



Corporate Report

NO: _____

COUNCIL DATE: _____

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **September 26, 2005**
FROM: **General Manager, Planning and Development** FILE: **6520-20** (South Port Kells)
SUBJECT: **South Port Kells General Land Use Plan – Bothwell Drive Neighbourhood
Delegation to Council from Ms. Jennifer Chen**

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information; and
2. Instruct the City Clerk to forward a copy of this report and Council's resolution, related to this report, to Ms. Jennifer Chen, representative of residents in the Bothwell Drive area of South Port Kells.

INTENT

The purpose of this report is to respond to questions raised at the July 25, 2005, Council-in-Committee meeting by Ms. Jennifer Chen, on behalf of residents of Bothwell Drive, regarding the provisions of the South Port Kells General Land Use Plan related to the properties in the vicinity of Bothwell Drive.

BACKGROUND

On June 13, 2005, Council ratified the May 30, 2005 Council-in-Committee decision to approve the South Port Kells General Land Use Plan (attached as Appendix I to this report) as the basis for preparing Neighbourhood Concept Plans ("NCP"s) for the community of South Port Kells. The General Land Use Plan identifies three major neighbourhood areas, Anniedale, Tynehead and Port Kells, for the purpose of preparing detailed NCPs.

On July 25, 2005, Council received a delegation from Ms. Jennifer Chen, on behalf of 13 properties in the west Tynehead area. The delegation requested an amendment to the General Land Use Plan to increase the density proposed for lands along Bothwell Drive and to request that the Tynehead area proceed to the NCP planning stage in the immediate future.

Prior to the July 25, 2005 appearance before Council-in-Committee, the delegation had submitted a series of letters to the Planning and Development Department, requesting an expedited NCP process for the Tynehead area, higher density land use designations for their neighbourhood, a reduction in the width of the Agricultural Land Reserve ("ALR") buffer in Tynehead, engineering servicing options, the validity of watercourse classifications and the classification of environmentally sensitive areas. The specific area to which the delegation's requests relate, is shown on the map attached as Appendix II to this report. Staff responded in writing to each of the letters (attached as Appendix III to this report) and held meetings with the group on three occasions (May 28, 2004, September 23, 2004 and June 1, 2005) to discuss the group's concerns, issues and inquiries, and to explain the environmental, servicing and development constraints in Tynehead, which limit the potential density of development and the timing of an NCP process for the area.

DISCUSSION

At the July 25, 2005 presentation to Council, the delegation provided a handout (attached as Appendix IV to this report), outlining three issues of concern in relation to the densities in the subject area: waterways, the ALR buffer and setbacks. Council requested that staff use the handout as the basis for preparing a report back to Council.

Watercourses

The delegation advised Council that watercourse sensitivity in the Tynehead area has not been confirmed by a physical assessment of all watercourses in the area. The delegation advised that the presence of watercourses was based on aerial photographs and that all potential watercourses should be ground-truthed by the City of Surrey to confirm their sensitivity. The delegation further requested that if the potential watercourses are found to be less sensitive than originally evaluated, the South Port Kells General Land Use Plan should be amended to provide for a higher density designation.

A complete ground inspection of all watercourses is not performed in preparing a General Land Use Plan, such as the one recently completed for South Port Kells. The process of a more detailed investigation (ground-truthing) of all watercourses in the Tynehead area will be performed at the NCP planning stage and an even more detailed review will be undertaken at the time of development application review on a site-by-site basis. This is the process that the City has followed for communities throughout the City over the last several years.

For the purposes of the South Port Kells General Land Use Plan, an environmental assessment of the South Port Kells area was undertaken by a qualified environmental consultant (Phoenix Environmental Services Ltd.). The consultant examined the City's

stream (fish) classification maps (which are developed from aerial photographs), contour mapping interpretation, and some field inspections. The stream classification maps serve as a general guideline/reference tool for determining stream sensitivity. Although watercourses identified from aerial photographs are not absolute, staff has found the photographs to be a reasonable gauge of watercourses throughout the City. The consultant's report identified, in the Tynehead area, the Class "A" Serpentine River creek system between 96 Avenue, 172 Street, 92 Avenue and 168 Street. The City of Surrey's Fisheries Watercourse Classification system, which is used to classify the potential presence of fish and fish nutrients, identifies Class "A" watercourses as watercourses that are inhabited year-round by salmonids (salmon, trout) or have potential to be inhabited year-round by salmonids. In response to this classification for the subject creek, the General Land Use Plan identifies that a lower density form of residential development would be appropriate for this area. This area has been treated in the same manner as the lands surrounding the Latimer Creek headwaters in the eastern section of the South Port Kells General Land Use Plan.

The City will retain a professional environmental consultant to perform a detailed review of the watercourses and other environmental features of the Tynehead area at the NCP planning stage. Staff, however, is relatively confident that the stream classifications in this area are reasonable and a significant change to the classification of the stream is not expected at the NCP planning stage.

ALR Buffer

The delegation noted that the ALR lands adjacent to Tynehead, south of 92 Avenue, between 168 Street and 176 Street, have not been actively farmed in the last 30 years, and that the extent of protection of the ALR should depend on the extent to which the land is being farmed. It was suggested that a physical assessment of the ALR lands south of 92 Avenue be performed to evaluate their agricultural sensitivity and that the size of the ALR land buffer on the General Land Use Plan should change if the lands are found to be less sensitive than previously thought. It was also noted that the ALR buffer for this portion of Tynehead (between 168 Street and 176 Street) appears larger than the ALR buffer between 180 Street and 184 Street in the General Land Use Plan.

Council Policy O-23 stipulates that within the transition area of a minimum of one-quarter mile in depth away from the ALR boundary, development should occur at suburban densities (i.e., a maximum density of two units per acre) and where possible, this transition should be extended to one-half mile. In some areas covered by the South Port Kells General Land Use Plan primarily involving lands on steep slopes with substantial vegetation (e.g. between 180 and 184 Streets), clustered development is proposed within the one-quarter mile buffer area adjacent to the ALR, subject to substantial buffer areas being retained immediately adjacent to the ALR boundary where no development at all will take place. This will provide for a different form of development that respects the overall densities anticipated by Council Policy O-23.

Setbacks

The delegation commented that riparian and ALR setback requirements are restrictive and reduce property values in Tynehead, which may have been increased with a higher density designation. Compensation for property loss resulting from setback legislation was requested, noting that many residents purchased their properties prior to the establishment of watercourse and agricultural setback legislation. The delegation noted that the properties represent the life savings of many property owners in Tynehead.

Riparian setback requirements exist under Provincial and Federal legislation. Although the Federal *Fisheries Act* was not adopted until 1985, prior to that date Federal Fisheries Officers often recommended setbacks and fish habitat protection in riparian areas. The intent of the Federal *Fisheries Act* is to prohibit the "harmful alteration, disruption, or destruction" of fish habitat. The Land Development Guidelines, developed by the Department of Fisheries and Oceans ("DFO") and used by the City, outline a setback model that, if adhered to, provides reasonable assurance that land development projects comply with the *Fisheries Act*. DFO's fish protection policy led to the creation of the Provincial Streamside Protection Regulation and now to the new Riparian Areas Regulation ("RAR") that has been developed by Provincial and Federal environment officials. Currently, the City uses the Land Development Guidelines, but is exploring use of the new RAR. The RAR would require a 30-metre setback along all vegetated Class A watercourses, which could be reduced on a case-by-case basis, based on the recommendations of a qualified environmental professional. Under the RAR, this evaluation process will take place at the time of consideration of a development application for a site along a Class A watercourse. Riparian area setback designations are the responsibility of the Provincial and Federal governments. Any relaxations or variances must be approved by officials of these senior levels of government.

Lands contained within a riparian area setback within a lot can, in most circumstances, be used in the calculation of overall gross density of development allowed on the lot. "Grandfathering" does not apply to the application of fisheries-related setbacks and other fisheries-related requirements established by the Provincial and Federal governments, regardless of the duration of property ownership.

There is no compensation for the provision of buffers adjacent to the ALR or required riparian setbacks along creeks and streams. It is a goal of the City and the Province to propagate healthy, productive farming activities in the ALR, and to avoid situations where agricultural operations are in risk of being compromised if urban development adjacent to the ALR is not managed properly. The width and design of buffers and riparian setbacks and final density provisions will be determined at the NCP planning stage.

Timing of an NCP for the Tynehead Area

Under "Future Considerations" in the presentation to Council, the delegation requested:

- **Once the main sanitation pump station is built in the Anniedale area, provide a line directly to the Tynehead area, rather than waiting for the line to be built east to west; and**
- **Schedule Tynehead to be the next area to receive an NCP.**

As the approved South Port Kells General Land Use Plan notes, there is currently no sewer capacity available for the South Port Kells area. Urban development cannot occur until the North Surrey Interceptor is constructed by the Greater Vancouver Sewer and Drainage District, (GVS&DD) generally along the future alignment of the South Fraser Perimeter Road to about 176 Street and 104 Avenue. This interceptor is not expected to be constructed until at least 2007. Once this trunk sewer is extended south across Highway No. 1 into South Port Kells, the trunk sewer mains within South Port Kells, including the Tynehead area, would normally be constructed sequentially to provide for gravity flow as far as possible. At this time, it is anticipated that Anniedale Areas "A" and "B" and the Port Kells areas would be serviced with sanitary sewer first, with the sewer main then looping towards the west to service the Tynehead area (see map attached as Appendix V to this report). This sequence/phasing of sanitary sewer servicing follows the General Land Use Plan's intent of maximizing areas serviced by gravity sewer and minimizing pumping costs.

Based on the normal extension of gravity sewer systems, the Tynehead area would be the last of the South Port Kells neighbourhood areas to receive sanitary sewer servicing. Interim servicing strategies may be considered at the owners'/developers' expense, as long as ultimate servicing is not encumbered or delayed as a result.

NCPs are prepared and development is managed, based on the feasibility of providing engineering servicing, including transportation management, and on the property owners'/developers' ability to demonstrate that the "front-end" costs of development can be managed. Should proponents of development in the Tynehead neighbourhood wish to advance the servicing of the Tynehead community through the construction of a pump station and forcemain, this would need to be undertaken at the cost of the proponents, as this would be an interim servicing scheme.

General Comments Regarding Land Use Designations for the Tynehead Area

The approved South Port Kells General Land Use Plan is intended to act as a guide for the development of neighbourhood specific NCPs in the South Port Kells area. The land use designations, as proposed in the General Land Use Plan, are not "cast in stone". They can be revisited as part of any NCP planning process and changes could be considered at that time, where planning rationale supports such changes. The more detailed information that is compiled through the NCP planning process will assist in establishing whether any changes to the land use designations are appropriate.

