

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7917-0433-00

Planning Report Date: October 23, 2017

PROPOSAL:

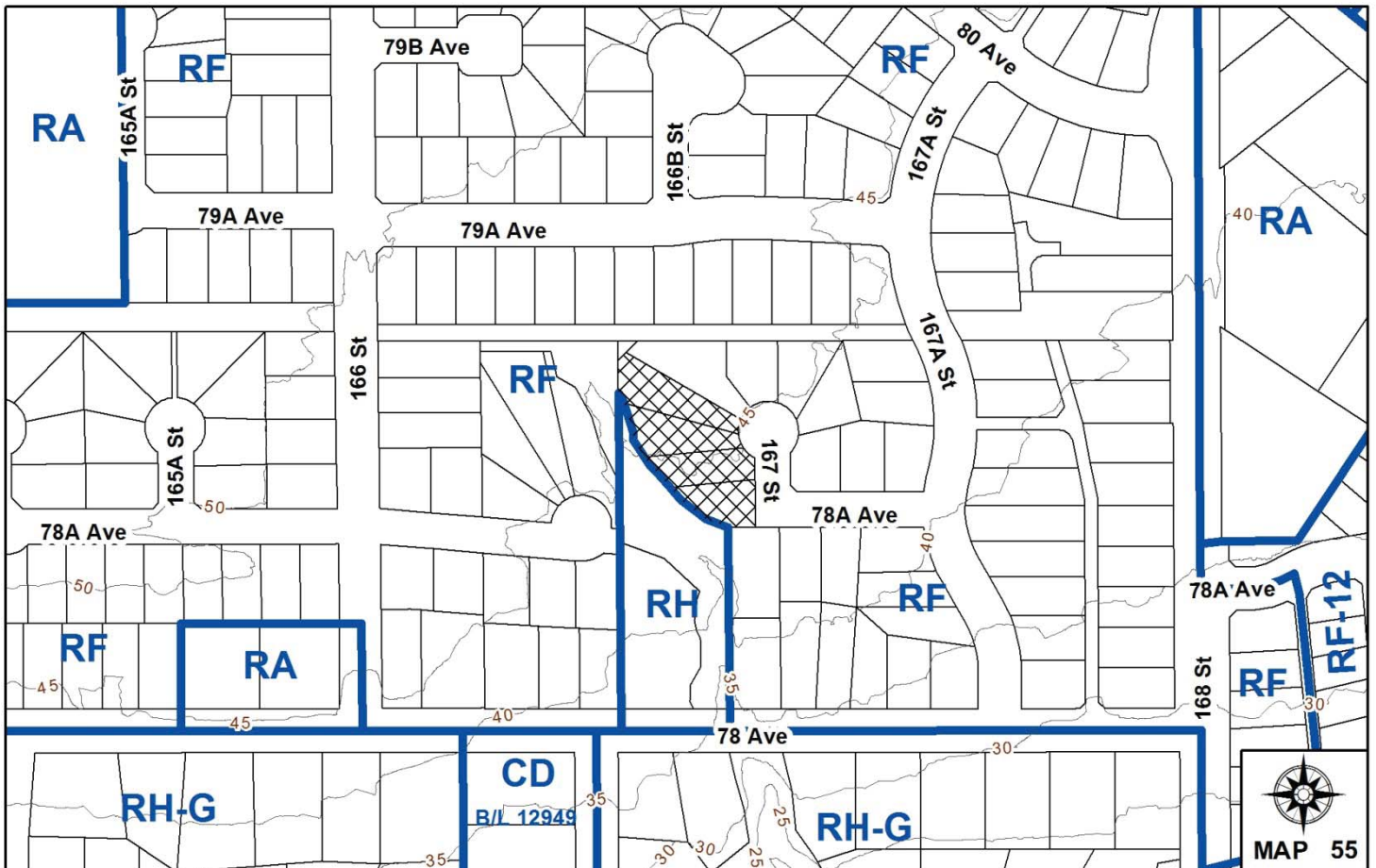
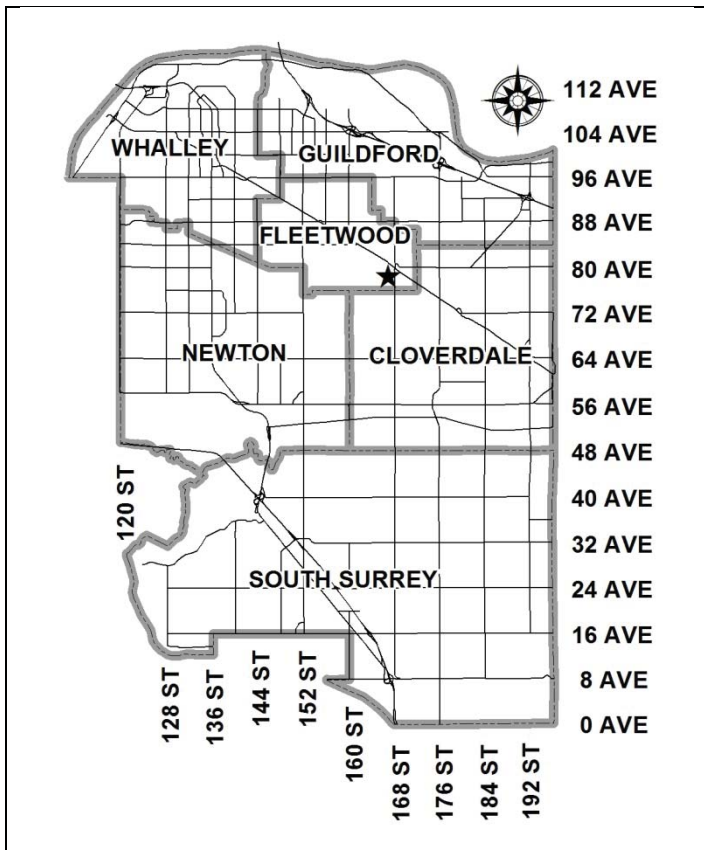
- **Development Variance Permit**

