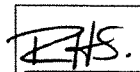
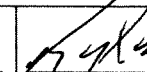


COUNCIL AGENDA/INFORMATION		
<input type="checkbox"/> Closed	Date: _____	Item # _____
<input checked="" type="checkbox"/> Reg. Council	Date: <u>June 2, 09</u>	Item # <u>13</u>
<input type="checkbox"/> Supplemental	Date: _____	Item # _____

Date: June 22, 09 Item # 6

	
Director	Municipal Manager

13  
6

DISTRICT OF WEST VANCOUVER  
750 - 17<sup>TH</sup> STREET, WEST VANCOUVER, BC V7V 3T3

**COUNCIL REPORT**

Attachments for item 6  
provided under separate cover

Date: May 22, 2009 File: 1010-20-08-002  
From: Bob Sokol, Director of Planning, Lands and Permits  
Subject: Development Permit Application No. 08-002 for 2451 Palmerston Ave. (to provide for watercourse protection and allow for a variance to the zoning bylaw)

**RECOMMENDED THAT:**

1. The report dated May 22, 2009 from the Director of Planning, Lands and Permits titled "Development Permit Application No. 08-002 for 2451 Palmerston Ave. (to provide for watercourse protection and allow for a variance to the zoning bylaw)" be received for consideration on Monday June 22, 2009.

**Purpose**

The purpose of this report is to provide information to Council on a proposed Development Permit for 2451 Palmerston Avenue (Appendix A) to allow for a variance to the zoning bylaw regarding the distance between an accessory structure and the principal structure and to allow for off-site mitigation of new development within the 15 meter setback from the top of the bank of Marr Creek. The proposed Development Permit will be considered on Monday June 22, 2009.

**1.0 Background**

- 1.1 Prior Resolutions – Not applicable

**2.0 Policy**

- 2.1 Bylaw – The Official Community Plan identifies Development Permit Areas and sets out objectives and guidelines for each development permit area. One designation applies to the subject lands: Development Permit Area designation NE13 (watercourse in existing neighbourhood).

Development Permit Area NE13 (watercourse in existing neighbourhood) designates sites near watercourses as development permit areas to protect and enhance the natural environment.

2.2 Zoning Bylaw – Zoning Bylaw section 31-102.4 states that:

An accessory building located wholly or partially within the rear yard required for the principal building shall be located not closer than 15 feet to the principal building....

**3.0 Analysis**

3.1 Discussion

*Current Development Proposal*

Marr Creek runs adjacent to the site, outside the north-west corner of the property. Marr Creek is a permanent, fish-bearing stream and provides unique habitat for many native plants and animals. The current proposal includes a new garage on the north side of a new home within 15 metres of top of watercourse bank and a new driveway that is proposed to be partly located within 5 metres of the top of watercourse bank. The proposed garage is located four feet from the rear property line and extends to within 5.0 feet of the house (Appendix B)

*Project History*

A building permit (BP105743) for a new home at 2451 Palmerston Ave was issued on November 23, 2007. In connection with that building permit, an Environmental Development Permit (EDP) (No. 07-044) was issued on October 23, 2007. The EDP and building permit were issued for redevelopment of the property with a new single family dwelling and did not include a garage. At the time, there had been ongoing discussions regarding an appropriate location for the garage, but the combination of steep slopes, the massing of the home and the desire to have a parking area at or near grade (requested due to the physical limitation of one of the homeowners) complicated a successful resolution of this issue at that time. The owner wished to commence construction, so it was agreed that the siting of the garage would be determined at a later date, after construction of the main house commenced.

The new home was located outside the 5 meter setback from top of watercourse bank, but within the 15 meter setback. The area of the new home within the setback was calculated to be 22 square meters. As compensation, some site improvements within 15m of the top of watercourse bank were to be removed and replaced with native creek side vegetation. The area of habitat gain due to this mitigation was calculated to be 25 square meters. The net habitat gain on the site was therefore 3 square meters.

