

DATE: January 21, 2021

FILE: 3360-20/RZ 1B 20

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Rezoning Application - 5254 Langlois Road (Whyte)
Lazo North (Electoral Area B)
Lot 17, Block 71, Comox District, Plan 21799, PID 003-473-589**

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 two-lot subdivision, and to recommend that the application be externally referred (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix A of staff report dated January 21, 2021, and direct staff to start the external agency referral process for Lot 17, Block 71, Comox District, Plan 21799, PID 003-473-589 (5254 Langlois Road) as part of a proposed amendment (RZ 1B 20; Whyte) of Bylaw No. 520 being the “Rural Comox Valley Zoning Bylaw, No. 520, 2019”;

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

Executive Summary

- The subject property, located at 5254 Langlois Road, is approximately 1.5 hectares in area, and is zoned Residential One (R-1).
- The applicant proposes to rezone the subject property to enable the use of Section 514 of *Local Government Act* (RSBC, 2015, c. 1) (LGA), which is Subdivision to Provide Residence for a Relative. The size of proposed lots is 0.65 hectares for proposed Lot A and 0.86 hectares for proposed Lot B.
- The CVRD Board is recommended to conduct First Nations and external agency referrals for this rezoning application (Appendix A).

Prepared by:

B. Chow

Brian Chow, RPP, MCIP
Planner II

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. Smith

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

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

Background/Current Situation

The subject property is located at 5254 Langlois Road in the Lazo North Electoral Area (Electoral Area B) (Figures 1 and 2). The property is approximately 1.5 hectares, and it is bound by Seal Bay Nature Park to the east, Langlois Road to the west, and residential lots in other directions. The subject property currently has a single detached dwelling and two accessory buildings (Figures 3 and 4). The applicant proposes to rezone the subject property in order to use Section 514 of the LGA, which is Subdivision to Provide Residence for a Relative. The size of proposed lots is 0.65 hectares for proposed Lot A and 0.86 hectares for proposed Lot B (Figures 3 and 5). The applicant submitted a written brief to provide background and reasons for this rezoning application (Appendix B).

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), designates the subject property within Rural Settlement Areas. New development should maintain the rural character of the surrounding area and supports a functioning working landscape (Section 43.(5)). This designation has the minimum lot size between 4 and 20 hectares (Section 43.(1)). The proposed lots do not meet this policy. To compensate, the zoning amendment can specify that maximum density on each proposed lot is to be limited to one single detached dwelling.

The OCP also contains development permit area guidelines, which will be applicable if this proposal were to be approved and then advanced to the subdivision stage. The subject property is within two Development Permit Areas: Aquatic and Riparian Habitat Development Permit Area and Farmland Protection Development Permit Area. There are watercourses (ditches) within 30 metres of the subject property. The subject property backs onto Seal Bay Nature Park, which is within the Agricultural Land Reserve. These development permit requirements will be triggered if the proposal reaches the subdivision stage.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw, No. 520, 2019,” zones the subject property as Residential One (R-1) (Figure 6). The minimum lot area for subdivision is 1.0 hectare for lots that are connected to private water and wastewater treatment infrastructure. In addition, Section 501(3).(i) of the Zoning Bylaw states, “No subdivision is permitted under Section 514 of the *Local Government Act*, on lands not within the Agricultural Land Reserve, unless the lot being subdivided is at least two times the minimum lot area specified for the applicable zone.”

Given these regulations, the applicants would need to rezone the subject property to enable the use of Section 514 of the LGA. As mentioned earlier, the proposed zone would limit the maximum density of each proposed lot to one single detached dwelling.

Policy Analysis

Section 514 of the LGA concerns subdivision to provide residence for a relative. This section allows an application for subdivision to be made, which creates one new lot if the applicant has owned the parcel for at least five years and the purpose of the subdivision is to provide a separate residence for the owner’s relative. For this application, the proposed separate residence is for the owner’s son.

