

DATE: January 23, 2019**FILE:** 3360-20/RZ 5C 18**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported 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:

Concurrence:

Concurrence:

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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”

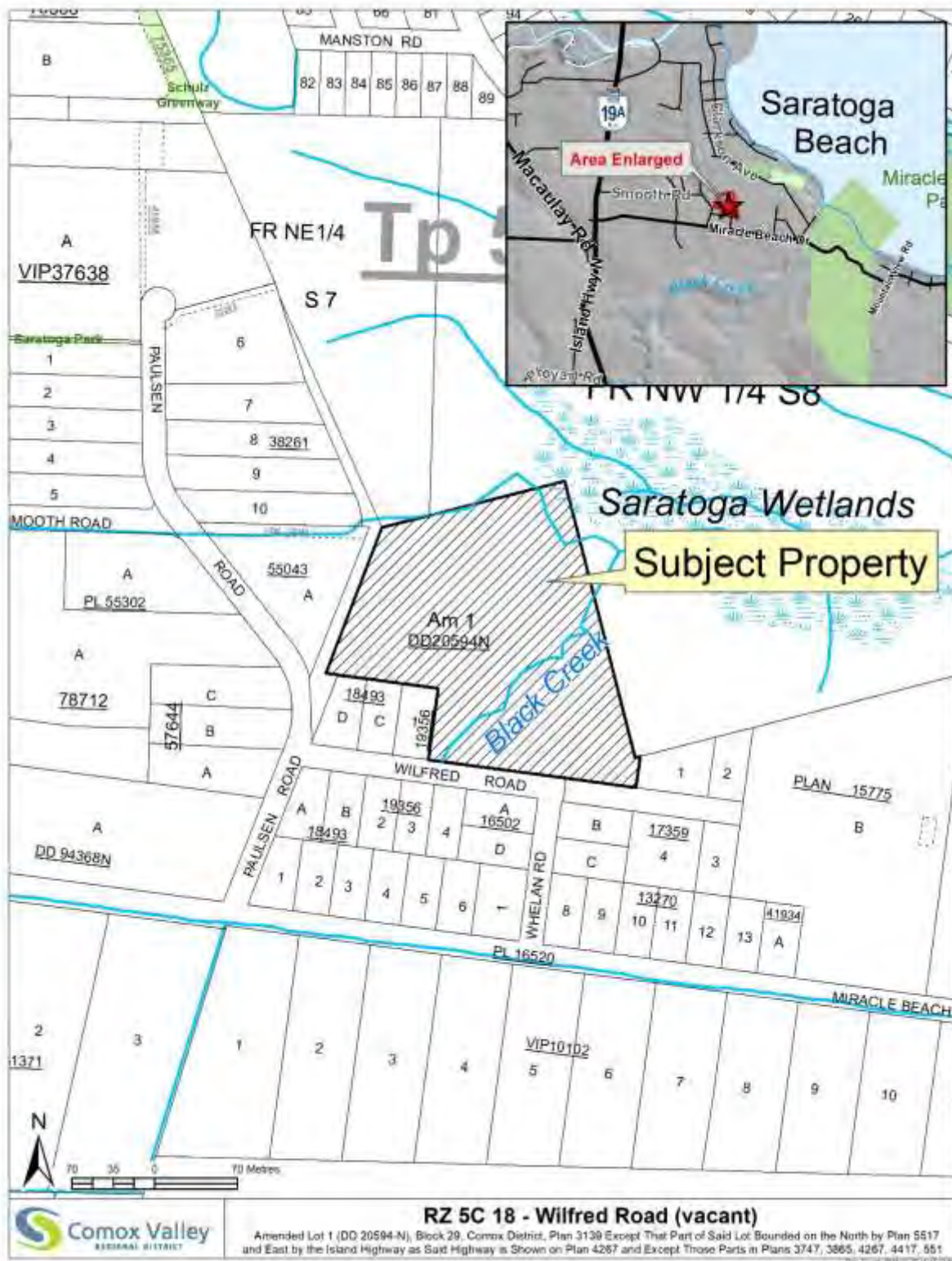


Figure 1: Subject Property Map



Figure 2: Air Photo

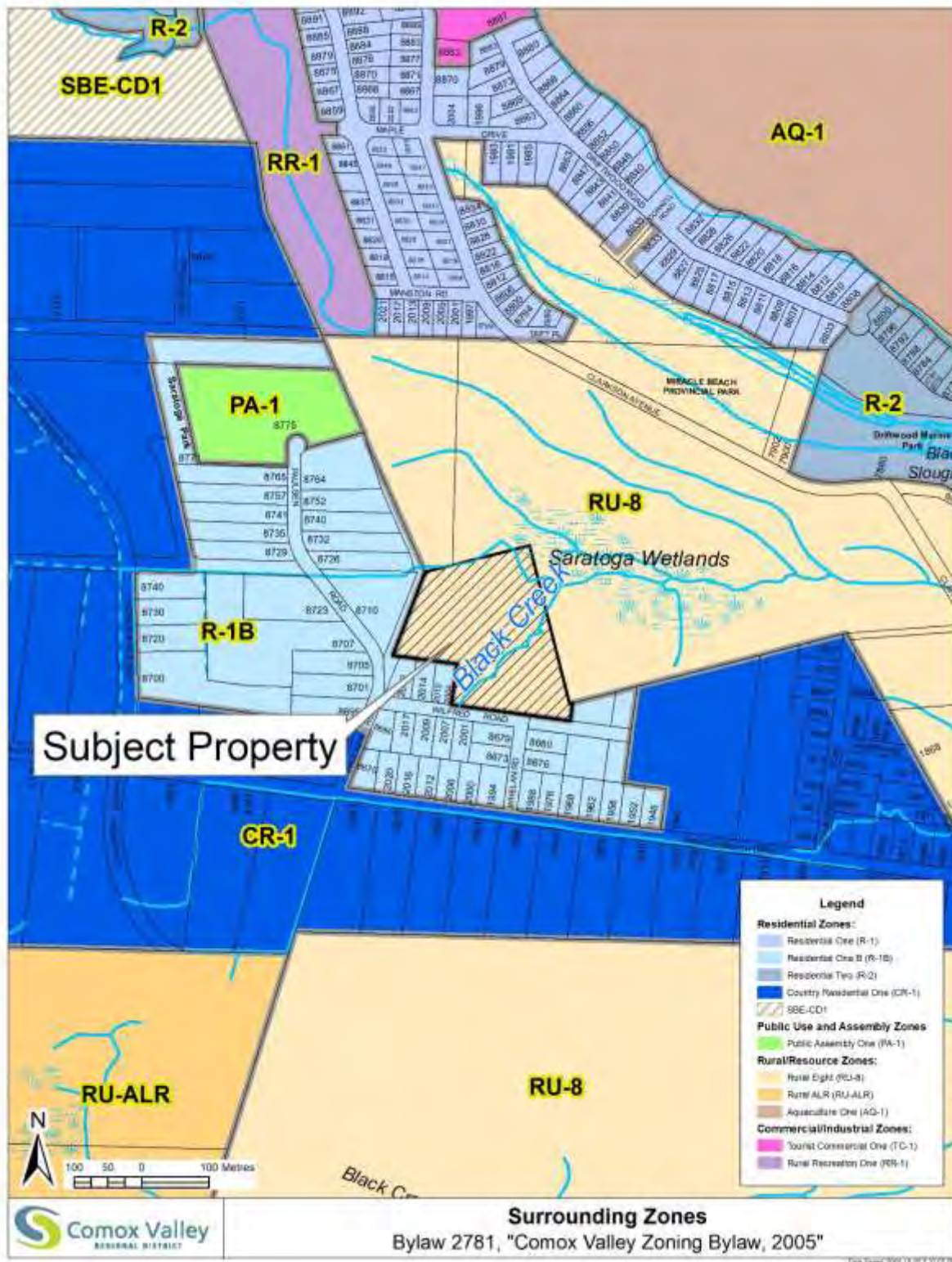


Figure 3: Zoning Map



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 (Xwemalhkwa) 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)