During construction of the home, geotechnical problems were identified in the bank leading down to Marr Creek. In part, to resolve this instability, many physical changes were made to the bank and within both the 5 meter and 15 meter setbacks from the top of the bank. Some of these changes included the loss of 5 mature cedar trees. A significant amount of old debris was removed from the bank, which was believed to be from an old sawmill. This area was also regraded,

stabilized and re-vegetated with native species. These changes significantly reduce the opportunity to mitigate the environmental impacts of the current proposal to locate the garage on an area for area basis at the site.

*Development Permit Area NE13*

The Official Community Plan guidelines are as follows:

- o Guideline NE 13 section c (iii) "Keep free of new development..., the area within 5 meters of the top of the watercourse bank or edge of wetland."
- o Guideline NE 13 section c (i) "Avoid net loss of riparian habitat within 15 meters of the top of the watercourse bank or edge of the wetland."

The proposed garage location is partially within the 15 meter setback and the proposed driveway alignment will encroach into both the 15 meter and 5 meter setbacks. While the driveway alignment within the 5 meter setback is new development, there was previous development within the 5 meter setback which was removed as part of the slope stabilization (removal of the old sawmill debris). An existing shed and rock wall at least partially within the 5 meter setback is also proposed to be removed as part of this development permit. In total, there is 203 square meters of habitat impacts within the 15 meter setback as a result of construction of the garage and the driveway. Unfortunately, as described above, there are few opportunities remaining on site to mitigate these habitat impacts, leaving a net loss of 189 square meters. (Appendix C- Attachment A)

To partially mitigate the impacts of this development on site, the applicant proposes some qualitative improvements. The improvements include a semi-pervious paving stone driveway, an infiltration trench to retain storm water and create biological productivity and the installation of a green roof on the proposed garage.

Having reduced the impacts as much as possible (avoidance) and mitigating the impacts on site as much as possible, the only remaining possibility is compensation. In general, fair compensation to restore plants and function to a disturbed riparian area is estimated at \$110 per square meter.

The net habitat loss proposed is 189 square meters and at a \$110 per square meter value, this results in \$20,790 to be used for an off site habitat compensation project. In coordination with the District's Manager of Sustainability, Environment, and Healthy Communities, the restoration of flows in Ambleside Lagoon has been identified as an appropriate use of these funds. This project would result in tangible habitat gains that will be much greater than the area lost as a result of the proposed semi-pervious driveway and garage at 2451 Palmerston Ave.

### *Zoning Bylaw*

The proposed location of the garage does not meet the requirement of Zoning Bylaw section 31-102.4 which states that:

An accessory building located wholly or partially within the rear yard required for the principal building shall be located not closer than 15 feet to the principal building....

According to the site plan, a separation of only 5 feet is possible.

### *Summary and Conclusion*

While there is a potential location for the garage and driveway that would not impact the 5 meter setback from the top of the bank, there are benefits to having the garage in the proposed location, which include:

- The garage is located as far away from the top of the bank as possible.
- Retaining wall requirements are significantly reduced.
- A large cedar tree on the west side of the property can be maintained.
- The garage is located in the least visible location for surrounding properties.

The proposed Development Permit requires as much on-site mitigation as is possible including riparian plantings; a semi-pervious paving stone driveway, an infiltration trench to retain storm water and create biological productivity and the installation of a green roof on the proposed garage. In addition, the development permit requires the payment of compensation for habitat loss totalling \$20,790 proposed to be used on the Ambleside Lagoon project. This payment will be due upon issuance of the building permit for the garage.

It is staff's recommendation that, subject to additional comments or concerns being raised on the project at the Public meeting, the proposed Development Permit be approved.

