

DATE: July 6, 2020**FILE:** 3360-20/RZ 3C 19**TO:** Chair and Directors
Electoral Areas Services CommitteeSupported by Russell Dyson
Chief Administrative Officer**FROM:** Russell Dyson
Chief Administrative Officer*R. Dyson***RE: Rezoning – 2491 Emmerson Road (Sturdi Construction Ltd.)
Puntledge – Black Creek (Electoral Area C)
Lot 1, Block 29, Comox District, Plan 36676, PID 000-419-958****Purpose**

To summarize comments received from First Nations and external agencies (Appendix A), to recommend first and second reading of the proposed zoning amendment bylaw and authorize the waiving of the public hearing.

Recommendation from the Chief Administrative Officer:

THAT the board give first and second reading to Bylaw No. 619, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5” for property known as Lot 1, Block 29, Comox District, Plan 36676, PID 000-419-958 (2491 Emmerson Road), which rezones the entire property from Country Residential One (CR-1) to Country Residential One Exception Eleven (CR-1-11);

AND FINALLY THAT pursuant to Section 464(2) of the *Local Government Act* (RSBC, 2015, c.1), the board waive the holding of a public hearing for Bylaw No. 619, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5” (RZ 3C 19, Sturdi Construction Ltd.).

Executive Summary

- The subject property is an undeveloped 1.3 hectare parcel in the Saratoga Miracle Beach Settlement Node.
- It is zoned Country Residential One (CR-1) in Zoning Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”, which allows a maximum density of two houses. It had two water service connections installed in 2019.
- The property owner is applying to amend the zone to allow the two houses to be constructed on two separate lots. The proposal would restrict further subdivision and development of dwellings until additional water service connections become available.
- Comments received are summarized in Appendix A. No concerns have been identified.
- Because the proposed bylaw is consistent with the Official Community Plan (OCP) the holding of a public hearing may be waived. Public notification is still required and written submissions must be considered prior to third reading.
- Staff recommends that the proposed bylaw be given first and second reading and that the public hearing be waived.

Prepared by:

J. MacLean

Jodi MacLean, RPP, MCIP
Rural Planner

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 Branch

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

The subject property is a 1.3 hectare parcel in the Saratoga Miracle Beach Settlement Node area (Figure 1). The property is undeveloped but is surrounded by residential development on lots ranging between 0.2 to 1.3 hectares. The property has frontage along the Emmerson Road cul-de-sac and Tammy Road. Being within the Black Creek/Oyster Bay Local Service Area, the property has access to community water service and two water service connections were installed last year.

The subject property is zoned Country Residential One (CR-1) which includes a subdivision requirement of 2.0 hectare minimum lot area. The property owner is seeking to amend the Zoning Bylaw so that the property may be subdivided to create one new lot with a minimum lot area of 0.4 hectares. The proposed zone will limit the density on each lot to one dwelling (Appendix B).

On February 25, 2020, the board endorsed the agency referral list and First Nations referrals. On March 10, 2019, staff sent referrals under the First Nations Referrals Management Program and on March 13, 2019 to provincial government agencies. Note that any individual or agency can provide comments until the termination of the public hearing or the consideration of third reading if the public hearing is waived. The comments are outlined in Appendix A and include:

- We Wai Kai Nation and Wei Wai Kum First Nation provided correspondence noting that they do not have any comments at this time on this application. None of the other First Nations have provided a response.
- Island Health responded *“Island Health is in support of the rezoning of this property. As the site will be serviced by an approved drinking water source there are no current concerns around safety of the water. However, please consider that if/when this property gets to the subdivision phase the applicant is aware of the VHLA Subdivision Standards, as the site will be reviewed under these in regards to minimum lot size and suitable soil conditions for an onsite sewerage system. British Columbia legislation such as the Sewerage System Regulation will also apply.”*
- Ministry of Transportation and Infrastructure has no objections to the proposed rezoning.
- No responses were received from BC Assessment or the Saratoga Miracle Beach Residents Association.
- Advisory Planning Commission (APC) for Electoral Area C supported this application.

The OCP designates the subject property as being located within a Settlement Node. This designation identifies the primary growth areas for the Comox Valley Regional District. Residential intensification is encouraged provided it is in keeping with the existing neighbourhood character and is appropriately serviced. The proposal is consistent with the OCP.

The COVID-19 public health emergency has resulted in the Comox Valley Regional District (CVRD) delaying public meetings or otherwise finding alternative means for public consultation. With respect to zoning amendment bylaws, the *Local Government Act* (RSBC, 2015, c. 1) (LGA) allows the waiving of a public hearing in cases where the proposed bylaw is consistent with the OCP. The proposed bylaw is still advertised by means of a mailed notice to all owners and tenants of lots within 50 metres of the subject property. Two newspaper notices are still required and are published between 3 and 10 days before consideration of third reading. This will provide an opportunity for members of the public to provide feedback for the proposal.

