

DATE OF MEETING February 28, 2022

AUTHORED BY SADIE ROBINSON, PLANNER, CURRENT PLANNING

**SUBJECT DEVELOPMENT PERMIT APPLICATION NO. DP001246
– 2585 BATTERSEA ROAD**

OVERVIEW

Purpose of Report

To present for Council’s consideration, a development permit application to allow existing structures to remain and proposed improvements to be made in relation to a new single residential dwelling at 2585 Battersea Road.

Recommendation

That Council issue Development Permit No. DP1246 at 2585 Battersea Road with a variance to reduce the minimum required setback from the present natural boundary of the sea from 15.0m to 8.5m in order to allow the existing retaining walls and stairs to remain, and allow the proposed concrete patio and paved driveway.

BACKGROUND

A development permit application, DP1246, was received from Peter Monga, to reduce the minimum required 15m setback as measured from the natural boundary of the sea to allow retaining walls and stairs which have been constructed to remain, and to allow the proposed concrete patio and paved driveway within the setback area to be constructed.

Subject Property and Site Context

| | |
|--------------------------------------|--|
| <i>Zoning</i> | Single Dwelling Residential (R1) |
| <i>Location</i> | The subject property is located west of Battersea Road and Departure Bay beach. |
| <i>Total Area</i> | 1,186m ² |
| <i>Official Community Plan (OCP)</i> | Map 1 – Future Land Use – Neighbourhood Map 3 – Development Permit Area No. 2 – Environmentally Sensitive Areas |

Surrounding land uses are low-density single residential dwellings. The subject property is physically separated from the properties at the rear due to a significant grade change. The west (rear) portion of the parcel is higher in elevation and slopes downward to the east. The east half of the property is relatively flat. A BC Hydro Right-of-Way (EB20694) and geotechnical setback, as measured from the toe of the slope, restrict the building envelope to the east half (front) of the property.

A single residential dwelling is under construction (BP126630) on the subject property. During construction, it was discovered that retaining walls and improvements were constructed

between the front of the house and Battersea Road within the 15m setback adjacent to the sea. Therefore, a Development Permit is required to reduce the required setback to accommodate the recently constructed retaining walls and stairs, and allow the proposed concrete patio and paved driveway access. The dwelling itself is located outside of the required setback.

DISCUSSION

Proposed Development

The existing improvements include multiple concrete retaining walls and concrete stairs within the front yard of a dwelling that is under construction. The walls and stairs provide the foundation for a proposed front patio and landscape features (water feature and planters), shown on Attachment G. The applicant is also proposing a paved driveway access on the north side of the property from Battersea Road.

In order to meet the minimum Flood Construction Level, the dwelling is elevated and there is a grade change from the house down to the road. The stairs provide access to the house, and the concrete retaining walls were added to form part of an ornamental landscape feature to make the transition to the road elevation.

To address the DPA2 guidelines, the applicant submitted an Environmental Impact Assessment which considered the conditions of vegetation within the subject property and concluded that there is no significant vegetation within the setback to the sea that provides habitat value to the foreshore. The existing 15m setback is highly impacted as it contains Battersea Road and a 6.5m deep front yard between the house and the edge of the road.

The Qualified Environmental Professional (QEP) concluded that there is no net loss of habitat resulting from the site improvements, as the area was previously comprised of gravel and pavement, as shown in Attachment E. The QEP recommended the installation of plantings (approximately 30m² in area), designed as a rock garden to complement a proposed water feature and provide attractive low-maintenance drought-tolerant native plantings in the front yard. The proposed landscaping will enhance the existing condition and introduce native plant species suitable to the area, which will improve the habitat value in the DPA with foraging opportunities for insects and birds.

Proposed Variance

Minimum Setback from the Sea

The Zoning Bylaw requires a minimum 15m setback adjacent to the sea, as measured from the natural boundary. The Zoning Bylaw also requires that no impermeable surface shall be located within the required 15m setback. The proposed setback for the walls and stairs is 8.5m, a variance of 6.5m, and a paved driveway is proposed within the setback. The remaining 8.5m setback from the sea contains Battersea Road.

The proposed variance would allow the existing gravel driveway to be paved, and allow the retaining walls with landscaping improvements and stairs to provide a stepped grade from the house down to Battersea Road. Currently, there is no functional foreshore habitat on the inland side of Battersea Road.

Given that the existing and proposed site improvements will not negatively impact the setback area, which has historically been highly impacted by Battersea Road, and some plantings are proposed to enhance the site over previous conditions, Staff supports the proposed variance.

