

MINUTES

DEVELOPMENT PROCESS REVIEW COMMITTEE

TUESDAY, 2013-MAY-14 AT 11:30 A.M.

BOARD ROOM, SERVICE & RESOURCE CENTRE, 411 DUNSMUIR STREET



PRESENT:

Committee Members:

Councillor Jim Kipp, Acting Chair
Byron Gallant, Canadian Home Builders' Assoc-CVI
Ian Niamath, Ian Niamath Architects
Maureen Pilcher, Maureen Pilcher & Assoc.
Rod Smith, Newcastle Engineering
Bob Wall, RW Wall Ltd.

Absent:

Councillor Bill Bestwick, Chair
Councillor Bill McKay
Greg Constable, Island West Coast Developments

City Staff:

Ted Swabey, GM, Community Safety & Development
Andrew Tucker, Director of Planning
Toby Seward, Director of Development
Chris Jackson, Manager, Community Planning
Nelda Richardson, Manager, Development Support Services & Business Licensing
Rob Lawrance, Environmental Planner
Holly Pirozzini, Administrative Assistant

Invited Guests:

Keith Brown, Keith Brown Associates Ltd.
Adam Compton, Environmental Dynamics Inc.

1. CALL TO ORDER

The meeting was called to order at 11:30 a.m.

The Acting Chair suggested that it be assumed that Committee Members will be attending a regular meeting, unless they have advised/mailed Holly Pirozzini otherwise. The Committee agreed.

2. ADOPTION OF MINUTES

It was MOVED and SECONDED that the minutes of 2013-Apr-23 be adopted.

CARRIED

3. Riparian Areas Regulation

Chris Jackson reviewed a Draft Summary of Options Discussion Paper (attached) for the *Watercourse Setback Variance Review*. He stated that the following three key issues resulted from the 2013-Mar-20 Riparian Areas Regulation (RAR) review workshop:

- ❖ Scope — protection of watercourse habitat values needs to look beyond fish protection;
- ❖ Process — protecting the City's watercourses can be accomplished at the time of subdivision and through a more robust development permit process; and

- ❖ Education/Communication – the City has a larger role to play in improving the public's awareness of our riparian and aquatic ecosystems.

He explained that input from both the Advisory Committee on Environmental Sustainability (ACES) and the Development Process Review Committee (DPRC) is being requested by Friday, 2013-May-17 in order to prepare a draft Council report to bring back to each Committee in June.

Committee's comments:

- The applicant is unaware of the parameters when providing information to staff. During the pre-application meeting, staff needs to discuss the definition of RARs and also advise of any environmentally sensitive areas.
- Will the RAR address issues along shorelines?
- No one monitors the project post development (in two to five years) to ensure that the Qualified Environmental Professional (QEP) recommendations have been followed; suggested placing a covenant on properties to ensure environmental issues have been addressed.

Staff's comments:

- Education/Communication has been identified as a key issue which will ensure an applicant is advised of environmental issues as early as possible in the process.
- RAR does not apply along marine foreshores, but the City's watercourse bylaws do apply. A QEP, as an expert, will identify significant wetlands and any environmental issues along marine shorelines.
- The post-application process ensures that a QEP is retained during the construction phase, but there is no environmental monitor follow up. The City holds a bond until completion of landscaping; a follow up for environmental issues could possibly occur at this time, but this matter needs to be explored further.

Adam Compton stated that the three key issues in the *Watercourse Setback Variance Review Summary* address the concerns expressed at the RAR Workshop, but emphasized that more clarity is needed for non fish-bearing streams that flow into an estuary, as well as isolated wetlands that don't connect to a fish-bearing stream. Local government needs to provide a trigger for the QEP to go back and provide a post-development report (to ensure there is follow up and that the work has been done properly, as proposed).

Keith Brown stated that staff should provide a quicker interpretation of watercourse setbacks to allow concurrent applications. He added that in-stream applications should not be impacted by new policies. He expressed concern about regulations 'sterilizing' properties by making them difficult to develop.

Committee Members were requested to provide feedback to either Chris Jackson or Holly Pirozzini by email, by Friday, 2013-May-17.

