

REPORT

CORPORATE

To: Fraser Valley Regional District Board
From: David Bennett, Planner II
2020

Date: 2020-04-28
File No: 3920-20-1592

Subject: Amendments to the Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw and new procedures for efficient application processing during local and provincial emergencies.

RECOMMENDATION

THAT the Fraser Valley Regional District Board consider giving three readings and adoption to the bylaw cited as *"Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw No. 1592, 2020"*.

AND THAT the Fraser Valley Regional District Board defer holding Public Hearings until such time that the Order of the Provincial Health Officer, Class Order (mass gatherings) re: COVID-19 is cancelled or until safe procedures for holding public hearings are identified.

AND FINALLY THAT the Fraser Valley Regional District Board consider on a case-by-case basis waiving the holding of Public Hearings for rezoning applications that are consistent with Official Community Plans during the time that the Order of the Provincial Health Officer, Class Order (mass gatherings) re: COVID-19 is in place.

STRATEGIC AREA(S) OF FOCUS

Foster a Strong & Diverse Economy
Provide Responsive & Effective Public
Services

BACKGROUND

Provincial State of Emergency

The province declared a provincial state of emergency to support the province-wide response to the COVID-19 pandemic.

The current *Fraser Valley Regional District Development Procedures Bylaw No. 1377, 2016* and *Fraser Valley Regional District Delegation of Authority Bylaw No. 0836, 2007* do not contain provisions that assist with development application processing during local states of emergency or provincial states of emergency.

The purpose of *Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw No. 1592, 2020* is to amalgamate Bylaw 1377, 2016 and Bylaw 0836, 2007 and to include new procedures for efficient application processing during local and provincial emergencies.

Order of the Provincial Health Officer

The Provincial Health Officer issued the Class Order (mass gatherings) re: COVID-19 prohibiting the gather of people in excess of 50 people. Furthermore, physical distancing – maintaining separation of at least 2 metres between people – is strongly recommended.

These requirements create significant challenges for the FVRD to hold public hearings. While this order is in place, public hearings should be deferred and the Board may consider waiving public hearings for certain rezoning applications.

Preparing for Recovery

Providing responsive and effective public services that foster a strong and diverse economy will support our recovery from the impacts of COVID 19. Real estate and construction form the largest share of the provincial economy (2018 British Columbia Finance and Economic Review 78th Edition, BC Ministry of Finance). Adopting the *Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw No. 1592, 2020* and waiving certain public hearings will help support FVRD real estate and construction and our recovery from this emergency. Waiving certain hearings will allow these projects to proceed through the development approval process and not get delayed awaiting a public hearing.

DISCUSSION

Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw No. 1592, 2020 combines two FVRD procedural bylaws into one, creating an improved procedural framework and includes new procedures to process applications during emergencies.

Bylaw 1592, 2020: overview of application processing during emergencies.

Application Type	Current Process	Proposed Emergency Process
Development Variance Permits Form and Character Development Permits	Applications are reviewed by the EASC and the EASC's recommendations are forwarded to the FVRD Board.	During a State of Local Emergency or a Provincial State of Emergency the Board may consider applications for Development Permits and Development Variance Permits: a) without the recommendations and resolution of the Electoral Area Services respecting the application; or, b) without the recommendations of an Advisory Planning Commission respecting the application.
All other applications	No Changes	

Implications for Development Variance Permits and Form and Character Development Permits:

- If EASC meetings are cancelled during an emergency, or if applications require expedient processing to help respond to or recover from an emergency, applications can proceed directly to the Board for consideration.
- Public submissions on DVPs would still be considered by the FVRD Board (no change).
- The Board will consider a staff report, any written public comments and make a resolution.

Bylaw 1592, 2020: overview of application processing changes (non-emergencies):

Application Type	Current Process	Proposed Process
Rezoning and Official Community Plan Amendment Signs	4.8.5 The placement of the sign(s) shall be made by the applicant not less than fourteen (14) days after submitting an application to amend a bylaw or land use contract.	4.8.5 The placement of the signs(s) shall be made by the applicant not less than fourteen (14) days after the Board has given first reading to the subject bylaw(s).
Rezoning and Official Community Plan Amendments	4.2.2 The Board shall consider a staff memorandum and recommendations of the Electoral Area Services Committee for every application. The memorandum shall contain: a) a copy of the completed application; b) staff recommendations regarding the proposed amendment; c) where staff recommend first reading or adoption of an amendment bylaw, a copy of the draft amendment bylaw either in hard copy or electronic format except where staff recommend against approval of a bylaw in which case a copy of the draft amendment bylaw need not be attached to the report although staff may attach a draft bylaw for information purposes; d) the recommendations and resolutions of the Electoral Area Services Committee respecting the application; and, e) additional relevant information provided by the Director of Planning.	4.2.2 The Board shall consider a staff memorandum and recommendations of the Electoral Area Services Committee for every application.
Development Permits	4.3.5 The Director of Planning or Electoral Area Services Committee as the case may be shall consider a staff memorandum for every application. The memorandum shall contain:	4.3.5 The Director of Planning or Electoral Area Services Committee, as the case may be, shall consider a staff memorandum for every application.