SUMMARY POINTS

- Development Permit Application No. DP1246 proposes a variance to reduce the minimum required setback from the present natural boundary of the sea from 15m to 8.5m in order to allow the existing retaining walls and stairs to remain, and allow the proposed concrete patio and paved driveway.
- The recently constructed dwelling is located outside of the setback area.
- The QEP recommended the installation of plantings (approximately 30m² in area), designed as a rock garden to complement a proposed water feature and provide attractive low-maintenance drought-tolerant native plantings in the front yard.
- Staff supports the proposed variance.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Site Survey
ATTACHMENT E: Previous Site Conditions
ATTACHMENT F: Site Photographs
ATTACHMENT G: Proposed Vegetation Remediation Plan
ATTACHMENT H: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
Deputy CAO / General Manager,
Development Services

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

The “City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

1. Section 6.3.1.2. & 6.3.2 – *Location and Siting of Buildings and Structures to Watercourses* – reduce the minimum required setback from the present natural boundary of the sea from 15.0m to 8.5m in order to allow the existing retaining walls and stairs to remain, and allow the proposed concrete patio and paved driveway.

CONDITIONS OF PERMIT

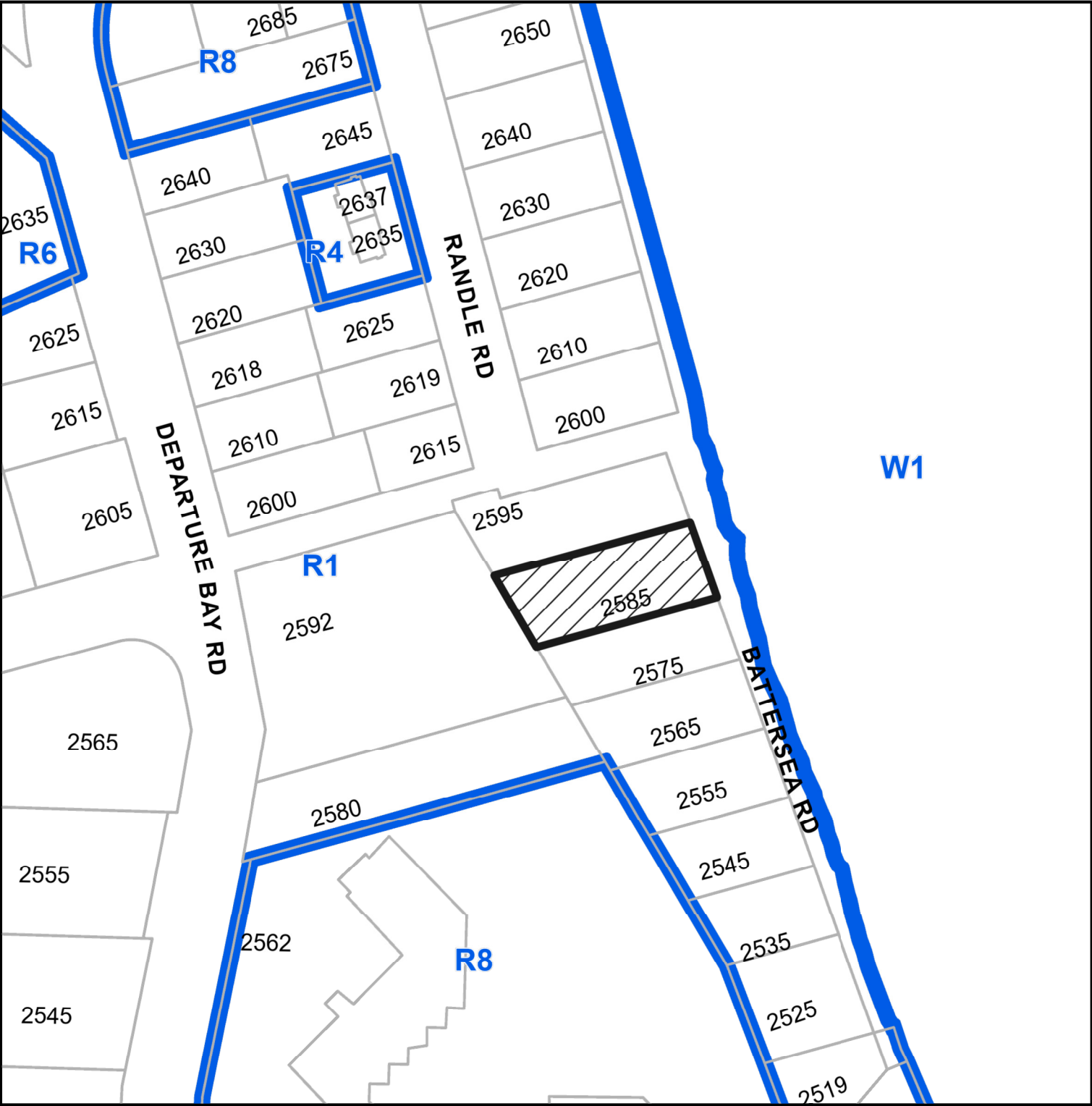
1. The subject property is developed in accordance with the Site Survey prepared Turner & Associates Land Surveying, dated 2021-SEP-09, as shown on Attachment D.
2. The subject property must be developed, and the watercourse setback area remediated, maintained, and monitored for a period of three years in accordance with the Environmental Impact Assessment & Remediation Plan provided by Aquaparian Environmental Consulting Ltd., dated 2021-JUL-30.

