



REPORT

District of Highlands
1980 Millstream Road
Victoria, BC V9B 6H1
Tel: 474-1773 / Fax: 474-3677
LBeckett@highlands.ca

File: DVP-02-11

To: C. D. Coates, Chief Administrative Officer
From: Laura Beckett, Planner
Date: February 15, 2012
SUBJECT: **Development Variance Permit Application DVP-02-11**
(2009 Hawkins Place)

RECOMMENDATION

THAT notification be issued for the proposed issuance of Development Variance Permit DVP-02-11 pertaining to:

**Strata Lot 6, Section 4 Range 3W and 4W, and Section 5 Range 4W,
Highland District, Strata Plan VIS6035, Together with an Interest in the
Common Property in Proportion to the Unit Entitlement of the Strata Lot as
Shown on Form V**

(“2009 Hawkins Place”)

That would vary Section 3.3 (1) (d) of Zoning Bylaw 100

FROM:

3.3 (1) Despite any other provisions of this Bylaw, no part of any building or structure shall be constructed, reconstructed, moved or extended nor shall any part of any mobile home or unit, modular home or structure be located:...

d) ...within 30 m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.

TO:

3.3 (1) Despite any other provisions of this Bylaw, no part of any building or structure shall be constructed, reconstructed, moved or extended nor shall any part of any mobile home or unit, modular home or structure be located:...

d) ...within 25.68m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.

SUMMARY

Applicant/Owner:	Sharon and Rick Krupa
Location:	2009 Hawkins Place
Legal:	Strata Lot 6, Section 4 Range 3W and 4W, and Section 5 Range 4W, Highland District, Strata Plan VIS6035, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V
Zone:	Rural Residential 13 (RR13)
Zoning Bylaw Section to Vary:	3.3 (1) (d) Riparian Regulations
Additional Relevant Regulations:	Restrictive covenant (attached) prohibits any disturbance in a covenanted area that is essentially close to the house's foundation.
Applicant Requests:	From 30m to 25.68m
Purpose:	Install fence

LOCATION MAP



SITE MAP



BACKGROUND

Please find attached Development Variance Permit application DVP-02-11 and draft Development Variance Permit DVP-02-11. The owners wish to build a fence within their property to contain pets and children. The fence is proposed to go through their property instead of at the rear property line because the rear property line is within the streamside protection and enhancement area (SPEA) of Millstream Creek. Please see attached materials.

The regulations that require Council's attention and decision in this matter are:

1. The Riparian Regulations of the Highlands Zoning Bylaw and
2. A restrictive covenant placed on the land in order to protect the riparian zone and its vegetation.

A development variance permit can respond to both the zoning bylaw's and covenant's regulations.

PROPOSAL

Staff has been working with the home owner since the fall. The home owner originally requested installing the fence at the rear property line, as would be generally expected if there were no covenant on the property. This action, however, would have intruded into the SPEA. The applicant amended his application proposing to install the fence outside of the SPEA, but within the covenanted area and the Zoning Bylaw's 30m riparian area setback. The request is for an approximately-5m variance to the 30m setback – permitting the fence 25.68m instead of 30m from the high water mark of Millstream Creek.

Visually, the proposal makes sense. The area that the applicant proposes to contain within fencing is at a constant elevation. Further back, there is a steep drop-off to the creek. Staff

recommends that Council visit the backyard to view the proposed fence location demarcated by yellow rope. The applicant gives Council permission to view his backyard in response to this application. This can be done at each Council member's convenience starting February 16, 2012.

ANALYSIS

Council and staff are no strangers to requests for changes in this subdivision. Development variance permits are reviewed on a case by case basis to produce case by case results.

In short, staff can support this specific request because:

- The proposal is supported by the science behind the BC Riparian Areas Regulation,
- Visually, the proposal would not alter the character of the neighbourhood.
- Staff expects that installing the fencing will better protect the covenant area. The fact that a pet dog is one of the residents of the home contributes to this. This should be taken as a common circumstance in many neighbourhoods.

The test staff uses for all development variance permits is: Will the proposal improve the property from environmental and social aspects over what the regulations require? While this proposal might not be appropriate for all properties in the neighbourhood, in this instance, staff observes that the proposal would result in an improvement over what the regulations require. Therefore, staff supports the proposal and recommends that Council issue notification for it.

There are some issues that staff wishes to bring to Council's attention at this time.

Riparian Area Protection Covenant

Like other Hanington Creek Estate properties (approximately half), 2009 Hawkins Place is subject to a covenant that seeks to protect the riparian areas of Millstream and Hanington Creeks. This particular property backs onto Millstream Creek. This subdivision was created prior to the Riparian Areas Regulation, and this covenant essentially serves the same function. Building envelopes are the practical product of the covenant.

