

**City of Kelowna
Regular Council Meeting
AGENDA**



Monday, June 10, 2013
9:45 am
Knox Mountain Meeting Room (#4A)
City Hall, 1435 Water Street

	Pages
1. Call to Order	
2. Confirmation of Minutes	3 - 4
Regular AM Meeting - May 27, 2013	
3. Issues Arising from Correspondence & Community Concerns	
3.1 Mayor Gray, re: Issues Arising from Correspondence	30 m
4. Reports	
4.1 Development Permits and the Rezoning Process	60 m 5 - 33
Council has requested (Service Request #250883) that staff report back on the rationale behind the City's practice of requiring that Development Permits be processed concurrently with Rezoning applications.	
5. Resolution Closing the Meeting to the Public	
THAT this meeting be closed to the public to pursuant Section 90 (e) and (j) of the Community Charter for Council to deal with matters relating to the following:	
<ul style="list-style-type: none">• Acquisition, Disposition, or Expropriation of Land or Improvements• Third Party Information	

6. Adjourn to Closed Session



City of Kelowna Regular Council Meeting Minutes

Date: Monday, May 27, 2013
Location: Knox Mountain Meeting Room (#4A)
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Colin Basran*, Andre Blanleil, Maxine DeHart, Gail Given*, Robert Hobson, Mohini Singh, Luke Stack and Gerry Zimmermann

Staff Present: Acting City Manager, Paul Macklem; City Clerk, Stephen Fleming; Acting General Manager, Community Sustainability, Doug Gilchrist*; Council Recording Secretary, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Gray called the meeting to order at 8:37 a.m.

2. Confirmation of Minutes

Moved By: Councillor Stack/Seconded By: Councillor Singh

R371/13/05/27 THAT the Minutes of the Strategic Planning Workshop of April 9, 2013 and the Regular AM Meeting of May 13, 2013 be confirmed as circulated.

Carried

3. Issues Arising from Correspondence & Community Concerns

3.1. Mayor Gray, re: Issues Arising from Correspondence

Mayor Gray:

- Advised that he did not have any correspondence to raise with Council.

3.1.1 Mayor Gray, re: Council Remuneration Review Task Force

Councillor Given joined the meeting at 8:38 a.m.

Mayor Gray:

- Suggested potential candidates for the Task Force.
- Would like the Task Force to wrap up its mandate and Report to Council prior to the end of November 2013.

Councillor Basran joined the meeting at 8:45 a.m.

Council:

- Had a discussion regarding the best methodology for the Council remuneration review.

Moved By: Councillor Given/Seconded By: Councillor DeHart

R372/13/05/27 THAT staff report back to Council with respect to the various options for consideration with respect to reviewing Council remuneration.

Carried

4. Resolution Closing the Meeting to the Public

Moved By: Councillor Zimmermann/Seconded By: Councillor Singh

R373/13/05/27 THAT this meeting be closed to the public pursuant to Section 90(1) (c), (e), (i), (j) and (k) of the Community Charter for Council to deal with matters relating to the following:

- Labour Relations;
- Acquisition, Disposition, or Expropriation, of Land or Improvements;
- Legal Advice;
- Third Party Information; and
- Provision of a Municipal Service.

Carried

5. Adjourn to Closed Session

The meeting adjourned to a closed session at 8:56 a.m.

The meeting was terminated at 11:38 a.m.

Mayor

/slh



City Clerk

Report to Council



Date: June 4, 2013
Rim No. 1250-01
To: City Manager
From: Land Use Management
Subject: Development Permits and the Rezoning Process

Recommendation:

THAT Council receives, for information, the report of the Land Use Management Department, dated May 30, 2013 with respect to Development Permits and the Rezoning process;

AND THAT Council directs staff to maintain the current process, as described in the report of the Land Use Management Department, dated June 4, 2013.

Purpose:

Council has requested (Service Request #250883) that staff report back on the rationale behind the City's practice of requiring that Development Permits be processed concurrently with Rezoning applications.

