

PLANNING AND DEVELOPMENT COMMITTEE

TO: MAYOR AND COUNCILLORS

SUBJECT: DEVELOPMENT PERMIT TRANSITION

RECOMMENDATION:

THAT the future use of Development Permits in Burnaby, as outlined in Sections 3.0 and 4.0 of the report titled “Development Permit Transition” dated February 14, 2024, be endorsed; and

THAT the approval of future Development Permits be delegated to staff, as outlined in Section 3.3 of the report titled “Development Permit Transition” dated February 14, 2024.

REPORT

The Planning and Development Committee, at its meeting held on February 14, 2024, received and adopted the attached report seeking Council approval of the Development Permit Transition process.

On behalf of the Planning and
Development Committee,

Mayor Mike Hurley
Chair

Pietro Calendino
Vice Chair

TO: PLANNING AND DEVELOPMENT COMMITTEE (PDC)
FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT
SUBJECT: **DEVELOPMENT PERMIT TRANSITION**
PURPOSE: To seek Council approval of the Development Permit Transition process.

RECOMMENDATIONS

THAT the future use of Development Permits in Burnaby as outlined in Sections 3.0 and 4.0 of the report titled “Development Permit Transition” dated February 14, 2024, be endorsed; and

THAT the approval of future Development Permits be delegated to staff as outlined in Section 3.3 of the report titled “Development Permit Transition” dated February 14, 2024.

EXECUTIVE SUMMARY

This report outlines a process to transition Burnaby to a new Development Permit (DP) system. The transition to DPs has been identified in the Development Approval Process (DAP) project as a means of streamlining development by being less reliant on the rezoning process to approve development. The DP and DP Areas are components of the Official Community Plan (OCP) and Zoning Bylaw update processes that are currently underway. This report provides an overview of the tools available to regulate development; proposes the use of development permits in Burnaby; and, outlines the transition process.

1.0 POLICY SECTION

- *BC Local Government Act*
- *Burnaby Official Community Plan (1998)*
- *Burnaby Zoning Bylaw (1965)*
- *Corporate Strategic Plan (2022)*

2.0 BACKGROUND

The following section provides an overview of the history of Burnaby’s current development approval process through Preliminary Plan Approval and the Environmental Review Committee. It further provides a brief overview of the available Development Permit (DP) types and the legislation that enables them.

2.1 Preliminary Plan Approval (PPA)

Preliminary Plan Approval (PPA) as a development case type was established with the 1965 Burnaby Zoning Bylaw. PPA or Preliminary Plan Review (PPR) was a relatively common process in British Columbia (BC) and many jurisdictions in the United States as a way of reviewing zoning compliance prior to advancing a Building Permit. In 1968, amendments to the *Municipal Act* brought DPs into force, however, at that time few municipalities adopted DPs as the primary means of regulating development, most choosing the Land Use Contract and or Comprehensive Development (CD) zoning as the more appropriate tool. With changes to the Municipal Act in 1977, including restrictions on land use contracts and greater freedoms granted in the use of DPs, most municipalities within BC adopted DPs as the mechanism to approve development prior to issuance of a Building Permit. While some smaller municipalities in BC still utilize PPR as a means of confirming zoning, Burnaby is the only major municipality in BC that does not utilize DPs to regulate the form and character of development, as well as other development impacts within environmentally sensitive and agricultural areas. With respect to legal oversight, PPAs are not recognized within provincial legislation (*Local Government Act, Community Charter*), and is only enacted through the powers outlined in Section 7.3 of the Burnaby Zoning Bylaw. DPs are legislated and regulated under Division 7 of the *Local Government Act*.

PPA is a non-discretionary case type, insofar that if an applicant meets the conditions of zoning, a PPA must be issued. The PPA is fully delegated to staff, with approval granted by the General Manager Planning and Development. Reporting on the approval or denial of a PPA is generally not advanced to Council, and as such, applicants currently do not have any recourse should PPA approval be withheld or denied. While the PPA process has over the years been used to enforce other policies and bylaws of the City, this is not the intent or within the scope of this case type. Such approvals would be better served by a DP, where specific guidelines and requirements can be established ensuring clarity on development conditions that must be met prior to approval.

