



REGIONAL
DISTRICT
OF NANAIMO

**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. PL2023-047
3734 JINGLE POT ROAD, ELECTORAL AREA C**

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2023-047 to reduce the setback to a watercourse, subject to the terms and conditions outlined in Attachment 2.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2023-047.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from the RDN Recreation and Parks Department to permit two boardwalk bridge crossings over a side channel of the Millstone River within the Anders & Dorrit's Community Park. The subject property, legally described as Lot 1, Sections 18 and 19, Range 4, Mountain District, Plan 24550, is approximately 2.55 hectares in area and is zoned Agriculture 1 Zone (AG1), Subdivision District 'D', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located within the Agricultural Land Reserve (ALR) and is crossed by the Millstone River close to the southern boundary (see Attachment 1 – Subject Property Map).

The Anders & Dorrit's Community Park is a passive recreational park, and includes a trail system, meadow, parking lot and small plaza. Under the *Agricultural Land Reserve Regulation*, a passive recreation park is permitted provided any structures do not exceed 100 m² (0.01 ha) per parcel. In 2019, the Agricultural Land Commission approved an area of 1,000 m² (0.1 ha) for parkland amenities as well as a boardwalk trail, trail mown into the meadow, and a bridge.

The side channel seasonally contains water during high water flow in the Millstone. A watercourse north of Jingle Pot Road also discharges into the channel, connecting through a culvert under the meadow in the park.

Proposed Development and Variance

The proposed development of the river trail will include two boardwalk bridges over a side channel of the Millstone River. As the boardwalk will be greater than 1.0 metre over the surface of the water, the crossing is a structure that must comply with watercourse setbacks.

The applicant proposes to vary the following regulations from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

- **Section 3.3.8 – Setback Requirements from Watercourses** to reduce the minimum setback for the construction of the bridge across the watercourse within 15.0 m horizontal distance from the natural boundary or within 18.0 m horizontal distance from a stream centerline, whichever is greater, to 0.0 metres.

Land Use Implications

In support of the application, the applicant has provided a plan and elevations of the bridge boardwalk over the side channel, prepared by McElhanney, dated April 27, 2021 (see Schedule 2 Crossing Details & Typical Sections with Variance of Attachment 2 – Draft Development Variance Permit). The proposed boardwalks will replace obstructions existing in the stream channel currently used for public access, including gravel fill for the trail and a concrete feature. Given the boardwalks will continue to provide public access to the Millstone in the community park while improving the function of the stream, the proposal complies with “Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation”.

As the bridge will be for park or ancillary park purposes, the *Provincial Riparian Area Regulations* and the Freshwater and Fish Habitat Development Permit guidelines do not apply to the proposed development. However, for the purpose of the variance request, the applicant has provided an Environmental Management Plan by Environmental Dynamics Inc., dated May 2021. The Plan recommends that all instream works for the project follow the Fisheries and Oceans Canada general timing window between June 15 to September 15, provided the stream is dry. For risk to the stream, the Plan recommends scheduled visits by the Environmental Monitor; limited vegetation removal; erosion and sediment control measures; fuel and oil management; and fuel spill response procedures. While construction will occur within existing trail areas, any existing riparian vegetation disturbed through construction will be restored upon completion of the project.

Intergovernmental Implications

As the work will occur within the side channel for the Millstone River, the work will require notification under the *Water Sustainability Act* for changes in and about a stream. The applicant will be submitting notification to the Ministry of Forests.

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. 1845, 2022", property owners and tenants of parcels located within a 100.0 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.

FINANCIAL IMPLICATIONS

The proposed development is included in the Board 2023 – 2027 Financial Plan.

STRATEGIC PLAN ALIGNMENT

The proposed development has been reviewed and the proposal maintains public access to Millstone without disturbing fish habitat, which is in keeping with the 2019 – 2022 Board Strategic Plan goals to protect lands for environmental preservation and parkland.

REVIEWED BY:

P. Thompson, Manager, Current Planning
L. Grant, General Manager, Emergency Planning and Development
D. Holmes, Chief Administrative Officer

ATTACHMENTS:

1. Subject Property Map
2. Draft Development Variance Permit