to reduce the minimum streamside setback from a Class B Natural Stream, as measured from top-of-bank, to construct a single family dwelling on each of the four (4) existing lots.

LOCATION: 7851, 7857, 7865 and 7869 - 167 Street

ZONING: RF

OCP DESIGNATION: Urban



RECOMMENDATION SUMMARY

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

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The applicant is seeking to reduce the minimum streamside setback, as measured from top-of-bank, for a "Natural Class B Stream" from 15 metres (50 ft.) to 5 metres (16.5 ft.) to allow construction of a new house on three (3) of the subject lots and to bring the house currently under construction on the fourth lot (7869 - 167 Street) into conformity with the Part 7A Streamside Protection provisions of the Zoning By-law.

RATIONALE OF RECOMMENDATION

- The four (4) subject single family lots were created on August 9, 2016 as part of Development Application No. 7914-0307-00, which was granted final adoption on rezoning by Council on July 25, 2016.
- An unnamed "Natural Class B Stream" runs north-south through the City-owned park lot, also created under Development Application No. 7914-0307-00, immediately to the west of the subject site. In accordance with Section B.2 of Part 7A Streamside Protection of the Zoning By-law, the minimum streamside setback for a "Natural Class B Stream" is 15 metres (50 ft.), as measured from top-of-bank.
- A Riparian Areas Regulations (RAR) Assessment report was submitted by a Qualified Environmental Professional (QEP) under Development Application No. 7914-0307-00 that recommended using the RAR Streamside Protection and Enhance Area (SPEA) setback of 10 metres (33 ft.) from the high water mark, which results in a 5-metre (16.5-ft.) SPEA, as measured from the top-of-bank. The recommendation was reviewed and accepted by the City's Drainage and Environmental staff, as well as peer reviewed by a separate QEP, who found the report acceptable.
- The full SPEA was conveyed to the City for riparian protection purposes and a 1.4-metre (4.5-ft.) high permanent wooden fence was installed along the western edge of the subject site to prevent access. In addition, a 5-metre (16.5-ft.) wide combined Statutory Right-of-Way/Restrictive Covenant (SRW/RC) that follows the approved SPEA was registered on the title of all four (4) of the subject properties. The combined SRW/RC prohibits the construction of any buildings or structures within the SRW area and allows access by the City's Drainage Operation staff for maintenance of the riparian area in perpetuity.
- The subject lots were created in advance of the Streamside Protection Measures coming into effect.
- The applicant has provided a follow-up letter from the QEP responsible for the original RAR Assessment (Rolf Sickmuller, Registered Professional Biologist, of EnviroWest Consultants Inc.) which states that the riparian protection measures approved under Development Application No. 7914-0307-00 were correctly implemented following the subdivision of the parent property and that the proposed streamside setback reductions would not adversely affect the adjacent riparian area.

