

**DATE:** November 6, 2017

**FILE:** 3360-20/RZ 2A 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:** 5819 Tipton Road (Upper Island Development)  
Baynes Sound – Denman/Hornby Islands (Electoral Area A)  
Lot B, District Lot 13, Nelson District, Plan VIP60017, PID 019-045-964

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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.

### **Recommendations from the Chief Administrative Officer:**

1. THAT the board give first and second readings to Bylaw No. 505, Appendix A to staff report dated November 6, 2017 (RZ 2A 17 – Upper Island Development), being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72” which rezones the Country Residential One (CR-1) portion of Lot B, District Lot 13, Nelson District, Plan VIP60017, PID 019-045-964 (5819 Tipton Road) to Residential One (R-1);

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. 505, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72” (RZ 2A 17 – Upper Island Development).

2. THAT prior to a public hearing on Bylaw No. 505, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72”, Upper Island Development be required to obtain final subdivision approval from the Ministry of Transportation and Infrastructure to ‘unhook’ the lands east of the railway right-of-way (File Number: 00090 A 17).

### **Executive Summary**

- The subject property is 56 hectares ‘hooked’ over a railway right-of-way. The owner has received preliminary layout approval from the Ministry of Transportation and Infrastructure (MoTI) to ‘unhook’ the 0.8 hectare portion east of the railway.
- The proposal is to rezone the 0.8 hectare portion from CR-1 to R-1 to enable further subdivision into two residential lots fronting onto Tipton Road. The property is within the Union Bay settlement node.
- External agency referral has been undertaken and, as of the date of this report, comments have been received from K’ómoks First Nations (KFN) and MoTI. They both have no objections to the proposed bylaw amendment. The Electoral Area ‘A’ Advisory Planning Commission (APC) approved a motion to support the rezoning application.
- Staff has prepared a bylaw that rezones the 0.8 hectare portion of the property from CR-1 to R-1 (Appendix A).

- Staff recommends proceeding to the next step in the rezoning process which is approval of first and second readings and scheduling a public hearing. The public hearing should not take place until the provincial approving officer has granted final approval for the subdivision.

Prepared by:

***B. Labute***

Brianne Labute  
Planner

Concurrence:

***A. Mullaly***

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

Concurrence:

***A. MacDonald***

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

**Stakeholder Distribution (Upon Agenda Publication)**

Owner	✓
Agent	✓

**Background/Current Situation**

The subject property is located in Baynes Sound – Denman/Hornby Islands (Electoral Area A). The 56 hectare lot is ‘hooked’ across a railway right-of-way (Figure 1). The application is to rezone the lands (0.8 hectare) east of the railway from CR-1 to R-1 to enable further subdivision into two residential parcels. These vacant lands front onto Tipton Road and are bound by residential lots to the north and the south, railway right-of-way to the west and Tipton Road to the east. The property is within the Union Bay Improvement District for water and fire services.

The owner has received preliminary layout approval from MoTI to ‘unhook’ the lands east of the railway and are working to meet the conditions for final approval. The public hearing should not take place until the provincial approving officer has granted final approval for the subdivision.

At their meeting on September 19, 2017, the Comox Valley Regional District (CVRD) board authorized staff to commence the external agency and First Nations referral process. As detailed below, none of the responding agencies have an objection.

Official Community Plan Analysis

The property is designated as Settlement Node in the Official Community Plan (OCP) being the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014”. The OCP identifies settlement nodes as growth areas for the CVRD. Residential intensification is encouraged provided it is in keeping with the existing neighbourhood character and is appropriately serviced. The proposed rezoning is consistent with policies in the OCP.

Zoning Bylaw Analysis

The property currently has split zoning. The lands east of the railway are zoned CR-1 and the remainder is zoned Country Residential Two (CR-2) (Figure 2). The CR-1 and CR-2 zone allow for residential uses and establish a minimum lot size of 2.0 hectares. No change is proposed for the CR-2 portion. The applicant would like to rezone the CR-1 portion to R-1 (Appendix B) as the minimum lot size in the R-1 zone is 0.4 hectares when connected to either community water or sewer. The property is within the Union Bay Improvement District for water services and has the ability to connect to a water line that runs adjacent to the east side of the railway right-of-way. Rezoning the 0.8 hectare portion to R-1 enables the owners to apply to subdivide the property into two lots fronting onto Tipton Road.

