

City of Surrey  
**ADDITIONAL PLANNING COMMENTS**

File: 7915-0392-01

Planning Report Date: November 21, 2016

**PROPOSAL:**

- **Development Variance Permit**  
 to reduce the minimum streamside setback, in order to permit the development of 79 townhouse units.

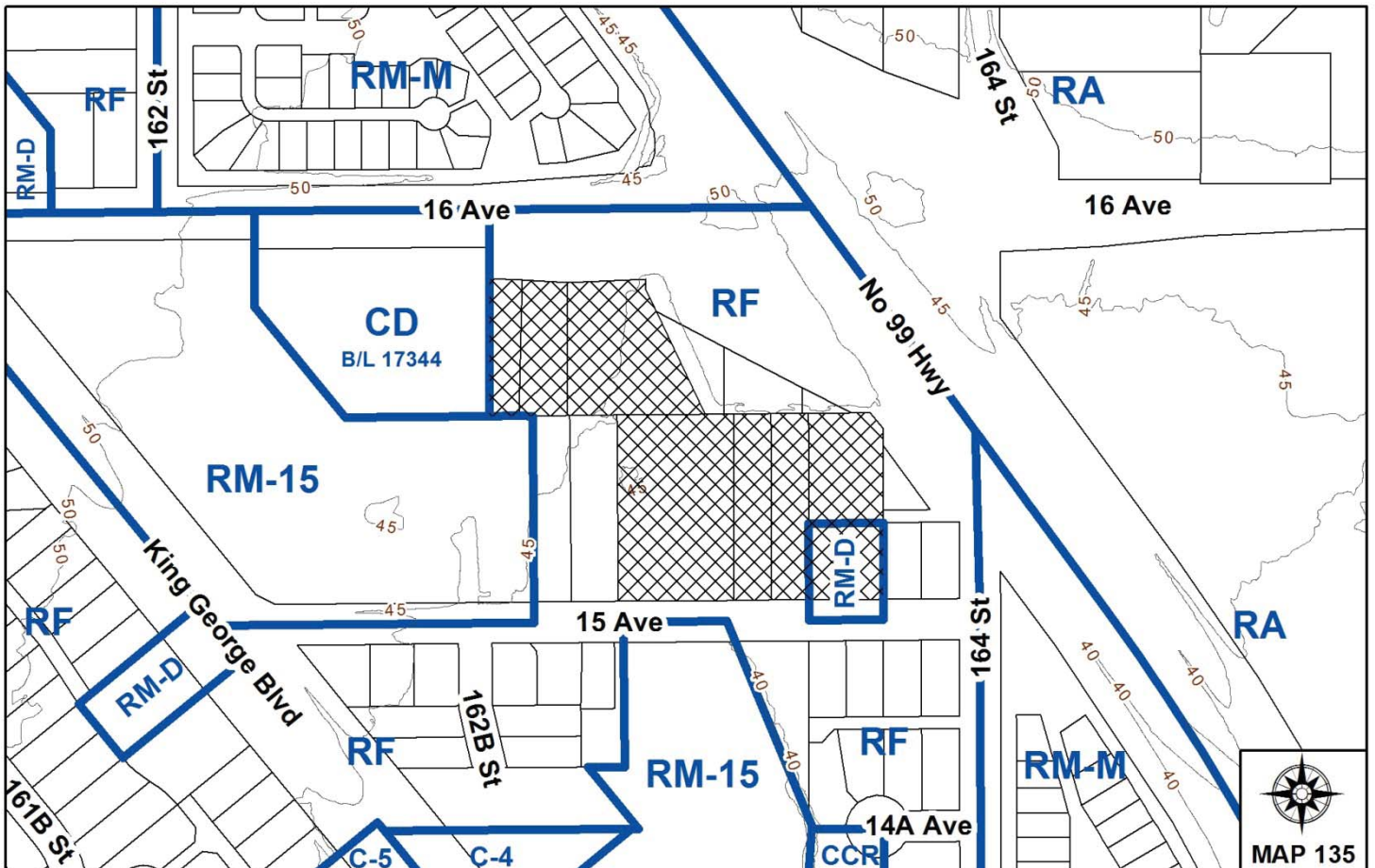
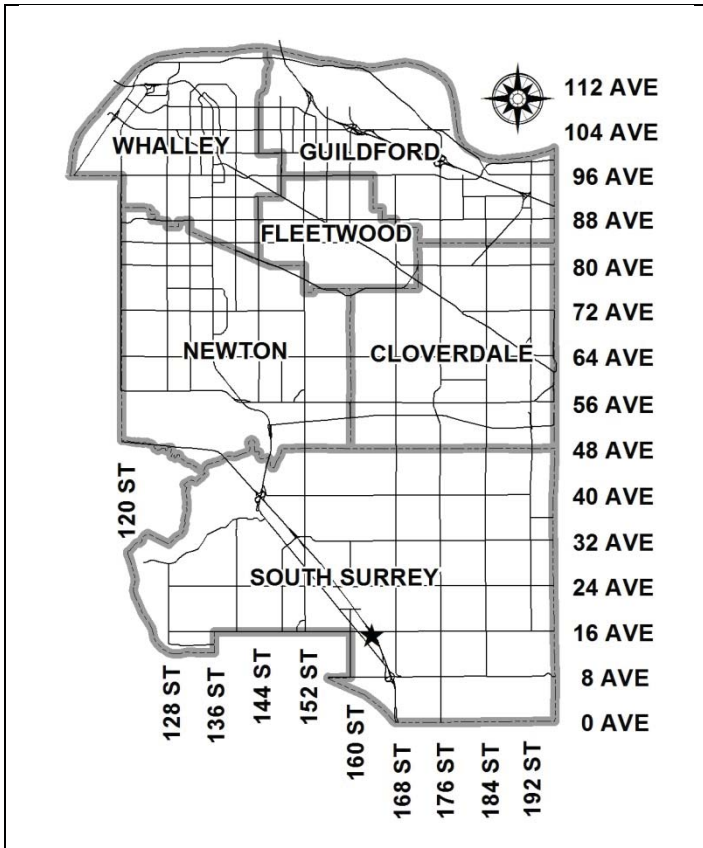
**LOCATION:** 16280, 16288 and 16310 - 16 Avenue  
 16321, 16351, 16343 and  
 16363 - 15 Avenue

