

Memo

File: 3360-20/RZ 5C 18

DATE: July 30, 2019

TO: Advisory Planning Commission
Puntledge – Black Creek (Electoral Area C)

FROM: Planning and Development Services Branch

RE: Rezoning Application – Unaddressed Lot, Wilfred Road (Unger)
Amended Lot 1 (DD 20594-N), Block 29, Comox District, Plan 3139 Except That
Part of Said Lot Bounded on the North by Plan 5517 and East by the Island
Highway as Said Highway is Shown on Plan 4267 and Except Those Parts in Plans
3747, 3865, 4267, 4417, 5517, 7148, 9836, 10102, 10943, 13270, 15600, 15674,
15722, 15775, 16502, 16520, 17359, 18493 1N3 19356, PID 006-281-222

The attached development proposal is for commission members' review and comment.

An application has been received to consider a Zoning Bylaw amendment for a property at an unaddressed lot on Wilfred Road (Figures 1 and 2). The subject property is approximately 4.3 hectares in area. It is bounded by Wilfred Road to the south and an unopened road right of way to the west. There is a wetland area to the north and east of the property. The property is surrounded by residential properties zoned Residential One B (R-1B) to the south and west, and rural properties zoned Rural Eight (RU-8) to the north and east (Figure 3). The subject property is zoned RU-8 (Appendix A). The applicants wish to rezone the property in order to subdivide into three lots. The applicants have submitted a draft subdivision plan (Figure 4).

For more information, please refer to the attached staff report (Appendix B) dated January 23, 2019, which was presented to the Comox Valley Regional District Board on February 26, 2019. Please disregard all figures in the staff report. The figures have since been updated and are included in this memo below.

Thank you for your review.

Sincerely,

T. Trieu

Ton Trieu, MCIP, RPP
Planning Services Manager
Planning and Development Services Branch

\bc

Attachments: Appendix A – “RU-8 Zone”
Appendix B – “Staff Report Dated January 23, 2019”