### **Policy Analysis**

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

Sections 464 through 466 of the LGA establish the requirements and procedures for holding a public hearing prior to zoning bylaw adoption, including notification requirements. Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw, Bylaw No. 328, 2014”, implements the LGA’s requirements and states that public hearings are held 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 readings of proposed Bylaw No. 505 and set a date for the public hearing;
2. Refer proposed Bylaw No. 505 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. The \$1500 fee has been collected for the public hearing. 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 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 recommendations contained within this report have been prepared in accordance with the LGA and applicable CVRD bylaws.

### **Regional Growth Strategy Implications**

The subject property is designated as Settlement Node in the Regional Growth Strategy (RGS), being the “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”. The RGS identifies settlement nodes as areas with capacity to accommodate new growth through a balance of new development, intensification and improvements to public infrastructure. The subject property is within the Union Bay Improvement District for water and fire services. There is no sewer servicing in the area. The proposed rezoning will enable future subdivision into two residential lots, which is consistent with RGS policies to direct growth to settlement nodes.

### **Intergovernmental Factors**

As of the date of this report, KFN is the only First Nation to provide referral comments. KFN has no comments or concerns with the proposal (Appendix C). The initial request to First Nations for comments was sent September 21, 2017 and a follow-up request was sent on October 23, 2017. External referrals were also sent to the following agencies:

- MoTI
- Island Health
- BC Assessment
- School District No. 71 (Comox Valley)
- Union Bay Improvement District

Comments were received from MoTI (Appendix D). MoTI does not object to the proposed bylaw amendment.

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**

Advisory Planning Commission (APC) A (Baynes Sound – Denman/Hornby Islands) reviewed the application on October 23, 2017. The APC supported the rezoning proposal. The minutes from the meeting will be forwarded to the Electoral Areas Services Committee.

If the board concurs with staff's recommendation to approve first and second readings and schedule a public hearing, the applicant will need to post a sign on their 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 – “Bylaw No. 505”  
Appendix B – “R-1 zone, Comox Valley Zoning Bylaw, No. 2781, 2005”  
Appendix C – “KFN Response, dated October 24, 2017”  
Appendix D – “MoTI Response, dated October 11, 2017”