This section also allows a local government to specify a minimum property size for subdivision under this section, but the minimum cannot be less than one hectare unless a smaller area is approved by the medical health officer. As the size of proposed Lot A is less than one hectare, the applicant submitted a letter from Vancouver Island Health Authority (VIHA) as part of the application package (Appendix C). This letter indicates that if the proposed lot relies on a private well, the minimum lot area is one hectare. However, if a water supply system were to be created, the

minimum lot area could be 0.2 hectares where site and soil conditions are favourable. VIHA staff received raw water testing results for the existing well and the results appeared to be favourable. Pump testing also indicated suitable daily rates of water supply. The intent of the letter is to recognize initial favourable results in the applicant's bid for a water system permitting to support the proposed two lot subdivision. A formal referral will be sent to VIHA for their comments as part of the external consultation process.

Section 460 of the 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 amendment.

Options

The board can refer the application to external agencies and First Nations for review, or deny the application to rezone the property for a reduced parcel size. Staff recommends that external and First Nations referrals be conducted to collect feedback on the application.

Financial Factors

The applicant has 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

The recommendations and discussion contained within this report have been prepared in accordance with the LGA. Further, if the application proceeds and the provincial approving officer approves the Section 514 subdivision, the LGA requires that concurrent with subdivision plan registration, a Section 219 Restrictive Covenant (pursuant to the *Land Title Act*) be registered on the titles of the severed and retained parcels requiring that for five years following subdivision, use of the parcels will remain residential and that the severed parcel will provide a residence for a relative. This means that the local government is responsible for ensuring that the owners comply with the terms of Section 514. Covenants are private law mechanisms and need to be actively enforced otherwise the local government may be considered to have acquiesced to any non-compliance.

Regional Growth Strategy Implications

Bylaw No. 120, being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010" (RGS), designates the subject property within Rural Settlement Areas. The intent of this designation is to maintain the rural character and functions of these areas (MG Policy 2A-1). The RGS directs that lots should be in a range of 4 to 20 hectares (MG Policy 2A-2). The RGS does not contemplate Section 514 of the LGA, which enables subdivisions for relatives, which promotes housing affordability and aging in place.

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. An internal referral was circulated for review and comments. No concerns were received for this rezoning application.

Citizen/Public Relations

Staff recommends that the application be referred to the Area B Advisory Planning Commission and Agricultural Advisory Planning Commission. 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).

Attachments: Appendix A – “Agency List”
Appendix B – “Applicant’s Written Brief”
Appendix C – “VIHA Letter”