**OWNER:** Bradley C Marsh et al

**ZONING:** RF and RM-D

**OCP DESIGNATION:** Urban

**LAP DESIGNATION:** Townhouse (15 upa)



### RECOMMENDATION SUMMARY

- Approval for Development Variance Permit to proceed to Public Notification.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- Seeking variances to reduce the minimum distance (setback) from top-of-bank for a "Natural Class A Stream" in part 7A of the Zoning By-law.

### RATIONALE OF RECOMMENDATION

- The applicant has demonstrated that the requested setback relaxations do not impact the objectives outlined in the Official Community Plan for protecting sensitive ecosystems.
- Upon subdivision, the applicant will convey the portion of the watercourse's Streamside Protection and Enhancement Area (SPEA), plus an additional corridor outside the SPEA for a parks pathway, to the City for open space and recreational purposes.
- The applicant provided a Riparian Areas Regulation (RAR) assessment report and peer review for the on-site Class A watercourse.
- The application was in-process, and the rezoning had received Third Reading, prior to the adoption of Part 7A Streamside Protection in the Zoning By-law.
- Council granted Third Reading to Rezoning By-law No. 18749 on July 25, 2016.
- On September 12, 2016, Council gave Final Adoption to Text Amendment By-law No. 18809, which incorporates streamside protection regulations as Part 7A in the Zoning By-law.
- Prior to approving the associated development, a variance to the new streamside regulations is required.

## RECOMMENDATION

The Planning & Development Department recommends that Council approve Development Variance Permit No. 7915-0392-01 (Appendix II), to reduce the minimum setback distance from the top-of-bank of a "Natural Class A Stream" in Part 7A of Zoning By-Law No. 12000 from 30 metres (98 ft.) to 5.9 metres (19 ft.), measured from the top-of-bank, to proceed to Public Notification.