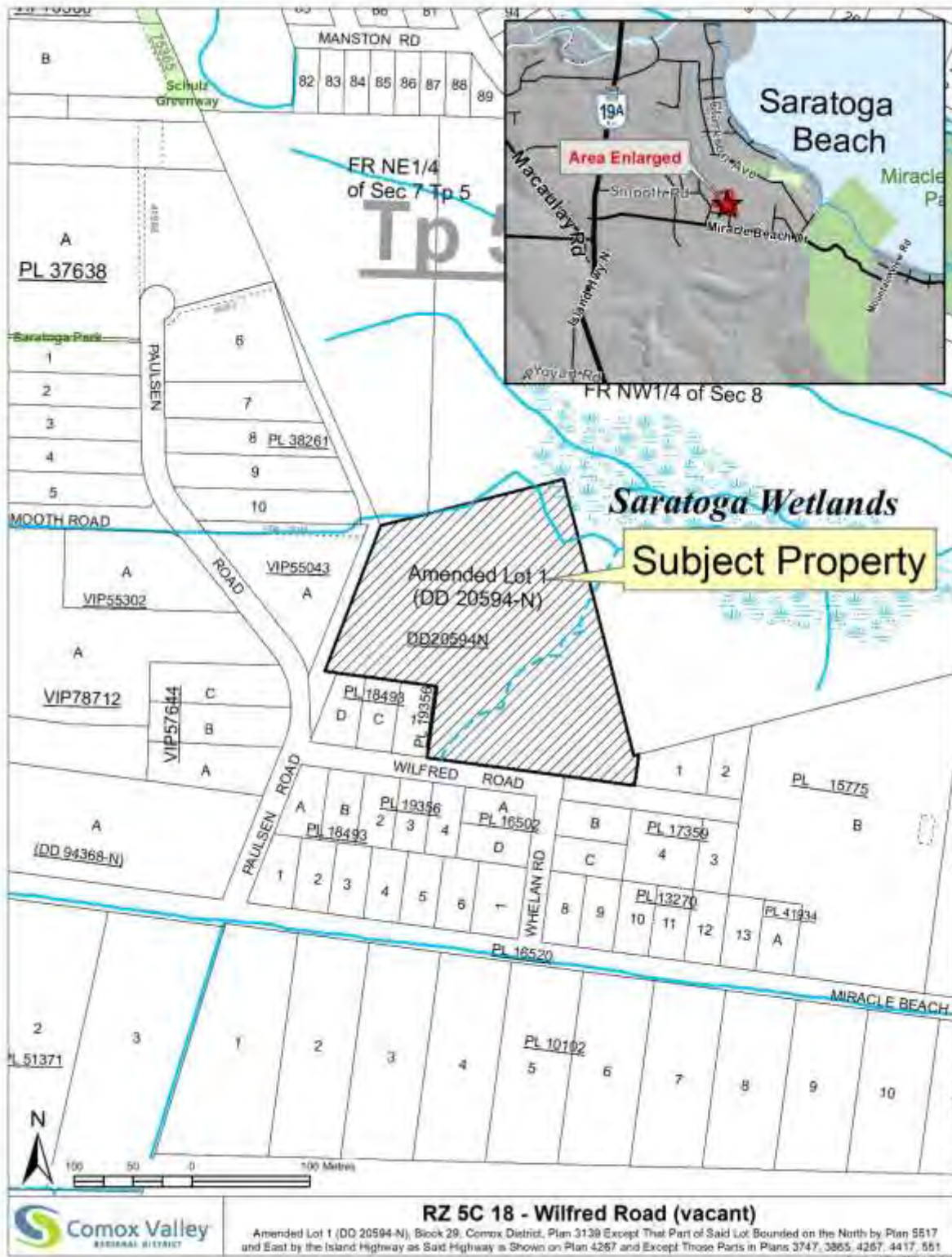


Figure 1: Subject Property Map

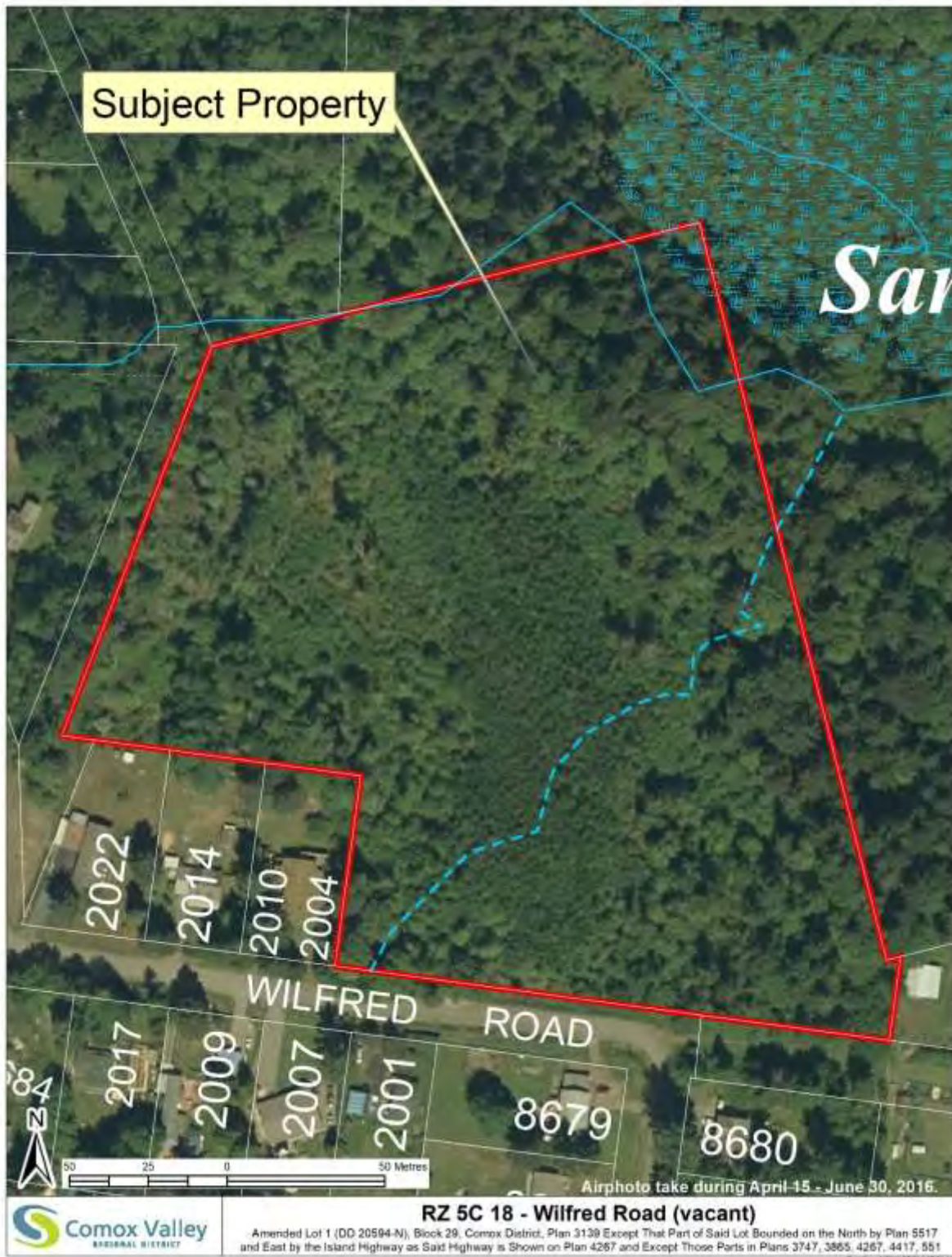


Figure 2: Air Photo

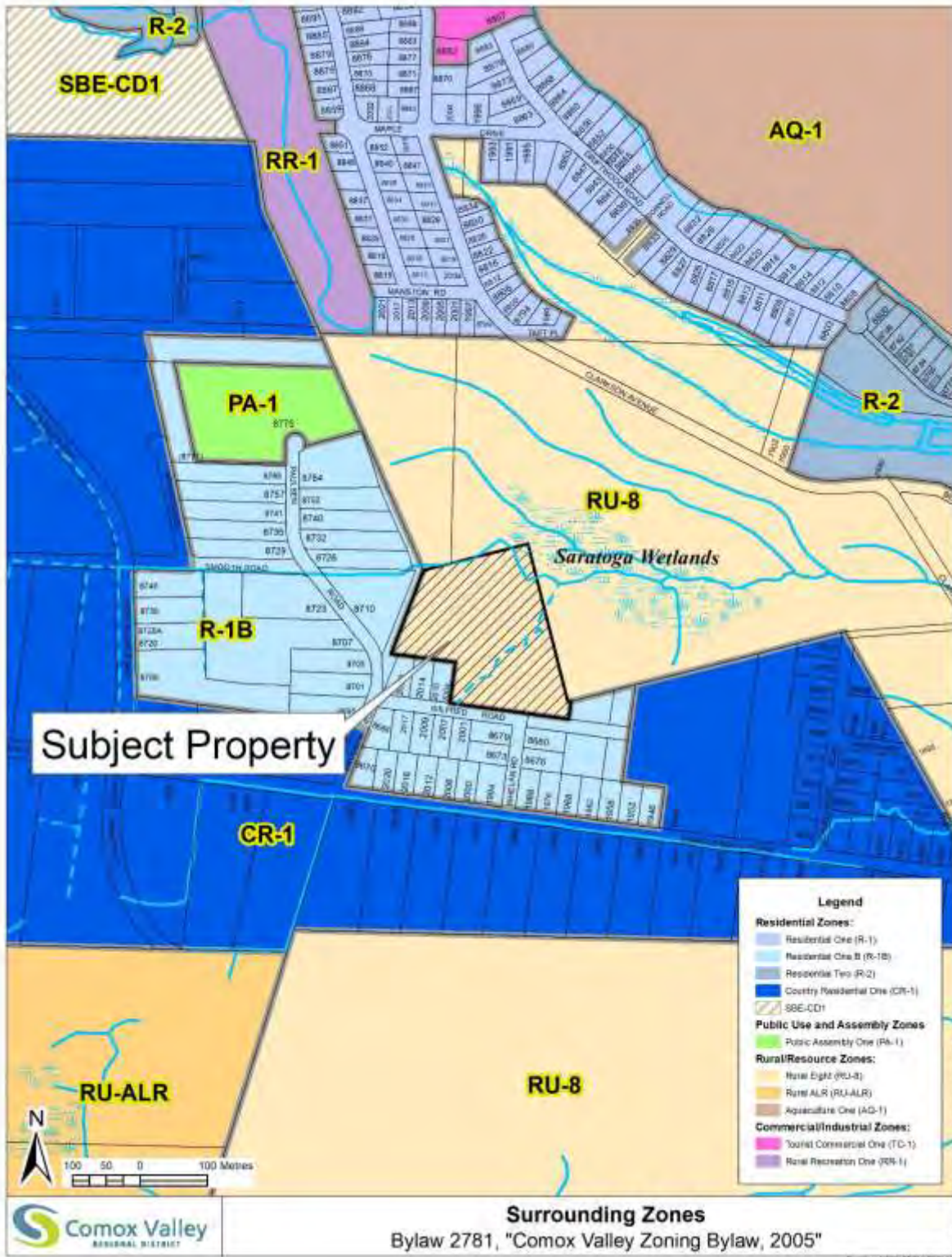


Figure 3: Zoning Map



Figure 4: Proposed Subdivision Plan if Rezoning is Approved

801

Rural Eight (RU-8)

1. **PRINCIPAL USE**i) **On any lot:**

- a) Residential use;
- b) Agricultural use;
- c) Garden nurseries;
- d) Riding academies;
- e) Silviculture;
- f) Aquaculture;
- g) Animal hospital;
- h) Fish hatchery (including community based).

ii) **On any lot 2.0 hectares (4.9 acres) or larger:**

- a) Animal kennels.

iii) **On any lot 8.0 hectares (19.8 acres) or larger:**

- a) Wood processing or permanent sawmills occupying an area of not more than 1000.0 metres² (0.3 acres) including vehicle parking, and log sort and lumber storage areas; and
- b) Crushing and screening of sand and gravel.

iv) **On any lot 20 hectares (49.5 acres) or larger:**

- a) Horse-related event where paid admission to view the event is required including rodeos, equestrian shows, dances, concerts, and a licensed facility pursuant to the *Liquor Control and Licensing Act* during the time of the horse-related event and subject to:
 - 1) the event being sponsored by the registered property owner or registered organization, association, club, or group registered under the *Society Act*;
 - 2) the event being no longer than three days in duration;
 - 3) notifying the Regional District in writing prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for the first two events in a calendar year under this section;
 - 4) obtaining written approval of the Regional District at least 30 days prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for each event after the two events have been held in a calendar year under Subsection 3.

