

# MINUTES

## DEVELOPMENT PROCESS REVIEW COMMITTEE

TUESDAY, 2013-APR-09 AT 11:30 A.M.

BOARD ROOM, SERVICE & RESOURCE CENTRE, 411 DUNSMUIR STREET

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### PRESENT:

#### Committee Members:

Councillor Bill McKay, Acting Chair

Councillor Jim Kipp

Greg Constable, Island West Coast Developments

Byron Gallant, Canadian Home Builders' Assoc – CVI

Ian Niamath, Ian Niamath Architects (11:35 a.m.)

Maureen Pilcher, Maureen Pilcher & Assoc.

Bob Wall, RW Wall Ltd.

#### Absent:

Bill Bestwick

Rod Smith, Newcastle Engineering

#### City Staff:

Ted Swabey, GM, Community Safety & Development

Andrew Tucker, Director of Planning

Toby Seward, Director of Development

Dale Lindsay, Manager, Building Inspections

Bruce Anderson, Manager, Planning & Design

Chris Jackson, Manager, Community Planning

Dean Mousseau, Manager, Engineering/Subdivision

Kris Sillem, Manager, Subdivision Approvals/Deputy Approving Officer

Holly Pirozzini, Administrative Assistant

#### Invited Guests:

Keith Brown, Keith Brown Associates Ltd.

Adam Compton, Environmental Dynamics Inc – unable to attend

### 1. CALL TO ORDER

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

### 2. ADOPTION OF MINUTES

It was MOVED and SECONDED that the minutes of 2013-Mar-26 be adopted.

CARRIED

### 3. Development Permit Review Recommendations

Bruce Anderson restated the following recommendations that resulted from the Development Permit Review:

- (1) That a mandatory pre-application meeting be added as step 1 in the Development Permit application process.

- (2) That staff conduct a review of the Part 17 – Landscaping in Zoning Bylaw No. 4500; with the goal to achieve a more sustainable landscape and an alternative stormwater management approach.
- (3) That the Committee recommend the review and update of the General Design Guidelines be conducted in 2014.
- (4) That the option of concurrent processing for Zoning Bylaw amendments and Development Permits be supported.

Ian Niamath arrived at 11:35 a.m.

Staff advised that recommendations from the review of the Part 17- Landscaping in Zoning Bylaw No. 4500 will return to this Committee for consideration. Item (3) Update of General Design Guidelines will be a budget item for 2014.

It was MOVED and SECONDED that the recommendations be endorsed for the Development Process Review Committee's 2013 Work Plan.

CARRIED

4. Riparian Areas Regulation

Ted Swabey advised of a development application for an 81 acre development in Linley Valley (Cottle Hill). Staff explained the Delegation Bylaw and that it gives authority to the General Manager of Community Safety & Development to approve watercourse variances where the applicant has requested a variance not greater than 50% from the Zoning bylaw requirement for setbacks and any other Zoning Bylaw requirement.

Bruce Anderson stated that Council on 2012-Dec-17 directed staff to conduct a review of the Riparian Areas Regulation (RAR). He presented a ppt (attached) that was provided at the RAR Workshop on 2013-Mar-20, in order to bring the Committee up-to-date with this issue. Chris Jackson explained the key legislation protecting watercourses; the relationship to the Federal *Fisheries Act*; Provincial Legislation Timeline; and Provincial *Fish Protection Act* Riparian Areas Regulation. He discussed diagrams establishing boundaries for development in relation to wetland areas using simple and detailed assessments by qualified environmental professionals. The number of Development Variance Permits (DVPs) issued between 2008-2012, the extent of variances for 15m and 30m setback, and category of permits were displayed using bar charts.

Staff will summarize the outcomes of the RAR Workshop and provide recommendations to the Advisory Committee on Environmental Sustainability (ACES) as well as this Committee, prior to going to Council.

5. Update on Canada Post – New Charge for Developers

Dean Mousseau updated the Committee on Canada Post's proposed \$200 charge per address for new development and stated that he advised a representative from Canada Post that the City will not administer or collect this fee and subdivision at the City will not be delayed if this fee is not received by Canada Post.

The Committee agreed that the City should not be involved in this issue.