4. Subdivision Process Review

Toby Seward provided a *Subdivision Process* handout outlining improvements that focus on timelines, changing requirements and experienced staff. He also distributed copies of a draft Planning and Development *Inquiry Summary Form*, for the Committee's review.

Committee's comments:

- Staff should encourage submission of an application to avoid spending an excessive amount of time with a counter inquiry.
- Goal posts have not been established until an application is completed.
- When the applicant receives a comprehensive letter from staff, the first parameters (goal posts) have been set.
- Staff needs to advise the applicant that additional items may be required after the subdivision application referral process.
- Expensive additions to a project are items such as a geotechnical report or traffic study.
- Suggested the *Inquiry Summary Form* could be amended by:
 - writing out the acronym OCP = Official Community Plan;
 - adding that “**Issuance is subject to substantial completion**”; and
 - listing all departments involved in reviewing an application, such as Engineering; Planning; Parks, Recreation & Culture, etc. (Staff explained that this form is for initial inquiries and that referral to other departments will occur after an application has been submitted).

Keith Brown expressed concern that a checklist of multiple requirements may be overwhelming to an applicant and suggested mentoring new applicants through development processes.

Staff's comments:

- There is often uncertainty about when the “goal posts” are established; staff believes they are not set until an application has been completed.
- The *Inquiry Summary Form* will clarify the purpose of the inquiry and assist staff in determining whether the person seeking information is serious about making an application.
- A copy of the *Inquiry Summary Form* will be provided to the person seeking the information and staff will add it to the file for future inquiries on the same piece of property.
- Where applicable, front counter staff will encourage completion of an application to allow for a complete review of proposed development.

Toby Seward reviewed the 9 steps in the Subdivision Process and updated the Committee on process enhancements made on items 1,3, 4 and 8 (see attached highlighted list):

- 1) Pre-App meeting
- 2) Application for Preliminary Layout Acceptance (PLA)
- 3) Application review (referral process)
- 4) PLA drafted and approved
- 5) Application to Engineering for Design Stage Acceptance (DSA)
- 6) Subdivision construction (applicant's contractor)
- 7) Substantial Completion of required works & services
- 8) Application for Final Subdivision Approval
- 9) Registration of subdivision with Victoria Land Titles Office

Keith Brown expressed concern that the form makes the process look too complicated for a ma/pa applicant.

Committee Members were requested to provide further comments or changes regarding the *Inquiry Summary Form* to Holly Pirozzini by email by Friday, 2013-May-17.

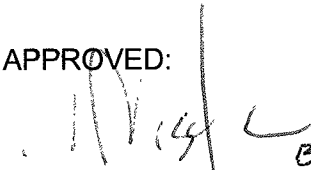
5. NEXT MEETING

The next meeting will be held on Tuesday, 2013-May-28, 11:30 a.m., Service & Resource Centre, Board Room.

6. ADJOURNMENT

The meeting adjourned at 12:50 p.m.

APPROVED:


Bill Bestwick
for Jim Kipp, Acting Chair

DISCUSSION PAPER 2013-MAY-08
WATERCOURSE SETBACK VARIANCE REVIEW
DRAFT SUMMARY OF OPTIONS

Introduction

The is a summary of options for council recommendation for the watercourse setback variance review process (Attachment A). The options presented here came from the issues and opportunities identified during a workshop held earlier in the Spring and from internal staff discussions held after the workshop.

The watercourse setback variance review process includes consultation with a stakeholder group made up of members from: Council, the Advisory Committee on Environmental Sustainability (ACES), the Development Process Review Committee (DPRC), the development community, the environment community, qualified environmental professionals (QEP), Federal Department of Fisheries and Oceans (DFO), Provincial Ministry of Environment (MOE), and City staff. Most of these stakeholders attended an RAR implementation process review workshop on March 20th, 2013. After the workshop, staff gathered and reviewed the input received.

The conclusion of the review at this point is that the current protection regime can be improved on. A list of recommendation options has been prepared for council consideration. Direction will be needed on which options to follow.

This discussion paper summarizes the options that can make up an overall strategy on improving the City's watercourse setback variance process.

