

**DATE:** October 6, 2017

**FILE:** 3360-20/RZ 1C 17

**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 for First and Second Readings  
8645 Island Highway (Carr/Lewis), Puntledge – Black Creek (Electoral Area C)  
Remainder of Lots 1 and 10, (DD20594N), Block 29, Comox District, Plan 3139,  
PID 002-039-389

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### **Purpose**

The purpose of this report is to review the findings of the external agency referral, present a bylaw for first and second readings and recommend that a public hearing date be set.

### **Recommendation from the Chief Administrative Officer**

THAT the board give first and second readings to Bylaw No. 488, Appendix A to staff report dated October 6, 2017, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 71” which rezones the Remainder of Lots 1 and 10, (DD20594N), Block 29, Comox District, Plan 3139, PID 002-039-389 (8645 Island Highway), from Country Residential One (CR-1) to Saratoga Commercial-Industrial (S - CI);

AND FINALLY THAT pursuant to section 464(1) of the *Local Government Act* (RSBC, 2015, c. 1), the board schedule a public hearing for Bylaw No. 488, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 71” (RZ 1C 17, Lewis/Carr).

### **Executive Summary**

- Proposal is to subdivide the subject property and develop the lots for commercial and light industrial uses;
- At its meeting of May 30, 2017, the Comox Valley Regional District (CVRD) board reviewed the application and authorized external referrals be issued;
- A draft bylaw was created and sent to the external agencies on July 14, 2017;
- Of those agencies, the RCMP, Ministry of Transportation & Infrastructure (MoTI), K’ómoks First Nation and the We Wai Kai Nation responded that they have no comment at this time, and the Area C Advisory Planning Commission (APC) supported the proposal;
- The proposed bylaw (Appendix A) responds to the applicant’s request for commercial and industrial uses and is consistent with the Official Community Plan (OCP) and draft Saratoga Miracle Beach Local Area Plan;
- Staff recommends the draft bylaw be provided first and second readings and authorization to hold a public hearing be granted;
- Any individual or agency may provide comments up until the termination of the statutory public hearing.

Prepared by:

Concurrence:

Concurrence:

*A. Mullaly*

*A. MacDonald*

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Jodi MacLean, MCIP, RPP  
Rural Planner

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Alana Mullaly, M.Pl., MCIP, RPP  
Manager of Planning Services

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Ann MacDonald, MCIP, RPP  
General Manager of Planning  
and Development Services  
Branch

**Stakeholder Distribution (Upon Agenda Publication)**

|            |   |
|------------|---|
| Applicants | ✓ |
|------------|---|

**Background/Current Situation**

The subject property is a 3.2 hectare parcel with frontage along the Island Highway (north), Hamm Road, and Macaulay Road (Figures 1 and 2). It is within the Black Creek/Oyster Bay water and fire protection local service areas. The property is cleared and is developed with one single detached dwelling.

The property owners made application to rezone the property from CR-1 to a zone that would allow for the property’s subdivision and development for commercial and light industrial purposes. After reviewing the application on May 30, 2017, the CVRD board directed staff to commence the external agency and First Nations referral process.

Regional Growth Strategy / Official Community Plan / Local Area Plan (draft)

The property is located within the Regional Growth Strategy and OCP’s Settlement Node designation. In the draft Saratoga Miracle Beach Local Area Plan (LAP), which when adopted will have all the legal authority and attributes of an OCP, proposes to designate the subject property as Employment Lands, which are intended to provide for a range of expanded highway commercial and light industrial uses along the highway and in specific areas. While the specifics are expected to be elaborated on in the zoning bylaw and development permits that would apply to individual ‘Employment Land’ properties, this Employment Lands designation generally intends for commercial uses to be located towards the highway and light industrial or work areas towards the Macaulay Road side. The property is orientated and situated in such a way that road access can be granted off Macaulay Road with the rear of parcels facing the highway. Through development permit conditions, that rear area visible to the highway can be buffered.