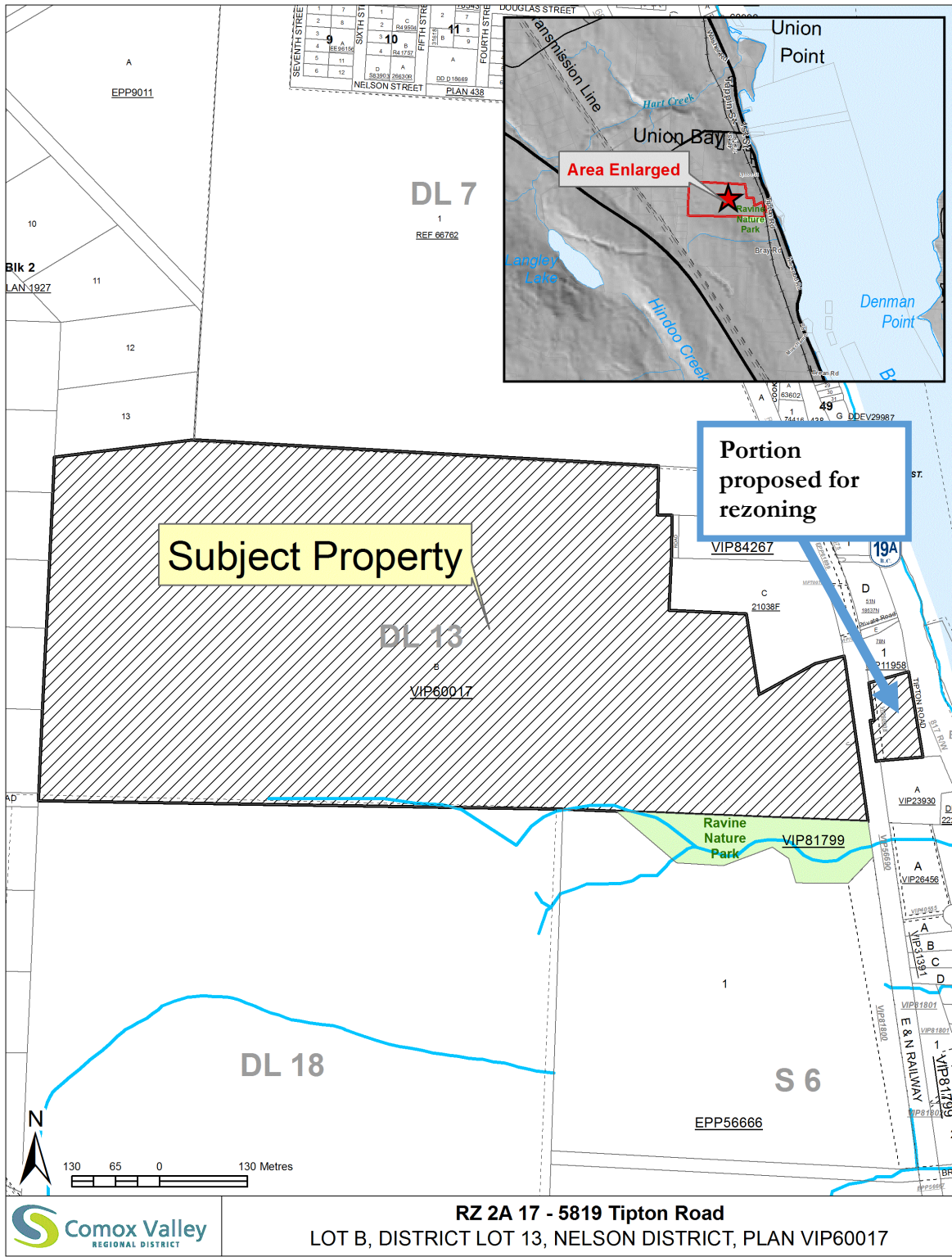


Figure 1: Subject Property Map

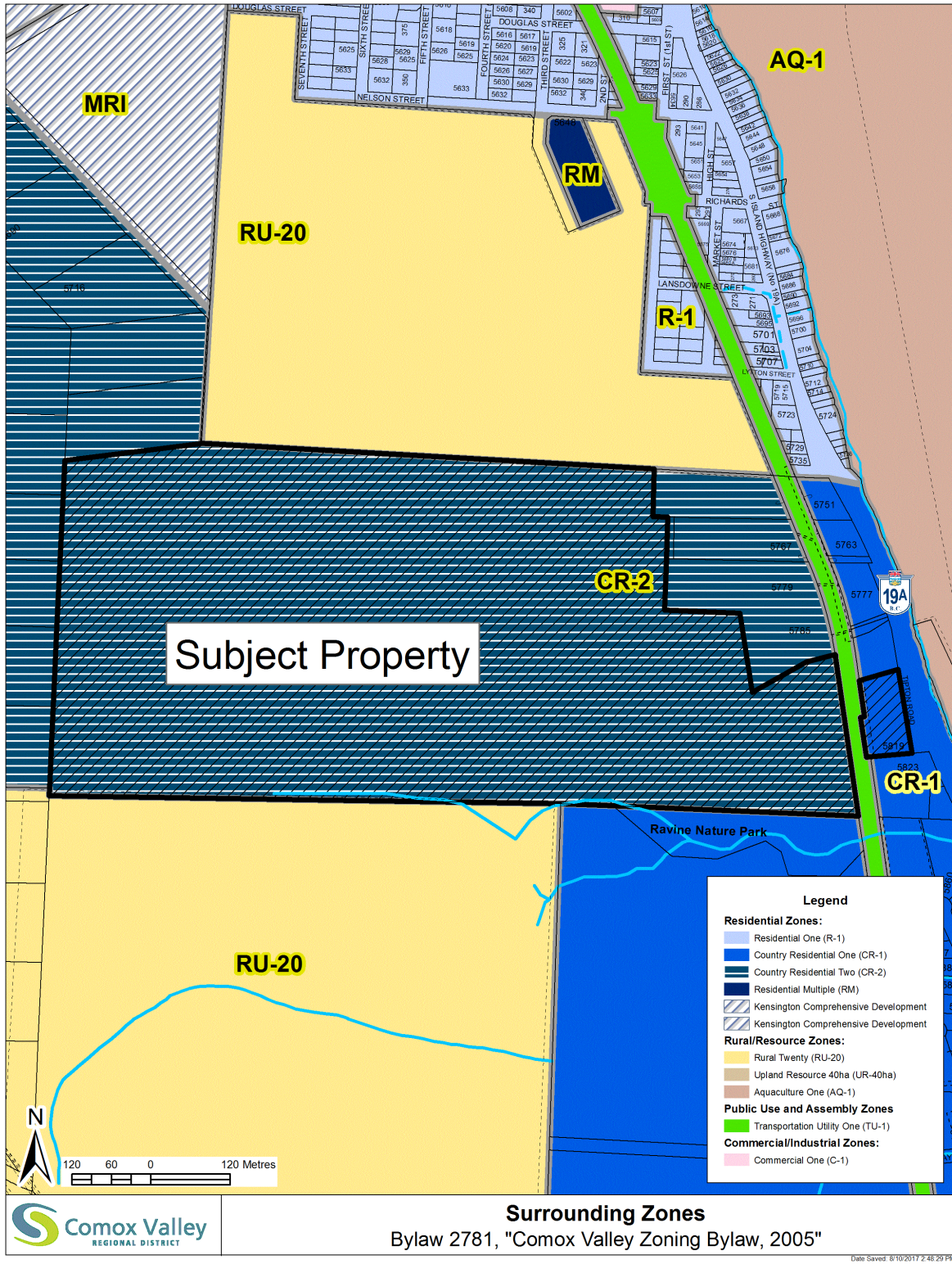


Figure 2: Zoning of Area

Bylaw No. 505  
Comox Valley Regional District

**STATUS**

Title: Comox Valley Zoning Bylaw, 2005, Amendment No. 72

Applicant: Upper Island Development

Electoral Area: A (Baynes Sound – Denman/Hornby Islands)

File No.: RZ 2A 17

Purpose: To rezone the portion of the lot currently zoned Country Residential One (CR-1) to Residential One (R-1).

Participants: All Electoral Areas



Application Received: **Date:** July 28, 2017

Electoral Areas Services Committee: **Date:**  
**Recommendation:**

Comox Valley Regional District Board: **Date:**  
**Decision:**

Comox Valley Regional District Board **Date:**  
**Decision:**

Public hearing: **Date:**

Comox Valley Regional District Board: **Date:**  
**Decision:**

Ministry of Transportation and Infrastructure **Required:** Yes  
**Date Sent:**  
**Date Approved:**

Comox Valley Regional District Board: **Date:**  
Decision:

**Comox Valley Regional District**  
**Bylaw No. 505**

**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. 505 may be cited as the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72.”

<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>2018.</b>
<b>Read a third time this</b>	<b>day of</b>	<b>2018.</b>

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 505, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72,” as read a third time by the board of the Comox Valley Regional District on the \_\_\_\_ day of \_\_\_\_\_ 2018.

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

<b>Approved by the Ministry of Transportation and Infrastructure this</b>	<b>day of</b>	<b>2018.</b>
<b>Adopted this</b>	<b>day of</b>	<b>2018.</b>

\_\_\_\_\_  
Chair

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

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 505, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 72,” as adopted by the board of the Comox Valley Regional District on the \_\_\_\_ day of \_\_\_\_\_ 2018.