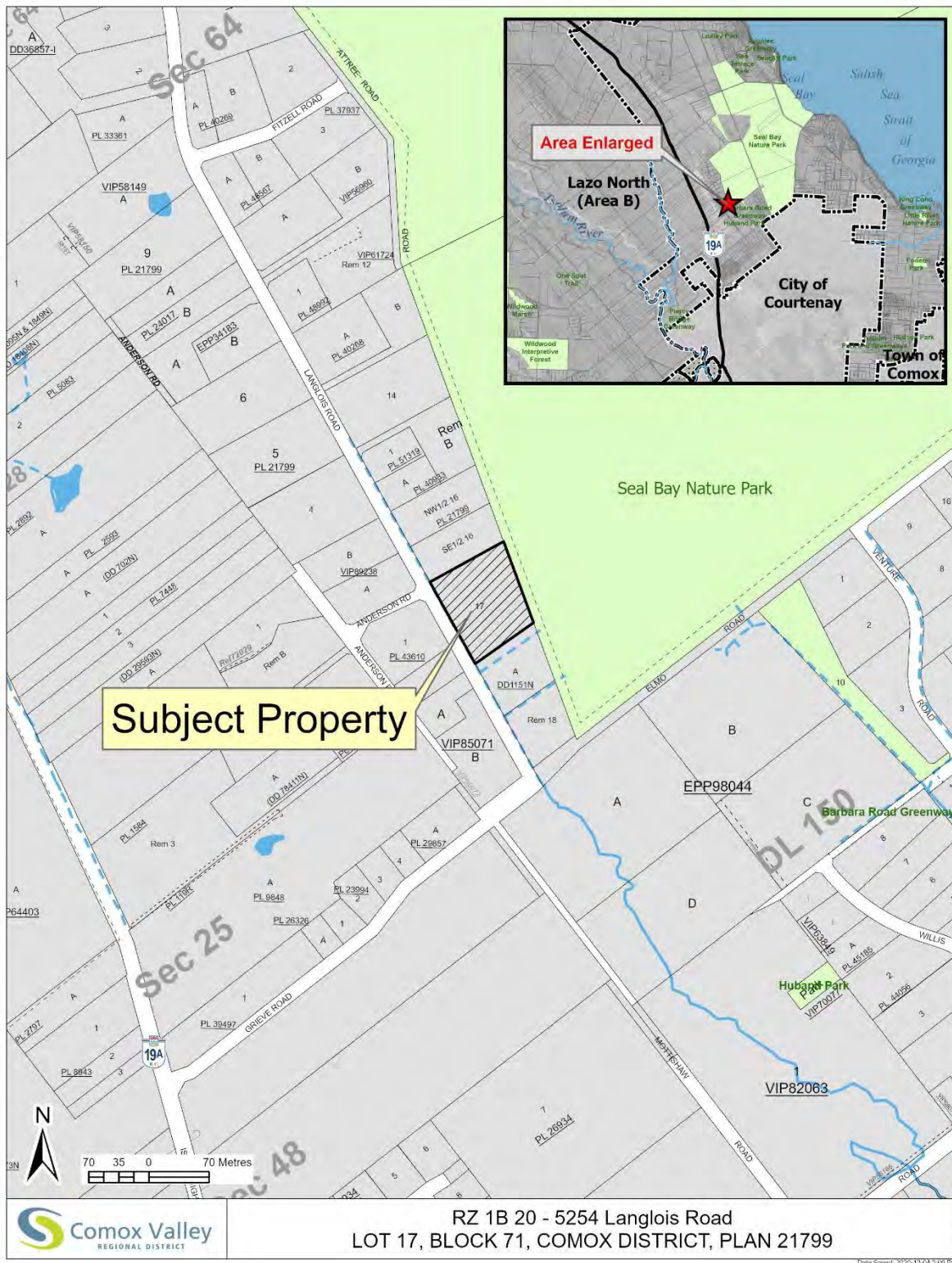


Figure 1: Subject Property Map



Figure 2: Air Photo

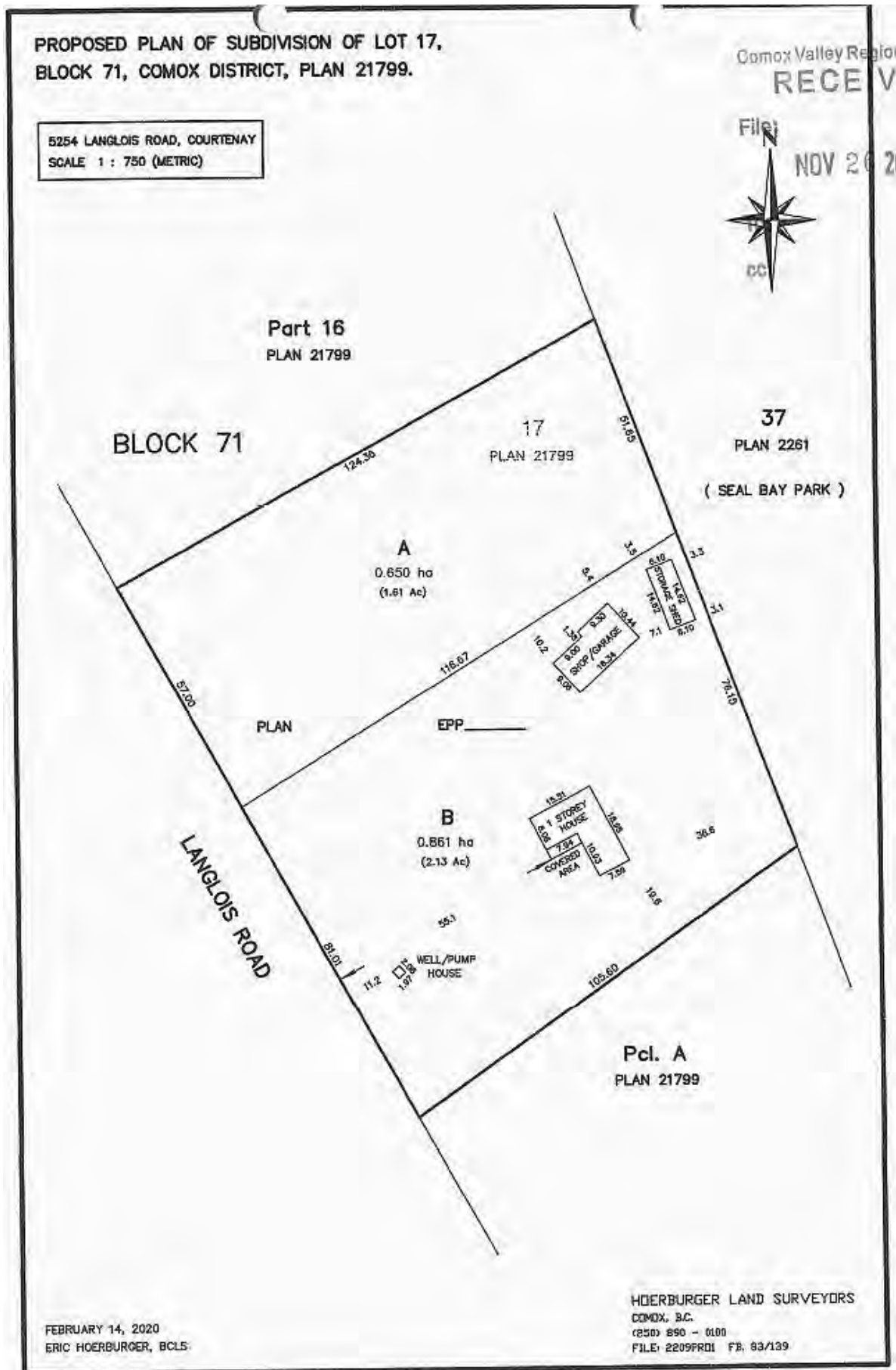


Figure 3: Proposed Subdivision Plan



Figure 4: View of the Buildings from the Driveway



Figure 5: View of the Proposed Lot A from the Northwest Corner of the Lot

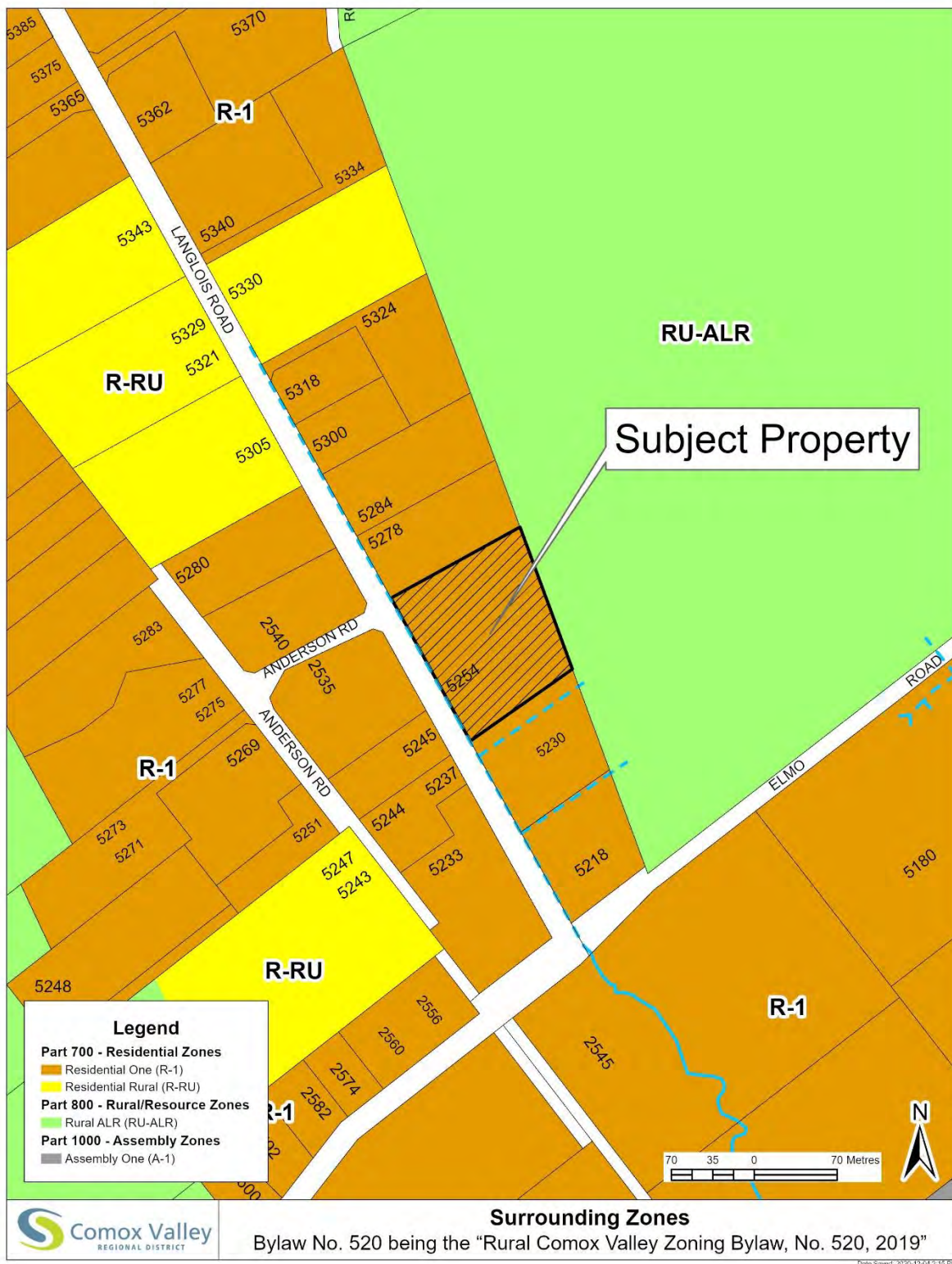


Figure 6: Zoning Map

AGENCY AND FIRST NATIONS REFERRAL LIST

First Nations

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

Federal Departments and Agencies

<input type="checkbox"/>	Canadian Coast Guard	<input type="checkbox"/>	Public Services and Procurement Canada
<input type="checkbox"/>	Department of National Defence (CFB Comox)	<input type="checkbox"/>	RCMP
<input type="checkbox"/>	Fisheries and Oceans Canada	<input type="checkbox"/>	Transport Canada Navigable Waters
<input type="checkbox"/>	Indigenous and Northern Affairs Canada		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Municipal Affairs