RECOMMENDATION

The Planning & Development Department recommends that Council approve Development Variance Permit No. 7917-0433-00 (Appendix III), to reduce the minimum setback area for a "Natural Class B Stream", as measured from the top-of-bank, from 15 metres (50 ft.) to 5 metres (16.5 ft.), to proceed to Public Notification.

REFERRALS

Engineering: The Engineering Department has no objection to the proposed variance.

Parks, Recreation & Culture: No objection.

SITE CHARACTERISTICS

Existing Land Use: Single family lots created in 2016 under Development Application No. 7913-0407-00, three (3) vacant and one (1) containing a partially constructed dwelling.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Vacant single family lot created under Development Application No. 7914-0307-00	Urban	RF
East (Across 167 Street):	Single family dwellings	Urban	RF
South:	City-owned park lot containing an unnamed Natural Class B (yellow-coded) Stream and residential lot containing a single family dwelling	Urban	RH and RF
West:	City-owned park lot, created under Development Application No. 7914-0307-00 containing an unnamed Natural Class B Stream	Urban	RH

DEVELOPMENT CONSIDERATIONS

Background and Proposal

- The four (4) subject properties are located at 7851, 7857, 7865 and 7869 – 167 Street in Fleetwood. The subject site is designated "Urban" in the Official Community Plan and zoned "Single Family Residential Zone (RF)".
- The four (4) subject lots were created under Development Application No. 7914-0307-00 which rezoned the northern portion of parent property from "One-Acre Residential Zone (RA)" to "Single Family Residential Zone (RF)" and the southern portion from "One-Acre Residential Zone (RA)" to "Half-Acre Residential Zone (RH)", in order to permit subdivision into five (5) single family lots, one (1) remnant lot, one (1) lot to be transferred to the City for riparian protection purposes and one (1) "Park" lot.
- Council granted final adoption to Rezoning By-law No. 18467 on July 25, 2016 and the subject lots were created under Subdivision Plan EPP57444 on August 9, 2016.
- On September 12, 2016, Council approved amendments to the Official Community Plan (OCP) and Zoning By-law No. 12000 to implement a Sensitive Ecosystems Development Permit Area (SEDPA) and Streamside Protection Measures, collectively known as Surrey's Ecosystem Protection Measures, for the protection of natural environments, including riparian areas. These changes were detailed in Corporate Report No. R188, which was approved by Council on July 25, 2016.
- An unnamed "Natural Class B Stream" runs north-south through the City-owned park lot, also created under Development Application No. 7914-0307-00, immediately to the west of the subject site. In accordance with Section B.2 of Part 7A Streamside Protection of the Zoning By-law for existing lots of record created before September 12, 2016 where zoning allows for a single family dwelling the minimum streamside setback for a "Natural Class B Stream" is 15 metres (50 ft.), as measured from top-of-bank.
- A Development Variance Permit has been requested to reduce the minimum streamside setback area from 15 metres (50 ft.) to 5 metres (16.5 ft.) to permit the construction of a new house on three of the subject lots.
- On March 6, 2017 a building permit to allow for the construction of a new single family dwelling on one of the subject lots (7869 – 167 Street) was issued by staff. Although considered legal non-conforming staff requested that the property be included in the subject application to rectify the non-conformity, as a portion of the proposed dwelling encroaches into the minimum 15-metre (50-ft.) streamside setback area.