2. ACCESSORY USES

On any lot:

- i) Home occupations;
- ii) Bed and breakfast;
- iii) Accessory buildings;
- iv) Domestic business use;
- v) Domestic industrial use;
- vi) Pet crematorium.

3. CONDITIONS OF USE

- i) **All gravel and sand processing operations or animal kennels shall be subject to the following conditions:**
 - a) Maintain a minimum yard setback of 15.0 metres (49.2 feet) along all property lines.
 - b) Uses abutting riparian areas shall be setback a minimum of 30.0 metres (98.4 feet) from the top of bank.
 - c) No parking, loading or storage areas shall be located in any required yard setbacks.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation.
 - e) The maximum lot coverage for the above uses shall not exceed 25%.
- ii) **All sawmill uses or portable sawmill uses shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.
 - c) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 1.5 metres (4.9 feet) in height. All screening shall be well maintained and painted as required.
- iii) **All buildings and structures related to gravel, or sand crushing and screening operations shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Minimum yard clearance of 60.0 metres (196.9 feet) from any lot where gravel, sand or soil extraction occurs within or abutting an area zoned under Part 700 Residential Zones.
 - c) No parking, loading or storage areas shall be located in any required yards.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.

- e) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 2.0 metres (6.6 feet) in height. All screening shall be well maintained and painted as required.
 - f) Uses abutting riparian or environmentally sensitive areas (ESA's) shall be setback a minimum of 30.0 metres (98.4 feet).
- iv) **Residential use is limited to:**
- a) **On any lot:** One single detached dwelling and secondary suite, or one single detached dwelling and one carriage house, or one single detached dwelling and one secondary dwelling limited in area to 90.0 metres² (968.8 feet²).
 - b) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

5. FLOOR AREA REQUIREMENTS

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 300.0 square metres (3229.3 square feet).

6. SITING OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Rural Eight zone shall be as set out in the table below.

Type of Structure	Heights	Required Setback				
		Front yard	Rear yard	Side yard		Side yard abutting road
				Frontage <31m	Frontage >31m	
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)
Accessory	4.5m or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)	7.5m (24.6ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Part 400, Siting Exceptions, of this bylaw and Bylaw No. 2782 being the "Floodplain Management Bylaw, 2005" may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]

7. LOT COVERAGE

- i) The maximum lot coverage of all buildings and structures shall not exceed 15%.

8. SUBDIVISION REQUIREMENTS

- i) Minimum lot area: 8.0 hectares (19.8 acres)

Existing lots below the minimum lot area within this zone may be used for the permitted uses within this zone, subject to compliance with the other requirements of this zone.

End – RU-8

DATE: January 23, 2019

FILE: 3360-20/RZ 5C 18

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Zoning Bylaw Amendment – Lot 1, Plan 3139, Wilfred Road (Unger)
Puntledge – Black Creek (Electoral Area C)
Amended Lot 1 (DD 20594-N), Block 29, Comox District, Plan 3139 Except
That Part of Said Lot Bounded on the North by Plan 5517 and East by the
Island Highway as Said Highway is Shown on Plan 4267 and Except Those
Parts in Plans 3747, 3865, 4267, 4417, 5517, 7148, 9836, 10102, 10943, 13270,
15600, 15674, 15722, 15775, 16502, 16520, 17359, 18493 1N3 19356, PID
006-281-222**

Purpose

To seek Comox Valley Regional District (CVRD) Board support to undertake external agency and First Nations referrals for a proposed rezoning to enable a three-lot subdivision, and to recommend that the application be externally referred (Appendix A).

Recommendations from the Chief Administrative Officer:

1. THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix A of staff report dated January 23, 2019, and direct staff to start the external agency referral process for Amended Lot 1 (DD 20594-N), Block 29, Comox District, Plan 3139 Except That Part of Said Lot Bounded on the North by Plan 5517 and East by the Island Highway as Said Highway is Shown on Plan 4267 and Except Those Parts in Plans 3747, 3865, 4267, 4417, 5517, 7148, 9836, 10102, 10943, 13270, 15600, 15674, 15722, 15775, 16502, 16520, 17359, 18493 1N3 19356, PID 006-281-222 (Unger) as part of a proposed amendment (RZ 5C 18) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”;

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

2. THAT staff report back to the Comox Valley Regional District Board with a draft board policy on voluntary community amenity contributions per Section 72 of Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” and the Ministry of Municipal Affairs and Housing Guidebook, “Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability.”

