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**TO:** Electoral Area Services Committee      **DATE:** February 11, 2020  
**FROM:** Sarah Martin  
          Planning Technician                      **FILE:** PL2019-179  
**SUBJECT:** Development Permit with Variance Application No. PL2019-179  
              1249 Winchester Road, Electoral Area F

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## RECOMMENDATIONS

1. That the Board approve Development Permit with Variance No. PL2019-179 to permit the development of a foot bridge across a tributary of French Creek, subject to the terms and conditions outlined in Attachment 2.
2. That the Board direct staff to complete the required notification for Development Permit with Variance No. PL2019-179.

## SUMMARY

The applicant requests a variance to the watercourse setback to facilitate the replacement of an existing footbridge deck in order to access the rear two thirds of the subject property. The property is constrained by watercourses, and the bulk of the property can not be accessed without a stream crossing. As the applicant has provided sufficient rationale and the variance is not anticipated to result in negative environmental impacts, the applicant has made reasonable efforts to address Policy B1.5. Given that the development permit area guidelines have been met and no negative impacts are anticipated as a result of the proposed development, it is recommended that the development permit with variance be approved subject to the conditions outlined in Schedules 1 to 3 of the draft development permit included as Attachment 2.

## BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from John and Violet Blood to permit the replacement of a footbridge deck. The subject property is legally described as Lot 2, District Lot 8, Cameron District, Plan 22131. It is approximately 4.04 hectares in area and is zoned Agriculture 1 (A-1) pursuant to "Regional District of Nanaimo Electoral Area 'F' Zoning and Subdivision Bylaw No. 1285, 2002" (zoning bylaw). The property is located to the south of Alberni Highway in an area characterized by the Agricultural Land Reserve (see Attachment 1 – Subject Property Map).

The property contains a dwelling unit, accessory buildings and structures, a log pedestrian bridge and concrete abutments, a stream, a wetland, connecting ditch, and a hay field bisected by the stream. It is serviced by on-site water and sewage disposal.

The proposed development is subject to the Freshwater & Fish Habitat Development Permit Area (DPA) as per the “Regional District of Nanaimo Electoral Area ‘F’ Official Community Plan Bylaw No. 1152, 1999” (Area F OCP). The placement of a bridge within the watercourse setback requires a variance.

### ***Proposed Development and Variance***

The proposed development involves placing a 9.75 metre by 1.8 metre clear span pedestrian bridge deck onto two existing 1.22 metre by 2.44 metre concrete abutments, using an excavator. The bridge will be slung into place from the top of bank. The channel width at the crossing is approximately 7.5 metres as measured at high water mark to high water mark of each bank. The bridge span is 9.75 metres, the same as the abutments, which are located above the high water mark. The watercourse is mapped on Map 3 of the Area F OCP, which means that a 15.0 metre setback from the natural boundary or top of bank applies, where there is a bank within 15.0 metres of the natural boundary, per the zoning bylaw. The applicant proposes to vary the following regulations from the “Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”:

- **Section 2.10(2) – Setback Requirements from Watercourses** to reduce the minimum setback from 15.0 m to 0.0 m from the natural boundary, or where there is a bank within 15 m of the natural boundary, 0.0 m from the top of bank, for the proposed bridge as shown in Attachment 2.

### ***Land Use Implications***

In support of the application, the applicant has provided a Riparian Area Protection Regulation (RAPR) assessment (No. 5974) prepared by Current Environmental dated June 25, 2019, a Provincial Section 11 Approval, Engineered drawings prepared by McGill & Associates Engineering Ltd dated August 15, 2019, and an Assurance of Professional Design and Commitment for Field Review (Schedule B) prepared by B.A. West dated August 28, 2019.

The RAPR assessment identifies the watercourse on the subject property as a tributary of French Creek, which is a known fish bearing watercourse. The stream originates in the Beaufort Mountains, and is fed primarily by rainfall. Coho salmon, cutthroat trout, and Dolly Varden are known to be present upstream of the subject property. It is assumed that all three are present at the subject property. A mature second growth riparian forest of predominantly western red cedar and an understory dominated by salmonberry is present, and helps to support fish production and stabilize banks, while in-stream substrates provide suitable spawning for both salmon and cutthroat trout. A 29.1 metre Streamside Protection and Enhancement Area (SPEA) applies to the stream and is largely intact, though the east side has historically been partially cultivated for hay production and predates the RAPR (grandfathered).