ATTACHMENT B CONTEXT MAP



2585 BATTERSEA ROAD

**ATTACHMENT C
LOCATION PLAN**



DEVELOPMENT PERMIT APPLICATION NO. DP001246



Subject Property

CIVIC: 2585 BATTERSEA ROAD
LEGAL: AMENDED LOT 11 (DD 25569N) SECTION 1 NANAIMO DISTRICT
PLAN475A

**ATTACHMENT E
PREVIOUS SITE CONDITIONS**

(GOOGLE EARTH 2009)



ATTACHMENT F SITE PHOTOGRAPHS



Photo 1: Looking west at the front of the new house from Battersea Road showing the subject retaining walls . The retaining walls allow for plantings to be installed within.

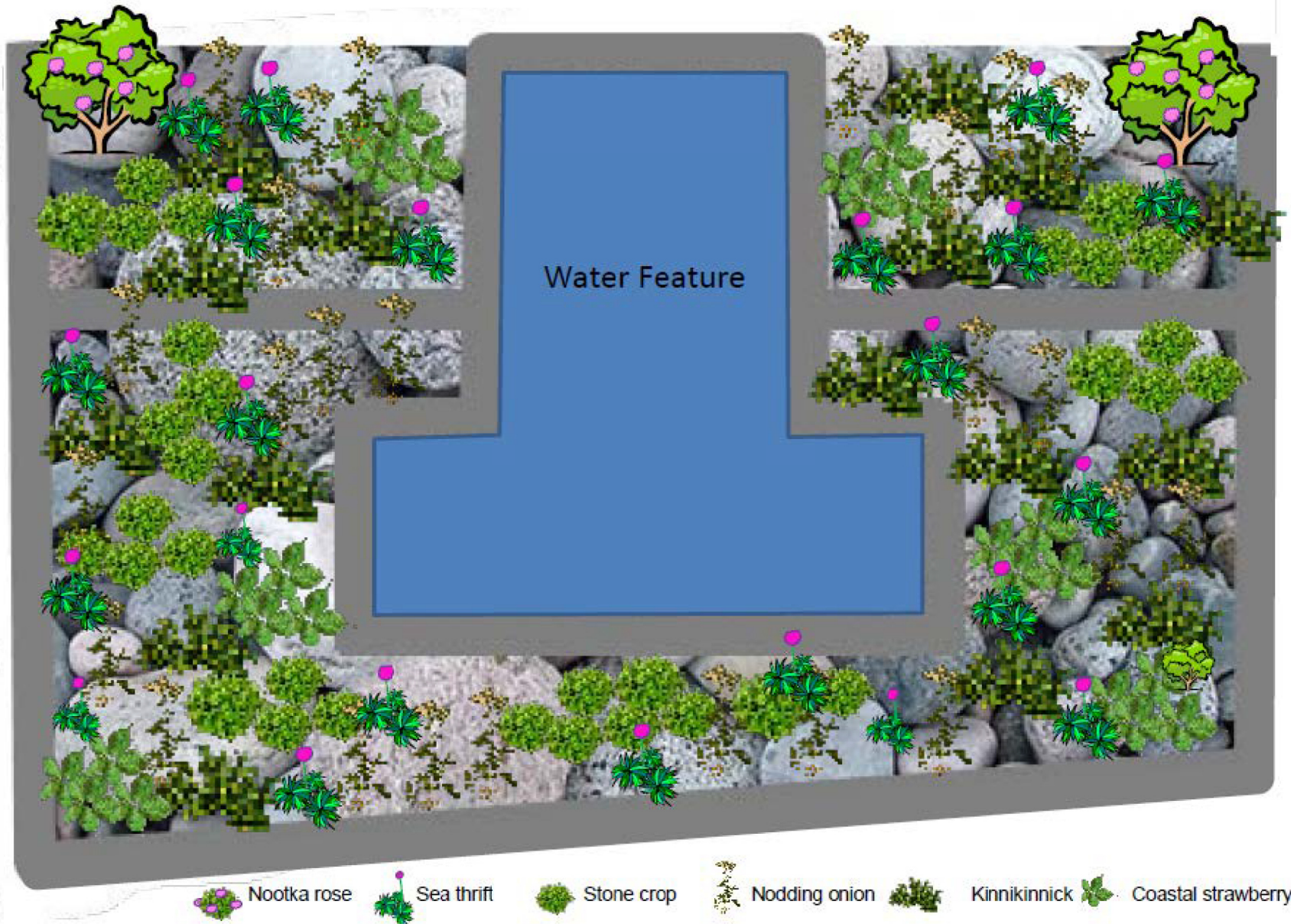


Photo 2: Looking northwest towards the new house and retaining walls from Battersea Road.