## BACKGROUND AND PROPOSAL

- The subject lands are located in the King George Highway Corridor Land Use Plan. The subject site consists of seven properties located between 16 Avenue and 15 Avenue, west of Highway 99. The site is approximately 1.8 ha (4.4 acres).
- Carlson Creek, which is a Class-A watercourse, bisects the site. This creates a separate development site on each side of the creek.
- The applicant proposes a 79-unit townhouse development.
- At the May 30, 2016 Regular Council –Land Use meeting, Council considered Planning Report No. 7915-0392-00, which included the following components:
  - Official Community Plan (OCP) amendment from "Urban" to "Multiple Residential;"
  - Rezoning from "Single Family Residential Zone (RF)" to "Multiple Residential 30 Zone (RM-30)";
  - Development Permit for Form and Character and Hazard Lands; and
  - Development Variance Permit for reductions to setbacks and lot width.
- The application received Third Reading on July 25, 2016.
- The proposed development is not in compliance with the new setback requirements for streamside protection and therefore a Development Variance Permit is required to allow the development to proceed as originally contemplated.

## STREAMSIDE PROTECTION CONSIDERATIONS

- In July 2014, Council endorsed the Biodiversity Conservation Strategy and the implementation measures it recommended to protect Surrey's streamside areas, natural habitats, and sensitive ecosystems. This document identifies the use of a Development Permit Area (DPA) as an effective means of protecting Surrey's natural environmental assets.
- On September 12, 2016, Council approved changes to the Official Community Plan (OCP) and the Zoning By-law to implement a Sensitive Ecosystem DPA and Streamside Protection Measures, collectively known as Surrey's Ecosystem Protection Measures, for the protection of the natural environment, including riparian areas. These changes were detailed in Corporate Report No. R188, which was approved by Council on July 25, 2016.

- The OCP is used to identify the specific types of ecosystems that are intended to be protected including Class A, A/O or B streams, and the Zoning By-law (Part 7A Streamside Protection) is used to identify the specific protection areas that are required to be established for Streamside Setback Areas.
- During drafting of the Streamside Protection Measures, staff were aware that its implementation would create a number of non-conforming sites throughout the City of Surrey. As such, it was anticipated that Development Variance Permit (DVP) applications would be considered in certain situations.
- Although the subject site is located within the newly established Sensitive Ecosystem DPA, a Sensitive Ecosystem Development Permit and accompanying Ecosystem Development Plan will not be required. The applicant has demonstrated that the requested setback reduction does not impact the objectives outlined in the Official Community Plan for protecting sensitive ecosystems. In support of this the applicant undertook the following:
  - Submission of a Riparian Areas Regulation (RAR) assessment report prepared by Phoenix Environmental Services Ltd. for the on-site Class-A watercourse;
  - Submission of a peer review conducted by Envirowest Consultants Inc, which concluded that the RAR assessment is acceptable;
  - Submission of a geotechnical report, which concluded that development is appropriate as proposed from the perspective of slope stability;
  - Upon completion of the subdivision, the SPEA lands within the subject site, as well as a corridor outside of the SPEA, will be conveyed to the City for watercourse protection and construction of a Parks trail; and
  - Establishment of a P-15 agreement for the monitoring and maintenance of the vegetation within the riparian area.

#### BY-LAW VARIANCE AND JUSTIFICATION

(a) Requested Variance:

- To reduce the minimum distance (setback) from top-of-bank for a "Natural Class A Stream" in Part 7A of the Zoning By-law from 30 metres (98 ft.) to 5.9 metres (19 ft.), measured from the top of bank.

Applicant's Reasons:

- The applicant has taken appropriate measures to ensure the objectives of the sensitive ecosystems guidelines in the OCP have been met.
- The applicant will convey, at no cost to the City, the portion of the watercourse's Streamside Protection and Enhancement Area (SPEA) that falls on the subject site, as well as an additional strip of land outside the SPEA, to the City for watercourse protection and recreation purposes.

- The riparian protection setback, measured from the top-of-bank, is a minimum of 5.9 metres (19 ft.) at one pinch-point but is notably wider along much of the rest of the watercourse. The setback is a maximum of 17.9 metres (58 ft.) at the widest point.

