



COUNCIL REPORT

To: Paul Gipps, CAO

Date: August 23, 2022

From: Brent Magnan, Director of Development Approvals

File No: P 22-03

Subject: **Development Application Process Review Streamlining – Bill 26 (First, Second and Third Readings)**

RECOMMENDATION

THAT Council give first, second, and third reading to City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.01, 2022.

STRATEGIC AREA(S) OF FOCUS

Economic Development and Prosperity: We will work with our partners on the Westside and throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

BACKGROUND

On November 25, 2021, Bill 26, being the *Municipal Statutes Amendment Act (No. 2) 2021*, was given Royal Assent. Bill 26 included amendments to various legislation, including sections of the *Local Government Act* and *Community Charter* resulting in the following:

1. Allowing for delegation of decisions on “minor” Development Variance Permits;
2. Removal of the default requirement to hold public hearings for zoning bylaw amendments that are consistent with the Official Community Plan; and
3. Enabling local governments to determine specific notice methods for public notice requirements.

The changes brought forward by Bill 26 are a result of the Ministry of Municipal Affairs Development Approval Process Review (DAPR). DAPR was initiated in December 2018 to better understand the challenges facing development approvals across British Columbia. In response to the feedback received during DAPR, Bill 26 provides local

governments with powers to increase efficiency in the development process, remove barriers, and speed up housing approvals.

This report will focus on the changes resulting in the authority to delegate Development Variance Permits. In the interest of improving development approval timelines, this report includes opportunities to further delegate existing authority for Development Permits and Strata Conversions.

Other changes as a result of Bill 26, including public hearings and public notice requirements, will be reviewed by staff and recommendations will be brought forward to Council for consideration at a later date.

Delegation of Development Variance Permits

Under s.498.1 of the *Local Government Act* Council may now delegate the authority to issue Development Variance Permits where the proposed variance is minor and varies the following:

- Zoning bylaws respecting siting, size, and dimensions of buildings, structures and permitted uses;
- Off street parking and loading space requirements;
- Regulation of signs;
- Screening and Landscaping to mask or separate uses or to preserve, protect, restore and enhance natural environment.

A local government wishing to delegate this authority must do so by bylaw. The bylaw is required to include the following:

1. criteria for determining whether a proposed variance is minor; and
2. guidelines the delegate must consider in deciding whether to issue the development variance permit.

The bylaw may also include terms and conditions.

Public Notice Requirements and Reconsideration

Under s.499(1.1) of the *Local Government Act*, no public notification is required for delegated development variance permits. As per s.498.1(4), an applicant is entitled to have a decision of a delegate reconsidered by Council, as is currently done with development permits.

Delegation of Development Permits

Under s.154 of the *Community Charter* Council may delegate the authority to issue Development Permits.

This is an existing tool for local governments and Council has already delegated certain Development Permits¹. However, opportunities exist to further delegate Development Permits to help with streamlining the development approvals process and increase housing stock in line with the purpose of Bill 26.

Delegation of Strata Conversions

Under s.242 of the *Strata Property Act* Council may delegate the authority to approve or refuse strata plans for previously occupied buildings.

As with delegated authority for Development Permits, this is an existing tool for local governments. However, opportunities exist to delegate authority for strata conversions meeting certain criteria to further streamline the development approvals process.

DISCUSSION

Authorizing the delegation of minor development variance permits and further delegating limited development permits and strata conversions will help streamline the development approvals process. The City has already undertaken numerous initiatives that work towards streamlining processes, such as the adoption of the new Zoning Bylaw No. 0265. The proposed amendments to the Development Applications Procedures Bylaw No. 0260 demonstrate a commitment to continuous improvement.

Proposed Changes to the Development Applications Procedures Bylaw

Delegation of Minor Development Variance Permits

Between January 2021 and August 1, 2022, a total of 52 development variance permit applications have been received (excluding applications cancelled or withdrawn). Only 15 (29%) of the development variance permit applications received were part of development permit applications. Whereas 37 (71%) were standalone development variance permit applications (Figure 1).

¹ Subject to criteria in the Development Applications Procedures Bylaw No. 0260, Commercial, Industrial, Hillside, Aquatic Ecosystem, Sensitive Terrestrial Ecosystem, and Wildfire Interface Development Permits are currently delegated to staff.

