

## **CVRD Development Application Review Process –Speaking Notes**

### **Introduction:**

- The Development Services Division deals largely with development applications that are submitted to the CVRD.
- We deal with a wide range of development application, including OCP Amendments, Rezoning, Development Permits, Variances and Temporary Use Permits
- The CVRD also deals with applications that are referred to it by other agencies, but which are approved by others. So we comment on ALR and subdivision application, but approval authority for these applications rests with the ALC and the Ministry of Transportation and Infrastructure.
- Last year we received 25 rezoning and OCP amendment applications, 46 development permit applications, 23 variance application, 9 ALR applications and 60 subdivision applications

### **Development Applications**

- As we deal with many different types of applications and each has a somewhat different process I won't go through each of these here. What I would like to do is describe a 'typical' rezoning process. I should caution that every rezoning seems to have various twists and turns, and the process can vary quite a bit depending on the issues involved.
- Katy has described the process by which OCPs are created and amended. I would like to describe how zoning bylaws are changed, and in particular how rezoning applications are processed and where first nations and others provide input into this process
- Once adopted, the OCP is the guiding document for planning decisions. Once an OCP is in place any subsequent bylaws that are adopted are required by the *Local Government Act* to be consistent with the OCP, including zoning bylaw amendments.
- The OCP is a broad-based policy document that guides planning decisions, but does not itself regulate land use. The Zoning Bylaw establishes the uses and density of development that can occur on a parcel of land and the applicable development criteria such as building setbacks and maximum permitted height.
- If a land owner wishes to develop land for uses or densities that are not permitted by the zoning bylaw, they need to apply for a zoning amendment or rezoning and obtain approval from the Regional Board in order to do so.
- The process for dealing with rezoning is largely laid-out in the LGA, although there also is quite a bit of case law that specifies procedures that must be followed for zoning amendments.

**Pre-Application:**

The first step in the rezoning process is typically a meeting with staff and the proponent. At this stage, the applicant would have some idea in-mind, but likely hasn't done the design and analysis work needed for the application. This is an opportunity to discuss the proposal and any issues that may be associated with it. We also discuss information we believe should be provided with the application (e.g survey, environmental impact assessments, geotechnical assessment, traffic study, archaeological assessment).

**Submit Application:**

The owner or developer would then go away and come back with an application once all of the necessary information for the application has been prepared.

**Staff Review:**

Staff then do an initial review of the application and identify if additional information is required or if there are issues that should be addressed before the application moves forward.

**Staff Report:**

Once we are comfortable that there is adequate information available for the application to be considered, staff prepare a report that is sent to the local Advisory Planning Commission, government Agencies and first nations. At this stage we would typically check if there are environmentally sensitive areas on the property and if there are known archaeological sites. (remote access to archaeological data)

We don't normally include a recommendations in this report, as it is primarily intended to provide information about the application so the APC, Government agencies and First Nations can have a good understanding of the proposal and sufficient information to forward comments and recommendations.

We would typically refer the application internally to our Engineering and Parks Dept., to provincial Ministries, such as MoE, MoT, Ministry of Community Services, to local Fire Departments and Improvement Districts, to adjacent local governments and to First Nations whose traditional territory may include the subject property. Sometimes the application will be referred to more than one First nation where traditional territories overlap.

**Comments from APC, Government Agencies and First Nations:**

- We typically give 30 days to respond to referrals, although this may be extended for larger applications.
- The response period will usually be extended if we receive a request to do so.

- The reason we provide a deadline is that many of the agencies we referral applications to do not respond, so if we don't receive any response by the deadline, or we don't receive a request for additional time, we assume that interests are unaffected.
- All comments we receive are included in a staff report that is presented to the CVRD's Electoral Area Services Committee.
- We normally share the comments with the applicant as well, to give them an opportunity to address any concerns or issues identified through the referral process.
- The EASC is a Committee of the CVRD Board comprised of the 9 Electoral Area Directors. This committee deals with land use and planning issues in the unincorporated areas of the CVRD. This committee doesn't make formal decisions (the Board does), but it does make recommendations to the Board, and it is at this Committee where most of the discussion and debate about applications and planning matters occurs.

#### EASC Review:

- After reviewing an application, the EASC would normally make one of three recommendations
- It would a) recommend to deny the application; b) recommend that the application go to a public meeting, or c) recommend that the application be approved and that draft bylaws be prepared.
- The recommendation would then go to the CVRD Board for ratification.

#### Public Meeting:

- If the application is directed to public meeting, which is commonly done for large development applications or ones that are controversial, staff would advertise the meeting and host it at a location in the community.
- The purpose of the public meeting is to allow the public to obtain information about the proposal and to allow the decision makers to gauge community response to the proposal.
- This is another opportunity where the Community, including First Nations, can provide input.
- The minutes from the meeting are recorded and are brought back to another EASC meeting where they are reviewed by the Committee and where a recommendation is made and forwarded to the Board .
- The recommendation would typically be to either deny the application or to prepare the amendment bylaws.
- Once the amendment bylaws are prepared they are presented to the Board for first and second reading.

#### Public Hearing:

- The next step is the public hearing.
- The public hearing is required by law prior to adoption of OCP or zoning amendments. The hearing is required after first reading and before third reading of the bylaws.
- The purpose of the public hearing is to allow the public to make representations to the Regional Board regarding matters contained in the amendment bylaw.

- There is quite a bit of statutory and common law procedural requirements surrounding public hearings, so they must be conducted in a very formal way.
- In terms of notification, the CVRD advertises public hearings in the local papers and delivers notices to owners and occupiers of property within 60 metres of the affected property approximately 2 weeks prior to the hearing.
- One of the main procedural fairness principles of public hearings is that everyone who attends should have access to the same information. Because of this, once the public hearing has closed, the regional Board is not permitted to receive “new information” regarding a zoning amendment. If new information is received another public hearing is required.
- This is a requirement that has been clearly defined by the Courts, so it is standard practice for staff to not forward new information to the Board following closure of a hearing.
- This is important to note because if information or comment about an application is to be submitted, it must be done prior to closure of the hearing.
- The Board is permitted to receive technical clarification from staff following the hearing, but not “new information”.
- After the public hearing there normally is not any opportunity for the public, gov’t agencies or first nations to comment.

### **Third Reading**

- After the hearing the minutes are presented to the Board and the Board decides if it wishes to deny the application or give it third reading.
- Third reading is basically “approval in principle”.

### **Conditions Satisfied**

- Covenants, bonding, agreements

### **Provincial Approval and Adoption**