannot be waived where it is inconsistent with the OCP.

Recent changes to the *Local Government Act* include a provision that a public hearing is prohibited where it aligns with the OCP and is primarily for residential use. Holding a public hearing for implementation of provincially mandated Small Scale, Multi-Unit Housing (SSMUH) is also prohibited (to be adopted by June 30, 2024). In addition to this prohibition, the *Local Government Act* also considers that a public hearing is not required where an application is consistent with the OCP and where the purpose of the bylaw is to permit primarily non-residential (i.e. commercial or industrial) uses. Although not required, a public hearing can be held. An excerpt of section 464, when a public hearing is required, of the *Local Government Act* is included in Appendix B.

Staff would determine whether a public hearing is required following review of a development application and based on Table 2 of the proposed policy (Appendix A). Under this policy, staff would recommend a public hearing for any development application that meets the “public hearing not required, but permitted” parameters in the proposed policy. Council would have the option to waive the public hearing as defined in the policy.

#### *Opportunity to be Heard*

The District enables an in-person Opportunity to be Heard for Temporary Use Permits, Development Permits with Variances, and Development Variance Permits. The *Local Government Act* does not mandate public hearing requirements for these types of applications. The District enables written input from the public for these types of applications.

#### Written Public Input

The *Local Government Act* defines the notification period for public input based on providing notice for a set time prior to Council’s consideration of the development application (ie. not less than 3 days and not more than 10 days prior the meeting considering the matter). This provides residents a reasonable amount of time to be informed and advised of the Opportunity to be Heard. The District does not limit public input to just this legislated requirement and accepts written input beyond the legislative notification window in accordance with the Council Correspondence Policy. The management of correspondence is important with respect to the public record and with respect to the legislation for public hearings and development applications. The proposed policy provides clarity on how the District handles correspondence depending on the timing of when the correspondence is received and the subsequent action to ensure the correspondence is part of the public record, provided to Council, and included in the file. This will be reflected in the Council Correspondence Policy, so that both policies are aligned.

#### When Public Input is Not Required

##### *Development Permit*

Development Permits require separate consideration with respect to public input. Public input is not required when Council is considering a Development Permit. A Development Permit cannot be refused based on public concerns; it can only be refused if the development does not comply with the design guidelines. The design guidelines were considered with public input and when a development proposal meets the design guidelines as set out in the OCP a landowner is entitled to a Development Permit. With respect to this, staff recommend that the Public Input for Development Applications Policy reflects this consideration. In the event written input is received it would be appended to a Council agenda as per the Council Correspondence policy.

The District is currently undertaking a review and update of the design guidelines with support from consultants with expertise in architecture and urban design. The project will include public engagement and communication to ensure the design guidelines reflect the most current expectations of the community.

### *Frontage Exemptions*

An application may request a reduction to frontage requirements in the Zoning Bylaw or to the 10% frontage requirements in Section 512 of the *Local Government Act*. Council, by resolution, may approve of the frontage exemption. The legislation does not mandate public input for a frontage exemption as the decision to grant an exemption is by Council or their delegate. Staff recommend that the policy reflect the legislation and not include opportunity for public input; however, written input received would be appended to a Council agenda as per the Council Correspondence Policy.

### Other Development Application Notices or Resources for the Public

Aside from the legislated public input opportunities for development applications as outlined in the proposed policy, the District provides additional information to the public to advertise for upcoming development applications. Ways residents are notified of new development applications include:

- Site notification sign (posted when an application is received)
- Online development tracker (updated when an application is received)  
<https://www.mycentralsaanich.ca/TempestLive/OURCITY/Prospero/Search.aspx>
- Encourage developers to engage with adjacent property owners about the proposal prior to developing their plans
- The public may contact the Planning Department
- Council Agendas are posted the Friday prior to the Council meeting
- Notification provided on District website, social media, and public posting place in municipal hall (as per Public Notice Bylaw)

### Other Considerations – Development Application Process

The District's Development Application Procedures Bylaw section 4. requires that where a proposed development requires more than one type of application (ie. rezoning and development permit with variances), as much as possible the applications will be processed concurrently and be presented to Council as one report. In general, a majority of development applications to the District follow this requirement. Given the interest in maintaining as much opportunity for the public as possible to provide input on site specific development proposals, staff propose that where a public hearing is prohibited and where the process would require an Opportunity to be Heard for variances, the applications are considered by Council separately (the rezoning will be considered first and then followed by the application for a Development Permit with Variances). This process would ensure the formal input received from the public is on variances only, and is not conflicting with the prohibition on holding a public hearing for applications that are consistent with the OCP and for residential purposes.

Staff would continue to receive and review the applications as one package and will continue to be one staff report. However, two notices will be required to notify the public of First Reading of the amendment bylaw in accordance with the legislation and to notify the public of the Opportunity to be Heard for the variances. This process will reduce the risk associated with a formal public input opportunity when a public hearing is prohibited and will increase the application approval time by one council meeting at a minimum. There would be no additional staff time in reviewing the application apart from preparing an additional

notification and attending a Council meeting, and no additional cost as public notices are not required to be published in newspapers with Council's Public Notice Bylaw.

#### **IMPLICATIONS:**

**Strategic** – The proposed policy demonstrates organizational effectiveness by delivering excellent, accessible, and responsive customer service. Recent changes to the legislation have changed opportunities for public input for some development applications. This policy will define the public input opportunities, how they align with the legislation, and how the District manages in person opportunities and written input for the public record.

**Legislative/Policy** – The proposed policy aligns with the recent changes to the *Local Government Act* (Bill 44) to provide clarity to the opportunities for public input, both in person at a Council meeting and in writing to the District and to Council.

**Communications** – This policy is supported by the Public Notice Bylaw and the Development Application Procedures Bylaw. These bylaws address when and how notification is provided for development applications. The proposed policy provides the action taken by the District to include public input as a part of the public record when Council considers a development application. Information for the public on the District website will be updated to reflect the new and updated policies.

**OCP** – The *Local Government Act* mandates a review of the OCP every five years. This process will allow the community to provide input into the vision and growth of the District, as well as where and how development should occur. This process includes much greater input opportunities than the legislated public input requirements. The format public input often includes less formal input opportunities than public input for development applications input such as open houses, surveys, community information meetings, pop up information boards, postcards to residents, and more.

#### **OPTIONS:**

##### **Option 1 (recommended):**

That the Public Input for Development Applications Policy be adopted.

##### **Option 2:**

That the Public Input for Development Applications Policy be deferred for more information.

##### **Option 3:**

That Council provide an alternative direction.

#### **CONCLUSION:**

The Public Input Policy for Development Applications addresses the types of development applications and the form of public input considered by the District. The policy is based on providing residents with the information they need to participate in a meaningful way and providing input opportunities prior to or during the decision-making process in accordance with the *Local Government Act*. The policy will provide clarity to District staff, Council, and the public particularly with the recent changes to public hearing requirements from Bill 44.

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

**ATTACHMENTS:**

Appendix A: Draft Public Input for Development Applications – Council Policy

Appendix B: Excerpts from the *Local Government Act*