These standalone development variance permits often impact building permit applications and approvals; the applications closest in the process to creating more housing supply in West Kelowna. As such, delegating minor development variance permits is expected to have a significant effect on removing barriers to creating housing in the City.

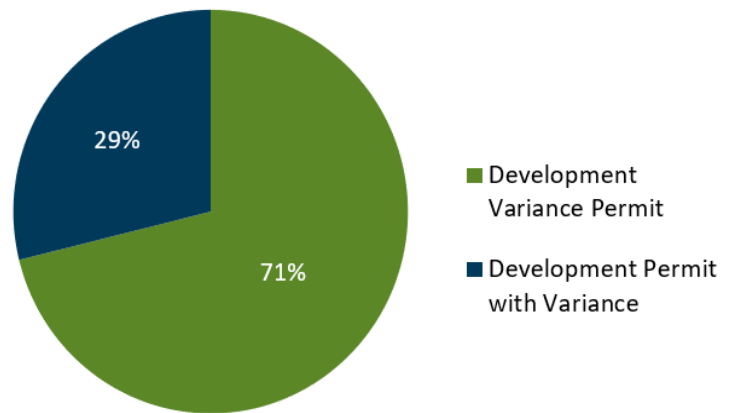


Figure 1: Variance applications received between January 2021 and August 1, 2022.

Determination of Minor Variance Permit

Key changes proposed to the Development Applications Procedures Bylaw to allow the delegation of minor development variance permits include establishing:

1. Criteria to determine if the proposed variance is a minor variance and can be delegated including:
 - The proposed variance is to the Sign Bylaw;
 - The proposed variance to one or more of the following regulations in the Zoning Bylaw:
 - a) Parcel coverage;
 - b) Height of buildings and structures (such as dwellings, fences and retaining walls);
 - c) Floor area of buildings and structures (excluding density regulations);
 - d) Setbacks (excluding cannabis production);
 - e) Off street parking and loading space requirements except for the number of spaces;
 - f) Notwithstanding e) above, off street parking and loading space requirements for the number of spaces for existing buildings where no additions are proposed (e.g., change of use);
 - g) Screening and Landscaping to mask or separate uses or to preserve, protect, restore and enhance natural environment.
2. Guidelines the Director of Development must consider in deciding whether to issue the minor variance:
 - If the proposed variance would result in inappropriate development of the site;
 - If the proposed variance would adversely affect the natural environment;
 - If the proposed variance would substantially affect the use and enjoyment of adjacent land or right of way; and
 - If the proposed variance defeats the intent of a bylaw.

3. Circumstances in which a development variance permit would follow the status quo and be referred to Council for consideration:
- The proposed variance is not a minor variance.
 - The proposed variance is part of a Development Permit application that is not delegated to Staff.
 - The proposed variance is a minor variance, but in the opinion of the Director of Development, it would be in the public interest for the variance to instead be considered by Council.

To better understand how the above changes would affect development approvals, staff completed a detailed analysis of the development variance permit applications received between January 2021 and August 1, 2022. The following statistics detail which development variance permit applications would have been delegated if the above amendments were in place (Figures 2 and 3). The statistics also detail, for the applications that have been considered by Council, if Staff’s recommendation matched Council’s decision (Figure 4). The below does not speak to whether a delegated variance would be approved, as a delegated variance would still need to be considered under the issuance guidelines established above.

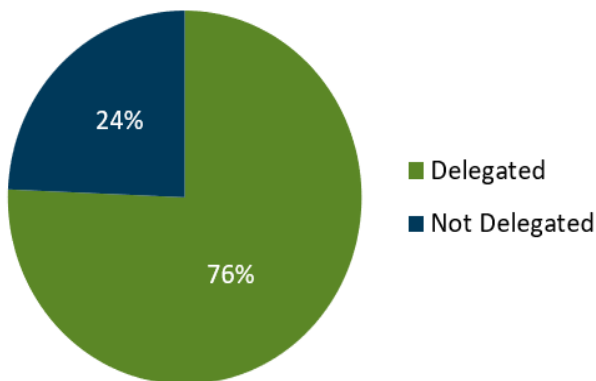


Figure 2: 28 of 37 Development Variance Permit applications would have been delegated.