Zoning Bylaw

The subject property is currently zoned CR-1 which permits agricultural and residential uses limited to a density of two single detached dwellings and a minimum lot area of 2.0 hectares. Subdividing the parcel to 0.4 hectares and using the new lots for commercial and light industrial uses, as the applicants intend, requires a zoning amendment, which is the subject of this application.

The proposed zone is titled Saratoga Commercial-Industrial (S - CI). CVRD staff drafted the proposed zone based on the applicant’s request for a zone or zones that includes the permitted uses and subdivision standards found in the existing zoning bylaw’s Commercial One A (C-1A), Industrial Light (IL), and Industrial Storage (IS) zones, as well as a few other specific uses. The draft zone (Appendix A), in general terms, merges those zones as requested, deletes inconsistencies between the zones, and deletes items inconsistent with the direction provided in the draft LAP.

Both the OCP and the draft LAP direct that the community amenities policies be implemented prior to rezoning a property and that community amenities that support the goals and objectives of the LAP will be considered as priority. The draft LAP identifies improved transportation corridors, transit access, trails, greenways, and connectivity as possible community areas relevant to this area. As a condition of subdivision, MoTI is requiring the applicant to dedicate a 10 metre road allowance at the northern portion of the property perpendicular to Macaulay Road. This dedication supports the Comox Valley Transportation Road Network Plan objective to create an eventual connection between Highway 19A and Macaulay Heights Park and contributes to future potential to connect to Miracle Beach Road. As this dedication contributes to those longer-term objectives, staff is satisfied that the intent of the community amenity provisions is met. Staff does not recommend that a further amenity related to the rezoning be sought.

### **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, and the 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**

At this time, the board has the following options:

1. Approve first and second readings of proposed Bylaw No. 488 and set a date for the public hearing;
2. Refer proposed Bylaw No. 488 back to staff for revision; or
3. Deny the application to rezone.

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

### **Financial Factors**

Application fees have been levied in accordance with Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”. If the board concurs with staff’s recommendation to schedule a public hearing, a \$1500 fee is required prior to the hearing. This fee covers the costs of the newspaper advertisement and direct mailing to property owners and tenants within 50 meters of the subject property, as well as the costs related to hosting the hearing. The owner is 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 applicant. Future development application fees (e.g. subdivision, development permit, building permit) are not covered by the rezoning or public hearing fees.

### **Legal Factors**

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

### **Regional Growth Strategy Implications**

Discussed above.

### **Intergovernmental Factors**

Of the referrals sent to First Nation groups, staff received comments from the K’ómoks First Nation and the We Wai Kai Nation (Appendices B and C). Neither group noted any objections on this specific proposal. On July 26, 2017, staff followed up with the following First Nations:

- Homalco (Xwemalhkwa) Indian Band; and

- We Wai Kum First Nation / Kwiakah First Nation

As of the date of this staff report, they did not provide a response.

In regard to external agencies, the following agencies were sent referrals on July 14, 2017:

- MoTI;
- Island Health;
- RCMP;
- BC Assessment;
- BC Transit;
- Comox Valley Economic Development Society; and
- Saratoga Miracle Beach Residents Association.

The RCMP and MoTI both responded that they have no comment on the proposal. As of the date of this staff report, none of the other agencies have provided a response.

Note that any individual or agency can provide comments on the proposed bylaw up until the close of the statutory public hearing.

### **Interdepartmental Involvement**

Comments from other departments have been considered in the preparation of this report.

### **Citizen/Public Relations**

APC C (Puntledge – Black Creek) reviewed the application on July 26, 2017. The APC supported the rezoning proposal.

In accordance with the approved agency referral list, referrals were issued, on July 14, to the Saratoga Miracle Beach Residents Association and the Comox Valley Economic Development Society. As of the date of this report, no comments have been received from these organizations.

If the board concurs with staff's recommendation to approve first and second readings and schedule a public hearing, the applicants will need to post a sign on the property identifying the details of the proposed bylaw and advising of the meeting date. Staff will send a direct mailing to property owners and tenants within 50 metres of the subject property and will prepare a newspaper notice to advise of the public hearing. Any citizen can provide written comments up to the close of the public hearing and can appear at the public hearing to verbally address the Electoral Area Directors.

