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WORKING PAPER NO. 15

GREATER VANCOUVER REGIONAL DISTRICT LAND USE REGULATION STUDY: An Evaluation of the Land Use Approval Process in Coquitlam, Surrey and Vancouver, 1979

by

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FOREWORD

This study is one of a series commissioned by the Economic Council's Regulation Reference which deals with various aspects of land use and building codes regulation. These studies do not cover the whole field of land use regulation but they do focus on important areas of concern.

The following is a list (alphabetically by author) of land use studies to be published in this series:

* Dale-Johnson, David, Land Use Regulation in Metropolitan Vancouver.

* Eger, A.F., Land Development Risk and Regulation in Montreal, 1966-1979.

Hamilton, S.W., Land Use and Building Codes: The Regulatory Framework.

Hamilton, S.W., Land Use and Building Codes Regulation: Summary Report.

McFadyen, Stuart and Denis Johnson, Land Use Regulation in Edmonton.

* Proudfoot, Stuart, Private Wants and Public Needs: The Regulation of Land Use in the Metropolitan Toronto Area

* Seelig, Julie H., Michael Goldberg and Peter Horwood, Land Use Control Legislation in the United States -- A Survey & Synthesis.

* Silver, Irving R. assisted by Rao K. Chagaralamudi, The Economic Evaluation of Residential Building Codes: An Exploratory Study.

* already published.

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The author gratefully acknowledges the contributions of the following individuals. Peter Horwood worked on the initial design of the study and made the contacts with the municipalities and developers. Peter Kenward assisted in these initial steps and undertook the first draft of the summary and analysis of the enabling legislation and the local by-laws (Appendix A). As well, he played a large part in the collection of the material used in the individual cases and their subsequent write-up. David Baxter, Stan Hamilton, Irwin Henderson and Dan Ulinder assisted by discussing various aspects of the study and often provided perceptive insight. The following individuals associated with the municipal administrations were cooperative, patient and helpful during the analysis of the local by-laws and procedures and the analysis of the cases: Ron Johnson, Staff Services Supervisor, Planning Department, Corporation of the District of Surrey; Don Buchanan, Planning Director, and Ken MacLaren, Development Control Technician, Planning Department, Corporation of the District of Coquitlam; and John Coates, Senior Planner, and Rick Scobie, Zoning Group, Planning Department, City of Vancouver. Numerous architects, builders and developers were free with their time and provided data and expertise without which the study would have been impossible. While most did not request anonymity, it was guaranteed to maximize participation from the private sector.

While many individuals helped to bring this study to fruition, the responsibility for the interpretation of their contributions and the piecing together of the final study must remain with the author. It was impossible to retain the many worthwhile contributions let alone incorporate them with complete accuracy into the fabric of this study. It is hoped that where ideas have been borrowed, what has been presented conveys what was originally intended. Nonetheless, the author bears full responsibility for the ideas and opinions expressed in this study.

In Vancouver, Barbara Blancard typed early drafts of part of the manuscript. In Los Angeles, Saundra Hall typed the remaining drafts and the final version of the manuscript. For their skill and patience, the author is grateful.

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* Appendix B is summarized in Appendix C and has been deleted in its entirety. It is available in limited quantity upon request.

RÉSUMÉ

La présente étude a pour but d'examiner et d'évaluer les répercussions de la réglementation visant l'aménagement du territoire sur l'utilisation des terres dans la région métropolitaine de Vancouver. La diversité des mécanismes de réglementation dans cette région offre une occasion unique de comparer les avantages et les désavantages de diverses méthodes. Toutefois, la question de savoir quel degré de réglementation est nécessaire à l'égard de l'utilisation des terres n'en demeure pas moins très difficile du point de vue normatif. Cependant, en acceptant le niveau de réglementation tel qu'il est afin de pouvoir passer à d'autres considérations, il est possible de trouver certaines réponses à une question plus facile, soit "Qu'est-ce qu'une réglementation efficace ?" La présente étude tente de jeter un peu de lumière sur cette dernière question.

La Partie I contient une explication du but de l'étude dans le contexte des objectifs plus larges du Mandat sur la réglementation, ainsi qu'un résumé des résultats de l'étude, les conclusions et les recommandations. La Partie II traite brièvement de quelques-unes des questions théoriques dont il faut tenir compte lorsque l'on tente de fournir une raison d'être de la réglementation visant l'utilisation des terres, et d'évaluer les règlements présentement en vigueur. Elle décrit ensuite dans les grandes lignes la méthodologie utilisée dans la partie analytique de l'étude. De façon plus précise, trois ensembles de données servent à l'analyse finale, soit 1) un résumé détaillé des lois provinciales et municipales pertinentes (voir la partie III et l'annexe A), 2) une analyse de onze (11) cas nécessitant l'approbation du service d'urbanisme pour un lotissement, un changement de zonage, et une affectation de terrain assortie de l'installation des services (voir les annexes A et C) et; 3) un relevé de données tirées des archives de diverses municipalités. Dans la partie IV, les procédés existants de réglementation sont évalués à partir des renseignements contenus dans les parties précédentes.

Voici les principales conclusions qui ressortent de l'étude. Premièrement, les récentes révisions de la Municipal Act (projet de loi 42) sont considérées comme une tentative valable pour encourager le zonage et la planification à long terme, et pour éliminer la prise de décision fondée sur chaque cas particulier. En outre, l'introduction de la taxe sur le coût de l'aménagement est considérée comme un premier pas vers l'objectif consistant, pour les nouveaux lotissements, à n'avoir à payer à la municipalité que leurs coûts marginaux. Toutefois, la valeur de la loi sera mise à l'épreuve par la disposition ou l'aptitude des municipalités individuelles à s'y conformer.

L'auteur estime qu'à Vancouver, le processus d'approbation axé sur la conception est onéreux, et il fait certaines recommandations visant à l'améliorer. Cependant, il ne pose pas la question à savoir si la conception devrait être régie par la loi.

Enfin, Dale-Johnson souligne que pendant les périodes de forte demande de logements, les entrepreneurs ont tendance, à court terme, à transmettre les coûts de la réglementation aux consommateurs; sinon, ils doivent accepter des profits moindres qu'en d'autres temps. Il convient de noter, cependant, qu'à long terme, si l'offre de terrains est inélastique, il se peut que les coûts de la réglementation retombent sur les propriétaires.

SUMMARY

The purpose of this study of land use regulation is to explore and evaluate the impact of such regulation on land development in the Metropolitan Vancouver area. The diversity of regulatory procedures in the Vancouver area provide a unique opportunity to compare the advantages and disadvantages of alternative approaches. Even so, the question "How much land use regulation is necessary?" is intractable in the normative sense. If, however, the level of regulation can be accepted, some progress can be made with the more tractable question, "What is efficient regulation?" This study attempts to shed some light on the latter question.

The study is organized in the following way. In Section I, the purpose of the study is explained in the context of the broader objectives of the Regulation Reference. Also, results of the study are summarized, conclusions drawn, and recommendations made. Section II contains a brief discussion of some of the theoretical issues which must be considered in providing a rationale for the regulation of land use and for the evaluation of those regulations when they are in place. The latter part of Section II outlines the methodology to be used in the analytical part of the study. Specifically, the analysis has three main inputs. They are: (1) a detailed summary of the relevant provincial and municipal legislation (see Section III and Appendix A); (2) an analysis of eleven (11) individual cases which involve the approval of subdivision, rezoning, and land use and servicing (see Appendix B and Appendix C) and; (3) a survey of archival data from individual municipalities. In Section IV, the inputs to the analysis are drawn together in a discussion which serves to evaluate the existent regulatory procedures.

The following are the key conclusions which result from the study. First, the recent revisions to the Municipal Act (Bill 42) are viewed as being a valuable attempt to encourage long-range planning and zoning and to eliminate ad hoc decision making on a case-by-case basis. Also, the introduction of the Development Cost Charge is viewed as a step in the direction of having new developments pay only their marginal costs to the municipality. However, the real test of the legislation will be the preparedness or, indeed, the ability of individual municipalities to comply with the legislation.

Vancouver's design-oriented approval process is recognized as costly, and some recommendations regarding improving that process are made. However, the issue of whether design should be legislated is not addressed.

Finally, it is noted that during buoyant periods in the housing cycle the tendency in the short run will be for the developer to pass the costs of regulation on to the consumer or to earn a lesser profit than he otherwise would have. However, it should be pointed out that in the longer run, if the supply of land is inelastic, there exists the possibility that the costs of regulation can be shifted onto the landowner.

I. Introduction

A. Statement of Purpose

This project is one of four projects which were undertaken in major Canadian urban centers during the summer months of 1979. These projects, together, comprise one component of a nationwide study of land use and building code regulation which is, in turn, one component of a nationwide study of government regulation. This body of research has been initiated by the Economic Council of Canada at the request of the Prime Minister.

It would be valuable to provide some insight into the types of questions to be addressed by this research and specifically the Vancouver component of the land use and building code regulation study. In a preliminary report to the First Ministers in November of 1978, the Chairman of the Economic Council of Canada cites the Prime Minister and continues by describing the role of the Council with respect to the research. Specifically,

> "There has developed in Canada a strong concern that increasing government regulation might be having serious adverse effects on the efficiency of Canadian firms and industries and on the allocation of resources and distribution of income." The purpose of the Council's research is to diagnose the problems of government regulation, and to offer practical recommendations aimed at improving its effectiveness, reducing its cost and improving the process by which regulation is conducted.[1]

Regulation by government in all spheres of economic activity has arisen to meet certain perceived needs of individuals and firms. While some view regulation as hampering economic activity, others view regulation as necessary to ensure that market activity moves toward efficient and equitable means of allocating resources. This research then must critically explore the regulation of land use at a local level (in this case the Greater Vancouver Regional District). The objectives of the

research will be to catalog land use regulations and regulatory procedures at a local level and then accumulate data which will permit the evaluation of these procedures. The ultimate objective will be to assess the existing procedures and where necessary, identify alternative approaches to the current regulations, recommendations for their implementation and an evaluation of their impact.

The specific questions which the four regional or local studies have been asked to address should be discussed in more detail. These questions are outlined by Stanley W. Hamilton[2] and include:

(1) Are land development regulations becoming more costly in terms of time and money?

- What major changes in the use of regulations have occurred (1978 vs. benchmark years)?
- What impact have the changes in regulations had on the "hard costs" (fees, deposits, impost fees, professional services) in the land development process?
- What are the major changes in the direct costs of administering the regulations?
- Can one identify or illustrate a corresponding change in the benefits obtained (either more or different benefits)?

- Have the changes in regulation caused corresponding changes in the behavior of development companies (e.g., larger land holdings, trend towards larger scale projects, concentration in the industry)?
- How frequently do public hearings occur and do these cause delays in the process?

(2) Have the land development regulations increased or decreased uncertainty?

- Have changes of the federal, provincial and local level regulations reduced or increased conflicts and jurisdictional problems?
- Has there been an increase on the use of discretionary power by the civil servants? If so, what costs and benefits can be attributed to this increase?
- Are public land development decisions consistent with a master plan or neighbourhood trend?
- Does the system provide developers with clear alternatives when their proposals are rejected?

- Does the scale of the project or size of the developer appear to influence the probability of success on an application?
- Does citizen participation or neighborhood hearings appear to affect the risks in land development?

(3) Are the land development regulations equitable?

- Who are the "real" and "nominal" decision-makers?
- Who is represented in the processes for adoption and amendment of plans?
- How are the rights of the "minority" protected?
- Do the results of the appeal systems suggest any pattern or trend which might reflect on the equity in the system?
- Is public or citizen participation an important part of the system? How often does public participation occur? Who is "the public?"

(4) What are the explicit and implicit objectives of land development regulations?

- Is there a master plan or community plan? Do decisions appear consistent with the plan?
- To what extent does the decision process appear to be a "roundabout" way to increase local revenue or reduce public costs? For example, are the applications more acceptable when they include contributions, either in the form of public amenities within the project or contributions in kind? If yes, do these costs appear consistent? Can they be determined in advance? Are they related to project size?
- Is there a trend to greater use of private "off-site" cost charges?
- What are the benefits (real and alleged) arising from these processes?
- To what extent do the benefits accrue to the public-at-large and to what extent do they accrue largely to adjacent property-owners?

(5) Does the diffusion of land development regulations inhibit savings and innovation?

- Do variations in local land development regulations encourage the private sector to specialize in products or locations?
- Does the system of land development regulations affect the scale of developments undertaken?
- Does the system influence the timing, costs and charges for major infrastructure extensions?
- What type of land development regulations inhibit savings and innovations?

(6) Is the land development regulatory process "effective?"

- Can the same level of benefits be achieved at less costs?
- Can a higher level of benefits be achieved for the same costs?

In addition to these questions, the charge suggested the type of data that the analysis should include. Specifically, and at a minimum, it was suggested that data be acquired about the experience of the private sector in the rezoning process, the subdivision process, and the development approval process with project-specific data about costs, timing, success with planning department applicants, etc. Some of the previously listed questions could be addressed. It should be noted that neither the empirical approach suggested by Dr. Hamilton nor the approach used by this research team presumed to evaluate the general level of services in a municipality or their rationale for the regulation of land use. A pragmatic view was taken. Specifically, that each municipality aspires to provide a reasonable level of service and standard of property rights which must be protected through some provincial or municipal set of laws covering land use.

The rationale for not evaluating the general level of services and taking this pragmatic view follows. In theory, such evaluation is difficult due to the "public good" aspect of land use regulation. The overriding issue relating to the regulation of land use is that virtually all decisions regarding land use have an effect on the environment of the community-at-large. Many of the public services, including the benefits of the regulation of land use, which combine to yield this community environment, can be classified as public goods in that their benefits are collectively consumed by all members of the community and it is difficult to exclude consumers so as to effectively price the benefit. The nub of the public goods problem is that most individuals differ (sometimes somewhat dramatically) with respect to

what they perceive as beneficial to their quality of life. That is, everyone cannot agree about a community plan, a level of services, and a set of regulations, let alone the community environment that such plans and regulations are supposed to yield. Even if such agreement could be reached, individual households would differ with respect to how much they would be prepared to pay in both implicit and explicit costs for the services and the regulatory structure that would yield such an environment. Furthermore, the "free rider" aspect of public goods means that individual households will have no incentive to reveal what they would be prepared to pay for incremental improvements in environmental quality. If we consider as well the difficulty of measuring benefits as they are accrued by each household, the problem, at least from this perspective, becomes totally intractable.

Faced with those difficulties on the benefits side, the best strategy seemed to be one which focused on the costs side. The specific methodology chosen is discussed in Section II(B). In general, it was viewed as most important that the process of land use regulation in particular communities be reviewed in detail. In so doing, it was hoped that it would be possible to enumerate costs imposed on individual property owners initiating changes in land use. By exploring alternative processes, some insight would be provided regarding a preferable strategy for regulating land use.

B. Summary, Conclusions, and Recommendations

Summary

This study is structured in the following way. First, in the following section (Section II), the economic theory of regulation in the context land use will be summarized briefly. The economic rationale for

the regulation of market activity will be presented and then the special case of land use regulation will be discussed. Following the presentation of the theory, a methodology will be proposed to evaluate the existing system of land use regulation in the Vancouver region. Some prior research will be discussed and the conclusions summarized. Then, the methodology of this particular study will be summarized.

Section III provides an overview of the evolution of the current set of regulatory procedures in British Columbia. The by-laws in the three municipalities which will be the subject of detailed analysis in this study (Surrey, Coquitlam, and Vancouver) are discussed in detail. The three communities are chosen so as to demonstrate enabling legislation which is in effect and enabling legislation just recently repealed.

Section IV is a discussion of the questions raised in the introduction to the study. Structuring the results of the study proved to be the most difficult part of the study. A mass of data, facts, and opinion were available for dissemination. It seemed that virtually all of the key issues could be discussed by attempting to respond to each of the questions raised in the initial research proposal.

The appendices to the study include three items. Appendix A is a detailed summary of the enabling legislation and relevant local by-laws with respect to development approval, rezoning applications and subdivision applications in the three legislative environments. Section IIA combined with Appendix A should provide a complete picture of the regulatory framework in each municipality.

Appendix B includes a detailed but brief analysis of each of the thirteen cases examined by the researchers. Each case was carefully reconstructed using the methodology noted in Section IIB.

Appendix C summarizes very briefly some of the data generated by the study. The results from the thirteen case analyses are distilled into Tables C-I, II, and III. Data from each of the three municipalities from the years 1974 through 1978 is included in Tables C-IV, V, and VI. Since land use regulation often serves a fiscal purpose, it is important to examine some of the financial aspects of the community along with the immediate costs of the regulatory function (the planning department budget). Figures C-I, II, and III are diagrams of the organizational structure of the three planning departments.

What follows in this section are the general conclusions which can be drawn from the information generated by the study and the specific recommendations with respect to both the enabling legislation and the local by-laws.

Conclusions

The approach used by this study is such that it is impossible to evaluate with any certainty the costs versus the benefits of the land use control system as it exists in British Columbia. However, it is possible to evaluate the approach used in various municipalities to the extent that each municipality attempts to reach essentially the same goals with a slightly different application of the enabling legislation. Moreover, because of the special status afforded the City of Vancouver by a seperate statute, examination of the approach used in Vancouver provides further insight. The conclusions and recommendations of this study must therefore be considered, keeping in mind that it was not the intent of the study to determine whether land use controls achieve their avowed purpose but rather, the intent was to determine, or at least, acquire some insight into which system does the job the most efficiently

or at least cost. Since different communities are examined in order to observe different systems, there is a problem of comparability. Unfortunately, there seemed to be no other realistic alternative for which any data could be acquired.

The inherent weaknesses of this somewhat ad hoc procedure are as follows. First, if different costs are observed, we cannot be sure that they do not result from factors which are unique to the individual communities in question. For example, there may exist variation in services such as water and sewer among municipalities. Second, we cannot be sure in our case studies that variations in per unit costs of the approval procedure as they have been computed do not arise due to unique aspects of each development. Finally, the assumption that each community has the same objective benefits may be the greatest inherent weakness even though it is an assumption key to the cost effectiveness approach. The theory which we develop in Section II(A) suggests that there should actually be a diversity of communities in a metropolitan area, each providing a unique level of services in order that each household can choose a community which meets their demands within the constraints of their income. If, in fact, this diversity exists, our analysis is built on somewhat shaky ground.

The above weaknesses certainly mitigate against our ability to draw conclusions with 100% certainty. However, the case orientation and the detailed procedural analysis in each community seemed to leave little doubt about areas where there is potential for improvement in the process so as to yield cost savings.

A comparison of the approval process in Surrey and in Coquitlam was considered the best approach to examining the impact of Bill 42 which

recently changed the enabling legislation for certain aspects of the approval process for all communities in British Columbia except Vancouver. The evidence suggests that the Post-Bill 42 process exemplified by Coquitlam is likely to be preferable to the Pre-Bill 42 approach used in Surrey for a number of reasons. Specifically, the reasons include: (1) the requirement of an official community plan--this effectively forces the municipality to undertake medium- and long-range planning of land uses and servicing; (2) the reaffirmation of zoning and the elimination of ad hoc land use decisions on a site-by-site basis--this reduces uncertainty but at the same time reduces flexibility; and (3) the introduction of the development permit as a means of dealing with problems peculiar to each site which are unrelated to use and density along with the introduction of the development cost charge--the development permit/cost charge combination ensures (if correctly instituted) that new developments only pay their marginal cost to the community. The theory developed in Section II(A) defends this as a rational rule.

While the study favors the revised statute, this should not be viewed as an indictment of Surrey's handling of the Pre-Bill 42 approach. It will always be possible to find cases which exemplify irresponsible behavior on the part of the regulator just as it is always possible to find irresponsible behavior on the part of the applicant. The cases examined in Surrey, particularly when considered in the light of the municipal data (value of building permits processed per capita, planning department budget per capita, and tax levy per capita), simply provide evidence of a municipality struggling to pay for required new services without inflicting an unbearable burden on the existing taxpayer. Unfortunately, the nature of the process did not always ensure that each appli-

cation would be treated equally or that careful pre-planning would minimize the problems encountered in the approval process by each application.

Surrey also has some unique geographical problems which are not encountered in Coquitlam. Specifically, the municipality is spread out with several relatively small business centers interspersed with residential development and agricultural and rural land. Development in Coquitlam, partially a result of the smaller geographic area, is more centralized. As the data suggest, both Coquitlam and Surrey experienced similar rapid growth during the 1974-1978 period. Coquitlam, however, cut back new building by 25% in 1977 in order to resolve some medium- and long-range planning issues. This is a step in line with the intent of Bill 42 and it is a step which appears to have resolved a number of problems that are often experienced by developers in the approval process. There do exist some problems with the provincial enabling legislation as it stands and the resulting municipal by-laws which were examined. These problems or possible solutions will comprise the recommendations which follow.

The Vancouver approval process was examined in order to have a third option for comparison (in terms of enabling legislation as well as the local by-laws) and to acquire some insight regarding how the process may evolve in a built-up urban core area. It should be noted that no Central Area projects were analyzed, hence, although it is possible to draw some general conclusions about the approval process, specific recommendations must be limited to the Non-Central area. The unique quality of the approval process in Vancouver is striking and it is not clear how much of the unique quality arises due to the enabling legislation and how much due to the mature nature of the community. The

Vancouver process is without question a process which goes well beyond the standard notion of land use regulation by venturing into building design control. There are cost implications. It is the norm for an architect to be involved in the approval process expediting the application. This is a cost incurred by the developer. As well, the planning department budget is typically higher than for the other communities examined. While this study does not presume to have the answer, it is interesting to contemplate just how far it is acceptable to proceed along this regulatory path without effectively legislating taste. A case could be made that Vancouver has already proceeded that far. If this question is set aside, and the objectives of the Vancouver approval process are not questioned, it is still possible to suggest areas where the process may be improved. These recommendations follow.

Before listing the recommendations arising from this study, it would be appropriate to summarize why it is not feasible to question, in a study such as this, the degree to which a municipality chooses to regulate land use. Rather, it is appropriate to accept that objective and evaluate the means of getting there. The reason is that there is not an operational economic or political theory which will suggest the appropriate balance between the objective of maximizing the public good and the objective of preserving individual property rights. That is, a balance between providing total freedom to exercise individual property rights and granting the "public" (the citizens of the community) through the municipal council, the planning department and the approval process the right to control, to some degree, the exercise of private property rights. Presumably, this latter right results from the existence of externality effects, natural monopoly and the need for public services

and the consequent free rider problem. Suffice it to say, that this issue is one which, so far, must be resolved at the ballot box.

The economic theory that is discussed in Section II(A) suggests that a means of approaching the optimal allocation of public services involves providing the consumer with a range of communities within a region so that the consumer can choose to locate in the community which most closely meets his needs. The consumer decision is based partially on a trade-off between the perceived benefits in a community (environmental quality, public services, amenities, etc.) and the perceived explicit costs (property taxes, user charges, etc). This trade-off is complicated by the capitalization phenomenon. Individual housing values may reflect differentials which may exist among communities with respect to net benefits (either positive or negative). To the extent then that the objectives of the process are a part of the community environment/public service package, there is no decision rule which tells us the optimal objective for the process. The resident, however, must be presented with an array of communities among which he can choose and a system within each community which provides a clear option.

The above conclusion does not detract from the value of examining individual land use approval procedures. Although the objectives should not be questioned, they should be clear. As well, the process which is used to reach that objective may be evaluated. It is in these areas that the major contributions of this study lie. Briefly, Bill 42 is supported primarily because its purpose seems to be to force the municipality to make explicit its objectives through the requirement of the formal community plan and the rationalization of development cost charges. As well, individual approval processes are carefully examined to suggest

how the same objectives could be met more effectively. Specific recommendations follow.

One final conclusion should be made. It is a conclusion which is consistent with that made by Gruen and Gruen and the ULI (1977).[3] During buoyant periods in the housing cycle, demand is such that the tendency is for the builder/developer to shift costs arising from the approval process forward to the consumer. If demand is static, this is consistent with the theory as long as demand is relatively price inelastic. This could occur, for example, during periods when expectations of continued price escalation lead consumers to ignore or discount short run increases in price. Many of the developers interviewed went one step further. Shifts in demand can also occur (i.e., demand may not be static). They argued that due to the delays encountered in the approval process, they often profited much more than they otherwise would have. Developers typically view their role as one which involves the acquisition of the site and development approval, development and sale of the property and they do not typically hold developed properties for capital gain. They are entrepreneurs with expertise in the process and <u>not</u> investors. They usually prefer not to tie up capital longer than necessary in particular projects. Often, however, delays in the approval process led to what the developers described as "windfall" profits. These windfall profits would have arisen from demand shifts (increases in demand) which occurred during the delays experienced in the approval process. Suffice it to say that the consumer again bears the cost because supply (or the stock of housing units) is not increasing as fast as it might otherwise.

These windfall profits are a cost of the approval process but they only occur during buoyant markets and could as easily be "windfall losses" in a less buoyant market.

Unfortunately, it is difficult to differentiate between an inefficient process and a process which is intentionally slow in order to control growth. Moreover, once this issue arises, the issue of balancing private property rights and the "public interest" must be faced. As has been noted, this issue is, thus far, an intractable one. However, what follows are a series of recommendations directed toward resolving obvious inefficiencies. To the extent that such inefficiencies can be resolved, individual municipal objectives should be more clear permitting more knowledgeable decision making on the part of the consumer, the producer and perhaps most important, the voter.

Recommendations

The Municipal Act

1. The success of the recently revised legislation (Bill 42) is contingent on the preparedness of the municipalities to undertake medium- to long-range planning. The Inspector of Municipalities must be certain to abide by the statute and not approve any development cost charge by-laws without the required "official community plan." This will have the effect of forcing the municipality to consider and plan for future growth.
2. From the municipality's point of view, a problem lies in determining with reasonable accuracy the per-unit marginal cost of future development. A procedure for estimating such marginal costs may be difficult to operationalize. However, recognition that the measurement of such costs is a worthwhile objective is a significant step

in the right direction. Some formalized communication should be introduced among municipalities regarding the methodology for determining the marginal costs and the appropriate level of servicing standards.

There does exist a literature in this area (see, for example, Galambos and Schreiber (1978). The Inspector of Municipalities could coordinate this interaction among municipalities through the Ministry of Municipal Affairs.

3. The statute does not resolve the problem created by changing standards of service. Care must be taken to be certain that development cost charge by-laws are not enacted which impose charges on entering residents for services which have the effect of benefiting existing residents. Existing residents should pay the costs of any improvement in services from which they benefit. Note that deviation from the standards set out in points 2 and 3 imply that a redistribution of income or wealth from new residents to existing residents, or vice versa, is taking place. A more precise redistributional instrument surely exists.

4. The intention of the enabling legislation (both the Municipal Act and the Vancouver Charter) appears to be that issues involving amendments to the zoning by-law require a public hearing. The gray area exists with respect to the development permit. In Vancouver, notification and an opportunity to respond through the Director of Planning or by appearing before the Development Permit Board seems to be adequate. Coquitlam, however, makes the assumption that a public hearing is necessary for each development permit. This seems to be an unnecessary step even though the evidence suggests

that in Coquitlam it is not a demanding one. The intention of Bill 42 should be clarifed. Is the granting of a development permit viewed as an administrative or quasi-judicial act?

The Vancouver Charter - The City of Vancouver

1. For Non-Central area development permit applications, the communications process between the decision makers (the Director of Planning and the applicant) must be improved. This objective may be served by assigning a professional planner to be responsible for each application (rather than the plan checker) or by replacing the plan checker with a professional planner. Alternatively, the Director of Planning could delegate the decision making authority to a more accessible individual so that the role of the intermediary is not as critical.

2. Rezoning applications (which do not occur in the Central area) often require a very detailed analysis of the proposed development due to the design-oriented aspect of the Vancouver zoning by-law. As a consequence, once the rezoning has been approved, the development permit application is almost redundant. In such cases, it may be more efficient to permit the developer the option of processing both applications at once. Otherwise, an attempt should be made to separate the use/density decision from the development permit decision (with the Vancouver zoning by-law as it stands, this would be impossible). It should be noted that a parallel situation could arise under Bill 42.

3. The design orientation of the approval process forces the applicant to make fairly specific design proposals at an early stage. This creates an expensive and time consuming process when problems arise

and revisions are necessary. The discretionary aspect of the zoning by-law almost guarantees that "horse-trading," to gain a higher floor space to lot size ratio, will lead to subsequent design changes. Every attempt should be made to keep the design at the conceptual level for as long as possible in the approval process.

4. For larger projects outside the central area, it seems inappropriate that one individual in the planning department (the Director of Planning) has the final authority. It may be appropriate that for large Non-Central area applications, the Development Permit Board make the final decision. It should be noted that the majority of developers and architects interviewed were content with the job done by the current Director of Planning. However, we noted that the accessability of the director has been a problem. Moreover, controversial decisions may be better handled by a group by one individual. (Note that in land development, size is often synonymous with controversy.)

General

1. Public hearings should be a forum for the discussion of use and density if the hearing is for the purpose of considering a rezoning. The rationale here is to avoid getting "bogged down" in factors which influence project design and to avoid a public forum on the details of every new development which is undertaken.

2. With C.M.H.C.-sponsored programs (ARP/AHOP), the project must be inspected and approved by the C.M.H.C. inspector and C.M.H.C. will not accept inspections carried out by the municipal inspector. This seems to be a duplication of effort which could be eliminated. Currently, there appears to be no attempt to coordinate standards

or requirements.

3. C.M.H.C. building standards occasionally conflict with local zoning by-laws. There should be some attempt to resolve conflicts or a means provided whereby such problems can be resolved in a straightforward manner.