Community Involvement in the General Land Use Planning Process

The South Port Kells General Land Use Plan is a culmination of one and one-half years of planning and community consultation process, with 11 Citizens Advisory Committee ("CAC") meetings and four open houses. The General Land Use Plan as approved by Council, including the proposed designation of the Bothwell Drive area, had the overall support of the CAC.

CONCLUSION

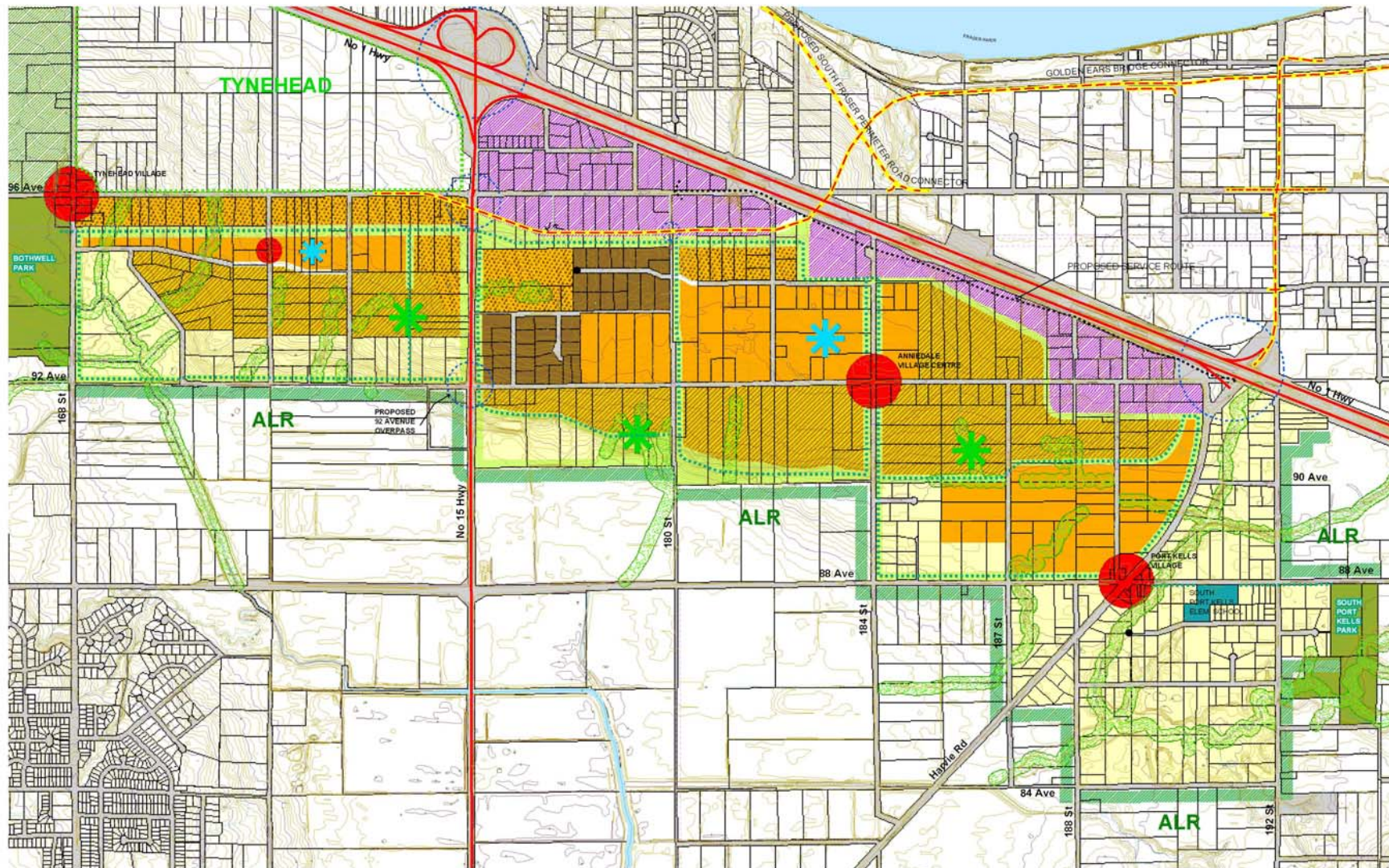
It is recommended that Council instruct the City Clerk to forward a copy of this report and Council's resolution, related to this report, to the delegation that appeared before Council on behalf of some residents in the Bothwell Drive area of South Port Kells.

Murray Dinwoodie
General Manager
Planning and Development

FW/kms/saw

Attachments

Appendix I	South Port Kells General Land Use Plan
Appendix II	Map of the Tynehead area of South Port Kells identifying lands represented by the delegation
Appendix III	Correspondence between the delegation and the City
Appendix IV	Submission by the delegation presented at the July 25, 2005 CIC Meeting
Appendix V	Conceptual Servicing Map for South Port Kells

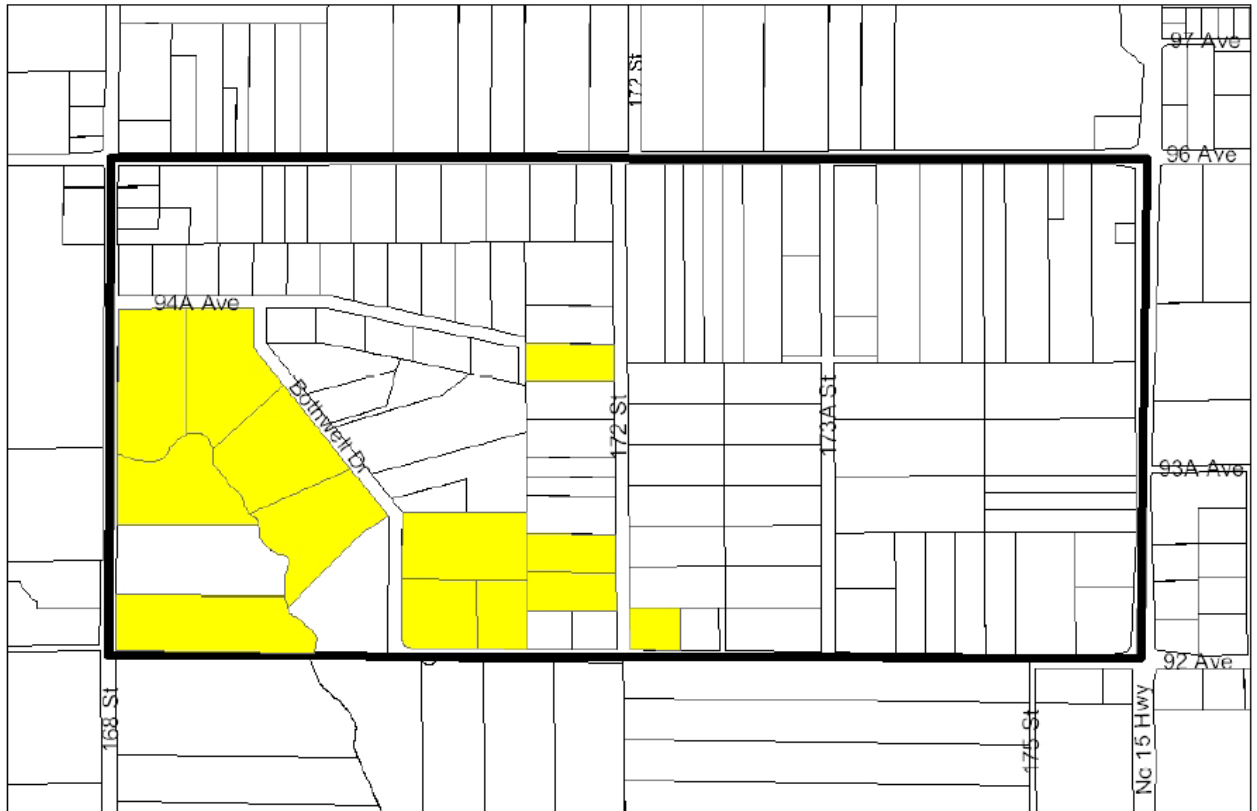


BUSINESS CENTRE	FUTURE MULTIPLE RESIDENTIAL	REGIONAL OR PROVINCIAL HIGHWAY	CONTOURS 5m
COMMERCIAL	PARK	PROPOSED REGIONAL OR PROVINCIAL HIGHWAY	CONTOURS 1m
MULTIPLE RESIDENTIAL	BUFFER	PROPOSED SERVICE ROUTE	CREEKS & SETBACK AREA
URBAN RESIDENTIAL	TYNEHEAD PARK	INTERCHANGE/ INTERSECTION/ OVERPASS T.B.D.	ALR BOUNDARY
CLUSTER RESIDENTIAL	MULTI-USE TRAILS	HYDRO R.O.W.	SCHOOL
SUBURBAN RESIDENTIAL	PROPOSED SCHOOL AND PARK (GENERAL)		
	PROPOSED PARK (GENERAL)		

PROPOSED SOUTH PORT KELLS GENERAL LAND USE PLAN

CITY OF SURREY
PLANNING AND DEVELOPMENT DEPARTMENT

Map of the Tynehead Area of South Port Kells Identifying
Lands Represented by the Delegation



Shaded Area Indicates Lands Represented by the Delegation

January 17, 2005

Mr. Dan Chow
Senior Planner
City of Surrey
Planning & Development Department
14245 – 56th Avenue
Surrey, BC V3X 3A2

Dear Mr. Chow:

Re: South Port Kells General Land Use Plan, Sub-Areas A and B

The proposed South Port Kells General Land Use Plan dated October 13, 2004 has been presented to the residents of the area. However, there are a significant number of anomalies that even the CAC representatives do not understand, let alone the average resident.

This inquiry is on behalf of a group of residents who are extremely dissatisfied with the proposed zoning in the South Port Kells Sub-Areas A and B, between 92nd to 96th Avenues and 168th to 176th Streets. The majority of the residents reside in the ALR buffer and areas where several waterways have been negligently designated. Until our concerns have been addressed, we are completely opposed to presenting the general land use plan to city council.

Prior to the plan being presented to City Council, please answer the questions documented below. If they cannot be clarified, we feel the plan is not ready to be presented – the plan must be inconclusive or incomplete if these questions cannot be answered.

