

Notice of meeting of the
Lazo North (Area B)
Advisory Planning Commission
Wednesday, June 27, 2018

To be held in the Comox Valley Regional District boardroom
Located at 550B Comox Road, Courtenay, BC
Commencing at **6:00 pm**

PAGE

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|-----------|----|--|
| | 1. | Call to order and recognition of traditional territories |
| 2 | 2. | Receipt of the minutes of the May 31, 2018 Lazo North (Area B) Advisory Planning Commission meeting. |
| 4 | 3. | Memorandum dated June 12, 2018, regarding 3060-20/ DV 3B 18 – Development Variance Permit Application – 2651 Baxter Road (Woods) |
| 11 | 4. | Memorandum dated June 12, 2018, regarding 3360-20/RZ 1CV 18 – Zoning Bylaw Amendment Application – To Prohibit Non-Medical Cannabis Retail and Production (CVRD) |
| | 5. | Status update on APC recommendations – Verbal update regarding Electoral Area Services Committee and board decisions related to APC recommendations |
| | 6. | Next meeting date: Scheduled for Thursday, August 2, 2018 |

ADDENDUM

- | | | |
|-----------|----|---|
| 24 | 7. | Memorandum dated June 18, 2018, regarding 3350-20/CP 1CV 18 – Official Community Plan Amendment Application – <i>Local Government Act</i> Section 514 |
|-----------|----|---|

Distribution:

Area B APC members
Area Director
Alternate Area Director
Chief Administrative Officer
General Manager of Planning And Development Services
Manager of Planning Services
Corporate Legislative Officer
Manager of Legislative Services
Planners
CVRD website
File copy
Reception notice board (cover page)

Minutes of the meeting of the Electoral Area B Lazo North Advisory Planning Commission of the Comox Valley Regional District held on Thursday May 31, 2018 in the Comox Valley Regional District boardroom, located at 550B Comox Road, Courtenay, BC, commencing at 7:10 pm

PRESENT:	Chair	Stan Hartfelder
	Members	David Battle Danielle Fortosky Dean Maxwell
ABSENT:	Members	Norman Reader Janet Crockett
ALSO PRESENT:	Rural Planner Proponent for RZ 1B 18	Jodi MacLean Evan Wind

Agenda Items

Minutes of Advisory Planning Commission Meeting

BATTLE / FORTOSKY: THAT the minutes of the Electoral Area B (Lazo North) Advisory Planning Commission meeting held on Thursday, March 22, 2018 be received.

CARRIED

3360-20/RZ 1B 18 - 1926 Vera Drive (Thomas)

FORTOSKY / BATTLE: THAT the Area B Advisory Planning Commission support the Rezoning Application RZ 1B 18 for 1926 Vera Drive/Lot C, Block 29, Comox District, Plan 32630 (Thomas) as proposed.

CARRIED

Status update on APC recommendations

Jodi MacLean, Rural Planner, provided an update regarding Electoral Area Services Committee and board decisions related to APC recommendations.

New Business

Radiocommunication and Broadcasting Antenna Systems - Public Notification Package: Freedom Mobile

Regarding a notification from Freedom Mobile titled "Invitation for Public Input Proposed Freedom Mobile 35.0-meter Monopole Wireless Communication Facility Located at 1901 Larch Road, Courtenay", it was the consensus of the APC membership that further information concerning this project should be provided to the CVRD.

Since this is a federally-regulated mandate, the CVRD has little authority over this permitting process. Concerns over the aesthetic appearance and height were a few of the issues identified.

Next Meeting Date

The next Electoral Area B (Lazo North) Advisory Planning Commission meeting is scheduled for Thursday, June 28, 2018 in the Comox Valley Regional District boardroom, located at 550B Comox Road, Courtenay, BC, commencing at 7:00 pm.

Termination

BATTLE / MAXWELL: THAT the meeting terminate.

CARRIED

Time: 8:00 pm

Recording Secretary:
Dean Maxwell

Chair:
Stan Hartfelder

Received by the Electoral Areas Services Committee on the ____ day of _____, 20__.

Memo

File: 3060-20 / DV 3B 18

DATE: June 12, 2018

TO: Advisory Planning Commission
Lazo North (Electoral Area B)

FROM: Planning and Development Services Branch

RE: Development Variance Permit – 2651 Baxter Road (Woods)
Lot 1, Section 23, Comox District, Plan EPP13981, PID 028-836-031

The attached development proposal is for commission members' review and comment.

An application has been received to consider a development variance permit for a 0.88 hectare property on Baxter Road. The subject property is surrounded by a watercourse to the southwest, Baxter Road to the northwest and residential properties in all other directions (Figure 1 and 2). The property contains a single detached dwelling and a partially constructed 104m² accessory building. The building permit application indicates the accessory building would be under 4.5 metres in height, which requires a minimum 1.0 metre rear yard setback. A change in roof pitch resulted in a building height of 5.45 metres triggering a minimum 7.5 metre rear yard setback. The applicants are requesting to reduce the minimum rear yard setback to 3.6 metres for the partially constructed accessory building (Figure 3).