Staff reproduces the covenant's restrictions. These are the same for all the properties that have the covenant:

- 2.1 With the intent of ensuring that trees, shrubs, plants, bushes, groundcover, vegetation and other forms of plant life remain in a naturally vegetated state in perpetuity, the Covenantor shall not, without the prior written consent of District, cut down, trim, prune, defoliate, alter, remove, or in any way tamper with or work on any trees, shrubs, plants, bushes ground cover, vegetation or any other form of plant life within the Covenant Area, which consent is not to be unreasonably withheld.
- 2.2 The Covenantor shall not, without the prior written consent of the District, construct, reconstruct, move, extend or locate any building or structure, fencing or any part thereof, including any fixed equipment, mobile home or modular home within the Covenant Area, which consent is not to be unreasonably withheld.
- 2.3 The Covenantor shall not, without the prior written consent of the District, allow any landfill, land clearing or other disturbance to take place within the Covenant Area, which consent is not to be unreasonably withheld.
- 2.4 The Covenantor shall ensure that any clearing and/or excavation done on the Lands shall be completed in such a manner to ensure that the release of silt, concrete, leachate or any other deleterious substances shall not fall or flow into the

watercourses via ditches, storm sewers or overland flow. The Covenantor shall further ensure that all construction and excavation wastes, overburden, soil, or other substances deleterious to aquatic life shall be disposed of or placed in such a manner on the Lands as to prevent their entry into any body of water, watercourse or drainage system.

Council will note from the application materials that the home itself was built only 0.29m outside the boundary of the covenanted area. Staff notes that there has been grassed landscaping and gardens altering the covenanted area outside the rear of the home, resulting in what resembles a small urban-style backyard. This area was supposed to be maintained in its original vegetated state and not altered. Staff acknowledges that this area for the most part is outside the 30m Riparian Areas Regulation assessment area, and would not have come under notice if for the covenant and application.

But the covenant is a fact. In this instance, there certainly would have been reason for staff to support a request for some landscaping immediately outside the rear of the home – it is mostly outside the 30m riparian assessment area, and entirely outside the SPEA. Additionally, the covenant did foresee the potential – not the guarantee – that some home owners may wish to request some change to the covenant. What is critical is that the intent was laid out. This cannot be altered. As long as the intent continues to be met, then some change may be approved. But clearly, the covenant requires a process to that approval: “...written consent of the District...”

Staff cannot condone actions that are not consistent with any covenant or regulation that the District has jurisdiction over. The existing landscaped area did not lend support to the application, but staff is of the opinion that it would not be in the overall public interest to recommend denial of the application based on its existence in the absence of proper approval.

OPTIONS

1. Council may wish to deny the application.
2. Council may wish to request more information from the applicant. Council should specify what information they are looking for.
3. (*Recommended.*) Council may wish to direct staff to issue notification for Development Variance Permit Application DVP-02-11. This option could take the form of the following motion:

THAT notification be issued for the proposed issuance of Development Variance Permit DVP-02-11 pertaining to:

**Strata Lot 6, Section 4 Range 3W and 4W, and Section 5 Range 4W,
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- e) ...within 30 m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.

TO:

3.3 (1) Despite any other provisions of this Bylaw, no part of any building or structure shall be constructed, reconstructed, moved or extended nor shall any part of any mobile home or unit, modular home or structure be located:...

- e) ...within 25.68m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.



Respectfully submitted by Laura Beckett, MCIP

CAO Concurrence



C. D. Coates, CAO

A I D
SEP 08 2011

Fee: \$250.00

RECEIVED
SEP 8 2011

Date Paid: Sept 8/11

Receipt #: 12341

DISTRICT OF HIGHLANDS Application For Development Variance Permit

APPLICANT / CONTACT INFORMATION

Name Sharon Krupa and Rick Krupa

Telephone (Day): [redacted] [redacted] [redacted]

Email [redacted]

Mailing Address [redacted]

I, the undersigned, declare that all the information in this application and in any attached material is accurate and true to the best of my knowledge except where I have noted:

Signature: [Signature] Date: August 25 2011

OWNER'S CONSENT

This section is only to be completed if the applicant above is not the owner of the property. Alternately, a signed letter may be attached providing the owner's authorization.

Name _____ Date: _____

I / We, the undersigned, authorize the applicant to represent this application.

Signature _____ Date: _____

✓ 362 15373.050

PROPERTY DESCRIPTION

Legal Description: Lot(s) 6 Section(s) 4 & 5 Plan VIS 6035

Parcel Identifier (PID) 027-115-691 (From Certificate of Title; eg. 001-234-567)

Street Address or General Location 2009 Hawkins Place

Other Description roll # 15373050

Personal information on this application form is collected under the provisions of the *Local Government Act* for the purposes of responding to this application or for purposes directly related to this application. Certain information on this application form will be available to the public, including by request under provisions of the *Freedom of Information and Protection of Privacy Act*.

FORM A - APPLICATION REQUIREMENTS FOR ALL APPLICATIONS

SUBMISSION REQUIREMENTS

The application form indicates the submission requirements for the Development Variance Permit process. Standard submission requirements are listed below.