4. There appears to be potential for delay in any case where an application has to be processed by more than one level of government. Consideration should be given to giving one individual (perhaps with the Ministry of Municipal Affairs) the responsibility of expediting all applications at the provincial level when seemingly unnecessary delays arise. The intention here is not to create a position having a quasi-judicial role, but rather create a recognition at the provincial level that there is a need for objective measures of their performance in their role in the approval process.

5. The Boards of Variance as devised within the framework of the Municipal Act and the Vancouver Charter are meant to provide an opportunity for appeal where the applicant views a decision to be contrary to the by-law or to create undue hardship. In the Municipal Act, as noted, the latter criterion has been expanded somewhat. The enabling legislation is not precise and this problem has been noted but it is not clear that the role of the Board can be defined any more precisely without effectively eliminating its usefulness. Hence, the enabling legislation for the Boards of Variance should not be altered. Each municipality, however, should make a point of evaluating its own performance with respect to the approval process in the light of Board decisions.

6. There is no opportunity for the resolution of problems that arise

in the process other than those suited for adjudication by the Board of Variance. See Section IV C)(4). Delays are often costly to the consumer due to the resulting restrictions in the rate of increase in the stock of housing. Since delays cannot typically be resolved through the existing appeal process, it would be beneficial to have an individual at the municipal level whose function or responsibility would be to expedite applications. This could be done by clarifying the process and tracking individual applications. This individual could consider all aspects of the process (including, for example, the Engineering Department evaluation of the servicing component of a development permit application). There is not a need for another quasi-judicial borad but rather a need for recognition on the part of the municipality that it should have some means of objectively evaluating its own performance.

7. Where possible, one individual in the Planning Department should have responsibility for communication with an applicant during the approval process from beginning to end. In larger departments, an attempt should be made to clearly define the responsibility as it is shifted from one department to another. This individual should have some power regarding the evaluation of the application. The objective here is that the applicant has a clear channel of communication with the approval authority which is obvious to him at all times.

Footnotes Section I

1. Dr. Sylvia Ostry, Regulation Reference: A Preliminary Report to First Ministers, Economic Council of Canada, November 1978, Document 800-9/004.

2. Stanley W. Hamilton, Land Use and Building Codes Regulation: Research Proposals Prepared for the Economic Council of Canada Regulation Reference, April 15, 1979.

3. That conclusion is cited in Section IIB of this study.

II. A Background for the Analysis

A. The Economic Theory of Regulation in the Context of Land Use

The charge to the Regulation Reference given by the Prime Minister had implicit in it a value judgment regarding the desirability of the current level of government regulation and presumably any additional regulations. This view should not be adopted without question, particularly given the diversity of the industries and markets which the Regulation Reference is exploring. While it may be appropriate to question existing regulatory procedures, it is certainly not appropriate to make a priori value judgments about existing regulatory procedures.

Before proposing a strategy for evaluating the set of regulations which exist, it would be appropriate to outline the theory which would rationalize the existence of land use regulation. In so doing, it will be important to be precise about what is meant by regulation of land use. Having done that, it would then be possible to set down some methodology for the evaluation of the existing system of land use controls and regulations.

For the purpose of this study, we have limited our concerns to regulation of the land development process. The land development process is defined to include any changes in land use involving one or more of the following steps:

(1) Rezoning;

(2) Subdivision;

(3) Servicing; and

(4) Development approval.

In British Columbia, the municipal government at the bequest of the provincial government has the role of administering the community planning function. Most of the regulatory power which applies to the above steps in the development process is viewed, at least by the lawmakers, as power to be exercised by the planning authority within the municipality.

The Evolution of Zoning as a Means of Dealing with Externalities

To gain insight into the actual objective of the land use regulation procedure, it would be appropriate to discuss briefly some of the antecedents to our current set of laws. Current types of land use regulation are a 20th century phenomenon. Previously, the only means of control over land users causing nuisance (odor, noise, pollution, congestion, and the like) was the common law of nuisance which over time evolved into the first zoning ordinance. Certain uses were prohibited in areas occupied by "higher" uses (usually residential). The types of nuisance were formalized eliminating the need for such "non-conforming" uses to be challenged on a case-by-case basis. In its first review of such zoning legislation, the Supreme Court of the United States noted:

> "The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power asserted for the public welfare. • • • The question of whether the power exists to forbid the erection of a building of a particular kind or a particular use, like the question of whether a particular thing is a nuisance, is to be determined, not by the abstract consideration of the thing considered apart, but by considering it in connection with the circumstance and the locality. Radice v. New York, 264 US 292, 294.

Prior to the existence of zoning ordinances, the exclusion of non-nuisance but incompatible uses was accomplished through the use of the restrictive covenant. Typically, such covenants were imposed by developers or subdividers and the title to the property would be encum-

bered by a covenant restricting the use of the site as well, perhaps, as the bulk, height and set back of the improvements. Those restrictive covenants were employed primarily in residential developments. Houston has been and remains a laboratory for this type of land use regulation (Siegan, 1971). It is not clear that the aggregate public and private costs of the negotiation and administration of such a system would be any cheaper than the customary use of zoning (Mason, 1979).

The early evolution of land use regulation fits very well the economist's model which would justify the imposition of such regulations. Nuisance or incompatible uses create externalities. An externality occurs when the activity or decision of one agent in the economy directly affects the activity or decision (preferences or production decision) of another agent and there is non-compensation for the cost or benefit incurred.[1] For example, the congestion and noise created by a neighborhood tavern imposes a cost on the nearby resident who wants to relax on his back porch during a summer evening. Zoning was viewed as a regulatory tool which in a growing community with competing industrial, commercial, and residential uses would add stability and order to the development process, preserve the property rights of individuals along with property values and thereby promote the general welfare. In this sense, zoning was viewed primarily as a tool which would eliminate the opportunity for externalities among land uses to occur.

The massive additions to the housing stock which occurred in the postwar years led to numerous cases where conflicts among competing land uses had to be resolved. In this environment, a stronger role for community planning along with the existent zoning regulations was readily accepted. Coincident, of course, was a decline, whether recognized or

not, in the extent of individual property rights. As has been noted, zoning evolved as a means of dealing with the externalities which may be created by neighboring land uses.

Other Market Failures

Other areas where "failures" were observed in urban land markets came to be viewed as being within the purvue of local planning officials. These are types of market failures which in theory justify the imposition of regulation. Specifically, they include natural monopoly and the free rider problem which arises when there are common property resources.

A natural monopoly in the land use sense is not an obvious textbook example of a market failure. A natural monopoly is usually depicted as occurring where significant initial fixed expenditures must be made such that the firm's average cost curve intersects the demand curve when both are downward sloping. The result, of course, is that one firm can always provide the goods at a cheaper price than two or more firms. The model happens, as well, to represent accurately the market environment for many retail and commercial land uses in an urban area. The level of demand for dry cleaning services is such that there need be only one such shop in each neighborhood. If more than one shop were established, the price level which would permit a normal profit would probably force potential users to take their laundry to other locations. In this context, the role of the planning authority becomes one of granting specific land uses (which create monopolies) so as to permit a normal but not excessive profit on the part of the firm. Regulation of this sort presumably limits "excessive or ruinous competition." However, at the same time such regulation may permit an existing firm to earn monopoly rents. Believers in the market mechanism argue that regulation of this

type is superfluous; that there is no such thing as "ruinous" competition and the consumer will benefit from the competition that does occur.

The provision of public goods and the protection of common property resources are activities not always well handled by the marketplace and have, as a result, been viewed as suitable activities for a planning authority. Establishing parkland, playgrounds, and open space, providing services and protecting watersheds, fish spawning channels, and the like, fall in this category. Another area where regulation has become important is the regulation of individual land uses so as to protect against the effect of natural hazards. Flooding, earthquake, fire, and other natural phenomena have the effect of imposing costs on the community-at-large. To the extent that land use regulation can avoid significant costs being imposed on the community-at-large, such regulation can be viewed as protecting the "common property." In these examples, the market failure which requires the imposition of regulation is the problem of the free rider. Each individual may attempt to benefit from the actions of the community-at-large without paying their fair share.

The "Public Interest" Theory of Regulation

Thus far, the evolution of land use regulation has been described in the context of the types of regulation which economic theory would justify. Specifically, Posner describes this rationale as the "public interest" theory which holds that "regulation is supplied in response to the demand of the public for the correction of inefficient or inequitable market practices" (1974, p. 335). It is, of course, justified only insofar as it corrects such inefficient or inequitable practices. Non-regulatory options for dealing with such market failures are, however, not necessarily inappropriate. See, for example, Mason (1979).

In the face of relatively stable or static urban land markets, land use regulations or in some cases non-regulatory market alternatives, have probably served their purpose reasonably well. However, the regulatory environment has not been static. A changing political climate and bureaucratic climate along with varying actors and market conditions in the private sector, have altered dramatically the public's perception of the set of regulations which are in place and the kinds of costs and benefits which they have imposed. The point is that in a relatively static or stable market place, the system, despite minor disturbances, appears to have worked fairly effectively if the level of public interest is a good indicator. More recently, this has not been the case.

The Evolution of Fiscal Zoning

In the 1970s, the emergence of the postwar baby boom and the formation of large numbers of new household types as major factors in the housing market along with a buoyant economy has led to levels of activity in urban land markets which heretofore have not been observed. Double-digit inflation has become commonplace. The resulting expectations have given impetus to demand, making real estate an attractive inflationary hedge not only because real estate price levels have tended to keep pace, but also because of the advantages of using leverage to purchase assets during inflationary periods. The effects of these phenomena have been observed in residential, commercial, and industrial real estate markets. Suffice it to say, such markets in the last decade have been far from static.

In the face of such market conditions, municipalities have been faced with all of the old problems which led to the evolution of the traditional land use regulatory procedures; but those problems have

occurred more often and on a bigger scale, and in an environment which has been rapidly changing. Not only has the traditional planning role been more difficult, but rapid growth has raised a further problem for many municipal administrations and this problem has, in many cases, been placed in the sphere of the planning authority for resolution. The problem is one of a fiscal nature. Growth makes necessary the construction of additional accommodating services (water and sewer services, schools, roadways, etc.) which may incur costs not readily covered by existing tax revenue. As a consequence, the land use regulation function has, in many cases, been broadened to include revenue generation or cost avoidance in addition to dealing with externalities, natural monopoly and the preservation of common property resources.

Specifically, the literature refers to "fiscal zoning" and "public goods zoning." This terminology describes situations where zoning is motivated by fiscal rather than efficiency criteria. The former refers to the imposition of a fee (in addition to the standard property tax) on new entrants to the community. The latter refers to attempts to control the characteristics of newcomers (large lot zoning is a good example of this approach) so as to minimize the costs that the newcomers will impose on the community.

It should be emphasized that growth may impose costs on the community to the extent that accommodating infrastructure and services are required. However, physical growth can also yield benefits in terms of impact on local or regional income. Often, such benefits may be viewed as offsetting the costs of accommodating new development, thus obviating the need for charging entrants to the community the marginal cost of providing the relevant services. However, it is unlikely that this scenario accurately represents the situation in a suburban "bedroom-type" community.

The Theory and Fiscal Zoning

In theory, the first strategy is justifiable to the extent that the fees imposed are equivalent to the cost that the arrival of the new resident imposes on the community. In fact, for an efficient result, similar charges (which are really lump sum taxes) representing the true cost of each resident to the community should be the means of generating all revenue. A lump sum tax has the advantage of not influencing housing preferences as would an excise tax. (See Hirsch, 1977, p. 147.)

Large-lot zoning or other types of exclusionary zoning are more difficult to evaluate from an economic point of view. A theoretical model that suggests a possible answer is that due to Tiebout (1956) and the more recent work due to Hamilton (1975). As long as the property tax is viewed as a price for local public services (which Hamilton argues to be the case in suburban property markets), and as long as an array of housing opportunities among different communities is available to a mobile consumer, it is possible, first, that the property tax can be viewed as an efficient price and second, that local public services are allocated optimally despite the existence of exclusionary zoning. In fact, it is necessary that each community enact a zoning ordinance indicating a minimum amount of housing that a resident can consume. While this is not the forum to address this issue in depth, such regulation might ensure that the optimum level of public services would be provided and the public goods or free rider problem resolved (see Hamilton, 1975). It must be emphasized, however, that in an urban area, it is essential that an array of communities with varying levels of provision of public services provide the consumer with an array of choices. The opportunity for the consumer to "vote with his feet" ensures that public

services can be optimally allocated. This is key to the optimality which results from the Tiebout or Hamilton model.

As noted, the preceeding analysis of the theory of land use regulation has been based upon what Posner calls the "public interest" theory of regulation. Regulation is supplied by the public sector in response to a demand by the agents in the marketplace for the correction of inefficient or inequitable market practices. Stigler (1971) is noted by Posner as having added significantly to the existing theory by considering the political process by which regulations are instituted. Specifically, Posner notes that Stigler's economic theory of regulation "insists with the political scientists that economic regulation serves the private interests of politically effective groups (p. 343)." Posner notes further,

> . . . since the coercive power of government can be used to give valuable benefits to particular individuals or groups, economic regulation--the expression of power in the economic sphere--can be viewed as a product whose allocation is governed by the laws of supply and demand (pp. 344).

A Caveat

While it is not the intention of this study to emphasize a political interpretation of the activity of land use regulation, it is important to note that we cannot assume altruistic behavior on the part of local governments and local planning authorities. It is relatively straightforward to provide economic justification for various regulatory procedures in the sense that the procedures may in theory move toward some social welfare goal. However, urban land markets are such that the effect of regulation on individual private interests is immediate and usually measurable. In few other markets is this characteristic as ubiquitous. As a consequence, one would expect that interest groups

play an important role in influencing local policy with respect to land use regulation and that such regulation, at any point in time, would tend to be aimed at maximizing the benefit of the most powerful interest group. Hence, an analysis which evaluated regulatory procedures at face value using efficiency or equity criteria would not provide the whole story. The analysis must also consider that the regulatory framework as it exists has evolved in a political environment in which a social welfare objective need not be paramount.

Important Characteristics of Housing Market Behavior

It will prove important to examine, as well, the characteristics of urban real estate markets. While we have examined carefully the theory which may permit or justify the imposition of regulatory procedures, it is important to understand the structure and behavior of the market in which they are imposed. Since this study will focus on regulation in urban residential rather than commercial or industrial real estate markets, we will explore only the economics of housing markets.

When examining residential markets, it is important to isolate the agents that typically have a role in the marketplace. On the production side, there are the resources (land, labor, and capital in their various forms) which are the inputs in the production of the capital good known as housing. The suppliers of these resources play a significant role in housing market. Land in all real estate markets plays an extremely important role that is not evident in many other markets. It is limited in supply, immobile, and is the focus of the regulation which is the subject of this study. Builders are the suppliers of the labour component of the production process. It is important to distinguish between individuals who are builders only and individuals who contribute capital

and entrepreneurial expertise to the production process. The latter are more accurately called developers. Such firms provide the technology which converts land, labour and contributed capital to new housing units. Finally, on the production side there are investors. Since housing units are durable goods usually with useful lives exceeding 30 years and since the land component is a non-depreciable asset, residential real estate in its various forms is a useful means of "storing" wealth. In fact, since rental revenue can be generated (imputed rental revenue in the case of the owner occupant) and since shifting demand conditions often lead to price fluctuations, holding of such assets may not only preserve but also enhance the initial level of wealth.

On the consumption side individual households are viewed as being consumers of housing services. Housing services is a term which describes collectively the benefits which are derived from having the right to use a housing unit. The housing unit, of course, is the capital good toward which the production side is oriented. The main components of the bundle of housing services derived therefrom include shelter, accessibility, and certain community services. As well, the occupant of a housing unit automatically takes on obligations such as maintaining certain health and safety standards on the property itself. Often the consumer of housing services is also the owner of the property and as such takes on the additional role of investor. The investment function is typically viewed as a supply side activity. Hence, its role has already been noted. Ownership of real estate typically brings with it the obligation to pay property taxes which as a rule are the primary source of municipal revenues used to provide the menu of local public services. These public services, as has been noted, are a component of

the bundle of housing services which people have the right to consume when they own or rent a dwelling unit.

While there has been an attempt to isolate distinct agents in the marketplace, dual roles do exist (for example, the owner-occupant), so there is some ambiguity. Clearly, the owner-occupant is an investor in the sense that his home is an asset and a consumer in the sense that the home is also a capital good from which services can be derived for consumption. On the production side, the development and investment function are often undertaken by the same entrepreneur or firm (some developers "build to hold"). These ambiguities are not problematic. Four activities or functions have been defined and each continues to occur independently in the marketplace whether the individual agent takes on one, two, three, or four roles or activities.[2] It is important to recognize the separate functions or activities because the distinctions among them will become significant as the effects of land use regulation are explored.

Modeling the Costs of Regulation

As the previous discussion suggests, there exist two purposes for the existence of land use regulations as they are currently known. The first purpose is to eliminate market inefficiencies which may arise from externalities, natural monopolies, and public goods or common property resources problems. Existing theories rationalize regulation in this way. The purpose of land use regulation in British Columbia has been broadened to include fiscal objectives. This broadening of purpose has arisen ostensibly from the need to fund "up front" the provision of services for new growth and development. In theory, then, the land use regulation process serves these purposes. However, there is a caveat

which should be noted and that is to point out again the likelihood that much regulation is, in practise, provided in response to the demand of politically effective interest groups. Certainly, there is no guarantee that the "squeaking wheels get the grease" theory of regulation will ensure that market inefficiencies are resolved.

While we have pointed out the purposes of the regulatory structure, it is, unfortunately, extremely difficult to evaluate how well those purposes are being met. However, it is a relatively straightforward task to evaluate the system or systems which are in place in terms of their cost effectiveness. Moreover, it may be possible to acquire some insight with respect to who bears the costs of the system. For this reason, it is important to isolate the different agencies in the housing marketplace and attempt to explore through the use of an economic model who bears the burden of the cost of the regulatory structure. Notably, if the regulatory structure is simply a response to politically effective interest groups, the analysis is still relevant because presumably the least cost option is still the best.[3] These issues will be dealt with in more detail in Section II B (Methodology).

Olsen (1969), Smith (1974) and Baxter, Hamilton and Pennance (1976), provide useful dicussion of the theory of housing market activity. Since for this study the benefits side is to be, for the most part, ignored, the main issue becomes one of enumerating the costs that the regulatory structure imposes, noting where and how they are imposed and using the theory to tell us who might ultimately bear the costs. The costs imposed by a set of land use regulations are either direct fees or charges (including such items as land dedication) or indirect costs incurred due to delay or an overly lengthy approval process. Indirect

costs can be derived by estimating the carrying costs of capital tied up during periods of delay as well as the costs of delaying future returns or cash flows. Such costs can be viewed as a tax imposed on real property and in most cases, are imposed initially on the developer. The literature on property tax incidence will provide the necessary background regarding the incidence of these charges. See Netzer (1973) and Mieszkowski (1972). While the costs are initially imposed on the developer, it is not evident that the costs are not shifted forward to the investor or consumers or backward to suppliers of resources.

The cases analyzed later in this study will provide the evidence that the cost of regulation, if viewed as a tax,cannot be viewed as a level tax[4] and hence, its incidence must be evaluated in each submarket. The costs are best viewed as an excise tax rather than a profits tax where the size of the burden varies with the property value and the jurisdiction. The incidence will depend on the elasticity of demand for housing both as a capital good from which is derived housing services and as an asset for investment purposes. It will also depend on the supply side elasticities which are first, the elasticity of supply of housing services and second, the elasticity of supply of the inputs in the production process. As well, the result will vary in the short run and the long run.

A Specific Model

To gain some insight into who bears the costs associated with land use regulation in the housing market, consider several contiguous communities. Assume that each community provides a like menu of public services and that the housing market in each community is comprised of similar single detached housing units. Assume as well that in each community

there is a builder/developer with similar technology and with a small bank of developable land available for meeting immediate production needs. There does, however, exist underdeveloped acreage in each community which is potentially available for future development but which is not owned by the builder/developer in either community. Assume for the moment that the supply of capital and labor is perfectly elastic. With respect to the housing market, demand for the existing stock of housing units is comprised of immigrants and current households. If moving is costless and newly constructed houses are virtually identical to existing houses, one would expect the market prices of occupied houses to be the same as prices of newly constructed houses. At any point, that market price would be the intersection of the demand curve with the vertical supply curve representing the stock of housing units.

In this scenario, consider the impact of a decision by community X to impose more demanding regulations regarding the approval of new development. Assume that the impact in terms of direct and indirect costs amounts to a $1,000 levy on the developer at the time the building permit is granted and issued (in other words, just before construction begins). The immediate effect would be as follows: (a) houses under construction would not be subject to the levy; (b) the lots in the developer's land bank would be subject to the levy, and (c) as long as price in the short run covered variable costs (including the levy), one would expect the developer to build and market houses on the lots which he already owns.[5] The developer would have to absorb the increased costs of development on the lots already owned he if does not have monopoly power in the market for existing housing units or monopoly power in the markets for capital and labor. Assuming that the home buyer has the

option of considering other communities and that capital and labor are mobile (they can also be diverted to other communities), this scenario seems reasonable. In the short run, the developer will pay the levy and bear the cost by accepting a reduction in profit. Of course, this is only the short term result.

In the longer run, there are two options that exist for the firm. They include shifting operations to other communities or reducing their bids for undeveloped lots in community X by $1,000. With this set of options, it is clear that whatever the builder does, the value of lots in community X will have declined by $1,000. Note that this long-term result is contingent on the mobility of the other productive inputs and on the existence of competition in the market for housing units. To the extent that these contingencies are not met, the firm may be able to shift part of the burden to labor or to the consumer. However, since capital is always mobile in the long run, owners of capital would not likely bear any of the burden in the long run.[6]

This result, while meaningful in the above special case, will not always hold. For example, if all communities are faced with a levy and demand, in general, is relatively inelastic, the development industry may find it possible in the short run to shift most of the tax to the consumer. However, the ability of an individual firm to shift the tax forward presumes that the levy is equal in all communities. Those firms in communities with relatively larger levies would not be able to shift all of their levy forward. In such a case, those firms with the higher levies would experience reduced profits in the short run and in the long run would attempt to shift the costs backward.

Another possibility should be noted. Some urban economists have

suggested the phenomenon of the "urban land ratchet." This hypothesis states that land owners will never accept an absolute decline in the value of their land. So, any attempt by developers to shift such costs backward would lead landowners to remove their land from the market which, in turn, would reduce the available supply and cause the equilibrium lot price to rise. Here, the consumer would ultimately bear the cost in the form of higher housing prices. It should, however, be noted that this behavior on the part of a landowner is as irrational as that of the developer who uses the levy as an excuse not to develop land-banked lots. No matter what, the sites on which the levy has been imposed will always be worth less than the other sites. Hence, if holding the sites for the appreciation in their value makes sense post-levy, it should have been the profit maximizing option before the levy was imposed.

Finally, the impact of the regulation itself should be considered. Presumably, the regulatory process leads to a net gain in community welfare. If this is indeed the case and the welfare gains flow through to homeowners, new home buyers will be prepared to pay a higher price for those benefits. Hence, the market price of housing units in community X (the regulated community) will increase. Existing home owners will, as a result, experience a windfall gain. If we consider a set of municipalities, each with a varying degree of effectiveness with respect to regulating land use (as far as community welfare is concerned), we would expect these variations to be evidenced to the extent that there is variation in the capitalization of the regulatory benefits. To the extent that the impact of regulation is negatively or positively capitalized, all existing property owners (including land owners) would experience windfall losses or gains.

In summary, the following can be said about the impact of direct or indirect levies resulting from a land use regulation system. In the short run, the firm (the developer) will likely bear such costs through a reduction in profit unless demand is highly inelastic with respect to price.[7] The latter is unlikely if there exist housing alternatives in neighboring communities. In the long run, the firm will shift the burden to the resource which is most immobile which is land. However, in the long run, it is also important to consider the benefits of the imposed regulatory system. Specifically, to the extent that the homeowner perceives differential benefits from the system, these differential benefits will be capitalized and the value of existing houses and developable lots should alter accordingly.

Some General Comments

The objective of this section has been to summarize the theory about land use regulation and its impact on urban housing markets so as to have a background for the analysis to follow. Recent housing market activity has led to considerable controversy among public interest groups, economists, and representatives of the industry and the government. This controversy has centered around the extremely rapid price rises which have been observed in many housing markets. It would not do to fail to address this issue here. As has already been noted, land use controls have many times been touted as a major cause of the rises in price. In all of this discussion, there is usually a failure to recognize and accept one fact. Significant increases in demand for scarce resources lead to significant increases in price. In recent years, the increments in housing demand resulting from rising incomes, immigration, pressures for new types of households (e.g., single person

households, working households and unmarried working households) and the post-war baby boom, in addition to premature household formation induced by inflationary expectations, have all placed considerable pressure on housing prices. In the face of these pressures for growth, communities concerned about preserving the status quo, maintaining environmental quality and offsetting the costs of growth, have employed land use regulations as a means of dealing with these problems.

This strategy is not by itself wrong and to accuse municipalites of exacerbating the "housing cost problem" by being concerned about the environment, haphazard growth, etc., is to tread on delicate ground. What is at issue rather than the rate of price increase is a question of individual rights. At what point do land use controls become exclusionary? At some point there is a compromise between the property rights[8] of an existing individual in a community and the right of a prospective new resident to have access to a reasonable array of options.[9] While the path to this optimum point is not forthcoming in this study, there is no reason why we cannot address the question of whether that regulated environment is provided at least cost.

B. Methodology

Included in the statement of purpose are a broad list of questions which this study is meant to address. The nature of the questions is such that there is no general hypothesis which could be tested nor any set of archival data which would readily serve such a purpose. As a consequence, despite the possible loss of generality of the conclusions, this study draws upon case studies for the analysis.

Before discussing the approach used, some of the previous literature in the area should be noted. There has been considerable research

devoted to generating evidence that the land use approval process imposes costs which comprise a significant proportion of housing costs. (Housing costs can be viewed as the set of expenses which influence the production decision of builders and developers.) Moreover, in many areas, an increasingly complex and lengthy approval process combined with fiscal zoning measures are increasing the size of this component rapidly. As well, to the extent that regulation restricts the flow of new lots and new housing units in a community, part of the consequent price increase is viewed by some as a cost of regulation. A selected list of such research includes Greenspan (1978), Gruen and Gruen (1977), the Housing and Urban Development Association of Canada (HUDAC)(1976), H.U.D. Task Force on Housing Costs (1978), and Seidel (1978). There is a large literature in this topical area and Dowall and Mingilton (1979) and Soloman (1976) provide summaries of much of the recent available research.

Greenspan edited a volume entitled "Down to Earth, Volume II, the Report of the Federal/Provincial Task Force on the Supply and Price of Serviced Residential Land" (1978). The report is an extensive study of the process which turns raw land into serviced developable lots in Canada. The conclusions relevant to this study follow:

(a) Rising lot servicing costs were closely related to rising lot prices across the country during the 60s, but not during the 70s when lot prices generally appreciated at a rate faster than servicing costs . . . future servicing costs will depend in particular on municipal and provincial acceptance of new servicing techniques.

(b) The land proportion of housing costs was positively correlated with the willingness and ability of municipal officials to

speed up the rate at which subdivision applications were approved.

(c) To reduce the price of land in the face of strong demand, it will be necessary for planners and municipalities to permanently increase the rate at which lots are produced. However, various planning concepts such as contiguous or sequential development policies, greenbelts and higher servicing standards--all of which may be warranted--will lead to a more restrictive subdivision approvals process and higher house prices.

(d) An increasingly common type of supply restriction and hence, determinant of long-run lot prices, seems to be municipal resistance to new development on the grounds that it does not pay its way. The reason that such development may not pay its way is that commercial and industrial properties may be overtaxed relative to residential properties which are undertaxed. Hence, residential growth not accompanied by commercial or industrial growth does not pay its way. Of course, there is no motivation for existing taxpayers to alter the tax structure (pp. 186-187).[10]

This study did an excellent job of documenting the relevant theory and evidence with respect to the process of supplying urban residential lots.

Gruen and Gruen and the Urban Land Institute (1977) used case studies in San José, California and Jacksonville, Florida in an attempt to measure the impact of growth management. In San José, the authors attempted to measure the portion of housing costs affected by public policy related activity and how this component varied over a six- to

nine-year period. It was assumed that growth of this component was induced by growth management related policies. Specific fees and charges were not enumerated. In Jacksonville, the site improvement costs along with the servicing fees were enumerated for two alternative cases in 1971 and 1976. Both of these studies used builder data and found that the public policy related components had indeed increased significantly during the time frame in question. The most interesting results, however, confirm some of the theory which has been related in the prior Section(II-A).

> . . .Where regulations restrict the supply of developable land and rate of construction in a community where demand is relatively price inelastic, one can expect prices to increase without respect to development cost increase, as has been the case in San José. The Jacksonville study reveals, however, what happens when multiplying government regulations increase development costs without restricting the supply of developable land where the demand for housing is relatively price elastic. The initial effect is to reduce developer profits. In the longer term, it seems likely the builders will either reduce the price they are willing to pay for land, or substantially reduce production so that prices can be increased to cover normal profit requirements (p. 9).

HUDAC (1976) undertook a study to identify the causes of increases in the prices of serviced building lots between 1964 and 1974 in Canada. Prices were disaggregated into seven components including raw land, servicing, municipal levies, carrying charges, consultant fees, overhead and profit. As well, data regarding supply and demand were examined. Rates of price increase ranged from 78% to 313% and these increases were largely explained by variations in regulatory policies and the availability of developable lots (the rate of approval). Of course, these increases depended on the sustained pressure from the demand side (for new homes) observed during this period.

The H.U.D. Task Force (1978) undertook a massive study with the objective of developing recommendations to reduce or stabilize the cost

of housing to the consumer. Relevant conclusions include:

(a) increased government regulation at all levels is shown both in substantive requirements and in processing delays; and

(b) shortage of serviced building sites, resulting from inadequate public facilities, and land use, environmental, no-growth and exclusionary zoning regulations constrain land supply, particularly for low and moderate income housing.