1. There is a significantly large area north of 96th Avenue between 168th Street and 176th Street that is unmarked, and simply labelled "Tynehead". Please advise what the land use and zoning will be.
2. Please advise how cluster zoning was approved for Tynehead Ridge Estates which is located at approximately between 164th and 168th Streets, south of 96th Avenue. The zoning there seems to be either ALR buffer or ALR itself. Please clarify.
3. The legend of the plan shows various different zonings. However, it does not tell the reader what the zones mean. Please define the following terms in the context of "number of lots per acre" and whether it is single family or multiple family housing:
 - Transition residential
 - Urban residential
 - Cluster residential
 - Suburban residential
 - Future multiple
4. The plan currently shows a significant number of creeks and streams marked as "sensitive" with regards to fish habitat. Please provide documentation to show that all marked waterways were a result of an in-field examination by a certified environmental expert. We would like to ensure the City and the Department of Fisheries has applied due diligence – they should be held to the same standards to *form* a categorization as a resident who *appeals* a categorization. We are certain the City and Fisheries would agree: due diligence has not been met if, for example, a City employee with no environmental training marked the waterways from an aerial photograph.

5. Please provide the legislation that regulates the ALR buffer and the agrarian setback. We would also like a definitive answer as to which organization is ultimately responsible for the ALR buffer and the agrarian setback – whether it is the City, the Province, or a federal body like the Department of Fisheries. Please also advise what the approval process was for the ALR buffer and agrarian setback legislation.
6. In regards to the ALR buffer and agrarian setbacks, please advise why residents are not compensated at fair market value for said areas. Setbacks/buffers reduce the value of the property – it is undeniable that a developer would pay less for a property with setbacks than a property without. Many of the setbacks and buffers were formed years after purchase of the property – please advise on grandfather clauses and compensation for land loss.
7. The ALR buffer shown for our neighbourhood on 92nd Avenue, between 168th Street and 176th Street, is grossly larger than any other ALR buffer on the plan. This is especially concerning when there are no active farms in the ALR along 92nd Avenue. In comparison, the buffer 180th Street and 184th Street is almost non-existent. What is the justification?
8. In our area, one of the largest barriers to development is the lack of city sanitation and water. The sanitation plan shows that we are at the end of the “U” coming down from 176th Street and 104th Avenue – it will likely take many years of development before the U finally reaches our area. Developers will not finance the entire sewage line to build in just our area – they will wait for preceding areas to be built first. However, several residents have spoken to the City and have been quoted alternative solutions. Can you please advise on the level of effort and likelihood of each of the following:
 - Once the trunk station has been established at 176th Street and 104th Avenue, can we bring a vertical line down rather than wait for the entire “U” to be constructed? The cost was estimated to be \$1 million, with a pump station being built in our area.
 - Currently a sewage line already exists along 164th Street for the subdivisions there. Can we add a parallel line to the existing line, utilizing the same pump station.

The next open house is scheduled for January 31 and February 2, 2005. We prefer a written response to our concerns prior to this date – I understand that some of the questions may be outside of your field of expertise so I have copied City Council and the Department of Fisheries, I’m sure they would be happy to advise you.

However if a response is not forthcoming, we plan to distribute this letter to all residents in the area for discussion at the open house. We would like to work together for a mutually agreeable land use plan for both the City and the residents. As such, if these issues are not resolved by when the plan will be presented to City Council (the CAC was advised that this would be happening sometime in March or April 2005), we will request for a representative be present to voice our concerns.

Thank you for your cooperation,



Jennifer Chen, 9331 Bothwell Drive

On behalf of: Rolanda Chen, 9331 Bothwell Drive; Stephan Kaiser, 9366 172nd Street, Trudy and Peter Jordan, 9282 172nd Street; Geoff Gontier, 17141 92nd Avenue

CC: Doug McCallum
Councillor Judy Villeneuve
Councillor Penny Priddy
Councillor Judy Higginbotham
Councillor Dianne Watts
Councillor Barbara Steele
Councillor Gary Tymoschuk
Councillor Bob Bose
General Manager, Department of Fisheries & Oceans Pacific Region



February 8, 2005

File: 6520-20 (South Port Kells)

Ms. Jennifer Chen
c/o Rolanda Chen, Stephan Kaiser,
Trudy and Peter Jordan and Geoff Gontier
9331 Bothwell Drive
Surrey, B.C.
V4N 3G3

Dear Ms. Chen:

Re: South Port Kells General Land Use Plan

Thank you for your letter of January 17, 2005 regarding the General Land Use Plan for South Port Kells. In your letter you pose several questions, which are addressed below. It is my understanding that Ms. Rolanda Chen (co-owner of your property) and Mr. Stephan Kaiser, along with several other of your neighbours, are members of the South Port Kells Citizen Advisory Committee (CAC) and that many of the concerns raised in your letter have been discussed both at the Committee meetings and with smaller groups throughout the last year. I trust that the information provided below will also be helpful.

Tynehead – GVRD Lands North of 96 Avenue

The lands north of 96 Avenue, west of Highway No. 15, are owned by the Greater Vancouver Regional District ("GVRD"). The GVRD has determined that a preferred land use for these lands is golf training and golf, and it is our understanding that the GVRD is entertaining requests for proposals from parties interested in developing such a facility. A public open house is scheduled for February 9, 2005. A copy of the notice for this meeting, previously provided to the CAC, is attached as Appendix No. 1.

Tynehead Ridge Estates West of 168 Street

This subdivision is outside of the South Port Kells plan/study area. It is located on lands that are designated "Suburban" in Surrey's Official Community Plan ("OCP") and have been developed in a "cluster" format. Please note that the density of this development does not exceed 2 dwelling units per acre, which is the same as currently proposed for most lands along Bothwell Drive.

Zoning and Land Use Designations

In your letter you refer to different "zonings". I would like to clarify that "zoning" is not being determined at this general land use planning level. We are currently working toward the development of a "general" land use plan, with general designations. Specific densities will be determined at the next level of planning, which will be the preparation of Neighbourhood Concept Plans ("NCPs") for each of the proposed three future neighbourhoods in South Port Kells. Following the approval of the NCP, in order to develop property, owners/developers must make an application to the City to rezone their development property. The rezoning application must conform to the NCP.

To assist with understanding the planning and development process, please find attached a table showing the stages in the development process (Appendix No. 2) and definitions of planning terms (Appendix No. 3). While details about lot sizes and densities are determined later at the NCP stage, City staff prepared the attached Explanatory Notes (Appendix No. 4) which describes the possible ranges in density and the potential meaning of transitional densities. In addition, the attached images of the various residential types (Appendix No. 5) will assist in understanding some of the terminology. Please note Attachments No. 2 to 5 were all distributed to the Citizen Advisory Committee throughout the past year.

Watercourse Classification and Environmentally Sensitive Areas

Contrary to your comments under No. 4 in your letter, the classification and review of watercourses and areas of environmental interest are not undertaken by a City employee with no environmental training. In fact, an environmental assessment was undertaken for the entire South Port Kells area by a qualified, well-recognized consultant (Phoenix Environmental Services Ltd.). In at least two instances, property owners on Bothwell Drive met with City staff and the environmental consultant to discuss the issues raised in your letter. Rather than review those discussions, attached are excerpts from the DRAFT environmental report. These excerpts refer to the properties and tributaries of the Serpentine River area near Bothwell Drive and can be found in Appendix No. 6. A more detailed review of the watercourses and other features will be undertaken by professional environmental consultants at the NCP stage. All owners will have the opportunity to participate in this endeavour at that time.

Agricultural Land Reserve ("ALR")

In accordance with your request for ALR-related legislation, please find attached the following:

- A copy of Policy Guidelines for Community Plans published by the Agricultural Land Commission (<http://www.alc.gov.bc.ca>) (Appendix No. 7)
- A copy of City Council's adopted policy respecting buffering adjacent to the ALR (Appendix No. 8)
- An excerpt from Surrey's Official Community Plan By-law No. 12900 approved by Council originally in 1996 (Appendix No. 9).

With respect to your questions regarding who is responsible for the ALR setback, it is the proponent of development or the applicant who is instigating a change in land use. In the case of 1 or ½ acre lots, it would be the ultimate landowner who typically maintains landscaping in their yard beside the ALR. In the case of other forms of development such as townhouses, the buffer could be maintained by the strata council. In some cases, the buffer is dedicated to the City. This occurs if there is a sewer right-of-way or other City service within the buffer area. In no case is operator/owner of adjacent agricultural property within the ALR required to provide the buffer. This would be in contravention of provincial regulations related to the ALR.

Compensation for Buffers

There is no compensation for the provision of buffers adjacent to the ALR. The buffer would not become a requirement until the land is developed and until more people and activities are introduced on land beside the ALR. It is a goal of the City and the Province to propagate healthy, productive farming activities in the ALR, and to avoid situations where agricultural operations are in risk of being compromised if urban development adjacent is not managed properly. The width, location and density provisions for lands involving a buffer or setback will be determined at the NCP stage.

Width of Buffer

The width of buffer in this area was not necessarily intended to be the widest in South Port Kells. A detailed review of the area during the NCP process will determine the precise dimensions, and will include a review of the adjacent activities in the ALR. In some cases, it will depend on the type of development proposed. The justification for setbacks and development limitations in this area is a result of the presence of the important watercourses and the ALR.

Interim Sanitary Sewer and Water


With regard to alternatives to providing sewer and water to this area, please contact the City's Engineering Department (Mr. Vincent Lalonde, Manager of Utilities – 604 591-4383). It is our experience that decisions of this nature require the submission of a complete technical and funding proposal in order for the option to be adequately evaluated. In this regard, you may wish to contact a professional engineer for advice on ways to provide interim services to the area, in advance of the normal extension of gravity sewers. Meanwhile, I attach as Appendix No. 10, excerpts from the proposed policies pertaining to servicing (these are under review and the CAC was to comment on them at a meeting on February 2, 2005).

Finally, a date for a public open house for the General Land Use Plan has not been set. Staff intend to report to Council on the status of the planning process in advance of an open house. However, if you wish to distribute your letter to all of the residents in the area, please feel free to also include our response.

If you have any further questions or comments, please contact the undersigned at 604-591-4606.

Thank you for your comments and for your continued work in the interest of South Port Kells.