2.2 Streamside Protection and Enhancement Areas

The City has existing policy, regulation, guidelines, bylaws, and administrative procedures for protecting and enhancing streamside areas when land is redeveloped. Policies and procedures including the Environmental Review Committee (ERC), have been in place since the late 1990s to approve conditions and variances in streamside development policy. The ERC was originally comprised of staff from the City, Fisheries and Oceans Canada (DFO), the Fraser River Estuary Management Program (FREMP), and Burrard Inlet Environmental Action Program (BIEAP), with DFO taking the lead on decisions and variances under the Fisheries Act. However, BIEAP and FREMP were disbanded in the early 2000s, and DFO reduced its involvement in direct watercourse stewardship and management. As a result of reduced DFO involvement and a mandate by the Province to either pass a local bylaw or adhere to the Riparian Areas Protection Regulation (RAPR), Burnaby strengthened its regulations as part of a Zoning Bylaw amendment in 2005 to create Section 6.23 - Streamside Protection and Enhancement

Areas (SPEA) and continues to operate the ERC administratively to approve or deny applications to develop within a SPEA.

Burnaby's existing process has resulted in successful outcomes for streamside protection and enhancement over the years, but lacks transparency, a detailed permitting structure, and cost recovery. Like PPAs, SPEA variances are fully delegated to staff, with approval granted by the General Manager Planning and Development. Similarly, reporting is not advanced to Council, and applicants do not have recourse should an ERC application be denied. Utilizing DPs for streamside protection would help to consolidate existing regulations and policies into one comprehensive program and process, while also updating protections with current best practices.

2.3 Development Permit (DP)

DPs are enabled through the *Local Government Act* Division 7, Sections 488 through 491. Under this legislation, an OCP may designate Development Permit Areas (DPAs) for purposes including:

- a) protection of development from hazardous conditions;
- b) protection of farming;
- c) revitalization of an area in which a commercial use is permitted;
- d) establishment of objectives for the form and character of intensive residential development;
- e) establishment of objectives for the form and character of commercial, industrial or multi-family residential development;
- f) in relation to an area in a resort region, establishment of objectives for the form and character of development in the resort region;
- g) establishment of objectives to promote energy conservation;
- h) establishment of objectives to promote water conservation;
- i) establishment of objectives to promote the reduction of greenhouse gas emissions.

DPs are most commonly used to regulate the form and character of developments in accordance with a series of adopted guidelines, with and without limitations, depending on the specific form of development. However, a DP is not permitted to:

- a) vary the use or density of the land from that permitted in the bylaw except as authorized by section 491 (3) [*variation in relation to health, safety or protection of property*], or
- b) vary the application of a zoning bylaw in relation to residential rental tenure.

With respect to recent amendments to the *Local Government Act*, along with related provincial policy and regulations, the Province is encouraging local governments to transition from rezoning to pre-zoning for residential developments in order to

streamline the development process. Under this new legislation, DPs are an important tool that local governments can use to establish conditions under which land alteration and new development take place and enable greater control over the form and character of new developments in the absence of rezoning.

3.0 PROPOSED DEVELOPMENT PERMIT PROCESS

3.1 Development Permit Areas and Case Types

As outlined in Section 2.3 of this report, the list of potential DP types a local government may designate is extensive. As part of the current OCP update, the intent is to advance the following DP types with the adoption of the new OCP in 2025:

- form and character guidelines for commercial, industrial and multi-family residential development, (including signage); and
- protection of the natural environment, its ecosystems and biological diversity.

Once the new OCP is adopted and as part of implementation, two additional DP types and guidelines are envisioned to be established for:

- protection of development from hazardous conditions; and
- protection of farming.

At a future date, the City could consider the establishment of additional DP types and associated guidelines permitted under the *Local Government Act* including those for energy and water conservation, and greenhouse gas emissions reduction. These permit types require further research and alignment with our Environmental Sustainability Strategy (ESS) and Climate Action Framework.

With respect to the new provincial legislation on Small-Scale Multi-Unit Housing (SSMUH), which could be classified as intensive residential development, staff propose not to utilize DPs for this scale of housing at this time and to proceed with permitting directly through Building Permit. Instead, voluntary Design Guidelines for SSMUH will be established to provide best practice examples for infill development to encourage appropriate scale and character in and amongst pre-existing single and two-family housing forms. The intent is to speed up the approvals of SSMUH, by removing needless process and regulation.

3.2 Development Permit Area Guidelines

The establishment of a DP approval system is predicated on the establishment of Development Permit Areas (DPAs) in the OCP that may be area-specific or City-wide. The determination of DPAs will be undertaken as part of the OCP process. To coincide with the establishment of DPAs, the City must establish approval criteria by way of DPA Guidelines. Such guidelines can be limited to a specific geographic area, apply to a specific form of development, or in the case of Environmental DPs establish specific conditions that need to be met prior to approval of the DP. With respect to Form and

Character Guidelines, there are some limitations on the extent the guidelines may pertain to different uses and intensities. For example, a DP may include requirements respecting the character of the development, including landscaping, siting, form, exterior design and finish of buildings and other structures. However, with respect to guidelines for the form and character of commercial, industrial and multi-family residential development, the requirements must only relate to the general character of the development and not detailed design requirements. Staff, with the assistance of consultants will be preparing DP Guidelines for both Environmental DPs and Form and Character DPs, which will form a component of the OCP.