Staff Comments:

- Carlson Creek, a Class A watercourse, traverses the subject site. Carlson Creek is a tributary to Fergus Creek, which is itself a tributary to the Campbell River.
- In accordance with the newly approved streamside setback areas in the Zoning By-law, the minimum required setback measured from the top-of-bank is 30 metres (98 ft.).
- The requested DVP seeks a minimum 5.9 metre (19 ft.) setback from the top-of-bank. The setback is only this narrow in one location, whereas the average setback is greater.
- Where a development is proposing to reduce the streamside setback area, a Development Variance Permit is required and is to include an Impact Mitigation Plan. This is intended to ensure that the proposed setback reduction does not create negative impacts on the sensitive ecosystems that are intended to be protected, cause flooding or other negative impacts on the property owners located next to the stream, or increase City of Surrey maintenance costs as a result of the reduced setback.
- It has been determined that an Impact Mitigation Plan is not required in this scenario, and the requested variance has merit for the following reasons:
  - The applicant provided a Riparian Areas Regulation (RAR) assessment report, dated November 20, 2015, for the on-site Class A watercourse. The RAR report supports a 5.9 metre setback from top-of-bank in one location. The setback is up to 17.9 metres (58 ft.) in other areas, in compliance with the RAR report;
  - The RAR report was peer-reviewed by a Qualified Environmental Professional (QEP);
  - The peer review, which was conducted by Envirowest Consultants Inc. and dated November 26, 2015, concluded that the RAR assessment is acceptable;
  - The portion of the watercourse's Streamside Protection and Enhancement Area (SPEA) that falls on the subject site will be conveyed to the City, as well as an additional area outside the SPEA to be used for a Parks pathway;
  - The applicant will complete a P-15 agreement for the monitoring and maintenance of the re-plantings in the riparian area; and
  - The application was in-process, and the Rezoning By-law had received Third Reading, prior to the adoption of the Streamside Protection requirements in the Zoning By-law.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners and Action Summary
- Appendix II. Development Variance Permit No. 7915-0392-01

INFORMATION AVAILABLE ON FILE

- Riparian Areas Regulation (RAR) Assessment Report prepared by Phoenix Environmental Services Ltd. and dated November 20, 2015
- RAR peer review prepared by Envirowest Consulting Ltd, dated November 26, 2015.

*original signed by Ron Hintsche*

Jean Lamontagne  
General Manager  
Planning and Development

MJ/da

Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent:      Name:                      Ted Dawson  
   Dawson & Sawyer  
   Address:                      15230 – No. 10 Hwy 101  
   Surrey, BC V3S 5K7

2.            Properties involved in the Application

- (a)      Civic Address:                      16280 - 16 Avenue  
   16288 - 16 Avenue  
   16321 - 15 Avenue  
   16351 - 15 Avenue  
   16343 - 15 Avenue  
   16363 - 15 Avenue  
   16310 - 16 Avenue
  
- (b)      Civic Address:                      16280 - 16 Avenue  
   Owner:                      Ds 15th Avenue Developments Ltd  
   PID:                              002-442-396  
   Lot 1 Section 12 Township 1 New Westminster District Plan 70476
  
- (c)      Civic Address:                      16288 - 16 Avenue  
   Owner:                      Joanne E Marsh  
                                        Bradley C Marsh  
   PID:                              002-442-400  
   Lot 2 Section 12 Township 1 New Westminster District Plan 70476
  
- (d)      Civic Address:                      16321 - 15 Avenue  
   Owner:                      Ds 15th Avenue Developments Ltd  
   PID:                              004-595-939  
   Lot 71 Section 12 Township 1 New Westminster District Plan 16493
  
- (e)      Civic Address:                      16351 - 15 Avenue  
   Owner:                      Monika E Latecki  
                                        Jacek K Latecki  
   PID:                              005-962-323  
   East Half Lot 72 Section 12 Township 1 New Westminster District Plan 16493
  
- (f)      Civic Address:                      16343 - 15 Avenue  
   Owner:                      Rennie L Hanson  
   PID:                              010-187-758  
   The West Half of Lot 72 Section 12 Township 1 New Westminster District Plan 16493



- (g) Civic Address: 16363 - 15 Avenue  
Owner: Sandra Carpenter  
PID: 008-035-164  
Lot 73 Section 12 Township 1 New Westminster District Plan 16493 Except Plan EPP33333
- (h) Civic Address: 16310 - 16 Avenue  
Owner: Bonniejean E Rogan  
Glen Rogan  
PID: 009-967-648  
Lot "F" Except: Part on Highway Plan 25810; Section 12 Township 1 New Westminster District Plan 14644

3. Summary of Actions for City Clerk's Office

- (a) Application is under the jurisdiction of MOTI. \_\_\_\_\_  
**YES**

MOTI File No. 2016-00446

- (b) Proceed with Public Notification for Development Variance Permit No. 7915-0392-01 and bring the Development Variance Permit forward for an indication of support by Council. If supported, the Development Variance Permit will be brought forward for issuance and execution by the Mayor and City Clerk in conjunction with the final adoption of the associated Rezoning By-law.