Background

During the ACES meeting held on November 14th, a delegation to the committee requested the City review its watercourse setback variance process and consider developing a "No Net Loss" approach to managing the City's riparian areas. The process review was initiated during the 2012-DEC-17 council meeting when a motion from the Chair of the Advisory Committee on Environmental Sustainability (ACES), Councillor Diane Brennan was adopted. The motion reads:

Council Motion: "That Council request that the Planning Department review the riparian setback variation policy, in consultation with the Advisory Committee on Environmental Sustainability (ACES), the Development Process Review Committee (DPRC) and the development community, and forward any resulting recommendations for change for Council's consideration."

Application Volumes and Variance Types

As part of the preparation for the March workshop, a review of the development application volumes was done and compared to the types of watercourse variances received and processed over the same time period. Overall, the total number of development permit applications received between 2008 and 2012 was 267. The numbers of watercourse setback variance applications received over the same time period was 28. The primary types of watercourse setback variances received were ones that were initiated through development permit applications for single family or duplex developments. Watercourse variances to accommodate subdivision applications and multi-family developments were a significant secondary type.

Process Review – RAR Implementation

The review process (Attachment A) broadly outlines the steps to be taken to review current watercourse variance process under the Provincial Riparian Areas Regulation (RAR) in Nanaimo. The review process also includes consultation with a broader stakeholder group comprising: Council members, ACES, DPRC, the development community, the environment community, qualified environmental professionals (QEP), Federal Department of Fisheries and Oceans (DFO), Provincial Ministry of Environment (MOE), and Staff.

1. Context and Process Review
 - a. Staff review of legislative context and the current application of RAR
 - b. Workshop with stakeholder group to provide RAR overview and gather input to inform the City's implementation of RAR
2. Issues Identification and Options Development
 - a. Identify issues and Challenges
 - b. Develop preliminary options
 - c. Review process options with ACES and DPRC
3. Recommendation
 - a. Finalize recommendations for City's RAR implementation process
 - b. Prepare recommendations report to Council

At this stage, we are completing the review of process options. Comments and input from both ACES and DPRC are being sought up until Friday, May 17th, in order to prepare a draft council report in time for the June ACES and DPRC meetings. A final report to council will be prepared for June 24th.

<p>SPRING – Review Options</p>	<p>SUMMER – Seek Council Direction</p>	<p>FALL / WINTER – Implement options approved by Council</p>
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Key Issues and Options

Following the March workshops, staff began a review of the 'issues and opportunities' raised following the RAR review workshop. Three key, underlying issues were identified:

- **SCOPE:** Protection of Watercourse habitat values needs to look beyond fish protection
- **PROCESS:** Protecting the City's watercourses can be accomplished at the time of subdivision and through a more robust development permit process
- **EDUCATION / COMMUNICATION:** The City has a larger role to play in improving the public's awareness of our riparian and aquatic ecosystems and the work to improve this habitat

Each key issue is addressed through a number of actions that will need to occur at the pre-development application stage, during the development application process; and after the development application is issued.

Watercourse Setback Variance Review – Draft Summary of Options

KEY ISSUE Scope - Protection of watercourse habitat values needs to look beyond fish protection.	
<p>The City's watercourses and riparian areas act as a corridor and a source of food and protection for a variety of wildlife other than fish. The community recognizes the importance of these non-fish values and sees their protection as important.</p>	
OPTIONS	
Pre-Application	Develop a watercourse variance "checklist" for staff to use with the DP applicant and the QEP to assess broader ecological features and functions.
During Application Process	Review DPA 1 (watercourse) guidelines and include steps to minimize the need to vary existing watercourse setbacks and broaden the requirements to consider other ecological features and functions beyond fish protection.
Post-Application	n/a
Implications	<p>Over reliance on "checklists" as opposed to reviewing and interpreting policy / guidelines. Cost to hire consultant. Changes to the guidelines need to be timed with the OCP Review (Fall 2013).</p> <p>A Biologist on Staff can be an in-house technical resource and can provide important input during DP application reviews. Can also provide advice on mitigation and restoration plans. Cost implication for new staff position. Legal liability implications to be considered.</p> <p>Provides consistent approach to how city projects are managed around watercourses. Greater clarity for staff on the best procedures to follow during regular maintenance work.</p>

KEY ISSUE Process - Protecting the City's watercourses can be accomplished at the time of subdivision and through a more robust development permit process.	
<p>During the sub-division and development permit process, steps can be taken to avoid considering a watercourse setback variance. When a variance is unavoidable, steps can be taken to minimize and mitigate potential impacts.</p>	
OPTIONS	
Pre-Application	Conduct a pre-meeting with DPA 1 (watercourses) applicants to review the overall project proposal and to look for opportunities to avoid varying the existing watercourse setback.