6. Subdivision Review

Toby Seward introduced this topic and stated that he is the Approving Officer, appointed by Council and that Dean Mousseau and Kris Sillem are the Deputy Approving Officers. He provided a ppt presentation (attached) listing the many City processes involved in subdivision of land, including the staff and consultants required.

The Committee requested that Parks, Recreation & Culture Staff be added to the list of staff/consultants involved.

Dean Mousseau discussed the governing regulations and stakeholders involved in subdivision of land. Kris Sillem explained the subdivision process from the pre-application meeting to the registration of the subdivision with the Victoria Land Titles Office.

The Committee questioned whether staff prefers that developers/applicants use the City's lawyer or their own lawyer?

Staff responded that in the majority of the legal issues in the subdivision process, staff will not send documents to the City's lawyer for review, unless absolutely necessary. Templates for various local documents have been developed by the City and are recommended for use in the subdivision process. If there are differing opinions on completing legal documents, the applicant's lawyer may wish to provide an alternate approach, which will be reviewed by the City's lawyer.

Small lot subdivision was discussed and staff suggested that the Committee may wish to consider limitations for the number of small lots contained in a subdivision, at a future meeting.

Staff discussed the "Next Steps" in reviewing the Subdivision Process as follows:

- include developers and consultants in a Development Process Review Committee (DPRC) meeting to review the Subdivision Process and the Subdivision Control Bylaw;
- report back to DPRC through Subdivision Review and Rewrite Process; and
- review and rewrite of the Subdivision Control Bylaw (with respect to the Official Community Plan and Zoning bylaw 4500).

Keith Brown suggested a roundtable discussion respecting small lots mixed in with regular lots for affordability.

Staff is seeking input from this Committee and others (developers / staff / lawyers) to hear their suggestions for improving the Subdivision Process, prior to rewriting the Subdivision Control Bylaw.

Committee comments:

- Regulations in the Zoning Bylaw are not supported in the Subdivision Control Bylaw (they conflict with each other), which is confusing to clients.
- It's not the role of this Committee to be part of a group to rewrite the Subdivision Control Bylaw.

Staff will invite a developer, surveyor and lawyer to speak about the subdivision process at a future meeting.

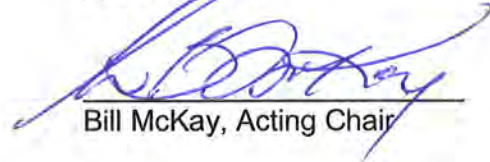
7. NEXT MEETING

The next meeting will be held on Tuesday, 2013-Apr-23, 11:30 a.m., Service & Resource Centre, Board Room.

8. ADJOURNMENT

The meeting adjourned at 1:10 p.m.

APPROVED:

A handwritten signature in blue ink, appearing to read "Bill McKay", is written over a horizontal line.

