

NO: R225

COUNCIL DATE: October 18, 2010

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## REGULAR COUNCIL

TO: **Mayor & Council** DATE: **October 18, 2010**  
FROM: **General Manager, Planning and Development** FILE: **o880-01**  
SUBJECT: **Subdivision Application Policy**

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## RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Approve the policy entitled "Subdivision Application Policy", which is attached as Appendix I to this report.

## INTENT

The purpose of this report is to obtain Council approval of a policy, which outlines the general process by which subdivision applications are evaluated by the Approving Officer and the procedures that will be followed by the Approving Officer in communicating to each such applicant the decision of the Approving Officer, with the objective of being open and transparent.

## BACKGROUND

The Approving Officer is appointed by City Council and is the official who has the statutory responsibility to independently administer provincial statutes and local by-laws regarding the subdivision of land, including decisions on the approval of subdivision applications. The *Land Title Act* and *Strata Property Act* give the Approving Officer considerable discretion to refuse a subdivision plan, including, among other reasons, if the proposed subdivision of land is against the public interest.

The matters that should be considered by the Approving Officer when evaluating an application for subdivision are set out primarily in the *Land Title Act*. A written policy, which explains the key criteria that are used by the Approving Officer in the evaluation of an application for subdivision will help to ensure that applicants understand the process and the basic criteria taken into consideration in relation to applications for subdivision. In addition, the policy should recognize the need to inform applicants of opportunities for appealing decisions of the Approving Officer.

## DISCUSSION

Subdivision applications are very infrequently refused by Surrey's Approving Officers; however, from time to time, after a thorough review of the proposed subdivision plan and in consideration of comments that are received from City Departments, external agencies and the public, the Approving Officer has refused to approve a plan of subdivision. In these circumstances, as specified in Section 85(2) of the *Land Title Act*, the Approving Officer must formally notify the applicant in writing that the plan of subdivision is refused and must briefly state the reasons.

As mentioned previously, one of the criteria set out in legislation that the Approving Officer must consider in making a decision regarding an application for subdivision is whether the subdivision of land is "against the public interest" as provided under Section 85(3) of the *Land Title Act*. This is a relatively subjective area of the evaluation process.

In consideration of the above reasons, staff has developed a draft policy entitled "Subdivision Application Policy", which sets out the basic criteria that are used by the City's Approving Officers in establishing whether an application for subdivision should be approved including whether the public interest would be unduly compromised by a subdivision proposal.

When a subdivision application is refused, the Approving Officer discusses the matter with the applicant. In some circumstances, these discussions lead to a modification of the subdivision that allows the Approving Officer to reconsider his or her decision. In any case, Under Section 89 of the *Land Title Act* the applicant has the right to appeal the Approving Officer's decision to the B.C. Supreme Court. The draft policy provides that when an Approving Officer denies an application for subdivision of land, that the Approving Officer will advise the applicant in writing of such denial, including the reasons for such denial and will advise in this letter the appeal procedures that are available to the applicant based on legislation.

Legal Services has reviewed this report and the attached policy.

## CONCLUSION

Based on the above discussion it is recommended that Council approve the policy entitled "Subdivision Application Policy", which is attached as Appendix I to this report. This policy will assist in ensuring that applicants for subdivision of land are informed of the fundamental criteria used by the Approving Officer in evaluating applications, that applicants are adequately informed of the decision of the Approving Officer related to each such application including a brief description of the reasons for a decision regarding the application, and that the applicant is informed of appeal provisions where approval of a subdivision plan is refused by the Approving Officer.

*Original signed by*  
Jean Lamontagne  
General Manager,  
Planning and Development

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Attachment:

Appendix I Proposed Policy for Subdivision Application Evaluation

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# CITY POLICY

No.

