



Engineering, Parks and Environment  
The Corporation of the CITY OF NORTH VANCOUVER

REPORT

**To:** Mayor Darrell Mussatto and Members of Council

**From:** Suzanne A. Smith, Planner

**Subject:** Riparian Area Strategy – Public Consultation

**Date:** January 10, 2006

File:4037-0201

*The following is a suggested recommendation only. Please refer to Council Minutes for the actual adopted resolution.*

## RECOMMENDATION

**PURSUANT** to the report of the Planner dated January 10, 2006, entitled “Riparian Area Strategy – Public Consultation”:

**WHEREAS** the Province of BC, through the *Fish Protection Act*, has required that municipalities comply with Section 12, to provide a level of protection that is comparable to or exceeds the level of protection provided for in the *Riparian Area Regulations*, by March 31, 2006;

**AND WHEREAS** staff are working on a strategy including an OCP Amendment to create Development Permit Areas for Streamside Protection and Enhancement;

**THEREFORE BE IT RESOLVED THAT** staff proceed with the public consultation process outlined in this report, including public information sessions to inform the affected owners of the Provincial requirement and to gather input into the recommended approach.

## ATTACHMENTS

1. Province of British Columbia's *Riparian Area Regulations*
2. Draft Guidelines for Streamside Protection and Enhancement Areas

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## PURPOSE

The purpose of this report is to provide a brief outline of the City's proposed response to the provincial regulations, which will take effect March 31, 2006, and to seek direction from Council on the public consultation component.

## SUMMARY

Through Section 12 of the Provincial *Fish Protection Act*, the City is required to ensure its bylaws and permits provide a level of protection that, in the opinion of the City, is comparable to or exceeds the level of protection provided for in the *Riparian Area Regulation*. The regulation is designed to protect riparian habitat from residential, commercial and industrial development.

The City's proposed Riparian Area Strategy, an alternative to the provincial process, would see the creation of a streamlined, local government driven process with greater certainty for the applicant and an appropriate level of protection for riparian areas given the City's urban context. This would be achieved by partnering the City's existing Stream and Drainage Protection Bylaw with the creation of Development Permit Areas for Streamside Protection and Enhancement.

There are 256 privately owned residential, commercial and industrial properties which fall within the proposed assessment area. All of these property owners will be notified by letter, provided an information package and contact information and be invited to attend workshops early in February 2006. The remaining 296 properties which fall within the assessment area are City owned, for a total of 552 affected properties. The majority of City owned properties are zoned for public use for park purposes and are therefore considered undevelopable. The few remaining City owned developable properties would be subject to the same regulations as private property for residential, commercial and industrial use.

## BACKGROUND

The *Riparian Area Regulations* (RAR) are a set of directives outlined in the provincial *Fish Protection Act* which require local governments to identify and protect streamside areas (see Attachment #1). The RAR supersedes the *Streamside Protection Regulation* (SPR) which was enacted in January 2001. Municipalities have the option of adopting the RAR or the SPR by the date the regulations come into effect. On July 27, 2004 the Province enacted the RAR which was originally to come into effect March 31, 2005. The province then delayed the date to June 30, 2005 and subsequently to **March 31, 2006** due to a number of outstanding issues listed below.

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A number of key issues remain unaddressed by the province. These include:

- the development of a Cooperative Agreement between the Union of BC Municipalities (UBCM) and senior agencies which is agreeable to local governments – this agreement is essential for providing the necessary clarity on the respective roles and responsibilities of the Federal Government, Province and affected local governments
- completion of liability review with time provided to local governments to evaluate review findings
- finalization of the assessment methods, with particular emphasis on applicability in highly urbanised areas
- sample bylaws and pilot studies specific to urban areas
- a roster of identified and qualified environmental professionals, and
- details on appropriate administrative processes, including dispute resolution, enforcement and monitoring.

In spite of these missing items, and ongoing local government concern, municipalities are expected to proceed with developing and implementing long term implementation measures as the date the regulations are coming into effect is rapidly approaching.

## **DISCUSSION**

### **Existing Review Process**

The City's current process for handling development requests for properties adjacent to a stream is addressed through an Environment Review Committee (ERC). The City's Environmental Coordinator and a representative from the Department of Fisheries and Oceans (DFO) review preliminary plans and meet on-site to determine appropriate measures. This allows the determination of site specific stream setbacks that balance the habitat protection goals of the City and DFO with the unique constraints of redeveloping in an urban neighbourhood. The formal decision is documented in a letter, forwarded to the applicant and kept on file. In some cases a covenant may be required to ensure compliance. In many cases, due to the steep slopes of the City's ravines, many of these setbacks are determined by geotechnical requirements rather than fisheries requirements.