Bill McKay, Acting Chair

# Process Review for Riparian Area Regulation Implementation

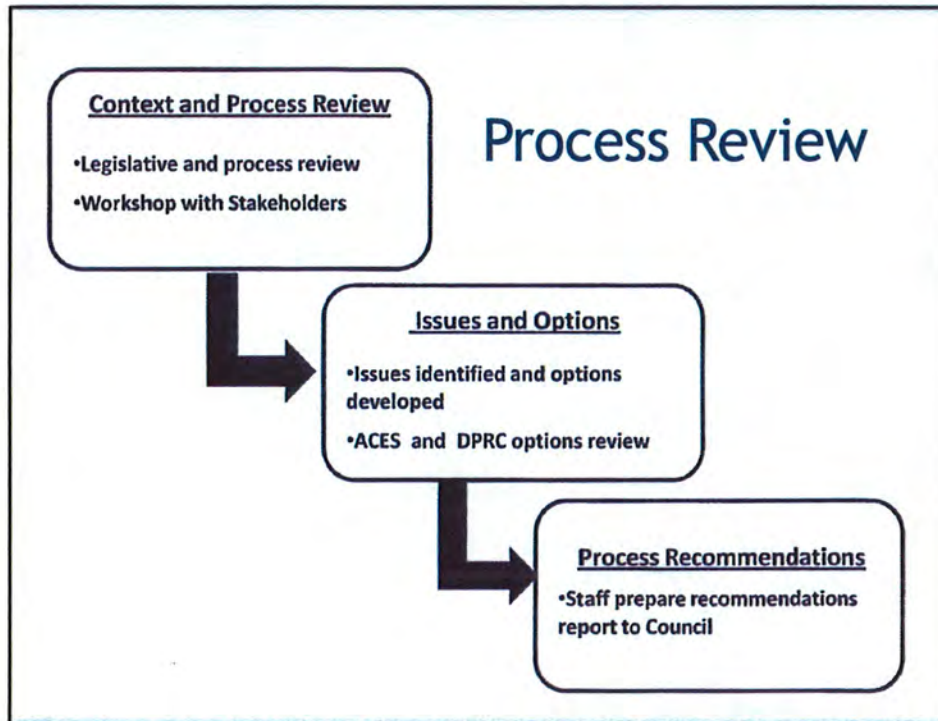
March 20, 2013



At its meeting of 2012-DEC-17, Council directed staff to conduct a review of the riparian areas regulation:

*Council Resolution: "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 to Council's consideration."*





## Workshop

Intent of this workshop is:

- for participants to learn more about the current RAR implementation process, and
- for us to hear different perspectives on how the City currently administers its watercourse protection policies and implements the Provincial Riparian Areas Regulation.



## Agenda

- 6:15 - 7:00 pm Presentations & Introductions**
- Process Review - RAR Implementation
  - Legislative Context
  - City of Nanaimo Development Permit Process
  - Recent History of Variances
- 7:00 - 8:30 pm Roundtable Discussions**
- Issues
  - Opportunities
  - Summary Discussion
- 8:30 - 9:00 pm Summary & Wrap Up**
- Group reports
  - Summary Comments
- 9:00 pm Adjournment**



## Legislative Context

## Key Legislation Protecting Watercourses

- Federal ***Fisheries Act***
  - Administered by the Department of Fisheries and Oceans
  - Main regulation over fish and fish habitat in Canada
  - Protects fish habitats in a **reactive** manner (DFO can prosecute under the Act after damage occurs)
- Provincial ***Fish Protection Act***
  - Administered through province
  - More of a **proactive**, planning approach that places preventative measures in place before impacts to fish and fish habitat occur.
  - Riparian Areas Regulation (RAR) tied to this legislation
- Provincial ***Local Government Act***
  - Powers of zoning and to establish development permit areas

## Relationship to the Federal ***Fisheries Act***



- A central principle for the RAR is that it satisfies the requirements of the ***Fisheries Act***
- DFO collaborated in developing the RAR to ensure projects reviewed will not result in a HADD
- In 2012 changes made to the ***Fisheries Act*** may impact the role of DFO in the review process



## Provincial Legislation Timeline



- *Fish Protection Act*
  - Adopted 1997
- *Streamside Protection Regulation*
  - Adopted 2001
  - Act repealed March 2005
- *Riparian Areas Regulation*
  - First enacted July 2004 with local government expected to adopt appropriate legislation by **March 2005**
  - Province extends adoption to **March 31<sup>st</sup> 2006**
  - Phased-in adjustments to City DP process

## Provincial *Fish Protection Act* *Riparian Areas Regulation*

- 🐟 *To protect riparian areas from development so that they can provide natural features, functions and conditions that support fish life processes*
- 🐟 Proactive vs Reactive
- 🐟 Permitting Process vs Enforcement Process



### ***Key Terms:***

#### **🐟 “Riparian Assessment Area” (RAA)**

- Set by legislation  
Stream: 30m from natural boundary  
Ravine: 60m from top of bank

#### **🐟 “Streamside Protection and Enhancement Area” (SPEA)**

- Established by a Qualified Environmental Professional

#### **🐟 “Qualified Environmental Professional ” (QEP)**

- A qualified expert in an area recognized in the RAR assessment methods, and
- Is a registered Professional in BC, such as a: Biologist, Geoscientist, Forester, Agrologist, Engineer or Applied Science Technologist and Technician



