



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Director of Development Services
Subject: Development Procedures Bylaw No.3106

File No.: 6410-00
Date: November 22, 2023

PURPOSE:

For Council to consider first, second, and third readings of Development Procedures Bylaw No. 3106. This bylaw will repeal Development Applications Bylaw No. 2790.

BACKGROUND:

The Province approved Bill 26 of the Local Government Act (LGA) in early 2022 in an effort by the province to modernize and streamline certain development approvals to address the housing supply issue by providing powers for to delegate minor development variances to staff and not requiring a public hearing for rezoning amendments that were consistent with the Official Community Plan (OCP). Council's strategic priorities include streamlining procedures for the public and development industry to ensure consistency in application and implementation, resulting in improved communication to improve customer services.

At the regular meeting of Council held on June 27, 2022 an update on the Bill 26 was provided and Council passed the following two motions:

"THAT Council direct staff to develop policy on all different aspects of public engagement related to development applications where the City is waiving a Public Hearing for rezoning."

"THAT Council direct staff to draft a bylaw to consider the delegation of Development Variance Permits for the approval of specific types of minor variances to staff."

Bylaw No. 3106 includes clarification on public engagement related to not holding a public hearing and most recently the Province through Bill 44 has further regulations that if a rezoning amendment for housing and mix use with 50% or more residential is consistent a public hearing is prohibited. Once staff have received the implications of Bill 44, further amendments will be brought forward for Council's consideration.

Bylaw No. 3106 proposes to define a minor development variance as up to 25% variance and would apply to: setbacks, parking, height, projections, access and lot coverage. This delegated authority empowers staff to respond to applications in a timely manner and reduce processing times as the requirement for public notification is not required under legislation.

DISCUSSION:

Delegation of authority to approve and Issue Minor Development Variances Permits

Currently there are a number of variances that Council is considering that are minor in nature which have little impact on surrounding properties and may be a hardship due to topography. Staff have reviewed other municipalities and the definition of minor varies from 10% to just under 50%. Staff propose that 25% or less be used in defining a minor variance:

- 25% variance for minimum parking space provisions for vehicles, loading and bicycles;
- 25% variance related to parking and loading design standards, such as dimensions, siting and access;
- 25% variance related to dimensions and siting of garbage and recycling storage facilities;
- 25% variance for building setbacks, landscape setbacks, lot coverage, lot frontage, useable open space;
- 25% variance related to dimensions of patios and decks;
- 25% variance related to projections into a required setback;
- 25% variance for building height; and
- 25% variance related to sign area, sign height, sign setbacks.

The Director of Development Services would consider the following criteria in granting a minor variance:

- the degree or scope of the variance relative to the regulation from which a variance is sought;
- proximity of the building or structure to neighboring properties; and
- the character of development in the vicinity of the subject property as envisioned in the OCP.

Staff would have the ability upon review of an application to advise the applicant that a variance request is not minor and must be considered by Council.

This delegated authority empowers staff to respond to applications in a timely manner and reduce processing times as the requirement for public notification is not required under legislation. Without such a delegation, staff would prepare a Council Report, prepare a notice to be mailed out which must be coordinated with a regularly scheduled Council meeting for Council to consider. This process can take 3 months. With delegation this could be reduced to month if applicant provides all required information.

This delegation of minor development variances to staff creates an improved timeline for both the applicant and staff, creating better customer service and creating greater staff efficiency in workload.

Under section 490 of the LGA, Council can delegate the authority to approve and issue development permits for Form and Character, and Technical permits as defined in the LGA. This is already the case in the existing procedures bylaw and would continue to be the case.

Public Information Meetings

The existing Bylaw includes a requirement for applicants of development applications that will be considered by Council to hold a Public Information Meeting (PIM) prior to the preparation of staff reports to Council. The requirement for a PIM is not a provincial legislative requirement.

Under the current development applications procedure bylaw, the PIM is held entirely by the applicant, following guidelines on acceptable meeting methods, required content to be presented, and notice radius. Given the Freedom of Information and protection of Privacy Act, city should not provide addresses to applicants for mail outs but the applicant can get addresses through Canada Post for any public event they wish to hold. As such, the current process has been modified in the proposed bylaw to have staff lead the information meeting if required and there is a corresponding charge in the fees and charges bylaw to recover staff time and associated costs. The proposed bylaw refers to the PIM as community information meetings.