Seidel (1978) in an extensive study for the Center for Urban Policy Research examined the relationship between regulation and the price of new housing. Three types of costs were isolated: (a) direct costs--those directly attributable to regulation (such as fees); (b) the costs of delay and uncertainty; and (c) the costs of unnecessary or excessive requirements. His conclusions relative to this study are:

(a) the subdivision approval process has increased in complexity. Negotiated agreements regarding subdivision requirements have been used to extort excessive improvements from developers;

(b) zoning regulations are frequently used to severely restrict the construction of moderately-priced housing. Zoning variances are frequently being used as bargaining devices aimed at increasing control by local officials over the character of new development. Zoning ordinances are frequently administered by elected officials more attuned to political than to planning objectives; and

(c) growth control ordinances, by limiting the amount of developable land, drive up the price of those lots on which construction is permitted. The cost impact of growth controls is felt more by the surrounding communities than by the municipality

adopting the control measure.

In this study, developers, builders and municipal authorities were interviewed and in addition, some case studies were undertaken where the effects of regulation on specific projects were analyzed.

These studies, and many others, confirm what most economists, planners, politicians, municipal administrators, builders, developers, and the public already believe to be the case. A significant proportion of the cost of housing in market conditions such as have recently been experienced is attributable to the land use approval process. Depending on the specific characteristics of the case in question, the developer may profit more or less, or the land owner may receive more or less for the site than otherwise may have been the case; however, the dominant conclusion seems to be that the consumer more often than not ends up paying more. Given that the evidence seems convincing and that the "public interest" theory of regulation is tenable, all that remains is to evaluate the regulatory process with the objective of cost-effectiveness. In other words, since the regulation of land use is not about to be eliminated, at least the process that exists should be cost efficient.

There has been recent research in British Columbia focused on the legislation regulating land use. Specifically, see Beveridge (1979) and MacKenzie (1979). These studies have, of course, arisen because of recent changes in the Municipal Act R.S.B.C. 1960, c. 225, occasioned by Bill 42 (for a summary of the changes, see Section III of this study). The changes are oriented toward the regulation of municipal zoning and subdivision by-laws. The new legislation specifically limits the way in which matters other than use and density can be regulated (use and density cannot be varied other than by changes in the zoning by-law) and

requires that fees imposed by the municipality on new development be based on the marginal costs of the new services which the new development requires. The above studies are oriented toward the general implications of the changes in the legislation.

So as to cover new ground with this study while benefiting from the research discussed above, the following research strategy was followed. The goal is to explore in depth alternative land use regulation procedures in the Greater Vancouver Regional District (GVRD) and isolate aspects of these procedures which are not "cost-effective." If, for example, it is possible to isolate procedures which impose unnecessary costs on the production side (i.e., the same regulatory objective could be reached while incurring less costs), a recommendation regarding a more cost-effective procedure should be made. The analysis was oriented toward costs imposed by the public sector on the private sector. However, this orientation did not preclude analyzing costs incurred by the public sector itself (e.g., internal operating costs of the planning department).

As noted, the case approach was viewed as the only feasible way of isolating the kinds of costs which were essential inputs of the analysis. Fortunately, the decision to use case analysis as a data source proved fortuitous as greater insight was gained with respect to the more subtle problems of the land use regulation process in each community. These problems are not so subtle from the point of view of the parties involved, but they are often difficult to pinpoint in an analysis. While such problems are often case-specific and create costs which are not easily quantifiable, some patterns did emerge in each municipality which suggested areas where change may be appropriate. These observations could never have been made if specific cases had not

been analyzed.

The specific procedure used in this study follows in summary form:

1. In British Columbia, the recent evolution of policy regarding land use regulation permitted the evaluation of three enabling statutes.

   (a) The Municipal Act (Pre-Bill 42);

   (b) The Municipal Act (Post-Bill 42); and

   (c) The Vancouver Charter.

The Municipal Act and the Vancouver Charter are the key provincial statutes that delegate the regulation of land use through the planning function and zoning and subdivision control to the municipalities. The key aspects of these statutes were summarized (see Part III and Appendix A).

2. These statutes are put into effect at the municipal level through the enactment of by-laws. The following communities were chosen to show how the provincial enabling legislation has been and is interpreted. They are respectively:

   (a) The Corporation of the District of Surrey (hereafter Surrey);

   (b) The Corporation of the District of Coquitlam (hereafter Coquitlam); and

   (c) The City of Vancouver (hereafter Vancouver).

3. The following cases were chosen to provide the necessary data along with the necessary insight into how the local by-laws and procedures were and are put into effect. The cases demonstrate how local administrators interpret and use the municipal by-laws. The cases were chosen from a list provided initially

by the respective municipal planning departments.[11] Apart from the requirement that the cases represent as many aspects of the approval process as possible, selection was random but largely constrained by what was available.

a. Surrey:

(i) Spacemaster Homes, Inc.

(ii) Wood Developers, Ltd./Royal City Developments, Ltd.

(iii) Digital Developments, Ltd.

(iv) Broken Rod Investments, Ltd.

(v) Southern Comfort Investments, Ltd.

(b) Coquitlam:

(i) Green Beret Holdings, Ltd./Marion Morrison Construction, Ltd., (2 cases);

(ii) Wooley Investments, Ltd./Quick Developments, Ltd. (2 cases); and

(iii) Redwall Developments, Ltd.

(c) Vancouver

(i) Lamare Developments, Ltd.;

(ii) Clearisil Construction, Ltd.; and

(iii) Stave Construction, Ltd./Jammer and Associates.

The full text of cases are included in Appendix B and they are summarized in Appendix C.

4. The following steps were used to collect the myriad of information regarding each case:

(a) Once a suitable case was selected, municipal files were used to reconstruct a chronology of events along with a description of the project, identity of the applicant,

characteristics of the site, existing zoning, the steps involved (rezoning subdivision, servicing and/or development approval), and fees or charges imposed. An attempt was made to resolve any confusion in the case, or gaps in the chronology by conferring with municipal authorities.

(b) With an initial reconstruction of the case in hand, the applicant (the developer or owner of the property in question) was interviewed. The purpose of the interview was fourfold: (i) to resolve any as yet unclear aspects of each case; (ii) to ensure that the municipal file realistically represented all aspects of the case; (iii) to acquire data, e.g., site value, fees, charges etc.; and (iv) to acquire the developer's opinion on a number of general issues. For this purpose, a questionnaire was devised primarily to keep the interview on track and ensure that the necessary information was obtained.

(c) A final reconstruction of the case was undertaken. During this stage, any remaining confusion was resolved through telephone contact with the municipality and the applicant. In some cases, a third party was involved, e.g., a builder or an architect. If necessary, these individuals were interviewed as well. Each reconstructed case is comprised of five components: (i) summary page; (ii) verbal description; (iii) chronology; (iv) calendar; and (v) summary of direct and indirect charges.

5. A number of key assumptions were necessary to standardize the approach used in each case with respect to the definition of

direct and indirect costs and their timing and the timing of the project itself.

(a) Start of project - the start of the project was defined as the time of site acquisition (purchasing or optioning of the site) or the first conscious effort to begin the development in question (e.g., the time at which the architect or contractor was hired or the first meeting with municipal authorities). The appropriate date of the project start would be the most recent of the above two dates if they differ.

(b) Completion of the Project - the completion was defined as the return of the last letter of credit (landscaping), final building inspection, or in the case of a subdivision, registry of the subdivision plan.

(c) Delay - it was difficult to provide an operational definition of a delay. The intention was to identify passage of time during the approval process which seemed to be excessive from the point of view of the developer. Given the potential for bias, the strategy was to give the approving authority the benefit of the doubt and attempt to identify only avoidable delay (unnecessary delay imposed by the approving authority). If the delay could have been foreseen or expected and if it was justifiable (e.g., the regional plan had to be altered or the water supply was inadequate, and servicing was necessary prior to approval), then the delay would not qualify as being avoidable. The delay noted in the cases is, thus, avoidable delay.

(d) Direct Costs - direct costs included all fees, charges and expenses imposed directly upon the developer during the approval process. Included were application fees, impost fees, water and sewer connection fees, and where applicable or available, building, plumbing, and electrical fees. The latter are, of course, not directly applicable to the land use approval process and hence, have been excluded in the per unit figures in the tables in Appendix C-1. Further costs which were included were the fees for obtaining letters of credit or performance bonds.

(e) Indirect Costs - indirect costs included the estimated carrying costs during periods of delay of all previously invested capital. These carrying costs would be biased downward as the calculations ignore the opportunity cost of appreciation of the invested capital. This approach has the intent of accounting for opportunites which may have been missed due to the delay, and it would typically underestimate the opportunity cost of such lost opportunities. Presumably, these opportunites would have a before-tax yield in excess of 2% above the prime rate. Two percent above prime was the standard carrying cost used for the calculations. Other indirect costs, of which there were few, were non-recoverable costs resulting from various amenity and form requirements imposed on the developer. The developer was asked to identify requirements, which he viewed as unnecessary or out of the ordinary, which incurred costs not recoverable in the

sale price of the lot or housing unit. Needless to say, this required considerable judgment on the part of the developer and few costs were classified in this way.

6. It is important to attempt to quantify the cost of the land use approval process to the municipality. The approach used here was simply to observe the portion of the municipal budget oriented toward the operation of the planning department. This summary data is included in Appendix C. (Tables C-IV, V, and VI).

7. Since the questionnaire format was necessary to structure the interview of the applicant, the opportunity was taken to acquire some further information. Specifically, a number of general questions were included to obtain some information about the developer and to permit the developer to express some of his own opinions. This information was useful in writing up Section IV and the individual cases.

Footnotes Section II

1. We will exclude pecuniary externalities. That is, we will exclude activities by economic agents which have their effect on others only through the price system.

2. Note that the owner occupant who builds his own home can be viewed as having undertaken each of the four activities or roles which have been defined.

3. Unless, of course, the opportunity cost of the saving is extremely low or the cost of generating the saving exceeds the amount saved.

4. A level or uniform tax would be imposed uniformly on all jurisdictions. It is unlikely that regulation imposes a cost which is uniform within a jurisdiction let alone among jurisdictions.

5. It is often argued that a developer would tend to respond by holding lots off the market (i.e., not building in an attempt to force prices to rise to cover the additional costs. There are two factors which should mitigate against this kind of behaviour. They are (a) competition in the housing market from contiguous communities (other builders); and (b) irrespective of the developer's decision (build or hold) the post-levy value of a lot is the same. If buying lots to hold is the most profitable post-levy option it would also have been the most profitable option before the levy was imposed. Hence, the levy should not trigger a change in behavior.

6. Mieszkowski's argument is that only a general levy on all capital will reduce the return to capital and thereby place a burden on owners of capital.

7. Note that rapidly increasing housing prices motivated by demand pressures do not necessarily mean that the firm can pass foward the levy. The firm would simply earn windfall gains on existing properties, which gains would be smaller than without the levy.

8. The extent of individual property rights is a question raised with respect to a market society which liberal-democratic theory has not resolved. See C.B. Macpherson, The Political Theory of Possessive Individualism, Chapter VI, (1962).

9. As has been noted, the existence of this array of choices is key (Hamilton, 1975).

10. These are not the full set of conclusions. Only the conclusions relevant to this study have been quoted or paraphrased here.

11. There was some concern that using the municipality as the initial source would lead to selection bias in favor of cases which showed the municipal approval process in good light. In fact, the reverse proved to be true. Many of the cases suggested involved significant problems (the source of which proved in some cases to be the planning department itself).

III. Summary: The Evolution of Current Land Use Regulation in British Columbia

Setting the Stage

The purpose of this study is to evaluate the land use regulations procedures at the local level in the Greater Vancouver Regional District. This portion of the study will serve as both an introduction to and a summary of the existing legislation and procedures which are included in Appendix A. Ideally, the reader need only refer to Appendix A for clarification of the legislation or procedures in each municipality. This summary will attempt to provide adequate insight into the background and characteristics of the current set of laws influencing land use and changes in land use in the urban area in the southwest corner of the mainland of the Province of British Columbia, the Greater Vancouver Regional District (GVRD).

The GVRD is comprised of seventeen municipalities, each of which is allocated certain powers by the Municipal Act. R.S.B.C 1960, c. 255.[1] An additional list of statutes affecting land use are noted in Table IIIA. The applicable legislation depends on the nature of the change in land use contemplated and the initial status of the site in question. The strategy here will be to discuss the legislation within is directly relevant in 99% of the cases involving changes in land use within established municipal boundaries. This will involve a discussion of not only the enabling legislation (contained primarily in the Municipal Act or the Vancouver Charter) but also a discussion of the by-laws as established at the local level and an interpretation of how they are applied.

Table III A

Statutes Impacting Changes in Land Use
In British Columbia

Agricultural Land Commission Act S.B.C. 1973, c. 46,
**Air Space Titles Act S.B.C. 1971, c. 2,
Conveyancing and Law of Property Act S.B.C. 1978, c. 31,
Environment and Land Use Act S.B.C. 1971, c. 17,
Heritage Conservation Act S.B.C. 1977, c. 37,
*Islands Trust Act S.B.C. 1974, c. 43,
Land Act S.B.C. 1970, c. 17,
Land Registry Act R.S.B.C., 1960,
Land Titles Act S.B.C. 1978, c. 30,
Municipal Act R.S.B.C. 1960, c.255,
Municipalities Enabling and Validating Act R.S.B.C 1960, c.261
**Plans Cancellation Act R.S.B.C. 1960, c. 286,
Recreational Land Greenbelt Encouragement Act S.B.C. 1974, c. 79,
Strata Titles Act S.B.C. 1974, c. 89,
*University Endowment Lands Administration Act R.S.B.C. 1960, c. 396, and the
Vancouver Charter S.B.C. 1953, c. 55.

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*These two statutes have local applicability in designated areas.

**These two statutes have been repealed and replaced by the Land Titles Act S.B.C. 1978, c. 30.

The local by-laws and the resulting procedures required to gain municipal approval of land use changes vary significantly among municipalities even though for all municipalities except the City of Vancouver, the Muncipal Act is the applicable statute. For this study, this is both an advantage and a disadvantage. It is an advantage to be able to examine several "variations on a theme" as this should provide some evidence regarding which procedures are more effective. The disadvantage is that it has been necessary to limit the study to three municipalities and conceivably this may limit the generality of the conclusions or recommendations. Whatever the case, the study will examine the established by-laws and procedures in:

(1) The City of Vancouver (Vancouver),

(2) The Corporation of the District of Surrey (Surrey), and

(3) The Corporation of the District of Coquitlam (Coquitlam).

The rationale for these choices was that by focusing on these municipalities it would be possible to examine, within roughly the same time period, three alternative forms of enabling legislation and their respective interpretations. Specifically, the respective legislation was:

(1) The Vancouver Charter,

(2) The Municipal Act (Pre-Bill 42)[2], and

(3) The Municipal Act (Post-Bill 42).

Vancouver, because of its unique status, offers a unique land use approval procedure. As well, since it is a community which is virtually 100% urban or "built-upon" it has problems which are somewhat different from those experienced in the surrounding suburban or "fringe" areas

where there exists land in transition from agricultural or rural to urban uses. Coquitlam and Surrey are suburban communities and in both can be found areas which would be described as fringe areas (where the rural-urban transition is underway). Each is individually unique in the following ways. Surrey made extensive use of the Pre-Bill 42 land use contract scheme (Section 702A) of the Municipal Act. For a detailed discussion on this legislation, see Porter (1973) and Woodsworth (Ed.) (1972). Coquitlam, on the other hand, had in place a system amenable to the changes incorporated in Bill 42. As a consequence, Coquitlam has been quick to incorporate the changes wrought by Bill 42. There exists in Surrey and Coquitlam the most opportunities to observe applications of the alternative procedure.

As noted previously, the objective of what follows will be to summarize the enabling legislation, the local by-laws, and their interpretation. First, the Municipal Act along with the Pre-Bill 42 approach in Surrey, will be discussed; second, the Post-Bill 42 approach in Coquitlam and third, the Vancouver Charter, along with its application in Vancouver. Before undertaking those steps, the general nature of Bill 42 should be discussed.

Evolution of the Current Legislation

The best approach to discussing the nature of Bill 42 would involve a review of its evolution. The most common land use regulation device is that of zoning which specifies either appropriate uses or inappropriate uses along with maximum densities, setbacks, height limitations and the like. Such regulatory devices proved in many cases to be overly restrictive not only to the land owner or developers, but also to the municipalities. Many times certain sites suggested unique development solutions

which could not be accomodated within the existing regulatory procedure.

Vancouver was the first to attempt a resolution to this problem and in the late 1950s and the early 1960s, three instruments evolved for this purpose. These instruments were,

(1) The conditional use zone,

(2) The comprehensive development zone, and

(3) The development permit.[3]

These instruments provided a regulatory environment where considerable discretion was placed in the hands of the planning authorities. They will be discussed in more detail later in this section. The flexibility and discretion provided the planner by these instruments has been used to require that the developer provide certain public services (e.g., open space or a developed public park) or meet certain design criteria.

The Municipal Act, however, did not provide a similar discretionary or flexible instrument for other municipalities in the province. In fact, attempts at conditional zoning were considered ultra vires the delegated powers of the municipalities. In 1968, the Provincial Government introduced a device called a development permit. However, it was not generally accepted by municipalities and was later replaced by the new Section 702A which established the device known as the land use contract.[4] It is this instrument which has recently been replaced through the passage of Bill 42.

The key aspect of this legislation which had not previously been available to communities in the province other than Vancouver was the ability to contract with property owners requesting land use changes. This ability to contract acquired for the zoning by-law a new role beyond that of minimizing the problems of conflicting uses. A regula-

tory mechanism had been introduced through which the municipality could force the developer to bear any costs that his development might impose on the community. In other words, each development had to stand on its own. This aspect of Section 702A of the Pre-Bill 42 Municipal Act heralded the introduction of fiscal zoning to British Columbia. Prior to this time, virtually all zoning regulations had been oriented toward dealing primarily with problems of externalities. The cost of accommodating growth and new development by providing new services were costs which had been borne by the community-at-large through the property tax mechanism. While the new Section 702A (the Land Use Contract) provided an additional means by which municipalities could raise revenue, it did not carefully restrict the extent to which the legislation could be used as a fiscal tool. A municipality could negotiate a land use contract containing virtually any terms which met the broad objectives in Section 702(A)(1).

The new Section 702A gave the municipality considerable flexibility with respect to land use regulation and as well added an additional means of raising revenue. A number of points should be noted. While the new 702A was in effect, landowners always had the option of developing the parcel according to the existing zoning. In theory then, land use changes did not require the negotiation of a land use contract provided that the existing zoning was being adhered to. However, it was possible to downzone areas so that development in compliance with existing zoning was economically unfeasible, thereby forcing the use of Section 702A (e.g., since subdivision could not occur in residential areas with a five-acre minimum lot size without rezoning, a developer would be forced to negotiate a land use contract (presuming an application for

rezoning would not be permitted)). As a result, in many communities, regulation of the process of subdivision (usually a process considered distinct from the question of zoning) became indistinguishable from the process of determining acceptable land uses. Many municipalities did not often use Section 702A while others, notably Surrey, forced the use of the land use contract to the exclusion of all other instruments.

Those municipalties that incorporated the new legislation in their by-laws in the rapid growth period of the 1970s did so because:

(a) Standard zoning procedures inhibited innovative development. Planning flexibility with respect to unique projects and project-specific problems was enhanced with Section 702A; and/or

(b) Pressures for growth were straining municipal budgets beyond the point where the burden could effectively (because of time lags) or equitably be borne by existing property tax payers.

These reasons seem acceptable and may be, as will be seen, reconcilable with the "public interest" theory of regulation and the Tiebout/Hamilton theory of the optimal provision of public services (see Section II(A) of this report). However, the public response was not totally favorable. First, municipalities were accused of imposing excessive costs on new residents to the extent that developers of new housing projects were required to bear the costs of providing services which would benefit the community-at-large. Second, municipalities were accused of requiring a high quality of services (generally referred to as Cadillac services) presumably to minimize future maintenance costs. Third, the flexible and discretionary nature of the land use contract was viewed as a factor increasing uncertainty regarding approval of land use changes and increasing the length of time required for approval. Finally, the ability (as a result of Section 702A) of a municipality to impose significant lump sum charges on new development and to prolong

the approval procedure was viewed by some as part of a package which permitted municipalities to practice exclusionary land use regulation procedures. These criticisms of the nature of land use regulations in place in the mid-1970s were primarily voiced by representatives of the development industry which viewed itself as the scapegoat in the highly political controversy surrounding observed rapid increases in housing prices and land prices (see Beveridge, May 1974).

The Current Municipal Act

Bill 42 can be viewed as a response to such criticisms of the type of land use regulations and procedures which had evolved in British Columbia during the mid-1970s. In fact, the Minister of Municipal Affairs and Housing, the Honorable Hugh Curtis stated:

> The main thrust of Bill 42 is to stimulate land use control procedures and encourage rational, consistent pre-planning, thus eliminating much of the red tape and extended delays brought about by the present ad hoc consideration of every development (Bill 42 Initial Press Release, Government of the Province of British Columbia, April 1, 1977).

The relevant changes in the Municipal Act were directed toward the creation of "offical community plans" and the replacement of the land use contract with a combination of the "development permit" (not to be confused with Vancouver's development permit) and development cost charges.[5] The perceived intentions of the revised legislation were threefold. The first was to encourage medium- to long-range planning rather than ad hoc case-by-case decision making. The second was to preserve the opportunity for flexibility in the zoning process and the third was to rationalize and at the same time attempt to standardize the procedure by which lump sum charges were imposed on new development. Relevant parts of the new legislation follow. In general, we will refer to the Municipal Act as revised by Bill 42.

The Official Community Plan

Division (1) of Section XXI - Community Planning is devoted to the "official community plan." A community plan is defined as "an expression of policy for (a) any use or uses of land, including surfaces of water or (b) the pattern of the subdivision of land; and either or both may apply to any or all areas of the municipality" (Municipal Act R.S.B.S. 1960, Section 695). What distinguishes an "official community plan" are the criteria set out in Section 697; the key requirements are a public hearing and the filing of the adopted plan with the Inspector of Municipalities.[6]

The Development Permit

Section 702AA, 702B and 702C replaced what has hitherto been referred to as the new Section 702A, the Pre-Bill 42 section of the Municipal Act oriented to the land use contract. Section 702AA sets out the objectives, the nature and purpose of the Bill 42 development permit.[7] Suffice it to say that virtually any reasonable municipal objective could be justified based on the considerations in Sections 702 (regarding zoning) and Section 702AA (regarding development permits), all of which, incidentally, apply with respect to a by-law providing for the issuance of development permits. Section 702AA sets out as well the items which may be regulated by the development permit.[8]

Development Permit Areas

The section also specifies the conditions under which such permits may be issued. Specifically, the council must "designate areas of land within a zone as development permit areas and provide that an owner of land within a development permit area shall, prior to the commencement of a development ... obtain or hold a development permit ..."(Section 702AA (2a)). Within designated development permit areas, development permits

are required for any development.[9]

The act, however, goes on to point out what may not be regulated by the development permit. Section 702AA(3) is explicit. "No development permit issued. . .shall vary the permitted uses or densities of land use prescribed by the applicable zoning by-law." This last subsection (3) should make clear one of the objectives of Bill 42. The land use contract was never intended to be used as an alternative to zoning. As has been pointed out, the existing zoning was always an option for the developer. Zoning by-laws were amended so as to preclude the outright use (that use and density allowed by the zone) as a viable option. Bill 42 makes the development permit a rider on the existing zoning. The development permit cannot alter the use or density and may only regulate engineering, design and public service-oriented aspects of the project. The intention seems to be to get away from short run planning decisions focused on the use and density of a particular development. The objective would appear to involve the separation of issues regarding development approval or subdivision approval from those regarding land use and density. However, Section 702AA(2) still permits the municipality considerable latitude in the regulation of development.

Performance Bonds, Application Fees and Development Cost Charges

Subsection 702AA(6) and sections 702B and 702C are oriented toward the regulation of charges which may be imposed by the municipality. Under the repealed Section 702A, all charges were left up to the discretion of the municipality and were usually negotiated in the terms of the land use contract. Each municipality did have standardized charges. However, there was no standardized procedure among municipalities for the determination of performance bonds, application fees or impost

charges. The intention of Subsection 702AA(6) and 702B appears to be to carefully delineate the nature of the fees and bonds which may be associated with an application for rezoning or a development permit, thus making municipalities accountable for the fees which are imposed.[10]

Finally, Section 702C defines and sets out criteria for determining "development cost charges" which may be associated with subdivision approval or the granting of a building permit. The land use contract permitted under the repealed Section 702A gave the municipality virtual freedom with respect to the setting of charges. The only guide with respect to those charges were the broad set of goals outlined in Subsection 702(A)(1) and the only point at which the municipality might be held accountable was at the public hearing. Impost charges, however, were typically predetermined on a per lot or per unit basis and the size of the charge imposed on new development was not typically an issue at the public hearing. One of the main objectives of Bill 42 and particularly this Section (702(C)) appears to be to standardize and rationalize the way in which charges are imposed on new development.[11] Notably, they can be imposed when a subdivision is approved as well as when a building permit is granted and are not necessary tied to the development permit.

The legislation also imposes a check on the municipalities attempt to rationalize the charges. First, it is required that the municipality after having collected development cost charges, spend them on the capital projects for which the cost charges were originally justified and imposed. Second, the development cost charge by-law must be approved by the Inspector of Municipalities. Essentially, the Inspector must evaluate the municipality's calculation of the cost charges along with the suitablity of the capital projects for which the charges are imposed.

As well, the Inspector may keep in mind the consideration mentioned in the prior paragraph (Subsection 702(C)(6)) and whether the municipal by-law complies with the "spirit and intent" of Section 702(AA), (B), and (C).

The Objectives of the Amended Legislation

The intent of the changes in legislation wrought by Bill 42 are significant. First, flexibility is provided the municipality with respect to the regulation of individual developments. However, the legislation specifially limits the municipality's right to vary the use and density of the existing zoning. Hence, while a development permit may be required for development in a predetermined area creating some uncertainty with respect to the design, engineering, and planning of the project, at least the uncertainty will be lessened to the extent that the use and density are fixed by the zoning by-law. Second, the municipality's need to cover the costs of providing services for new development is recognized. Unlike the repealed Section 702A, the municipality is held accountable for the charges which are imposed. Only certain services may be considered in the computation of development cost charges. There must be some standardization of charges imposed within the municipality and the funds so raised must be expended on the purpose for which they were originally justified. The enlarged role of the Inspector of Municipalities presumably ensures that there will be some standardization across municipalities and that municipal by-laws will follow the "spirit and intent" of the new legislation.

A final point should be made with respect to the various processes which may be involved in any change in land use. Technically, subdivision approval, development approval and rezoning approval are three

distinct processes. The land use contract as used in some municipalities led the distinction among those processes to become fuzzy. Post-bill 42, rezoning approval is separated from development approval to the extent that the "development permit" is expressly precluded from varying the permitted density and use (the outright density and use according to the existing zoning).

Development Approval in Vancouver

The evolution of the current municipal act was, as noted earlier, guided to some degree by the experience in Vancouver. The unique aspects of the Vancouver Charter regarding the regulation of land use should be summarized to provide a complete background for this study. Vancouver remains unique in that the enabling legislation permits considerable flexibility and discretion on the part of council or its delegated officials. Three instruments provide the city with this power: (a) the comprehensive development zone or district; (b) the conditional use zone; (c) the development permit.

In general, it should be noted that the Vancouver Charter provides the city with considerably more flexibility and power than the municipal act provides other municipalities in the province. For example, The Vancouver analogy to the official community plan is the official development plan. However, while changes to the former require a public hearing and a two-thirds majority of council members present, changes to the latter do not require a public hearing and require only a simple majority of council. A second example is that the Vancouver Charter does not list criteria which must be met in establishing zoning by-laws while this study has already noted an explicit statement of criteria in the Municipal Act relating to the enactment of the zoning by-law and the issuance of development permits. Because of the flexibility provided

the City of Vancouver with respect to land use regulation, this discussion will tend to go beyond the enabling sections of the Vancouver Charter and provide some evidence of how the city has interpreted its delegated authority.

The key elements of the Vancouver Charter relating to land use regulation are threefold and can be summarized very quickly. First, there is a power to "designate zones in which there shall be no uniform regulations and in which any person wishing to carry out development must submit plans and obtain the approval of council." These zones are known as "comprehensive development districts"[12] and discretionary control exists with respect to individual developments. The by-law creating each such district is incorporated into the Vancouver Zoning and Development By-Law as are the official development plan by-laws pertaining to each comprehensive development district.

In addition to the information contained in the by-law, the planning department has approved, by city council, guidelines with respect to (a) general planning policy, and (b) urban design. The former are an expression of the city's general objectives for the district with respect to growth, land use and density, movement and urban form. The latter prescribe the general criteria for development.[13]

Second, Section 565A(d) of the Vancouver Charter gives council the right to enact by-laws "delegating to any official such powers of discretion relating to zoning which to council seems appropriate." This power to delegate discretion with respect to zoning issues has led to the adoption of "conditional use zones."[14] The consequence of this type of conditional use or discretionary zone is a zoning by-law which tends to be fairly complex along with an approval process which involves bartering regarding the use, density and design elements of a development proposal.

Explicit in the by-law are trade-offs which can be made. While the intention of such by-laws is to encourage creative design solutions an adversary relationship between developer and planner seems implicit.