Policy Analysis

Sections 464 through 466 of the LGA establish the requirements and procedures for holding a public hearing prior to adoption of a Zoning Bylaw amendment, including the provision that the holding of a public hearing may be waived if the zoning amendment is consistent with the OCP. These sections prescribe the notification requirements related to both the holding and waiving of a public hearing. Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014,” implements the LGA’s requirements and states that notices are to be issued following second reading and that notification within the Settlement Node designation will be mailed to property owners and tenants within 50 metres of the property for which the bylaw amendment is proposed.

Options

At this time, the board has the following options:

1. Approve first and second reading of proposed Bylaw No. 619 (Appendix B), waive the holding of a public hearing and issue notice of the proposal prior to consideration of third reading.
2. Approve first and second reading of proposed Bylaw No. 619 (Appendix B), authorize the public hearing be held.
3. Refer proposed Bylaw No. 619 back to staff for revision.
4. Deny the application to rezone.

Based on the discussions contained within this report, staff recommends option 1.

Financial Factors

A \$3,000 rezoning application fee has been collected pursuant to Bylaw No. 328. Should first and second readings be provided, a \$1,500 fee will be required prior to issuance of notification of a public hearing or consideration of third reading should the public hearing be waived. This fee covers the costs of the newspaper advertisement and direct mailing to property owners and tenants within 50 metres of the subject property, as well as the costs related to hosting the public hearing. The applicants are required to install a notice sign on the property, in accordance with Bylaw No. 328’s specifications; the costs of the sign and its installation are not included in the public hearing fee and are the responsibility of the applicants.

Legal Factors

The recommendation contained within this report has been prepared in accordance with the LGA and applicable CVRD bylaws.

Regional Growth Strategy Implications

The subject property is designated as a Settlement Node in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. According to the Settlement Nodes policies, it is intended to “*accommodate growth through a balance of new development, intensification and improvements to public infrastructure*”. Under the RGS Housing objective of locating housing close to existing services, Policy 1A-1 states part of the growth management strategy is directing 90 per cent of new, residential development to Core Settlement Areas, which includes Settlement Nodes and Municipal Areas. The proposal is consistent with the RGS policies and objectives.

Intergovernmental Factors

Appendix A lists the comments received from First Nations and external agencies on this rezoning application. None of the respondents have provided any objections with this application.

Interdepartmental Involvement

Planning staff is leading the review of this application. Input from other CVRD departments has been integrated into this report and review process.

Citizen/Public Relations

The APC for Electoral Area C met on April 16, 2020, and the commission supported the rezoning application, noting that the overall density will remain unchanged at a maximum of one dwelling unit per lot.

Public notification by means of mailed notices to surrounding property owners and newspaper advertisement must be conducted between second and third reading of the proposed zoning amendment bylaw.

Attachments: Appendix A – “Comments from External Agencies and First Nations”
Appendix B – “Bylaw No. 619”



Figure 1: Subject Property Air Photo (2018)

WE WAI KAI NATION
CAPE MUDGE BAND
690 Headstart Cres
Campbell River, BC V9H 1V8



March 24, 2020

3360-20 / RZ 3C 19
J. MacLean

Comox Valley Regional District
770 Harmston Ave
Courtenay, BC, V9N 0G8

Re: CVRD Rezoning Application Referral RZ 3C 19

File: 3360-20/RZ 3C 19 – Comox Valley Regional District

The We Wai Kai Nation is in receipt of the above-mentioned application regarding CVRD Rezoning application referral RZ 3C 19. This application is located within the We Wai Kai statement of intent area; it is the interest of the We Wai Kai Nation to respectfully maintain our rights and access to resources throughout our territory.

The We Wai Kai Nation has no comment at this time regarding this application being issued. Please note that this “No Comment” letter is specifically for this application and is without prejudice to all future consultation with our nation regarding other applications within our traditional territory including the renewal or any alteration of this application.

The We Wai Kai Nation may choose in the future to address the issues of Aboriginal rights and title infringement and compensation through the treaty process, the courts or other dispute resolution process. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

Should you require any further information, please do not hesitate to contact our office.

Sincerely,

Samantha Chickite
Lands & Referral Clerk
We Wai Kai Nation



WEI WAI KUM FIRST NATION

1650 Old Spit Road, Campbell River, BC, Canada V9W-3E8

Tel.: (250) 286-6949

Fax.: (250) 287-8838

TOLL FREE: 1-877-286-6949

March 26, 2020

3360-20 / RZ 3C 19

J. MacLean

Russell Dyson
Chief Administrative Officer
Comox Valley Regional District
sstephens@comoxvalleyrd.ca

Re: Rezoning Application Referral (2491 Emmerson Road – Sturdi Construction Ltd.) Lot 1, Block 29, Comox District, Plan 36676, PID 000-419-958

The above application is located within the traditional territory of the Wei Wai Kum Nation as documented by evidence of historical use and the memories of our Elders. As holders of Aboriginal Title to these territories, the Wei Wai Kum First Nation maintains the right to make decisions concerning the use and protection of all lands, waters and resources within our territories.

The Wei Wai Kum Nation has reviewed the above-mentioned application regarding a re-zoning application. We do not have any comments to provide at this time regarding this application. Please note that this "no comment" letter is specifically intended for this application and is without prejudice to any and all future consultation with our Nation regarding not only this application but any other application or decision within the Wei Wai Kum traditional territory.