Background:

In the local government context, the relationship between Rezoning and Development Permit applications is complex, driven by elements of provincial legislation, local bylaws, and the preferences of Council and staff that have developed over time. Periodically, it is valuable to review the City's current practice to ensure that it is aligned with the current Council, the development community, and the City's long-term goals and objectives.

Provincial Legislation

The *Local Government Act (LGA)* sets out the framework for local government land use planning in British Columbia, including both Zoning Bylaws and Development Permits. Within the *LGA*, these two tools are not linked. While a Zoning Bylaw (and, by association, Rezoning) sets the framework for development and principally addresses issues such as use, density and siting. Development Permits are more specific, typically dealing with the form and character of development, the protection of the natural environment, and hazardous conditions related to a specific development.

Each tool has a unique role in the development process. Zoning, which takes effect in the form of a bylaw, is a discretionary approval that confers to a property a range of development rights, which are permanent unless changed by enactment of Council at a later date. Once a property is zoned, an owner may undertake any of the uses permitted by the zone, subject to the provisions of the zone (e.g.: height, setbacks, site coverage). Zoning goes beyond the tenure of a specific development, often regulating the use, density and massing of a site over the course of multiple development projects over a long period of time. Given the potential impacts of zoning/rezoning, the LGA requires a specific level of public consultation in the form of a Public Hearing for any change to a Zoning Bylaw.

Complementary to this, a Development Permit is a non-discretionary (i.e.: if a project meets guidelines, the Permit must be issued) tool that allows for the detailed analysis of a particular development against established guidelines, if such development is located in designated areas. Through the Official Community Plan (OCP) process, several Development Permit Areas were created to protect and to achieve an established community vision. For instance, the OCP designates as Development Permit Areas those portions of the city that are subject to geotechnical hazards, or where urban design is particularly important. If development is proposed in these areas, it must meet established guidelines through the Development Permit process. In that way, every Development Permit is specific to a particular proposal. In addition, a Development Permit expires if not acted upon. Finally, most Development Permits do not require Council authorization (see Figure 1), but are issued by the Director of Land Use Management, and do not trigger the need for any public consultation. Indeed, public consultation is considered largely inappropriate at the Development Permit stage, where a permit is issued solely on the basis of whether it complies with the guidelines established, and where there is no discretion for decision makers to consider public feedback.

Beyond the above, zoning does not include a significant commitment to development. When a Zoning Bylaw is approved, land owners are not forced to construct anything, and zoning alone does not mandate detailed site planning, but concentrates instead on larger issues of land use that set the framework for future development.

In contrast, a Development Permit is directly associated with a specific development project. While it does not carry a legal obligation to construct the development it considers, a Development Permit requires consideration of site planning, functionality, and building design, which usually indicates that a project is ready to move forward. If a Development Permit is obtained for a specific project, and no work takes place, the Permit will expire after two (2) years, and a new Permit (or extension) will be required. Similarly, if a Development Permit is obtained for a specific project, and the project changes substantially, a new Development Permit is needed.

Current Practice

As described above, the two tools exist independent of, but complementary to, one another. In fact, in many cases, Rezoning occur without the need for Development Permits, and Development Permits are regularly triggered without being associated with a Rezoning.

However, where a proposed development triggers both a Rezoning application and a Council authorized Development Permit application (see *Figure 1*), Land Use Management staff encourage applicants to submit Development Permits early in the process. Council authorized Development Permits include only multi-family residential development, and commercial or

industrial development that impacts adjacent residential. Where these projects are very large and long-term, typically involving several phases, staff provide additional flexibility by offering the applicant the option to provide only a generalized, overarching Development Permit which would demonstrate the general site layout, approximate building locations, access point and a detailed landscaping buffer for the perimeter of the property. This would be followed up by site-specific Development Permits as each phase develops after zoning.

Where Development Permits are staff executed and do not involve Council (See *Figure 1*), staff look for the Development Permit submission only in advance of final adoption of the zoning. This encompasses the large majority of cases. These cases are typically minor in nature (e.g.: carriage house or two dwelling housing), or involve technical analysis of environmental sensitivity or hazardous conditions.