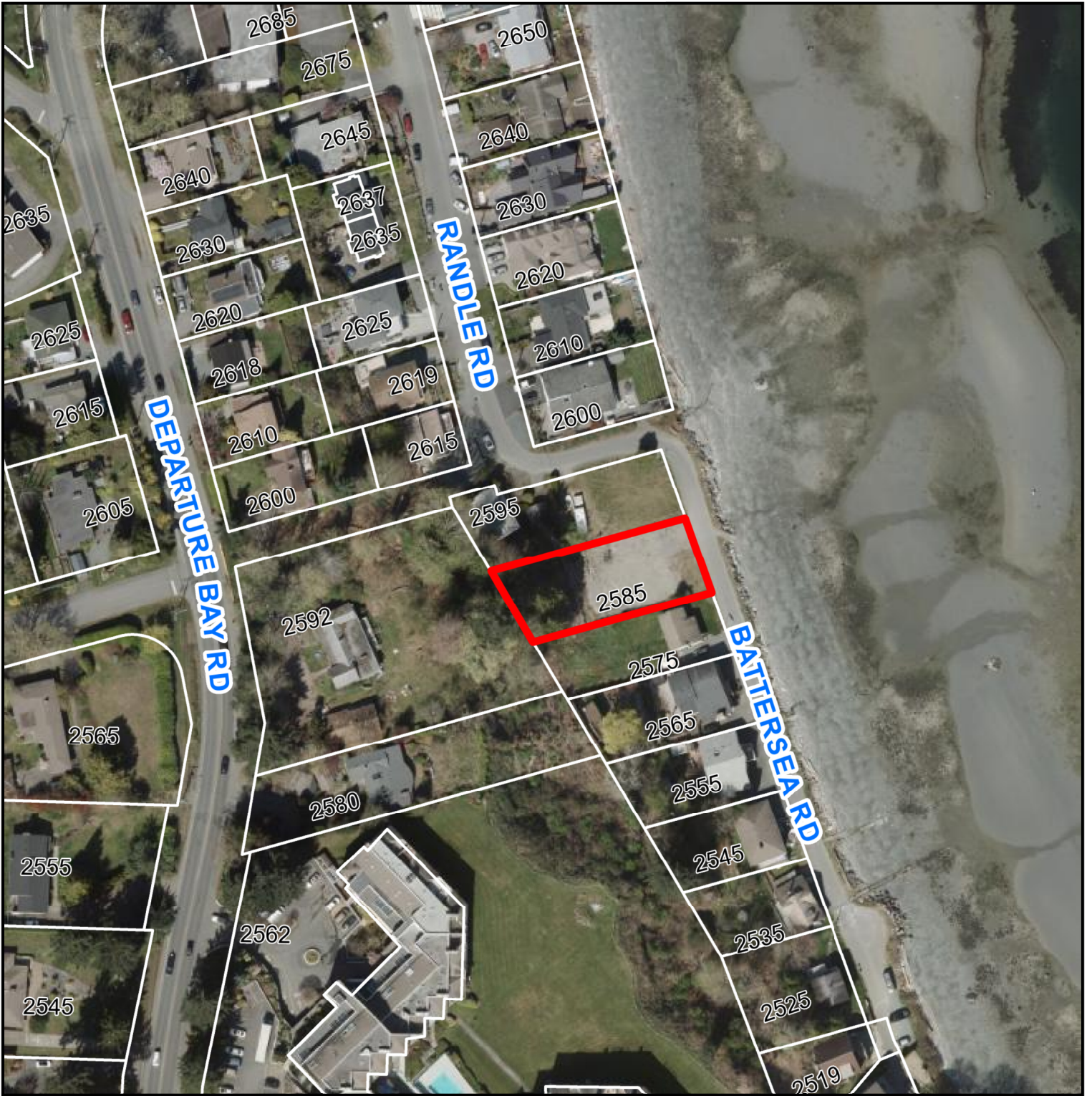


Photo 3: Looking northeast across Battersea Rd towards the ocean from the south side of the new house. The 15m DPA includes paved road, rip rap and the retaining walls. Photo 3b is looking across the concrete patio area under the cantilevered deck that has not been poured yet.


ATTACHMENT G PROPOSED VEGETATION REMEDIATION PLAN



**ATTACHMENT H
AERIAL PHOTO**



DEVELOPMENT PERMIT APPLICATION NO. DP001246

 2585 BATTERSEA ROAD