Attachments: Appendix A – “Draft Bylaw No. 488”  
Appendix B – “K’ómoks First Nation response”  
Appendix C – “We Wai Kai Nation response”





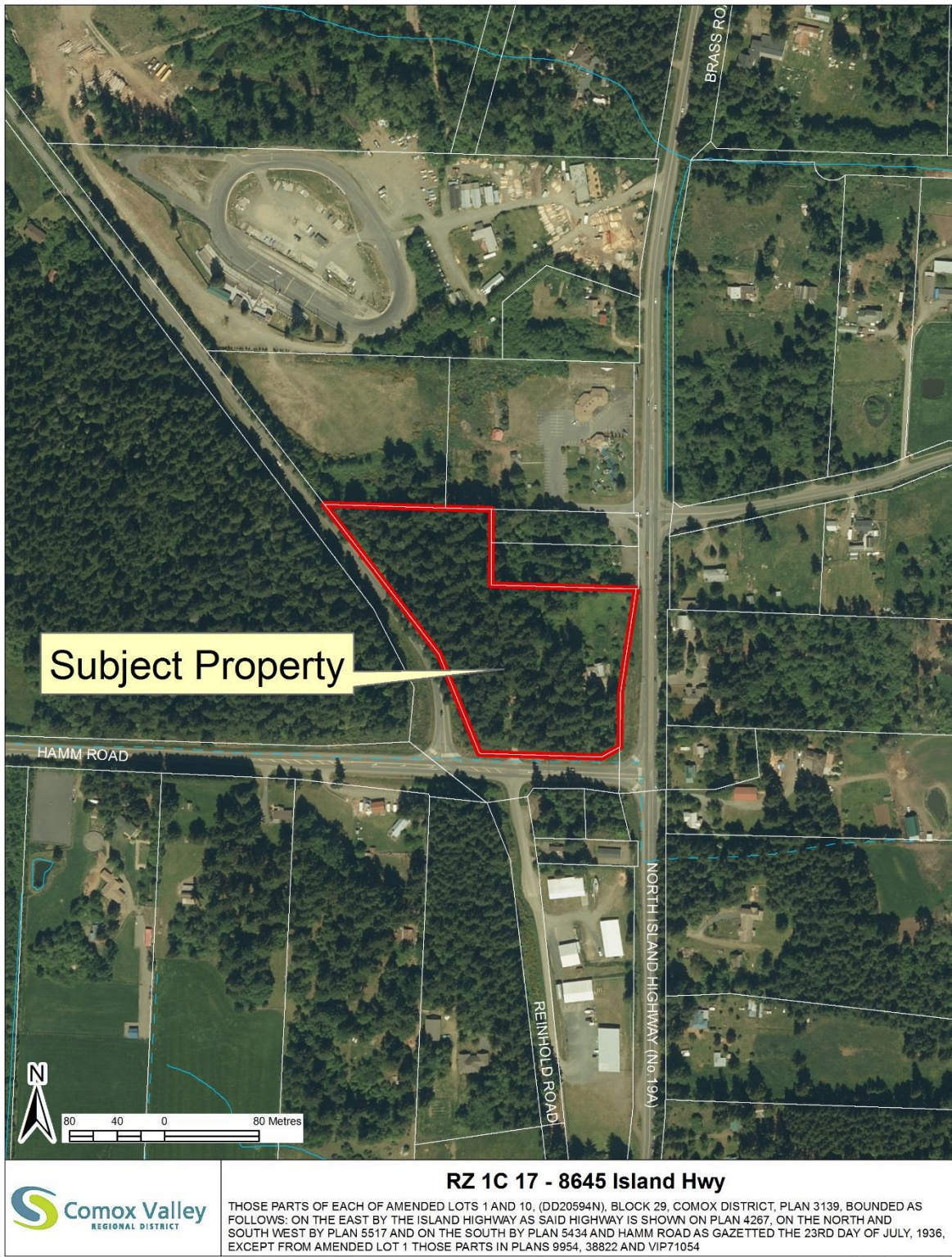


Figure 2: Air Photo (2016)