Where the City is the land owner but not the developer, a variation on the above process is used. Rather than a full Development Permit, the City conducts a Rezoning and prepares a corresponding set of site-specific design guidelines to which future development on the site must adhere. This process recognizes the unique needs and considerations for the development of City-owned land, and allows the City to secure critical community objectives prior to disposing of land to private development.

Figure 1: Development Permit Authorizations

	Staff Executed	Council Authorized
Comprehensive – Major Corridors (Multi-Family, Commercial, Industrial)	✓	✓ ³
Revitalization – Urban Centres (Multi-Family, Commercial, Industrial)	✓	✓ ³
Intensive Residential (carriage house, two dwelling, character area, hillside)	✓ ¹	
Farm Protection	✓ ¹	
Natural Environment	✓ ²	
Hazardous Conditions	✓ ²	

¹ Only if the proposal is consistent with OCP guidelines.

² Only if the proposal is consistent with OCP guidelines and requires no zoning variances.

³ Only if the proposal impacts adjacent residential, or requires MOT approval.

More recently, staff have received increasing pressure from applicants to delay major Development Permit requirements until a later stage in the application process. As a result, several major applications recently have waited until after 3rd reading of the Rezoning to submit their Development Permit applications. For these Rezonings, the applicant would submit some form of concept drawings or site plans for the first stages of the zoning process. In two such cases recently (Hwy 97/Hwy 33 & Old Meadows Road/Gordon Dr) Council has taken issue with the level of information provided, suggesting that these concept drawings do not provide Council with sufficient information on which to make an informed decision.

Staff are also receiving increased pressure from area residents to ensure that the projects proposed are of a high quality, complement their surrounding context, and contribute positively towards achieving the City's objectives. Residents in these cases are looking for detailed plans in order to assist them in evaluating how a proposed development will impact them.

The movement among residents towards a higher level of design review is not likely to diminish in the near future. Rather, it is likely to intensify as "brownfield" (previously improved land) and redevelopment opportunities, which interface more directly with existing development, begin to overshadow the remaining major "greenfield" (previously unimproved land) development opportunities. This is further reinforced by the push within the Official Community Plan (OCP) to densify Urban Centres. To ensure the success of these Urban Centres during the gradual densification process, a strong focus on urban design and form and character is critical.

A brief analysis of the practices of comparable jurisdictions (see Appendix 'A') has revealed that the majority (57%) of those surveyed adhere to a similar range or practices as the City of Kelowna. Most encourage, if not outright require the submission of Rezoning and Development Permit applications together. The remaining jurisdictions identified a number of other practices, ranging from simply separating the Rezoning and Development Permit processes, to developing customized zones for each project.

City of Kelowna Bylaws

While not linked in the *LGA*, the City's *Development Application Procedures Bylaw No. 10540* makes a direct link between a Rezoning application and a Development Permit application. Specifically, Section 2.2.1 of the bylaw states:

"Council may consider final adoption of an amendment bylaw:

- i. After three readings have been given;
- ii. Where a Development Permit is required by the Official Community Plan, upon receipt of a report from the City Manager stating that the Development Permit has been prepared and is ready for Council Consideration;" [emphasis added]

While the above is standard practice, the bylaw does allow Council some discretion on the matter, noting that:

"Despite sub-section 2.2.1(b), Council may consider final adoption of an amendment bylaw after three readings are given and where the bylaw is otherwise dealt with by Council."

Both of the above elements of the Procedures Bylaw were in place in previous iterations of the bylaw, going back approximately fifteen (15) years.

Discussion:

Through the survey of other jurisdictions (see Appendix 'A'), and additional staff research there appear to be two general approaches to processing rezoning applications that require Development Permits. Each general approach has two options within it. The practice from the

City of North Vancouver of developing custom zoning for each project has not been analyzed, as it is seen to require a complete departure from current practice and legal frameworks.

Each local government has its own variation on the approach, but they can be generally summarized as follows:

Option 1: Rezoning and Development Permit processed together

Where a development triggers both a Rezoning and a Development Permit, the two applications are submitted together and processed concurrently.