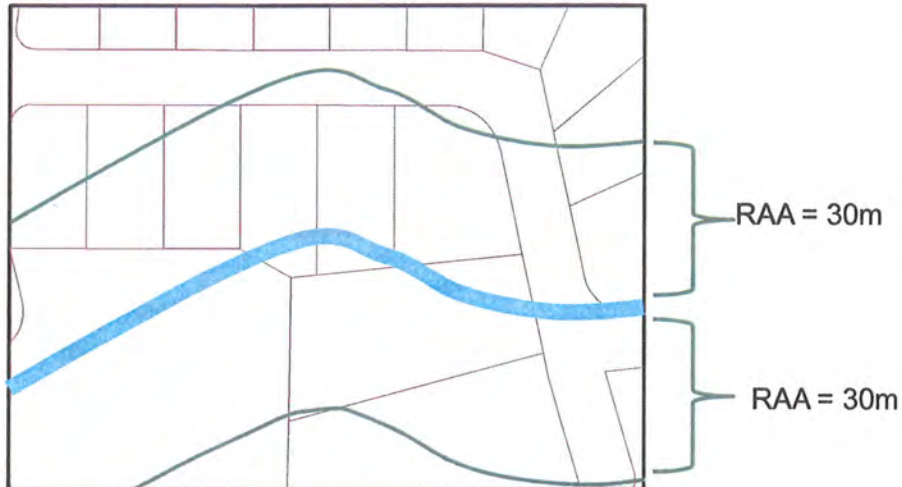
### ***Key Terms:***

#### **“Streamside Protection and Enhancement Area” (SPEA):**

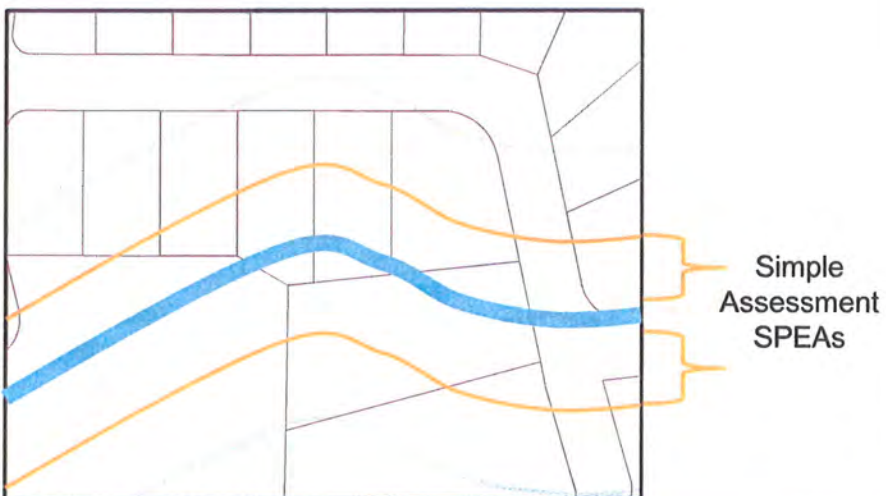
- 🐟 Established by a QEP
- 🐟 Covers the area where existing and potential riparian vegetation exerts an influence on a stream
- 🐟 Derived through two methods:
  - 🐟 Simple Assessment
  - 🐟 Detailed Assessment

Province establishes "Riparian Assessment Area" (RAA)

- Stream: 30m from natural boundary
- Ravine: 60m from top of bank

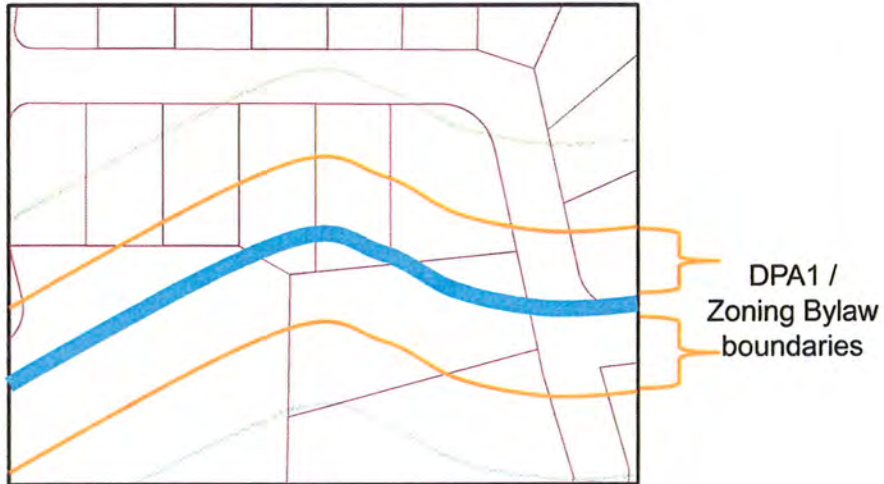


- City retained QEP conducted a 'Simple Assessment'.
- 'Simple Assessment' Streamside Protection and Enhancement Areas are established throughout City.