BYLAW NO. 488  
COMOX VALLEY REGIONAL DISTRICT

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## STATUS

**TITLE:** Comox Valley Zoning Bylaw, 2005, Amendment No. 71

**APPLICANT:** Terrance & Jacqueline Carr and Chad & Cheri Lewis

**ELECTORAL AREA:** **Electoral Area C (Puntledge – Black Creek)**

**FILE NO.:** 3360-20 / RZ 1C 17

**PURPOSE:** To rezone from Country Residential One (CR-1) to Saratoga Commercial-Industrial (S-CI) to enable subdivision and development for commercial and light industrial purposes.

**PARTICIPANTS:** All Electoral Areas



|   |                        |  |
|---|------------------------|--|
| Application received:                         | <b>Date:</b>           | March 30, 2017   |
| Electoral Areas Services Committee:           | <b>Date:</b>           | May 15, 2017   |
|   | <b>Recommendation:</b> | Commence external agency referral and First Nations referral process |
| Regional Board:                               | <b>Date:</b>           | May 30, 2017   |
|   | <b>Decision:</b>       | Approved external agency referral and First Nations referrals        |
| Electoral Areas Services Committee:           | <b>Date:</b>           |  |
|   | <b>Recommendation:</b> |  |
| Regional Board                                | <b>Date:</b>           |  |
|   | <b>Decision:</b>       |  |
| Public hearing:                               | <b>Date:</b>           |  |
| Regional Board:                               | <b>Date:</b>           |  |
|   | <b>Decision:</b>       |  |
| Ministry of Transportation and Infrastructure | <b>Required:</b>       | Yes  |
|   | <b>Date Sent:</b>      |  |
|   | <b>Date Approved:</b>  |  |
| Regional Board:                               | <b>Date:</b>           |  |
| Decision:                                     |                        |  |

**COMOX VALLEY REGIONAL DISTRICT**  
**BYLAW NO. 488**

**A bylaw to amend the “Comox Valley Zoning Bylaw, 2005”  
being Bylaw No. 2781**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Zoning Bylaw, 2005,” being Bylaw No. 2781:

**Section One Text Amendment**

- 1) Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” is hereby amended as set out in Schedule A attached to and forming part of this bylaw.

**Section Two Title**

- 1) This Bylaw No. 488 may be cited as the “Comox Valley Zoning Bylaw, 2005, Amendment No. 71.”

|                                 |               |              |
|---------------------------------|---------------|--------------|
| <b>Read a first time this</b>   | <b>day of</b> | <b>2017.</b> |
| <b>Read a second time this</b>  | <b>day of</b> | <b>2017.</b> |
| <b>Public hearing held this</b> | <b>day of</b> | <b>2017.</b> |
| <b>Read a third time this</b>   | <b>day of</b> | <b>2017.</b> |

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 488, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 71,” as read a third time by the board of the Comox Valley Regional District on the \_\_\_\_ day of \_\_\_\_\_ 20XX.

\_\_\_\_\_  
Corporate Legislative Officer

|   |               |              |
|---|---------------|--------------|
| <b>Approved by the Ministry of Transportation and<br/>Infrastructure this</b> | <b>day of</b> | <b>2017.</b> |
| <b>Adopted this</b>   | <b>day of</b> | <b>2017.</b> |

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 488, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 71,” as adopted by the board of the Comox Valley Regional District on the \_\_\_\_ day of \_\_\_\_\_ 20XX.