Yours truly,



Judy McLeod

Manager, Long Range Planning & Policy Development

WW/kms/saw

- c.c. - Mayor and Council
- City Manager
- City Clerk

Appendices:

- Appendix No. 1: GVRD Notice of Open House (Tynehead)
- Appendix No. 2: Table: Stages in the Development Process
- Appendix No. 3: Planning Terms
- Appendix No. 4: Explanatory Notes
- Appendix No. 5: Images of Residential Development
- Appendix No. 6: Excerpts from draft Environmental Assessment Report
- Appendix No. 7: Policy Guidelines for Community Plans published by the Agricultural Land Commission (<http://www.alc.gov.bc.ca>)
- Appendix No. 8: City Council's policy respecting buffering adjacent to the ALR
- Appendix No. 9: Excerpt from Surrey's Official Community Plan By-law No. 12900 approved by Council originally in 1996
- Appendix No. 10: Proposed policy pertaining to servicing (South Port Kells General Land Use Plan)

Jennifer Chen
9331 Bothwell Drive
Surrey, BC V4N 3G3

April 5, 2005

Judy McLeod
Manager, Long range Planning & Policy Development
14245 - 56th Avenue
Surrey, BC V3X 3A2

Dear Ms. McLeod,

Please find enclosed a letter from the undersigned and residents of Subsections A and B of the South Port Kells planning area. We are still in the process of securing signatures of some of the homeowners who would like to sign the letter and will be forwarding their signatures to you and the individuals who have been carbon copied on this letter, under separate cover, by April 11, 2005.

Sincerely,



Jennifer Chen

encl.

cc Mayor Doug McCallum
Councillor Judy Villeneuve
Councillor Penny Priddy
Councillor Judy Higginbotham
Councillor Dianne Watts
Councillor Barbara Steele
Councillor Gary Tymoschuk
Councillor Bob Bose
City Manager
City Clerk

Jennifer Chen
9331 Bothwell Drive
Surrey, BC V4N 3G3

April 5, 2005

Judy McLeod
Manager, Long range Planning & Policy Development
14245 – 56th Avenue
Surrey, BC V3X 3A2

Dear Ms. McLeod,

Thank you for your letter dated February 8, 2005.

Despite the clarification to my questions, the following issues remain:

- The residents along the west side of Bothwell (Sub Area A) remain opposed to the general designation of ½ acre lots. We would like our properties to be designated as cluster residential. We propose a continuation of the cluster residential designation that currently exists south of 94th Avenue and east of Bothwell Drive.
- The residents within the north side of the Agricultural Land Reserve (ALR) buffer designation (Sub Area A) remain opposed to the size of the buffer. They would like the ALR buffer to be reduced, and propose a size similar to the properties adjacent to the ALR between 176th Street and 184th Street.

The City's past response has been for residents to accept the designation shown in the General Land Use Plan (GLP) and wait until Neighbourhood Concept Plan (NCP) to perform an environmental or impact study at the residents' expense to modify the GLP designation. Contrary to the City's advice, we do not want to wait until NCP to lobby for a change in designation. The realities that exist today will not differ at NCP, and it will only be more difficult to lobby against an approved GLP, rather than a proposed GLP.

Bothwell Drive

The City's main reason for designating suburban density to properties west of Bothwell Drive is because the Serpentine River is a Class A waterway. However, due to the following reasons, the residents would like to contest the current ½ acre designation.

- 1. The environmental report generated by the City's consultant may not be an accurate assessment of watercourses adjacent to the Serpentine River. Therefore, the sensitivity of the area may be overstated.**

The assessment made by Phoenix Environmental Services Ltd. was heavily based on existing and possibly dated information provided by the City, rather than on actual field visits. Therefore, it is likely that some of the watercourses in our area have been incorrectly classified. This is evidenced by the environmental report, which was appended to your letter. Please refer to the following excerpts from Appendix 6:

1.2.1 Review of Existing Information

"The City has provided several reports and references that have been used for this environmental assessment. These include...watercourse bio-inventories...and environmentally sensitive areas (ESA) studies. In addition, color aerial photography and mapping for topography, drainage catchment areas, utility services, cadastral, zoning and fisheries watercourse classification were provided by the City."

1.2.2 Field Assessment

"Based on the limited field component of the requested scope of work, most of the field visits were conducted from roads within the Plan area..."

1.2.3 Mapping

"High resolution colour aerial photography and existing thematic mapping was provided by the City for this assessment, and has been used for the mapping prepared for this report."

2.3.1 Stream Classification

"The watercourses in South Port Kells have been previously classified.... The existing fisheries watercourse classification mapping has been based mostly on aerial photograph and contour mapping interpretation and a limited degree of field observation, including past detailed bio-inventories in some locations. The accuracy of some of the fisheries watercourse classifications is subject to refinement, based on field observations as opportunities for "ground-truthing" arise."

The small waterways along Bothwell Drive are likely less sensitive than indicated in the hydrology report from Phoenix Environmental Services Ltd., especially if the report was based on existing/stale data and aerial photography, rather than actual water analysis and field observation. In actuality, the waterway that is designated as a Class B stream is no more than a small ditch. The waterway designated as a Class A(0) stream is almost non-existent.

2. Other areas have been designated multiple density, in spite of being adjacent to the Serpentine River. We would like the same consideration.

Regardless of the classification of smaller streams, we feel we should still be considered for higher density designation – the City has designated cluster/urban and transition/multiple density to other properties adjacent to waterways with the same Class A classification as the Serpentine River.

For example, although the properties to the south of 96th Avenue are adjacent to the Serpentine River – and are in fact located directly beside the Tynehead Hatchery – they have been designated as transitional residential. Based on the explanatory notes found in Appendix 4 of your letter, the designation translates into "up to 30 units per acre, townhouses or garden apartments".

As well, the properties along the east side of Bothwell Drive have been designated as cluster residential, which translates into "up to 6 units per acre, single family homes or

low density townhouses". This is in spite of being adjacent to a Class A watercourse as detailed in the hydrology map from Phoenix Environmental Services Ltd.

- 3. Regardless of sensitivity, there is no legislation restricting high density zoning to be designated adjacent to waterways as long as an assessment area is observed.**

According to the report:

"Under the Riparian Areas Regulation...a 30-m wide Assessment Area is to be examined...which might be 30-m wide or significantly narrower as suited to the specific watercourse".

- 4. In terms of setback requirements, the majority of homeowners along Bothwell Drive purchased their properties over 25 years ago, prior the current setback legislation. As such, our property rights should be grandfathered, or we should be compensated at fair market value if we decide to allow the City to purchase the setback area.**

There were neither easements nor restrictive covenants on title to indicate that a setback existed at the time residents purchased their properties. If the City now wants 30 metres, it should be purchased at fair market value, if the homeowner chooses to sell. Otherwise, under the Land Titles Act, we hold an "interest in land" with rights that run with the land, regardless of changes in ownership – which means we have the right to refuse the 30 metre setback.

In fact, 5 years ago at the time of the City's dyke program, homeowners were told by the City that we would be compensated for the setback. Neither the dyke nor compensation has materialized. Instead, due to debris and fallen trees in the Serpentine River, the water flow has continuously eroded our properties, and there has been flooding on a regular basis in the fall and winter. We have been restricted from taking preventative measures by the City and the Department of Fisheries (DFO) because the river is Crown property. However, when asked for clarification on setback requirements and river maintenance, both the City and the DFO have been maddeningly unresponsive and unwilling to take ownership. The City states that it is not their jurisdiction and that the DFO is accountable. When various homeowners contacted the DFO, they were told that it fell within the City's responsibility.

For our further clarification, please provide the information requested in the following paragraph. If the information is provincial or federal, we feel that the City's resources with its many government relationships are more suited to requesting the information than we are.

- When was legislation first established to require a minimum setback?
 - Please provide **current** policies and legislation relating to waterways setback, whether municipal, provincial, or federal.
 - Please provide all **prior** policies and legislation relating to waterways setback, whether municipal, provincial, or federal.
- How is the setback defined in a legal sense?
- How does it affect our rights under the Land Title Act, as there are neither easements nor restrictive covenants on title to indicate that the setback was there at the time residents purchased their property?

ALR Buffer

The properties along 92nd Avenue fall inside the ALR buffer, and have been designated as suburban due to City policy governing transition areas. However, the residents on the north side of the buffer would like to contest the size of the buffer area for the following reasons.

1. The Agricultural Land Commission guidelines contained in Appendix 7 of your letter states that "guidelines for development should apply to all urban parcels within 300 metres of the ALR edge". However, the buffer that is shown in the GLP seems greater than 300 metres.
2. It seems that the size of the ALR buffer is a "policy" with general guidelines, rather than legislation. As well, there seems to be some flexibility with variance applications. We would like to see some flexibility applied at the current GLP stage.
3. There appears to be a glaring difference in the smaller size of the buffer for properties between 180th Street and 184th Street. As well, the buffer there has been designated as parkland. We would like to have the same consideration.
4. Farming does not occur in the area of the ALR south of 92nd Avenue (in Sub Area A). Therefore the setbacks to the ALR should not be as extensive.

The bottom-line is the designation shown in the GLP greatly and negatively affects the value of properties along the west side of Bothwell Drive, and within the north side of the ALR buffer. We pay the same taxes as other landowners, yet based on the ½ acre designation, our land values will be cut by almost 50% in comparison to properties with an urban/cluster designation. Our properties will be much less valuable in the eyes of a prospective developer, as proven in the attached ad from the Real Estate Weekly:

- The current market rate is \$280,000 for a 15,000 square foot lot. With suburban zoning, we would only get two 15,000 lots/acre. That equates to a value of \$560,000/acre.
- The current market rate is \$240,000 for a 7,550 square foot lot. With urban zoning, we would get for five 7,550 lots/acre. That equates to \$1,200,000/acre.

Similar to many of my neighbours, I am a resident who has lived on my property for the past 25 years – our properties represent our life's savings. The designation shown in the GLP effectively cuts those savings half. We find it highly disappointing that a municipality would take so little regard in how its actions affect homeowners. I apologize if I appear harsh, but I cannot stress enough the impact that the GLP designation has on our property values

In conclusion, we request that the City revisit the designation along the west side of Bothwell Drive, and along the north side of the ALR buffer, prior to the GLP being finalized. Similar to what the City proposed, we request that the designation be changed to higher density at the current GLP stage, with the understanding that it can be revisited at NCP. We would be happy to meet with the City and would like to come to a mutually acceptable solution.

Sincerely,



Jennifer Chen

cc Mayor Doug McCallum
Councillor Judy Villeneuve
Councillor Penny Priddy
Councillor Judy Higginbotham
Councillor Dianne Watts
Councillor Barbara Steele
Councillor Gary Tymoschuk
Councillor Bob Bose
City Manager
City Clerk

Homeowner signatures to follow under separate cover.

Jennifer Chen
9331 Bothwell Drive
Surrey, BC V4N 3G3

June 22, 2005

Mayor Doug McCallum
City of Surrey
14245 – 56th Avenue
Surrey, BC V3X 3A2

Dear Mayor McCallum,

The residents who live in the Tynehead area (between 92nd to 96th Avenues, and 168th to 176th Streets) of South Port Kells are extremely disappointed with the General Land Use Plan (GLP), which was presented to Council on May 30, 2005.