Sensitive Ecosystems (Streamside Areas) Development Permit

- Although the subject site falls within the Sensitive Ecosystems (Streamside Areas) Development Permit Area, due to the unnamed "Class B Stream" that runs north-south through the City-owned park lot immediately to the west, a Sensitive Ecosystem Development Permit and accompanying Impact Mitigation Plan has not been required for the following reasons:

- A Riparian Areas Regulations (RAR) Assessment report was submitted by a Qualified Environmental Professional (QEP) under Development Application No. 7914-0307-00 that recommended using the RAR SPEA setback of 10 metres (33 ft.) from the high water mark, which results in a 5-metre (16.5-ft.) SPEA, as measured from the top-of-bank. The recommendation was reviewed and accepted by the City's Drainage and Environmental staff, as well as peer reviewed by a separate QEP, who found the report acceptable;
- A P-15 agreement was entered into by the developer for the installation, monitoring and maintenance of riparian area re-planting within the SPEA;
- The entire SPEA was conveyed to the City for riparian protection purposes and a 1.4-metre (4.5-ft.) high permanent wooden fence was installed along the western edge of the subject site to prevent access; and
- A 5-metre (16.5-ft.) wide combined Statutory Right-of-Way/Restrictive Covenant (SRW/RC) that follows the approved SPEA was registered on the title of all four (4) of the subject properties. The combined SRW/RC prohibits the construction of any buildings or structures within the SRW area and allows access by the City's Drainage Operation staff for maintenance of the riparian area in perpetuity.
- The subject lots were created in advance of the Streamside Protection Measures coming into effect.

Hazard Lands (Steep Slopes) Development Permit

- The subject site is located within the Hazard Lands (Steep Slope) Development Permit Area due to the presence of steep slopes exceed 20% grade within the adjacent City-owned parkland to the immediate west. However, given the minimal slope present on the four (4) subject properties a Hazard Lands Development Permit is deemed unnecessary.

BY-LAW VARIANCE AND JUSTIFICATION

(a) Requested Variance:

- To reduce the minimum streamside setback distance, as measured from top-of-bank, for a "Class B Natural Stream" from 15 metres (50 ft.) to 5 metres (16.5 ft.) to permit construction of a new house on each of the four (4) newly created lots.

Applicant's Reasons:

- The 15-metre (50-foot) minimum streamside setback required under the Zoning By-law would restrict the construction of a reasonably sized RF-zoned house on the two southern-most properties (7851 and 7857 – 167 Street) and leave little useable rear yard space on all four of the subject lots.

Staff Comments:

- Generally, where a Development Variance Permit is proposing to reduce the minimum streamside setback area the submission of an Impact Mitigation Plan is required. This is intended to ensure that the proposed setback reduction does not adversely affect the sensitive ecosystems that are intended to be protected.
- The applicant has provided a signed and sealed follow-up letter from the QEP responsible for the original RAR Assessment (Rolf Sickmuller, Registered Professional Biologist, of EnviroWest Consultants Inc.) which states that the Streamside Protection measures approved under Development Application No. 7914-0307-00 were correctly implemented following the subdivision of the parent property, and that the proposed streamside setback reductions would not adversely affect the adjacent stream and riparian areas.
- The requested Development Variance Permit will bring the legal non-conforming lot (7869 – 167 Street) into conformity with the Part 7A Streamside Protection setbacks of the Zoning By-law.
- Staff support the proposed variance.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners and Action Summary (Confidential)
Appendix II.	Site Plan (EnviroWest Consulting Ltd.)
Appendix III.	Development Variance Permit No. 7917-0433-00

original signed by Ron Gill

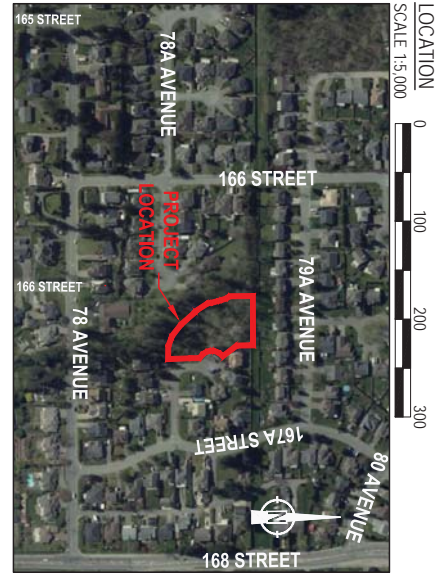
Jean Lamontagne
General Manager
Planning and Development