The Wei Wai Kum Nation may choose in the future to address the issues of Aboriginal rights and title infringement and compensation through the treaty process, the courts or other dispute resolution process. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

If you have any questions or concerns or would like to set up a meeting please contact me at 250-286-6949.

Regards,

Chief Chris Roberts
Wei Wai Kum First Nation

Bylaw Referral Form Response Summary

Development Proposal Referral Form
File: 3360-20/RZ 3C 19 (Sturdi Construction)
Planning and Development Services: Ton Trieu (J. MacLean)

<input type="checkbox"/> Approval recommended for reasons outlined below	<input checked="" type="checkbox"/> Interests unaffected or general comments related to this development proposal outlined below
<input type="checkbox"/> Approval recommended subject to conditions outlined below	<input type="checkbox"/> Approval NOT recommended due to reasons outlined below

Thank you for the opportunity to provide comments on the rezoning of the property 2491 Emmerson Road.

Island Health is in support of the rezoning of this property. As the site will be serviced by an approved drinking water source there are no current concerns around safety of the water. However, please consider that if/when this property gets to the subdivision phase the applicant is aware of the VIHA Subdivision Standards, as the site will be reviewed under these in regards to minimum lot size and suitable soil conditions for an onsite sewerage system. British Columbia legislation such as the the Sewerage System Regulation will also apply.

Signed By: Ella Derby **Title:** Environmental Health Officer

Agency: Island Health **Date:** March 19th 2020

Please return your response by **April 10, 2020**
 Referral response may be electronically forwarded to planning@comoxvalleyrd.ca.



BYLAW NO. 619	
Bylaw Name:	Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5
Applicant:	Sturdi Construction Ltd.
Electoral Area:	Puntledge - Black Creek (Area C)
File Number:	RZ 3C 19
Participants:	All Electoral Areas
Purpose:	To amend the Rural Comox Valley Zoning Bylaw by rezoning the subject property from Country Residential One (CR-1) to Country Residential One Exception Eleven (CR-1-11). This amendment enables a two-lot subdivision.
Amends Bylaw:	520
Repeals Bylaw:	
Staff Contact:	Jodi MacLean, Rural Planner

STATUS	
Application Received	October 22, 2019
Electoral Areas Services Committee Approval:	February 10, 2020 Recommendation: Commence external agency referral and First Nations referral process.
Comox Valley Regional District Board:	February 25, 2020 Recommendation: Approved external agency referral and First Nations referrals.
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Transportation and Infrastructure:	Required: No Date Sent: Date Approved:



Bylaw Status Report

Comox Valley Regional District Board:	Final Adoption:
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Comox Valley Regional District
Bylaw No. 619

**A Bylaw to Amend the “Rural Comox Valley Zoning Bylaw No. 520, 2019”
being Bylaw No. 520**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” being Bylaw No. 520:

Section One Text Amendment

- 1) Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” is hereby amended as set out in Schedule A attached to and forming part of this bylaw.

Section Two Title

- 1) This Bylaw No. 619 may be cited as the “Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5.”

Read a first time this	day of	2020.
Read a second time this	day of	2020.
Public hearing held this	day of	2020.
Read a third time this	day of	2020.

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 619, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5,” as read a third time by the board of the Comox Valley Regional District on the ___ day of _____, 2020.

Corporate Legislative Officer

Adopted this	day of	2020.
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Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 619, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5,” as adopted by the board of the Comox Valley Regional District on the ___ day of _____, 2020.

Corporate Legislative Officer

Schedule A

Section One Text Amendment

- 1) Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” is hereby amended by:
 - a. Rezoning the property legally described as Lot 1, Block 29, Comox District, Plan 36676 (2491 Emmerson Road) from Country Residential One (CR-1) to Country Residential One Exception Eleven (CR-1-11); and
 - b. Inserting the following zoning exception in Part 1200 “Exceptions to Zone Designations”

“Exception 11

Exception	Zone	Map	Amendment	Enacted
11	CR-1	A-13	No. 5	

1. Subdivision Requirements

- a) Except for the Subdivision Area shown on Exception 11 – Schedule 1, the minimum lot area for subdivision is 2.0 hectares;
- b) The minimum lot area in the “Subdivision Area” shown on Exception 11 – Schedule 1 is 0.4 hectares.



2. Density

- a) On any lot less than 1.2 hectares, density is limited to one single detached dwelling;
- b) On any lot 1.2 hectares or larger: two dwelling units.

Notwithstanding this exception, all other regulations of the CR-1 zone apply.”

Section Two Map Amendment

- 1) Map A-13 of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”, is hereby amended by rezoning property legally described as “Lot 1, Block 29, Comox District, Plan 36676” (2491 Emmerson Road) from Country Residential One (CR-1) to Country Residential One Exception Eleven (CR-1-11) as shown on Appendix 1.



Appendix 1

Part of Schedule A to Bylaw No. 619 being the "Rural Comox Valley Zoning Bylaw No. 520, 2019, Amendment No. 5".

Amends Schedule Map A-13 to Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019".