REFERENCE:

APPROVED BY:

CITY COUNCIL

REGULAR COUNCIL MINUTES

DATE:

HISTORY:

**TITLE:      Subdivision Application Policy**

1. For the purpose of this policy, "subdivision" means a subdivision of land as defined in the *Land Title Act* or a subdivision under the *Strata Property Act*. A subdivision may involve the division of land into 2 or more lots or the adjustment of a property line between existing lots.
2. Assessment of an application for subdivision will not commence until a complete application is received by the Approving Officer in accordance with the submission requirements outlined on the City of Surrey subdivision application form as amended from time to time.
3. The Approving Officer shall evaluate an application for subdivision in accordance with the following:
  - (a) All applicable provisions of the *Local Government Act*;
  - (b) All applicable provisions of the *Land Title Act*;
  - (c) All applicable provisions of the *Strata Property Act*;
  - (d) The requirements of the Ministry of Transportation and Infrastructure with respect to a Controlled Access Highway and provisions of the *Transportation Act*;
  - (e) The *Agricultural Land Commission Act*;
  - (f) *The Environmental Management Act*;
  - (g) Any other applicable provincial or federal legislation;
  - (h) City of Surrey bylaws regulating subdivision of land and zoning, (i.e., Subdivision and Development Bylaw, and Zoning By-law);
  - (i) The City of Surrey Official Community Plan and any relevant secondary land use plans;
  - (j) Any relevant City policies pertaining to the subdivision of land;
  - (k) The requirements and/or conditions as established and communicated by external agencies having jurisdiction over areas that may be affected by the proposed subdivision; and
  - (l) An assessment of whether the public interest would be unduly compromised if the subdivision was approved.
4. In forming an opinion about whether proposed application unduly compromises the public interest, the Approving Officer shall consider input from all persons affected by the subdivision, including any oral or written submissions that are received from the public as a result of public notification of the application or through a Public Hearing, where the subdivision application is being considered in parallel with a rezoning application. In accordance with legislation, the Approving Officer may also elect to hold a separate public

meeting related to the application for subdivision, at his or her discretion, to hear from all persons who may be affected by the proposed subdivision.

5. The Approving Officer shall also give due consideration to the matters outlined in Section 86 of the *Land Title Act* in determining whether the public interest is unduly compromised by a proposed subdivision, including:
  - (a) Impact on existing neighbourhood character;
  - (b) Impact on the privacy of adjoining or nearby properties;
  - (c) Impact on the natural environment;
  - (d) Impact on farming operations in the vicinity;
  - (e) Adequacy of highway access;
  - (f) Cost to the City pertaining to public utilities or other works and services;
  - (g) Adequacy of drainage and sewage disposal infrastructure to serve the subdivided land;
  - (h) Subdivision is unsuited to the configuration of the land being subdivided;
  - (i) Subdivision impacts practical future subdivision of the surrounding area;
  - (j) The shape and configuration the lots including the adequacy of the proposed building envelope on each lot;
  - (k) The proximity to utility corridors, such as BC Hydro and Terasen Gas corridors, and environmentally sensitive areas; and
  - (l) Neighbourhood connectivity and linkages.

### **Communicating the Approving Officer's Decision to the Applicant**

6. Following an evaluation of the proposed plan of subdivision, the Approving Officer may choose to grant the application preliminary approval, subject to conditions, which will be communicated to the applicant by letter. This letter is referred to as the Preliminary Layout Approval (PLA), and is valid for 12 months. The Approving Officer may consider requests for one or more extensions of the PLA, provided such requests are made in writing, and the fees prescribed by the City's by-laws are paid by the applicant. When an extension of a PLA is requested by the applicant, the Approving Officer shall review all the conditions of the expired PLA to determine if any changes to the conditions attached to the PLA are necessary.
7. Where after the evaluation of an application for subdivision, the Approving Officer determines that the proposed subdivision cannot be approved the Approving Officer will notify the applicant in writing of the refusal of the application and will include in the letter a brief description of the reasons for the refusal. Where the Approving Officer is relying on a portion of an Act as the basis for the refusal, the relevant section(s) of the Act will be quoted. When the "public interest" is cited as a basis for a refusal, the Approving Officer will state briefly the reasons that the public interest is considered to be unduly compromised by the proposed subdivision. As a courtesy, the letter will also outline the provisions available to the applicant to appeal the decision of the Approving Officer.