APPENDIX I HAS BEEN
REMOVED AS IT CONTAINS
CONFIDENTIAL INFORMATION

- REFERENCE DRAWINGS
- 1 The Name: 1410001-102 - Topographic Plan on Part of Lot 16, Sec New Westminster District Plan 46779 - October 08, 2014, Division 2
 - 2 Email: Coastal@1607178.wag Received November 26, 2014 - C
 - 3 The Name: 1410001-PS4 - Proposed Subdivision Plan of Lot 18 & New Westminster District Plan 46779 - March 23, 2015, Division 4
 - 4 Drawing No: 2028-01-01 - Riparian Areas Regulation Zones of Se Embankment Near River 01, Mehta, 26, 2015, Enviro\est Consultin
 - 5 2012 Legal Base from City of Surrey
 - 6 2016 Onho Photo\4qh from City of Surrey

LEGEND

- building envelope
- City of Surrey 15 metre streamside setback
- riparian areas regulation streamside protection and enhancement area boundary adopted by council under city file 14-0307-00 (July 2016)

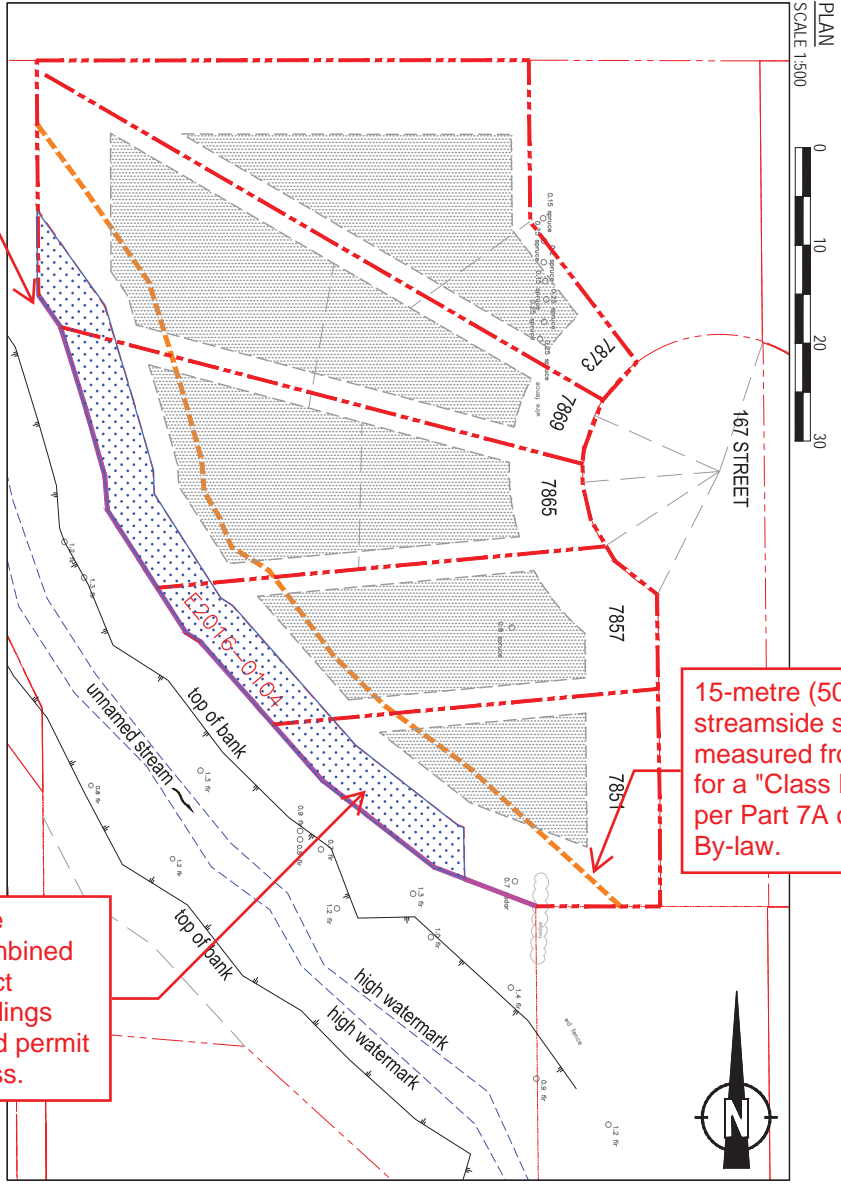


Proposed reduction to the minimum streamside setback for a "Class B Streams" from 15 metres (50 ft.) to 5 metres (16.5 ft.), as measured from top of bank.

