

DATE OF MEETING | March 11, 2024 |

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**SUBJECT                      DEVELOPMENT PROCEDURES AND NOTIFICATION BYLAW  
UPDATE**

## **OVERVIEW**

### **Purpose of Report:**

To provide the Governance and Priorities Committee with information on the review of the City of Nanaimo's "Development Procedures and Notification Bylaw" and to seek Committee recommendations on requiring public information meetings and required notification distances to inform a draft bylaw for future Council consideration.

### **Recommendation:**

That the Governance and Priorities Committee make recommendations on the options presented for public information meetings and public notification distances to inform to the Development Procedures and Notification Bylaw update.

## **BACKGROUND**

The City of Nanaimo "Development Approval Procedures and Notification Bylaw 1991 No. 3892" ("Procedures and Notification Bylaw") was adopted in 1991 and last updated in 2022. The bylaw outlines the requirements for development application submissions, public notification, and other administrative matters. As identified in the 2023 and 2024 Development Services Business Plans, and broader Development Approval Process Review (DAPR), the bylaw review began in 2023 and a consultant was engaged to address the following objectives:

- Modernize the bylaw to replace outdated references to legislation;
- Clarify ambiguity or gaps in procedural language;
- Update administrative procedures and forms;
- Research best practices in local government procedures; and,
- Introduce new procedures to more effectively manage development applications.

A Working Group was also established to facilitate collaboration between Planning & Development and Legislative Services to review related bylaws and procedures that may be impacted.

In November 2023, the Province enacted *Bill 44, Housing Statutes (Residential Development) Amendment Act, 2023* ("Bill 44"), which necessitated further consideration of the proposed changes to the Procedures and Notification Bylaw. At the 2024-JAN-22 Governance and Priorities Committee Meeting, Staff presented the "Provincial Housing Legislation Overview" and identified how Bill 44 impacts City procedures in relation to public hearings and notification.

Staff have completed a review of the Procedures and Notification Bylaw to address the above-noted objectives and to consider the procedural implications of Bill 44. The following discussion is organized in two parts:

1. A summary of the proposed changes in response to Bill 44; and,
2. Options for which Staff are seeking Committee recommendations with respect to public information meetings and public notification requirements.

## **DISCUSSION**

### **Bill 44 Implications for Public Hearings & Notification**

The *Local Government Act* and *Community Charter* outline the procedures and requirements for public hearings and notification. Prior to Bill 44, public hearings were held for all Official Community Plan (OCP) and zoning bylaw amendment applications (however, a public hearing for a zoning bylaw amendment consistent with the OCP, was discretionary).

Bill 44 amends Section 464 of the *Local Government Act* to establish three different public hearing scenarios for zoning bylaw amendments as follows:

1. *Mandatory* (required to be held) – OCP amendment or where a zoning bylaw amendment is not consistent with the OCP;
2. *Discretionary* (Council decides whether or not to hold a public hearing) – where the zoning bylaw amendment is consistent with the OCP; or,
3. *Prohibited* – where a zoning bylaw amendment includes a residential gross floor area of 50% or greater and is consistent with the OCP.

Bill 44 also establishes new public hearing notification requirements. Where public hearings are prohibited or where Council decides not to hold a public hearing, notice is to be given prior to consideration of first reading. This change will be reflected in the draft Procedures and Notification Bylaw. Where public hearings are mandatory, or where Council decides to hold a public hearing, the notification process is unchanged, and notice is to be given prior to public hearing.

A concurrent report from Legislative Services will also be presented to explain proposed changes to the “Council Procedure Bylaw 2018 No. 7272” as a result of Bill 44 to request recommendations on delegations where Public Hearings are not held or are prohibited. Council’s *Public Hearing Process Policy* will still apply where a public hearing is held.

### **Public Information Meetings**

In addition to the statutory public hearings, it is common practice in Nanaimo and other jurisdictions for OCP and/or zoning bylaw amendments applicants or significant development permits with associated variances that cannot be delegated for approval (e.g. more than 100 units) to voluntarily host a PIM or open house during their application review for the purposes of sharing information with the public and answering questions. Council’s *Neighbourhood Association Supports Policy* encourages OCP amendment and rezoning applicants to undergo early and open dialogue with neighbourhoods and provide a summary of community engagement undertaken by the developer. PIMs are particularly helpful for participants as the formal public hearing format does not allow the public to ask questions and discuss the merits of a proposal. Furthermore, PIMs occur earlier in the development process allowing the applicants an opportunity to make adjustments to a proposal or prepare additional information in response to public comments prior to bylaw introduction. Typically, staff attend these meetings in an

observational capacity and a summary information on the meeting is included in the staff report with the bylaw.