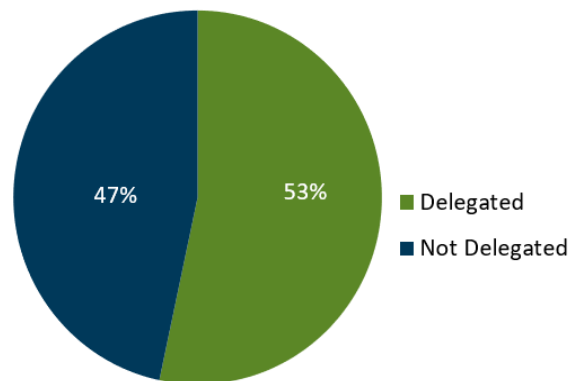


Figure 3: 8 out of 15 Development Permit with Variance applications would have been delegated.

If the applications noted above were delegated, there would have been a significant effect on staff processing timelines with current delegated decisions taking approximately 4-6 weeks less to process. Having some applications delegated would have also given Council and staff more time to focus on other development applications that have a greater impact on the City, such as those associated with non-delegated development permits. Examples of such projects can be found in Section 2 of Attachment 4.

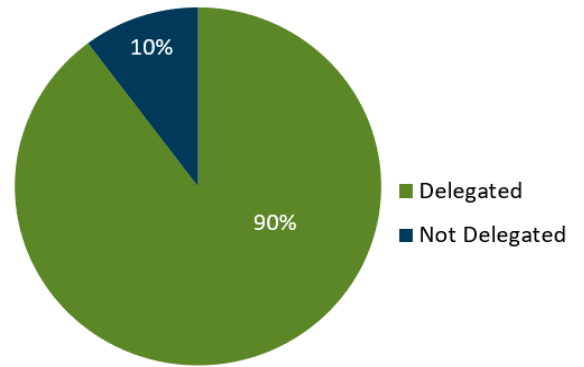


Figure 4: 35 out of 39 variances considered by Council match staff’s recommendation for approval or denial.

The overall changes to the development approvals process in delegating minor development variance permits is shown in Figure 5 below.

