



CITY OF VANCOUVER

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ADMINISTRATIVE REPORT

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Report Date: May 23, 2008
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Meeting Date: June 10, 2008

TO: Vancouver City Council

FROM: Subdivision Approving Officer

SUBJECT: Amendments to Subdivision By-law No. 5208 and the Strata Title and Cooperative Conversion Guidelines

RECOMMENDATION

- A. THAT the Subdivision By-law be amended to extend the acceptance period for preliminary approvals in Section 5.3 and introduce an extension provision; to update legislative changes in Section 6.1 and subdivision plan requirements in Section 6.2; to clarify a relaxation provision in Section 9.1 and to add a new relaxation provision in Section 9.2; to add minimum parcel size standards for the RM-5, RM-5A, RM-5B, RM-5C and RM-6 Zoning Districts; and to incorporate gender neutral language into the By-law, generally in accordance with Appendix A.
- B. THAT the Director of Legal Services be authorized to prepare the necessary by-law implementing these changes for enactment.
- C. THAT the Strata Title and Cooperative Conversion Guidelines be amended to reflect legislative changes and to revise the procedures for tenant notifications, generally in accordance with Appendix B.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

There is no Council policy directly applicable to the proposed amendments.

PURPOSE

This report recommends amending the Subdivision By-law by extending the time a preliminary subdivision approval is valid and by adding a new provision that would allow the Approving Officer to extend that period if warranted by circumstances. In addition, a relaxation provision would be clarified in Section 9.1 and a new relaxation provision added to Section 9.2, and a number of housekeeping amendments are also proposed.

It is also recommended that the Strata Title and Cooperative Conversion Guidelines be amended to revise the procedures for tenant notifications in multiple dwellings and to reflect a change in legislation pertaining to Cooperative conversions.

DISCUSSION

Section 5.3 of the Subdivision By-law indicates that acceptance of a preliminary proposal be valid for a period of 120 days, at which point the approval lapses, unless a formal application has been subsequently made pursuant to Section 6 of the By-law, which requires that a registration set of subdivision plans be submitted. This provision was included when Subdivision By-law No. 5208 was enacted in 1978. Given the increased complexity of many subdivision proposals, including air space submissions, it is generally not possible to complete an application or in some cases have subdivision plans prepared within that timeframe. Even minor proposals generally take as long as six months to complete as in most cases an existing dwelling will need to be demolished prior to subdivision plan approval. It is proposed that the validity period for a preliminary approval be extended to 180 days, and a new provision added that would allow the Approving Officer to grant extensions based on particular circumstances, similar to a Zoning and Development By-law provision that allows the Director of Planning to grant extensions to a development permit.

Section 6.1(a) of the By-law, regarding collection of a provincial examination fee, is no longer applicable and is to be deleted. Section 6.2 is to be amended to update current subdivision plan requirements, as linen plans are no longer prepared or accepted for registration purposes.

Section 9.1(a) of the By-law is a relaxation provision used in "orphan lot" situations in a number of single-family districts, which allows a width or area requirement to be relaxed to 80% of the prescribed standard. In practice, past Approving Officers have only allowed one of the standards for width or area to be relaxed, but not both. To remove any ambiguity, it is proposed that the word "either" be inserted into the clause, to more closely reflect past practice.

Section 9.2 of the By-law is a relaxation provision that applies to two or more adjoining parcels in certain single-family districts, which allows consideration of parcels below a prescribed width or area standard, if there is a pattern of similar or smaller lots in the block. For example, two 57 ft.-wide lots in a Category B area, which prescribes a minimum width of 40 ft., could be relaxed to three 38 ft.-wide lots if there are similar sized lots in the block. In a situation where there might be three adjoining 66 ft.-wide lots in Category B, it is currently not possible to consider approval of five 39.6 ft.-wide lots if there are no parcels below 40 ft. in width in the block. In these circumstances, a subdivision of two parcels into three 44-ft wide parcels could be considered, potentially leaving the remaining 66 ft.-wide parcel as an "orphan lot", which could subsequently qualify for relaxation into two 33 ft.-wide parcels. Ultimately, the number of parcels created would still total five, but the resultant parcels are even less consistent with the block pattern. This situation also occasionally occurs in other subdivision categories where a 30 ft. or 50 ft. minimum width is prescribed. A new provision is proposed to be added to Section 9.2 to allow consideration of the more consistent parcels in these limited circumstances.