Executive Summary

- The subject property is located at Wilfred Road in Electoral Area C (Figures 1 and 2).
- The approximate size of the property is 4.3 hectares, and is zoned Rural Eight (RU-8) (Figure 3).
- The applicants wish to rezone the property in order to subdivide into three lots (Figure 4).

- The subject property is in the Saratoga Settlement Node (SN) as per the Comox Valley Regional District Regional Growth Strategy (RGS) and Rural Comox Valley Official Community Plan (OCP). The rezoning application is consistent with these plans.
- The draft Saratoga Miracle Beach Local Area Plan (LAP) designates the subject property within Rural Residential. This designation indicates that this is an area to serve a role in the natural drainage in the community.
- The CVRD Board is recommended to conduct First Nations and external agency referrals for this rezoning application (Appendix A). Referral comments will confirm redevelopment potential.
- In addition, Section 72 of the OCP provides for the contribution of community amenities related to an OCP or zoning amendment that will result in increased density potential. This report includes a recommendation for staff to report back with a community amenity contribution policy for the board to consider. At this time, staff is not requesting authorization to negotiate a voluntary amenity with this applicant, rather the board can consider whether this application is a candidate following receipt and discussion of staff's proposed community amenity policy.

Prepared by:

B. Chow

Brian Chow, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services

Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property is located on Wilfred Road (Figures 1 to 3) and is approximately 4.3 hectares in area. It is bounded by Wilfred Road to the south and an unopened road right of way to the west. There is a wetland area to the north and east of the property. The property is surrounded by residential properties zoned Residential One B (R-1B) to the south and west, and rural properties zoned Rural Eight (RU-8) to the north and east. The subject property is zoned RU-8 (Figure 3). The applicants wish to rezone the property in order to subdivide into three lots. The applicants have submitted a draft subdivision plan (Figure 4).

Official Community Plan Analysis

The OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” designates the subject property within the Saratoga SN. The draft Saratoga LAP designates this property as Rural Residential. This designation indicates that this area is to serve a role in the natural drainage in the community, east of the Old Island Highway. This area hosts a significant number of riverine and estuarine features.

Section 72 of the OCP provides for the contribution of community amenities related to an OCP or zoning amendment that will result in increased density potential. The Ministry of Municipal Affairs and Housing (formerly Ministry of Community, Sport and Cultural Development) has published “*Community Amenity Contributions: Balancing Community Planning, Public Benefits and Housing Affordability*,” which is a guidebook for local government in determining whether voluntary community amenity contributions can play a role in offsetting the impact of increased density in a neighbourhood. This application may be a candidate for community amenity contribution and the owner has previously

offered to provide parkland to the CVRD. Although generous, the land does not align with the objectives of the Rural Comox Valley Parks and Greenways Strategic Plan 2011-2030. This report includes a recommendation for staff to report back with a community amenity contribution policy, based on the Ministry's guiding principles, for the board to consider as a framework for considering acceptance of voluntary community amenity contributions. At this time, staff is not requesting authorization to negotiate a voluntary amenity with this owner, rather the board can consider whether this application is a candidate following receipt and discussion of staff's proposed community amenity policy.

Zoning Bylaw Analysis

The RU-8 zone has a minimum lot area of subdivision of 8 hectares. The proposal is to subdivide the subject property into three lots, with the smallest lot being 1.2 hectares. In support of the application, the applicants have submitted a *Riparian Areas Regulation* assessment to identify environmentally sensitive areas, and a drainage report to analyze onsite drainage and manage rainwater onsite. In addition, the applicants submitted a test pit study to illustrate that the southern portions of the proposed lots are dry.

The application is to rezone the entire lot to a residential zone that will enable subdivision. Through the rezoning process, the applicants will be required to demonstrate the actual subdivision potential based on on-site servicing capacity.

Policy Analysis

Section 460 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) states that a local government must define procedures by which a property owner may apply for a bylaw amendment. Section 479 of the LGA authorizes a local government to regulate the use, density, size and shape of land, buildings and structures. Section 464 states that a local government must hold a Public Hearing before adopting a Zoning Bylaw.

Options

The board can:

1. Refer the application to external agencies and First Nations for review, or
2. Deny the application to rezone the property to allow for a reduced parcel size.

Staff recommends option 1. This will enable staff to collect specific feedback on the application.

In addition, it is recommended that the board direct staff to report back on a draft board policy on voluntary community amenity contributions per Section 72 of the OCP.

Financial Factors

The applicants have paid for the rezoning application review in accordance with Bylaw No. 328 being the "Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014". If the application proceeds to statutory public hearing, additional fees will be required. Fees paid to date account for the rezoning only and not future subdivision or development permit fees.

Legal Factors

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws. The LGA authorizes a local government to regulate the use of land and buildings.