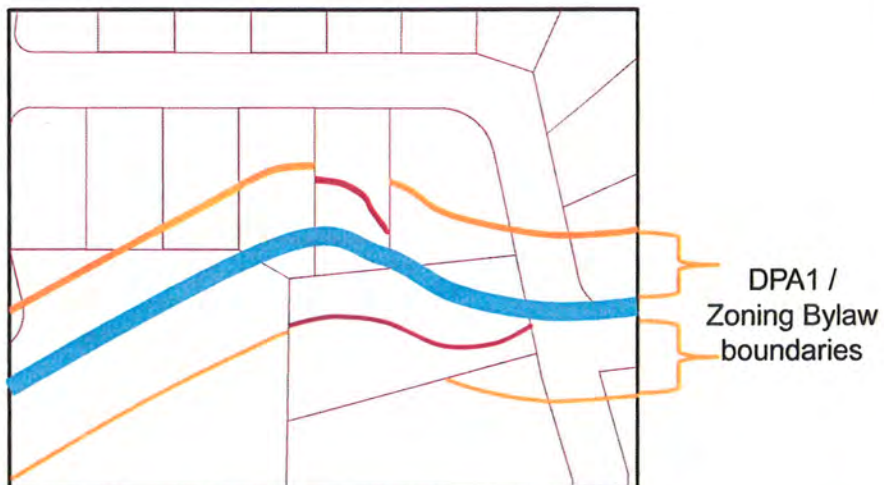
'Simple Assessment' SPEAs established:

- ✕ Official Community Plan Development Permit Area 1 boundaries, and
- ✕ Zoning Bylaw setbacks for watercourses.



A 'Detailed Assessment' establishes site specific, refined SPEAs.

- ✕ Red lines show refined SPEA through a QEP 'Detailed Assessment'
- ✕ Development Permit issued based on 'Detailed Assessment'





# Development Permit Area Process

## City of Nanaimo Development Permit Process

### Prior to Submitting an Application

- Applicant retains a Qualified Environmental Professional (QEP) to conduct a detailed assessment.
- The QEP submits the assessment to the MOE/DFO, advising that the development will not create a Harmful Alteration, Disruption and Destruction (HADD) of fish habitat.
- The MOE/DFO send an email to City Planning staff that the QEP report was received.

1

Pre-Application Meeting

4

Comprehensive Review

2

Submit Application

- QEP report
- Site plan (including RA setbacks)
- Mitigation plan (if required in QEP report)
- Supporting information (pictures, etc.)

5a

Council

(Major Variances >20%)

5b

Posting

(Minor Variances <20%)

3

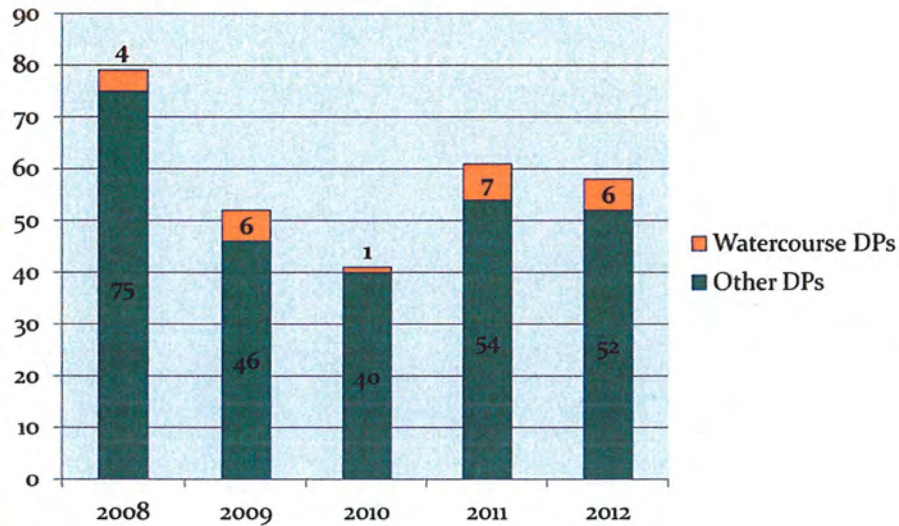
Design Advisory Panel (DAP)