Staff also observe that PIMs may not always be necessary and required given the scale of the development, alignment with OCP and impact on neighbourhood.

Further to this, Bill 44 will have legislation on when public hearings and community meetings can be held in a rezoning process. Once staff have received these regulations further amendments to this bylaw may be required.

Public hearings

The legislation previously permitted local governments to not hold a public hearing for a zoning amendment that is consistent with the OCP. In order to do so, the Council would have to pass a resolution to not hold the public hearing and provide notice. Council would then consider first three readings of the bylaw at the next regular council meeting and adoption following two weeks later or when conditions had been met.

Bill 44 will bring in new regulations on when a public hearing can or cannot be held in order to decrease application processing times and increase supply of housing.

The proposed bylaw outlines the current legislation, which is when a zoning bylaw amendment is consistent with the OCP, that staff bring a report requesting that a public hearing not be held and notice given of not holding a public hearing. In the proposed new legislation, the required to come to council to pass a resolution not to hold a public hearing and give notice will no longer be required.

Third Party Review

Staff often requires a third party for subject matter advice or review which is referred to in the OCP. The proposed bylaw authorizes staff to recover these costs so that the tax payer is not paying for these services as part of the land development approval process. This is a very common practice in municipalities which is recommended by legal to cost recover expenses generated by a land use application.

Land Development Approval and Process

This bylaw clarifies the land development application process for the public and staff. This bylaw will then inform the revisions to land use applications and Development Services webpage.

Reconsideration Provisions

Under the proposed bylaw, and in accordance with the LGA, applicants have the ability to request Council reconsider a decision of the Director of Development Services and Manager. Section 490 (5) of the LGA expressly entitles an owner of land to the right of reconsideration

POLICY ANALYSIS:

The following policies in the OCP support the proposed bylaw:

- Affordable Housing Objective 6: Development application approval processes are streamlined, transparent, and easy to understand.

- Local Economy Policy 14: Liaise with senior governments, neighbouring jurisdictions, and the business community to identify barriers, improve business infrastructure, and streamline application processes.
- OCP identifies streamlining as an implementation priority.

City of Courtenay Development Procedures Bylaw No. 3106, 2023 will repeal Development Application Procedures Bylaw, No.2790.

FINANCIAL IMPLICATIONS:

Amendments to City of Courtenay Fees and Charges Bylaw No.1673 are also proposed in order to create new categories of fees for new application processes (e.g. minor DVP) and more accurately reflect cost recovery of administering planning and development planning applications.

ADMINISTRATIVE IMPLICATIONS:

Processing planning and development applications is a core City of Courtenay administrative service. A number of the changes proposed in the new bylaw will reduce staff time dedicated to applications. Consultant was undertaken with Corporate Services.

STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic priorities:

- Buildings and Landscape - Review and update land use regulations and bylaws for consistency with OCP
- Good Governance - Review and streamline development process and set targets for application processing times
- Buildings and Landscape - Review and update land use regulations and bylaws for consistency with OCP

PUBLIC ENGAGEMENT:

On July 20 2023 City staff held a meeting with the local development community on a variety of topics of interest. This proposed new bylaw was discussed, with focus on: changes to community information meeting requirement (when to be held, and City staff to arrange), public hearings as not required for zoning applications consistent with the OCP, and the assignment of minor variances as administrative and delegated to the Director of Development Services.

OPTIONS:

1. THAT Council give first, second, and third reading to Development Procedures Bylaw No. 3106.
2. THAT Council provide alternative direction to staff.
3. THAT Council not proceed.

ATTACHMENTS:

1. City of Courtenay Development Procedures Bylaw No. 3106, 2023

Prepared by: Nancy Gothard, Manager of Long Range Planning
Reviewed by: Marianne Wade, Director of Development Services
Concurrence: Geoff Garbutt, M.Pl., MCIP, RPP, City Manager (CAO)