Regional Growth Strategy Implications

The Comox Valley RGS, Bylaw No. 120, being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010", designates the subject property within the Saratoga SN. SNs shall accommodate growth through a balance of new development, intensification and

improvements to public infrastructure (MG Policy 1B-1). The growth management framework is to direct 90 per cent of growth to Core Settlement Areas, and this SN is part of the Core Settlement Areas. Therefore, the proposed rezoning to enable subdivision is consistent with this growth management framework.

Intergovernmental Factors

Appendix A contains a list of agencies and First Nations, to which staff recommends referring the application. Feedback from the referral will be reported at a future Electoral Areas Services Committee meeting.

Interdepartmental Involvement

Planning staff is leading this application. Input from engineering services regarding development cost charges and water connections will be sought if the application proceeds to subdivision. A rainwater management report is required at this rezoning application stage in order to determine and confirm the development potential. Engineering Services Branch provided comments that require some changes to this report. Staff will work with the applicants and the qualified professionals to address these changes during the First Nations and external consultation phase.

While community parks does not have any concerns with the rezoning application, staff recommends, if the owner is inclined, to pursue a conservation covenant over those northern portions of the lands identified as wetland because of its environmental value as a biodiversity corridor. Parkland development cost charges will apply at time of subdivision.

Citizen/Public Relations

Staff recommends that the application be referred to the Area C Advisory Planning Commission, once this commission is formed. If the application proceeds to bylaw preparation, community consultation will be held in accordance with Bylaw No. 328 (i.e., statutory mailing and public hearing).

Attachment: Appendix A – “Agency List”

Note: The reference to Black Creek on this map is incorrect. See memo above dated July 30, 2019.