As the City is a fully developed municipality, the majority of development occurs as redevelopment. Proposals to rebuild or add on to buildings within the streamside protection and enhancement area are not frequent and most often consist of rebuilding single family houses on single family lots. The City typically processes 1-3 per year. The City has a good rapport with DFO and the ERC process has worked smoothly for the past few years with no outstanding concerns.

## Riparian Area Regulation – Province

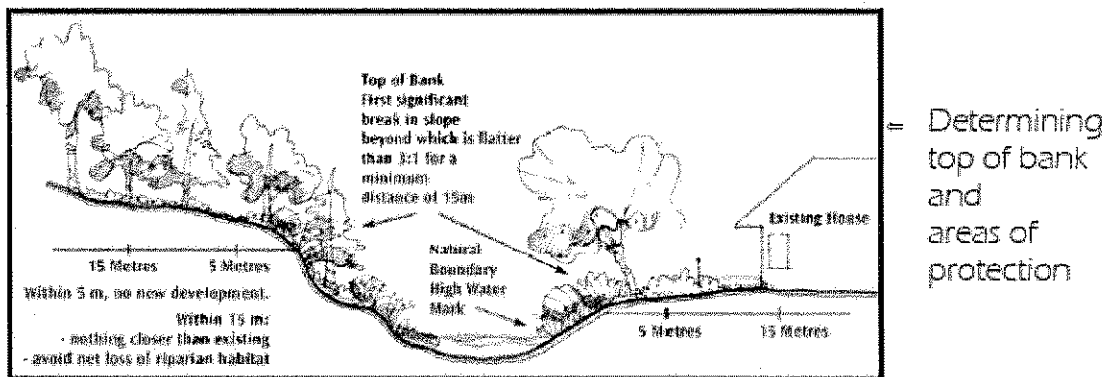
The Province of BC, through their Ministry of Water, Land and Air Protection arm, has created a set of regulations to implement Section 12 of the *Fish Protection Act*. The Province has made steps to create a process around those *Riparian Area Regulations* including an approvals process which bypasses local governments but is unclear on who will address monitoring and compliance. The Province has also failed to provide details on implementation of the regulation in urban areas such as the City and requires the use of Qualified Environmental Professionals for all setback determinations and reports which would add greatly to the owner's costs. Due in part to the unsatisfactory process and key items remaining to be completed by the Province, City staff have proceeded to draft a Riparian Area Strategy for the City with authority taken from Section 12 of the *Fish Protection Act* that we will meet or beat the intent of the section.

## Riparian Area Strategy

The City's Riparian Area Strategy would create some certainty for affected home owners and the City by establishing clear Guidelines and a streamlined process that reflects the practicality of the City's existing process.

The City's new approach would see the introduction of Development Permit Areas for Streamside Protection and Enhancement in the Official Community Plan along with amendments to the Zoning Bylaw and to the Development Procedures Bylaw.

**Applicants would be provided Guidelines (see Attachment #2) which would limit any new structures within 15m of the top of bank of a stream (or 10m of the top of bank of a ravine) to no closer than the existing structure, and no new development within 5m of the top of bank of a stream. Applicants would need to avoid any 'net loss' of habitat within the 15m of top of bank as outlined in the diagram below.**



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Existing buildings within the setbacks could be rebuilt on the same footprint. This reflects the current protocol followed in the City's Environmental Review Committee (ERC) as approved by the federal Department of Fisheries and Oceans (DFO). This would essentially formalize the current process by enshrining it in Development Permit Areas. Setbacks would be consistent with past ERC decisions but with the advantage of only requiring DFO approval for unusual applications where compliance with guidelines proved infeasible.

One key addition in the Provincial regulations pertains to issues of soil and landscaping removal, including trees and impervious areas in these identified areas which are now to be regulated by local municipalities. As such the guidelines will include a 'no net loss' principle on affected properties wherein any tree cut down will equal two trees that must be planted elsewhere on the site, within the 15m riparian protection zone. It should be noted that all trees situated within 15m of a stream are considered fish habitat and therefore protected under the Federal Fisheries Act. Therefore, tree removals within the setback area will only be permitted if they have been assessed as hazardous by a Certified Arborist.