MR. JASBIR MEHTA
 7851, 7857, 7865, 7869 and 7873 - 167 STREET
 Surrey, BC

enviro\est consultants inc.
 Suite 101 - 1515 Broadway Street
 Port Couillard, British Columbia
 Canada V3C 6W2
 office: 604-944-4502
 facsimile: 604-944-4507
 www.enviro\est.ca

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SCALE	AS SHOWN				
DRAWING NUMBER	2406-01-01				
DATE	August 24, 2017				



15-metre (50-ft.) minimum streamside setback, as measured from top of bank, for a "Class B Stream" as per Part 7A of Zoning By-law.

Additional 5-metre (16.5-ft.) wide combined SRW/RC to restrict placement of buildings and structures and permit engineering access.

STREAM SETBACKS

CITY OF SURREY

(the "City")

DEVELOPMENT VARIANCE PERMIT

NO.: 7917-0433-00

Issued To:

Address of Owner:

Issued To:

Address of Owner:

Issued To:

Address of Owner:

Issued To:

Address of Owner:

(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: 029-930-723
Lot 1 Section 24 Township 2 New Westminster District Plan EPP57444

7851 - 167 Street

Parcel Identifier: 029-930-731
Lot 2 Section 24 Township 2 New Westminster District Plan EPP57444

7857 - 167 Street

Parcel Identifier: 029-930-740
Lot 3 Section 24 Township 2 New Westminster District Plan EPP57444

7865 - 167 Street

Parcel Identifier: 029-930-758
Lot 4 Section 24 Township 2 New Westminster District Plan EPP57444

7869 - 167 Street

(the "Land")

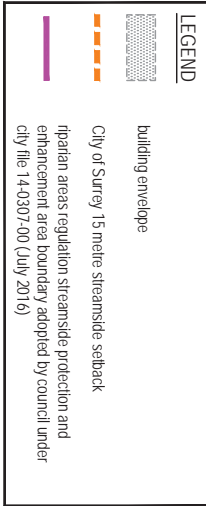
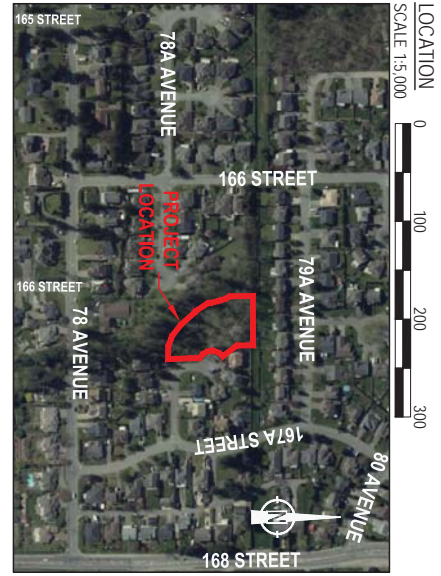
3. Surrey Zoning By-law, 1993, No. 12000, as amended is varied as follows:
 - (a) In Section B.2 of Part 7A "Streamside Protection", the minimum streamside setback area for a "Natural Class B Stream", as measured from top-of-bank, is reduced from 15 metres (50 ft.) to 5 metres (16.5 ft.).
4. This development 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.
5. The Land shall be developed strictly in accordance with the terms and conditions and provisions of this development variance permit.
6. This development variance permit shall lapse if the Owner does not substantially start any construction with respect to which this development variance permit is issued, within two (2) years after the date this development variance permit is issued.
7. The terms of this development variance permit or any amendment to it, are binding on all persons who acquire an interest in the Land.

