

NO: **R168**

COUNCIL DATE: **SEPTEMBER 29, 2014**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **September 23, 2014**

FROM: **Deputy City Engineer, Engineering
General Manager, Planning and Development
General Manager, Parks, Recreation & Culture**

FILE: **0410-20(MOE/RAR)**

SUBJECT: **Development of a Surrey Riparian Area By-law**

RECOMMENDATION

That the Engineering Department, Planning and Development Department and the Parks, Recreation & Culture Department recommend that Council:

1. Receive this report as information; and
2. Approve-in-principle the development of a Surrey Riparian Area By-law as documented in this report and direct staff to undertake a consultation process and to report back to Council with a Surrey Riparian Area By-law for future consideration that incorporates the results of that consultation.

INTENT

The purpose of this report is to inform Council and obtain Council's approval for the development of a Surrey Riparian Area By-law that helps to protect riparian areas along the City's watercourses.

BACKGROUND

In 1979 the City established its Natural Drainage Policy which seeks to utilize the City's watercourses as the primary conveyor of stormwater runoff. By doing so the City has been able to maintain an extensive inventory of over 1,400 km fish bearing watercourses. With the Natural Drainage Policy, the City must be active in the management of riparian areas along all watercourses to ensure the safe conveyance of stormwater while also satisfying the requirements of Federal and Provincial legislation including the Fisheries and Oceans Canada (DFO) Fisheries Act, Federal Species at Risk Act and the Provincial Water Act.

In July 27, 2004, the Provincial Government enacted the Riparian Areas Regulation (RAR). The RAR calls on Local Governments to endorse and develop protocols in an effort to protect the features, functions and conditions that are vital in the natural maintenance of stream health and productivity by March 31, 2006.

Until recently, the development setback determination method used by the City was based on the joint Federal/Provincial Government document entitled “*Land Development Guidelines for the Protection of Aquatic Habitat.*” This was the setback standard for the City since the early 1990’s as applied by the provincial Ministry of Environment, Lands and Parks (now Ministry of Environment) and the Department of Fisheries and Oceans (DFO). This setback methodology was also effective in addressing geotechnical concerns, hazardous trees, wildlife corridors, most floodplain concerns and drainage rights-of-way issues.

The City had also utilized an Environmental Review Committee (ERC) process that the City developed with DFO. In this process, staff were able to meet with developers, their consultants and DFO staff to establish appropriate development setbacks relaxations for any given development application taking into consideration the local environmental features of the site. This process was considered adequate to meet the obligations established by RAR.

With recent changes to the Federal Fisheries Act and subsequent staff reductions at the DFO, the City’s ERC was dissolved in March 2013. In the absence of an ERC, the City has since been relying upon an ‘interim’ procedure in which Qualified Environmental Professionals recommend appropriate development setbacks from watercourses through Detailed RAR Assessments which determine the development setback to meet the basic requirements of the Provincial RAR.

At its Regular meeting on July 21, 2014 Council considered and adopted the recommendations of Corporate Report No. R141; 2014 titled “City of Surrey Biodiversity Conservation Strategy “. In adopting the recommendations of that report, Council approved the Biodiversity Conservation Strategy (BCS) and its related policies, where the BCS provides:

- A mapping inventory of environmental features and ecological assets;
- A mapping inventory of vegetation types and structures;
- A delineation of a City wide Green Infrastructure Network (GIN);
- A determination of specific habitat criteria including the location and characteristics of corridors, sites and hubs to maintain biodiversity; and
- Management strategies to support City-wide biodiversity conservation in the matrix areas and the GIN; and indicators to monitor progress of the BCS.

This report also identified that the City has several tools to manage biodiversity, but there are limitations to what the City can currently achieve in managing biodiversity. Municipal authority is granted under the Local Government Act, including the ability to have lands conveyed as park at the time of subdivision or collect Development Cost Charges to purchase parkland. As the City develops, these land-use tools are expected to result in the retention of approximately 2,000 acres (810 hectares) of land in support of the BCS GIN, leaving approximately 1,100 acres (445 hectares) needing to be purchased with the development of the City. Of the approximately 1,100 acres, just over 200 acres (81 hectares) are within the ALR.

Corporate Report No. R141; 2014 titled “City of Surrey Biodiversity Conservation Strategy “ authorized staff to prepare and bring forward for Council consideration a Terms of Reference for a potential Surrey Riparian Area By-law including a program of consultation with key stakeholders.

DISCUSSION

The Provincial RAR was designed to protect only fish habitat and not larger ecosystem values such as forest stand integrity, ecosystem values, Federal species at risk, wildlife passage, beaver management or other public amenities such as public access and park trails. Other development issues such as floodplains, slope stability or drainage maintenance requirements are not considered under RAR. A developer may be able to meet the setbacks for RAR only to find out later through the approval process that other considerations such as geotechnical or those associated with floodplains may require greater setbacks. This has led to inefficiencies during the development process and frustration for some in the development community.