PROS:

- Gives Council a detailed understanding of the project early in the process, while the authority of Council remains discretionary;
- Provides the opportunity to evaluate the uses proposed relative to the neighbourhood context;
- Provides informed public consultation and commentary given full proposal disclosure;
- Reduces speculative pressure ('tire kicking') on land by ensuring that a rezoning is coming forward with an actual development proposal;
- Forces the developer to 'prove out' the project as viable;
- Reduces the approval timeline; and
- Allows staff to calculate the actual corresponding servicing and financial implications of development (road improvements, sewer, water, etc.).

CONS:

- Requires an investment (DP Drawings, etc.) from the applicant up front before it is clear whether the land use will be supported;
- Reduces the ability for land developers to use the "build-to-suit" model where zoning is obtained in advance of a clear development concept; and
- Risks confusing land use approval with approving the form and character of development, which are two separate, though related, matters.

One of the principal concerns with this approach is that it places a responsibility on the proponent to invest in detailed drawings before they have the security of land use approval. Based on Council, staff and public feedback, these drawings often change, incurring increased costs to the applicant. This approach also limits the ability for "build-to-suit" options where a developer is seeking maximum flexibility.

As a second concern, through the Rezoning process, Council is being asked to consider the merits of a change in land use, density and siting. Considering a Development Permit at the same time risks confusing the Council deliberation from one focused on land use to one focused on building design. For instance, an applicant may seek a Rezoning to a commercial zone and apply for a corresponding Development Permit for a two-storey building. Once all is approved, the applicant can come back to Council and request a new Development Permit for a four-storey building, with no requirement for zoning change (provided it still meets the Zoning Bylaw). At Rezoning stage, if Council was focused on the building design, they may not have contemplated the implications of the land use they were being asked to grant.

In favour of this option, it encourages the highest standard of application by providing detailed plans for thorough consideration by Council, affected residents, and by staff early in the process. This also forces the applicant to come forward with a well thought-out and concrete development project for consideration.

In terms of approval processing times, this option provides the largest benefit. A typical Council authorized Development Permit takes a minimum of 2 months to process, and a typical staff issued Development Permit takes a minimum of 3 weeks. However, if both applications are processed concurrently, there is no delay incurred, as there is a seamless approval of the zoning and Development Permit.

Option 2: Development Permit after 3rd Reading

Where a development triggers both a Rezoning and a Development Permit, the Development Permit must be considered in conjunction with final adoption of the Rezoning.

PROS:

- Gives Council the chance to review the detailed design of a project in advance of giving away its discretionary powers of zoning;
- Gives applicants a fair degree of land use certainty in advance of investing in detailed drawings;
- Reduces speculative pressure ('tire kicking') on land by ensuring that a rezoning is coming forward with an actual development proposal;
- Reduces the approval timeline;
- Forces the developer to 'prove out' the project as viable; and
- Allows staff to quantify the servicing and financial implications of development.

CONS:

- Reduces the ability for land developers to use the "build-to-suit" model where zoning is obtained in advance of a clear development concept;
- Staff may be challenged to provide a clear analysis and professional recommendation in the absence of understanding general site concepts and neighbourhood compatibility;
- Council and the general public may not have detailed information with which to evaluate a project at Public Hearing; and
- Risks confusing land use approval with approving the form and character of development, which are two separate, though related, matters.

While this process provides additional certainty to the applicant, reduces their upfront costs with a project, and improves their timelines for approval, it presents its own set of difficulties. Chief among these is the level of information provided to affected property owners and the general public. The principal opportunities for public involvement in a project all take place leading up to and including Public Hearing. However, the approach described above provides detailed project data only after Public Hearing, where the public is no longer permitted to participate in the legislative process.

Typically, an applicant for a Rezoning in this case would provide some form of concept drawings for Council and public review. However, in the absence of clear requirements

for what information must be provided in the form of concept drawings in advance of Development Permit, there may be significant discrepancies in the quality of information submitted.