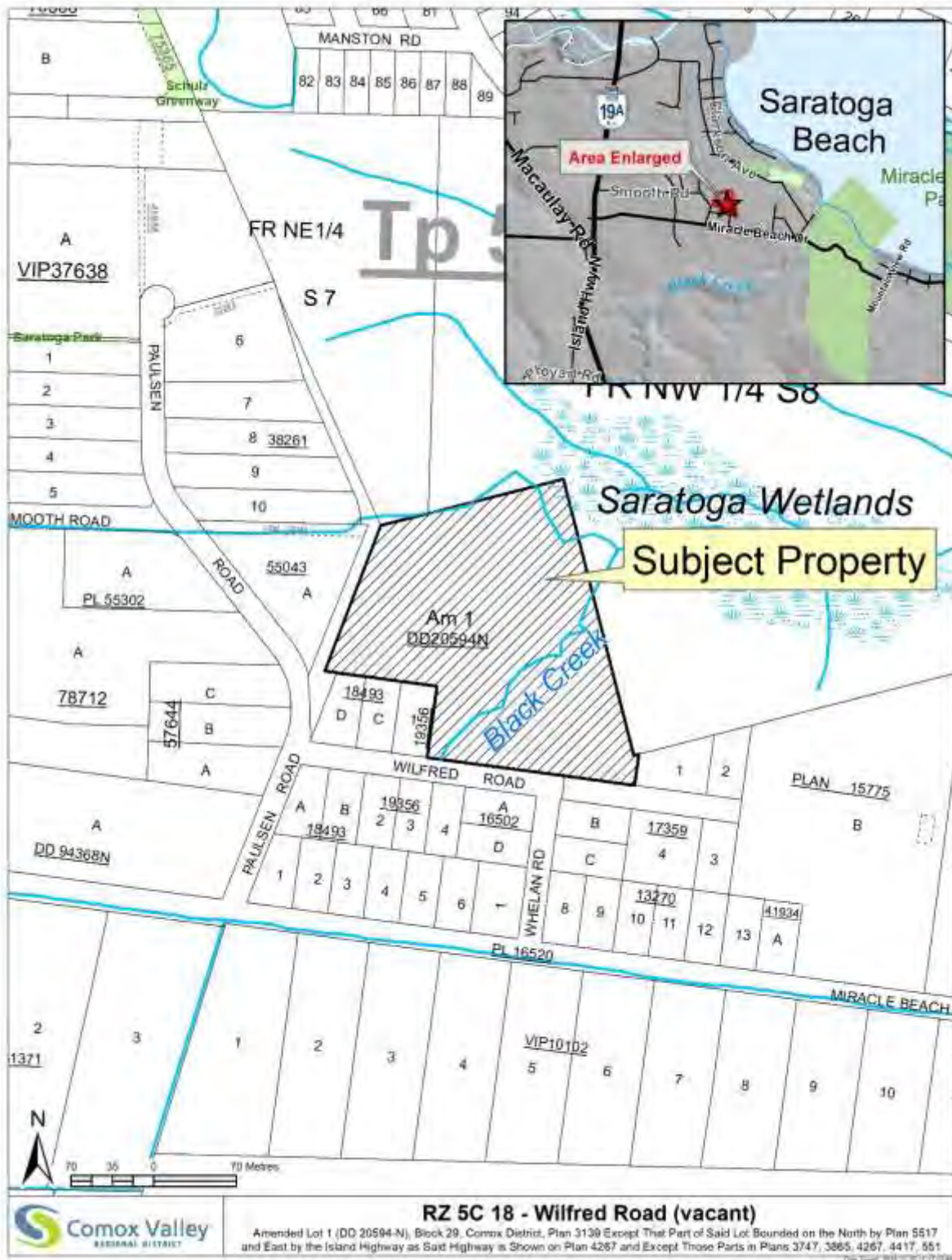


Figure 1: Subject Property Map

Note: The reference to Black Creek on this map is incorrect. See memo above dated July 30, 2019.

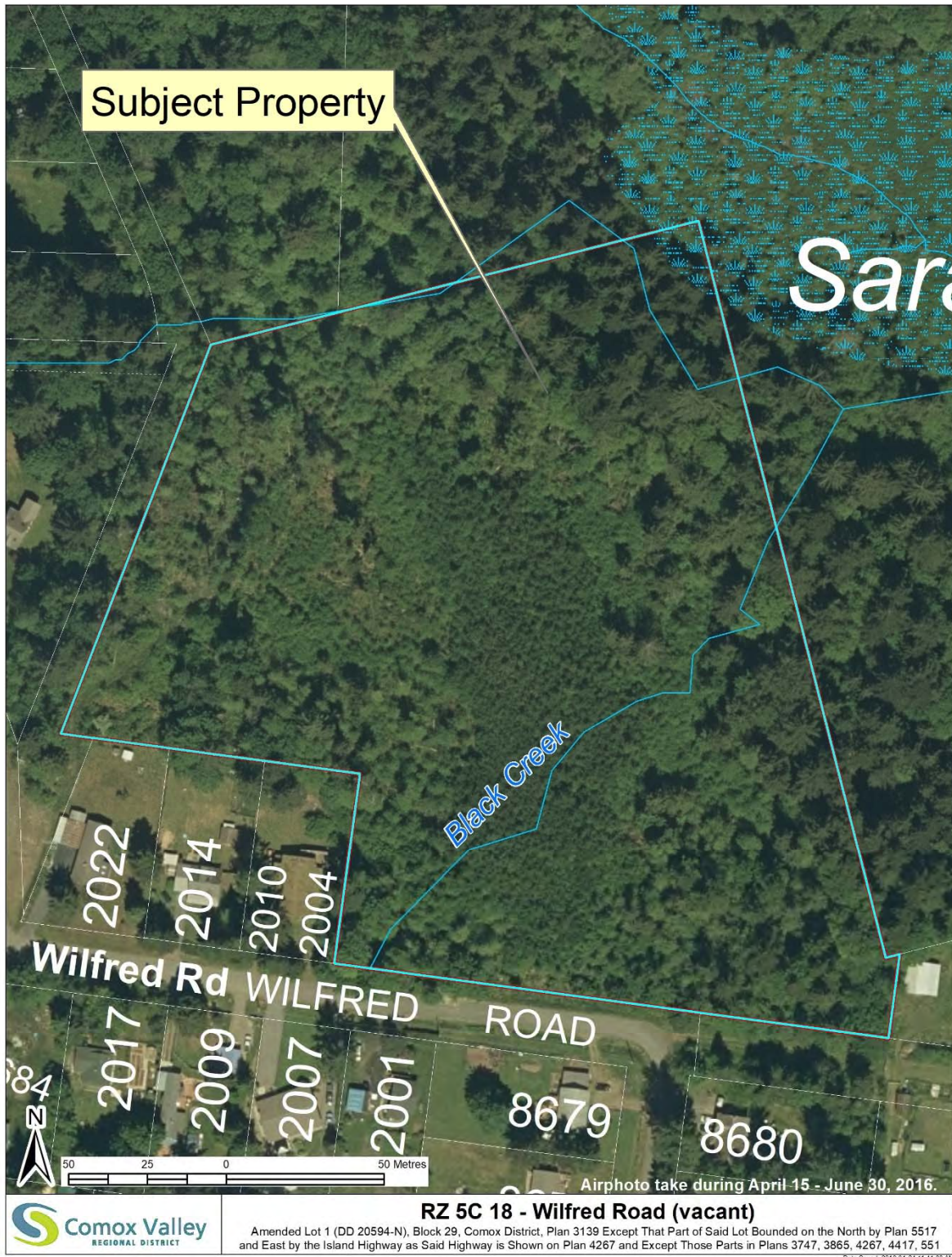


Figure 2: Air Photo

Note: The reference to Black Creek on this map is incorrect. See memo above dated July 30, 2019.