FOR ALL APPLICATIONS SUBMIT:

- Signature(s) of the registered land owners(s) of the subject property or written authorization for an agent to act on their behalf;
- Application Fee (\$250)
- A copy of the Statement of Title for the property (not more than two weeks old)
- A written/typed summary providing a description of the present and intended use of the site and a rationale for seeking the development variance permit (Form B)
- Reduced plans (8½ x 11), to scale, showing the following information. All plans must be readable at the reduced size.
 - A site plan with the location of the buildings (existing/proposed), property boundaries, driveways, and adjacent roads;
 - Natural site features, including any existing treed areas, watercourses or areas of steep slope (30% grade over a minimum distance of 6 metres);
 - For steep slope areas, provide contour information (1 metre interval);
- Residential Use Zones and Conservation Covenant Areas (if applicable)
- Other Documentation. Depending on the nature of the variance being sought other documentation may be required. *These items should be reviewed with staff before submitting your application.*
 - Contour information (1 metre intervals)
 - Identification of Riparian Features, and 30 metre buffer
 - Geotechnical Assessment Report, prepared by a Professional Engineer
 - A Site Grading Plan
 - Profile Drawings and Cross-sectional Drawings, where new roads and driveways are being constructed
 - A Culvert Plan and/or Storm Drainage Plan
 - Landscaping Plan and/or Site Remediation Plan
 - Tree-cutting Plan
 - Bio-inventory Assessment, prepared by a Registered Professional Biologist
 - Erosion Control Plan
 - The report of a Professional Arborist or Registered Professional Forester to address any proposed tree-cutting
 - Building Elevations, Site Plan and Floor Plan providing floor area calculations and uses

FORM B – NATURE OF VARIANCE(S) REQUESTED

COMPLETE THE FOLLOWING SECTIONS

- Is one or more variance being sought to the Zoning Bylaw?
- Is one or more variance being sought to the Subdivision and Development Bylaw?
- For what sections of the Bylaws is a variance requested, and by how much? Please attach a separate sheet of paper if necessary, showing each variance in the format below.

1. Section 3.3 (1) (a) of the Zoning Bylaw is variance
from: 30.0m
to: 25.68m

2. Section _____ of the Zoning Bylaw is variance
from: _____
to: _____

3. Section _____ of the Zoning Bylaw is variance
from: _____
to: _____

4. Section _____ of the Zoning Bylaw is variance
from: _____
to: _____

- For each variance sought, please provide a rationale for the request in the space below (i.e. why is the variance being sought and why can't the bylaw standard be addressed?):

See attached 1) letter
2) Riparian Areas Reg. Assessment

- A written description of the proposal, outlining the impact the proposed variance (if granted) would have on adjacent properties, and what would be done by the Applicant to reduce the impact.

September 07, 2011

To Whom It May Concern:

RE: Fence variance 2009 Hawkins Place

I am writing you today in regards to a fence being placed on the property of above named.

We have just completed building and moving into our house. We are very happy, however in desperate need of a fence. We have two dogs that I'm sure our neighbors would be more than happy to see contained! Also, and maybe even a bigger concern, is the concern with children and the drop into the creek behind our house. Although our children enjoy exploring the forest we have many friends with younger children and also younger children in the neighborhood. We did have a fairly minor injury to a friend's child, but it is a great fear that someone will get more seriously injured while playing on our property.

We understand that there certain specifications too having a fence, (metal) and would obviously be more than happy to abide by the specifications put forward.

We would like to thank you in advance for the time it takes to look into this issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'Rick and Sharon Krupa', written in a cursive style.

Rick and Sharon Krupa

WHEREAS:

- A. The Covenantor is the registered owner of land proposed to be subdivided as part of a residential development and the Lands form part thereof.
- B. Section 219 of the *Land Title Act* of British Columbia provides that a Covenant, prohibiting any building upon land except in accordance with the Covenant, may be registered against title to the Lands as a charge in favour of the District.
- C. The Covenantor has agreed to grant this Covenant to ensure that the subdivision and development of the Lands proceeds in a manner that benefits the Covenantor and is in the public interest.
- D. Water courses are situated upon portions of the Lands.
- E. The Covenantor has agreed to restrictions on the use of a portion of the Lands adjacent to the water courses to protect the riparian zone and its vegetation. The Covenant Area (as hereinafter defined):
- i. moderates stream temperatures through shading;
 - ii. provides food and nutrients to stream inhabitants;
 - iii. provides instream woody debris for fish habitant and stream processes;
 - iv. stabilizes the banks;
 - v. filters pollutants and sediment from surface runoff; and
 - vi. provides food, shelter and nesting sites for birds, amphibians and mammals.

As a result, changes to the vegetation or encroachment into the Covenant Area can have significant impacts on the ecological integrity of this area.

THEREFORE, in consideration of the payment of \$2.00 to the Covenantor by the District, the receipt and sufficiency of which is hereby acknowledged, the COVENANTOR COVENANTS AND AGREES WITH THE DISTRICT, IN ACCORDANCE WITH SECTION 219 OF THE LAND TITLE ACT (BRITISH COLUMBIA) AS FOLLOWS:

1. DEFINITIONS

1.1 "Covenant Area" means the following:

(a) With respect to Lot 1:

- i. that part of the Lands designated as Areas 1 and 2 on the Reference Plan of Covenant VIP _____ (herein called the "Reference Plan"); and
- ii. that part of the Lands located within 15 metres of the top of the bank of Millstream Creek.

(b) With respect to Lot 2 - that part of the Lands designated as Area 3 on the Reference Plan.

(c) With respect to Lot 3:

- i. that part of the Lands designated as Area 4 on the Reference Plan; and
- ii. that part of the Lands located within 15 metres of the top of the bank of Millstream Creek.