8. This development variance permit is not a building permit.

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

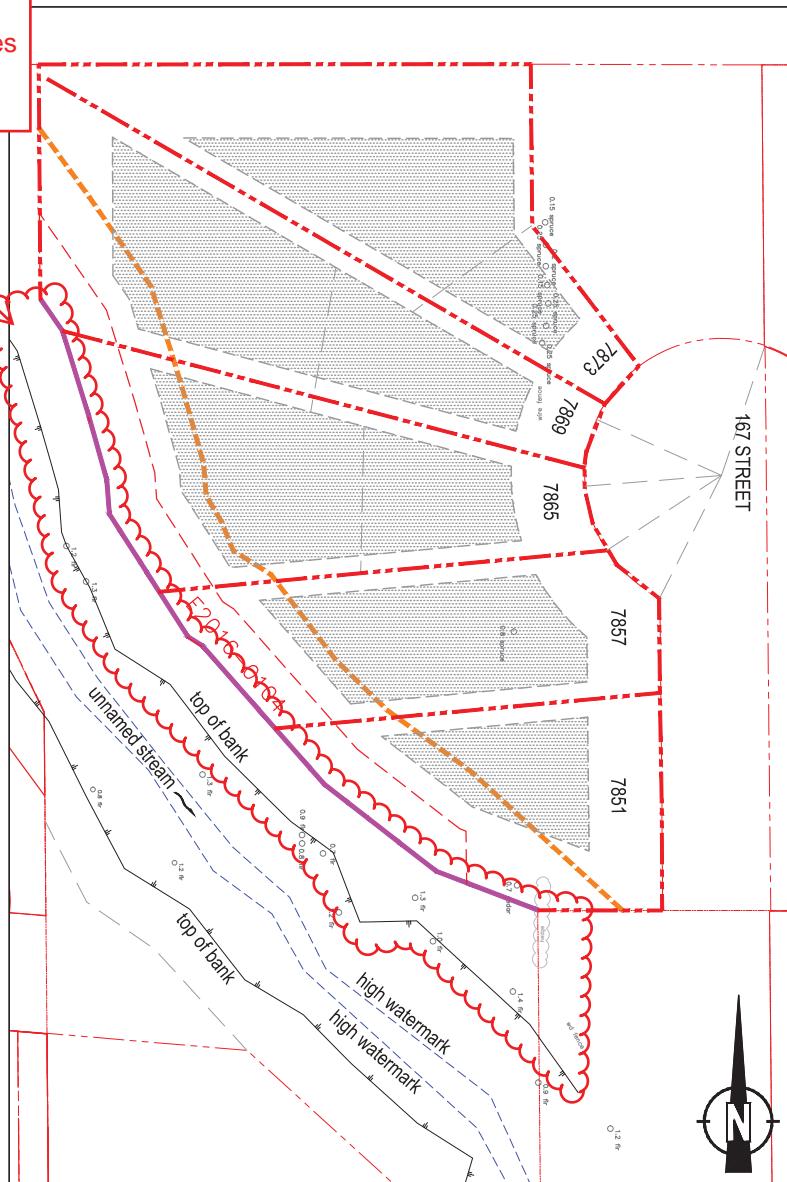
Mayor – Linda Hepner

City Clerk – Jane Sullivan



- REFERENCE DRAWINGS
- 1 The Name: 1410001-102 - Topographic Plan on Part of Lot 16, Section 24, Township 2 New Westminster District Plan 46779 - October 08, 2014, Delvala and Associates.
 - 2 Engrl. Coastal and 16671 78 Ave. Received November 26, 2014, Clark Kentelme.
 - 3 The Name: 1410001-P54 - Proposed Subdivision Plan of Lot 18 Section 24 Township 2 New Westminster District Plan 46779 - March 23, 2015, Delvala and Associates.
 - 4 Drawing No. 2028-01-01 - Riparian Areas Regulation Zones of Sensitivity and Streamside Protection and Enhancement Area Rev. 01, March 26, 2015, Envirowest Consultants Inc.
 - 5 2012 Legal Base Form from City of Surrey.
 - 6 2016 01m Photoaerial from City of Surrey.

PLAN SCALE 1:500



To reduce the minimum streamside setback, as measured from top-of-bank, for a "Class B Stream" from 15 metres (50 ft.) to 5 metres (16.5 ft.).

MEHTA
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