\_\_\_\_\_  
Corporate Legislative Officer



## Schedule A

### Section One Text Amendments

Part 900, “Commercial / Industrial Zones”, is hereby amended by inserting the following new zone after the Community Waste Management (CWM) zone and renumbering zones and pages accordingly:

“

**915**

**Saratoga - Commercial Industrial (S-CI)**

#### 1. Principal Use

##### **On any lot:**

- i) Retail and wholesale sales;
- ii) Service establishments;
- iii) Offices;
- iv) Restaurants;
- v) Licensed establishments;
- vi) Recreation facilities;
- vii) Automobile service station, excluding washing of vehicles;
- viii) Veterinary clinics, animal hospitals;
- ix) Light industrial;
- x) General contractor services and storage yard;
- xi) Industrial equipment, sales and service;
- xii) Boat building, repairs, service and sales.

#### 2. Accessory Uses

##### **On any lot:**

- i) Outdoor storage;
- ii) Residential use;
- iii) Warehousing.

#### 3. Conditions of Use

- i) All permitted uses listed in Section (1), “**Principal Uses**” and Section (2), “**Accessory Uses**”, excluding residential use, shall be subject to the following conditions:
  - a) Landscaped areas with the following characteristics shall be provided:
    - 1) Landscaped areas shall be planted and maintained with trees, shrubs and grasses;
    - 2) Where a property abuts a road right-of-way, a landscaped area at least 3.0 metres in width running the length of the right-of-way, except for points of ingress and egress, shall be provided;
    - 3) Where a property abuts the Island Highway or a frontage road to the Island Highway, a landscaped area at least 4.5 metres in width

running the length of the right-of-way, except for points of ingress and egress, shall be provided;

- 4) Additional or specific landscaping shall be in accordance with the conditions of the required Development Permit.
  - b) No parking, loading or storage areas shall be located within 1.5 metres of any property line.
  - c) All outdoor storage, supply yards, and outdoor equipment maintenance and repair areas shall be screened. Screening not less than 2 metres in height, and on landscaped areas not less than 7.5 metres in width, shall consist of solid wood fencing, evergreen hedging or an earth berm. All screening, including fencing and hedging, shall be well maintained and fencing shall be painted as required.
  - d) Floor Area Ratio (F.A.R.) (see also Part 2, Interpretation) shall be defined as: "The gross floor area of all buildings on a lot divided by the gross area of the subject lot."
 

Permitted F.A.R. = 0.5

For each 10 per cent increase in "Open Space", to a maximum of 60 per cent, F.A.R. is increased by 0.05.
  - e) A minimum of 25 per cent of the lot area shall be retained as open space.
- ii) **"Automobile Service Station"** use, shall be subject to the following conditions:
- a) Fuel service pumps or pump islands shall be located a minimum of 4.5 metres from any property line. No canopy is to be longer than 33 per cent of the length of the street boundary of the yard in which it is located, to a maximum of 12.0 metres.
  - b) Automobile service stations shall be subject to the following parking requirements:
    - 1) Off-street parking, loading areas and ingress and egress points shall be located so as not to interfere with other on-site vehicular and off-site traffic movements abutting the streets;
    - 2) No parking, loading or storage areas shall be located within 1.5 metres of any property line.
  - c) Automobile service stations shall be subject to the following landscaping requirements:
    - 1) All landscaping should constitute a minimum of 5 per cent of the site;
    - 2) Loading areas, garbage containers and recycling containers shall be screened to a height of at least 2.5 metres;
    - 3) Where the automobile service station is situated on a lot having a boundary in common with any abutting property zoned under Part 700 "Residential Zones", there shall be provided and maintained on and along the full length of such boundary or portion of the boundary, a landscaped area measuring no less than 3.0 metres in width throughout its length and used for the purpose only of cultivating therein ornamental trees, shrubs, flowers and grass.
- iii) Each property shall be allowed one freestanding sign for each street frontage of the business to a maximum of two freestanding signs. The freestanding sign shall be permitted in landscaped areas only. The height of the sign, including support

structures, shall not exceed 6.0 metres and the area of any one face shall not exceed 6.5 square metres. A freestanding sign may be illuminated.

- iv) One fascia sign shall be allowed on each building. The maximum area of fascia signs shall be 6 square metres. Fascia signs may be illuminated.
- v) All lighting used throughout the property including for signage, yards and buildings are to be in accordance with regional district 'Dark Sky' policies.