CITY OF SURREY

(the "City")

DEVELOPMENT VARIANCE PERMIT

NO.: 7915-0392-01

Issued To: BRADLEY C MARSH  
JOANNE E MARSH

Address of Owner: 16288 - 16 Avenue  
Surrey, BC V4A 1S7

Issued To: JACEK K LATECKI  
MONIKA E LATECKI

Address of Owner: 16351 - 15 Avenue  
Surrey, BC V4A 1L4

Issued To: RENNIE L HANSON

Address of Owner: 16343 - 15 Avenue  
Surrey, BC V4A 1L4

Issued To: DS 15<sup>TH</sup> AVENUE DEVELOPMENTS LTD.

Address of Owner: #205, 15240 - 56 Avenue  
Surrey, BC V3S 5K7

Issued To: SANDRA CARPENTER

Address of Owner: 16363 - 15 Avenue  
Surrey, BC V4A 1C4

Issued To: BONNIEJEAN ELIZABETH ROGAN  
GLEN ROGAN

Address of Owner: 15304 - Columbia Avenue  
White Rock, BC V4B 1J7

(collectively referred to as the "Owner")

1. This development variance permit is issued subject to compliance by the Owner with all statutes, by-laws, orders, regulations or agreements, except as specifically varied by this development variance permit.
  
2. This development variance permit applies to that real property including land with or without improvements located within the City of Surrey, with the legal description and civic address as follows:

Parcel Identifier: 002-442-396

Lot 1 Section 12 Township 1 New Westminster District Plan 70476

16280 - 16 Avenue

Parcel Identifier: 002-442-400

Lot 2 Section 12 Township 1 New Westminster District Plan 70476

16288 - 16 Avenue

Parcel Identifier: 004-595-939

Lot 71 Section 12 Township 1 New Westminster District Plan 16493

16321 - 15 Avenue

Parcel Identifier: 005-962-323

East Half Lot 72 Section 12 Township 1 New Westminster District Plan 16493

16351 - 15 Avenue

Parcel Identifier: 010-187-758

The West Half of Lot 72 Section 12 Township 1 New Westminster District Plan 16493

16343 - 15 Avenue

Parcel Identifier: 008-035-164

Lot 73 Section 12 Township 1 New Westminster District Plan 16493 Except Plan EPP33333

16363 - 15 Avenue

Parcel Identifier: 009-967-648

Lot "F" Except: Part on Highway Plan 25810; Section 12 Township 1 New Westminster District Plan 14644

16310 - 16 Avenue

(the "Land")

3. (a) As the legal description of the Land is to change, the City Clerk is directed to insert the new legal description for the Land once titles have been issued, as follows:

Parcel Identifier:

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- (b) If the civic addresses change, the City Clerk is directed to insert the new civic addresses for the Land, as follows:

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4. Surrey Zoning By-law, 1993, No. 12000, as amended is varied as follows:
  - (a) In the table in Section B.1 of Part 7A "Streamside Protection," the minimum distance from top of bank for a "Natural Class A Stream" is reduced from 30 metres (98 ft.) to 5.9 metres (19 ft.).
5. This development variance permit applies to only the portion of the Land shown on Schedule A which is attached hereto and forms part of this development variance permit.
6. The Land shall be developed strictly in accordance with the terms and conditions and provisions of this development variance permit.
7. This development variance permit shall lapse unless the subdivision, as conceptually shown on Schedule A which is attached hereto and forms part of this development variance permit, is registered in the New Westminster Land Title Office within three (3) years after the date this development variance permit is issued.
10. The terms of this development variance permit or any amendment to it, are binding on all persons who acquire an interest in the Land.

- ii. This development variance permit is not a building permit.

AUTHORIZING RESOLUTION PASSED BY THE COUNCIL, THE      DAY OF      , 20 .  
ISSUED THIS      DAY OF      , 20 .

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Mayor – Linda Hepner

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City Clerk – Jane Sullivan