2. RESTRICTIONS

2.1 With the intent of ensuring that trees, shrubs, plants, bushes, groundcover, vegetation and other forms of plant life remain in a naturally vegetated state in perpetuity, the Covenantor shall not, without the prior written consent of the District, cut down, trim, prune, defoliate, alter, remove or in any way tamper with or work on any trees, shrubs, plants, bushes, ground cover, vegetation or any other form of plant life within the Covenant Area, which consent is not to be unreasonably withheld.

2.2 The Covenantor shall not, without the prior written consent of the District, construct, reconstruct, move, extend or locate any building or structure, fencing or any part thereof, including any fixed equipment, mobile home or modular home within the Covenant Area, which consent is not to be unreasonably withheld.

2.3 The Covenantor shall not, without the prior written consent of the District, allow any landfill, land clearing or other disturbance to take place within the Covenant Area, which consent is not to be unreasonably withheld.

2.4 The Covenantor shall ensure that any clearing and/or excavation done on the Lands shall be completed in such a manner to ensure that the release of silt, concrete, leachate or any other deleterious substances shall not fall or flow into the watercourses via ditches, storm sewers or overland flow. The Covenantor shall further ensure that all construction and excavation wastes, overburden, soil, or other substances deleterious to aquatic life shall be disposed of or placed in such a manner on the Lands as to prevent their entry into any body of water, watercourse or drainage system.

3. NO EXEMPTION FROM JURISDICTION

3.1 Nothing in this Covenant exempts the Covenantor or the Lands from any statutory requirement including, without limiting the generality of the foregoing, the Fisheries Act, RSBC 1996 and all amendments thereto or substitutions therefore, or from the ordinary jurisdiction of the Council of the District, its bylaws, permits, regulations and orders.

4. INDEMNITY

4.1 The Covenantor shall indemnify and save harmless the District, its officers, employees, contractors and agents at all times from all losses, damages, actions, suits, claims, demands, costs, expenses, fines and liabilities of any nature whatsoever for which they become liable, incur or suffer by reason of any personal injury, death, loss of or damage to property, or economic loss:

(a) arising directly or indirectly from a breach or non-performance of this Covenant by the Covenantor, its officers, employees, agents, contractors, licensees and invitees;

(b) arising directly or indirectly from any intentional act, or from any omission, default or negligence of the Covenantor, its officers, employees, agents, contractors or invitees in the use and development of the Lands.

5. INTEREST IN LAND AND ENUREMENT

5.1 This Covenant shall charge the Lands pursuant to Section 219 of the Land Title Act and the burden of all the covenants herein shall run with the Lands and charge the Lands and every parcel into which the Lands may be subdivided.

5.2 This Covenant shall enure to the benefit of and be binding upon the parties hereto.

5.3 No liability for any breach of this Covenant occurring after a person has ceased to be an owner of any land encumbered by this Covenant shall attach to that person.

6. INSPECTIONS

6.1 The approving officer of the District, (herein the "Approving Officer") and any other officers and employees of the District, may inspect the Lands or any building or structure on the Lands, for the purposes of ascertaining compliance with this Covenant, upon not less than 24 hours notice in writing to the owner and to any tenants in occupation.

B.C. Land Surveyor's Building Location Certificate
Showing Location of Foundation Situated on
Lot 6, (PID 027 115 691), Section 4, Range 3 West & 4 West, and
Section 5, Range 4 West, Highland District, Strata Plan VIS6035.