Specific Development Permit Area approvals would be delegated to the Director of Community Development to reduce the administrative burden on staff and Council. For example, the Director may issue a DP for new landscaping or a deck addition in the assessment area with no zoning variance involved. In cases involving a zoning variance the application would be forwarded for Council review and approval. It should be noted that in order to comply with the Provincial *SPR* or the new *RAR* there will need to be greater involvement of the local government staff, and often Council, in the approval process than previously required. It should also be noted that Board of Variance approvals would not be applicable for environmental purposes.

The City's proposed Riparian Area Strategy outlined briefly here, and in greater detail in an upcoming report, builds on the goals and objectives set out in the City's Environmental Protection Program, seeking to bring together the City's leadership role in environmental stewardship with the requirements of the provincial *Fish Protection Act* and subsequent regulations.

## **PUBLIC CONSULTATION PROCESS**

Consultation with private property owners who will be affected by this provincial legislation, and the City's mandated response, is a very important component of the Riparian Area Strategy.

If endorsed by Council, the period of January 30<sup>th</sup> to February 10<sup>th</sup> would be the input period during which information and comment forms would be available on the web and at City Hall, along with displays with staff on hand to answer questions. A general information session would be held at City Hall on

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Wednesday, February 1<sup>st</sup> to provide background and general information. A follow up session would be held the following Tuesday February 7<sup>th</sup> at the same location for those wanting further detailed information.

The Riparian Area Strategy is also scheduled to be reviewed by the Parks and Environment Advisory Committee (PEAC) and the Advisory Planning Commission (APC) in early February.

An alternative public consultation process would see a decision by Council to hold a Town Hall Meeting to discuss the proposed amendment to the Official Community Plan for Development Permit Areas for Streamside Protection and Enhancement. This could be preceded with a week or two of displays in the City Hall lobby with staff on hand to answer questions. Staff do not recommend the Town Hall Meeting at this time but this option could be considered pending the outcome of the initial public consultation process.

## **RECOMMENDATION**

The City's proposed Riparian Area Strategy represents the best alternative to the provincial process associated with the *Riparian Area Regulation*. The City's Riparian Area Strategy would streamline the assessment and approval process while meeting or beating the regulation with clear setbacks and accompanying guidelines that will allow site specific determinations that provide greater certainty for all involved.

For the public consultation component, Staff recommend the multi-faceted approach outlined in this report, making use of the web, City Hall display areas and public information sessions, as used successfully in different formats in the past. This approach provides opportunity for affected home owners to have one on one discussion with staff to explain and answer any questions. Staff can then report back to Council in a more detailed report with their feedback. Staff recommends this approach.

## **FINANCIAL IMPLICATIONS**

The addition of processing Development Permits for Streamside Protection and Enhancement will have an impact on existing Community Development and Engineering, Parks and Environment staff, from inquiries to plan reviews and inspections. In addition, the proposed Strategy will mean more time on Council agendas. Additional staff training may also be required. It is anticipated that this will be accounted for within existing staff resources.

There will be cost recovery application fees for both minor and full Development Permits for Streamside Protection and Enhancement which will be based on the size and complexity of applications. The details of this will be covered in a future report to Council.

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## INTER-DEPARTMENTAL IMPLICATIONS

This report has been prepared by Engineering, Parks & Environment and Community Development Departments. The report has been reviewed by the Civic Projects Team on January 10, 2006. All comments have been incorporated into the report.

The Riparian Area Strategy will also be reviewed by PEAC and APC in early February.


## STRATEGIC PLAN IMPLICATIONS

Staff recommendations in this report are in keeping with the goals and objectives of the Strategic Plan, specifically Community Objective C2: We will protect and maintain new and existing public infrastructure and amenities and enhance the natural and built environments.

## CORPORATE PLAN AND/OR POLICY IMPLICATIONS

The recommended course of action outlined in this report is in keeping with the Official Community Plan, from the chapter on Environment to the Sense of Place chapter, as well as the goals and objectives in the City's Environmental Protection Program. In pursuing our options to provide a consistent and effective level of protection for our environmentally sensitive areas we will better preserve local ecosystems features and functions for future generations.


### RESPECTFULLY SUBMITTED BY



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S. A. Smith, B.A., M.A.  
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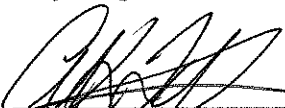
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