A review of PIM practices across other comparable jurisdictions showed five of thirteen local governments (Victoria, Kelowna, Coquitlam, Ladysmith and Lantzville), require applicants to hold PIMs. As PIMs are not required currently in Nanaimo, some applicants have declined to hold these meetings. For greater consistency and clarity in the process, Staff recommend the new Procedures and Notification Bylaw require PIMs for OCP and/or zoning bylaw amendments, and development permits with significant variances that cannot be delegated for approval with the intent for this requirement may be waived at the discretion of the Director of Planning & Development. Staff are seeking Council's direction to make these meetings a requirement.

### Public Notification Distances

Notification is required under the *Local Government Act* for OCP amendments, zoning bylaw amendments, temporary use permits, and development variance permits. Local governments establish the notification area through a bylaw. Currently, the City's Procedure and Notification Bylaw requires the same notification area for all application types based on a distance of 10 metre (or road width plus 10 metre) as measured from the area that is subject to the application.

A review of procedures for comparable jurisdictions across the province indicated that the City of Nanaimo generally specifies a smaller notification area where notification is required (Attachment A). In particular, the notification area for OCP and/or zoning bylaw amendments in other jurisdictions ranged from 30 metres to 100 metres. Temporary use permits and development variance permits in other jurisdictions ranged from notification to adjacent properties only to a distance of 100 metres.

Staff propose to retain the current notification distance of 10 metres (or road width plus 10 metres) for temporary use permits and development variance permits and recommend increasing the notification distance for OCP and zoning bylaw amendments. These amendments involve changing land use or density, which can have broader impacts on the community and therefore it is recommended to notify beyond the most immediate properties.

Attachment B (Example Public Notification Distance Maps) illustrates Nanaimo's current notification standard and the options explored by Staff, including increasing from 10 metres to 75 metres or 100 metres. Increasing from 10 metres to 75 metres would capture notably more properties, while the difference between 75 metres and 100 metres represents is a marginal increase in the number of properties captured.

Based on a review of notification requirements in other jurisdictions for OCP and zoning bylaw amendments, the following two options are presented for Committee consideration:

1. Increasing the notification distance from 10 metres to 75 metres, representing an approximate average of the distances reviewed among other jurisdictions, or,
2. Retaining the existing notification distance of 10 metres (or road width plus 10 metres). |

## **OPTIONS**

### **Public Information Meetings**

1. That the Governance and Priorities Committee recommend that Council include a public information meeting requirement for amendments to the Official Community Plan and/or Zoning Bylaw, and significant Development Permits with associated variances that cannot be delegated for approval, in the Development Procedures and Notification Bylaw.

**OR**

2. That the Governance and Priorities Committee recommend that Council not include a public information meeting requirement in the Development Procedures and Notification Bylaw.

### **Notification Distances**

1. That the Governance and Priorities Committee recommend that Council require a seventy-five (75) metre notification distance for amendments to the Official Community Plan and/or Zoning Bylaw, in the Development Procedures and Notification Bylaw.

**OR**

2. That the Governance and Priorities Committee recommend that Council retain the existing 10 metres (or road width plus 10 metres) notification distance for amendments to the Official Community Plan and/or Zoning Bylaw, in the Development Procedures and Notification Bylaw.

## **CONCLUSION**

The purpose of this report is to provide an update on the Development Procedures and Notification Bylaw review and seek recommendations from the Committee with respect to the bylaw requirements for public information meetings and public notification. This bylaw update is part of a broader development approval process review and has considered new provincial legislative requirements to ensure consistency. When the bylaw is brought forward for Council consideration, it will include other updates to administrative procedures and templates to reinforce clarity in the bylaw language and efficient application review processes. Staff also anticipate a communications strategy to be prepared with the introduction of the bylaw to raise awareness of the new regulations for applicants and the public. ]

### **SUMMARY POINTS**

- To provide the Governance and Priorities Committee with information on the review of the City of Nanaimo's "Development Procedures and Notification Bylaw".
- Following the passing of Bill 44 on 2023-NOV-30, Staff have reviewed best practices and have identified updates for a draft bylaw to align with new provincial legislation.
- Staff are seeking Committee recommendations on requiring public information meetings and required notification distances to inform a draft bylaw for future Council consideration.

## **ATTACHMENTS**

ATTACHMENT A: Comparison of Public Notification Areas

ATTACHMENT B: Example Public Notification Distance Maps

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### **Concurrence by:**

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