Scale 1:250



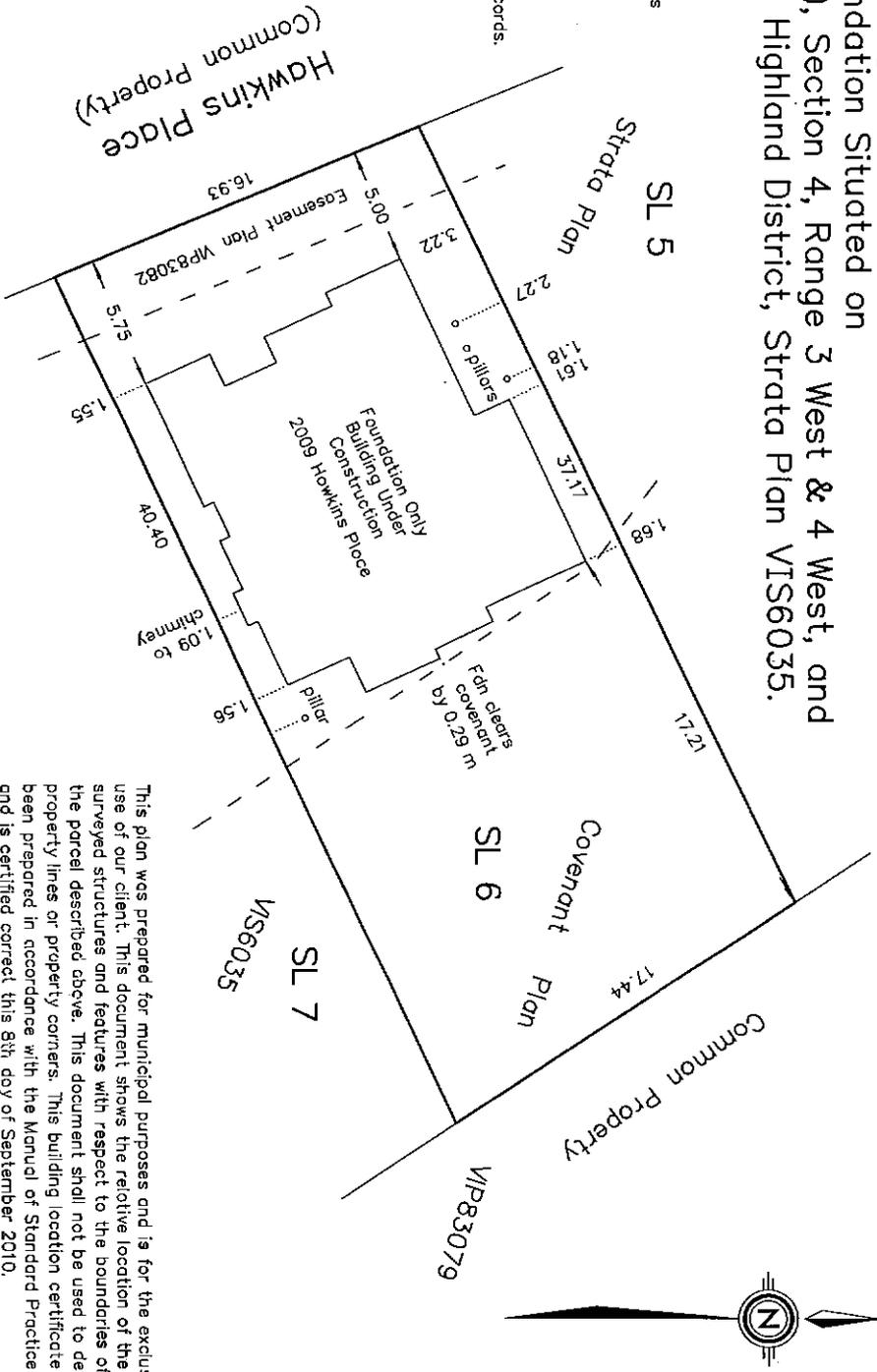
Legend:
 All distances are in metres and decimals thereof unless otherwise indicated. Dimensions are derived from Land Title Office records.

The following documents are registered on title and may affect the location of improvements.

Covenants
 EV83562, EV136847, FB45762, FB45765, FB45878, FB45882.
 Statutory Rights of Ways
 ES25899, ES25900, FB45895.
 Building Schemes
 FB45884.
 Easements
 EP4359, FB45879, FB45887.

Michael J. McIlvoney
Land Surveying Inc.
 #113 - 2244 Sooke Road
 Victoria, B.C. V9B 1X1
 (250) 474-5538

File: 4664BLC
 Client: Krystalkru Dev. Ltd.



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This plan was prepared for municipal purposes and is for the exclusive use of our client. This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners. This building location certificate has been prepared in accordance with the Manual of Standard Practice and is certified correct this 8th day of September 2010.

This document is not valid unless originally signed and sealed
 COPYRIGHT © Minda C. Riley B.C.L.S. 2010

B.C.L.S.

FORM 1

Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report

Riparian Areas Regulation: Assessment Report

Please refer to submission instructions and assessment report guidelines when completing this report.

Date

I. Primary QEP Information

First Name	Ann	Middle Name	Marie
Last Name	Matteson		
Designation	R.P.Bio.	Company	ENKON Environmental Ltd.
Registration #	2190	Email	amatteson@enkon.com
Address	#310 – 730 View Street		
City	Victoria	Postal/Zip	V8W 3Y7
Prov/state	B.C.	Country	Canada
		Phone #	250-480-7103

II. Secondary QEP Information (use Form 2 for other QEPs)

First Name		Middle Name	
Last Name			
Designation		Company	
Registration #		Email	
Address			
City		Postal/Zip	
Prov/state		Country	
		Phone #	

III. Developer Information

First Name	Rick	Middle Name	
Last Name	Krupa		
Company	N/A		
Phone #	250-883-8258	Email	rmkrupa@shaw.ca
Address	2009 Hawkins Place		
City	Victoria	Postal/Zip	V9B 0E3
Prov/state	BC	Country	Canada

IV. Development Information

Development Type	Landscaping; installation of fence		
Area of Development (ha)	0.00045	Riparian Length (m)	18
Lot Area (ha)	0.07	Nature of Development	Redevelopment
Proposed Start Date	Feb 15, 2012	Proposed End Date	April 30, 2012

V. Location of Proposed Development

Street Address (or nearest town)	2009 Hawkins Place		
Local Government	District of Highlands	City	Victoria
Stream Name	Millstream Creek		
Legal Description (PID)	027-115-691	Region	Vancouver Island
Stream/River Type	stream	DFO Area	South Coast
Watershed Code	920-047500		
Latitude	48°	28'	40"
Longitude	123°	30'	44"

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Section 1. Description of Fisheries Resources Values and a Description of the Development proposal