In order to access the rear two thirds of the subject property, a stream crossing is required. The applicant has worked with Current Environmental to provide recommendations for the proposed development, in order to avoid or mitigate impacts to sensitive biophysical features on or near the DPA, in accordance with the guidelines. The RAPR assessment makes a number of recommendations to protect the existing vegetation during the bridge deck replacement, and to prevent negative inputs into the stream. This includes, but is not limited to: no excavation or grubbing to be conducted, the establishment of root protection zones, the requirement for a spill kit to be on hand, and confirmation by the biologist that appropriate mitigation measures are in

place before work commences. It is recommended that the proposed development be in accordance with the recommendations of the biologist contained within the RAPR assessment and that a copy of the post development report be provided to the RDN as a condition of permit, as outlined in Attachment 2.

In addition to the recommendations from the biologist, the applicant has also worked with an Engineer to provide plans for the proposed bridge and to provide an assurance of professional design and commitment for field review, to ensure that the proposal is safe and suitable for the intended use. The proposed bridge is not subject to a building permit as the proposal is exempt from Part 9 of the BC Building Code. It is recommended that the proposed development be in accordance with the engineered drawings and that confirmation that the proposed development has occurred in accordance with the Engineer's recommendations be submitted to the RDN as a condition of permit, as outlined in Attachment 2.

Given that the DPA guidelines have been met, the applicant has provided sufficient rationale, and the variance will not result in negative impacts to the riparian assessment area provided that the recommendations of the biologist are implemented, the applicants have made reasonable efforts to address Policy B1.5 guidelines. It is recommended that the development permit with variance be approved subject to the terms and conditions outlined in Attachment 2.

### ***Intergovernmental Implications***

The application has been referred to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR). FLNR advised that a Notification submitted under the *Water Sustainability Act* (Section 11) was required and has confirmed that an approval with conditions has been issued. The *Act* requires that the bridge and its approach will not produce a backwater effect or increase the head of the stream; that the hydraulic capacity of the bridge is equivalent to the hydraulic capacity of the stream channel; that the height of the underside of the bridge is adequate to provide free passage of flood debris and ice flows; and that the bridge is made of materials that meet the applicable standards of the Canadian Standards Association. As per the conditions of approval, development must be in accordance with the Technical Rationale and Mitigation Measures, and the Biophysical Assessment submitted with the application. In addition, the stream crossing must be supervised by an Environmental Monitor due to work outside the fish window and the potential presence of fish. The monitor must have a shutdown procedure in case of increased flow, heavy rains, or any other incident. The potential environmental risks posed by the proposed work is considered to be low as no vegetation clearing or excavation will be required in support of the bridge installation.

It is noted that the Notification expired October 25, 2019; both the applicant and the Province have been advised that an extension to the Notification to at least April 1, 2020 is required to accommodate the RDN approval process.

### ***Public Consultation Implications***

Pending the Electoral Area Services Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application and Notification Procedures Bylaw No. 1776, 2018", property owners and tenants of parcels located within a 50.0 metre radius of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the application.

## ALTERNATIVES

1. To approve Development Permit with Variance No. PL2019-179 subject to the terms and conditions outlined in Schedules 1 to 3 of Attachment 2.
2. To deny Development Permit with Variance No. PL2019-179.

## FINANCIAL IMPLICATIONS

The proposed development has no implications related to the Board 2019 – 2023 Financial Plan.

## STRATEGIC PLAN IMPLICATIONS

The proposed development has been reviewed and the proposal is in keeping with the 2019 – 2022 Board Strategic Plan. The Plan's "Environmental Stewardship" key strategic area states that the Board will focus on protecting and enhancing the natural environment, including land, water and air, for future generations. The DPA guideline requirement for an environmental assessment and a sediment and erosion plan helps ensure that site-specific environmentally sensitive features are identified and that the impacts of development on the natural environment are identified and mitigated.