Option 3: Rezoning with Concept Plan

Where a development triggers both a Rezoning and a Development Permit, the two applications are processed separately, but the applicant is required to bring forward concept plans at the Rezoning stage.

PROS:

- Gives development proponents security of land use in advance of investing in detailed drawings;
- Provides flexibility for the applicant to alter the concept plans submitted during zoning and thereby an ability to respond to the marketplace;
- Allows Council to focus on the land use (zone) being sought, rather than on the detail of a design; and
- Provides Council and the general public with a conceptual understanding of what may be constructed on site.

CONS:

- Less detailed information provided to Council and the general public, as no clear standards exist for concept plans;
- More difficult for staff to quantify accurately the servicing and financial implications of development; and
- Extends the approval process, as the Development Permit approval process will only begin after zoning is approved.

A secondary benefit of Development Permits is their utility as means of ensuring that rezoning will result in area development/redevelopment within a reasonable time period. Quality of a development is, of course, the primary benefit of the Development Permitting process. This reduces the likelihood that land owners will rezone simply to benefit from the land lift without any intention to move forward with an actual development.

Also, staff are obligated to ensure the provision of adequate servicing to developments. Where a Rezoning is triggered, servicing is secured at that stage. If no detailed drawings are provided, assessing the servicing needs of a development becomes challenging (e.g.: Transportation Impact). Staff may be forced to rely on “worst-case-scenario” assumptions.

Last, the previous two options (concurrent or prior to adoption) allow a Development Permit process to take place at the same time as the Rezoning process. Should the two be separated, the overall development process will be extended. For most Council authorized Development Permits, waiting to begin the process after Rezoning will add at least two (2) months. For staff issued Development Permits, the delay will be less significant at a minimum of three (3) weeks.

Option 4: Rezoning without Concept Plans

Where a development triggers both a Rezoning and a Development Permit, both applications are processed completely independent of one another, with no requirements for concept drawings.

PROS:

- Allows a high level of flexibility for applicants to create their development concept after zoning;
- Provides certainty of land use to applicants; and
- Allows Council to focus on the land use at zoning, and design at Development Permit without confusing the two elements.

CONS:

- Makes it challenging for Council to understand the implications of a zoning decision;
- Affected land owners may have significant difficulty understanding how a zoning proposal affects them given the multitude of uses allowable in a given zone;
- Reduces the ability for staff to evaluate the uses proposed relative to the neighbourhood context;
- May reduce urban design quality, as negotiation opportunities are reduced after zoning;
- Extends the approval process, as the Development Permit approval process will only begin after zoning is approved;
- More difficult for staff to quantify accurately the servicing and financial implications of development; and

This option only exacerbates the concerns identified in the previous alternative, including extending the overall development approval process. Understanding land use changes is very difficult without the benefit of clear, consistent and detailed drawings. Once a Rezoning is granted, there is no additional opportunity for public input.

Land Use Management Comments:

As described above, there are generally four approaches to processing developments where both Rezoning and Development Permits are required. Options 1 and 2 are considered to be under the umbrella of concurrent processing, while options 3 and 4 are considered to be under the umbrella of separate processing. Each has its own advantages and disadvantages. For approximately fifteen (15) years, the City of Kelowna has chosen to adhere to the concurrent processing approach, which is consistent with the approach of the majority of local governments surveyed (57%).

In the City's application of the concurrent processing approach, staff only seek both Rezoning and Development Permit applications to be submitted at the same time where the Development Permits are Council authorized. This affects only multi-family residential, and commercial and industrial development that impacts adjacent residential. Otherwise, staff ask for Development Permits to be submitted only before final adoption of zoning.

Recent pressure has resulted in some inconsistencies in the application of this approach. However, after revisiting the issue, and comparing the City's practice to other similar jurisdictions, Land Use Management staff remain supportive of the existing framework. Staff feel that it represents a balanced approach to addressing both the growing expectations of Kelowna residents and the needs of the development community – one that is supported by the Council's direction, as described in the document *Moving Opportunities Forward: Council Focus 2012-2014*.