Third, Section 565A(a) of the Vancouver Charter gives council the right to enact by-laws "prohibiting any person from undertaking any development without first having obtained a permit . . ." In fact, virtually all kinds of development ranging from new construction to changes in use or structural alterations or additions require a development permit. For example, the construction of a sundeck on a single family home would require a development permit.[15] Section 565A(b) goes somewhat further. Council may make by-laws such that a permit, when granted, may be "limited in time and subject to conditions, and make it an offense for any person to fail to comply with such conditions." So, in addition to the regulation of development which may result from the creation of comprehensive development districts and zones, additional conditions may be attached when the development permit is granted. Section 565A(e) gives the right to establish a fee schedule for development permits, "which fees may vary according to the value or type of development for which the permit is sought." With respect to the fee schedule, Vancouver does not view the development permit or the zoning by-law as a means of generating revenue. Typically, each project may be such that the developer may be required to provide and pay for certain site specific services (e.g., dedicate land for widening of the alley or provide open space accessible to the public). However, the development permit fee itself is based on the direct costs of processing the application.[16] The existing fee schedule is included in Appendix A.

The development approval process has been summarized for Surrey,

Coquitlam, and Vancouver and as has been pointed out, this approach provides insight into three alternative schemes which have recently been in use. Of course, the schemes in Coquitlam and Vancouver are still operative.

While there exists four processes (a) rezoning; (b) subdivision; (c) servicing and (d) development approval which this study proposes to explore, the discussion to this point has focused on the latter. The rationale has been that the most variation in the enabling legislation and local interpretation exists with respect to development approval. As well, projects involving development approval often require rezoning and subdivision approval along with servicing and hence, the distinction among the processes becomes somewhat fuzzy.

Rezoning

What follows fills in the gaps which exist in the previous discussion and expands on the distinction between the above-mentioned processes. Dealing with them in order, Subsection 702(1) of the Municipal Act gives council the right to enact (a zoning by-law) which regulates use and density.[17] Subsection 702(2) outlines the considerations for which council should have due regard. These are very general encompassing the promotion of health, the prevention of overcrowding and so on. Bill 42 did not affect this section of the act. However, as has been pointed out Section 702A (the land use contract) could effectively negate the value of the zoning by-law. Bill 42, on the other hand, strengthens the role of the zoning by-law in that it is the only by-law which can be used to regulate use and density. However, Bill 42's development permit may be used in conjunction with the zoning by-law to alter or add project-specific conditions not related to use and density.

The Vancouver Charter has a provision which permits the enactment of a zoning by-law which is much more flexible and delegates much more project-specific discretion than is possible under the Municipal Act. The unique aspects of the Vancouver by-laws result from council's right to create zoning for which there is no outright use (comprehensive development districts) and delegate discretion (conditional use zones).

Under the Post-Bill 42 Municipal Act and the Vancouver Charter, an application for rezoning unlike an application for a development permit requires a change in the municipal by-law. Such requests for rezoning should not be common if market pressures coincide reasonably well with existing zoning. Appendix A summarizes the procedures for rezoning applications in the three regulatory scenarios we have explored.

To expand on the distinction between rezoning and development approval, a rezoning application in all three scenarios could technically be processed without consideration of the future development of the site. In practise, this was and is not the case. The Pre-Bill 42 land use contract was essentially a spot zoning device permitting the evaluation of the merits of each development rather than simply allowing an evaluation of the use and density. The Post-Bill 42 development permit reaffirms the importance of the zoning by-law and the uses and densities regulated therein but, in development areas, rezoning applications would unlikely be considered without concern for the specific nature of future development. (The rationale here is that the development permit may vary provisions of the zoning by-law not related to use and density). Finally, in Vancouver, in comprehensive development districts, the rezoning issue hardly arises as projects are evaluated individually and relative to non-binding "official guidelines." In other areas of Vancouver, where conditional use zones are enforced, the

by-law is so extensive that changes are not typically contemplated without specific reference to a proposed project.[18] So, in practise, rezoning approval usually is not independent of consideration of the development of the site.

Subdivision

Subdivision is governed by Section 711 of the Municipal Act and Section 265 of the Vancouver Charter. These Acts enable the municipality to enact by-laws with respect to subdivision planning, engineering and servicing standards. Because servicing is a key aspect of the subdivision process, subdivision and the provision of site services tend to go hand in hand. In the Pre-Bill 42 regulatory environment, existing zoning (the outright use) was often effectively overshadowed by the land use contract. In such a case, subdivision approval (although a separate and distinct process) would have been contingent on the negotiated land use contract and servicing arrangements typically would have been worked out in the land use contract. The Post-Bill 42 environment, again because of the stronger role of the zoning by-law, reasserts the subdivision approval process as an independent and important one. However, as has been noted, Section 702AA permits the development permit to alter the provisions of the subdivision by-law as well as the zoning by-law. In Vancouver, the subdivision by-law is straightforward and the relevant procedures appear in Appendix A.

As should be evident, although servicing is a technical process separate from rezoning, subdivision, or development approval, it is clearly never a process which exists by itself. It is either negotiated coincident with a subdivision approval or coincident with a rezoning and subdivision approval. As well, servicing arrangements may be negotiated along with development approval.

Footnotes Section III

1. The City of Vancouver is governed by the Vancouver Charter S.B.C. 1953, c. 55 and the City of New Westminster still has certain provisions of its empowering legislation which override some sections of the Municipal Act.

2. Bill 42, the Municipal Amendment Act S.B.C., 1977 was given third reading on August 31, 1977. As of January 16, 1979, this bill replaced the land use contract with the development permit. The expressed objective of the revision to the Municipal Act was that of encouraging rational pre-planning and eliminating the delays brought about by the ad hoc consideration of every development.

3. Vancouver's development permit is created by Sections 565A of the Vancouver Charter and is not to be confused with the development permit created by Bill 42 (see Appendix A).

4. The land use contract was introduced as a component of Division (3) -Zoning of Part XXI - Community Planning of the Municipal Act. The particular points of the legislation include:

   702(A)(2) The council may . . .amend the zoning by-law to designate areas of land within a zone as development areas...

   702 (A)(3) Upon the application by an owner of land within the development area . . .the council may . . .enter into a land use contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon. . .

   As well, the legislation bound council, if using 702(A) to have "due regard" for five considerations over and above the six in Section 702(2) (the latter section deals with the standard objectives of zoning such as promotion of health, prevention of overcrowding, etc.). The five considerations follow:

   702(A)(1) . . .
   (a) The development of areas to promote greater efficiency and quality;
   (b) The impact of the development on present and future public costs;
   (c) The betterment of the environment;
   (d) The fulfillment of community goals; and
   (e) The provision of necessary public space.

5. Further aspects of Bill 42 not relevant to this discussion deal with planning in a regional context.

6. The duties and responsibilities of the Inspector of Municipalities are included in Part XXII of the Act.

7. Specifically, the council, in employing the development permit, should have consideration for the same set of objectives as were relevant for the land use contract (see the earlier discussion on this subject). The considerations include, for example, the impact on "present and future public costs" and "the provision of necessary public space."

8. 702AA(2) The council may, in a zoning by-law or in amendments to an existing zoning by-law, provide for the issue of development permits that

   (a) regulate the dimension and siting of buildings and structures on the land,
   (b) regulate the siting and design of off-street parking and loading facilities in accordance with the provisions of the permit,
   (c) require that landscaping or screening be established around different uses in accordance with the standards set out in the permit,
   (d) require the pavement of roads and parking areas in accordance with the standards set out in the permit,
   (e) require that the land be developed, including
      (i) the provision of sewerage, water and drainage facilities, and
      (ii) the construction of highways, street lighting, underground wiring, sidewalks and transit service facilities.
   (f) subject to Section 719A, require the construction of buildings and structures in accordance with the specifications, terms and conditions of the permit,
   (g) require the preservation or dedication of natural water courses and the construction of works to preserve and beautify them in accordance with the terms and conditions specified in the permit,
   (h) require that an area of land specified in the permit above the natural boundary of streams, rivers, lakes, or the ocean remain free of development, except that specified in the permit,
   (i) require the provision of areas for play and recreation,
   (j) limit the number, size and type and specify the form, appearance and construction of signs, and
   (k) regulate the exterior finishing of buildings, other than residential buildings containing three or less self-contained dwelling units, having due regard for requirements made under paragraph (c),

   or any of them as may be specified in the by-law. (Municipal Act R.S.B.C 1960, c. 225, S. 702AA(2)).

9. The legislation (development permits) are not applicable to the development of three or less self-contained dwelling units.

10. Subsection 702AA(6) deals with the terms of a performance bond or security which must be posted by the development permit holder to "ensure that the development is carried out in accordance with the

terms and conditions set out in the permit and any interest earned on the bond or other security shall accrue to the holder of the permit . . ." Such performance bonds were common under Section 702A but typically, no interest was recoverable by the permit holder.

Section 702B refers to the pricing of application fees with respect to rezoning and development permit applications. The section reads:

"Council may, by by-law, impose an application fee for the purpose of recovering an amount not exceeding the direct cost of the processing, inspection and advertising related to the application, and no other fee charge, or levy shall be imposed as a condition of rezoning or the issue of a development permit, except as authorized under Section 702C or any other act."

Note that direct costs are defined in an accounting sense as costs directly attributable to the production of a particular unit of a given product; in this case, the product is the processing of the application (see Horngren, 1978, Chapter 3).

11. The important parts of Section 702C are those which deal with what costs incurred by a municipality may be passed through to the developer and how those costs are determined. Subsections (3) and (4) follow:

(3) No development cost charge shall be required to be paid (a) if a development cost charge has previously been paid with respect to the same development, unless, as a result of a further subdivision or development, new capital cost burdens will be imposed on the municipality, or (b) where the subdivision or development does not impose new capital cost burdens on the municipality.

(4) Development cost charges may be imposed under subsection (1) for the sole purpose of providing funds to assist the municipality in paying the capital cost of providing, altering, or expanding sewage, water, drainage and highway facilities and public open space, or any of them, in order to serve, directly or indirectly, the development in respect of which the charges are imposed.

A by-law outlining the charges which the municipality wishes to impose must be provided and the charges may only vary according to the zone or development area, the use, the class of development or the different sizes or number of units or lots created by the development (see subsection 702(C)(5)).

Subsection 702(C)(6) suggests factors which the municipality should consider when fixing the development costs charge by-law. Specifically, council should consider whether or not:

(a) the charges are excessive in relation to the capital cost of prevailing standards of service in the municipality,

(b) the charges will deter development in the municipality,

(c) the charges will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land,

(d) the municipality has imposed requirements pursuant to section 702(AA), or 711.

Presumably, this subsection serves the purpose of pointing out situations where development cost charges, although technically justified by Section 702(C), may be, in some sense, unfair or excessive.

12. These "districts" have been employed in areas where special planning problems are perceived and considerable site specific decision making may be viewed as necessary. For example, the following areas are so classified:

(a) The West End - An extremely dense residential community contained geographically by parkland, waterfront, and the central business district;

(b) The Downtown - The central business district; and

(c) False Creek - An accessable waterfront development area in the process of conversion from industrial use to high density residential.

13. The following excerpt from the urban design guidelines for Downtown should give some insight into the nature of land use regulation in a comprehensive development zone or district.

"The design guidelines prescribe the general criteria for new development and form the basis for the preparation, of and approval of development proposals. The design guidelines are also intended to encourage increased awareness of the immediate and overall environment. It is important to note that the densities listed in the Official Development Plan are maximums and not always necessarily attainable. In order to achieve the optimum density for any particular development, these guidelines will require closest scrutiny and analysis by the architect and developer.

The design guidelines replace the yard requirements, the light angle controls and daylight obstruction angle requirements associated with regulatory Zoning District Schedules. Greater flexibility and variation and more interesting design is thus possible. The design guidelines are intended to go further than this insofar as they represent a quality control basis upon which to base design decisions and judgments.

The design guidelines do not require literal interpretation in whole or in part. They will, however, be taken into account in the consideration of development permit applications. The Development Permit Board may, in its discretion, refuse or require modification to a Development Permit Application proposal, for failure to meet the standards of these guidelines in whole or in part. (City of

Vancouver, Downtown Guidelines (ii), Design Guidelines, approved by City Council, September 30, 1975.

14. The zoning by-law includes a schedule for each of roughly 25 zones (single family, duplex, etc). Each schedule includes five sections:

    (a) Intent - The objective or purpose, a general statement describing what kind of development the zone is meant to permit or encourage;
    (b) Outright Approval Uses - Uses or densities which automatically would be granted development permits subject to meeting the applicable regulations;
    (c) Conditional Approval Uses - Uses which may be approved, subject to conditions by the Director of Planning, provided that he considers the intent of the schedule and advisory group recommendations and notifies adjacent property owners;
    (d) Regulations - These are specific requirements such as maximum height, maximum floor space ratio minimum side yard, etc., to which all developments are subject; and
    (e) Relaxation of Specific Regulations - Some regulations may be relaxed if certain objectives are met (e.g., higher floor space ratios are often traded off where units for low income or elderly individuals are provided).

15. The development permit in most cases simply ensures that the zoning by-law is complied with. A building permit involving inspections is also required in all such cases and governs safety and structural matters.

16. The Planning Department, along with the Finance Department of the City of Vancouver, evaluate the fee schedule with the objective of keeping it in line with direct costs.

17. The zoning by-law may:
    (a) divide the whole or a portion of the area of the municipality into zones and define each zone either by map, plan, or description, or any combination thereof;
    (b) regulate the use of land, buildings, and structures, including the surface of water, within such zones, and the regulations may be different for different zones and for different uses within a zone, and for the purposes of this clause the power to regulate includes the power to prohibit any particular use or uses in any specified zone or zones;
    (c) regulate the size, shape, and siting of buildings and structures within such zones, and the regulations may be different for different zones and with respect to different uses within a zone;
    (d) without limiting the generality of clause (b), require the owners or occupiers of any building in any zone to provide off-street parking and loading space for such building, and may classify buildings and differentiate and discriminate between classes with respect to the amount of space to be provided, and may exempt any class of building or any building

existing at the time of adoption of the by-law from any of the requirements of this clause.

18. This suggests an advantage to the land use contract. If the planning authority views a rezoning approval as dependent on the final use, collapsing rezoning and development approval into one process would be a timesaving and cost saving strategy.

IV. Discussion: An Evaluation of Current Regulatory Procedures

In order to tie together the various elements of this project, the questions posed in the statement of purpose will serve as a means of structuring a summary of the information collected. Some key issues which are not addressed by these questions will be covered at the end of this section. (See Section IV (G).

A. Are land development regulations becoming more costly in terms of time and money?

1. What major changes in the use of regulations have occurred (1978 vs. benchmark years)? Given the structure of the study this question could be supplemented--what alternative approaches to regulation can be observed at this time?

   These changes and alternatives are summarized in Part III of this study. The nature of the approval process has evolved so as to permit more flexibility and discretion on the part of the municipality. The discretionary power granted the municipality through the Pre-Bill 42 Section 702A seems to have lengthened the approval process. Certainly, the Surrey case seems to confirm this. Through the use of the Comprehensive Development District, Discretionary Zone and Development Permit, Vancouver has been able to exercise control over much of the project design as well density and use. The land use contract permitted Surrey to "spot zone" and use zoning or development approval as a fiscal tool. Bill 42 changes eliminate the opportunity of negotiating use and density and rationalize the use of zoning as a fiscal tool by introducing the development permit and the development cost charge.

2. What impact have the changes in regulations had on the "hard costs" (fees, deposits, impost fees, professional services) and the land development process?

   - In municipalities other than Vancouver, the effect of Bill 42 has been and will be a rationalization of all fees and imposts charged by the municipality. Fees must cover only the "direct cost" of processing the application and development cost charges must be justified to the Inspector of Municipalities. The key benefit here is that it will be made explicit what purpose the charges are to serve and how they are to be computed.

   - The problem for the municipality is the difficulty of deriving a set of cost charges which the municipality can live with in by-law form. Surrey speeded up residential

approvals prior to the repeal of Section 702A and then brought them to a halt during the preparation of the residential development cost charge by-law. As of September 1979, the new by-law had been submitted to the Inspector of Municipalities. By this time the processing of residential approvals had been in limbo for virtually 9 months.

- In Vancouver, no change has recently occurred with respect to "hard costs." However, the planning department has recently reviewed the development permit fee schedule so as to keep it in line with direct costs. In general, other types of changes (for "hard costs") are not significant in Vancouver primarily because most services are in place.

- Tables C-IV, V and VI summarize the impact of the approval process in the three municipalities on the respective individual projects among the thirteen which were analyzed. The average per unit total of direct and indirect costs (excluding building permit fees) was $2,972.20, $1,031.80, and $1,138.70 respectively for Surrey, Coquitlam and Vancouver. There are, of course, a number of caveats which should be noted regarding the interpretation of this information. The projects are all unique, each involving treatment by the approval process which may result from characteristics peculiar to the individual development. The municipalities themselves have their own respective problems. For example, a large proportion of the Surrey cost can be attributed to the costs of providing necessary services. The same is true in Coquitlam, but the dollar figure is, of course, much smaller (Surrey's impost charge per unit averages $1,771.00 while Coquitlam's--the public land impost--is only $600.00).

- It has been argued that Surrey has imposed an unnecessary share of the costs of the new servicing on the new arrival. While it may be that existing residents benefit from some of the new services which were provided through the development charges (imposts), Tables C-IV, V, and VI indicate that Surrey residents still bear a higher tax levy per capita than Coquitlam residents in all five years in which data are reported. It is interesting to note that prior to 1976, Surrey's per capita tax levy exceeded Vancouver's. In 1976 and subsequently, Vancouver's per capita levy has surpassed Surrey's although it is increasing at a decreasing rate.

- As of September 1979, Surrey's proposed residential development cost charges under Bill 42 ranged from $1,630/lot to $3,220/lot depending on the residential zone. These proposed cost charges were comprised of fees for water ($80-110/unit), arterial roads ($290-960/lot),

drainage ($290/lot), public open space ($760-1,160/lot), and non-arterial roads ($210-700/lot). If these charges are justifiable the average per unit costs of regulation will clearly rise.

- It is not reasonable to compare variation in hard costs without noting that the assumption has been made that the level of services (at least in Surrey and Coquitlam) is the same. Measurement of the level of services is problematic. However, the level of services in these two communities does not appear to be appreciably different (certainly, Surrey does not provide survices which are 2 to 3 times superior to those in Coquitlam). One could, however, argue that geographic dispersion of growth areas in Surrey may lead to higher costs of providing the same service.

3. What are the major changes in the direct costs of administering the regulations?

- Tables C-IV, V, and VI include figures for the total per capita planning department budget for each of the subject municipalities in the years 1974 through 1978. These figures should be considered in the context of the level of building activity. Surrey, in four of the five years has a planning department budget per capita in excess of that for Coquitlam. This happens despite the fact that the difference in per capita tax base or assessed valuation is minimal. However, in all five years, the value of building permits per capita in Surrey exceeds the corresponding figure for Coquitlam. Vancouver's per capita budget exceeds both in all five years presumably due to the higher level of commercial and industrial development.

- An additional interesting statistic is the planning department budget per $1,000 value of building permits granted. See Table IVA-I.

Table IVA-I - Planning Budget ($)/$1,000 Construction

	1974	1975	1976	1977	1978
Surrey	6.34	4.18	4.83	4.91	5.59
Coquitlam	5.48	6.09	5.94	9.81	5.09
Vancouver	11.37	9.04	7.59	8.52	9.39

This statistic can be viewed as a measure of planning department efficiency or perhaps as the proportion of new construction costs attributable to the direct costs of administering the land use approval procedure. Surrey, while it may have imposed significant indirect and direct costs on new development, seems to do fairly efficiently

in terms of administrative costs. Vancouver, while it may impose a relatively light burden in terms of indirect and direct costs on new development, imposes a relatively heavy burden in terms of administrative costs. The data for both Surrey and Vancouver seem to indicate an increasing trend with respect to this statistic. However, to the extent that a large component of the planning department budget, and hence, this statistic, is comprised of wages and salaries, an increasing trend should be acceptable even with a fixed staff (due to inflationary adjustments). Vancouver's high figures may be due to the complex design oriented approval process which it administers.

4. Can one identify or illustrate a corresponding change in the benefits obtained (either more or different benefits)?

- The Post-Bill 42 legislation has the advantage that there should be some standardization among municipalities with respect to the way in which the zoning or subdivision by-law can be altered and how development cost charges are imposed. Such standardization would be beneficial, but not unnecessarily restrictive since only general procedures will be standardized. However, it is unlikely that Bill 42 will actually reduce the "hard costs" imposed on new development. Rather, it will ensure that those costs which are imposed through the development cost charge by-law are rationalized and that application and processing fees cover only direct costs. The problem, of course, is that altering legislation does not eliminate the need for increments in the level of services in growing surburban locations.

5. Have the changes in regulation caused corresponding changes in the behavior of development companies (e.g., larger land holdings, trend towards larger scale projects, concentration in the industry)?

- It is not evident that the enactment of Bill 42 will have a significant effect in this regard. There are, however, some aspects of the approval process in Surrey and in Coquitlam which lead to certain behavior on the part of firms. This appears to be the case in Vancouver as well, although the observed behavior is somewhat different.

- In Surrey, most individuals expressed the view that firms involved must be either very large or very small. At least, these were the types of firms which were in a position to maintain a very close working relationship with the Municipal Council and the planning department. Typically, the entrepreneur would be involved in the community and perhaps have an additional career (e.g., the principals of Southern Comfort and Broken Rod). The very large firm, on the other hand, could afford to hire

one individual to act as an expeditor. This individual typically would also live in the community (e.g., Digital's project manager served this role).

- This same situation appeared to be evident in Coquitlam. In fact, the arrangement between Wooley and Quick (Wooley expedited the rezoning and development permit and Quick bought the approved site) supports this conclusion. Although Quick is a relatively large firm, they preferred not to hire in house an individual with "local knowledge" for the purpose of expediting the application.

- Previous evidence is convincing that, in the past, in the lower mainland, the single family housing market has been dominated by small builders. This study suggests that the nature of the approval process encourages such small builders or alternatively firms which are extremely large (see Goldberg (1974) and Goldberg and Ulinder (1976)). In other words, medium-sized firms do not find it profitable to operate in this regulatory environment.

- In Vancouver, the design-oriented aspect of the approval process seem to bring the role of the project architect to the forefront. In two of the cases examined (Lamare and Stave/Jammer), architects were involved in dealing with the planning authorities at all stages. In fact, the one project (Clearisil), which endured the longest delay, did not use an architect in the dealings with the planning department. The architect is typically in a difficult position particularly where the zoning creates an opportunity for discretion with respect to density (in a conditional use zone). On the one hand, the developer may wish to maximize the F.S.R. (floor area to lot area ratio, and on the other, the planning department wants the development to be in line with the "intent" of the by-law. While these objectives may not be conflicting, they often are and the architect must develop expertise in design which accomodates both the developer and the zoning by-law.

6. How frequently do public hearings occur and do these cause delays in the process?

- In Surrey (Pre-Bill 42), a public meeting was held prior to the third reading of the by-law creating the land use contract. Note that virtually all rezoning applications were eliminated through the use of the land use contract (see Appendix A, p. A-7).

- In Coquitlam, the development permit application or rezoning application goes on the agenda of a public hearing prior to the third reading (see Appendix A, p. A-12). However, it should be noted that Section 702AA of the Municipal Act does not appear to imply that a

public hearing is required for each development permit. A hearing would be required to amend the zoning by-law to provide for development permits and to designate development permit areas but, once this is done, it would appear that a hearing is not necessary for each individual permit. Coquitlam, however, interprets council's role with respect to each individual permit as a quasi-judicial one, thereby necessitating a hearing such that all parties affected can exercise their right to be heard (see Appendix A, p. A-14).

- In Vancouver, only rezoning applications required a public hearing (see Appendix A, p. A-27). However, in the Central Area where there is considerable flexibility in that specific zones do not exist, decisions are made by the Development Permit Board. In the Control Area, the city may require the applicant to notify surrounding property owners and tenants of the development or to place signs and ads. As well, the public can make recommendations to the Development Permit Board (see Appendix A, p. A-26).

- A majority of the developers interviewed were in favour of the public hearing as means of permitting the public to express its views regarding development in the community. This opinion seemed to be held simply because the development community believes that the community has a right to be heard on issues involving use and density. Discussion beyond use and density is argued to be inappropriate for two reasons. First, issues involving architectural, engineering, and planning expertise are not easily discussed in a public forum. Without limiting discussion to use and density, such issues come to the foreground. Second, the development community typically viewed such discussion (beyond use and density) as an enfringement on their property rights. See also the discussion included in B)(3). Hence, the consensus was that use and density should be the issues at the public hearing and not the nature of a specific development. The repealed Section 702A (Surrey's Land Use Contract) violated this criterion while it appears that the intent of Bill 42 does not. On the other hand, Coquitlam has not interpreted Bill 42 in this way.

- In virtually every case where a public hearing was involved, some delay was generated because lead time was required to publicize the event and one could not presume that the application would move smoothly to the hearing stage so as to allow scheduling the event in advance.

B. Have the land development regulations increased or decreased uncertainty?

1. Have changes at the federal, provincial and local level

regulations reduced or increased conflicts and jurisdictional problems?

- The alternatives observed did not and do not alter significantly the conflicts and jurisdictional problems which exist regarding individual applications. In every case where approval of a particular project depended on the approval of a separate government authority (regional, provincial, or federal), significant delays appear to have been encountered. Some delay is, of course, unavoidable since more than one bureaucracy must process the application. In the cases examined, a seven-month delay was attributed to the Department of Highways (see Digital), a seven-month delay to the Ministry of the Environment (see Redwall), and a two-month delay to the Department of Municipal Affairs (see Redwall). Other government bodies mentioned which occasionally must be approached include the Federal Department of Environment (Fisheries) and the Fish and Wildlife Branch of the B.C. Department of Recreation and Conservation (see Wood/Royal and Redwall).

- In particular, while the development of floodplane areas should require some expert advise (presumably the function of the Ministry of the Environment), the hurdles described in the Redwall case seem, at the very least, to be repetitive and excessive. A further commonly noted problem were conflicts between CMHC requirements for AHOP or ARP developments and local zoning requirements. Particularly in Vancouver, where zoning is design-oriented, there is significant potential for conflict. CMHC does not, in general, accept building inspections by municipal inspectors leading to a duplication of activity. While no lengthy delays arose from this, developers expressed frustration at attempting to satisfy two masters who did not usually agree on what was required.

- Delays such as these usually turn out to be more frustrating than they are costly for the developer. The reason for the frustration is that there is no obvious interface between the developer and the various regulating authorities. However, there is no question that these kind of delays have some cost to the community in the sense that they are an additional friction in the approval process.

2. Has there been an increase on the use of discretionary power by the civil servants? If so, what costs and benefits can be attributed to this increase?

- The intention of Bill 42 is to decrease the discretionary aspect of the land use approval procedure at least with respect to use and density. While there has not been ample time to observe the response on the part of the planning community or the development community, the real benefit arising from Bill 42 will be the reduction in

uncertainty which should result if the municipality has, in place, an Official Community Plan.

- This benefit has been noted by developers in the Coquitlam area. If the development is in line with the plan, no significant opposition is expected. The Surrey environment was more uncertain since the land use contract permitted the negotiation of use and density in each application.

- From the planning department's standpoint, time must be devoted to producing an Official Community Plan which the community can live with if they want the flexibility of using the development permit/development cost charge device. Note, however, that the plan may be submitted for part of the geographic area of community. In addition, the cost charges themselves must be set in advance and justified appropriately. The major cost that those obligations impose is that by committing to a plan and a schedule of development charges, the risk arises that the community may be forced to bear unforeseen costs of new development. However, creating the plan and determining the cost charges should simply involve a formalization of tasks already being undertaken by the planner.

- In Vancouver, the planner is able to exercise significant discretion and is able to do so regarding design as well as conceptual (use/density) issues. While the evidence is not conclusive, the size of the Vancouver planning budget per $1,000.00 of construction would suggest that there are direct costs in the public sector because of this approach. Moreover, as previously noted, the system necessitates that the project architect be closely involved with the applicant for efficient processing of development permit applications (see Lamare, Stave/Jammer). This ongoing involvement is not typical of the approval process in other municipalities and it does, presumably, imply additional costs. The benefits clearly depend on the extent to which "bad" design or "good" design can be identified and the extent to which they create negative or positive externalities. As well, it is necessary to consider the extent to which such positive or negative "design" externalities would have occurred in the absence of regulation of any kind. It is, however, possible to evaluate the overall planning department objectives (specifically, the design orientation) using a cost-effectiveness technique. It is possible to suggest ways in which the current objectives can be met more cheaply. These issues are addressed in the responses to question (F) later in this section.

3. Are public land development decisions consistent with a master plan or neighborhood trend?

- The nature of the approval process in Coquitlam is such

that the decisions on rezoning applications and development permit applications tend to be consistent with the community plan. The case studies indicate that among the planning authorities, there is a concern that guidelines (e.g., the Town Center Plan) be established and that once established, the guidelines are followed. There may exist some delays while the master plan is thought out, but the benefits accrue down the road in that uncertainty is reduced.

- Without the existence of meaningful zones as was the case in Surrey under Section 702A, there were not readily observable guidelines for development. Moreover, a master plan under such circumstances would be of minimal value. The applicant for a land use contract was best advised to be conversant with what was currently happening in the community, what was acceptable to the planners, and what was politically marketable. Perhaps the best example of this is the Digital project. In this case, the land use contract application was rejected by council on December 21, 1976 and accepted by council on January 5, 1979. A new council had been installed in which a majority favored the project. This type of phenomenon may be acceptable for zoning changes or changes in an official community plan, but it should not be a potentiality for every development.

- In Vancouver, although maximum flexibility is retained by the approving authorities, fairly precise guidelines for development exist throughout the city. As well, the risk of decisions inconsistent with the guidelines is virtually eliminated due to the development permit or rezoning approval process.