Environmental Setting

The property at 2009 Hawkins Place is bounded to the east by Millstream Creek. Hanington Creek is located to the north of this property however the lot is not located within this watercourse's 30 m assessment area. Millstream Creek (WSC 920-047500) is a third order watercourse that originates from Jocelyn Hill in the District of Highlands. This watercourse is approximately 16 km long and discharges into Esquimalt Harbour. The Millstream Creek watershed has an approximate area of 29.0 km² and consists of seven lakes including Mary Lake, Third Lake, Second Lake, Mitchell Lake, Matson Lake, Florence Lake and Lake Ida Anne. Millstream Creek has an average channel width of 8.56 and an average channel gradient of 3.3%. This watercourse has a riffle-pool morphology and channel substrate was noted to be 40% cobble, 20% boulders, 20% gravel and 20% fines. Available cover is approximately 30% and consists of mostly of large woody debris, boulders and deep pools with lesser amounts of overhanging vegetation and undercut banks.

Millstream Creek riparian vegetation consists of second growth mixed coniferous/deciduous woodland dominated by bigleaf maple, Douglas-fir, western redcedar and red alder. Understory species include dull Oregon-grape, salal, common snowberry, thimbleberry, salmonberry, red huckleberry, sword fern, lady fern, bracken fern and bleeding heart.

Fisheries Resources

Millstream Creek is a known fish bearing system. According to FISS (2012) records Millstream Creek is known to contain Brown Bullhead (*Ictalurus nebulosus*), Coho Salmon (*Oncorhynchus kisutch*), Coastal Cutthroat Trout (*Oncorhynchus clarki*), Prickly Sculpin (*Cottus asper*), Pumpkinseed (*Lepomis gibbosus*), Rainbow Trout (*Oncorhynchus mykiss*), Smallmouth Bass (*Micropterus dolomieu*) and Threespine Stickleback (*Gasterosteus aculeatus*).

Stocking records also indicate that Rainbow Trout and Coho salmon are stocked or have been released within the Millstream Creek watershed. Anadromous populations such as Coho or sea-run Cutthroat Trout cannot gain access to the upper reaches of this watershed due to a significantly perched culvert at Atkins Road. Several fish ladders have been installed in the lower reach of Millstream Creek as well as a recent installation of a ladder immediately downstream of Matson Lake. There are plans to address the perched Atkins Road culvert in the near future.

Proposed Development

This lot has been recently developed with the construction of a residential home. The home was situated outside the Millstream Creek 30 m assessment area and therefore did not require a Riparian Areas Regulation assessment for construction of the structure. For safety purposes the property owner is now interested in installing a fence along the SPEA boundary to prevent access to the steep slope to the east of the home. This fence will also contain the family pet and prevent disturbance within the SPEA. The footprint of the fence will be minimal and will not require tree removal. Minimal excavation will be required to install the support posts and soil overburden will not be placed within the SPEA.

Section 2. Results of Riparian Assessment (SPEA width)

2. Results of Detailed Riparian Assessment

Refer to Chapter 3 of Assessment Methodology

Date: January 27, 2012

Description of Water bodies involved (number, type)

Millstream Creek

Stream	1
Wetland	
Lake	
Ditch	
Number of reaches	1
Reach #	1

Channel width and slope and Channel Type (use only if water body is a stream or a ditch, and only provide widths if a ditch)

	Channel Width(m)	Gradient (%)	
starting point	5.5	4.0	I, <u>Ann Matteson</u> , hereby certify that: a) I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i> ; b) I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u> ; c) I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and d) In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation.
upstream	6.75		
	7.6		
	7.5		
	7.25	3.0	
	9.58		
	8.95		
	8.65		
	8.25	3.0	
	13.00		
downstream	12.50		
Total: minus high /low	77.03		
mean	8.56	3.3	
	R/P	C/P	
Channel Type	X		

Site Potential Vegetation Type (SPVT)

	Yes	No	
SPVT Polygons		x	Tick yes only if multiple polygons, if No then fill in one set of SPVT data boxes
			I, <u>Ann Matteson</u> , hereby certify that: a) I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i> ; b) I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u> ; c) I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and d) In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation.
Polygon No:	1		Method employed if other than TR
	LC	SH	
SPVT Type			x
Polygon No:			Method employed if other than TR
	LC	SH	

FORM 1

Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report

Polygon No:
 SPVT Type:

Method employed if other than TR

Zone of Sensitivity (ZOS) and resultant SPEA

Segment No: 1 If two sides of a stream involved, each side is a separate segment. For all water bodies multiple segments occur where there are multiple SPVT polygons

LWD, Bank and Channel Stability ZOS (m) 25.68

Litter fall and insect drop ZOS (m) 15

Shade ZOS (m) max 25.68 South bank Yes No

Ditch Justification description for classifying as a ditch (manmade, no significant headwaters or springs, seasonal flow)

Ditch Fish Bearing Yes No If non-fish bearing insert no fish bearing status report

SPEA maximum 25.68 (For ditch use table3-7)

Segment No: 2 If two sides of a stream involved, each side is a separate segment. For all water bodies multiple segments occur where there are multiple SPVT polygons

LWD, Bank and Channel Stability ZOS (m) 25.68

Litter fall and insect drop ZOS (m) 15

Shade ZOS (m) max 25.68 South bank Yes No

SPEA maximum 25.68 (For ditch use table3-7)

Segment No: If two sides of a stream involved, each side is a separate segment. For all water bodies multiple segments occur where there are multiple SPVT polygons

LWD, Bank and Channel Stability ZOS (m)

Litter fall and insect drop ZOS (m)

Shade ZOS (m) max South bank Yes No

SPEA maximum (For ditch use table3-7)

I, Ann Matteson, hereby certify that:
 a) I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the *Fish Protection Act*;
 b) I am qualified to carry out this part of the assessment of the development proposal made by the developer Rick Krupa;
 c) I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and
 d) In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation.