<input checked="" type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations and Rural Development
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy, Mines and Low Carbon Innovation
<input type="checkbox"/>	BC Ferry Services Inc.	<input type="checkbox"/>	Ministry of Environment and Climate Change Strategy
<input type="checkbox"/>	BC Transit	<input type="checkbox"/>	Ministry of Tourism, Arts, Culture and Sport
<input type="checkbox"/>	Ministry of Indigenous Relations and Reconciliation	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
<input checked="" type="checkbox"/>	Ministry of Agriculture, Food and Fisheries	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations and Rural Development BC Wildfire Services

Local Government

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

Other

<input type="checkbox"/>	Advisory Planning Commission Area A	<input checked="" type="checkbox"/>	Advisory Planning Commission Area B
<input type="checkbox"/>	Advisory Planning Commission Area C	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
<input type="checkbox"/>	School District No.71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Island Health)
<input type="checkbox"/>	Comox Valley Economic Development Society	<input type="checkbox"/>	Comox Valley Accessibility Committee

James and Thea Whyte
5254 Langlois Road
Courtenay, BC V9J 1S8

November 23, 2020

Comox Valley Regional District
600 Comox Road
Courtenay, BC V9N 3P6

Comox Valley Regional District
RECEIVED

File:

NOV 26 2020

To:

CC:

Dear Comox Valley Regional District

RE: Support for the Subdivision of 5254 Langlois Road for a relative

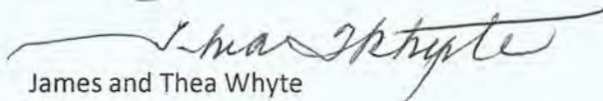
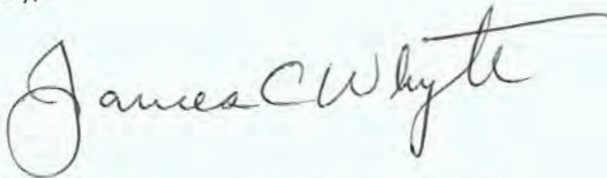
We are writing to express our hope to subdivide our property so our son and his family can build a full-sized residence and support us in our home for our golden years.