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Sarah Martin  
smartin@rdn.bc.ca  
December 23, 2019

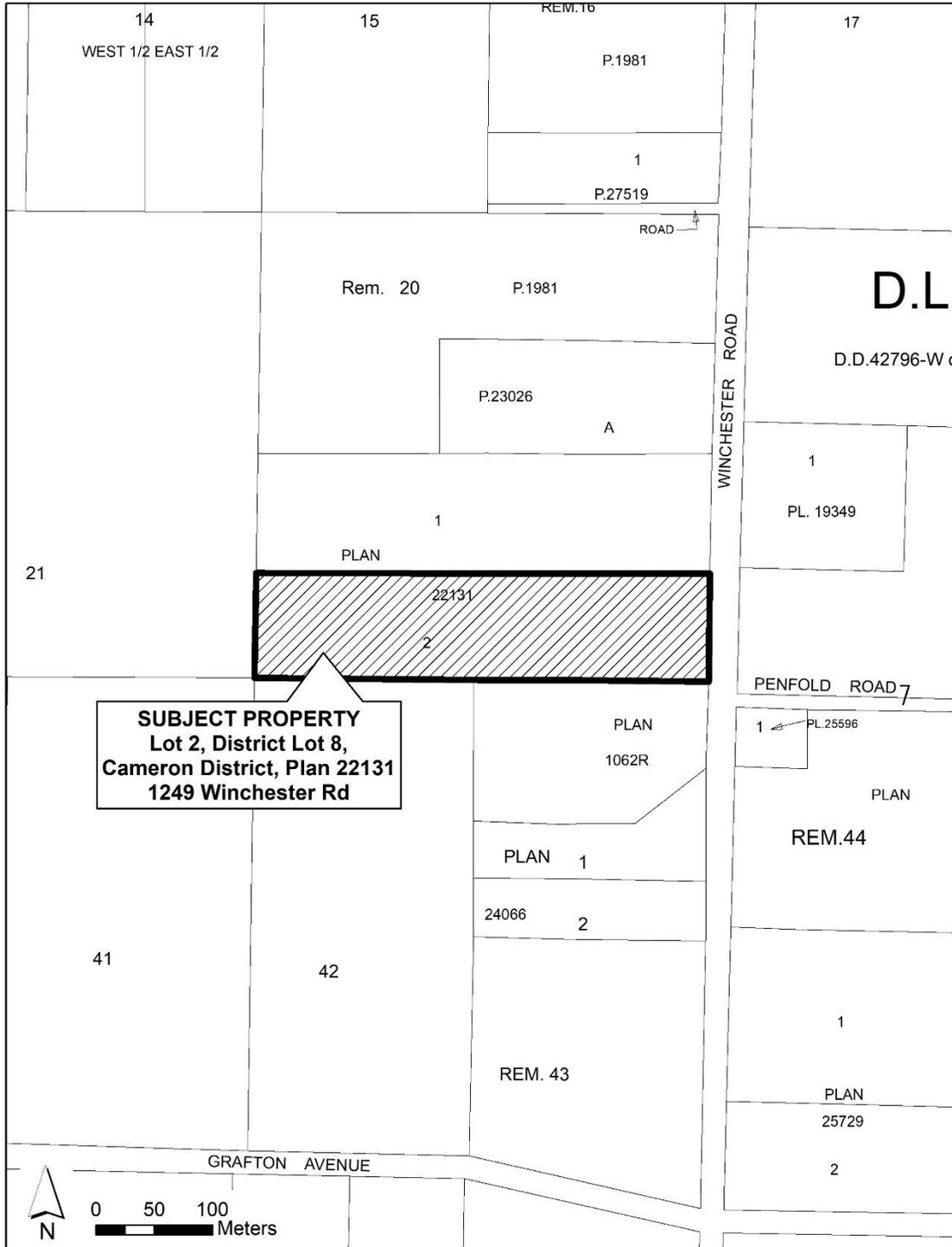
### Reviewed by:

- P. Thompson, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

### Attachments:

1. Subject Property Map
2. Draft Development Permit with Variance PL2019-179

**Attachment 1**  
**Subject Property Map**



**Attachment 2**  
**Draft Development Permit with Variance**

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|  <p><b>REGIONAL<br/>DISTRICT<br/>OF NANAIMO</b></p> | <p><b>STRATEGIC &amp; COMMUNITY DEVELOPMENT</b></p> <p><b>6300 Hammond Bay Road, Nanaimo, BC V9T 6N2</b><br/><b>250-390-6510 or 1-877-607-4111</b><br/><b><a href="http://www.rdn.bc.ca">www.rdn.bc.ca</a></b></p> <p><b>DEVELOPMENT PERMIT WITH VARIANCE NO. PL2019-179</b></p> |
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**To:** (“Permittee”) John Richard Blood and Violet Ann Blood

**Mailing Address:** 1249 Winchester Road, Qualicum Beach, BC V9K 1W9

1. Except as varied or supplemented by this permit, the development permit with variance is issued subject to compliance with all applicable bylaws and provincial and federal statutes and regulations.
2. This development permit with variance applies only to those lands within the Regional District of Nanaimo described below, and all buildings, structures and other development thereon:

**Legal Description:** Lot 2, District Lot 8, Cameron District, Plan 22131 (“Lands”)

**Civic Address:** 1249 Winchester Road **P.I.D.:** 003-388-697

3. The Lands shall be developed strictly in accordance with the terms and conditions of this permit.
4. The Permittee, as a condition of issuance of this permit, agrees to comply with the conditions of Schedule 1, which is attached to and forms part of this permit.
5. The Permittee, as a condition of issuance of this permit, agrees to develop the Lands in substantial compliance with the plans and specifications included in Schedules 2 and 3, which are attached to and form part of this permit.
6. With respect to the Lands, “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002” is varied as outlined in Schedules 1 to 3, which are attached to and form part of this permit.
7. Subject to the terms of the permit, if the Permittee does not substantially start construction with respect to which the permit was issued within two years after the date it is issued, the permit shall lapse in accordance with Section 504 of the *Local Government Act*.
8. This permit prevails over the provisions of the bylaw in the event of conflict.
9. The RDN shall file the notice in the Land Title Office at Victoria under Section 503 of the *Local Government Act*, and upon such filing the terms of this permit or any amendment hereto shall be binding upon all persons who acquire an interest in the Lands affected by this permit.
10. This permit is not a building permit.

Authorizing Resolution to issue passed by the Board this XX<sup>th</sup> day of XX, 2020.

## **Schedule 1 Terms & Conditions of Permit**

The following sets out the terms and conditions of Development Permit with Variance No. PL2019-179:

### Bylaw No. 500, 1987 Variances

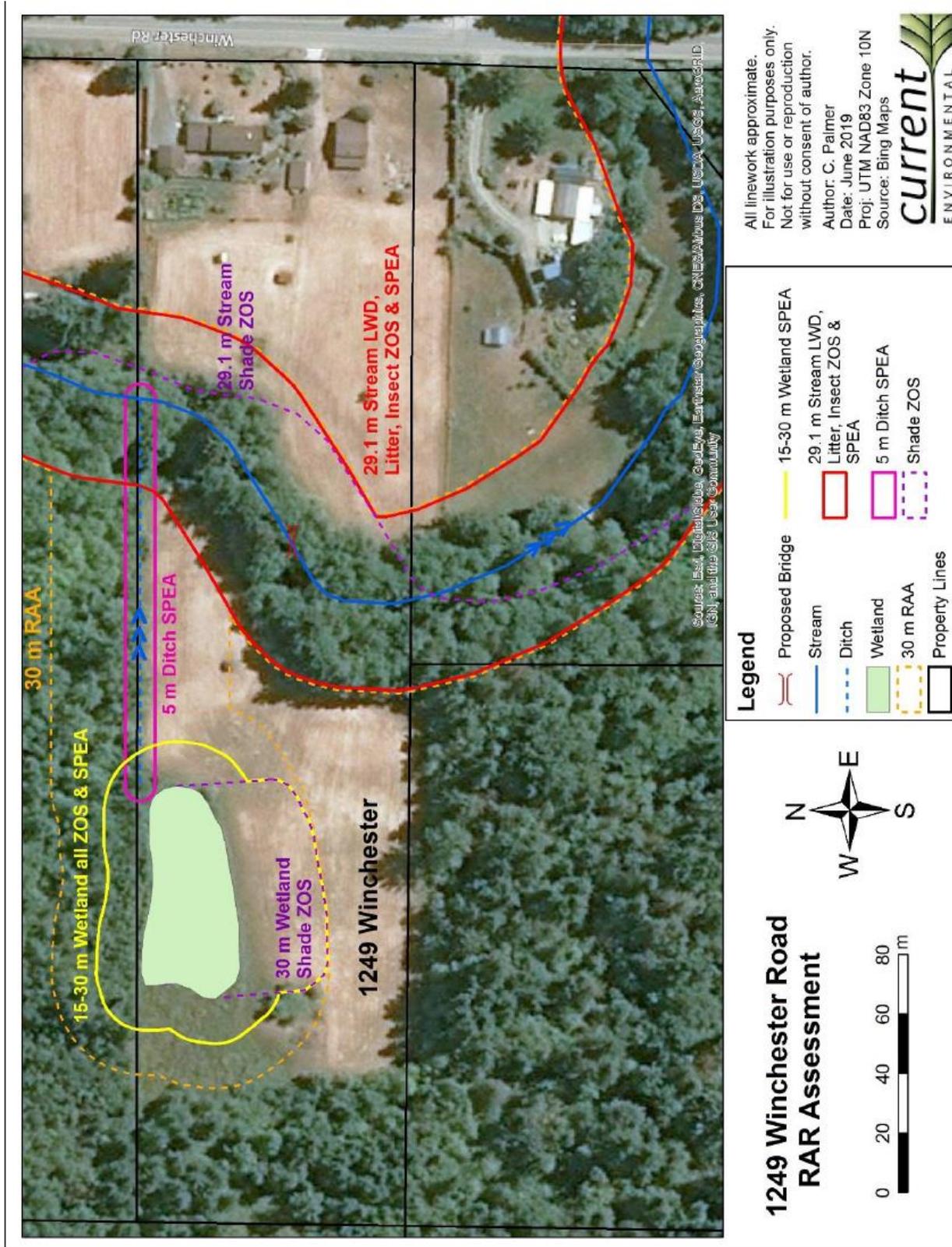
With respect to the Lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

- **Section 2.10(2) – Setback Requirements from Watercourses** to reduce the minimum setback from 15.0 m to 0.0 m from the natural boundary, or where there is a bank within 15 m of the natural boundary, 0.0 m from the top of bank, for a bridge as shown in Attachment 2.

### Conditions of Approval

1. The Lands are developed:
  - a. In accordance with the drawings prepared by McGill & Associates Ltd dated August 15, 2019, and attached as Schedule 3.
  - b. In accordance with the Site Plan prepared by Current Environmental dated June 25, 2019, and attached as Schedule 2.
  - c. In accordance with the recommendations contained in the Riparian Areas Assessment prepared by Current Environmental dated June 25, 2019 (RAA No. 5974).
2. The Permittee shall provide confirmation prepared by a Professional Engineer, to the satisfaction of the General Manager of Strategic and Community Development (the “General Manager”), that development of the subject property has occurred in accordance with the Engineers specifications.
3. The Permittee shall provide confirmation prepared by a Qualified Environmental Professional, to the satisfaction of the General Manager that development of the subject property has occurred in accordance with the Riparian Areas Assessment noted under Condition of Permit 1.b.

**Schedule 2  
 Site Plan with Variance (1 of 2)**



**Schedule 2**  
**Site Plan with Variance (2 of 2) – enlarged for convenience**





**Schedule 3**  
**Plans and Elevations (2 of 3) – enlarged for convenience**