Comments

Segment 1 is right bank, Segment 2 is left bank

 SPEA location to be measured horizontally from high water mark and surveyed prior to construction activities commencing.

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Section 3. Site Plan



Legend

Project Boundary	High Water Mark	Leaf Litter & Insect Drop Zone Of Sensitivity (15m)
Legal Parcels	Shade Zone Of Sensitivity (25.68m)	Large Woody Debris & Bank Stability Zone Of Sensitivity (25.68m)
Assessment Area (30m)	Streamside Protection & Enhancement Area (25.68m)	

2009 Hawkins Place Riparian Areas Assessment	
Figure 1	1/28/2012
<p style="text-align: center;">Meters</p>	
Map Projection: UTM NAD83 10N	File Name: 2009FigureRAA.mxd

ENKON
Environmental Ltd.

Section 4. Measures to Protect and Maintain the SPEA

1. Danger Trees	There will be no trees removed during the installation of this fencing nor will any post excavations be done within the drip line of trees located along the edge of the SPEA.
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>e) I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>f) I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u> ;</p> <p>g) I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
2. Windthrow	There will be no trees removed during the installation of this fencing nor will any post excavations be done within the drip line of trees located along the edge of the SPEA.
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u> ;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
3. Slope Stability	There will be no significant earth moving works involved with the installation of this fencing. Small holes will be created to accommodate the support poles and all overburden created during this process will be stored well away from the SPEA boundary. No material from the holes will be allowed to enter into the SPEA at any time.
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
4. Protection of Trees	All construction works will be done by hand in order to protect all trees within the SPEA from mechanical damage. No trees will be removed as part of this project and all support posts will be located outside the drip line of any tree within the SPEA.
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
5. Encroachment	This fence will be installed along the SPEA boundary and as a result there will not be encroachment into the SPEA. All works will be conducted on the western side of the SPEA boundary to further protect the area. No materials will be stockpiled, deposited or stored within the SPEA. All

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	<p>soils removed from the post excavations will be moved away from the SPEA boundary and properly disposed of. Prior to construction commencing the SPEA will be surveyed and flagged to ensure workers stay outside this setback.</p>
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
<p>6. Sediment and Erosion Control</p>	<p>There will be no stockpiles of erodible materials kept on site and because of the scope of this project there will be no need to strip and grub the site. If any fines are noted around the support post sites they will be swept up and any disturbed soils created during the construction works will be covered with straw mulch to protect against erosion.</p>
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
<p>7. Stormwater Management</p>	<p>There are no stormwater concerns at this site due to the nature of the project. Stormwater from the house is directed into a residential stormwater system and additional stormwater is not directed into the SPEA.</p>
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	
<p>8. Floodplain Concerns (highly mobile channel)</p>	<p>At this site Millstream Creek does not appear to be highly mobile and therefore floodplain issues are not a concern at this site.</p>
<p>I, <u>Ann Matteson</u>, hereby certify that:</p> <p>a. I am a qualified environmental professional, as defined in the Riparian Areas Regulation made under the <i>Fish Protection Act</i>;</p> <p>b. I am qualified to carry out this part of the assessment of the development proposal made by the developer <u>Rick Krupa</u>;</p> <p>c. I have carried out an assessment of the development proposal and my assessment is set out in this Assessment Report; and In carrying out my assessment of the development proposal, I have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation</p>	