Two recent Council decisions support this position: Hwy 97/Hwy 33 and Old Meadows Road/Gordon Drive. In these cases, staff allowed the applicant to defer a Development Permit until 3rd reading of zoning, and Council raised concerns with moving forward without more detailed designs to review.

Certainly, the current practice is not perfect. It asks land developers to come to the table with concrete, detailed project plans early in the development process for major projects. Nevertheless, staff feel that processing both applications concurrently provides the greatest benefit to the general public, as it presents the information necessary to judge the impact of a project and to respond accordingly. The approach also improves the approval timeline and encourages applicants to come forward with thorough, detailed and well thought-out projects. It is through this strong commitment to high quality urban design that the City will achieve its objective of creating distinctive and attractive neighbourhoods, and vibrant urban centres that will be the focus of Kelowna's urban life for many years.

Processing Rezoning and Development Permits concurrently does not necessarily mean that every technical detail (irrigation, landscape species, bonding estimates, etc...) of the Development Permit is provided up front. It is possible to delay some of these technical details until a later stage in the development process, while ensuring that the major elements of the Development Permit application (height and density, building form and character, detailed site plan, general landscaping) are provided in time for public consideration and input.

As mentioned earlier, the majority of Development Permits are staff executed, and, when triggered by a Rezoning, are required between 3rd reading and final adoption of the Rezoning. This provides additional flexibility and security for the majority of applications, while simultaneously allowing staff to focus efforts on major projects that require Council authorization. For multi-phase projects, staff also provide the option of generalized, overarching Development Permits, which provide land developers with considerable flexibility, while ensuring commitment to key elements, such as landscape buffers, access, and general site layout.

To ensure that this option functions optimally, Council and affected land owners must be consistent with adhering to the required process for each application. While a Development Permit serves an important role in the Rezoning process by illustrating clearly the physical impact of a land use change, this information should not unduly cloud the judgment of decision makers being asked to consider land use.

Alternate Recommendation:

Within the broad approach described above, there are some alternatives that could be explored further. For instance, where Development Permits are minor in nature and do not require Council authorization, Council could allow them to wait until after zoning is complete to submit the Development Permit. However, undertaking such changes deserves thorough consideration of potential impacts. This analysis has not been completed by staff. Should Council choose to proceed with the alternate recommendation, it is suggested that Council direct staff to provide just such an analysis for further consideration.

Alternate Recommendation:

THAT Council receives, for information, the report of the Land Use Management department, dated June 4, 2013 with respect to Council authorized Development Permits and the Rezoning process;

AND THAT Council direct staff to prepare a report for Council consideration providing an analysis of the potential adjustments to the current process, as described in the report of the Land Use Management Department, dated June 4, 2013.

Internal Circulation:

Office of the City Clerk
Infrastructure Planning
Policy and Planning
Real Estate and Building Services

Legal/Statutory Authority:

Local Government Act, Part 26, Divisions 7 & 9

Legal/Statutory Procedural Requirements:

Development Application Procedures Bylaw No. 10540, Section 2.2.1(b).

Existing Policy:

City of Kelowna Official Community Plan:

Contain Urban Growth.¹ Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

Include Distinctive and Attractive Neighbourhoods.² Develop distinctive and attractive neighbourhoods and urban centres with safe, accessible public spaces that enhance investment.

¹ City of Kelowna Official Community Plan. Chapter 1 (Introduction), Goals for a Sustainable Future, Goal 1.

² City of Kelowna Official Community Plan. Chapter 1 (Introduction), Goals for a Sustainable Future, Goal 8.

Ensure adherence to form and character, natural environment, hazardous condition and conservation guidelines.³

Focus on economic drivers that generate new and sustainable wealth.⁴

Moving Opportunities Forward: Council Focus 2012-2014:

Decision Making Will Be Fair But Firm.

“...Council recognizes that a specific bar (or standards of expectation) must be established to ensure the quality of life and quality of place prized by residents is maintained.”

Achieving High Quality Outcomes Will Be Key.