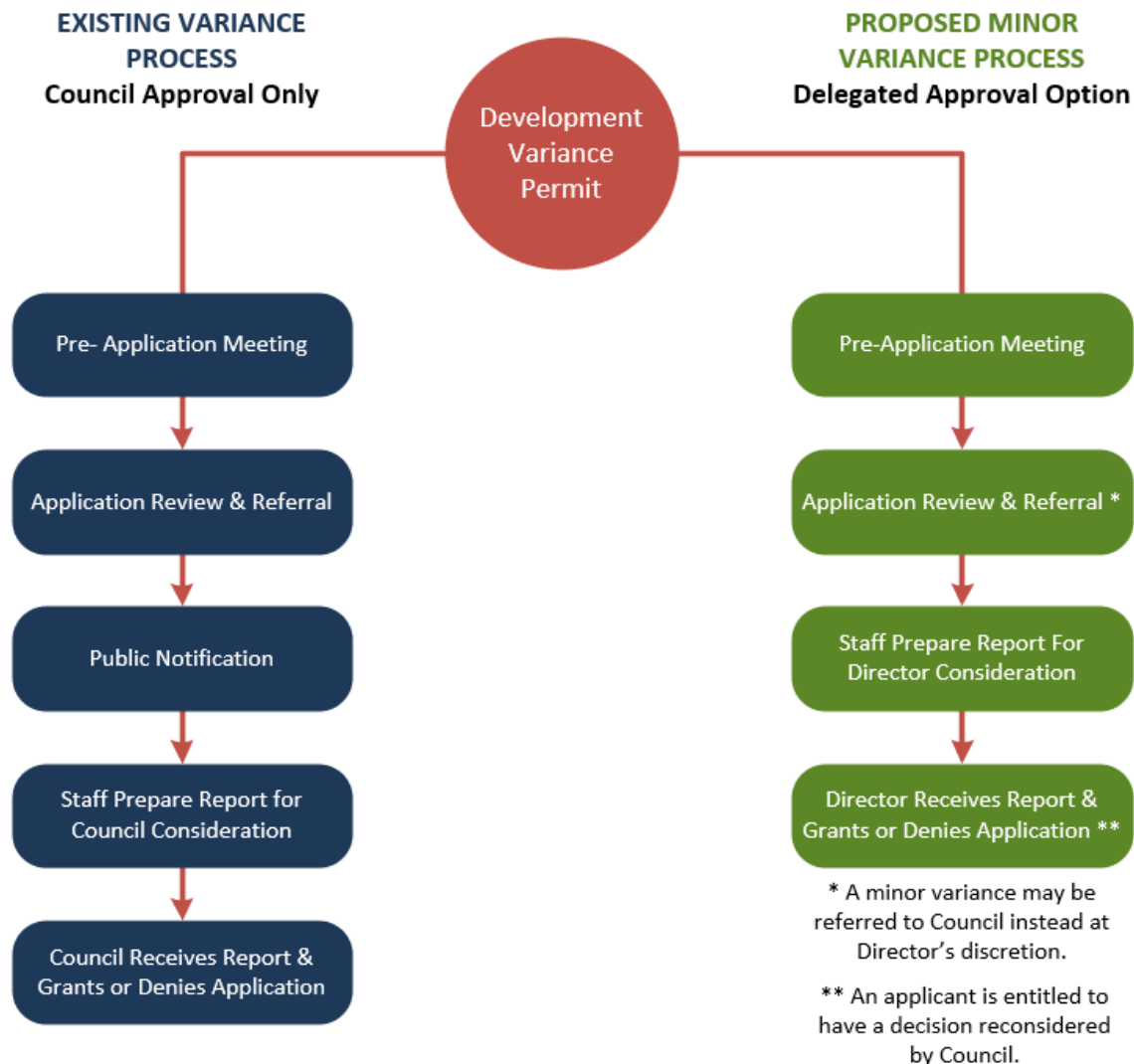


Figure 5: Proposed delegation of development variance permits process.

Delegation of Development Permits

The Development Applications Procedures Bylaw currently includes criteria for the delegation of some development permits, such as commercial and industrial development permits. Through researching approaches taken by other municipalities, staff have identified further opportunities for delegation of development permits. It is recommended that multi-family and mixed-use development permits, subject to certain criteria, be also delegated to staff.

Other municipalities across British Columbia delegate development permits authorizing multi-family and mixed-use developments. Some municipalities, such as the City of Kamloops, delegate multi-family and mixed-use development permits subject to certain criteria. For Kamloops this is multi-family development of eight or fewer units without variances to the zoning bylaw, and mixed-use and multi-family development at Thompson Rivers University that does not front McGill Road. In comparison, some municipalities, such as the City of New Westminster, City of Vernon, and the City of Fernie, delegate all development permit applications to staff.

Looking at the Okanagan, municipalities that have delegated development permits for multi-family and mixed-use developments include the City of Vernon, District of Summerland and City of Penticton:

- The City of Vernon has delegated development permits for:
 - All development permits.
- The District of Summerland has delegated development permits for:
 - Multi-family buildings in the Multi-Family, Downtown and Lower Town areas to a maximum of 3 storeys and a maximum floor area of 1,500m².
 - Mixed-use buildings in the Downtown and Lower Town areas to a maximum of three storeys.
- The City of Penticton has delegated development permits for:
 - Multi-family buildings that are a maximum of 6 storeys in height and a maximum floor area of 2,800m².
 - Mixed-use buildings that are a maximum of 6 storeys in height and a maximum floor area of 2,800m².

Proposed Amendments

Given the above, key changes to the Development Applications Procedures Bylaw to allow further delegation of development permits include:

- Delegation of Multi-Family Intensive Residential Development Permits where specific criteria are met, including that the proposed development is a maximum of three storeys and a maximum floor area of 1400m² (15,069 ft²).
- Delegation of Commercial Development Permits with a residential component; provided that specific criteria are met, including that the proposed development is a maximum of three storeys and a maximum floor area of 1400m² (15,069 ft²).

- Development Permits meeting delegation criteria which include variances, provided the variances are minor.