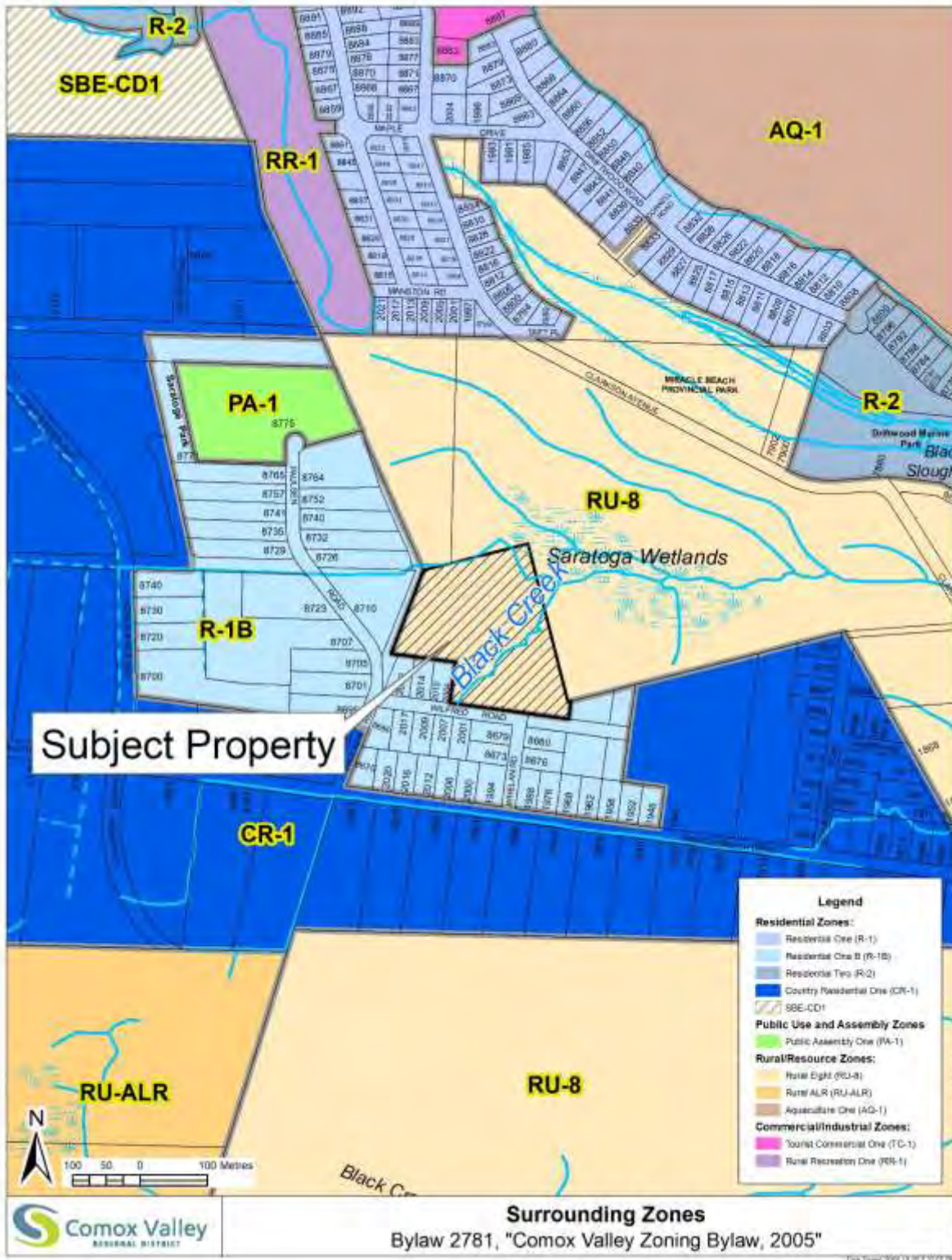


Figure 3: Zoning Map



Figure 4: Proposed Subdivision Plan if Rezoning Were Successful

Agency and First Nations Referral List

The following agencies will receive a referral of the proposal .

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwu) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai Nation of the Laich-Kwil-Tach Treaty Society	<input checked="" type="checkbox"/>	We Wai Kum First Nation, Kwiakah First Nation of the Kwiakah Treaty Society

Provincial Ministries and Agencies

	Agricultural Land Commission		Ministry of Community, Sport & Cultural Development (responsible for TransLink)
<input checked="" type="checkbox"/>	BC Assessment		Ministry of Energy & Mines
	BC Parks		Ministry of Forests, Lands and Natural Resource Operations
	Ministry of Environment	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Tourism & Skills Training (responsible for Labour)
	Ministry of Agriculture		Ministry of Indigenous Relations and Reconciliation

Local Government

	Comox (Town of)		Alberni-Clayoquot Regional District
	Courtenay (City of)	<input checked="" type="checkbox"/>	Strathcona Regional District
	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Puntledge – Black Creek Area C Advisory Planning Commission		Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)