Despite numerous meetings and letters to the Planning Department, with copies to yourself and the rest of Council, we feel that our concerns have not been addressed to our satisfaction, and that the GLP was approved without fair representation from the residents.

We have repeatedly asked the Planning Department to arrange a meeting with yourself and Council, prior to the GLP being approved. Each time, the Planning Department informed us that we could not meet with Council to discuss the GLP. However, at our June 1, 2005 meeting with the City, we were told that the GLP had already been approved by Council two days earlier, and coincidentally, a process did in fact exist if we wanted to appear before Council. It is very disappointing that the City arranged for our meeting to occur after the GLP was approved, and that previous requests to meet with Council were denied.

At this point, the residents remain opposed to the GLP and our views, which were expressed in my previous letters, remain unchanged:

- The residents along the west side of Bothwell (Sub Area A) remain opposed to the general designation of ½ acre lots. We would like our properties to be designated as cluster residential, and propose a continuation of the cluster residential designation that currently exists south of 94th Avenue and east of Bothwell Drive.
- The residents within the north side of the Agricultural Land Reserve (ALR) buffer designation (Sub Area A) remain opposed to the size of the buffer. We would like the ALR buffer to be reduced, and propose a size similar to the properties adjacent to the ALR between 176th Street and 184th Street.

Therefore, with this letter, we formally request to appear as a delegation before Council. Our purpose is to present a case before Council to encourage an amendment of the current South Port Kells GLP for Tynehead Sub-Areas A and B. I will act as the representative for the residents in the Tynehead area, and my intent is to discuss the following points during the meeting:

1. Request that the sensitivity of waterways in Tynehead Sub-Area A be re-evaluated, further to the assessment performed by Phoenix Environmental Services Ltd. in 2004.

2. Present landowner rights as stated in the Land Titles Act, in regards to setbacks adjacent to the ALR and along sensitive waterways.
3. Present exceptions made in other areas of the City, which are adjacent to sensitive waterways or the ALR.
4. Present a proposal to increase density in our area, while maintaining protection of waterways and the ALR.
5. Request that Tynehead Sub-Areas A and B be considered next for a Neighbourhood Concept Plan (NCP), after the NCP for Anniedale A is completed.
6. Request a gravity-feed sanitation line from the Anniedale A trunk, once it is completed.

If possible, we would like to request 30 minutes of the Council's time, as there are several issues to cover. As well, we would like to request four week's notice with regard to scheduling, so that I may make travel arrangements to attend the meeting.

For your ease of reference, I have attached my previous letters to provide background on concerns that have previously been raised. Please contact me at 604.603.1140 should you have any questions or concerns.

Sincerely,



Jennifer Chen

c.c. City Clerk:
Judy McLeod, Planning
Dan Chow, Planning
Vincent Lalonde, Engineering
Trevor Welton, Engineering
Bob Bose, Councillor
Judith Higginbotham, Councillor
Marvin Hunt, Councillor
Penny Priddy, Councillor
Barbara Steele, Councillor
Gary Tymoschuk, Councillor
Judy Villeneuve, Councillor
Dianne Watte, Councillor

Jennifer Chen
9331 Bothwell Drive
Surrey, BC V4N 3G3

June 22, 2005

City Clerk
City of Surrey
14245 - 56th Avenue
Surrey, BC V3X 3A2

To Whom It May Concern:

The enclosed letter and attachments have been sent to Mayor Doug McCallum. It would be appreciated if you could copy and distribute these documents to the individuals who have been cc'd on this correspondence.

Thank you for your assistance. Please call me at 604.603.1140 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Chen', with a long horizontal flourish extending to the right.

Jennifer Chen

ALR Buffer

The properties along 92nd Avenue fall inside the ALR buffer, and have been designated as suburban due to City policy governing transition areas. However, the residents on the north side of the buffer would like to contest the size of the buffer area for the following reasons.

1. The Agricultural Land Commission guidelines contained in Appendix 7 of your letter states that "guidelines for development should apply to all urban parcels within 300 metres of the ALR edge". However, the buffer that is shown in the GLP seems greater than 300 metres.
2. It seems that the size of the ALR buffer is a "policy" with general guidelines, rather than legislation. As well, there seems to be some flexibility with variance applications. We would like to see some flexibility applied at the current GLP stage.
3. There appears to be a glaring difference in the smaller size of the buffer for properties between 180th Street and 184th Street. As well, the buffer there has been designated as parkland. We would like to have the same consideration.
4. Farming does not occur in the area of the ALR south of 92nd Avenue (in Sub Area A). Therefore the setbacks to the ALR should not be as extensive.

The bottom-line is the designation shown in the GLP greatly and negatively affects the value of properties along the west side of Bothwell Drive, and within the north side of the ALR buffer. We pay the same taxes as other landowners, yet based on the ½ acre designation, our land values will be cut by almost 50% in comparison to properties with an urban/cluster designation. Our properties will be much less valuable in the eyes of a prospective developer, as proven in the attached ad from the Real Estate Weekly:

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Similar to many of my neighbours, I am a resident who has lived on my property for the past 25 years – our properties represent our life's savings. The designation shown in the GLP effectively cuts those savings half. We find it highly disappointing that a municipality would take so little regard in how its actions affect homeowners. I apologize if I appear harsh, but I cannot stress enough the impact that the GLP designation has on our property values

In conclusion, we request that the City revisit the designation along the west side of Bothwell Drive, and along the north side of the ALR buffer, prior to the GLP being finalized. Similar to what the City proposed, we request that the designation be changed to higher density at the current GLP stage, with the understanding that it can be revisited at NCP. We would be happy to meet with the City and would like to come to a mutually acceptable solution.

Sincerely,

Jennifer Chen

On behalf of: Rolanda Chen, 9331 Bothwell Drive; Stephan Kaiser, 9366 172nd Street, Trudy and Peter Jordan, 9282 172nd Street; Geoff Gontier, 17141 92nd Avenue

CC: Doug McCallum
Councillor Judy Villeneuve
Councillor Penny Priddy
Councillor Judy Higginbotham
Councillor Dianne Watts
Councillor Barbara Steele
Councillor Gary Tymoschuk
Councillor Bob Bose
General Manager, Department of Fisheries & Oceans Pacific Region



July 4, 2005

File: 6520-20 (South Port Kells)

Ms. Jennifer Chen
c/o Rolanda Chen
9331 Bothwell Drive
Surrey, BC V4N 3G3

Dear Ms. Chen:

Re: South Port Kells General Land Use Plan

This is in response to your letter, dated April 5, 2005, regarding the South Port Kells General Land Use Plan and is further to meetings on June 1, 2005 and June 3, 2005, regarding the issues outlined in your letter. We recognize that you are not in agreement with the Suburban designation for the lands along Bothwell Drive, which would allow for half-acre gross density development in this area. The following provides a response to each of the questions posed in your letter:

1. **When was legislation first established to require a minimum setback (from a watercourse)?**

The *Fisheries Act* was promulgated in 1985.

2. **Please provide current policies and legislation relating to waterways setbacks, whether municipal, provincial or federal.**

The City of Surrey uses the leave strip recommendations in the publication "Land Development Guidelines for the Protection of Aquatic Habitat" endorsed by the Department of Fisheries and Oceans (DFO) and the Ministry of Environment, Lands and Parks (MELP) as the basis for determining setbacks along watercourses in the City. We also dialogue with the DFO on a regular basis regarding specific development applications. "Leave strips are the areas of land and vegetation adjacent to watercourses that are to remain in an undisturbed state, throughout and after the development process."¹ However, the leave strip recommendations are subject to change in the next few months. The City of Surrey is in the process of determining how to comply with the new Riparian Areas Regulation (RAR) recently introduced by the Provincial government. At this point, the new setback model will not be density or land use-based and will likely require setbacks of 30 metres on all Class A (fish bearing) watercourses, but will allow for a reductions in setbacks on a case-by-case basis under the recommendation of an appropriately qualified environmental consultant and approval from the DFO and MOE.

¹ Chilibeck, Barry (Department of Fisheries and Oceans), ed. Land Development Guidelines for the Protection of Aquatic Habitat. Canada: Ministry of Environment, Lands and Parks, Integrated Management Branch. 1992.

3. **Please provide all prior policies and legislation relating to waterways setback, whether municipal, provincial, or federal.**

Prior to the *Fisheries Act*, there was no official legislation with regard to waterways setbacks. However, Federal Fishery Officers often made recommendations for setbacks and fish habitat protection. The Federal government drafted the *Fisheries Act* to reflect Canadian values for environmental protection and concerns raised by citizens from across the country, regarding the protection of fish and fish habitat and declining salmon stocks on both the east and west coasts.

4. **How is the setback defined in a legal sense?**

In legal terms, the *Fisheries Act* prohibits the Harmful Alteration, Disruption or Destruction (HADD) of fish habitat (Section 35(1)). As this presented a grey area for proponents looking to undertake work in and around watercourses, the federal Department of Fisheries and Oceans (DFO) and the then provincial Ministry of Environment and Land Protection cooperated to draft the Land Development Guidelines. The Guidelines outline a simple setback model that, if adhered to, provided reasonable assurance that the project complied with the *Fisheries Act* and would not result in a HADD. As such, the legal requirement for a setback is based on not causing a HADD. Furthermore, as the science around fish habitat protection evolves and the level of understanding of how land development affects fish and fish habitat, DFO's setback standards are adjusted accordingly to prevent a HADD from occurring. This is why the province's Ministry of Water, Land, and Air Protection (MWLAP) created the Streamside Protection Regulation (SPR) referenced above and now the soon to be introduced RAR.

5. **How does it affect our rights under the *Land Title Act*, as there are neither easements nor Restrictive Covenants on title to indicate that the setback was there at the time residents purchased their property?**

The *Land Title Act* is not applicable in this situation, as the lands contained within a setback are not being "taken away" in the strictest sense, only being affected by a presiding piece of federal legislation. The *Fisheries Act* prohibits the HADD of fish habitat. Providing a setback around fish habitat is how the City, and other British Columbia municipalities, complies with this legislative requirement. As such, "grandfathering" does not apply regardless of duration of property ownership. As a case in point, setback requirements around the Serpentine River are likely going to increase within the next year. All of the setback distances shown in the General Land Use Plan are subject to change at the discretion of the DFO or MOE regardless of resident land tenure.