- It is more difficult to determine if developments are consistent with the neighborhood trend. New development is itself part of the trend and to respond to the question accurately, perfect foresight would be required. Many of the developments (e.g., Clearisil, Stave/Jammer, Broken Rod, Southern Comfort) imposed significant changes on the existing environment. This is, after all, the nature of many projects which go through the development approval process. These projects engendered opposition at their public hearings but this is not evidence that they should not have been approved. To resolve this issue, it is necessary either to examine the optimality of group decision making in a political framework or depend on the Tiebout-Hamilton resolution of the public goods problem (see Section II(A)).

4. Does the system provide developers with clear alternatives when their proposals are rejected?

- Both the Vancouver Charter and the Municipal Act (Pre-

and Post-Bill 42) provide for appeals to a Board of Variance by any individual "aggrieved" by a decision involving the zoning by-law, to the extent that the decision creates "undue hardship." This right of appeal, however, is a last resort and is applicable only in cases where problems lie in the above categories.

- A more common difficulty arises primarily in the Vancouver system where there exists significant discretion and/or flexibility in the approval process. Specifically, if a proposal is not acceptable at any stage it is often difficult to determine what must be changed to resolve the problem. The planner's role is not that of an architect or builder, but on the other hand, the applicant requires enough feedback to know what must be done. This appears to be a significant problem in the Non-Central area in Vancouver where the development permit applicant usually communicates with the Director of Planning and other planning advisory groups through the plan checker. The checker is not a trained planner or designer, and communications problems seem to result due to the highly technical and design-oriented design aspect of the Vancouver zoning by-law.

5. Does the scale of the project or size of the developer appear to influence the probability of success on an application?

- See the discussion earlier in this section of the study, IV-A(5).

6. Does citizen participation or neighborhood hearings appear to affect the risks in land development?

- Those applicants interviewed noted that it has become more prevalent for individuals applying for changes in land use of whatever type to canvas the surrounding neighborhood and discuss the wishes of the neighbors along with the plans of the applicant. This often serves to reduce the uncertainty. However, as noted in one of the comments on Question B(3), it is not unusual to expect and experience opposition to development proposals. This opportunity for the expression of neighborhood sentiment was generally viewed as an essential element of the approval process despite the likely opposition and consequent uncertainty.

C. <u>Are the land development regulations equitable</u>?

1. Who are the "real" and "nominal" decision-makers?

- In the Pre-Bill 42 Surrey system, the "nominal" decision maker on land use contract applications was the Municipal council. (Effectively, this means <u>all</u> land use changes.)

This, of course, had the effect of making the approval process a very political one (again, see Digital). Of course, it should be noted that the planning department and the Advisory Planning Commission (APC) make recommendations to the Council. The APC is comprised of three architects, one professional engineer, one industry representative (HUDAC), one council member, the Chief Inspector, and the Planning Director or his deputy. The members apart from the final three are appointed by Council. In non-controversial cases the "real" decision maker would appear to be the planning department. The role of the APC would appear to be more important where the application was controversial. Most applicants noted that they were not certain of approval until after the third reading by Council reaffirming the Council's role as both "real" and "nominal" decision maker.

- In Coquitlam, under the Post-Bill 42 system, the municipality has interpreted development permit approval as a decision to be made by council. Hence, for rezoning applications and development permit applications, the Municipal Council is the nominal decision maker. However, input from the planning director and the design committee is provided. For subdivisions, the approving officer is the decision maker. For developments in compliance with the existing zoning by-law and not falling in development permit areas, approval is straightforward. A building permit is all that is required. In Coquitlam, the Council establishes policy, and decisions regarding land use appear to be made by council accordingly.

- In Vancouver, in Non-Central areas, the nominal decision maker on development permit applications is the planning director. In the Central Area, the nominal decision maker is the Development Permit Board, the chairman of which is the Director of Planning. For rezoning, the council is the decision maker based on advice from the Director of Planning and other senior staff. Subdivision approvals are provided by the approving officer who, in the case of Vancouver, is the Director of Planning. The "real" decision maker, or at least the most powerful individual regarding planning decisions, is without question the Director of Planning. His role appears so pervasive that there is some question as to how the planning process would fare during a transition to a new director. Notably, one of the apparent problems in all of the Vancouver cases was that of communication with the decision maker (see the response to B(4)). The duties of the planning Director appear onerous and it is difficult for individual applicants to access the decision maker.

2. Who is represented in the processes for adoption and amendment of plans?

- In all three communities, the community plan is/was altered through a change in the zoning by-law. In Surrey, due to the prevalence of the land use contract, the designation of development areas was the key long-range planning tool (development areas in the Pre-Bill 42, Section 702A were designated through an amendment to the zoning by-law). Hence, for changes in the zoning by-law, the nominal decision maker is/was the council and the real decision maker (in all but the most controversial plan change is/was the planning authority) in each community. In all three cases, a public hearing is or was mandatory. So, there exists an opportunity for all members of the community to be heard. Whether the public hearing is an effective medium is another matter. Certainly the most effective strategy for interested parties is to coopt or gain the support of one or more of the decision makers (after all, council members are elected at large in the community).

- This is the appropriate point at which to discuss the distributional effects of the land use approval process. As has been noted elsewhere in this study, all else being equal, new arrivals to a community should pay the marginal cost of providing the necessary services and infrastructure to accommodate them. Our theory and casual empiricism suggests that typically development cost charges would, in the long-run, be shifted forward to the consumer if the charges were initially imposed on the developer. This would certainly be the case if the charges were accompanied by the provision of services of equivalent value. There has been no explicit attempt to tailor development fees and charges to approximate the above mentioned marginal costs in the past in Surrey or Coquitlam. Deviation from this rule implies that a redistribution of wealth will likely occur as follows:
  (a) From incoming residents to existing residents where development costs charges and fees exceed the marginal cost of accommodating the growth; and
  (b) From existing residents to incoming residents where development cost charges and fees are less than the marginal cost of accommodating the growth.
- There appears to have been an opportunity for municipalities to force alternative (a) on incoming residents under the Pre-Bill 42 Land Use Contract Scheme. Bill 42 appears to have the objective of resolving this problem by forcing municipalities to justify the cost charges which they impose. Since new residents are <u>not</u> represented in the approval process through Bill 42, the government is ensuring that they will not be unfairly treated, provided that the marginal cost of a new resident can be accurately computed.

- Note that we have commented elsewhere that new residents may augment local income and to the extent that they do,

it may be possible to justify imposing cost charges which are less than the marginal cost of providing the accommodating services. The reverse situation, however, seems unlikely. So it would appear difficult to justify alternative (a) above on such a basis.

3. How are the rights of the "minority" individual protected?

- The rights of the individual in all land use approval decisions are meant to be protected through the political system. It appears to be the intention of the Municipal Act that decisions regarding use and density such as are typically at issue in a rezoning issue should be made so as to permit the individual a voice in addition to the voice of his representative in the municipal council. This also seems to be the intent of the Vancouver Charter. Decisions beyond those involving use and density are viewed as administrative rather than quasi-judicial (only the latter imply a right to be heard). Post-Bill 42 development permit area and development cost charge by-laws are viewed as amendments to the zoning by-laws and as such, fall in the quasi-judicial category. To the extent that the individual can be heard through this procedure, the enabling legislation sees his rights as having been protected.

- The procedure in Surrey (Pre-Bill 42) and in Coquitlam (Post-Bill 42) seems to go one step further in the direction of giving the individual the right to be heard. In both cases, the effect of the municipal zoning by-law was (in the case of Surrey) and is (in the case of Coquitlam) to permit the public to be heard on issues in addition to use and density. Because of the technical nature of the zoning by-law in Vancouver, a rezoning application which again involves a public hearing, goes well beyond issues of use and density (see the Clearisil and Stave/Jammer cases).

- If the opportunity to be heard is a measure, the individual's rights are well protected in the approval systems examined.

4. Do the results of the appeal system suggest any pattern or trend which might reflect on the equity in the system?

- No cases were examined in which an appeal to the Board of Variance was undertaken. However, in the Lamare case, an appeal to the Board was threatened and the opportunity for appeal appeared to have been a useful lever for the applicant.

- It should be noted that Bill 42 attempts to restrict the nature of the zoning by-law variances which may be allowed by the Board (in municipalities other than Vancouver). Specifically, the variance must:

(i) Be desirable for the appropriate development of the site,

(ii) Maintain the general purpose and intent of the by-law,

(iii) Not substantially affect the adjoining sites, and

(iv) Not vary the permitted uses or densities of land use prescribed by the applicable by-law (Municipal Act, c. 225, Section 709 (1)(6)).

This legislation resulted from the Prosegger Decision of the Supreme Court of Canada* wherein the Pre-Bill 42 statute was interpreted to permit broad power to grant variances to the existing zoning by-laws. MacKenzie (1979) notes that, "Boards have a history in the province of being very powerful and the current legislation is ambiguous and difficult to interpret. These two factors render it inevitable that Boards of Variance often exceed their jurisdiction or act without jurisdiction." The changes to the legislation introduced by Bill 42 appear to have the intention of limiting the power of the board or defining more precisely its role. However, it should be obvious that the extent of the board's power or role is ambiguous at best, given the above criteria for the granting of variances. While this study has not accumulated evidence regarding the "success" rate of appeals, it appears that the power of the Board of Variance mitigates against decisions which are inequitable from the point of view of the appellant (individual property owner). However, a powerful Board of Variance effectively reduces the strength of the planning department and of the Council, both of which groups represent the public-at-large. Of course, Council is represented on the Board and does appoint some of the members. See the Municipal Act, Section 708, and the Vancouver Charter, Section 572-3. In Vancouver and in municipalites having a population of greater than 25,000, two members of the board are appointed by council, two by the Lieutenant-Governor in council, and the fifth is chosen by the others appointed.

5. Is public or citizen participation an important part of the system? How often does public participation occur? Who is "the public?"

- Discussion related to the issues raised by these questions is included in A)(6), B)(6), C)(2) and C)(3).

- In all three systems, the public hearing is viewed as the main opportunity for citizen participation and is viewed

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*Min-En Laboratories, Ltd., North Vancouver Board of Variance and Prosegger Construction, Ltd., 1977.

as an essential part of the process. One aspect of the citizen participation process in Vancouver which has not been noted in this discussion is the opportunity through area planning, the Director of Planning, or the Development Permit Board for those affected by a development proposal (permit application) to express thier view. Typically, a development permit application is circulated at an early stage among various groups (established citizens' groups in the affected area). As well, a sign is usually placed on the site indicating that a development permit application has been submitted. In the case of Central area applications, the public can appear before the Development Permit Board. In the case of Non-Central area applications, the Director of Planning may notify neighbors in a formal manner giving them an opportunity to respond to him. These opportunities for public input are in lieu of a public hearing (only mandatory for rezoning applications in Vancouver).

- The "public" is considered to be comprised of those citizens affected by a contemplated land use change. Of course, the number of people affected depends very much on the size of the development or the importance in the community of the site in question. Vancouver attempts to focus on affected groups through structured lines of communication (area planning, signs, and direct notification by mail). A factor to consider in the Vancouver approach is that incorporating neighborhood groups in the process may tend to overemphasize the view of groups who happen to be organized. The real concern is whether organized public interest groups represent the "public"-at-large. The Surrey procedure was simply to advertise in the newspaper the time, location, and subject matter of a public hearing. Coquitlam, on the other hand, holds regular monthly public hearings and specific applications are advertised as being on the agenda.

D. <u>What are the explicit and implicit objectives of land development</u> regulations?

1. Is there a master plan or community plan? Do decisions appear consistent with the plan?

   - See B)(3).

2. To what extent does the decision process appear to be a "roundabout" way to increase local revenue or reduce public costs? For example, are the applications more acceptable when they include contributions, either in the form of public amenities within the project or contributions in kind? If yes, do these costs appear consistent? Can they be determined in advance? Are they related to project size?

- One of the "public interest" functions of the regulatory process is to protect the community from the externalities or costs which may be imposed by changes in land use. As noted in Section IIA, in developing suburban communities, this role has evolved to include the use of fiscal zoning as a means of covering the cost of servicing new development. To the extent that this has occurred under Section 702A in the Pre-Bill 42 era and has occurred and will occur under Section 702AA in the Post Bill 42 era, it is clear that the land use regulation process has become a fiscal tool. It is not a "roundabout" way of reducing municipal costs but rather a direct way of imposing costs on the sector of the municipality which is incurring them.

- From an economic standpoint, the use of the approval process as a fiscal tool can be justified as long as three criteria are met: (1) the consumer must have available a reasonable range of municipal options in terms of the level of public services which are provided. This range of options may resolve the public goods problem to the extent that the consumer can choose the municipality for which his marginal valuation of the bundle of public services approximates what he would have to pay for them on an ongoing basis. Each community must also be identified with a certain maximum residential density (see section IIA); (2) the tax (development cost charge) for each new resident (proposed new unit) should be equivalent to the marginal cost to the community of accommodating that new unit. This is marginal cost to the community, so the initial fee should not include capitalized ongoing costs which reasonably can be allocated across the community and covered by the property tax on a yearly basis; and (3) the consumer or the developer must view the charge or the tax as a lump sum tax. If these criteria could be implemented, individual housing consumers could make rational and informed decisions regarding their choice of residential location. Market imperfections would not ensure optimality but, at least, decision makers would be better informed.

- The Bill 42 legislation has the advantage that the development cost charges are rationalized by being predetermined, related to project size and project type, and consistent within each community. While it is not clear that the objective will be met, one of the functions of the Inspector of Municipalities is to be certain as well that the cost charges are determined in a manner consistent among communities. Bill 42 eliminates the random nature of the charges imposed through the land use contract procedure.

- Note that Vancouver does not typically impose development cost charges. However, on a project-by-project basis,

requirements (often the provision of a public amenity) may be imposed (e.g., it was, at one point, suggested that the Lamare project include a small on-site playground despite the existence of a beach-front park and playground across the street). While, as has been indicated, it may not be inappropriate that certain burdens be placed on new development, care should be taken that the burden not be imposed in a capricious manner.

3. If there is a trend to greater use of private "off-site" costs?

   - In the Pre-Bill 42 Surrey system, this appears to have been the case. Bill 42 simply rationalizes the manner in which the costs are imposed. The standardization of the system eliminates the problem noted by Digital (in Surrey) where the first developer into an area is faced with significant costs of providing water and sewer trunk lines and perhaps road access while subsequent developers receive the benefit but do not bear any portion of the cost. The problem that is created is that the municipality may have difficulty foreseeing the costs of new development and determining with certainty a suitable cost charge schedule. This, however, is a problem which can be resolved with careful medium-term and long-term planning. See D)(2) for comments on the Vancouver situation.

4. What are the benefits (real and alleged) arising from these processes?

   - The alleged general benefits derived from zoning and development regulations, as they currently exist, should be the objectives listed in Section 702(A) and 702AA(1) of the Municipal Act. There are not comparable criteria in the Vancouver Charter (see Section III of this study). These objectives are general and they include the conservation of property values, the betterment of the environment and the fulfillment of community goals. The presumption is that these alleged benefits are an attempt to verbalize objectives which are in the "public interest." Section IIA of this study outlines in a precise manner and in an economic framework the theoretical rationale for land use regulation in the "public interest."

5. To what extent do the benefits accrue to the public-at-large and to what extent do they accrue largely to adjacent property-owners?

   - The answer to this question depends largely on what aspect of the regulatory procedure is considered. Simply, those aspects of the process oriented toward use, density and design tend to affect only contiguous properties. This statement needs, of course, to be qualified. It is

not difficult, for example, to imagine a large high density development which can have an influence on the community-at-large. Fiscal zoning aspects of the approval process would tend to benefit the community-at-large because the cost of providing new services for new residents would be offset by development cost charges.

- Using this line of reasoning, one could argue that Vancouver's system (at least in the case of the residential approval process) regulates land use change largely with the objective of benefiting neighboring property owners. In the case of Surrey and Coquitlam, the objective includes benefiting the neighboring property owner, but the orientation is more toward rationalizing new development for the benefit of the community-at-large. This orientation is not surprising in communities which are experiencing rapid growth and consequent demand for new public services.

- One issue which did not arise in the cases examined but which was mentioned by a number of individuals who were interviewed arises when the standard of servicing changes and existing residents benefit from the new higher quality services. The guidelines regarding development cost chrages do not deal with this question. To the extent adjacent property owners or the community-at-large derive benefit from the new services themselves, the costs to be imposed on the new development should be reduced.

E. Does the diffusion of land development regulations inhibit savings and innovation?

1. Do variations in local land development regulations encourage the private sector to specialize in products or locations?

- See A)(5).

- In all of the cases researched, all of the smaller firms tended to specialize regarding the municipality and the type of project which they felt comfortable pursuing. While some of them contemplated other types of development or other communities, the individuals interviewed seemed to indicate that they did so only with considerable caution. Usually, they preferred to stick with that package with which they had experienced success. For example, Broken Rod viewed themselves as experts in small parcel/large lot subdivision in Surrey.

- Only the larger firms tended to be "indifferent" regarding the location and were content to build whatever seemed to be the most profitable type of project wherever it might be. Typically, such firms had either local representatives or they could afford to retain someone with local

knowledge. The one exception in all of the communities examined was Clearisil in Vancouver. It may be that their lack of preparedness to play the local "game" may have resulted in part of the significant delay they experienced (in Vancouver, this game involves working closely with an architect throughout the approval process and preferably having the architect expedite the application).

- One aspect of the approach used by most of the developers should be noted here. Specifically, the uncertainty of the process has led the applicant, wherever possible, to undertake initial steps of the project with minimal cash committed. There are a number of strategies, but the two most common include the optioning of the site or a purchase agreement where the vendor receives the sale price in installments over the development period. Both of these techniques reduce the initial capital cost and attempt to shift some of the risk to the vendor of the site. It was noted, however, that it has become more and more difficult to negotiate land sales in this way (particularly in Vancouver). This, of course, depends on the market environment--primarily the level of demand for developable sites).

2. Does the system of land development regulations affect the scale of developments undertaken?

- In general, it did not appear to. However, some individuals pointed to the problems of undertaking phased developments in the Pre-Bill 42 environment. Specifically, at one point, the Wood/Royal development was planned in phases. The problem, however, was that although the project was to be phased over a lengthy period (perhaps five to ten years), fees on 100% of the project were due before the land use contract could be given third reading. This problem has been resolved with Bill 42 as the development cost charges can only be tied to a subdivision approval or issuance of a building permit.

- A related issue which was raised by a number of the developers interviewed was the manner in which the regulations influenced particular units rather than the scale of the whole development. Specifically, they argued that one of the real losers in the approval process was the low income section of the community. While the community-at-large may agree on a minimum standard of service and density and impose certain design requirements, these standards are often so costly that it is impossible to build new housing for low income sectors of the community. As noted previously, it is essential that various levels of public service as well as a range of minimum housing quality types be available among the communities in a

region if a social welfare optimum is to be approached (see Section IIA of this study).

3. Does the system influence the timing, costs and charges for major infrastructure extensions?

   - The evidence in the cases examined suggests that major infrastructure decisions are made independent of the approval process for individual developments. Certainly, approvals (for example, Southern Comfort) depend to a large degree on the availability of sewer and water services. Observed trends along with the municipality's plan for future growth should lead the municipality to make decisions regarding infrastructure which tend to accomodate development pressures. In Vancouver, infrastructure is not really an issue although the updating and replacement of worn out facilities should occur on a regular basis so as to avoid heavy future commitments. This, however, is not a regulation issue. In the suburban municipalities, where new infrastructure is definitely a concern, Bill 42 should force the municipality to plan ahead with respect to infrastructure needs so that the costs can be fairly allocated among new developments that will be served. The Pre-Bill 42 legislation permitted the municipality to approach the planning of new infrastructure in an ad hoc manner.

4. What type of land development regulations inhibit savings and innovations?

   - In the cases examined, only one main example came to light where potential savings appear to have been eliminated by the approval process. A number of developments (Wood/Royal, Broken Rod, Digital) incorporated a water retention type of drainage system. The purpose of the system is summarized in the text of the case analyses. The applicants expended considerable costs, time, and energy to introduce a type of servicing which would save considerable front-end service costs, yet provide an adequate level of service. Each applicant expressed concern that an excessive amount of time had to be spent with the municipal engineering department to gain approval for the system.

   - In the Stave/Jammer case in Vancouver, the architect who specialized in the design of low-cost housing units emphasized that the process was biased against the type of design innovation necessary to produce low cost housing. The planning community typically will not accept the kinds of densities necessary to produce new housing for the low income sector. To some degree, this is a manifestation of the standard problem which arises in dealing with low cost housing--every citizen views such development as necessary as long as it is in someone else's neighbor-

hood--with the end result that it goes nowhere. The design orientation of the Vancouver process seemed to require that the project architect concentrate on a design which would meet the by-law specifications rather than a design which would be the least cost.

- In general, it was difficult to pin down specific characteristics of an approval process which discourage savings and innovation. Certainly, where any regulation is involved there will be a tendency to stick with the status quo (that which the developer knows is acceptable) in order to avoid the rejection of an application. On the other hand, in the short run, any savings which can be introduced should yield increased profits so there should be an impetus in the opposite direction. An interesting example was noted by Digital. In the final phase, they attempted to introduce a cheaper type of siding (a pressure-treated fir instead of cedar). Despite evidence that C.M.H.C. accepted both sidings as equivalent in terms of durability, Surrey was reluctant to accept the alternative as it would have been inconsistent with the land use contract. The substitution was finally accepted.

F. Is the land development regulatory process "effective?"

1. Can the same level of benefits be achieved at less costs? Can a higher level of benefits be achieved for the same costs?

- A brief answer will suffice here as the responses to this question are included among the recommendations in Section I of the study. In general, the changes wrought by Bill 42 and as introduced by Coquitlam seem to be beneficial. While a comparison of the process in two dissimilar communities (Coquitlam and Surrey) may be on shaky ground due to the unique problems that each community faces, it does appear that there are significant advantages to the Coquitlam system. Naturally, for a community such as Surrey, there exist significant transitional costs, but the long-run benefits appear to be significant. The Vancouver process is a complex and demanding one. As noted previously, the process virtually demands the extensive involvement of a design or planning professional throughout. To their credit, the Vancouver Planning Department attempts to evaluate and improve the process where possible. Some potential areas for improvement of the existing process came to light during this study. But unfortunately, it is impossible to evaluate the overall benefit of the system. Again, the areas where improvement is possible are noted among the recommendations.

G. Additional Discussion

There are a few issues which are raised in the theoretical discussion in this study (Section II(A)), which are not addressed adequately by the questions as they are structured in the statement of purpose. The reason why these issues have not been addressed is that the list of questions begins with the presumptions that, however difficult, undertaking a cost-benefit analysis of land use regulation is a meaningful way of evaluating land use regulatory procedures.

Conceptually, this objective cannot be faulted. However, because of the difficulties of measuring the benefits, we have taken a cost-effectiveness orientation. This is at best an ad hoc approach since it presumes that the level of benefits in each community is the same. To resolve this problem, we have used the comparative approach simply to give a little better insight into alternate land use approval processes. It should be noted that our theory also suggests that we should not expect nor should we want each community to provide the same level of benefits.

The public goods aspect of the benefits of a land use regulation structure is such that to approach an optimum allocation of the resources directed toward achieving these benefits, a range of choices must be provided to the consumer. That is to say, a number of alternative communities must exist each of which provides a certain menu of services and quality of life. There are, of course, both explicit and implicit costs to the consumer who chooses to purchase a house in a particular community. However, if the costs are made clear (explicit costs include property taxes and user charges and implicit costs are presumably buried in the price of the house) and if the benefits are also made clear, the consumer will be able to choose the best option given his budget. In this way, the public goods problems can be resolved.

This, of course, does not resolve the question of how the level of benefits in each municipality is determined on an ongoing basis. If an array of communities exists, consumers will order themselves such that residents having similar preferences will end up in the same communities. These residents will then, because of their similarity, have minimal difficulty reaching a consensus as to the appropriate level of services and quality of life. This objective having been met, it may be possible to evaluate the cost-effectiveness of various strategies for reaching that objective.

What has been discussed above are the mechanisms at the local level which would move toward ensuring that resources in the local public sector are allocated optimally. These mechanisms require that certain information be disseminated to the public in order that the public (the individual resident) is able to make a rational choice among communities and also act

rationally once that choice has been made. Specifically, the consumer (the public) should be aware of the planning objectives of each community. Medium- and long-range plans should be available and provide insight into the level and type of services and environment which are and will be provided. As well, the costs of providing these benefits should be made as explicit as possible. Bill 42 and the consequent changes in the approval process are viewed as a move toward augmenting the information available to the public by requiring municipalities to make explicit their objectives and rationalize development cost charges. In this sense, Bill 42 is a positive step.

There does exist a caveat. The theory which has been briefly discussed regarding optimal levels of public service is based on the work of Tiebout (1956) and Hamilton (1975). Like any theoretical work, the results depend on assumptions which may not be met in the real world. However, it is the view of the author that the second best solution of moving toward meeting some of these assumptions is desirable.

Appendix A

Further Aspects of the Regulation Framework and Applicable Local By-Laws

This appendix will summarize some remaining aspects of the provincial enabling legislation which have not been dealt with in the text of this study (Section III). As well, the local by-laws which Surrey, Coquitlam and Vancouver have enacted will be summarized in detail. The appendix will be organized in the following manner:

1. Zoning

    a). The Municipal Act: zoning and development
    b). Surrey by-laws and procedures (Pre-Bill 42)
    c). Coquitlam by-laws (Post-Bill 42)
    d). The Vancouver Charter: zoning and development
    e). Vancouver by-laws and procedures

2. Subdivision

    a). Land Title Act
    b). The Municipal Act subdivision provisions
    c). Surrey by-laws and procedures (Pre-Bill 42)
    d). Coquitlam by-laws and procedures (Post-Bill 42)
    e). The Vancouver Charter subdivision provisions
    f). Vancouver by-laws and procedures
    g). Strata titles

3. Building and Construction

1. Zoning

(a) The Municipal Act: Zoning and Development

(i) Official Community Plans

The Municipal Act provides in Section 695-700 that municipalities "may" prepare community plans and that these community plans "may" be designated as official. If so designated, Council "shall not" enact any provision contrary to it. Amendment is cumbersome. By Section 697(2), a public hearing is required. The official plan does not, however, commit Council to undertake any of the projects outlined therein.

The role the province envisions for official plans is not clear. While planning does provide a rational basis for exercising land use controls, and will thereby discourage arbitrary action, the difficulty in predicting trends makes flexibility essential. But the whole concept of making a plan official necessarily reduces flexibility.

Given the nature of the options the province has presented, municipalities have tended to ignore official plans altogether. By making its plans official, the municipality restricts its ability to act without obtaining any corresponding increase in its powers.*

(ii) Zoning

The basic zoning scheme (Section 702(1)) provides:

(1) that the municipality may by by-law divide the area into zones,

(2) that within those zones the municipality may regulate

- the use of the land, buildings, and structures
- the size, shape, and siting of buildings
- parking and loading spaces required,

(3) a list of considerations to which Council shall have due regard to in making these regulations,

(4) that Council shall not adopt a zoning by-law until it has held a public hearing. Notice and voting requirements are established.

(iii) Land Use Contracts

The Land Use Contract system was created in Section 702A (now repealed). The scheme provided:

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*An argument can be made under Section 802(9)(b) that municipalities are not to be allowed to charge development-cost charges unless they have official plans in place. The section provides that the Inspector of Municipalies may refuse to grant the cost-charge by-law if the capital costs set out are not consistent with by-laws adopted under Section 697--the "may make plans official" section. But the Inspector has yet to refuse any cost-charge by-laws on this ground.

(1) that Council could, without a hearing, designate areas as development areas,

(2) that where an owner of land within a development area so applied, Council might enter into a Land Use Contract,

(3) that the use and development of land would thereafter be in accordance with the contract, and

(4) that the contract would have the force and effect of a restrictive covenant running with the land.

Use and density were negotiable.

(iv) The Bill 42 Development Permit Scheme

The legislation envisions two situations where development permits might be used. First, there are what are most accurately referred to as "area" permits. Section 702AA(2a) provides that Council may in a zoning by-law designate areas as development permit areas. Owners of land in these areas, must, before they commence development, obtain a development permit. Such areas may only be designated where special conditions, defined as "physical environment, design, or siting considerations" prevail. There must be a public hearing to designate a development area.

Second, "site" permits arise where owners of land in non-designated areas apply for development permits varying zoning provisions for their sites. Municipalities are not prevented from encouraging such applications by providing various incentives.

One sharp contrast to the Land Use Contract system is that only certain specified items are negotiable in development permits (landscaping, building dimensions, etc.). Use and density are not. Council retains the power to set its own procedures by by-law.

Council's ability to impose fees is drastically restricted. Section 702AA(6) provides that Council may as a condition of using the permit require security to ensure that the development is carried out as agreed. If it is, the security plus interest must be refunded. Section 702B restricts application fees to the direct cost of processing the application. It also provides that no other fee can be imposed as a condition of the permit's issuance except under Section 702C.

Section 702C, the development cost charge section provides the main thrust of what the Provincial Government is attempting to do by introducing Bill 42. First, it establishes provincial control over the charges municipalities can impose on developers. Second, municipalities are forced to rationalize the charges. This is done as follows: Section 702C(4) provides that charges may be imposed solely to provide funds to "assist" the municipalities in paying the capital cost of providing "public open space and sewage, water, drainage and highway facilities" in order to serve "directly or indirectly" the specific development.

There is a section establishing that the municipalities cannot impose cost charges for developments of less than a certain specified size. Other sections provide that no charge shall be made twice on the same development, and list criteria Council must consider in enacting the by-law.

(v) The Board of Variance (Sections 708 - 710)
The Board is empowered to determine appeals

- by anyone aggrieved by a decision of an official charged with enforcing zoning or subdivision by-laws, to the extent that the matter of one of by-law interpretation.