“Council values the need to engage residents and key stakeholders in community building, investment and decision making processes; however, the processes alone are not enough to move the City forward. Council will work with the community and with administration to make the challenging decisions (in a timely manner) when required.

The City has completed a number of important long range plans over the past three years (e.g. the Official Community Plan, the Downtown Plan, etc.). Council recognizes the need now to focus on implementing the plans, ensuring strong execution, driving quality outcomes and achieving sustained results for Kelowna.”

Consistency and Alignment Build Confidence.

Investment confidence increases in communities where Council and staff act with consistency. Council will work actively with administration to continue aligning plans and will commit to acting consistently in their implementation.

Planning and Development.

“...Council seeks to encourage and support investment whereby advantages accrue to the community, further City plans and enhance quality of life while also helping to achieve objectives of the investors/applicants. Win-win approaches will be highly valued...”

Project Evaluation.

“...Council supports the continued use of the multiple bottom line framework and will endeavour to seek a balanced approach to decision making. While a holistic perspective is critical, Council recognizes the nature of our economic times and will work to ensure prosperity is fostered in our community.”

Considerations not applicable to this report:

- Financial/Budgetary Considerations
- Personnel Implications
- External Agency/Public Comments
- Communications Comments

³ City of Kelowna Official Community Plan. Chapter 5 (Development process), Objective 5.4.

⁴ City of Kelowna Official Community Plan. Chapter 8 (Economic Development), Objective 8.1.

Report prepared by:

James Moore, Land Use Planner

Reviewed by:

Danielle Noble, Urban Land Use Manager

Approved for inclusion:

Doug Gilchrist, Acting GM of Community Sustainability

Attachments:

Appendix 'A' - "Development Permits and Rezoning: How Do We Compare?"

Development Permits and Rezoning: How Do We Compare?

	How do you process Rezoning that trigger DPs?	Pros	Cons	General feedback
City of Victoria	Concurrently is preferred. Never allowed to go to adoption without DP.	Limits speculative pressure on land Improves process efficiency		Pressure these days to apply for both concurrently to ensure that the project will proceed smoothly
City of Nanaimo	Usually done between 3 rd reading and Final Adoption. No requirement for concurrent processing.	Less pressure on developer early on to invest in detailed designs.	No clear concept of development or impacts to residents.	Some design elements are secured through covenant at rezoning. System is generally working well.
City of West Van	Concurrently, and with a very high level of detail.	Public meetings are more meaningful. DPs do not have public consultation.	More work for staff	High community expectations and how development will impact it. Staff end up starting to write design into zoning without a DP concurrently.
City of North Van	No DP's. Use CD zones (almost 600) and embed DP-like drawings.	Quicker process if done concurrently	More risky and long-term	CD process system was already in place when DPs came into effect.
City of Abbotsford	Preference for concurrent, but not mandatory. Most rezoning come with DPs.	Get a good sense of what's expected. System works pretty well.	Small developers or land owners who just want investments do not like the approach.	Probably leaning towards requiring it soon. All DPs approved in house.
City of Langley	Typically processed concurrently	Provides a concrete proposal for public comment	No major issues	Applicants are mostly accustomed to it elsewhere
City of Coquitlam	Typically processed concurrently		No major issues	Has always had it that way. Council preference.

DEVELOPMENT PERMITS & ZONING: AN OVERVIEW



DEVELOPMENT CONTEXT

- ▶ OCP objectives
 - ▶ Vibrant, sustainable, attractive
- ▶ Evolving development context
 - ▶ Increased infill & “brownfield”
 - ▶ Decreased “greenfield”

PLANNING TOOLS

- ▶ Set within the *Local Government Act*
- ▶ Purpose of Zoning
 - ▶ Regulates land use, massing, siting
 - ▶ Sets the framework - what is allowed
 - ▶ Permanent
 - ▶ Discretionary approval
 - ▶ Technical analysis (infrastructure improvements)
 - ▶ Public involvement