The intent of this delegation is to allow small scale multi-family and mixed-use development to be delegated to staff. A similar approach has been taken by the City of Penticton and District of Summerland, in using height and floor area criteria for delegation.

An example of a development permit that would have been delegated under these criteria is DP 20-03 at 2411 Apollo Road. This development permit was for a 3 storey 1,333m² mixed-use building with 8 residential units and 110m² of commercial space. DP 20-03 was recommended for approval by staff and approved by Council.

Delegation of small scale multi-family and mixed-use development permits such as this would allow Council the ability to focus on larger developments that are currently being processed, and others that are expected to be received following adoption of the new Official Community Plan.

Delegation of Strata Conversions

The City currently has a Strata Conversion Policy to guide these decisions. In most cases, it is recommended that Strata Conversions continue to rest with Council. However, Council may wish to consider delegating duplex strata conversions to staff to streamline the process.

Delegating duplex strata conversions would reduce processing times for these applications. This change recognizes duplexes as a form of affordable housing, by reducing barriers to placing them into the housing pool.

Key changes to the Development Applications Procedures Bylaw include:

- Strata conversion applications for duplexes delegated to Staff.

FINANCIAL IMPLICATIONS

The changes recommended in this report will allow for more efficient use of staff resources, improve processing times, increase housing supply and expand the City's tax base.

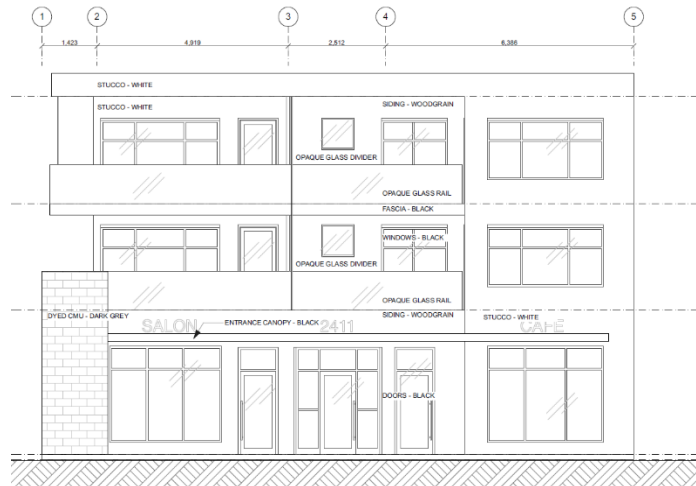


Figure 6 – DP 20-03, 2411 Apollo Road.

NEXT STEPS

If the proposed amendments are adopted, bulletins and other materials will be updated to reflect the changes. As well, if Council decides to delegate strata conversions for duplexes, Council's Strata Conversion Policy will be amended to recognize this delegation.

CONCLUSION

During the Ministry's DAPR consultations, the delegation of authority in certain matters from elected officials to local government staff was identified as a priority area of action to streamline development approvals. The ability to delegate DVPs granted by Bill 26 responds to this feedback that many technical DVP decisions made by Councils could be reasonably decided by Staff. Staff recommend that Council streamline its development approvals process by using the authority to delegate Development Variance Permits, as well as expanding the pre-existing authority to delegate Development Permit and Strata Conversion applications. These delegations have the following benefits:

- Increases efficiency in the development approvals process;
- Reduces application processing times;
- Allows staff more time focus on other applications;
- Limits impact of application processing times on development costs;
- Contributes to increasing housing supply; and
- Provides Council more time to focus on larger projects.

Staff will report back to Council in the quarterly report summary on development variance permits, development permits, and strata conversion which have been delegated.

Alternate Recommendation:

1. **THAT** Council postpone first, second and third reading of Development Applications Procedures Amendment Bylaw No. 0260.01, 2022.

Should Council postpone consideration of the proposed amendment bylaw, further direction to staff on how to proceed is requested.

2. **THAT** Council deny Development Applications Procedures Amendment Bylaw No. 0260.01, 2022.

REVIEWED BY

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Development Applications Procedures Amendment Bylaw No. 0260.01, 2022
2. Redline Development Applications Procedures Bylaw No. 0260, 2018
3. Development Variance Permit Analysis
4. Development Permit with Variance Analysis