Watercourse Setback Variance Review – Draft Summary of Options

During Application Process	<p>Ensure that consideration for varying the parking, side/front yard setback and building footprint requirements is done before proceeding with a watercourse setback variance.</p> <p>Review the need for the City to retain a professional biologist on staff OR continue to work with external Qualified Environmental professionals on an as needed basis.</p> <p>As part of DP process, QEP is retained as the expert to make watercourse / riparian assessment and provide advice on broader ecological features and functions then what is currently required for fish protection</p>
Post-Application	Ensure QEP is retained during construction phase to ensure variance / mitigation recommendations from QEP reports are followed.
Implications	<p>Greater certainty that process minimizes watercourse setback variances. Time delays during application process?</p> <p>Potential cost savings by having the QEP onsite identifying other significant features and functions outside of what is necessary for fish protection.</p>

KEY ISSUE

Education - The City has a larger role to play in improving the public's awareness of our riparian and aquatic ecosystems.

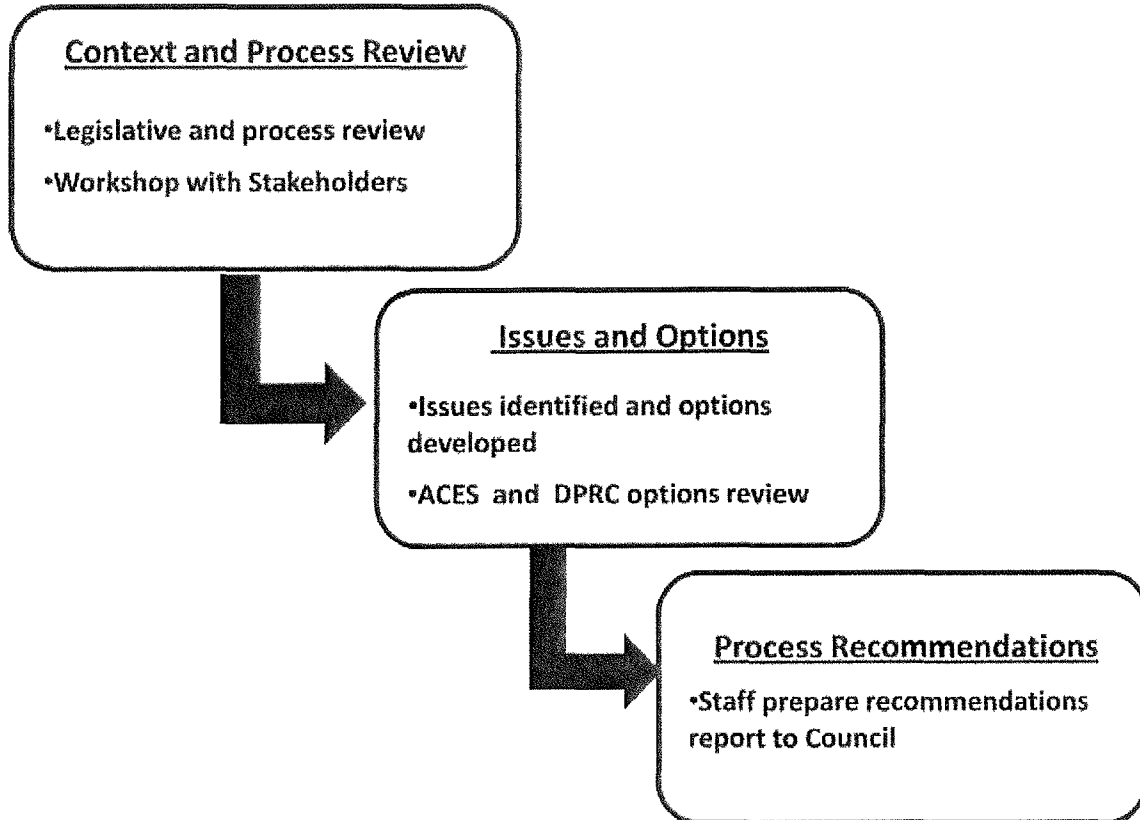
Effectively communicating the value of our urban watercourses and riparian areas is important in ensuring their long-term future. Understanding the threats from pollution, invasive species and physical loss of habitat needs to be communicated to the public. Also understanding the ongoing work to improve and repair habitat also needs to be told.