- For form and character development with watercourse variance

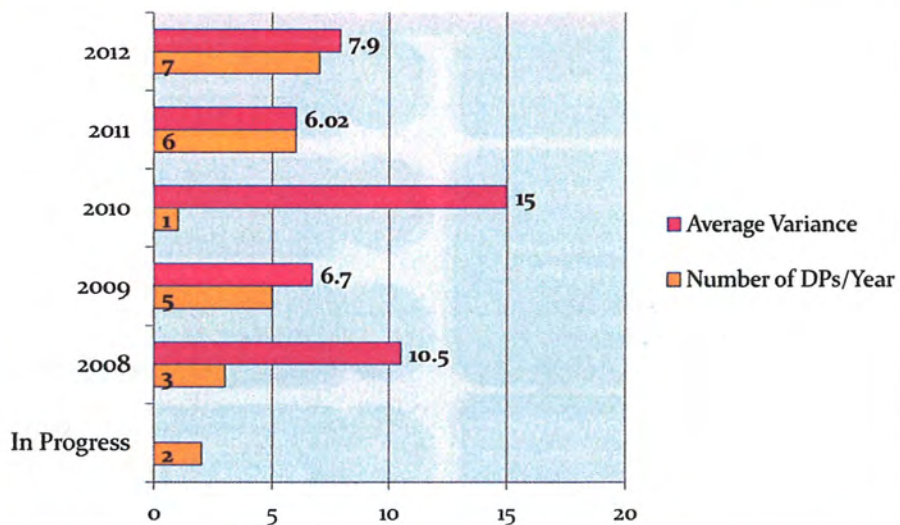
6

Development Permit  
Approval and Registration

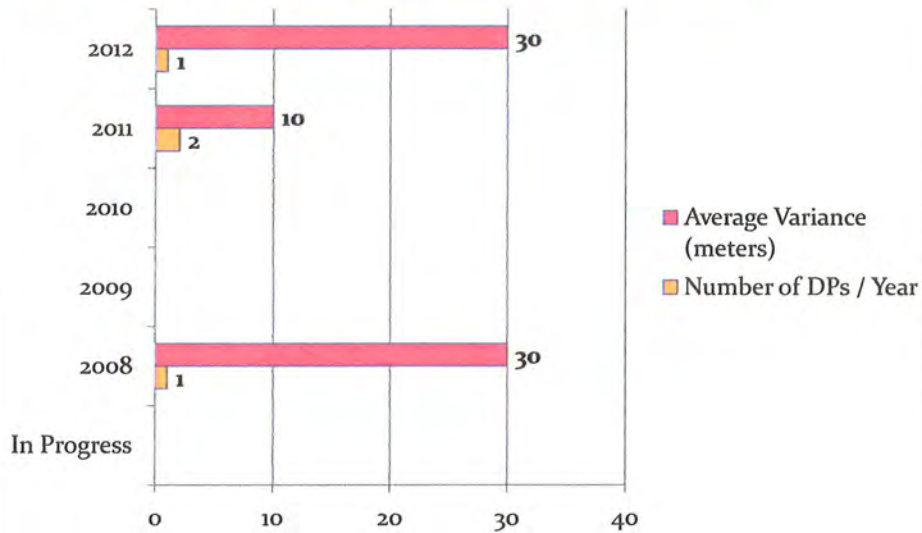
### Number of Development Permits Issued by Year (2008-2012)