- 3.2 Environmental Implications – The conditions and plans attached to the proposed Development Permit provide for the mitigation of the impacts to the natural environment on-site, as best as possible, and for a net improvement to the natural environment overall with the proposed off-site project at Ambleside Lagoon.
- 3.3 Social Implications – Not applicable
- 3.4 Financial Implications – The payment of \$20,790 compensation for the habitat impacts is proposed to be used on the Ambleside Lagoon Project.
- 3.5 Consultation – As per normal Council procedure, notification regarding the Development Permit will be sent to all neighbours within 100 meters. The neighbour immediately to the north, who is most impacted by the garage location has written a letter in support of this Development Permit. (Appendix D).

#### **4.0 Options**

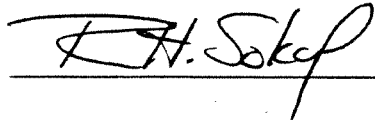
At the time of consideration of this report, Council may:

- (a) set the date for consideration of this application (recommended);
- (b) set the date for consideration of this application and request that additional information (to be specified) be provided and available to assist in consideration of the application; or
- (c) request further information and defer setting the date for consideration pending receipt of this additional information; or
- (d) reject the application with identification of areas inconsistent with the objectives and guidelines of the Development Permit Area designations NE13.

When the application is considered by Council on June 22, 2009, Council may:

- (a) approve issuance of the attached proposed Development Permit (recommended); or
- (b) approve issuance of the attached proposed Development Permit with additional or modified conditions; or
- (c) request more information; or
- (d) reject the application.

Author: \_\_\_\_\_



Appendices:

Appendix A: Context Plan

Appendix B: Site Plan

Appendix C: Draft Development Permit

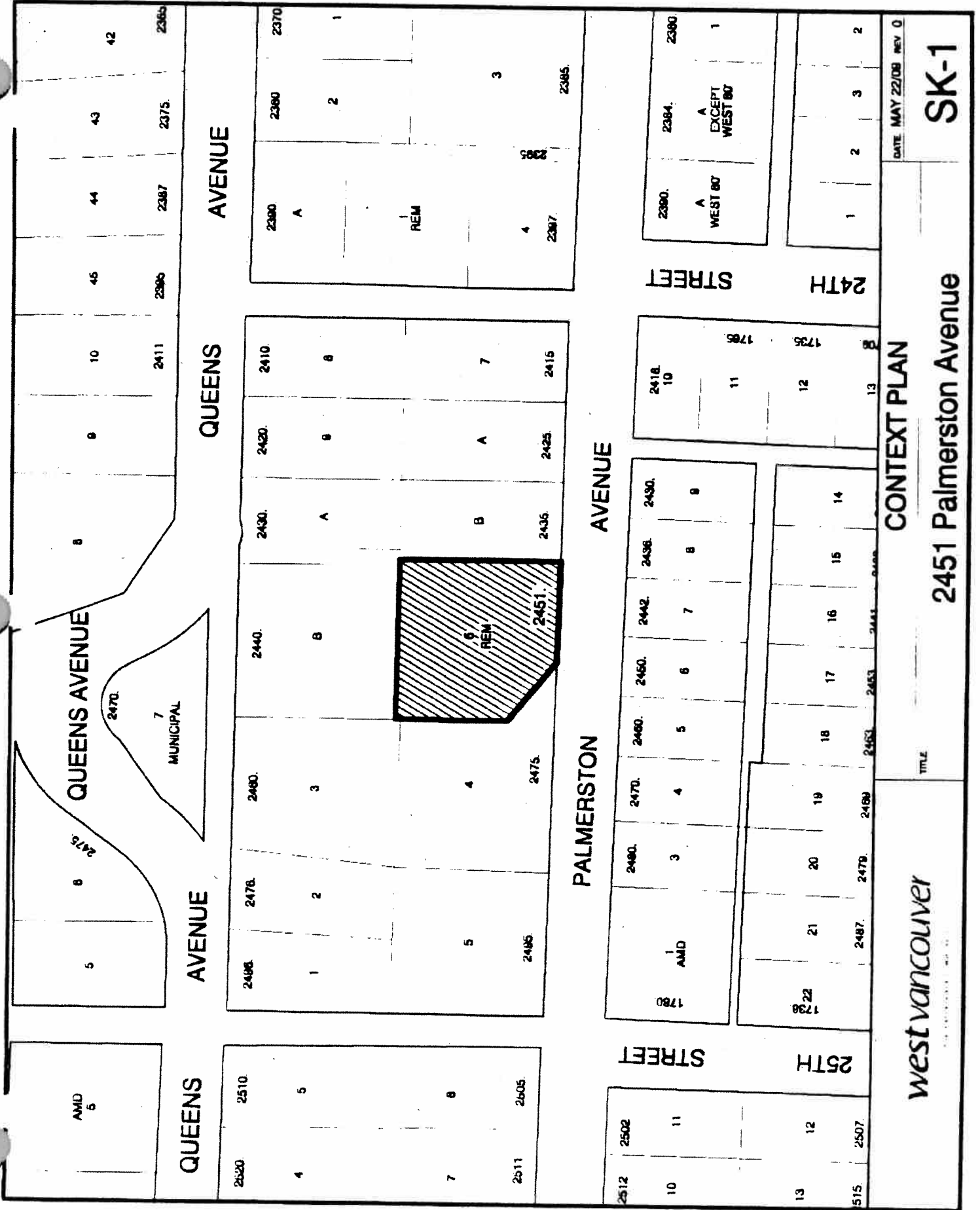
Appendix D: Letter from the Neighbour

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CONTEXT PLAN

SK-1

2451 Palmerston Avenue

west vancover

DATE MAY 22/09 REV 0

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Appendix C

District of West Vancouver  
Development Permit No. 08-002

Registered Owner: Graham and Karen Harris

Attachments for item **APPENDIX C**  
provided under separate cover

This Development Permit applies to:

Civic Address: 2451 Palmerston Avenue

Legal Description: PID: 017-429-706  
LOT 6, EXCEPT PART IN PLAN 10869, BLOCK 1 WEST 1/2 OF  
DISTRICT LOT 783 PLAN 9807  
(the "Lands")

1. This Development Permit:
  - (a) imposes requirements and conditions for the development of the Lands; which are designated by the Official Community Plan as a Development Permit Areas to protect and enhance watercourses within the Existing Neighbourhoods; and are subject to Guidelines NE13 specified in the Official Community Plan; and
  - (b) is issued subject to the Registered Owner's compliance with all of the Bylaws of the District applicable to the Lands, except as specifically varied or supplemented by this Permit.
  
2. The following requirements and conditions shall apply to the Lands:
  - 2.1 Zoning Bylaw No. 2200, 1968 is varied in:
 

Section 31-102.4 to allow for an accessory building within the rear yard required for the principal building to be located no less than 5 feet from the principal building
  - 2.2 Buildings, structures and driveways shall be sited in accordance with the attached Schedule A.
  - 2.3 Riparian Planting Plan to be installed as per the attached Schedule A.
  - 2.4 Qualitative Environmental Improvements outside of 15 meters from top of Watercourse bank to be installed as per attached Schedule A.
  - 2.5 The Owner shall provide Monies in the amount of \$20,790 to the District in the form of cash, to be used for required off site habitat compensation. This payment is due at the time of building permit issuance.
  - 2.6 Prior to construction of the garage and driveway, sediment and erosion control works shall be reviewed and accepted on site by the Environmental Protection Officer.
  
3. Prior to the issuance of this Development Permit and as security for the due and proper completion of the Environmental Protection Measures set forth in Sections 2.3 to 2.6 of this Development Permit, the Registered Owner must:
  - (a) allow the District to retain the cash security previously provided to the District covering previous work on the Lands totaling \$30,000 until the date on which the District's Environmental Protection Officer authorizes in writing the release of the security.
  
4. This Development Permit lapses if the subdivision authorized herein is not registered in the Land Title Office within 24 months of the date this permit is issued.

In the event the Owner is delayed or interrupted or prevented from commencing the work specified herein by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the

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