OPTIONS

Pre-Application	<p>Explore feasibility of establishing a mitigation bank or watercourse restoration / education incentive program with developers.</p> <p>Review the current approach on education and public awareness on watercourses and riparian areas and make recommendations where the City could make improvements while working with the community.</p>
During Application Process	<p>Within watercourse variance Council reports, include an executive summary, written by the QEP, that clearly identifies what the potential impact and improvement to watercourse habitat will be as a result of a watercourse variance. Consider including a checklist that summarizes what the QEP has done.</p> <p>Annually report on the total size of riparian areas set aside for protection as a result of development. Also highlight and identify significant mitigation projects.</p> <p>Seek opportunities to incorporate interpretative signs, as part of a variance, that provide the public with information on riparian ecosystems and what residents can do to keep them healthy.</p>
Post-Application	n/a

ATTACHMENT A

Review RAR Implementation



Implications	<p>Opportunity to improve riparian habitat quality while strengthening community relationships. Cost of program / mitigation and timing of work. Clarity for councillors and staff reading reports that include RAR QEP reports. Greater understanding of what is being gained and impacted due to the variance.</p> <p>Less misunderstanding of the environmental importance of riparian and watercourse habitat and the DP process. Additional cost to developer for signage.</p>
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Broader Reviews and Studies

The following reviews are to be considered occur in order to improve the City application process and to address the key issues identified as part of this process.

- a) To improve City staff procedures when working around watercourses, review and update the Guidelines for Municipal Works and Services within Environmentally Sensitive Areas which is referred to within DPA 1 (Watercourses)
- b) Review sub-division process with staff and identify opportunities to minimize watercourse setback adjustments at the time of subdivision

Subdivision Process

1. Pre-application meeting(s)
2. Application for Preliminary Layout Acceptance (applicant's surveyor/agent) (PLA submitted)
 - ◆ staff review
 - ◆ Response to applicant confirming submission complete/incomplete
3. Application review (referral process)
 - ◆ application reviewed by internal departments and external agencies (follow up on referrals after 10 days)
 - ◆ applicant notified of referral request and timing of responses with a letter
 - ◆ may result in additional requirements
 - ◆ common referral – multiple processes (subdivision, rezoning, DP, phased strata, etc.)
4. PLA drafted and approved
 - ◆ approximately 8 to 12 weeks' processing time, depending on complexity of application
 - ◆ standardized PLA document (same process for all PLAs, allowing for deletions)
 - ◆ park dedication / cash-in-lieu review
5. Application to Engineering for Design Stage Acceptance (DSA)
 - ◆ 4 to 6 weeks' processing time
6. Subdivision construction (applicant's contractor)
 - ◆ pre-construction meeting (when proceeding with on-site construction)
 - ◆ Tree Management Plan complete
7. Substantial Completion of required works and services
 - ◆ Maintenance Agreement for constructed works and services
 - ◆ Construction Agreement, if requested by applicant
8. Application for Final Subdivision Approval
 - ◆ Pre-application meeting for Final Approval recommended
 - ◆ payment of DCCs
 - ◆ payment of cash-in-lieu of park if not dedicating park based on appraisal of pre-developed value
 - ◆ review of required SRWs, private and public easements and covenants
 - ◆ review of legal documents
 - ◆ execution (signing) of legal documents and Letter of Undertaking to applicant to register a plan of subdivision
 - ◆ 2-4 weeks' processing time (7-10 days if no revision to legal documents and complete submission)
 - ◆ use of standardized SRWs and covenants where possible (ie. standardized rock pit covenants in progress)
9. Registration of subdivision with Victoria Land (applicant's surveyor/lawyer)
Titles Office
 - ◆ 2 weeks' processing time