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



## Schedule A

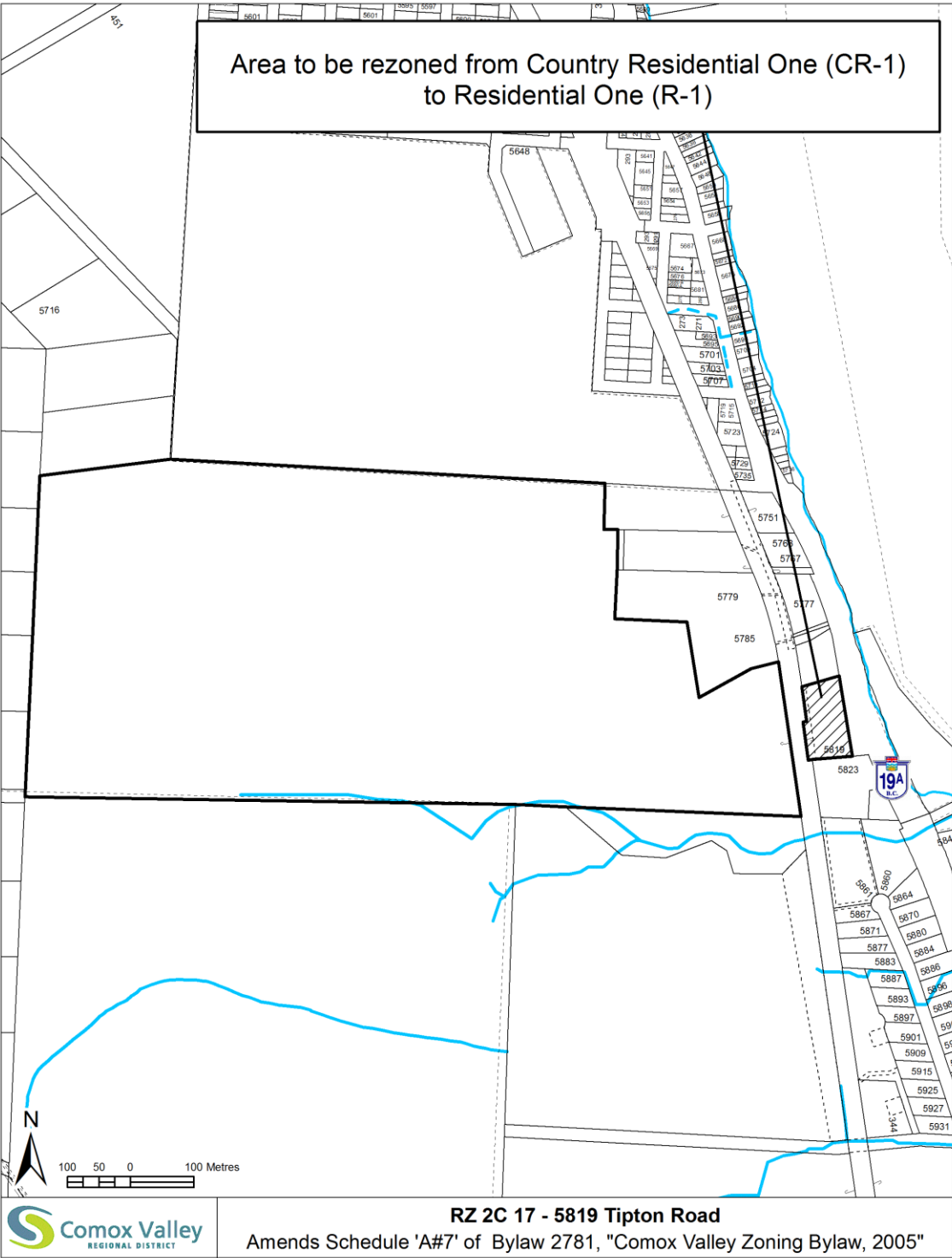
### Section One Text Amendment

1. Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” is hereby amended by rezoning the Country Residential One (CR-1) portion of the property described as Lot B, District Lot 13, Nelson District, Plan VIP60017 (5819 Tipton Road) to Residential One (R-1).

### Section Two Map Amendment

1. Map A-7 forming part of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, is hereby amended by rezoning property legally described as Lot B, District Lot 13, Nelson District, Plan VIP60017 (5819 Tipton Road) from Country Residential One (CR-1) to Residential One (R-1) as shown on Appendix 1.