	<p>a) a copy of the completed application;</p> <p>b) staff recommendations regarding the proposed permit;</p> <p>c) where staff recommend issuance of a permit, a copy of the draft permit either in hard copy or electronic format; where staff recommend against issuance of a permit, a copy of the draft permit need not be attached to the report, although staff may attach a draft permit for information purposes;</p> <p>d) a statement of the amount of the proposed security to be posted by the permittee, if any, and a rationale for the amount of security recommended; and,</p> <p>e) any additional relevant information.</p>	
Development Variance Permits or Temporary Use Permits.	<p>4.4.2 The Board shall consider a staff memorandum and recommendations of the Electoral Area Services Committee for every application. The memorandum shall contain:</p> <p>a) a copy of the completed application;</p> <p>b) staff recommendations regarding the proposed Development Variance Permit or Temporary Use Permit;</p> <p>c) where staff recommend issuance of a permit, a copy of the draft permit either in hard copy or electronic format; where staff recommend against issuance of a permit, a copy of the draft permit need not be attached to the report although staff may attach a draft permit for information purposes;</p> <p>d) a statement of the amount of the proposed security to be posted by the permittee, if any;</p> <p>e) the recommendations and resolutions of the Electoral Area Services Committee respecting the application; and</p> <p>f) additional relevant information provided by the Director of Planning.</p>	<p>4.4.2 The Board shall consider a staff memorandum and recommendations of the Electoral Area Services Committee for every application.</p>
Bylaws – General	4.9.2 Where an applicant makes a significant change, such as a	4.9.2 Where an applicant makes a

	<p>change in land use, to an amendment application after it has received first reading from the Board, the Board may refuse the original application for an amendment. The original application will be closed and the applicant must make a new application.</p> <p>4.9.3 Re-application for a bylaw amendment, land use contract amendment or permit that has been refused shall not be considered within a six (6) month period immediately following the date of refusal.</p>	<p>significant change, such as a change in land use, to an Amendment application after it has received first reading from the Board, the Board may refuse the original application for an Amendment. The original application will be closed and the applicant must make a new application.</p> <p>Section 4.9.3 of this bylaw does not apply to applications refused under this section.</p> <p>4.9.3 Re-application for a bylaw amendment, land use contract amendment or permit that has been refused shall not be considered within a six (6) month period immediately following the date of refusal.</p>
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The proposed amendments will improve bylaw clarity, application processing and eliminate certain proscriptive processes.

Other Regional Districts

Staff reviewed public hearings processes from six regional districts. At the time of writing, postponing hearings is the common approach during this emergency. Where rezoning applications are consistent with Official Community Plans, regional districts are considering waiving hearings. In all of the jurisdictions reviewed, Official Community Plan amendments are being postponed.

The City of Chilliwack has closed meetings to the public during this emergency and implemented an alternative public input process for applications that are consistent with the Official Community Plan, as outlined below.

- All other requirements of the City's procedure bylaw will be followed, to the extent possible and practical given the ongoing public health emergency;
- Public notifications will be the same as the current process, signs will still be posted on site, notifications will be sent to property owners within 30 m of the proposed development, and notices will be printed in the newspaper; and,
- Affected parties will be able to provide input to Council by written submission only. Notifications and signage will state that written comments are to be submitted by 4 p.m. on the Monday before the item is to be considered by Council.

Recommendations for FVRD Public Hearings

The Local Government Act allows local governments to waive the holding of a public hearing if a bylaw is consistent with the Official Community Plan. Waiving a public hearing is an uncommon practice in the FVRD. UBCM's fact sheet on public hearings notes that "although a public hearing is not required for a zoning bylaw which is consistent with an official community plan, some municipalities have chosen to hold hearings on all zoning bylaws to avoid any suggestion that council might be using the provision in s. 464(2) to "sneak through" a zoning change that would face significant opposition at a public hearing if one was held".

During this state of emergency, the FVRD has four (4) rezoning bylaws ready to proceed to a public hearing.

Two of these rezoning bylaws are not expected to generate community concerns or have already been the subject of one or more public information meetings. For those proposed bylaws, a resolution to waive the public hearing may be appropriate. Consideration of waiving a hearing can be made at future Board meetings on an application-by-application basis.

The other proposed rezoning bylaws have generated community concern and for those bylaws, waiving a public hearing is not recommended by staff. Public hearings will be postponed for those applications.

Alternative FVRD Public Hearing Processes

During this emergency, the Province may introduce or support alternative public hearing processes. Implementing alternative public hearing processes may be considered on an application by application basis as new information becomes available.

FVRD Electoral Area D Official Community Plan

The FVRD Electoral Area D OCP was scheduled to have a public hearing in April. That hearing will be deferred in accordance with the recommendation to defer holding Public Hearings until such time that the Order of the Provincial Health Officer, Class Order (mass gatherings) re: COVID-19 is cancelled.

COST

There are no costs associated with these procedural bylaw changes.

CONCLUSION

Fraser Valley Regional District Development Procedures and Delegation of Authority Bylaw No. 1592, 2020 combines two FVRD procedural bylaws into one, creating an improved procedural framework and addresses emergencies.

During this emergency the Board may consider waiving public hearings for certain rezoning applications, otherwise all hearings will be deferred until provincial orders are cancelled.

COMMENTS BY:

Graham Daneluz, Director of Planning & Development

Reviewed and Supported.

Kristy Hodson, Acting Director of Finance
supported.

Reviewed and

Jennifer Kinneman, Chief Administrative Officer
supported.

Reviewed and