- by anyone who claims that the enforcement of a zoning by-law with respect to siting, shape, or size would cause him undue hardship. Only minor variances are authorized and even then the variance must maintain the general purpose of the by-law.

(vi) Provincial Approval Criteria (Section 702C (9))
The Ministry of Municipal Affairs has released to the municipalities a list of factors that will be taken into consideration by the Inspector of Municipalities in considering cost charge schedules. While not a part of the statute law, these criteria do show how the scheme is intended to operate.

The factors:

- Charges would be related to an official plan. However, evidence of consistency with a rational scheme of development will suffice.
- Population projections
- Engineering reports as to the costs involved
- Charges are to recognize that to some degree the cost of supplying these services are paid by other levels of government (e.g., the Revenuing Sharing Act).

(b) The Surrey By-Laws and Procedures (Pre-Bill 42)
(i) The Surrey Municipal Zoning By-Law
The by-law is structured essentially as follows:

Framework

Two major sections establish a framework for the by-law. The first merely provides that:

"No person shall locate a building or business or use any land or building contrary to the provisions of the by-law."

The second divides the municipality's territory into named zones.

General Provisions

A third major section establishes general provisions that apply throughout the municipality. Four types of provisions are included.

First, various restrictions are established to govern uses which by their nature might be located in a number of different zones. For example, there are restrictions as to who can be employed in businesses from the home, and on the degree to which evidence of such a business may be visible to neighbors. Drive-in theatres, professional offices, and utilities all have their own peculiar design, siting, etc. rules that apply wherever they locate.

Secondly, servicing standards are established. The standards for sewage and waste disposal are subjective: they "shall be satisfactory to the Medical Health Officer." The number of off-street parking spaces required is set in a table, varying with the number of dwelling units, hospital beds, bowling alley lanes, etc. Other objective standards are set for signs, building setbacks, and flood proofing.

Thirdly, various officers are empowered to enter to ensure compliance with standards.

Finally, provision is made for the designation of Comprehensive Development Zones, where developments are to be integrated, rather than permitting separate ad hoc users.

District Schedules

The fourth major section establishes standards for development that vary by zones. The restrictions are categorized as follows:

(1) Permitted uses
(2) The minimum acreage to which parcels in the area can be subdivided.
(3) Minimum yard areas
(4) Minimum site acreages
(5) Minimum floor elevation
(6) Percentage of area to be landscraped
(7) Whether maintenance in accordance with "approved site plans" is required.
(8) Special conditions of use, e.g., no noxious fumes.

The fifth and final section establishes penalties or breach. These are $10-$500/day, or 30 days, or both for each offence. Each day the breach continues constitutes a separate offence.

(ii) Land Use Contract Procedures

As noted in Part III, municipalities were authorized under the Municipal Act to enter into contracts with developers in designated permit areas. Such contracts effectively enable the parties to ignore the municipal zoning by-law. Virtually all built-up or developing areas in Surrey were classifed as "development areas."

As described in the Surrey "Guide to Procedure," five municipal bodies had to be canvassed in the processing of each land use contract. The duties of each were set out:

1. Planning Department, Current Planning Section:
   Receipt and general processing of application.
   Prelimiary review and by-law check of design and landscape plans as submitted.
   Processing of subdivision and consolidation applications.

2. Engineering Department, Land Development Section:
   Setting of engineering requirements necessitated by the development.
   Checking, processing and approving of project plans dealing with engineering off-site requirements, and authorization of security amounts.

3. Advisory Planning Commission:
   Recommends to Council on all change of use applications.

4. Advisory Design Panel:
   Recommends to Council on design of all commercial, industrial and apartment applications.

The Guide also listed the steps taken in the processing of each application:

1. Applicant makes preliminary inquiries at Planning and Engineering Departments regarding feasibility of proposal and existing and required services.

2. Application signed by property owner and submitted to Planning Department, together with required fees and other material as requested.

3. Preliminary processing by Planning Department.

4. Applicant invited to describe proposal at Advisory Planning Commission meeting.

5. Recommendations of Advisory Planning Commission, together with report from Planning Department considered by Council who, by a two-thirds vote, either approve the application to proceed, table, or reject it.

   PLEASE NOTE:
   a) This is not an approval-in-principle (see below)
   b) Substantial activity must be taken within six months of this date or the application is liable to be filed.

6. a) Applicant provides design plans for commercial, industrial and multiple-family residential projects to Planning Department for submission to the Advisory Design Panel for their approval.
   b) If a subdivision or consolidation is involved, application, together with plans is made to the Planning Department for processing.

7. Once design approval obtained from the Advisory Design Panel, or tentative approval of lot layout given, Land Use Contract prepared by Current Planner, Development Engineer and Municipal Solicitor. Contract form determined by election of either:

Option A: If Engineering plans for off-site works and utilities approved for construction.

Contract to contain full engineering requirements, together with all security bonding amounts, fees and imposts.

Option B: If Engineering plans for off-site works and utilities not yet approved for contruction.

Contract to maintain general engineering requirements, landscape security and imposts only.

Incorporation of reference to subsequent agreement dealing with specific engineering requirements, fees and engineering security bonding amounts.

8. Land Use Contract proposal submitted to applicant for signature and return. Consent required from all parties with a registered interest in property.

9. Land Use Contract as signed by applicant forwarded to Clerk. Authorizing By-Law introduced and given first and second reading by Council. Date for Public Hearing set.

10. Public Hearing, with advertisement in public press and notice to surrounding property owners.
N.B. Following public hearing Council may, on a two-thirds vote, either approve-in-principle, reject or table application.

11. Third reading may be given if all imposts, fees and security amounts pursuant to the agreement have been received.

12. If Option B, engineering project plans submitted to Development Engineer for approval. Development agreement executed by applicant and Municipality; all requisite security amounts and fees submitted.

13. Fourth reading and final adoption of authorizing by-law. Signing of Land Use Contract by Municipality.

14. Registration of Land Use Contract in Land Registry Office by Municipality.

15. If taxes and fees are paid, right-of-way and easement documents are registered, and other requirements satisfied, subdivision or consolidation plans are signed by Approving Officer and returned to applicant for registration.

"The fees and other materials" referred to in Step 2 were:
(1) Two copies of the simple one-page land use contract application,

(2) A service charge of $120.00 where the site area was less than or equal to 50,000 square feet; $1.50 per 1,000 square feet was added for larger sites,
(3) A sketch showing the location and use of all buildings on the property,
(4) A statement of the legal description of the land owned by each person signing,
(5) If the application was for apartment use, it would also require
- a plot plan
- a perspective drawing indicating landscaping, parking lots, etc.
- a brief description of the project, including the number and mixture of suites, an outline of amenities, etc.

More detailed development plans would be required prior to Step 10.

(iii) Rezoning Applications

With the following exceptions, applications for rezoning would require the same submissions as described for Step 2 above. The material in Point (5) would be required with all applications. The service charge would depend on what type of use the new zoning would allow:

- if it was to residential single family: $50 for up to 50,000 square feet + $1.00/1,000 square feed thereafter
- if to commercial, industrial, residential multifamily: $75 for up to 50,000 square feet + $1.00/1,000 square feet thereafter
- if to agriculture, recreational, or institutional: $50.00.

(iv) Imposts

In a by-law entitled "Municipal Development Policy," the municipality set out formulas for the calculation of imposts and explained when each would be charged. The list also described the amenities it would be incumbent on the developer or subdivider or provide at his own expense.

Each is set out in Schedule A-I and A-II below:

(v) Post-Bill 42 (for information purposes)

In Surrey, the initial development cost charge by-law was restricted to two industrial areas although there was also a schedule of public open space charges. The intent of the municipality in passing the by-law (in limited form), was simply to get something in place so as to allow developments to go ahead in those specific industrial ares (Beveridge, 1979). The municipality has not processed any applications for residential developments while assessing its position under the new act, and while awaiting approval by the Inspector of Municipalities of the residential development cost charge by-law.

(c) The Coquitlam By-Laws and Procedures (Post-Bill 42)

(i) The Coquitlam Municipal Zoning By-Law

Coquitlam's zoning by-law is formulated quite differently.

SCHEDULE A-I

Surrey: Imposts and Charges

IMPOST	AMOUNT	PURPOSE
Roads & Drainage	$200 x X	Improvement of highways made necessary by increased traffic
	$300 x X	Facilities made necessary by increased flow
Waterworks	$150 x X	To defray excessive cost of provision
Public Open Space	$140 x X ↑ ↓ $1,295 x X (varies with zone)	
Deposit for Trees	$50 x X	
Administration Charge	4% on estimated cost of works	
Preliminary Service Fee	$100 x X	Deduct against administration charge if project goes ahead

where X = The Number of Additional Lots Created by the Subdivision
or
The Number of Units in the Development

SCHEDULE A-II

Surrey: Further Requirements

Street Lighting	- shall be provided on all roads in subdivision or in development
Sidewalks	- where generates the need, will be required
Walkways	- may be required. Can take cash in lieu
Security Deposits	- shall be released as work covered by each part of it is done

Framework

The first major section developes the framework of the act. It divides the territory into zones, provides for the designation of development areas, creates a right of entry for inspection, and establishes penalties (fines, jail on default) for violation. Specifically, three sub-sections are important.

Section 308 describes the procedures for by-law amendment, rezoning, and land use contract applications. (During the interim period, the portions of the by-law relating to the land use contract remained in place.)

Section 313 describes the function and scope of development permits.

Section 307 describes what is required with applications for building permits.

General Regulations

The second major section sets general regulations that apply across all zones. There are four types:

- Uses permitted in all zones, except where prohibited
- Uses prohibited in all zones, except where permitted
- Regulations governing various permitted uses (off-street parking, landscaping, etc.). The landscaping standard is subjective: i.e., it should be "suitable."
- Regulations governing the size, shape and siting of structures.

District Schedules

The third and final major section lists the regulations peculiar to each zone. They are broken down as "permitted uses," "regulations for permitted uses," and "regulations for the size, shape, and siting of structures."

(ii) The Development Process

As described in a pamphlet given by the municipality to potential developers, the development process encompasses the following steps:

(1) Preliminary discussions prior to application. This is not a formal step, although the municipality strongly recommends it. The pamphlet notes that rezoning will generally only be recommended to Council where it is in accord with the community plan.

(2) The applicant submits:

- an application for rezoning
- the application fee (see Schedule A-III on the next page)
- a site plan, showing grades, access, and parking
- a small scale floor plan

SCHEDULE A-III

Coquitlam: Application Fees

(i) Where applications is for rezoning: $150.00 plus

- if to A-3; RS-2; P-3, 4, 5: $.10 per 100 sqaure metres

- if to RS-1, 3, 4; RT-1; RMH-1; P-1, 2; M-1, 2, 3, 4, 5, 6: $1.05 per 100 square metres

- if to RM-1, 2, 3, 4; C-1, 2, 3; CS-1, 2, 3: SS-1, 2, 3: $4.30 per 100 square metres

(ii) Where application is for a land use contract: $300.00.

(iii) Initial development permit application fee: $300.00

If application is withdrawn prior to being put on agenda for public hearing, $75.00 is refunded.

- sketch elevation drawings
- a colour perspective drawing
- a brief description of intended use

All of this must be supplied prior to the public hearing. There is an exception. For major projects large in scope, restrictive covenants or development permit area designation might be used instead.

(3) The Engineering Department provides preliminary servicing estimates (i.e., streets and lanes) at an early stage.

(4) The Planning Director reviews the application and reports to Council, noting relevant planning policies.

(5) The Design Committee (an advisory group of individuals in the design field) reviews building plans, gives advice to architects, and reports to Council.

(At this point in time, design guidelines have been formalized only for multifamily residential uses. These cover such matters as the projection of underground structures, the finished slopes of landscaped areas, and the finish to be given exposed concret. For example, approval of the landscaping plan that the applicant obtain independent statements indicating (a) the sufficiency of the soil to retain the landscape; and (b) the ability of the structure to support the soil).

(6) Council may accept the application, decline it, or table it. Council has the right to impose conditions that must be met prior to placing the application on the public hearing agenda.

(7) If Council so refers it, the application goes to a public hearing.

(8) Council, at a regular meeting, considers whether to proceed with the by-law.

(9) Council can then either give three readings to the by-law, or decline to.

(10) Upon passing Step (9), the applicant applies for a development permit and/or building permit.

According to the development process guide, development permits are used in three situations.

(a) where the site is not in the development permit area, but the developer seeks exemption from certain regulations and is willing to fully service the site. (Note: Unlike under the Surrey land use contract procedure, Bill 42 does not restrict development permits to development permit areas.)
(b) where the site is within a development permit area. (This involves only a small proportion of the developments in Coquitlam.)
(c) as part of the rezoning process where appropriate.

Section 308(10) notes that a development permit will not be required where:

- The amendment by-law does not permit a specific development or is of a general nature, or
- Council determines that an agreement with an applicant is more appropriate than a development permit.

Under Section 313, the development permit application is to be made in approved form and be accompanied by:

- An initial application fee of $300.00.
- A copy of an application for a building permit. The fee for this application is 25% of the final permit fees, which are set by the building by-law.
- All plans required for a building permit application. These include:

  - A site plan showing location of buildings, proposed landscaping in detail, and a clear representation of off-street parking, loading, and maneuvering spaces.
  - A floor plan
  - A coloured perspective drawing
  - Coloured chips showing the proposed colour of the exterior of the building
  - Elevation drawings
  - A cross-section drawing showing grades around to the building
  - The by-law notes that such will not be required for buildings for one or two family residential use on lots with no subdivision potential. Neither is it necessary for interior alterations and minor repairs.
  - Plans for servicing the lots, to be submitted to the Municipal Engineer

All plans are reviewed by the Planning Director, the Building Inspector, and the Municipal Engineer, who check for compliance with the municipal zoning standards previously noted and with the subdivisions and engineering standards.

(11) Where the plans are found acceptable, the Planning Director prepares a development permit for consideration of Council. The permit will be conditional on the depositing of security of not less than the cost of constructing the services plus the cost of landscaping, materials and installations.

(12) Council considers the development permit. (Where the development permit requires approval of the Minister of Highways, authorization by Council is subject to that approval.)

(13) Applicants have twelve months after third reading of the by-law to meet all requirements towards issuance of the development permit and building permit. Only when this is done can final adoption of the by-law be considered by Council. Council may extend the deadline by six months where there is an acceptable explanation. Otherwise the rezoning by-law expires.

(iii) Development Cost Charges

At the moment, the only cost charge imposed is $600 per dwelling unit towards the acquisition of park land and open space. This must be paid at the time of subdivision or building permit issuance.

(iv) Other Approvals Required

(1) Under the Coquitlam Conservation By-Law, a permit is required from Council to fill any land or to cut trees or remove soil from certain designated "sensitive lands."

(2) All rezoning and development permits within the flood plane defined by the official regional plan, and all subdivision in areas subject to flooding, are subject to Ministry of Environment approval. There is a by-law codifying Ministry requirements for development permit applications.

(3) Access to controlled access highways requires a permit from the Ministry of Highways; as does rezoning or development permits for commercial and industrial buildings if within 800 metres of intersections on controlled access highways.

(v) General Interpretation of Bill 42

Development Permits

According to Policy Report #2/78, filed with the Greater Vancouver Regional District in January 1978, Coquitlam's interpretations of the workings of the Bill 42 system were as follows:

(1) Who can apply.
"An Owner of land in the District may apply at any time for a development permit and vary certain matters normally imposed by by-law. The $300.00 application fee and the need to submit servicing plans will encourage serious applications."

(2) Current standing on previous contractual approach.
"Longer term developments may still need the contractual approach since the development permit would appear best used where it relates to a precise development initiative to be realized in the next year or two."

(3) Need for a hearing on each permit application.
"The development permit which comes before Council must only come after notice is given to the applicant, who must be heard if he wishes to speak before Council. The process is one of a judicial and not simply an administrative nature."

(4) Type of areas to be designated as development permit areas.
"The crucial areas of community development focus requiring Council assurance as to design and access." Examples given: The Town Center, highly visible, industrial areas.

(5) Changes in jurisdiction.
"The siting of buildings and their dimensioning can be varied by Council, this previously being the jurisdiction of the Board of Variance."

Development Cost Charges

At the moment, the only development cost charge Coquitlam imposed is a $600.00 per dwelling unit open space charge. According to Policy Report #1/78, filed with the Greater Vancouver Regional District in January 1978, Coquitlam interpretation of the workings of the development cost charge system were as follows:

(1) Position with respect to other charges which could be enacted.
"The Planning Department will report on sewage, water, drainage and highway facilities at a later date." The District of Coquitlam has not charged imposts on these items in the past nor has it enacted additional charges as of August 1979.

(2) Appropriate formula to use in setting cost charges (public open space).

Step 1: Target standard for parkland.
The report adopts the Regional Planning Board suggested standed of 2.5 acres of active open space per population of 1,000. Open space is defined as neighbourhood and community parks.

Step 2: Existing inventory of parkland.
The prevailing acreage is calculated.

Step 3: What cost charge would be to maintain prevailing standards.

$$\frac{\frac{\text{acres required}}{\text{100 population}} \times \frac{\text{acquisition cost (recent appraisal)}}{\text{acres}}}{\text{100 persons} \times 3.2 \frac{\text{persons}}{\text{household}} \text{ (avg. household size)}} = \text{what each household should contribute to maintain the existing level.}$$

Step 4: Cost charge to maintain target standard.
Here the same formula is used with the target standard substituted for the prevailing acreage per 1,000 population. The result works out to approximately $680.00 per dwelling unit.
While the act speaks in terms of "prevailing standards of servce," Coquitlam was content to remain in the range of the lower target standard.

(3) Interplay of charge with subdivision park dedication section.
"The provisions under Section 711 of the Act, allowing the Approving Officer to require that up to 5% of land being subdivided be dedicated without charge as a park is considered as a completely separate provision."

(d) The Vancouver Charter: Zoning and Development

(i) The Official Development Plan

While the official plan concept created in Section 561-564 of the Vancouver Charter is similar to that created in the Municipal Act, the official development plan (Vancouver Charter) differs from the official community plans (Municipal Act) in a number of specific areas).

Preparation and adoption of both types of plans are permissive. In neither is Council bound to undertake any of the developments, nor can it authorize any developments contrary to the official plan. In addition, however, the Vancouver Charter Section 563(3) states "it shall be unlawful for any person to undertake any development at variance with the official plan." Hence, the official plan has a direct, legal effect on private individuals. Further, there is no public hearing requirement. Amendment is much more flexible. Official designation can be made by a simple majority of Council. There is not requirement of two-thirds approval.

Still, there exists the same problem with the official development plan as with the official community plan. Designation restricts flexibility without correspondingly increasing powers. Consequently, Vancouver has not adopted an official plan relating to the whole city, although there are a number of official plans relating to various segments--e.g., Downtown, False Creek, and West Broadway.

(ii) Zoning

The basic zoning scheme provides:

(1) That Council may by by-law divide the city into zones.

(2) That within those zones, the municipality can regulate
- the use or occupancy of land
- the construction, use, or occupancy of buildings
- the height, size, spacing and design of buildings
- density of poptulation, floor space ratio
- off-street loading and parking for buildings.

To this stage the construction is essentially similar to that under the Municipal Act.

(3) There is a special power to "designate zones in which there shall be no uniform regulations and in which any person wishing to carry out development must submit plans and obtain the approval of Council."

This Comprehensive Development District section allows for complete discretionary control over individual developments. It has been used for the Downtown, West End, and False Creek areas; as well as for smaller areas with peculiar development problems. Examples of the latter would include hospitals and specialized residential developments.

(4) Section 565A(d) empowers Council to make by-laws "delegating to any official such powers of discretion relating to zoning which to Council seems appropriate." This section has been used to support the adoption of a conditional use system, which is perhaps the most unique aspect of Vancouver's zoning and development by-law. "Permitted"

uses are those permitted as of right if they are in compliance with the regulations pertaining to that zone. "Conditional" uses would be uses which may be permitted within the discretion of the Director of Planning.*

(5) Council may by by-law provide for the relaxation in all but a restricted class of cases of any provision of a zoning by-law or of a by-law prescribing requirements for buildings, where literal enforcement would result in unnecessary hardship. This can be done by the Director of Planning, unlike under the Municipal Act where it is a matter for the Board of Variance.

(6) Unlike the Municipal Act, the Vancouver Charter does not list criteria which Council must consider in constructing its by-laws.

(7) As under the Municipal Act, there are public hearing, notice and voting requirements.

(iii) The Development Permit System

The development permit system created by Section 565A of the Vancouver Charter is a completely different system than that of the same name created by the Municipal Act. The key provision, Section 565(a), empowers Council to make by-laws "prohibiting any person from undertaking any development without having first obtained a permit therefor." Thus, Council has set up a situation whereby virtually all development whether involving "permitted" or "conditional" uses requires a development permit.

Under Section 565(b), Council may make by-laws "providing that a development permit may be limited in time and subject to conditions, and making it an offence for any person to fail to comply with such conditions." This power enables the City to impose conditions on individual developments in addition to those matters regulated in the zoning by-law. Further, the Act does not specify the types of conditions that may be imposed. Conditions may be imposed on both "permitted" or "outright" uses and "conditional" uses.

Under Section 565(c), Council may make by-laws "providing that no building permit shall be issued until a development permit has first been obtained." As broadly contemplated, development permits govern zoning matters and building permits govern structural or safety matters.

Finally, Section 565(3) empowers Council to establish an application fee schedule for development permits, "which fees may vary according to the value or type of development for which the permit is sought."

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*Note that the adoption of conditional use zoning is precluded within the framework of the Municipal Act.

(v) The Board of Variance

The Board is empowered to determine appeals

- by anyone agrieved by a decision on a question of zoning by any official charged with the enforcement of a zoning by-law
- by anyone who alleges that the enforcement of a zoning by-law with respect to siting, size, shape or design of a building would cause him undue or unnecessary hardship.

However,

- the undue hardship must arise from circumstances applying to the applicant's property only
- allowing the appeal must not disrupt the official development plan, and
- the hardship must be inconsistent with the general intent of the zoning by-law.

(e) The Vancouver By-Laws and Procedures

(i) The Vancouver Zoning and Development By-Law

The effect of the Vancouver Zoning and Development By-Law can be considered by separating it into seven divisions.

Development Permits

The first major division, encompassing Sections 3.2 to Section 6, establishes the development permit system. Council took the breadth of scope offered it by the Vancouver Charter wording. The by-law reads, "No person shall undertake any development; or use or occupy any land on which there has been development since 1956, unless an unexpired development permit has been issued." The sole exceptions are repairs, accessory buildings, and fences.

The Director of Planning and the Development Permit Board are empowered to grant permits conditionally, unconditionally, or limited in time. The Director's discretion is limited by Section 4.3.1. "When the application and development conform to the by-law, the Director of Planning shall issue the development permit." Despite this, under Section 3.3.3, the Director of Planning is not to exercise his discretion where there is a significant effect in terms of environment, traffic, height difference, or heritage merit. Further, Section 3.3.2 provides that development permits can be refused where they will prejudice future subdivisions and where there are public safety effects.

A development permit issued is void if development is not completed within two years, although extensions are allowed where warranted.

Enforcement

The second major division, encompassing the remainder of the provisions in subsections 1 to 8 provide an inspection power; gives effect to the Director's power to relax enforcement in cases of unnecessary hardship; and provides for penalties of $50.00 to $500.00 for each breach (with two months imprisonment in default of payment). Section 7 contains an enforcement provision not found in the Municipal Act--if the

owner refuses to remedy his breach, Council can order it fixed and bill him.

Creation of Zones

The third major division, Section 9, classifies the designates zones.

Siting and Design

The fourth, Section 10, establishes basic siting and design constraints. Most are objective. (Two typical examples:

- Section 10.6.3 - There shall be no development below normal finished grade without Director of Planning approval. Approval criteria are listed.
- Section 10.7 - lists features permitted to project into required yards.)

Section 10 also has one important use constraint:

- Section 10.21 - "No dwelling unit shall be used by more than one family."

General Use Restrictions

The fifth major division, Sections 11 to 14, lists requirements inherent to certain uses wherever they locate (homecraft, churches, schools, hospitals), e.g., Section 12 has a table listing off-street parking and loading requirements. Section 11 lists the required setbacks (yard depth in front of buildings) in various districts.

Comprehensive Development Districts

The sixth major division, Section 11.4, provides for Comprehensive Development Districts. The section provides that development must consistent with the intent of the by-law and any applicable official development plan. The Comprehensive Development District schedule lists the by-laws creating such districts and restricting the issuance of permits to specified uses, regulations, and resolutions of Council.

The Vancouver Zoning and Development By-Law has incorporated into it the by-law creating each Comprehensive Development District. Each of these by-laws incorporates a provision that no development permit shall be issued for individual developments within the district until approval is received from the Development Permit Board. It further provides that the Board in making its decision is to have regard to the specific area development plans adopted by Council after a public hearing.

Also incorporated into the Zoning and Development By-Law are the official development plan by-laws pertaining to each Comprehensive Development District.

District Schedules

The seventh and final division sets out schedules prescribing the development of each zone. There are approximately 25 zones, not including the Comprehensive Development Districts. The major divisions are agriculture, residential (single family, duplex, multiple family of various types), commercial (local, suburban, district, pedestrian), industrial (light, heavy), and historical.

Each schedule contains five sections. First, the "intent" of creating an independent zone of the type created is set out. District RM-3A1, for example, is "to permit medium density residential development, including a variety of multiple-dwelling types." Second, there are "outright approval uses." Third, there are "conditional approval uses." Fourth, there are the regulations, imposed on all uses, whether outright or conditional. The final section provides for the relaxation of specific regulations, which relaxation is conditional on various other siting and design requirements being met.

(ii) The Development Permit Process

The process is as described in the flowchart on the following page (Figure A-I).

Steps:

(1) The application is filed with the Department of Permits and Licences and recorded in the Registry.

(2) It is referred to the Development Permit Group and a plan checker. Copies go

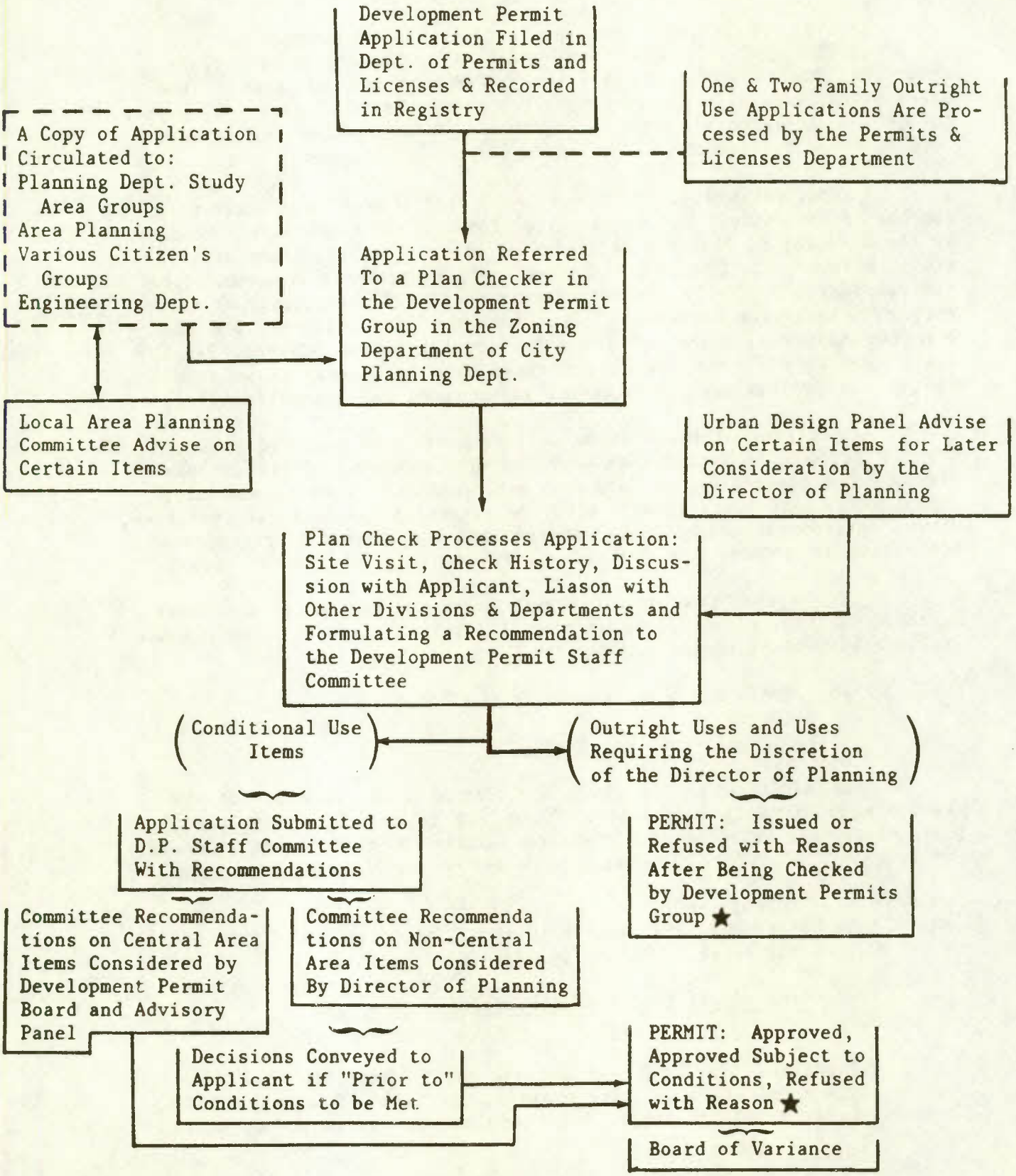
- to the Planning Department,
- to the Local Area Planning Committee, if one exists in the relevant territorial jurisdiction,
- to various citizens' groups, where issues relevant to them are raised,
- to the Engineering Department (approvals might be necessary with respect to building grades, street and lane access, water connection,...),
- to the Building Department.