Development of a Surrey specific Riparian Area By-law would replace the interim process and allow for the coordination of all riparian environmental and legislated requirements in one review process, which will provide efficiencies for staff, consultants and developers while protecting the riparian areas appropriately and ultimately providing the greatest community benefit.

Considerations for incorporation into a Surrey specific Riparian Area By-law

The development of a Riparian Area By-law should seek to ensure that the appropriate fisheries setbacks requirements to satisfy RAR are established in addition to ensuring that all other associated development issues, riparian environmental and legislated requirements are taken into consideration, including those that are established by Provincial and Federal legislation, and that may be amended from time to time.

Through the Development process, the Riparian Area By-law would direct the riparian areas into City control through City land conveyance. This is seen as necessary, given that City controlled riparian areas allow for greater opportunity to effectively manage these areas for tree hazards, storm water control and other key community benefits. DFO has stated a preference for riparian areas to be protected through conveyance to the City, rather than through restrictive covenants. Riparian areas protected by restricted covenants are difficult to monitor and maintain as private property with restricted covenants registered on their property often do not have an appreciation or understanding of the terms and conditions established by the restricted covenant, and this has resulted in the City needing to expend significant effort in the pursuit of educating private property owners and enforcing the conditions granted in the restricted covenant.

The development of a Riparian Area By-law can also help to acquire additional land in support of the BCS GIN through City land conveyance during the development process, thereby reducing the amount of lands the City would be required to purchase in support of the BCS GIN.

In addition to the development of a Riparian Area By-law and as part of the Biodiversity Conservation Strategy, staff have been also tasked to prepare and bring forward an amendment to the Official Community Plan to include Sensitive Ecosystem Development Permit Areas (DPA's) and Guidelines that support the BCS Green Infrastructure Network (GIN). These amendments are currently being developed. The Riparian Area By-law and the Sensitive Ecosystem DPA's are intended to support one another.

It is envisioned that the Riparian Area By-law would delineate a Streamside Protection and Enhancement Area (SPEA), the width of which will be determined as specified by the future By-law requirements and that:

- no development would be allowed to occur within the SPEA except as outlined by the future By-law; and
- development would be allowed to occur outside of the SPEA but provisions, as established by the Sensitive Ecosystems DPA, may be applied in an effort to protect and maintain the integrity of the areas adjacent to the riparian area in order provide an appropriate buffering of the development from the SPEA area. Provisions that may be included in the Sensitive Ecosystems DPA could include landscaping provisions, fencing standards, tree retention etc.

The “one-stop” approach of a Riparian Area By-law will help to ensure that potential developers and their consultants have a clear understanding of the considerations when looking at development near a stream within the City. This includes clear guidelines on the environmental and legislated riparian area setback considerations that to be evaluated, and how they are to be calculated in order to determine the ultimate riparian area setback. This approach will facilitate the development process with developers knowing up-front the land that needs to be set aside before significant planning has occurred while being sensitive to environmental and community values. It could also be used to help inform the City’s advanced planning initiatives such as Neighbourhood Concept Plans (NCPs), Local Area Plans (LAPs) and Integrated Stormwater Management Plans (ISMPs).

Riparian Area By-law Development - Staff Steering Committee

It is recommended that a Steering Committee be established and comprised of senior staff from each of the Planning and Development Department, the Engineering Department and the Parks, Recreation and Culture Department to oversee the development of a Riparian Area By-law, any consulting services necessary, and its related consultation process.

Staff will also examine other Riparian Area By-laws in the region in an effort to incorporate the positive features of these By-laws in the Riparian Area By-law.

Consultation

In order to better inform the development of a Riparian Area By-law, and identify how the By-law should be implemented and the resources and support necessary for the management of the By-law, it is recommended that staff consult with internal stakeholders and the following Committees:

- Agricultural & Food Security Advisory Committee;
- Environment Sustainability Advisory Committee; and
- Development Advisory Committee.

Staff will also consult the public through an open house format in addition to consulting directly with other stakeholders such as the Urban Development Institute, Surrey Environmental Partners, the Semiahmoo Fish & Game Club, DFO and Ministry of Environment staff

Timeline

It is expected that development of a Riparian Area By-law that takes into consideration the results of the consultation process will be forwarded to Council for consideration in Summer 2015.

SUSTAINABILITY CONSIDERATIONS

The proposed Strategy is an integral part of the Biodiversity Conservation Strategy and will assist in meeting the objectives of the City's Sustainability Charter; more particularly the following:

- EN9-7: Sustainable Land Use Planning and Development Practices: By formalizing site planning processes that avoid critical habitat and preserve and protect and enhance natural habitat and landscape features; and
- EN17: Enhance Biodiversity: By developing practical, effective and equitable approaches to protecting fish habitat and wildlife habitat through the development of a coordinated biodiversity strategy.

CONCLUSION

Based on the above discussion, it is recommended that Council approve-in-principle the development of a Surrey specific Riparian Area By-law as documented in this report and direct staff to undertake a consultation process and to report back to Council with a draft Surrey Riparian Area By-law for future consideration that incorporate the results of that consultation.

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