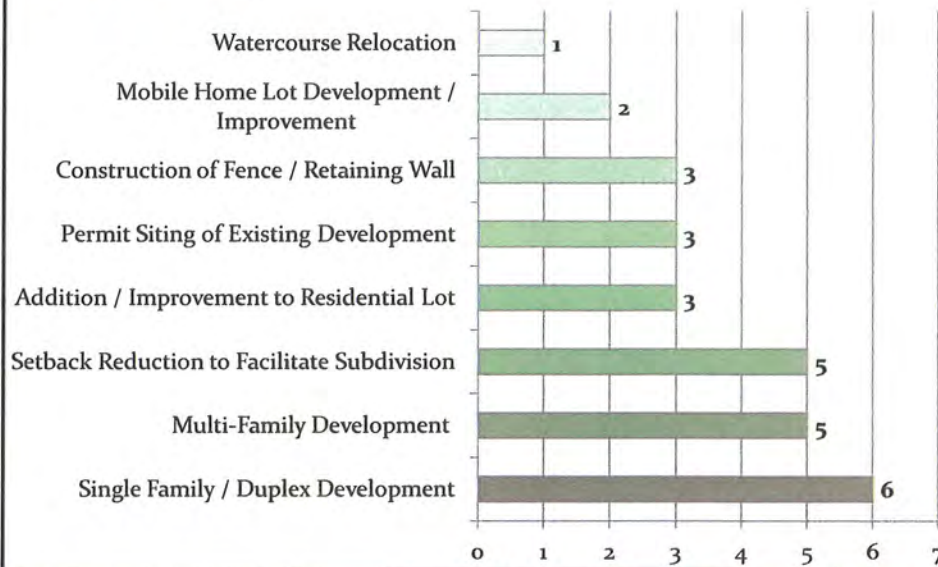
### Average Extent of Variance and Number of DPs Issued Per Year (15 meter setback)



## Average Extent of Variance and Number of DPs Issued Per Year (30 meter setback)



## Number of Development Permits by Category (2008-2012)





# NANAIMO

THE HARBOUR CITY



## SUBDIVISION PROCESS REVIEW

## AGENDA

- Introduction.
- Governing Regulations.
- Who is involved in the Subdivision Process.
- Subdivision Process / Timelines
- Subdivision Trends
- Next Steps



# Introduction

- Subdivision is Important Process in Development Community
- Involves Many City Processes.
  - OCP
  - Development Permit Areas
  - Zoning Bylaw
  - Engineering Standards
  - Subdivision Control Bylaw
  - Development Cost Charges
- Staff / Consultants Involved
  - Subdivision Staff
  - Engineering Staff
  - Legislative Services
  - Professional Surveyors
  - Professional Engineers
  - Lawyers and Conveyancers

# Regulations

- Land Title Act:
  - Municipal Council must appoint an Approving Officer by Delegation as Statutory Decision Maker with respect to Subdivision of Land in the Province of British Columbia.
- Official Community Plan (City)
- Subdivision Control Bylaw (City)
- Engineering Standards (City)
- Zoning Bylaw (City)
- Provincial & Federal Departments
  - Department of Fisheries and Oceans
  - Ministry of Environment
  - Ministry of Transportation & Infrastructure
  - Local Government Act
  - Land Title Act
  - Strata Property Act
  - Land Surveyor Acts

## Stakeholders

- Developers
- Consultants
- Utilities
  - BC Hydro
  - Gas, Phone & Cable Providers
- Property Owners
- Future Owners
- Community / Neighborhood /City
- Municipal Government

## Subdivision Process

- Pre Application Meeting
- Application for Preliminary Layout Acceptance (PLA) submitted
- Application Review
  - Application reviewed by internal departments and external agencies.
- PLA Drafted & Approved
  - Approximately 8 to 12 weeks processing time depending on complexity of application.
- Application to Engineering Department for Design Stage Acceptance.
  - 2 to 4 weeks processing time.
- Application for Final Subdivision Approval
  - Engineering Department issues substantial completion of required works and services.
  - Approving Officer reviews plans, documents, agreements and charges.
  - 2 to 4 weeks processing time.
- Registration of Subdivision with Victoria Land Titles Office
  - 2 weeks processing time.



## Subdivision Trends

- Adoption of Official Community Plan 2008
- Adoption of Zoning Bylaw No4500, 2011.
- Strata Conversion Subdivision
- Row Housing
- Small Lot
- Light Industrial

## Next Steps

- Include Developers & Consultants in DPRC Meeting.
  - Provide a detailed review of Subdivision Process and Subdivision Control Bylaw in order to identify areas of improvement in process and bylaw.
- Report Back to DPRC through Subdivision Review & Rewrite Process.
- Review and Rewrite of Subdivision Control Bylaw.
  - Update Subdivision Control Bylaw with respect to Official Community Plan and Zoning Bylaw 4500.