3.3 Delegated Authority

Under Section 490(5) of the *Local Government Act*, a local government (Council) may delegate some or all of the authority to approve DPs to staff. As noted, the current PPA and ERC processes are delegated to staff, which assists in speeding up approval timing. Given the foregoing, recognizing a desire to streamline our approvals as much as possible, and supported by the findings of consultant studies, a fully dedicated DP system is recommended. If Council decides to delegate the power to issue a DP to staff, the owner of land is still entitled to have Council reconsider the matter if staff rejects the application or imposes further conditions.

3.4 Process

Unlike a PPA, a DP may be processed independently of a Subdivision, Rezoning or Building Permit. However, it is typical for DPs to be processed concurrently rather than sequentially with other permit case types. This allows for applications to be initiated and advanced at the same time, reducing process timing and enabling joint circulations and comments, thus increasing efficiency. It is noted that in development applications requiring Rezoning and Subdivision, the approval of a DP would still require the approval of a Subdivision and a Rezoning prior to completion of the DP, and approval of the DP prior to issuance of a Building Permit. It is noted that in many circumstances, DPs have been combined with other application types into one application to assist in speeding up their review and approval.

4.0 DEVELOPMENT PERMIT TRANSITION

The following section outlines the proposed transition process from PPA to DP, including the procedures and timeline to achieve the transition.

4.1 OCP Designated DPAs and Guidelines

As previously mentioned, the establishment of a DP system is predicated on the establishment of DPAs in the OCP that may be area-specific or City-wide. The OCP land use framework that is currently under development is envisioned to be made up of parcel-based land use designations within specific neighbourhood boundaries. A Form and Character DP is intended to be required for all development forms, with the exception of Small-Scale Multi-Unit Housing, and will likely be comprised of the

neighbourhoods within the OCP. With respect to the Environmental DP, an assessment of Streamside Protection and Enhancement Areas (SPEAs) and other Environmentally Sensitive Areas (ESAs) is underway to determine specific Environmental DPAs for the City.

The DPAs and DPA Guidelines will be advanced for approval to Committee and Council as part of the final OCP review in 2025.

4.2 Project Timeline

Implementation of the new DP process would take place after the final OCP bylaw and the updated Zoning Bylaw have been adopted in late 2025. However, to meet the goal of a January 1, 2026 implementation date, work must start on the transition in the Spring of 2024. Attached as Appendix #1 is the proposed project timeline, outlining the project’s phases, as well as key tasks and deliverables.

5.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

As the transition to a DP process may take some time for staff and applicants to become accustomed, an internal and external communications plan will be required. Staff have been socializing the transition as part of previous DAP communications and during interdepartmental meetings. The DP transition, which is administrative in nature, is not envisioned to have a broad-based public consultation process. Notwithstanding, consultation on DPAs would continue to be part of ongoing OCP consultation in 2024 and 2025, to inform the general public on this new process direction. To ensure clear and transparent communication on the transition to applicants, staff will present the proposed transition process at the Urban Development Institute (UDI), and the National Association of Industrial and Office Parks (NAIOP) municipal liaison meetings, and will provide notices to professional associations including, the Planning Institute of BC (PIBC), Architectural Institute of BC (AIBC) BC Society of Landscape Architects (BCSLA), and Engineers and Geoscientists of BC (EGBC). As noted, new brochures and a new Development Permit website will be created to inform both applicants and general public of the ongoing transition.

6.0 FINANCIAL CONSIDERATIONS

Financing for the Development Permit transition project has been secured through the federal Housing Accelerator Fund (HAF). Other funding has been secured through the 2024-2028 Financial Plan. Staffing resources have been anticipated and have been included in the annual budget process.

Respectfully submitted,
Edward W. Kozak, General Manager Planning and Development

ATTACHMENTS

Attachment 1 – Appendix 1

REPORT CONTRIBUTORS

This report was prepared by Johannes Schumann, Director Neighbourhood Planning and Urban Design, and reviewed by Wendy Tse, Director Community Planning, Jesse Dill, Director Development Planning, and Karin Hung, Director Strategic Initiatives