#### 4. **Density**

- i) Residential use is limited to one dwelling unit.

#### 5. **Siting of Buildings, Structures and Uses**

- i) The setbacks required for buildings and structures within the Saratoga Commercial-Industrial zone (S CI) zone shall be as set out in the table below.

| Type of Structure | Required Setback |           |           |                         |
|-------------------|------------------|-----------|-----------|-------------------------|
|                   | Front yard       | Rear yard | Side yard | Side yard abutting road |
| Principal         | 7.5 m            | 7.5 m     | 4.5 m     | 7.5 m                   |
| Accessory         | 7.5 m            | 7.5 m     | 4.5 m     | 7.5 m                   |

- ii) Despite 5 i) above, pump islands and canopies associated with an automobile service station may be setback as follows:

| Type of Structure | Required Setback |           |           |                         |
|-------------------|------------------|-----------|-----------|-------------------------|
|                   | Front yard       | Rear yard | Side yard | Side yard abutting road |
| Pump island       | 4.5 m            | 4.5 m     | 4.5 m     | 4.5 m                   |
| Canopies          | 1.5 m            | 1.5 m     | 1.5 m     | 4.5 m                   |

#### 6. **Height of Structures**

The maximum permitted height of principal structures shall be:

- i) At 12.0 metres from any lot line: 12.0 metres
- ii) At 7.5 metres from any lot line: 10.0 metres
- iii) In an area less than 7.5 metres from any lot line: 8.0 metres

#### 7. **Lot Coverage**

- i) The maximum lot coverage of all buildings and structures shall not exceed 50 per cent of the lot area.

#### 8. **Subdivision Requirements**

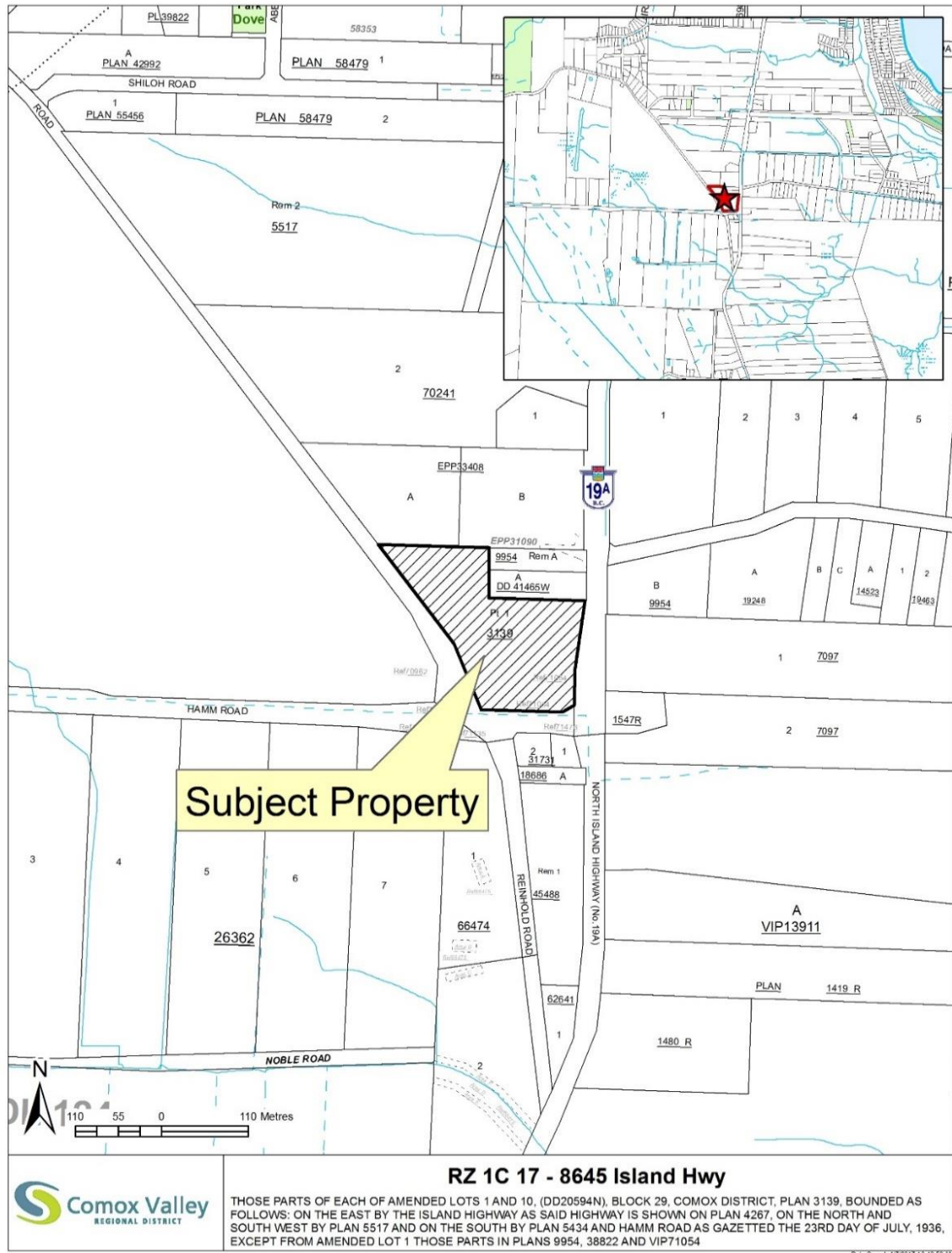
- 1) Minimum lot area: 2.0 hectares.2w  
If connected to community water, minimum lot area: 0.4 hectare