6. **Issues regarding the ALR**

Surrey Council has adopted Policy O-23, which addresses the interface between the Agricultural Land Reserve (ALR) and development on lands adjacent to the ALR. This policy applies regardless of whether the adjacent ALR lands are actively farmed at any given time or not. A copy of this Policy is attached as information. The Policy clearly specifies development at suburban densities adjacent to the ALR, that is a maximum density of 2 units per acre within the buffer area. Recently Council has considered a slight adjustment to the designation to provide for cluster urban development in the vicinity of the ALR, subject to a substantially larger landscape buffer area immediately adjacent to the ALR where no development at all would be allowed. This may result in a different form of development near the ALR while retaining the overall densities documented in Council Policy O-23. The details of this approach have yet to be finalized and will be subject to further work at the time of NCP planning on land adjacent to the ALR.

As you were advised during our discussions, Council approved the South Port Kells General Land Use Plan on May 30, 2005. The Plan was based on current federal and provincial regulations and guidelines, existing Council policy, consultation with the public and the Citizen Advisory Committee and sound planning principles. As noted, the details of development in the area will be subject to further study, refinement and public consultation through the NCP preparation process, which will be undertaken in due course.

If you have any further questions or comments, please contact me at 604-591-4606.

Yours truly,



Judy McLeod, MCIP
Manager
Long Range Planning & Policy Development

FW/kms/saw
attachment

- c.c. - Mayor and Council
- City Manager
- General Manager, Planning and Development
- City Clerk



CITY POLICY

No. O-23

REFERENCE:	APPROVED BY:	CITY COUNCIL
REGULAR COUNCIL MINUTES NOVEMBER 5, 1990 PAGE 7	DATE:	June 7, 2004 (RES.R09-1409)
	HISTORY:	NOVEMBER 5, 1990

TITLE: RESIDENTIAL BUFFERING ADJACENT TO THE ALR/AGRICULTURAL BOUNDARY

The following is a policy for transition areas:

- a. The width of the transition area should be maintained at a minimum of 1/4 mile and wherever possible, this width should increase to 1/2 mile; and
- b. Within the transition areas, 1/2 acre subdivisions including gross density development may be allowed, provided that at least a row of 1 acre lots should be created along the agricultural boundary.

Where an existing road right-of-way separates the proposed lots from the ALR/ agricultural boundary, the proposed lots adjacent to the intervening road may be a minimum of half-acre in size provided:

1. There is a minimum 37.5-metre (125-ft.) separation distance between the ALR/ agricultural boundary and the nearest wall of the principal building on the proposed lots adjacent to the ALR/ agricultural boundary;
2. A minimum 15-metre (50-ft.) wide landscape buffer is provided along the edge of the proposed lots, adjacent to the road that separates the lots from the ALR/ agricultural boundary;
3. A Restrictive Covenant is registered on all proposed lots adjacent the ALR/ agricultural boundary to:
 - (a) Require a minimum setback for the principal building from the lot line closest the ALR/ agricultural boundary, such that the separation between the ALR/ agricultural boundary and the principal building is a minimum of 37.5 metres (125 ft.);
 - (b) Advise of agricultural practices in the area; and
 - (c) Ensure the landscape buffer is maintained.

This policy is subject to any specific provisions of the Local Government Act, or other relevant legislation or Union agreement.

27



**Appeal to Surrey City Council
Amendment of the Port Kells General Land Use Plan
Tynehead Sub-Areas A and B**

Jennifer Chen
July 22, 2005



Agenda

- ◆ Purpose
- ◆ Assessment
- ◆ Waterways
- ◆ ALR
- ◆ Setbacks
- ◆ Recommendation

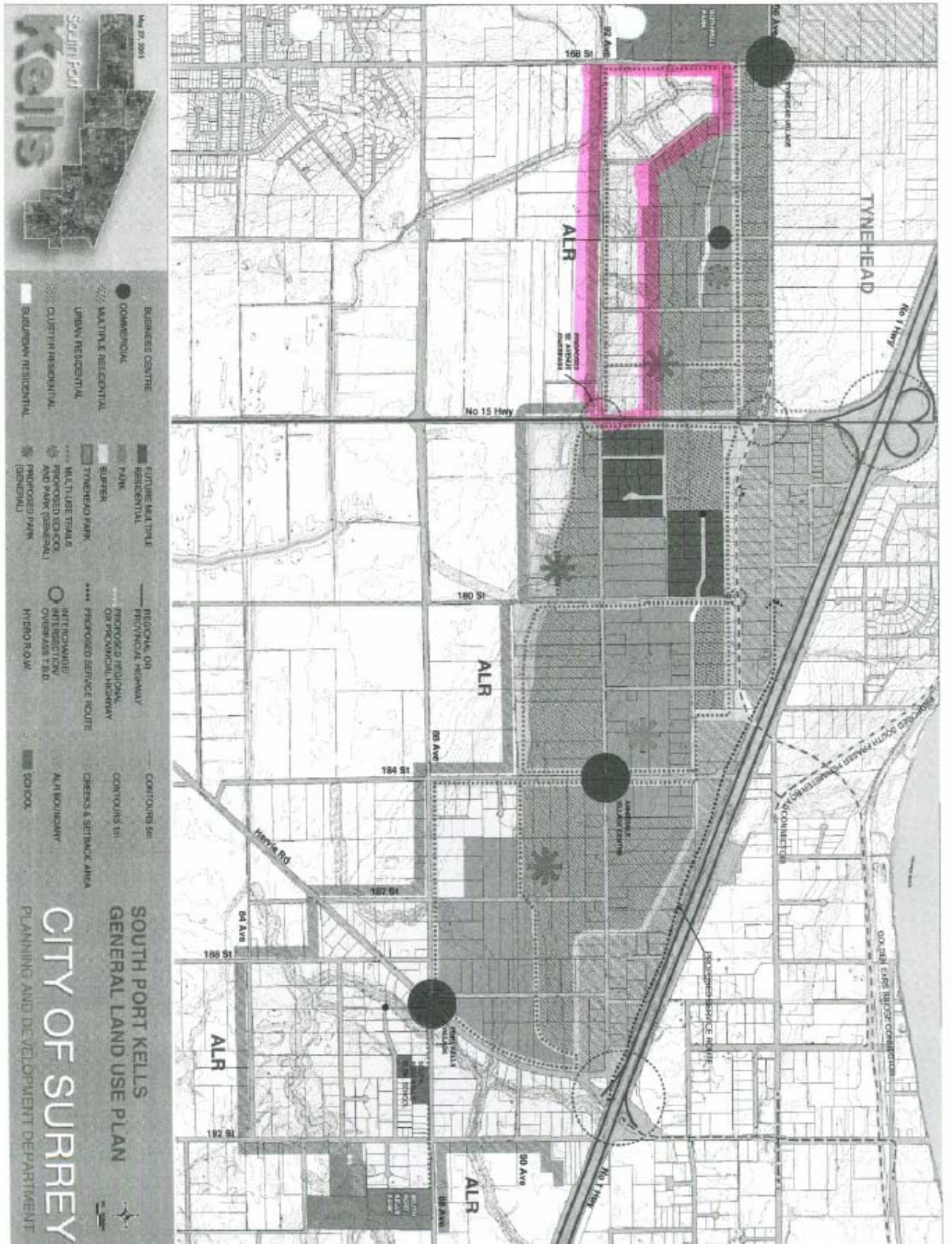
Jennifer Chen
July 25, 2005

Purpose

To request an amendment of the Port Kells general land use plan in the Tynehead area between 168th and 176th Street .

- ❖ The area has been designated as half acre suburban due to the proximity to the Serpentine River, and the agriculture land reserve (ALR).
- ❖ We would like to see an increase in density and are appealing for an amendment of the general land use plan (GLP).
- ❖ We have been advised by the City to wait until the neighbourhood concept plan (NCP) stage.
- ❖ Our concern is that NCP is unlikely to happen in the next decade:
 - ◆ Our property values will suffer in the meantime.
 - ◆ The factors responsible for the original suburban designation will not have changed at NCP.
- ❖ Other areas in Surrey with similar environmental factors have been designated or zoned with much higher density.

Jennifer Chen
July 25, 2005



Assessment

3 factors necessitate a reassessment of the general land use plan. These issues have been repeatedly raised with the City, but to no avail.

Waterways

- Waterways along Bothwell Drive may be less sensitive than indicated.
- The waterways have changed significantly over the past decade.
- A physical check of the waterways has not been performed.
- High density zoning exists upstream along the Serpentine, and along other Class A waterways.

ALR buffer

- The agriculture lands adjacent to 92nd Avenue have not been actively farmed for the past 30 years.
- The ALR buffer is larger than in other areas of the South Port Kells GLP.
- High density zoning abuts the ALR, without buffers, in other areas of Surrey.

Setbacks

- The riparian setback restricts use of land within 30 metres of a registered waterway.
- The ALR setback restricts use of land within 37.5 metres of the ALR.
- These setbacks are restrictive in nature, and reduce property value. However residents have not been compensated for the "taken" land.