It is also proposed that minimum width and area standards be added to Tables 1 and 2 of Schedule A, for the RM-5, RM-5A, RM-5B RM-5C and RM-6 Zoning Districts. When these particular zoning districts, all located in the West End, were enacted by Council in 1989, a consequential amendment to the Subdivision By-law to add subdivision standards appears to have been overlooked in the staff recommendation. Although the Approving Officer can still assess subdivision proposals in these districts based on other criteria, such as subdivision pattern, orientation, frontage and access, introduction of parcel size standards will provide greater clarity to applicants and staff. Historically, most of the West End was initially subdivided into 66 ft.-wide parcels, and over time a number were further subdivided into 33 ft.-wide parcels, but many have been consolidated into much larger sites to accommodate higher density development. Introduction of standards in both Tables 1 and 2 will not impede subdivision potential in the West End, as the Approving Officer will be able to consider relaxation provisions contained in Section 9 of the Subdivision By-law if warranted by prevalent or historic subdivision patterns.

A housekeeping amendment is also proposed to replace specific gender references, such as the word "his", with more gender neutral language throughout the By-law, when referring to persons such as the Approving Officer or a property owner.

Staff also recommend that the Strata Title and Cooperative Conversion Guidelines be amended to reflect a change in legislation pertaining to Cooperative conversions, as the Real Estate Act has been repealed and replaced with the Real Estate Development Marketing Act. In practice, applications for cooperative conversions are rare, as the form of tenure is not as marketable as strata, but the legislation does require these applications, if submitted, be considered by the approving authority, which is defined as being the municipal council.

It is also proposed that the tenant notification procedures for strata title conversions be amended. The Guidelines currently allow the building owner or applicant, for conversion of residential buildings, to hand out and collect Tenant Response Forms provided by the City, with staff being responsible for mailing out copies of a Tenant Information Brochure and a copy of the Guidelines. On occasion, staff will undertake a separate notification, which is mailed directly to tenants, to determine if any complaints are received from tenants indicating they have felt pressured into supporting a conversion. The Manager of the Housing Centre supports amending the Guidelines to make staff notification of tenants the standard procedure for existing residential buildings.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

This report recommends Subdivision By-law amendments to extend approval periods and provide discretion to the Approving Officer to consider extensions to approvals; to clarify and add a new relaxation provision applicable to certain single-family districts; and a variety of minor housekeeping amendments. The report also recommends amending the Strata Title and Cooperative Conversion Guidelines by adopting a new tenant notification procedure for strata conversion applications in residential buildings, as well as minor housekeeping amendments. Staff recommend approval of all amendments contained in Appendices A and B.

* * * * *

Proposed Amendments to Subdivision By-law No. 5208

[Additions in bold italics; deletions in strikeout]

1. Amend Sections 4.5, 9.7, 9.8, 9.9, 9.10 and 10.1 by replacing all occurrences of "his opinion" with "the Approving Officer's opinion".
2. Amend Section 5.1 as follows:

"5.1 An application to subdivide land in the form of a preliminary proposal may be submitted by an owner of the land or ~~his~~ ***the owner's*** authorized agent to the ~~Director of Planning~~ ***Approving Officer*** and shall:".
3. Amend Sections 5.2 and 5.3 as follows:

"5.2 The Approving Officer may either accept or reject the preliminary proposal and shall advise the applicant in writing of ~~his~~ ***the Approving Officer's*** decision, including reasons ~~where he rejects~~ ***for rejecting*** the proposal.

5.3 Acceptance of a preliminary proposal shall be valid for no more than one hundred and ~~twenty (120)~~ ***eighty (180)*** days from the date of acceptance, and thereafter a new application pursuant to Subsection 5.1 shall be required."
4. Following Section 5.4, insert a new Section 5.5:

"5.5 ***The Approving Officer may allow an extension or extensions of the period specified in section 5.3 above for additional periods if the same is warranted by the circumstances.***"
5. Amend Section 6.1 as follows:

"6.1 An application for approval shall be in writing addressed to the Approving Officer, shall be made by the registered owner of the land or by an agent authorized by the owner to act on ~~his~~ ***the owner's*** behalf, and shall:
(a) ~~include a non-refundable provincial examination fee as prescribed in the Land Title Act Regulation;~~

[Renumber clauses (b) through (f) to (a) through (e), accordingly].
6. Amend Section 6.2 as follows:

"6.2 Except for a subdivision by description, every application for approval of a subdivision plan shall include the original ~~line~~ ***transparency, a duplicate transparency***, any copies required by the Land Registrar, and four (4) white paper print copies which shall be retained by the Approving Officer."

7. Amend Section 6.3 as follows:

"6.3 In the case of an application by an agent authorized to act on behalf of an owner, the Approving Officer may, before dealing with the application, require ~~that he be satisfied~~ *confirmation* as to the validity of the authorization."

8. Amend Section 7 as follows:

"7.1 Where the Approving Officer is of the opinion that any adjoining or neighbouring lands may be detrimentally affected by a proposal for subdivision, ~~he~~ *the Approving Officer* may require the applicant to furnish *satisfactory* evidence ~~to satisfy him~~ that the owners of such adjoining or neighbouring lands have been notified by the applicant and are aware of ~~his~~ *the applicant's* proposal and either agree or disagree with the proposal, including reasons.