*End • S C-I''*

**Section Two Map Amendment**

Map A-13 of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, is hereby amended by rezoning property legally described as “Those parts of each of amended lots 1 and 10, (DD 20594N), Block 29, Comox District, Plan 3139, PID 002-039-389, bounded as follows: on the east by the Island Highway as said highway is shown on Plan 4267, on the north and south west by Plan 5517 and on the south by Plan 5434 and Hamm Road as gazetted the 23rd day of July, 1936, except from amended Lot 1 those parts in plans 9954, 38822 and VIP71054” (8645 Island Highway) from Country Residential One (CR-1) to Saratoga Commercial-Industrial (S - CI) as shown on Appendix 1.

DRAFT



**Appendix 1**

Part of Schedule A to Bylaw No. 488 being the “Comox Valley Zoning Bylaw, Amendment No. 71”.

Amends Schedule Map A-13 to Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”.



**3360-20 / RZ 1C 17**

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**From:** Monty Horton <lands.manager@komoks.ca>  
**Sent:** Wednesday, July 26, 2017 3:28 PM  
**To:** planningdevelopment@comoxvalleyrd.ca  
**Subject:** Zoning Amendment application referral  
**Attachments:** referral CarrLewis 2017.pdf

We have no comments regarding the attached zoning amendment application.

Monty Horton  
Lands Manager  
K'omoks First Nation  
Cell: 250-937-9195  
Work: 250-339-4545

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



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June 13, 2017

**Comox Valley Regional District  
600 Comox Rd  
Courtenay, BC  
V9N 3P6  
[Planningdevelopment@comoxvalleyrd.ca](mailto:Planningdevelopment@comoxvalleyrd.ca)**

**Re:** Zoning Amendment Application – Carr / Lewis  
**File:** 3360-20/RZ 1C 17

To whom it may concern,

The We Wai Kai Nation is in receipt of the above-mentioned application regarding rezoning for the purpose of subdividing and development for commercial and light industrial use. 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 any and all future consultation with our nation regarding any other application within the We Wai Kai traditional territory including the renewal or any alteration of this application.

We do however continue to reserve the right to raise objections if any cultural use or archaeological sites are identified and or disturbed while the above uses are 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,

Handwritten signature of Merci Brown.

Merci Brown  
Director of Lands & Natural Resources