(3) The plan checker processes the application. This will include

- a site visit,
- discussions with the applicant (to go over the various features of the application, to determine his intentions as to future variations, etc.),
- consideration of the points raised by the bodies referred to in Step (2),
- the Urban Design Panel (a general advisory panel including various city officials, a professional engineer and three architects) advises if the application involves certain items. This report will go to subsequent bodies in the process as well.

FIGURE A-I

Vancouver: Development Permit Process



Note - One- and two-family outright use applications are processed by the Department of Permits and Licenses. Step (2) is bypassed.

(4) Applications involving only outright uses.
The permit is issued or refused with reasons at this stage, after being checked by the Development Permit Group.

(5) Applications involving conditional use items.
The application proceeds onto a development permit staff committee, who considers these items and make recommendations to the Director of Planning. The Director then makes the final decision whether to approve issuance of a permit, refuse it with reasons, or attach further prerequisites in the way of "prior to" conditions.

Applications in the so-called "Central Area" are dealt with somewhat differently. Routine or minor forms of development are handled by the Director of Planning as described above. For all other applications, however, the Development Permit Staff Committee's recommendations are considered by the Development Permit Board (which consists of three city officials--the Director of Planning, the City Engineer, and the Director of Social Planning) and a Development Permit Advisory Panel (which consists of six people appointed by City Council drawn from the design professions, development industries, and general public).

A series of planning guidelines have been approved by City Countil for use in considering Downtown developments. These include planning policies--growth,, land use and density, movement, and urban form; design guidelines--public open space, social and cultural amenities, views, environment, and physical design; and a statement of recommended activities to promote the desired character of 13 "character" areas.

It is the "Development Permit Board who then makes the final decision whether to approve issuance of the permit, refuse it, or approve issuance subject to certain conditions."

(6) There may be an appeal to the Board of Variance.

(iii) Submissions Required
(1) Sketch Plans
In addition to the short application form, detailed sketch plans are required in triplicate. These are to include a site plan, floor plans, and notation of elevations. Scale and content requirements are listed in an information sheet provided by the Planning Department.

(2) Calculations
Two Statements are required with all applications.
- the first is "Floor space ratio," which is the

$$\frac{\text{Area of all floors of the building on a site}}{\text{Area of the site}}$$

Pamphlets list what are and are not included in the floor space calculations. For example, unfinished floors (including bare earth) stairways, halls, chimneys, are included; while

sundecks, balconies, and parking areas are not. The maximum allowable F.S.R. is included in the zoning by-law.

- the application must also include a statement of the number of off-street parking and loading spaces required. These amounts are found in the zoning by-law as explained earlier.

In the new dwellings or additions, two further calculations are required.

- the first is "site coverage" which is

$$\frac{\text{Land covered by buildings}}{\text{Area of lot}}$$

The maximum allowable is included in the zoning by-law.

- the second is "deck area coverage." This includes all sundecks and balconies. The maximum allowable is 0.08 of the F.S.R.

(3) Additional sketches required with respect to major development.

- situation plans
- longitudinal sectional drawings
- detailed landscaping drawings
- details of all fencing.

Each is explained in the informaion sheet.

(4) Additional information required depending on the zone.

Where required by the District Schedules, explanatory drawings must be submitted showing compliance with

- daylight access
- horizontal and vertical light angles
- an height, length, bulk, and width standards

(5) Application fee and processing fee.

The amount is set by the Zoning and Development Fee By-Law. The application fee in virtually all districts is $75.00. Other fees are summarized in Schedule A-IV(a) and (b).

(iv) Central Area

The so-called "Central Area" includes Downtown, the West End, False Creek, Central Broadway, Gastown and Chinatown. These areas encompass virtually all of the Central City where major development has or will occur, or where special problems exist.

As was noted in the "Development Permit Process" section, "Central Area" development permits are processed differently than permits outside the Central Area. As well, the information requirements are different. First, two application formats are available. Complicated development proposals can submit preliminary applications, the function of which is to initiate discussion and determine reaction without the

SCHEDULE A-IV(a)

Vancouver: Development Permit Processing Fee

Type of Document	Fee
1. For a new one- or two-family dwelling and additions thereto where the permit would be issued as an outright use	$ 40.00
1A. For additions to one- or two-family dwellings, relaxations and validations to one- and two-family dwellings and accessory buildings thereto where the permit would be issued conditionally	60.00
2. For a new principal bilding or use, or for an addition to an existing building or use, being in all cases other than a one- or two-family dwelling, apartment, townhouse development:	
(a) where the permit would be issued with condition:	
Each 1,000 square feet of gross floor area or part of gross floor area or part	15.00
Maximum fee	$3,000.00
(b) where the permit would be issued conditionally:	
Each 1,000 square feet or part of gross floor area up to 5,000 square feet	75.00
For each additional 1,000 square feet of gross floor area or part	35.00
Maximum fee	$3,000.00
3. For all parking areas (private), parking areas (public), storage yards, car sales lots, truck gardens, marinas, trailer courts, and other developments which in the opinion of the Director of Planning are similar:	
(a) where the permit would be issued without conditions:	
Each 2,000 square feet or part of site area up to 10,000 square feet	50.00
Each additional 2,000 square feet or part of site area	15.00

SCHEDULE A-IV(a)
(continued)

	Fee
(b) where the permit would be issued conditionally:	
Each 2,000 square feet or part of site area up to 10,000 suqare feet	75.00
Each additional 2,000 square feet or part of site area	35.00
4. For accessory buildings or uses to a principal building or use already existing (being other than a one- or two-family dwelling) for validations and relaxations in cases other than one- and two-family dwellings; for day care, kindergartens, and similar developments and uses as determined by the Director of Planning; and for changes in the use of an existing building, with no additions:	
(a) where the permit would be issued without conditions:	
Each 1,000 square feet or part of gross floor area up to 5,000 square feet	60.00
Maximum fee	375.00
4A. For homecrafts:	
First Permit	60.00
Each renewal where the conditions have not changed	15.00

SCHEDULE A-IV(b)

Vancouver: Rezoning Application

Type of Application	Fee
1. An application to amend the text of the Zoning By-Law	75.00
2. An application to amend the zoning district plan (Schedule D) of the Zoning and Development By-Law	
Up to 50,000 square feet of land area	75.00
For each additional 1,000 sqaure feet of land area, of part thereof	4.00

need for preparing a complete and detailed set of drawings and information. The preliminary application, therefore, requires only sufficient information to enable the proposal to be understood and evaluated. Pamphlets outline certain minimum requirements (size and location of yards and setbacks, line drawings showing size and use of each floor), but the clear emphasis is on line drawings and written explanatory statements. Written explanations of how the proposal is reconciled with the Zoning By-Law, Official Development Plan and the design guidelines are encouraged.

The complete application involves all the information described in (1) - (5) above. As is the case outside the Central Area, all of the information must be shown on the required drawings and submitted at the time the development permit application if filed.

Second, only in the Central Area are large major development proposals required to submit

- an analysis of sun, shade, and shadow effects on adjoining properties and streets,
- an analysis of the effect on existing view corridors,
- an architectural model to demonstrate massing and appearance, and
- an analysis of wind changes

Third, where the permit application is for office buildings in the Downtown district, a written statement giving specific reasons why the development must be located in the Downtown district to be included.

Finally, Central Area development permit applications must be accompanied by six, not three, copies of the sketch plans.

The City may require applicants to notify surrounding property owners and tenants of the development proposal, or to place signs and ads. The public can make representations at meetings of the Development Permit Board.

(v) Rezoning

The procedure for rezoning and amendments to the Zoning Development By-Law is as illustrated in the flowchart on the following page (see Figure A-IV).

Steps:

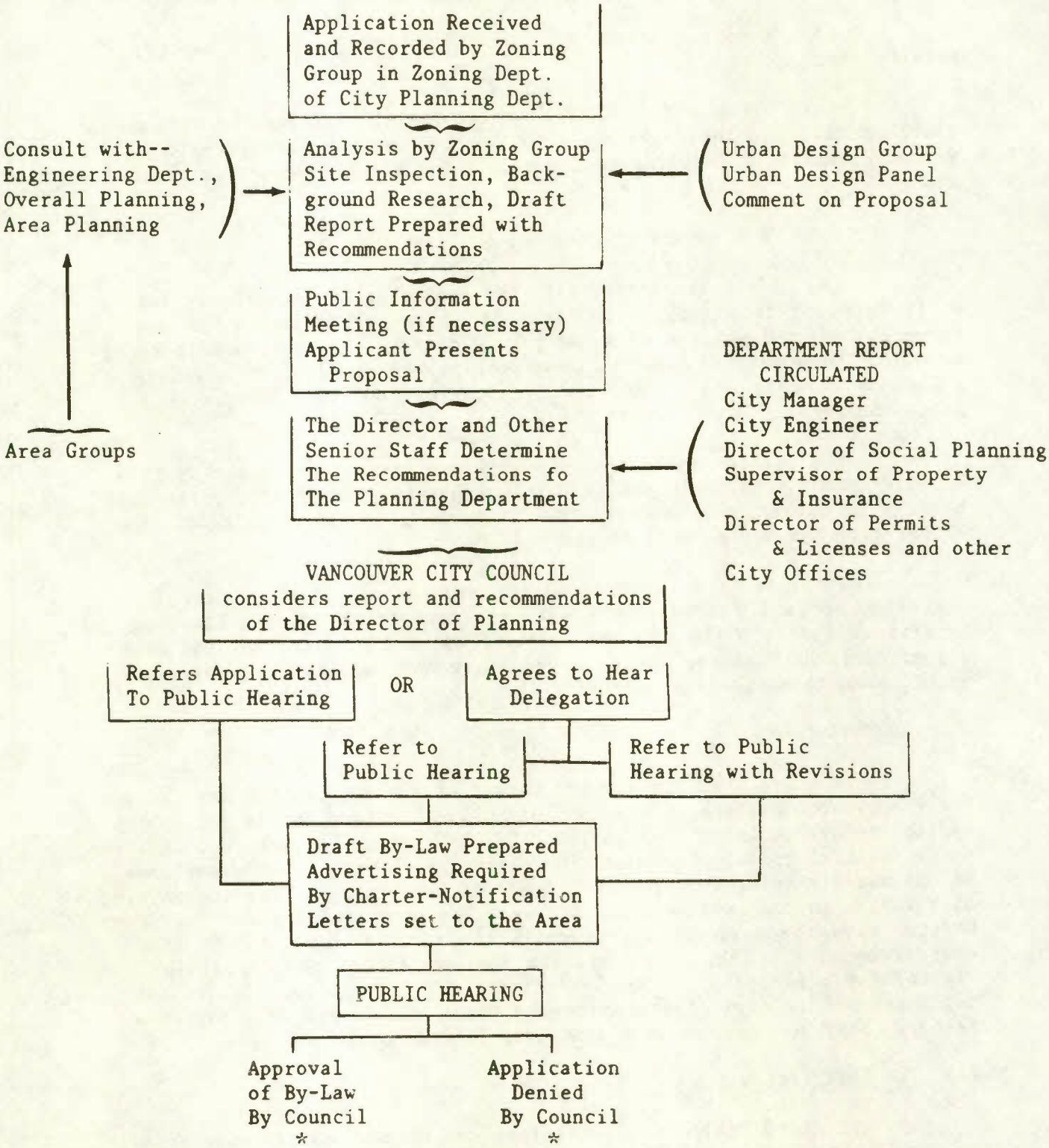
(1) The application is received and recorded. The City's application form is a simple one-page document.

(2) The Zoning Group analyzes the application, on the basis of

- background research,
- inspection of the site,
- comments from the Urban Design Panel,
- consultation with the Engineering Department,

FIGURE A-IV

Vancouver: Rezoning Process



- consultation with relevant sections within the Planning Department, and
- consultation with the Area Group, if there is one in the area in question.

The Zoning Group drafts a report making recommendations.

(3) A public information meeting is held if the matters warrant one.

(4) The Direct and other senior staff determine the recommendations of the Planning Department. A draft report is circulated to the various sections. Adjustments are made until a final report is arrived at.

(5) This report is consider by City Council.

(6) If it is receptive to the application, Council may immediately refer it to a public hearing. If it has reservations, it may agree to hear delegations from the public or from the applicant in order to clear them up. If Council then decides the application warrants going further, it will refer the application and draft by-law to a public hearing.

(7) After the hearing, Council may either reject the application, consider a variation of it (in which case a new draft by-law will have to be submitted to anouther public hearing) or approve it. In the latter case the by-law will be enacted.

Submissions will be required from the applicant at Step (2). What they are will vary largely with the receptivity of the Planning Department and with the type of change requested. Of course, the more significant the change, the more voluntary submissions the applicant should make to marshall support for it.

SUBDIVISIONS

Four statutes provide the thrust of the legislation regulations the subdivision process in British Columbia. The Land Titles Act, which applies to all jurisdictions in the Province, sets conditions and requirements for the deposit of subdivision plans. With very minor exceptions, no one may divide or consolidate parcels of land without first depositing such a plan in the Land Registry Office. The Municipal Act and Vancouver Charter give the various City Councils the right to pass subdivision control by-laws. They also regulate the actions of the "Approving Officers" provided for in the Land Titles Act. The Strata Titles Act regulates subdivision of real property where common property may be a factor. This act applies to all municipalities in the province.

(a) The Land Titles Act

The Land Titles Act provisions can be most easily understood by considering them under six separate headings.

Framework

The essential framework is established by Sections 73, 74, 83, 91, 111 and 112.

- Section 73 establishes that "no person shall subdivide land into smaller parcels than those of which he is the owner" except on compliance with Land Title Act provisions. There are minor exceptions - the section does not apply to the leasing of a building, or to the leasing of land for a period of less than three years.
- Under Section 74, a new parcel created by subdivision "shall be defined by" a subdivision plan. Again, there are minor exceptions.
- Under Section 83, "The subdivision plan shall be tendered for examination and approval by the Approving Officer."
- Under Section 91, "no subdivision plan shall be deposited by the Registrar unless it has first been approved by the Approving Officer."
- Finally, under Sections 111 and 112, where someone sells a parcel for which no plan has been tendered, the unwitting transferee may rescind his contract and get his money back. Further, a transferee can demand deposit of the plan. The subdivider is subject to $500.00 per month penalty for each month thereafter until a plan is deposited.

Approving Authorities

The municipality is to appoint the "Approving Officer," selecting from among "the Municipal Engineer, Chief Planning Officer, or some other employee of the municipality."

Another authority is introduced through the provision that the Approving Officer is not to give his approval with respect to land that is subject to flooding unless he has the prior consent of the Deputy Minister of the Environment.

By Section 90, the Lieutenant Governor in Council may order the Registrar not to receive a plan for deposit where he feels it is against the public interest.

Approval Criteria

The submissions required--the subdivision plan, an examination fee (set by Provincial regulation), and a certificate that all taxes and assessments have been paid--are listed in Section 83. Where more than three months have passed since the survey, the surveyor may be required to certify that he has inspected his work.

The Approving Officer is given wide discretion in his decision whether to approve subdivision plans. Under Section 86(2), he "may," but need not, refuse approval if he considers that:

- it would injuriously affect established amenities,
- it does not comply with access or highway allowance provisions,
- the land has inadequate drainage or is subject to land slip,
- the anticipated development would adversely affect the natural environment, or
- the cost to the Province of providing public utilities would be excessive.

Under Section 87, he "may" refuse his approval if he feels the subdivision does not conform to the Municipal Act or to municipal or regional district by-laws.

Finally, under Section 86(1), he may even withhold his approval if he feels that deposit of the plan would be against the public interest.

The breadth of these provisions is particularly significant in view of the B.C. Supreme Court decision in Re: Gray v. The City of Vancouver (1977). There it was held that the decision of the Approving Officer would only be reversed where he acted in bad faith or in a discriminatory fashion between applicants for subdivision in the same area. If this Land Registry Act interpretation is carried forward to the Land Titles Act (and there is no reason to expect that it would not be), the subdivider's right of appeal to the Supreme Court is of less significance.

Nevertheless, a good measure of protection from arbitrariness does flow from the fact that under Section 85(2) an Approving Officer who rejects a subdivision plan must give his reasons and requirements.

Mandatory Requirements in Plotting the Subdivision

The extent to which the Section 75 requirements are mandatory is by no means clear. Section 75(1) states that "a subdivision shall comply with the following": Various access requirements are listed. Despite this, Section 86, as noted earlier, seems to render these factors a mere matter of Approving Officer's discretion.

Form

Form requirements--scale, document size and material, number of copies, etc.--are established in Sections 58 to 72.

Deposit of Subdivisions Plans

Before the Registrar can deposit a subdivision plan, various prerequisites must be satisfied. These include:

(1) approval by the the Approving Officer,
(2) title to all lands being subdivided is already on the Register,
(3) the Registrar is satisfied that no confusion as to the title of parcels will result,

(4) all owners whose interests are affected have signed,
(5) no certificate of title contains more than five parcels,
(6) where the measurements on the plan conflict with those on the register, the Registrar may either reject or correct the plan.

(b) The Municipal Act Subdivision Provisions

Section 711(1) of the Municipal Act provides that "Council may regulate the subdivision of land and for that purpose may by by-law.

(a) regulate the area, shape, and dimensions of parcels of land and the dimensions, locations, alignment, and gradient of highways in connection with the subdivision of land, and may make different regulations for different uses and for different zones of the municipality;
(b) prescribe minimum standards with respect to the matters contained in clauses (a) and (d);
(c) require that a proposed subdivision
  (i) be suited to the configuration of the land being subdivided; and
  (ii) be suited to the use to which it is intended; and
  (iii) shall not make impracticable the future subdivision of the land within the proposed subdivision or of any adjacent land;
(d) require that the highways within the subdivision be cleared, drained, and surfaced to a prescribed standard, including the construction of sidewalks and boulevards and the installation of street lighting and underground wiring, and may prescribe different standards, provisions, and uses in different zones of the municipality;
(e) where the municipality has a sewage-disposal system, require that a sewage-collection system be provided in accordance with standards set out in the by-law, make provision for the connection of the system with the established sewage-disposal system of the municipality, and provide that the lands included in the subdivisions shall be exempt form, but only from, the charges imposed in the municipality for works of a like nature for a period of time calculated to be sufficient to amortize the actual cost of the collection system computed at an interest rate not exceeding four per cent per annum; but if the municipality requires that any main of such collection system be of a diameter in excess of that required to service the subdivision, the municipality shall assume and pay the cost of providing the excess capacity;
(f) require that the subdivision be provided with a community water supply system, or that it be connected to an existing system, or that each parcel in the subdivision have a proven source of potable ground water.

Additional relevant subsections of Section 711 which are noted in full follow:

(4) The Approving Officer may refuse to approve a subdivision plan if he is of the opinion that the cost to the municipality of providing public utilities or other municipal works or services would be excessive.

(5) Notwithstanding clause (e) of subsection (1), in addition to any other powers exercisable or exercised under this Act, the Council may be by-law required that where the nearest boundary of any land proposed to be subdivided is two thousand feet or more in distance, or such greater distance specified in the by-law, from an established trunk water-main or a trunk sanitary sewer, or both, provision be made by the owner of the land for the installation of water-mains or sanitary sewers, or both, including trunk water-mains or trunk sanitary sewers, or both, for such established trunk water-main or trunk sanitary sewer, or both, in and to the proposed subdivision, according to minimum standards prescribed in the by-law.

(6) A by-law under subsection (5) may provide for the sharing of the cost, of any portion thereof, of any trunk water-main or trunk sanitary sewer, or both, between the municipality and the owner of the land proposed to be subdivided.

The specifications of parcel characteristics that Council has the right to regulate, are to a large extent, identical to those listed for the Vancouver Charter (see Section IIe). The statutory powers given to Council with respect to "streets" in the Vancouver Charter are given with respect to "highways" in the Municipal Act. The Approving Officer is instructed to give due regard to the official community plan in the Municipal Act. There is no equivalent provision in the Vancouver Charter.

The Municipal Act gives the Approving Officer, not Council, the right to require the dedication of land for public open space. This right is not restricted, as it is under the Vancouver Charter, by any minimum parcel size. On the other hand, there is a maximum as to the amount of land the municipality can insist upon having dedicated: 5%.

There are a number of Municipal Act provisions for which the Vancouver Charter has no counterpart. The Municipal Act specifically empowers Council to charge an administration fee of $25.00 for the first parcel and $10.00 for each thereafter. (The Vancouver Subdivision By-Law includes this charge in any event.) The Municipal Act empowers Council to prescribe frontage requirements beyond the statutory minimum and to exempt subdividers from statutory or by-law frontage specifications. Special provisions are set up governing the subdivision of a parcel to create a residence for a relative.

(c) <u>The Surrey Subdivision Control System</u>

The Surrey Subdivision By-Law is straightforward. The only elements of discretion in it are the sections establishing the grounds for which the Approving Officer can withhold subdivision approval. Other than that, the by-law is simply a series of mandatory requirements, with standards specified for each zone in various schedules.

Examples:

Section 6(a)	The owner shall provide concrete sidewalks...
Section 8(A)	The owner shall install street lighting...
Section 9	The owner shall supply each parcel with a water supply system constructed in accordance with standards...
Section 13(a)	Minimum area, depth, and width of a parcel created by subdivision in each zone.

The Schedule, of course, is not as simple or as rigid as all this might indicate. All of these items were seen to be negotiable in the land use contract. The need for flexibility in the subdivision by-law was thus eliminated.

(d) The Coquitlam Subdivions Control System

(i) The Coquitlam Subdivision By-Law

Flexibility is built into the Coquitlam subdivision by-law; it is not a mere list of required amenities.

The Coquitlam by-law has four basic types of provisions. First, there are features required of all subdivisions. Second, there are submissions and features that are to be supplied where Council or the Approving Officer demand them. Third, there are grounds upon which the Approving Officer may withhold approval. Finally, there are grounds upon which the Approving Officer shall withhold approval.

The first category involves mostly shape, siting, and access requirements. One section sets minimum area, depth, and width for parcels in each zone. Another provides maximum dimensions for streets. There is a section requiring necessary and reasonable access, and another prescribing the minimum frontage on highways.

The second category, features that may or may not be insisted upon, deal mainly with municipal works and services. They are all formulated in the same general way: "Every private subdivision which, in the opinion of Council, merits connection to [the particular municipal service], shall be provided, at no extra expense to the municipality, with a complete and fully operative system." Individual sections deal with waterworks, sanitary sewers, street lighting, and underground wiring.

There are also submissions that may be required by the Approving Officer Where the nature of the property is difficult to assess, the Approving Officer is entitled to insist upon a topographical survey, spot elevations, and professional engineer's reports on such issues as the extent and frequency of flooding or the effect development will have on soil stability. Where adjoining properties may be prejudiced by the development, the Approving Officer is entitled to insist that the subdivider produce evidence that he has notified the owner of those lands.

The third category, grounds upon which the Approving Officer may, but need not, withhold approval includes the following. Approval may be withheld if "cost to the municipality of producing municipal works would be excessive." As well, the Approving Officer is empowered to refuse approval where the subdivision contains land which is subject to erosion or which may slip when developed; which would injuriously affect the established amenities of adjoining or adjacent properties; or which would be against the public interest.

Two sections describe grounds upon which the Approving Officer must refuse his approval. First, there is Section 17, which sets up a submission requirement. "The Approving Officer shall not grant final approval until a plot plan, as prepared by a B.C. Land Surveyor showing the exact location and dimensions of all structures, has been submitted." Second, there is Section 5, which sets up the general rejection grounds--unsuitability of configuration, unsuitablity to use, and impracticability of future subdivision. There is a fourth heading in this section which says that "the Approving Officer shall not approve any scheme which does not conform to the by-laws of the municipality regulating the subdivision of land."

(ii) The Subdivision Control Process

As is the case under the Vancouver Charter, there is a two-stage approval process. Every subdivision must receive preliminary approval from what is called the "Subdivision Committee." This Committee receives the application, checks it against the subdivision by-law, the zoning by-law, and the Land Titles Act. Within 30 days of the applications, the Committee must either approve it or reject it with reasons.

(iii) Submissions Required

Every application for preliminary approval is to be made on the prescribed form at the Planning Department. This is to be accompanied by

- a sketch or plan of the parcel being subdivided, showing clearly the proposed method of subdivision and the location and dimensions of all structures,
- a statement of the use intended for the land,
- an examination fee of $200.00, and
- an administration fee of $25.00 for the first parcel to be created by the proposed subdivision, and $10.00 for each additional parcel.

Further submissions may be required by the Approving Officer, as discussed earlier, where the nature of the property is difficult to assess or where adjoining properties may be prejudiced.

(e) The Vancouver Charter Subdivisions Provisions

The power of the City of Vancouver to control subdivision is conveyed by Section 292 of the Vancouver Charter. Three general issues are dealt with.

First, the section specifies various parcel characteristics that Council is to have the right to regulate. These include

- the area, shape, and dimensions of parcels and the location of streets. Different regulations can be established for different uses and zones.
- standards to which streets are to be cleared, graded, etc.,
- standards to which water distribution systems, sanitary sewage collection systems, and storm water collection systems are to be provided; and
- the underground installation of cables.

Second, Council is empowered to make by-laws providing that where a parcel exceeding twenty acres is subdivided, land must be dedicated for public open space. Size and location is left to be determined by the Approving Officer. Council is given the discretion to accept money in lieu.

The services above are to be provided at the owner's expense, save where the City demands water or sewage systems having a capacity in excess of that required by the subdivision itself.

The section also establishes general grounds for withholding subdivision approval. The City is empowered to make by-laws that the subdivision

- be suited to the configuration of the land,
- be suited to the use for which it is intended, and
- not make impracticable future subdivision of the land or of land adjoining.

(f) Vancouver By-Laws and Procedures

(i) The Vancouver Subdivision By-Law

The by-law itself follows very closely the Land Titles Act and Vancouver Charter provisions. Its sections are framed in much the same terms, with the widest possible discretion being taken.

The first few sections prescribe the role the Approving Officer is to take. The Director of Planning, who is selected for the role, is told not to consider approving an application until all requirements of the by-law are fulfilled. He is to either reject or approve every application within 60 days. Where he does not, the application is deemed to be rejected, so as to enable the applicant to appeal to the B.C. Supreme Court without delay. The sections also empower the Director to insist upon notification of neighbors where they may be detrimentally affected.

Section 52 sets out submissions requirements. Two application systems are provided for. The first, the "preliminary proposal," requires

- a non-refundable fee of $25.00 plus $10.00 for each parcel proposed to be created,

- a full legal description of every parcel proposed,
- a sketch plan showing approximate dimensions, as well as streets, lanes, and buildings, existing and proposed.
- a statement of the proposed method of subdivision, and
- a statement of the use intended.

The actual "application for approval: is much the same. The only real difference is that the Approving Officer may insist on a plan prepared by a registered land surveyor, instead of a simple sketch. This is in fact the usual practice where existing buildings or uses are intended to remain. The legal effects of the two are also, of course, quite different. Acceptance or rejection of a preliminary proposal may be revoked by the Approving Officer at any time.

Section 9 establishes minimum standards. The mandatory requirements include minimum parcel width, area, and street abutment length. A number of other matters are dealt with on the basis that the Approving Officer "may refuse to approve the subdivision if in his opinion (the provisions) are inadequate or do not comply with the by-law." These include parking and loading facility lane access, yards, setbacks, open space, and service and utility connections.

Section 10 regulates streets and lanes. Two types of provisions are evident. The first is of the traditional type outlined above: The Approving Officer may refuse to approve a subdivision if, in his opinion, the proposed street or lane system is unsuitable or insufficient." The second are positive obligations formulated as conditions precedent. Under these "the applicant shall, unless excepted by the City Engineer, as a condition precedent to the approval of the plan." Examples from the Vancouver Subdivision By-Law are removal of structures encroaching on new streets, furnishing a street crossing over a railway right-of-way, and clearing, grading, draining, and surfacing of streets. The sections indicate that entering into an agreement with the City to do these things will be sufficient performance of the condition precedent.

Section 11 regulates works and services. For the most part, these are set up as conditions precedent. Examples are underground installation of cables, sanitary sewage collection systems, etc. This is all to be done at the owner's expense.

The final section provides for public land conveyance. Section 12.1.1 provides that the land dedicated is not to exceed ten percent of the land in the subdivision.

(ii) The Subdivision Control Process

The process is summarized along with the strata title application process in Figure A-III. The application, which is to include all the submissions listed earlier, goes to the Director of Planning. The Director checks the plan for compliance with the subdivision by-law standards. He inspects the site and discusses with the applicant the various positive obligations. Planning studies, if any, and recommendations by the Area Planning Groups are considered. The Engineering Department analyzes the submissions and the site for compliance with engineering standards.

All of this will lead to either refusal with reasons and perhaps suggested improvements for approval, preliminary approval with conditions, or final approval.

(g) Strata Titles

The Strata Titles Act regulates the subdivision of buildings into separate legal parcels and also makes some provision for the subdivision of bare land. The Act was primarily designed to permit subdivision of multi-unit buildings into legally separate units. There is provision for approval at the municipal level of both conversions or previously occupied buildings and of new phased developments. All municipalities in British Columbia, including Vancouver, Coquitlam and Surrey, are regulated in this way.

Municipal Councils play a very large role in the approval of conversions. Under Section 5 of the Strata Titles Act, Council may approve the development, refuse to approve it, or subject it to such terms and conditions as they consider appropriate. They may consider any matters they feel are relevant. The Act "suggests" they consider priority of rental accommodation, proposals for relocation of current occupants, and the life expectancy of the building.