As lifelong Comox Valley residents, we purchased our property in 1971 and built our home, our lives, and raised our two sons. Our hope has always been to leave this property to our boys but as zoning regulations changed and land values increased, our dream to live out our lives in our home has been slipping away. We don't want to move into a condo or a carriage house. We want to live in our home, work in our garden, and craft woodwork in our shop, for as long as we're able. This property is an important part of the fabric of our family and our quality of life. With your help, a simple zoning amendment solution will keep us here for the best years, close to our family and grandchildren, supported with their help as we age, and still be in alignment with the Regional District's plans to improve density, keep families together, and create strong communities.

Our 3.74 acre property is currently zoned for one full-sized residence and one carriage house. We would like your support to amend the current zoning to permit subdivision of our property for a relative and allow for a single full-size dwelling on each property. The new 1.61 acre lot can easily support a full-sized home for our son, his wife, and our three grand-children.

Thank you very much for giving our request your consideration and full support.

Sincerely,



James and Thea Whyte
Property Owners

Cc: Arzeena Hamir – Electoral Area B – Vice Chair of the CVRD



Excellent health and care, for everyone,
everywhere, every time.



December 18, 2019

James and Thea Whyte
5254 Langlois Road
Courtenay, BC V9J 1S8

Dear Mr. & Mrs. Whyte:

RE: Lot 17 Plan 21799 Blk 71 Comox LD 15

I am in receipt of your letter dated October 15, 2019 requesting a '*Letter of Support*' allowing for the Subdivision of 5254 Langlois Road for a Relative'.

I have since been in ongoing discussions with your named Agent and Son Zac Whyte for the purposes of exploring the establishment of a VIHA Approved Water System on the parent parcel. This common well is intended to service both the existing primary residence at 5254 Langlois Road in addition to a proposed secondary residence which would be objectively severed from the parent parcel in the future under the Ministry of Transportation Subdivision approval process.

The VIHA "Subdivision Standards" document addresses the minimum approval criteria required to be demonstrated for land development and can be referenced here:

<https://www.islandhealth.ca/sites/default/files/2018-04/subdivision-standards.pdf>

The Minimum Lot Size for ***D.2 Properties Serviced by Private (Individual Well) Water Supplies*** presently is set at 2.5 acres [1 hectare]. The subject 3.63 acres parent property [5254 Langlois Road] proposed for subdivision will not accommodate the minimum 2.5 acre lot size criteria for the lots [2] to be created by Subdivision.

A provision in the VIHA "Subdivision Standards" document is for ***D.1 Minimum Lot Size for Properties on Water Supply Systems*** which allows for the creation of lots sizes of downwards of 0.5 acres [0.2 hectares] in size where site and soil conditions are favourable, and where other Governmental / Agency approvals permit.

This is the avenue your Agent Zac Whyte is exploring having submitted to VIHA an "Application of Drinking Water System" Permitting October 28, 2019 for the purpose of operating the existing common well on 5254 Langlois Road as a strata "Water System". We have been in receipt of additional raw water testing results for the existing well, which looks favourable when compared to Canadian Drinking Water test parameters for water system approval. Pump testing also indicates suitable daily rates of water supply.

Once Source Approval can be granted, the Public Health Engineer considers treatment design, where necessary under a Construction Permit waiver prior to the issuance of an Operating Permit by this office. As this process can take some time, this letter is intended to give recognition to the initial favourable results this office has processed to date in the Agent's bid for Water System Permitting to support the proposed 2 lot Subdivision.

Please direct all future enquiries to our office HPES.Courtenay@viha.ca . They will be redirected accordingly.

Regards,



John D. Hillis, B.A.,C.P.H.I.(C)
Environmental Health Officer

Cc: Zac Whyte, Agent, CVRD Planning, MoTi

JH/ja