PLANNING TOOLS

- ▶ Purpose of Development Permits
 - ▶ Regulates form & character, landscaping, (natural environment, hazardous conditions) – how it looks
 - ▶ Established in OCP to achieve and to protect community vision
 - ▶ DP Guidelines
 - ▶ Responds to a particular development proposal

PLANNING TOOLS

- ▶ Development Permits Cont'd...
 - ▶ Valid for 2 years
 - ▶ Not discretionary
 - ▶ No public involvement (unless associated w/a variance)

PLANNING TOOLS

▶ Key Differences

ZONING	DEVELOPMENT PERMITS
Sets development framework (“What’s allowed”)	Implementing the built form (“How it looks”)
Permanent	2 years
Land use approval (setbacks, height, uses)	Detailed site/bldg design (landscape, finishing, materials)
Discretionary	Not discretionary (OCP Guidelines)
Public involvement	No public involvement
Infrastructure analysis	Site specific

PLANNING TOOLS

▶ Delegation of DP Approval

	Staff Executed	Council Authorized
Comprehensive – Major Corridors (Multi-Family, Commercial, Industrial)	✓	✓
Revitalization – Urban Centres (Multi-Family, Commercial, Industrial)	✓	✓
Intensive Residential (carriage house, two dwelling, character area, hillside)	✓	
Farm Protection	✓	
Natural Environment	✓	
Hazardous Conditions	✓	

CURRENT PRACTICE

- ▶ Rezoning that triggers a DP
 - ▶ Encourage submission together if Council Authorized (multi-family, interface with res.)
 - ▶ If staff-executed, DP required later in process, prior to final reading of zoning
 - ▶ Procedures bylaw
 - ▶ Multi-phase applications

CURRENT PRACTICE

- ▶ Cont'd...
 - ▶ Approach for City projects
 - ▶ Central Green
 - ▶ Highland Drive North
 - ▶ City has control

CURRENT PRACTICE

- ▶ Cont'd...
 - ▶ Recent pressure to push back the DP
 - ▶ Old Meadows & Gordon
 - ▶ Hwy 33 & Hwy 97
 - ▶ Infill development expectations
 - ▶ Urban centre design focus

BEST PRACTICES

- ▶ Brief analysis of other jurisdictions
- ▶ Two general approaches
 - ▶ Concurrent
 - ▶ Separate

EVALUATION CRITERIA

- ▶ Security of Land Use:
 - ▶ Is Zoning secure prior to risking investment in detailed drawings?
- ▶ Evaluation of Impacts:
 - ▶ Can staff adequately evaluate the impacts of development on infrastructure, adjoining lands?
- ▶ Informed Engagement
 - ▶ Are affected land owners informed adequately?

EVALUATION CRITERIA

- ▶ Efficient Processing:
 - ▶ Will application processing timelines be efficient?
- ▶ Flexibility for Developers
 - ▶ Are developers free to respond to perceived market conditions?
- ▶ Clarity of Decision Making
 - ▶ Are roles and responsibilities clear?
- ▶ Ability to implement community vision
 - ▶ Does it enhance the ability to achieve the OCP's vision?

EVALUATION CRITERIA

	CONCURRENT		SEPARATE	
	Option 1: At application	Option 2 After 3 rd	Option 3: Concept Plan	Option 4: No concept
Security of land use	x	Partial	✓	✓
Evaluation of impacts	✓	Partial	Partial	x
Informed engagement	✓	Partial	x	x
Efficient processing	✓	✓	x	x
Flexibility for developer	x	Partial	✓	✓
Decision-making clarity	Partial	✓	Partial	✓
Achieves community vision	✓	✓	Partial	x

CONCLUSIONS

- ▶ Broad array of approaches
- ▶ City has adhered to the current approach for 15 years
 - ▶ System includes multiple elements
- ▶ Approach must balance OCP goals, development context, Council priorities, & needs of public & development community

RECOMMENDATIONS

- ▶ Reinforce the current system
 - ▶ Flexibility for staff-executed DP
 - ▶ High expectations for Council Authorized DP
 - ▶ Flexibility for multi-phase development
- ▶ Success of neighbourhoods and urban centres depends on high-quality development