The Approving Officer has a similar, but narrower, role to play in the approval of phased developments. He must approve the application before buildings can be constructed and his approval is mandatory if the conditions of approval have been met. Under Section 4(1), he "shall issue a certificate of approval." Under Section 4(3), he shall not do so unless the requirements in the "Plan of Phased Development" are substantially compiled with.

The Approving Officer is given an apparently wide discretion in various restricted circumstances. He must be of the opinion that a lot involving separate parcels "will result in a stable, functioning development." He can establish "such construction requirements as he considers necessary or advisable" in these cases. Where the owner/developer wishes to delay his election whether to proceed with the next stage of the development, the Approving Officer is given authority to extend it for up to one year.

The procedure and submissions required with strata title applications in the City of Vancouver are straightforward and are exemplary of that which is required in other municipalities. The subdivision and strata title application process in Vancouver is summarized in Schedule A-III.

III. Buildings and Construction

(a) General

In addition to laws governing zoning, development, and subdivision, there are laws regulating the construction and maintenance of buildings. The Municipal Act and the Vancouver Charter contain provisions giving Councils the power to regulate building "the the health, safety, and protection of persons and property." As well, Councils are given the power to regulate the installation of plumbing, heating, gas and oil

Figure A-III

Vancouver: Subdivision and Strata Title Approval

Application of Sub-division Group in Zoning Department of City Planning Department

Sub-division Control Process

Applicable Regulations

1. Sub-division Control By-Law #3334
2. Land Registry Act (S.B.C)
3. Plan Cancellation Act (S.B.C)

Approving Authority

Director of Planning

Procedure:

Application made to Director of Planning: Letter, Site Plan Fee.

Processing, Check & Clearances

Compliance with Relevant By-Laws
Consultations with Applicants
Site Inspection
Engineering Requirements
Planning Studies & Area Planning

Decisions

Preliminary Approval with Conditions
Refusal with Reasons
Suggested Improvements for Approval
Final Approval

Strata Title Application Process

Applicable Regulations

1. Strata Titles Act (S.B.C.)
2. Strata Titles Regulations (Vancouver City)

Approving Authority

1. City Council for Conversions
2. Approving Officer for Phased Construction

Procedure:

Phased Construction
Applicant submits

(a) Strata Plan
(b) Copy of Form 'E' - declaration of intention to create a Strata Plan by phased development
(c) Approving Officer issues form #10 approval if application complies with Development Permit plans already approved by City.

Conversion

Applicant submits:

(a) Prospectus
(b) Consultant's declaration on state of building
(c) Proof of 90% tenant request for conversion, % occupancy and conversion notice to tenants
(d) Tenant relocation fee: $50 per site

Subdivision staff check application for:

(a) Content, omissions & errors
(b) City building inspectors report on suitability of building for conversions and upgrading work.

Information report to City Council by the Director of Planning

If approved by Council, Approving Officer issues Certificate of Approval upon compliance with any conditions.

and other services in buildings. Other statutes such as the Health Act and the Fire Marshall's Act contain provisions with respect to their relative areas of concern. These areas of regulation are not meant to be the concern of this study. The imposition of building and construction standards regarding safety and health is an area of regulation quite distinct from the regulation of land use where the resolution of market imperfections and offsetting the costs of new development are the main objectives. As a consequence, a separate study of building codes is being undertaken (Silver, 1979). However, the issuance of a building permit remains the final step in many land use approval procedures. Hence, a brief review of this component of the process follows.

(b) Building Code

Municipal councils, may rather than prepare a set of specific by-laws regulating building, adopt the National Building Code of Canada or other official standards such as the Canadian Electrical Code, the National Fire Code or the standards of the Canadian Gas Association. However, the Municipal Act empowers the Minister to establish by regulation the building code for the province. The provice has adopted most of the National Building Code of Canada and has established the British Columbia Plumbing Code. The Municipal Act further empowers the Minister to establish a Building Code Appeal Board consisting of one or more members appointed by the Minister. The Board is meant to adjudicate disputes regarding the incorporation or application of the provincial code.

The Municipal Act does not apply to the City of Vancouver. However, the Vancouver Charter permits the City to adopt the National Building Code of Canada and other official standards.

(c) Building and Other Construction Permits

Building, electrical, gas-fitting, license and plumbing permits are the local governmnet's means of ensuring that a structure conforms to local by-laws (.e.g, the building codes). Typically, the developer must submit his plans to a municipal inspector who will only issue the relevant permit if the local regulations have been followed. The Municipal Act and the Vancouver Charter simply authorize local Council to require by by-law that the owners or contractors obtain a valid permit from the Council or an authorized official (inspector). Examples of such by-laws enacted by the City of Vancouver are included in Schedule A-V.

Council may prescribe the conditions regarding the issuance and validity of the permits. However, a municipality is required to issue a permit if the development is in compliance with local by-laws. This is the case for municipalities within the jurisdiction of the Municipal Act and the City of Vancouver. As noted previously, the by-laws which may be encated cover a broad range including

- Building
- Electrical
- Fire
- Gas-fitting
- Health
- License
- Plumbing
- Standards of Maintenance
- Waterworks

Schedule A-V

Vancouver: Permits and Approvals Required

Electrical	Section 13	- "It shall be unlawful for any person to cause connection of any electrical work to any source of electrical energy until a current permit is is obtained authorizing it."
	Section 15	- "Before any person constructs or installs any electrical works, he shall first obtain a permit." Upon completion, but before covering up, he must notify City Electrician, who shall inspect."
Gas-Fitting	Section 3	- "Before any person commences to install or alter, he shall get a permit issued by the Inspector."
License	Section 3	- "Any person carrying on any business shall hold an operating license from the City for each of his premises. Every person applying shall pay a fee.
Plumbing	Section 1.4.1	- "No connection shall be made with any sewer and no contruction of a plumbing system shall be started until a permit has been obtained."
	Section1.4.13	- "No person except by permission of the City Engineer shall excavate any portion of the street for the purpose of connecting a sewer."

The format is virtually the same for all of them. First, there are a series of compulsory standards. These set out pipe gauge, number of washroom basins, number and location of fire escapes, wiring gauge, connectors to be used, etc. Next, an approval scheme is set out. Here, an Inspector is given the task of determining whether the standards have been compiled with. The schemes for Vancouver convey varying degrees of discretion, as indicated in Schedule A-VI. Each by-law also conveys to the Instpector the right to enter a building at any reasonable time to determine whether the premises comply. Finally, each by-law sets out penalties for non-compliance. These are virtually all in the $50.00-$500.00 per offense range, with a $50.00 per day maximum for continuous offenses.

The Standards of Maintenance By-Law contains a special provision that "failure to remedy any default specified in an order with 60 days will result in the work being carried out by the City at the expense of the owner."

In the City of Vancouver, Pamphlets put out by the Department of Permits and Licenses note that inspections are required at the following stages in each of the following categories:

Schedule A-VI

Vancouver: Discretion Given Inspector by Municipal By-Laws

Electrial	Section 9 -	"Where City Electrican is of the opinion that any electrical works installed or used are for any reason dangerous, he may order discontinuance or repairs."
	Section 14 -	"City Electrician can refuse according to his discretion to issue a permit where wiring is not in accordance with the by-law."
Fire	Section 8 -	"Occupant shall keep building in safe condition satisfactory to Fire Warden."
	Section 236 -	Whenever any building is in hazardous condition, the Fire Chief may lodge a protest with the License Inspector. It shall state the time and remedy requested. Not carrying out shall be deemed to be good cause for revocation."
Gas-Fitting	Section 7 -	"Inspector may at any time cancel permit. He shall be sole judge of the number of inspections necessary."
Health	Section 5 -	"If the Medical Health Officer decides it has become dangerous to health, he can give a notice to quit the premises or to put them in proper condition."
License	Section 4 -	"On receipt of application, the Inspector shall ascertain whether applicant is a fit and proper person to hold such license. If he refuses there there is a right of appeal to Council."
Plumbing	Section 1.3.2-	"Plumbing Inspector shall at all times be subject to the control of the Building Inspector."
	Section 1.3.3-	"Plumbing Inspector has authority to direct immediate suspension or correction of all of plumbing, whenever not being performed in accordance with by-law.
	Section 1.4.5-	"Applications shall be accompanied by such plans and specifications as may be required by the Inspector."
	Section 1.4.7-	"Where existing building physical condition makes it necessary to deviate from the regulations, the Inspector may permit variance if the Building Inspector and the Medical Health Officer approve."

Building:	-	when foundation forms are ready for concrete
	-	all framing
	-	chimney and heating installations
Plumbing:	-	sewer and drain tile
Gas:	-	prior to covering any piping, for pressure testing and also when fixtures are set and installed
Electrical:	-	prior to covering, wiring; during and when job is completed.

For brevity, the previous discussion and examples have been oriented toward the situation in the City of Vancouver. As noted, the building code and related local permits are not the focus of this study. It is, however, important to reemphasize that building permits cannot be withheld if local by-laws are met by the development in question. Further, the procedure with respect to the issuance of such permits is not signficantly different in other municipalities. To provide the reader with further insight, Schedules A-VII(a) through (c) relate the building fee schedules for Vancouver, Coquitlam, and Surrey.

Schedule A-VII(a)

Vancouver: Building Fees

Value of Building (Construction)	Fee
$ 1 - 500	$ 6.00
501 - 1,000	10.00
1,001 - 15,000	$10 plus $5/1,000 or portion thereof by which the cost of work exceeds $1,000.
15,001 - 50,000	$80 plus $3.50/1,000 or portion thereof by which the cost of work exceeds $15,000.
50,001 and over	$202.50 plus $2/1,000 or portion thereof by which the cost of work exceeds $50,000.

Schedule A-VII(b)

Coquitlam: Building Permit Fees

Value of Building (Construction)	Permit Fee (Per $1,000 or part thereof of building value
0 - $ 5,000	$7.50/M (min. Fee $10.00)
5,001 - $ 20,000	$6.00/M, plus a base amount of $7.50
20,001 - $ 50,000	$4.00/M, plus a base amount of $47.50

Schedule A-VII(b)
(continued)

Coquitlam: Building Permit Fees

Value of Building (Construction)	Permit Fee (Per $1,000 or part thereof of building value
50,001 - $500,000	$3.00/M, plus a base amount of $97.50
500,001 and over	$2.00/M, plus a base amount of $597.50

Schedule A-VII(c)

Surrey: Building Permit Fees

Value of Building (Construction)	Fee
0 - $ 1,000	$5
1,001 - $ 50,000	$5 plus $4/1,000 or portion thereof by which cost of work exceeds $1,000.
50,001 - $500,000	$201 plus $3/1,000 or portion thereof by which cost of work exceeds $50,000.
500,001 - and over	$1,551 plus $2/1,000 or portion thereof by which cost of work exceeds $500,000.

Appendix C:

Summary of Case Analyses and Additional Data

1. Summary of Individual Cases

The following three tables summarize the data from the analyses of the thirteen cases.

Table C-I (Surrey)

(i) Spacemaster

(ii) Wood/Royal

(iii) Digital

(iv) Broken Rod

(v) Southern Comfort

Table C-II (Coquitlam)

(i) a. Green Beret/Marion Morrison

b. Green Beret/Marion Morrison

(ii) a. Wooley/Quick

b. Wooley/Quick

(iii) Redwall

Table C-III (Vancouver)

(i) Lamare

(ii) Clearisil

(iii) Stave/Jammer

Table C-I, Surrey	(i)	(ii)	(iii)	(iv)	(v)
Developer	Spacemaster	Wood/Royal	Digital	Broken Rod	Southern Comfort
Description of Project	Compact Lot Subdivision/Unit Construction	Townhouse MURB/ARP	Townhouse MURB/ARP	Large Lot Subdivision (P.U.D.)	Apartment/ Condominium For Seniors
# of units/lots	36 lots	251 units	276 units	16 lots	54 lots
Description of Site	5.8 acres (2 parcels)	19.9 acres (10.5 acre open space)	46 acres (16.5 acre park, 3.5 acre dedication)	16 acres (4.6 acres dedicated)	1.61 acres 70,194 sq. ft.
Gross Density*	6.2/acre	26.7/acre	10.6/acre	1.4/acre	33.5/acre
Original Zoning	RS-1	RS	Agricultural, Public (Golf Course)	RS	RS
Steps Involved	Land Use Contract - Servicing - Subdivision - Development Approval	Land Use Contract - Servicing - Strata Title - Development Approval	Land Use Contract - Servicing - Strata Title - Development Approval	Land Use Contract - Servicing - Subdivision - Development Approval	Land Use Contract - Servicing - Strata Title - Development Approval
Actual Duration	39 months	33 months	40 months	45 months	51 months
Estimated Delay	15 months	7 months	7 months	22 months	9 months
Direct Costs					
· Imposts	59,500	488,195	451,520	19,045	102,185
· Letters of Credit	988	529	3,298	148	412
· Misc./Apps.	16,941	86,425	68,280	9,039	14,176
· Permits	13,200	32,630	36,015	-	Not available
Indirect Costs					
· Carrying costs	51,113	16,747	99,717	40,901	9,110
· Misc.	1,000	-	-	-	-
Total Direct & Indirect Costs Less Building Permits Per Unit	3,598	2,358	2,256	4,321	2,328

*Gross Density (Net of open space or parkland)

Table C-II: Coquitlam	(i)a	(i)b	(ii)a	(ii)b	(iii)
Developer	Green Beret /	Marion Morrison	Wooley /	Quick	Redwall
Description of Project	Subdivision Compact Lot	Subdivision Compact Lot	Apartment Bldg. ARP/MURB	Apartment Bldg. ARP/MURB	Small Lot Subdivision
# of units/lots	17 unit	6 unit	60 units	41 units	252 lots
Description of Site	2 acres	1.125 acres	1.106 acres	.642 acres	48.72 acres (14.66 dedicated)
Gross Density*	8.5/acre	5.33/acre	54.2/acre	63.9/acre	7.4/acre
Original Zoning	RS-2	RS-2	RT-1	RT-1	RS-2
Steps Involved	Rezoning (RS-4) Subdivision Servicing Design Control Agreement	Rezoning (RS-4) Subdivision Servicing Design Control Agreement	Rezoning (RM-2) Strata Title Servicing (on site) Development Permit	Rezoning (RM-2) Strata Title Servicing (on site) Development Permit	Rezoning (RS-4) Subdivision Servicing Design Control Development Permit
Actual Duration	28 months	8 months	26 months	8 months	51 months
Estimated Delay	12 months	0 months	5 months	0 months	33 months
Direct Costs					
· Dev. Cost Charges	10,200	3,600	36,000	24,600	151,200
· Letters of Credit	-	-	599	275	-
· Misc./Apps. Fees	427	284	11,460	7,804	31,370
· Permits	-	272	5,877	5,271	-
Indirect Costs					
· Carrying costs	8,125	-	3,225	-	196,833
· Misc.	-	1,500	-	-	-
Total Direct & Indirect Costs Less Building Permits Per Unit	1,103	898	855	797	1,506

*Gross Density (Net of open space or parkland)

Table C-III: Vancouver

	(i)	(ii)	(iii)
Developer	Lamare	Clearisil	Stave/Jammer
Description of Project	Apartment Condominium	Rental Apartment	Apartment Condominium
# of units/lots	31	48	28
Description of Site	.41 acres 17,850 sq. ft.	1.18 acres 52,400 sq. ft.	6.2 acres 27,000 sq. ft.
Gross Density	75.8/acre	40.7/acre	45.2/acre
Original Zoning	RM-3A1	RS-1	RT-2/RS-1
Steps Involved	Strata Title Development Approval	Rezoning (CD-1) Development Approval	Rezoning (RM-1) Strata-Title Development Approval
Actual Duration	24 months	27 months	25 months
Estimated Delay	4 months	10 months	5 months
Direct Costs			
· Imposts	-	-	-
· Letters of Credit	-	-	-
· Misc./Apps. Fees	3,245	1,187	25,195**
· Permits	3,139	4,411	3,776
Indirect Costs			
· Carrying costs	22,840	46,884	18,893
· Misc.	-	-	-
Total Direct & Indirect Costs Less Building Permits Per Unit	841	1,001	1,574

**Includes 22,000 for purchase of laneway from city.

2. Summary of Municipal Data

The following three tables summarize the data accumulated from the three municipalities. In addition, three figures are presented depicting the organization of the planning departments in each of the municipalities.

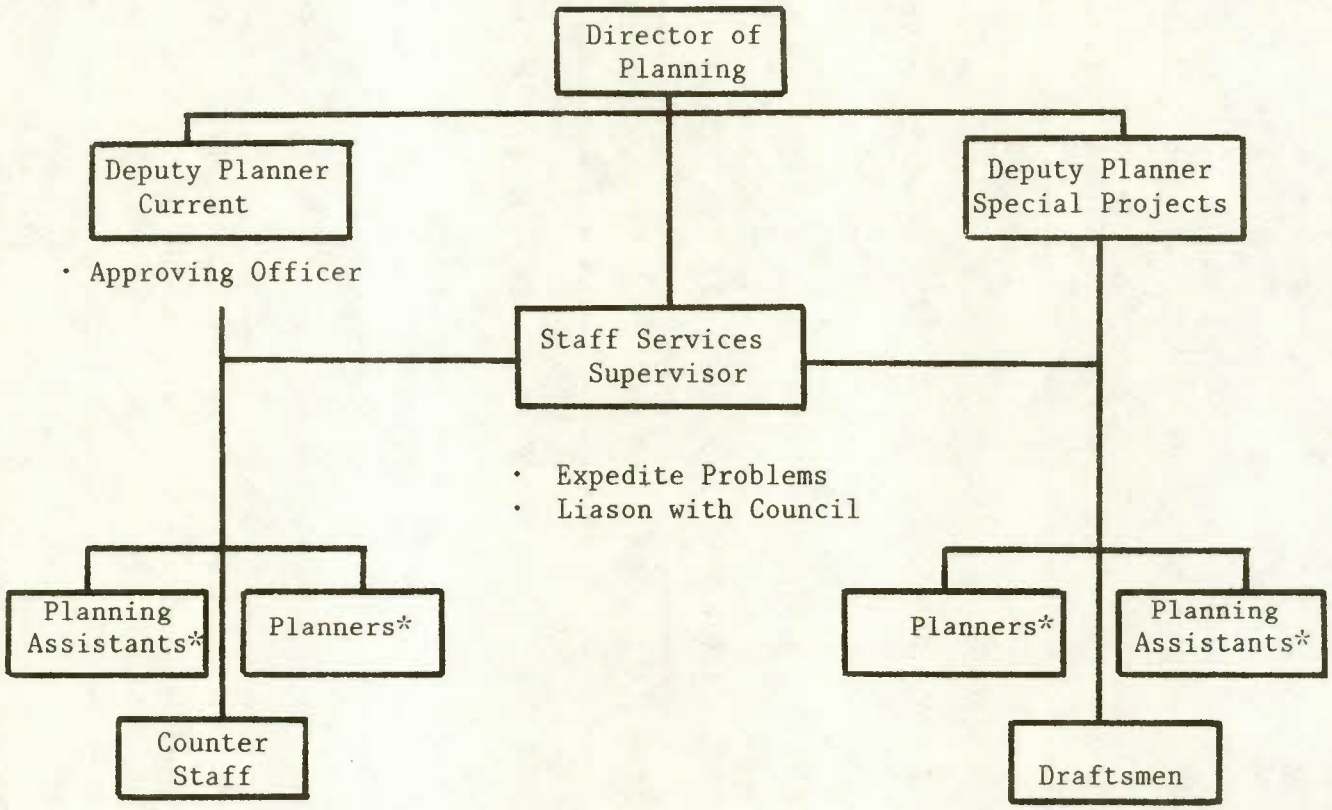
Table C-IV	Surrey (Municipal Data)
Figure C-I	Surrey (Planning Department-Organization)
Table C-V	Coquitlam (Municipal Data)
Figure C-II	Coquitlam (Planning Department-Organization)
Table C-VI	Vancouver (Municipal Data)
Figure C-III	Vancouver (Planning Department-Organization)

Table C-IV, Surrey (Municipal Data)	1974	Δ %	1975	Δ %	1976	Δ %	1977	Δ %	1978
Population-Municipal Estimates	109,000	3.37	112,700	3.37	116,497	5.24	122,600	1.96	125,000
Total Revenue	47,425,532	33.00	63,076,314	5.90	66,794,825		64,433,000*	18.40	76,288,200*
Per Capita	435	28.74	560	2.32	573		526	15.90	610
Surplus	33,888		325,778		99,516		340,600		399,400
General Purpose Assessed Valuation	290,133,654	7.25	311,159,946	5.98	329,777,977	5.76	348,770,186	13.38	395,426,546
Per Capita	2,662	3.72	2,761	2.54	2,831	0.49	2,845	11.18	3,163
Tax Levy	33,787,655	28.65	43,469,033	8.62	47,217,356	7.61	50,812,569	12.03	56,923,427
Per Capita	310	24.52	386	4.92	405	2.22	414	9.90	455
Total Value of Building Permits	62,075,482	46.77	91,110,979	9.28	99,567,431	14.17	113,671,896	1.37	115,225,297
Per Capita	569	42.00	808	5.82	855	8.42	927	-0.54	922
Planning Dept. Budget	393,904	-3.36	300,678	26.35	480,979	16.01	558,000	15.50	644,500
Per Capita	3.61	-6.37	3.38	22.19	4.13	10.17	4.55	13.41	5.16
Debenture Debt	34,581,845	23.14	42,585,811	16.94	49,800,908	14.73	57,136,344	14.86	65,627,761
Per Capita	317	19.24	378	12.96	427	9.13	466	12.67	525

*Excluding water and sewer

Figure C-I - Surrey (Planning Department - Organization)

As of July 1979



*As of July 1979, there were a total of eight planners and six planning assistants in addition to the four senior personnel.

Table C-V, Coquitlam (Municipal Data)	1974	Δ %	1975	Δ %	1976	Δ %	1977	Δ %	1978
Population-Municipal Estimates	(54,170) 63,451	1.19	(54,817) 65,329	1.18	55,464*	1.87	56,500	2.65	58,000
Total Revenue	18,994,782	18.10	22,432,762	11.29	24,965,163	-5.74	23,530,988	14.69	26,987,062
Per Capita	351	16.52	409	10.02	450	-7.55	416	11.78	465
Surplus	551,007		0		152,942		120,396		647,886
General Purpose Assessed Valuation	144,241,196	3.57	149,388,674	2.77	153,528,517	2.92	158,005,259	10.92	175,252,321
Per Capita	2,663	2.33	2,725	1.61	2,769	1.01	2,797	8.04	3,002
Tax Levy	12,610,775	17.49	14,816,037	11.55	16,526,598	5.50	17,436,336	15.99	22,225,049
Per Capita	233	15.88	270	10.37	298	3.69	309	12.94	349
Total Value of Building Permits	22,298,543	32.58	29,563,145	29.30	38,224,038	-25.69	28,405,041	82.14	51,737,541
Per Capita	412	30.83	539	27.83	689	27.00	503	77.34	892
Planning Dept. Budget	122,158	47.39	180,054	26.21	227,239	22.65	278,716	-5.43	263,591
Per Capita	2.26	45.13	3.28	25.00	4.10	20.24	4.93	-7.91	4.54
Debenture Debt	10,328,447	43.11	14,780,688	46.00	21,580,380	-3.34	20,860,306	-4.20	19,984,846
Per Capita	191	41.36	270	44.07	389	-5.14	369	-6.50	345

*Census Data (note that 1971 Population = 52,232) 1974 and 1975 bracketed figures for population were interpolated from 1971 and 1976 census data and have been used for per capita calculations.

Figure C-II - Coquitlam (Planning Department - Organization)

As of July 1979

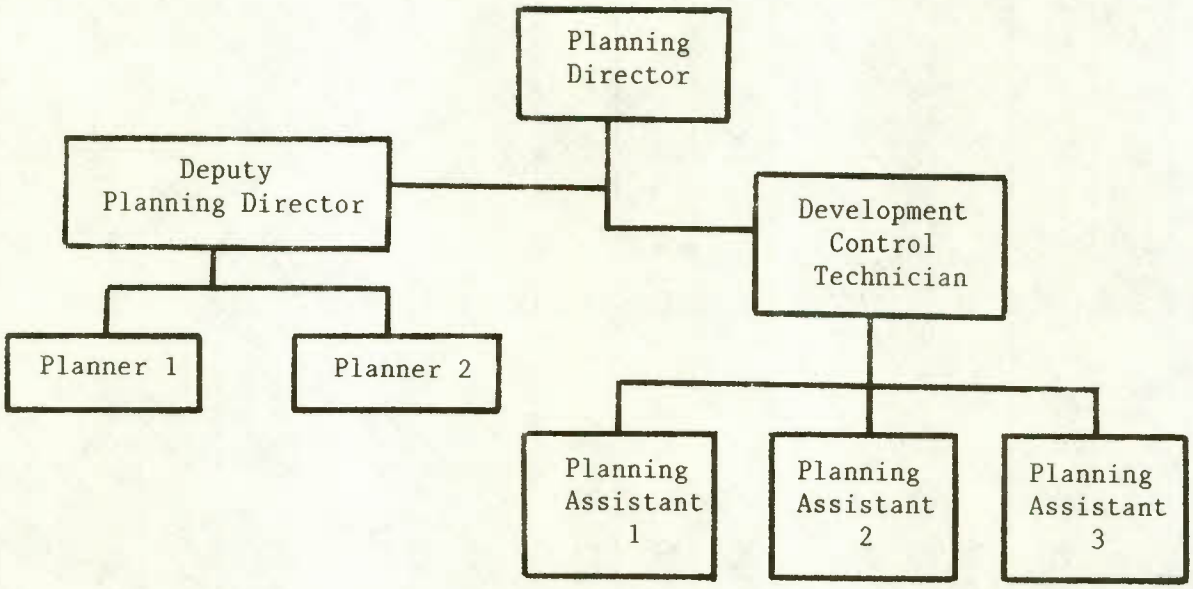


Table C-VI, Vancouver (Municipal Data)	1974	Δ %	1975	Δ %	1976	Δ %	1977	Δ %	1978
Population-Municipal Estimates	(418,222) 439,000	-0.64	(415,544) 442,000	-0.64	(412,866) 415,000	-0.64	410,188*	0.05	410,000
Total Revenue	124,703,655	12.45	140,235,367	7.49	150,741,800	7.84	162,555,050	5.47	171,441,140
Per Capita	298	13.09	337	8.31	365	8.49	396	5.56	418
Surplus	1,565,294		571,992		2,975,793		2,764,939		3,413,674
General Purpose Assessed Valuation	3,908,667,769	2.49	4,005,871,920	3.31	4,138,458,789	2.24	4,231,080,332	n.a.	1,972,086,954**
Per Capita	9,346	3.15	9,640	3.98	10,024	2.90	10,315	n.a.	4,810**
Tax Levy	126,111,443	19.89	151,193,414	17.86	17,916,180	8.93	192,721,880	7.78	207,710,921
Per Capita	302	20.53	364	17.01	429	9.56	470	7.87	507
Total Value of Building Permits	134,675,267	37.38	185,019,687	27.7	236,357,663	-1.54	232,729,588	0.35	233,534,985
Per Capita	322	38.20	445	28.54	572	-0.87	567	1.59	576
Planning Dept. Budget	1,531,506	9.24	1,672,981	7.17	1,792,981	10.60	1,983,107	10.59	2,193,172
Per Capita	3.66	10.11	4.03	7.69	4.34	11.19	4.83	10.77	5.35
Debenture Debt	170,148,353	10.41	187,853,816	3.63	194,670,056	-5.89	183,202,749	-4.24	175,435,496
Per Capita	407	11.06	452	4.42	472	-5.30	447	-4.25	428

*Census Data (note that 1971 Population = 426,256) 1974 - 1976 bracketed figures for population were interpolated accordingly and have been used for per capita calculations.

**1978 assessed valuation based on decreased proportion of actual value: residential (15% of value); commercial (25%); and industrial (35%).

Figure C-III - Vancouver (Planning Department Organization)

As of January 1979

Director

Associate Director · Overall Planning

- Information systems and services
- Specialized policy analysis
- Overall Planmaking (6 planners, 3 technicians, 1 administrator)

Associate Director · Area Planning

- Planning Group - Advises Director of Planning/Zoning Planner on local impact of DPAs and rezoning applications. (9 planners, 13 technicians, 1 administrator)
- RRAP group (13 administrators)

Associate Director · Central Area

- Planning Services - a) provide advice and information to applicants on potential DPAs; b) meet with applicants and negotiate the flexible (non-regulatory policies and guidelines) elements of DPAs; c) review and analyze DPAs and provide advice to applicants, design panel, DPB, and Board of Variance (4 planners, .66 technicians, .33 administrators)
- Planning Policy (3 Planners, .66 technicians, .33 administrators)
- Planning Projects (2 Planners, .66 technicians, .33 administrators)

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Zoning Planner · Zoning and Development

- Zoning Administration Group
  a) processing of rezoning applicants and applicants to amend the zoning and development by-law (input from engineering and special services).
  b) handle inquiries related to zoning and subdivision by laws, strata title regulations, and related procedures. (3 planners, 4 technicians)
- Development Permit Group - Processing of applicants to develop property with input from central area planning, area planning, special services, engineering, permits and licenses and social planning (10 technicians, 1 administrator).
- Subdivision Group - Processing of applications to subdivide and strata title property with input from engineering and social planning (1 technician, 1 administrator).

Assistant Director · Services

- Special services (1 planner, 1 technician)
- Urban Design
  a) professional services to urban design panel
  b) review of development permits
  c) urban design assistance to divisions: area planning (5 planners)
- Graphics (6 technicians, 1 administrator)
- Staff services (1 planner, 10 administrators)

*Of the five "sub-departments" in the Planning Department, four have sub-groups with functions directly related to the approval process. These sub-groups are underlined and their approval process-related functions summarized.

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