DRAFT



**Appendix 1**

Part of Schedule A to Bylaw No. 505 being the “Comox Valley Zoning Bylaw, 2005 Amendment No. 72”.

Amends Schedule Map A-7 to Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”.

**PART 700 RESIDENTIAL ZONES**

**701 Residential One (R-1)**

**1. PRINCIPAL USE**

**On any lot:**

- i) Residential use.

**2. ACCESSORY USES**

**On any lot:**

- i) Secondary suite;
- ii) Home occupation use;
- iii) Accessory buildings;
- iv) Bed and Breakfast.

#4

**3. DENSITY**

**Residential use is limited to:**

- i) **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 metres<sup>2</sup> (968.8 feet<sup>2</sup>).

#112

**4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES**

The setbacks required for buildings and structures within the Residential One zone are as set out in the table below.

Type of Structure	Height	Required Setback		
		Front yard	Rear yard	Side yard
Principal	10.0m (32.8ft)	4.5m (14.8 ft)	4.5m (14.8 ft)	1.75m (5.8 ft)
Accessory	4.5m-or less (14.7 ft or less)	4.5m (14.8 ft)	1.0m (3.3 ft)	1.0m (3.3 ft)
Accessory	6.0m-4.6m (19.68ft)	4.5m (14.8 ft)	4.5m (14.8 ft)	1.75m (5.8 ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the “Floodplain Management Bylaw, 1997” may affect the siting of structures adjacent to major roads, and the natural boundaries of watercourses and the sea, respectively.]

**5. LOT COVERAGE**

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

## 6. SUBDIVISION REQUIREMENTS

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares. #200
- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:
- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
  - b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and
  - c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

iii) **Lot Area**

The minimum lot area permitted shall be:

- a) When connected to community water and sewer: 600 metres<sup>2</sup> (6458.6 feet<sup>2</sup>)
- b) When connected to either community water or sewer: 4000 metres<sup>2</sup> (1.0 acre)
- c) When serviced by well and approved septic system: 1.0 hectare (2.5 acre)

Despite (iii), a subdivision with lots smaller than identified in (a), (b), and (c) above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot areas permitted based upon the available servicing.

*End • R-1*

**3360-20 / RZ 2A 17**

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**From:** Monty Horton  
**Sent:** Tuesday, October 24, 2017 11:29 AM  
**To:** planningdevelopment@comoxvalleyrd.ca  
**Subject:** Rezoning application, 5819 Tipton Rd

We have no comments or concerns regarding the rezoning of the subject portion of DL13

Monty Horton  
Lands Manager  
K'omoks First Nation

**Brianne Labute**

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**From:** Kelly, Brendan TRAN:EX <Brendan.Kelly@gov.bc.ca>  
**Sent:** Wednesday, October 11, 2017 8:48 AM  
**To:** Brianne Labute  
**Subject:** RE: Comox Valley Regional District Planning Referral - 5819 Tipton Road (Union Bay)

Hi Brianne,  
The Ministry of Transportation and Infrastructure has no objections to the proposed rezoning.

Regards,

Brendan Kelly  
Development Technician  
Ministry of Transportation and Infrastructure  
Vancouver Island District  
250-334-6967

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**From:** Brianne Labute [mailto:blabute@comoxvalleyrd.ca]  
**Sent:** Thursday, September 21, 2017 9:02 AM  
**To:** Brianne Labute  
**Cc:** Kelly, Brendan TRAN:EX; 'nancy.clements@viha.ca'; 'admin@union-bay.ca'; 'ian.heselgrave@sd71.bc.ca'  
**Subject:** Comox Valley Regional District Planning Referral - 5819 Tipton Road (Union Bay)

Hello,

Attached please find a planning referral for your agency's review and comment. Please send any comments by **October 23, 2017**.

Kind regards,

Brianne Labute, M.Sc (Planning)  
Planner  
Planning and Development Services Branch  
Comox Valley Regional District  
600 Comox Road  
Courtenay, BC V9N 3P6  
Tel: 250-334-6091, Toll Free: 1-800-331-6007  
Fax: 250-334-8156