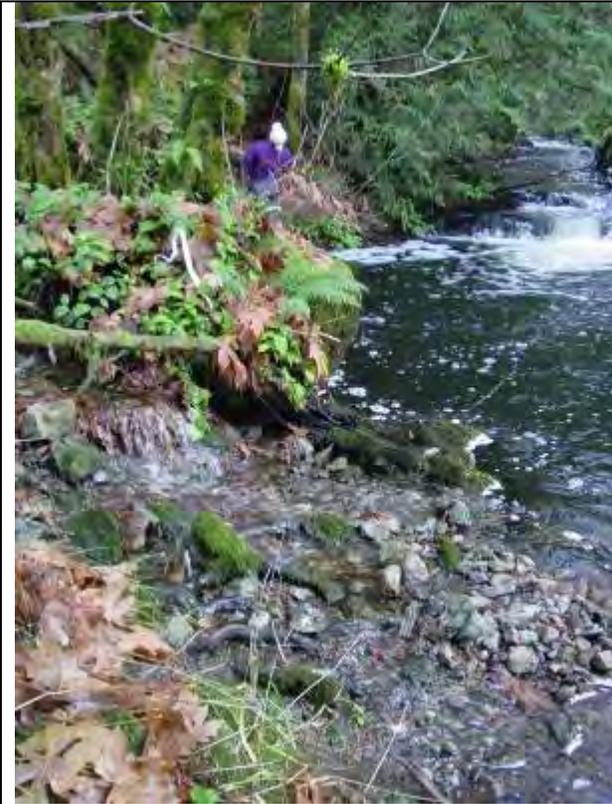
Section 5. Environmental Monitoring

Due to the limited works required to install a fence along the SPEA boundary a full-scale environmental monitoring program is not required for this site. All measures outlined in the SPEA will be reviewed with the property owner and construction crew prior to the commencement of construction. All measures outlined above must be followed for the duration of construction. In addition, construction crews will be required to follow Best Management Practices to protect the receiving environment and SPEA from construction related impacts.

Prior to construction commencing it will be necessary to determine the SPEA location. This is accomplished by vertically measuring from the high water mark. The edge of the SPEA then must be flagged to ensure workers are clear at to the limit of their works.

Maintaining the recommended SPEA zone and undertaking sediment and erosion control will ensure that installation of this fence will not cause HADD. Once construction has been completed a site visit will be necessary in order to check on the status of the SPEA. A copy of the environmental monitoring report shall be submitted to the RARNS within 6 months of the completion of construction works.

Section 6. Photos



Photograph 1 – Upstream view Millstream Creek at Hanington Creek confluence.



Photograph 2 – View of Millstream Creek downslope of subject property.



Photograph 3 – Upstream view of Millstream Creek riparian conditions.



Photograph 4 – View of Millstream Creek SPEA adjacent to house site.

FORM 1

Riparian Areas Regulation - Qualified Environmental Professional - Assessment Report



Photograph 5 – View of Millstream Creek SPEA adjacent to house site.

Section 7. Professional Opinion**Assessment Report Professional Opinion on the Development Proposal's riparian area.**Date 1. I/We Ann Matteson.

Please list name(s) of qualified environmental professional(s) and their professional designation that are involved in assessment.)

hereby certify that:

- a) I am/We are qualified environmental professional(s), as defined in the Riparian Areas Regulation made under the *Fish Protection Act*;
- b) I am/We are qualified to carry out the assessment of the proposal made by the developer Rick Krupa, which proposal is described in section 3 of this Assessment Report (the "development proposal"),
- c) I have/We have carried out an assessment of the development proposal and my/our assessment is set out in this Assessment Report; and
- d) In carrying out my/our assessment of the development proposal, I have/We have followed the assessment methods set out in the Schedule to the Riparian Areas Regulation; AND

2. As qualified environmental professional(s), I/we hereby provide my/our professional opinion that:

- a) if the development is implemented as proposed by the development proposal there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area in which the development is proposed, **OR**
(Note: include local government flex letter, DFO Letter of Advice, or description of how DFO local variance protocol is being addressed)
- b) if the streamside protection and enhancement areas identified in this Assessment Report are protected from the development proposed by the development proposal and the measures identified in this Assessment Report as necessary to protect the integrity of those areas from the effects of the development are implemented by the developer, there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area in which the development is proposed.



DISTRICT OF HIGHLANDS
DEVELOPMENT VARIANCE PERMIT NO. DVP-02-11

ISSUED TO: Rick and Sharon Krupa ("Permittee")

ADDRESS: 2009 Hawkins Place
Victoria BC V9B 0E3

1. The "Lands" are:

**Strata Lot 6, Section 4 Range 3W and 4W, and Section 5 Range 4W, Highland District,
Strata Plan VIS6035, Together with an Interest in the Common Property in Proportion to
the Unit Entitlement of the Strata Lot as Shown on Form V
("2009 Hawkins Place")
PID 027-115-691**

2. Highlands Zoning Bylaw No. 100, 1998 is varied as follows:

FROM:

3.3 (1) Despite any other provisions of this Bylaw, no part of any building or structure shall be constructed, reconstructed, moved or extended nor shall any part of any mobile home or unit, modular home or structure be located:...
d) ...within 30 m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.

TO:

3.3 (1) Despite any other provisions of this Bylaw, no part of any building or structure shall be constructed, reconstructed, moved or extended nor shall any part of any mobile home or unit, modular home or structure be located:...
d) ...within 25.68m of the natural boundary of Millstream, Craigflower, Earsman, Hazlitt or Pease Creek or any other watercourse.

3. The Lands described herein shall be developed strictly in accordance with the terms, conditions, and provisions of this permit, and any plans and specifications attached to this Permit which shall form a part hereof. Specifically:

Attachment 1: Riparian Areas Regulation Assessment Report #2279, dated January 27, 2012.

4. This Permit is issued subject to compliance with all the Bylaws of the District applicable thereto, except as specifically varied or supplemented by this Permit.

5. If the Permittee does not substantially commence the development permitted by this Permit within 24 months of the date of this Permit the Permit will lapse. The owner may request in writing for an extension.

**RESOLUTION PASSED BY THE COUNCIL OF THE DISTRICT OF HIGHLANDS
THE XX DAY OF XXX, 2012.**

AUTHORIZED THIS XX DAY OF XXX, 2012.

Christopher D. Coates, CAO