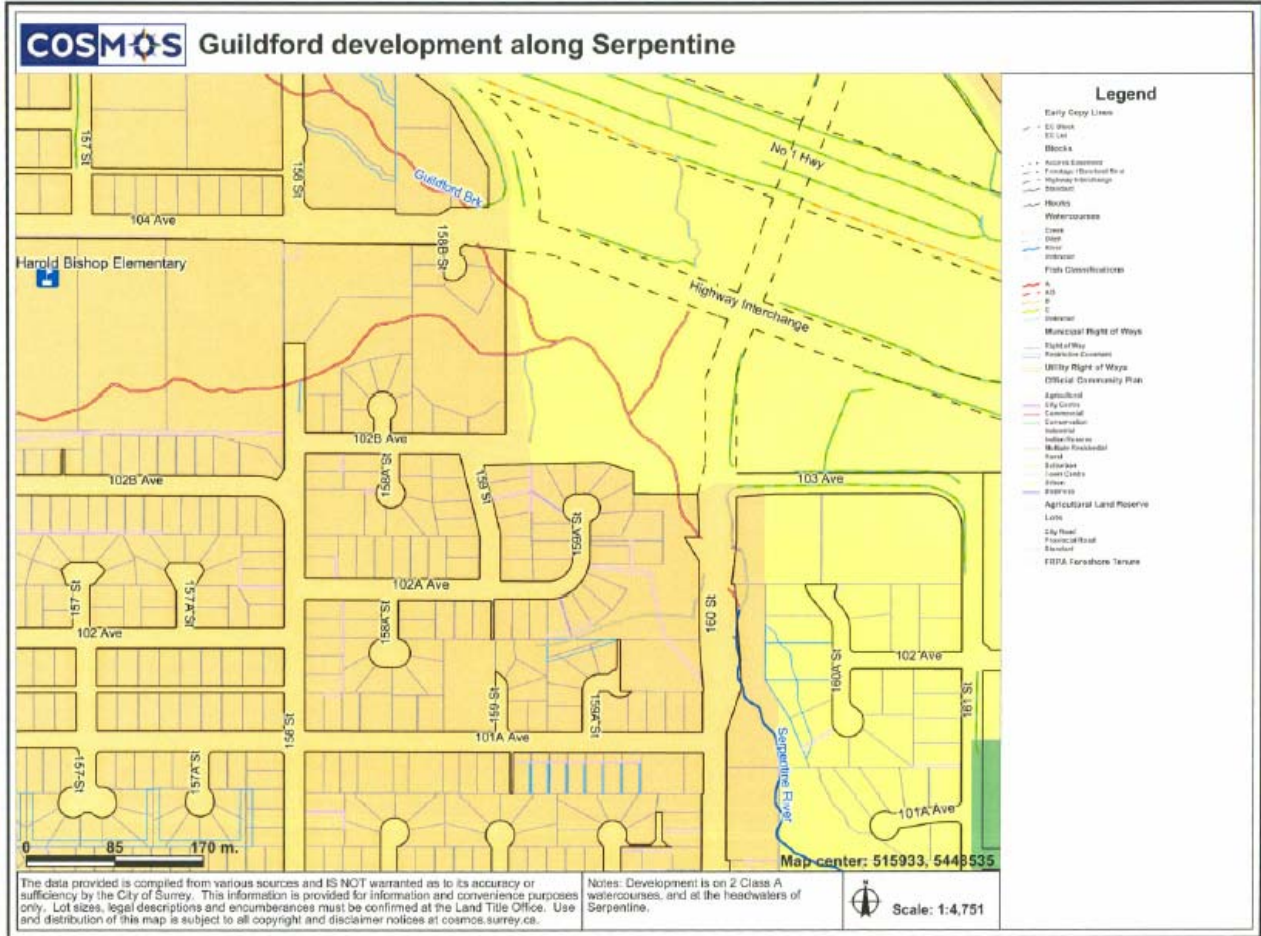
Jennifer Chen
July 25, 2005

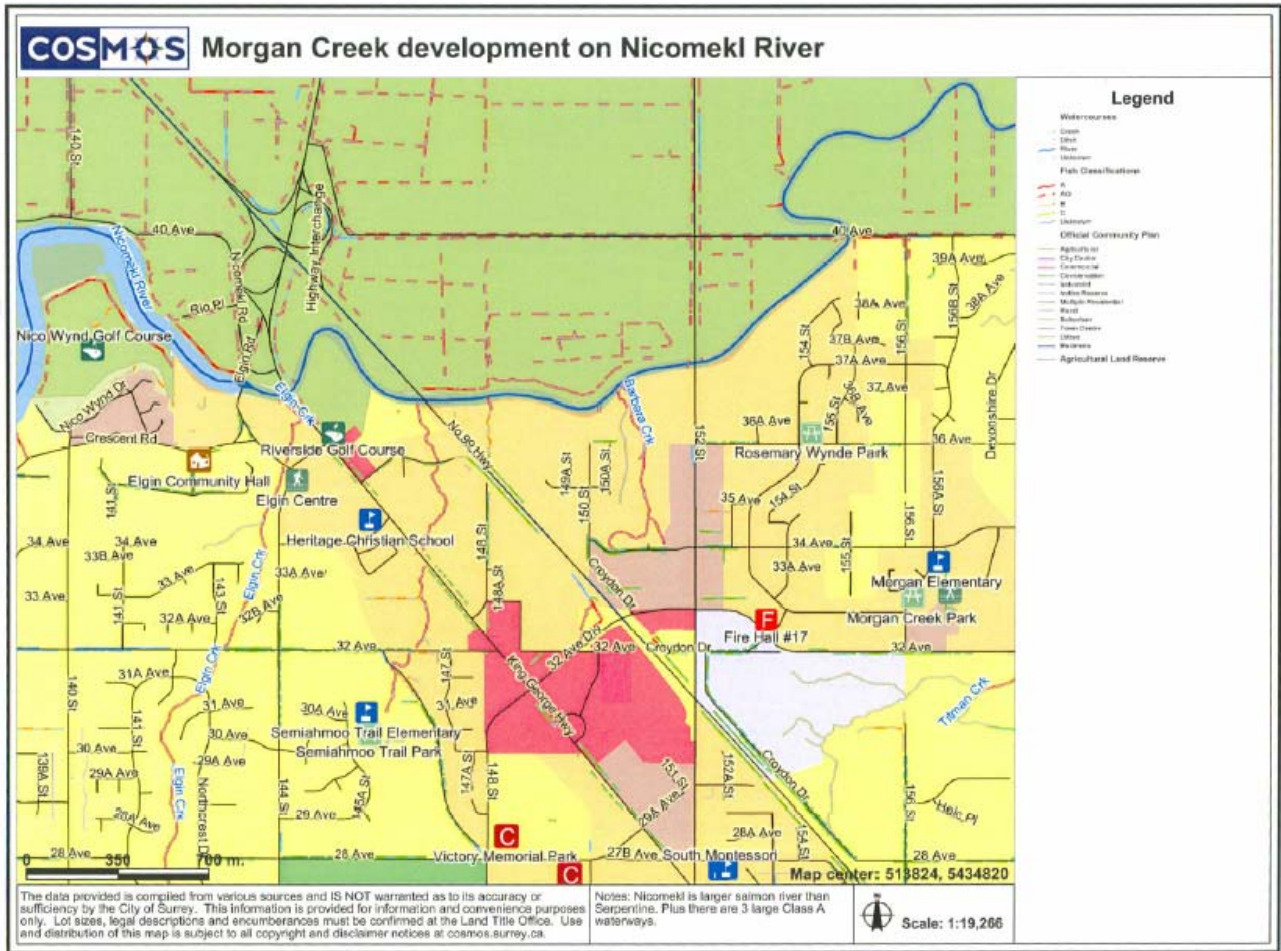
Waterways

Waterway sensitivity has not been confirmed by a physical assessment, and zoning density along sensitive waterways is highly inconsistent.

- ❖ We agree that sensitive waterways need protection. However, the sensitivity of waterways can change significantly in over 3 decades.
- ❖ The waterways along Bothwell Drive have not been physically walked.
 - ◇ The environmental report by Phoenix Environmental Services was based on aerial photography and maps provided by the City.
 - ◇ The report from Phoenix states "based on the limited field component of the requested scope of work, most of the field visits were conducted from roads within the Plan area...".
 - ◇ The watercourses have not been physically walked in the last 30 years, and perhaps never have been – even the study done by Enviro West in the mid-1990's was based on aerial photography.
- ❖ Exceptions have been made in other areas, with high density zoning along sensitive waterways.
 - ◇ The area along the Serpentine along 96th Avenue is designated as cluster residential on the GLP. This area is upstream, which has an even higher sensitivity.
 - ◇ Cluster zoning exists along the Nikomekl River in Morgan Creek, from Elgin Road to 156th Street along Hwy 99. The Nikomekl is a much larger salmon bearing river than the Serpentine.