7.2 The Approving Officer may notify any owner of land or other person where ~~he is~~ of the opinion they may be detrimentally affected by a proposal for subdivision, and may make any enquiries ~~he~~ *the Approving Officer* deems necessary in order to determine the probable effect of the proposal upon adjoining or neighbouring lands."

9. Amend Section 8.7 as follows:

"8.7 If ~~the Approving Officer rejects~~ *rejecting* an application for subdivision, ~~he~~ *the Approving Officer* shall advise the applicant in writing stating the reasons for ~~his~~ *the* refusal and shall return the plan or document submitted together with all copies except for two (2) paper print copies."

10. Amend Section 9.1(a) as follows:

"(a) the parcels to be created by the subdivision will have not less than 80 percent of *either* the minimum parcel width or area prescribed in Table 1; or".

11. Amend Section 9.2 as follows:

"9.2 Notwithstanding Section 9.1, the Approving Officer may approve a subdivision of two or more adjoining parcels located in the RS-1, RS-3, RS-3A, RS-5 or RS-6 Zoning District, which creates parcels having a lesser width or area than the minimum prescribed in Table 1 of Schedule A, *and* provided that:

(a) the already established lawful development in the blockface containing the parcels to be subdivided occurs on parcels having a lesser width or area than the minimums prescribed in Table 1 of Schedule A, and the parcels to be created by the subdivision would be consistent in width and area with those parcels, except that no parcel created shall have a width less than 24 feet (7.315 m) as measured at the required building line; *or*

(b) *the parcels to be created by the subdivision would be consistent in width and area and the number of parcels to be created by the subdivision could otherwise be considered pursuant to Section 9.1.*"

12. Amend Sections 9.3, 9.5, 9.6 10.2, 10.3 by replacing all occurrences of "he" with "the Approving Officer".

13. Amend Section 10.6 as follows:

"10.6 Where, by reason of the creation of any subdivision, the necessity arises for public street access across a railway right-of-way, the Approving Officer may require the owner to furnish, or cause to be furnished at the expense of the owner, an order of the ~~Board of Transport Commissioners~~ *Canadian Transportation Agency* approving of such street crossing of the railway right-of-way, and may require surfacing of the crossing and such other provisions as ~~he~~ *the Approving Officer* deems necessary before ~~he approves~~ *approving* the subdivision."

14. Amend Table 1 of Schedule A by inserting after the listing for RM-4N the following:

*"RM-5 Multiple Dwelling 50' [15.240 m] 6000 sq. ft. [557.418 m²]
RM-5A Multiple Dwelling 50' [15.240 m] 6000 sq. ft. [557.418 m²]
RM-5B Multiple Dwelling 50' [15.240 m] 6000 sq. ft. [557.418 m²]
RM-5C Multiple Dwelling 50' [15.240 m] 6000 sq. ft. [557.418 m²]
RM-6 Multiple Dwelling 50' [15.240 m] 6000 sq. ft. [557.418 m²]"*.

15. Amend Table 2 of Schedule A by inserting after the listing for RM-4N the following:

*"RM-5 Multiple Dwelling 30' [9.144 m] 3000 sq. ft. [278.709 m²]
RM-5A Multiple Dwelling 30' [9.144 m] 3000 sq. ft. [278.709 m²]
RM-5B Multiple Dwelling 30' [9.144 m] 3000 sq. ft. [278.709 m²]
RM-5C Multiple Dwelling 30' [9.144 m] 3000 sq. ft. [278.709 m²]
RM-6 Multiple Dwelling 30' [9.144 m] 3000 sq. ft. [278.709 m²]"*.

Proposed Amendments to the Strata Title and Cooperative Conversion Guidelines

[Additions in bold italics; deletions in strikeout]

1. Amend the last sentence in Section 1 of the Guidelines as follows:

~~“Under section 50(5) of the Real Estate Act~~ ***6 of the Real Estate Development Marketing Act*** of British Columbia, City Council is the approving authority for conversion of previously occupied buildings into cooperative units.”

2. Amend Section 4 of the Guidelines as follows:

- In section 4(b), replace all occurrences of “Real Estate Act” with “Real Estate Development Marketing Act”;

- Delete clauses (c) and (d) and insert the following new clause (c):

“(c) Upon receipt of a conversion application, the Subdivision and Strata Title Group will send each tenant an information brochure on strata conversions, as well as a copy of these guidelines. Tenants will also be provided with a Tenant Response Form which is to be completed by every household in the building (a household being a person or group of persons occupying a unit). The forms are to be mailed back to the Subdivision and Strata Title Group in the stamped return envelopes provided. In order that the application can be processed, the forms should be returned as quickly as possible.”

- Renumber clauses (e) through (i) to (d) through (h), accordingly.