Jennifer Chen
July 25, 2005



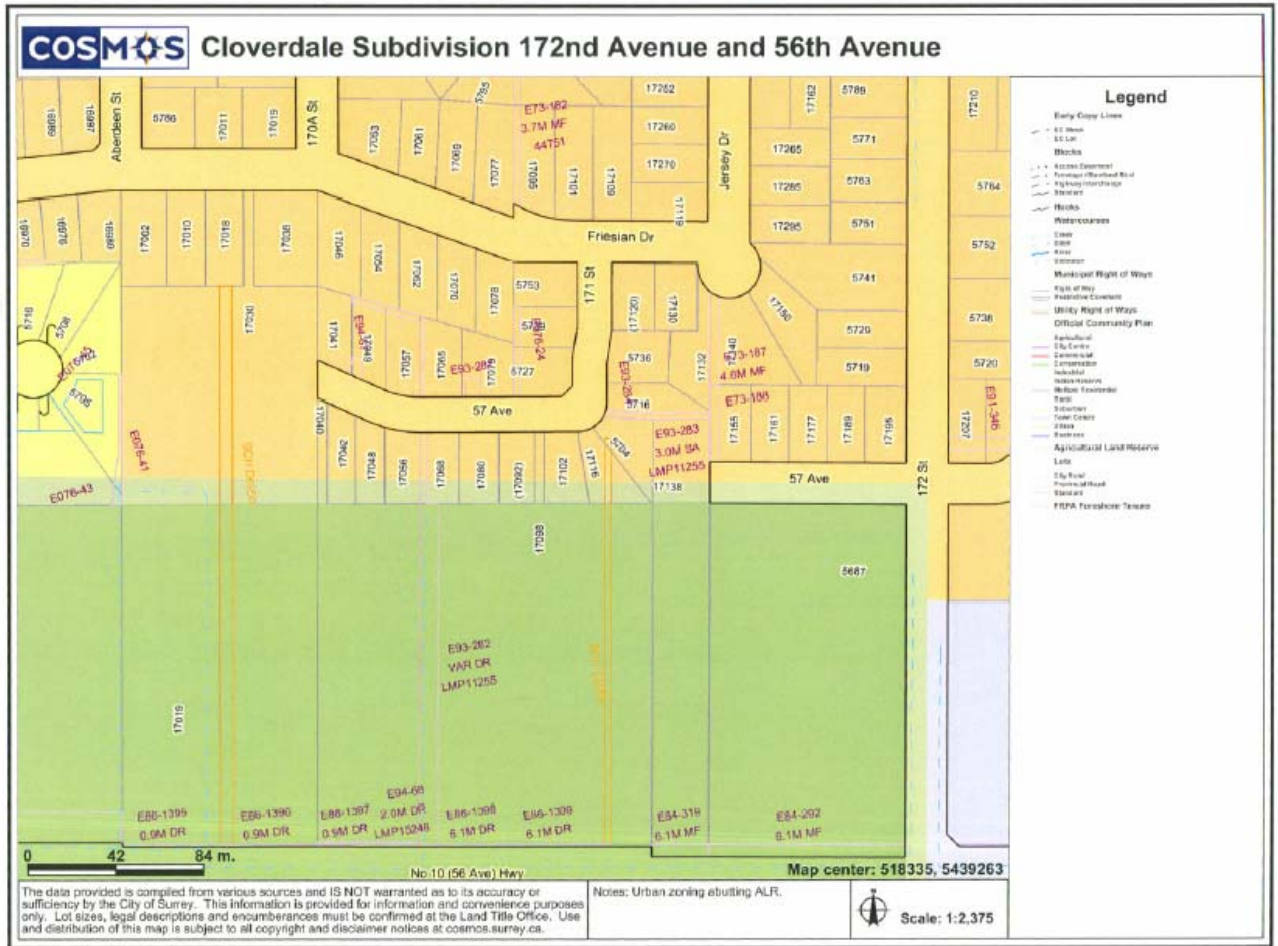


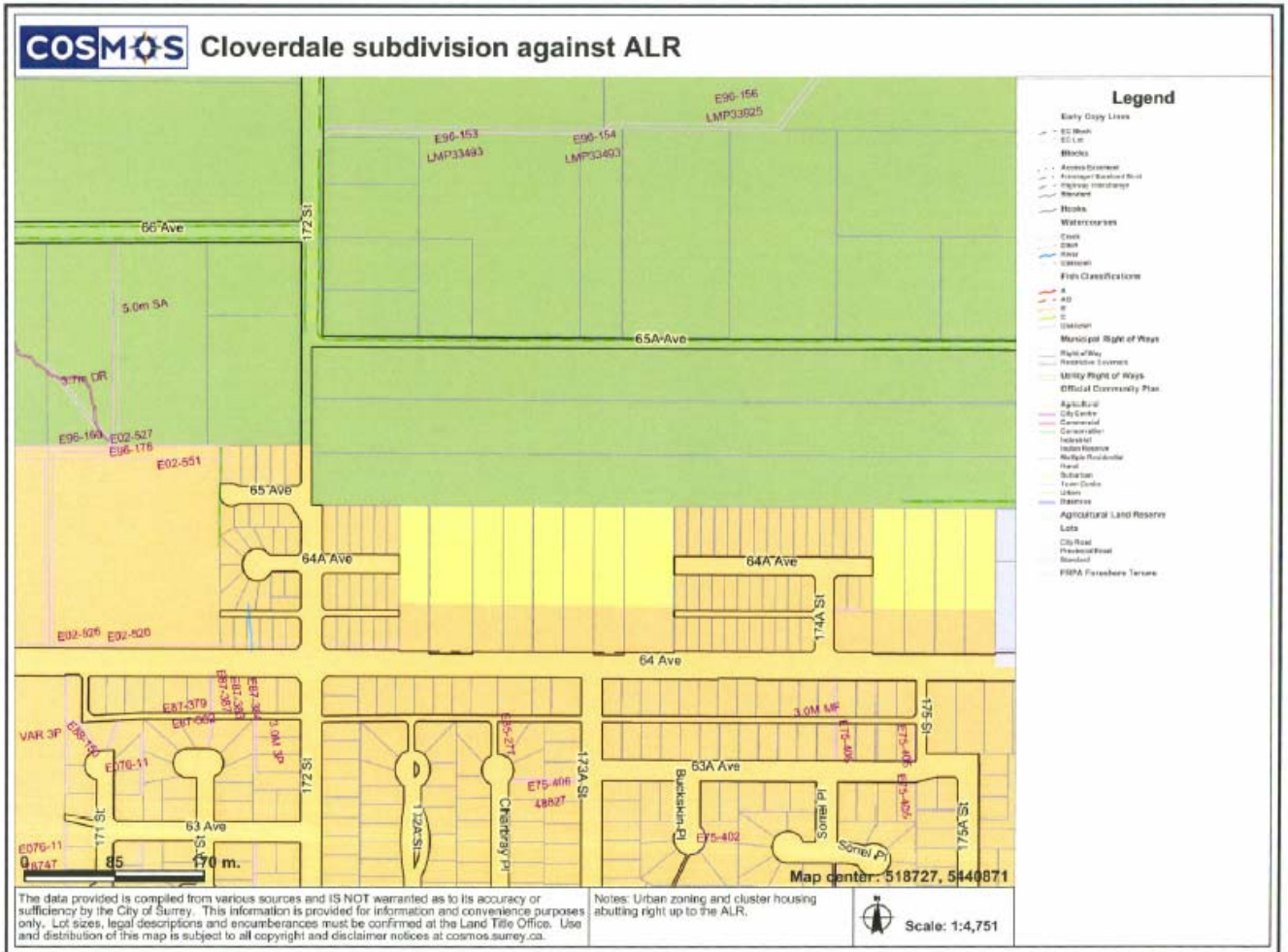
ALR Buffer

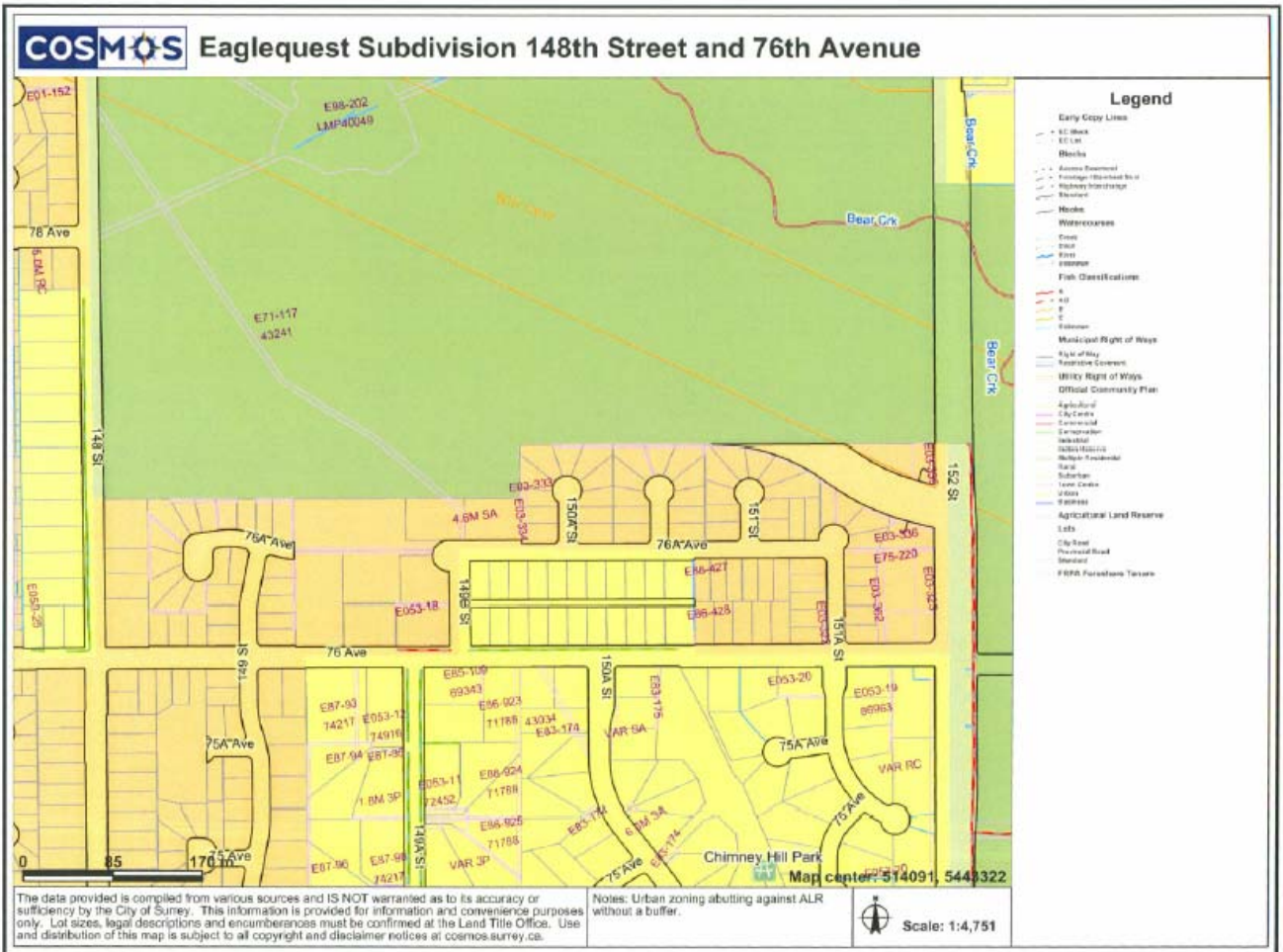
Agricultural land sensitivity has not been determined by actual farming, plus buffering and density along the ALR is highly inconsistent.

- ❖ We agree that agricultural farmlands need protection. However, the extent of the protection should depend on the extent to which the land is being farmed.
- ❖ The agricultural lands south of 92nd Avenue, between 168th and 176th Avenues have not been farmed in 3 decades, and can not be farmed due to being bogland.
- ❖ Exceptions have been made in other areas, with high density zoning along the ALR.
 - ◇ On the Port Kells GLP, the designated ALR buffer between 180th and 184th Streets is much smaller than the 300 metres prescribed by the City.
 - ◇ The Grandview Heights GLP, which approved on July 11, urban zoning has been designated for all areas adjacent to the ARL.
 - ◇ Cloverdale development at 172nd Street and 64th Avenue has urban density abutting the ALR.
 - ◇ Eaglequest development at 152nd Street and 76th Avenue has urban density abutting the ALR.

Jennifer Chen
July 25, 2005







Setbacks

Many residents purchased their properties prior to watercourse and agricultural setbacks being established.

- ❖ Many residents owned their properties prior to setback legislation being established.
 - ◇ The first legislation to establish a watercourse setback was the Fisheries Act in 1985.
 - ◇ The first legislation to establish an agricultural setback was by City Policy in 1990.
- ❖ The homes and lands represent the life savings of many residents – their purchase was made in good faith that the Land Title Authority would accurately indicate property lines, as well as the condition of title.
 - ◇ With regard to setbacks, there are no restrictive covenants on title, and property lines show ownership to the middle of the river and to the edge of the ALR.
- ❖ As such, residents paid fair market value for the *full* use of their property.
- ❖ The City has now expropriated the land, without consent and without compensation – how is this different than theft?

Jennifer Chen
July 25, 2005

Recommendations

The residents request that council consider the following recommendations.

Waterways

- ◇ Perform a physical assessment of the waterways along Bothwell Drive to evaluate the sensitivity.
- ◇ If the waterways prove less sensitive than previously thought, amend the GLP to provide a higher density designation, with appropriate setbacks.

ALR buffer

- ◇ Perform a physical assessment of the ALR farmlands that abut 92nd Avenue to evaluate the sensitivity.
- ◇ If the farmlands prove less sensitive than previously thought, reassess the size of the ALR buffer.
- ◇ Amend the GLP to provide a higher density designation with appropriate setbacks.

Setbacks

- ◇ Increase zoning density to compensate for the property loss resulting from setback legislation.

Future consideration

- ◇ Once the main sanitation pump station is built in the Anniedale area, provide a line directly to the Tyneshead area, rather than waiting for the line to be built east to west.
- ◇ Schedule Tyneshead to be the next area to receive an NCP.

Jennifer Chen
July 25, 2005