Regional Growth Strategy and Official Community Plan

The subject property is designated Settlement Expansion Area in both the Regional Growth Strategy, being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010" and the Official Community Plan, being the "Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014". Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion.

Zoning Bylaw Analysis

The property is zoned Residential Rural (R-RU) in Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005" (Appendix A). The R-RU zone permits an accessory building. The application seeks relief from the minimum 7.5 metre rear yard setback and is requesting a minimum setback of 3.6 metres. All other zoning requirements are met.

Please be advised that all adjacent properties within 100 metres of the subject parcel will be notified via mail of the variance request and be given the opportunity to comment prior to the application going forward to the Electoral Areas Services Committee for consideration.

Sincerely,

A. Mullaly

Alana Mullaly, MCIP, RPP
Manager of Planning Services
Planning and Development Services Branch

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Attachments Appendix A – “Residential Rural (R-RU) Zone”

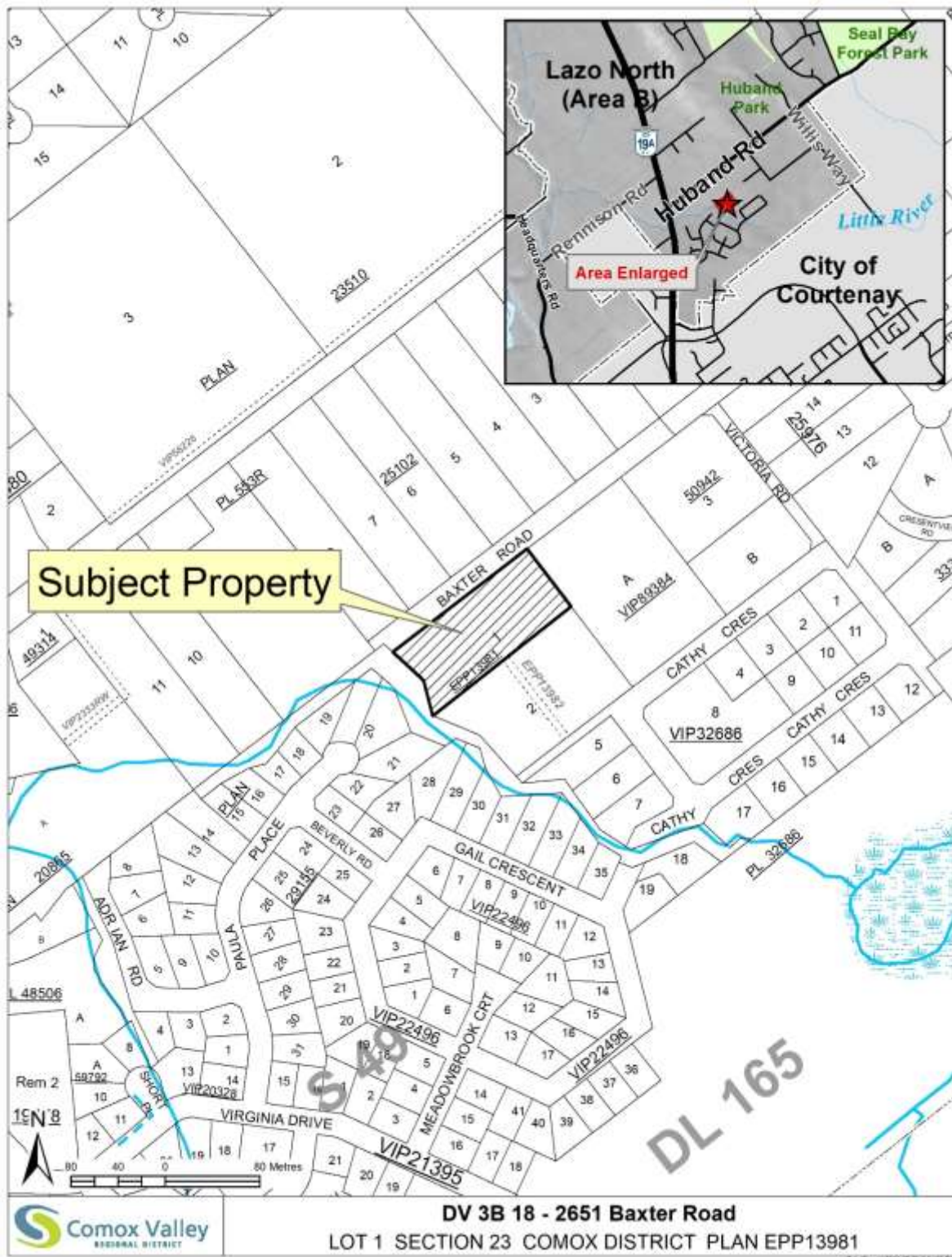


Figure 1: Subject Property Map

Comox Valley Regional District



Figure 2: Aerial Photo

Comox Valley Regional District

Comox Valley Regional District
RECEIVED

File:

MAY 10 2010

To:

CC: **DETAIL**
SCALE 1:500

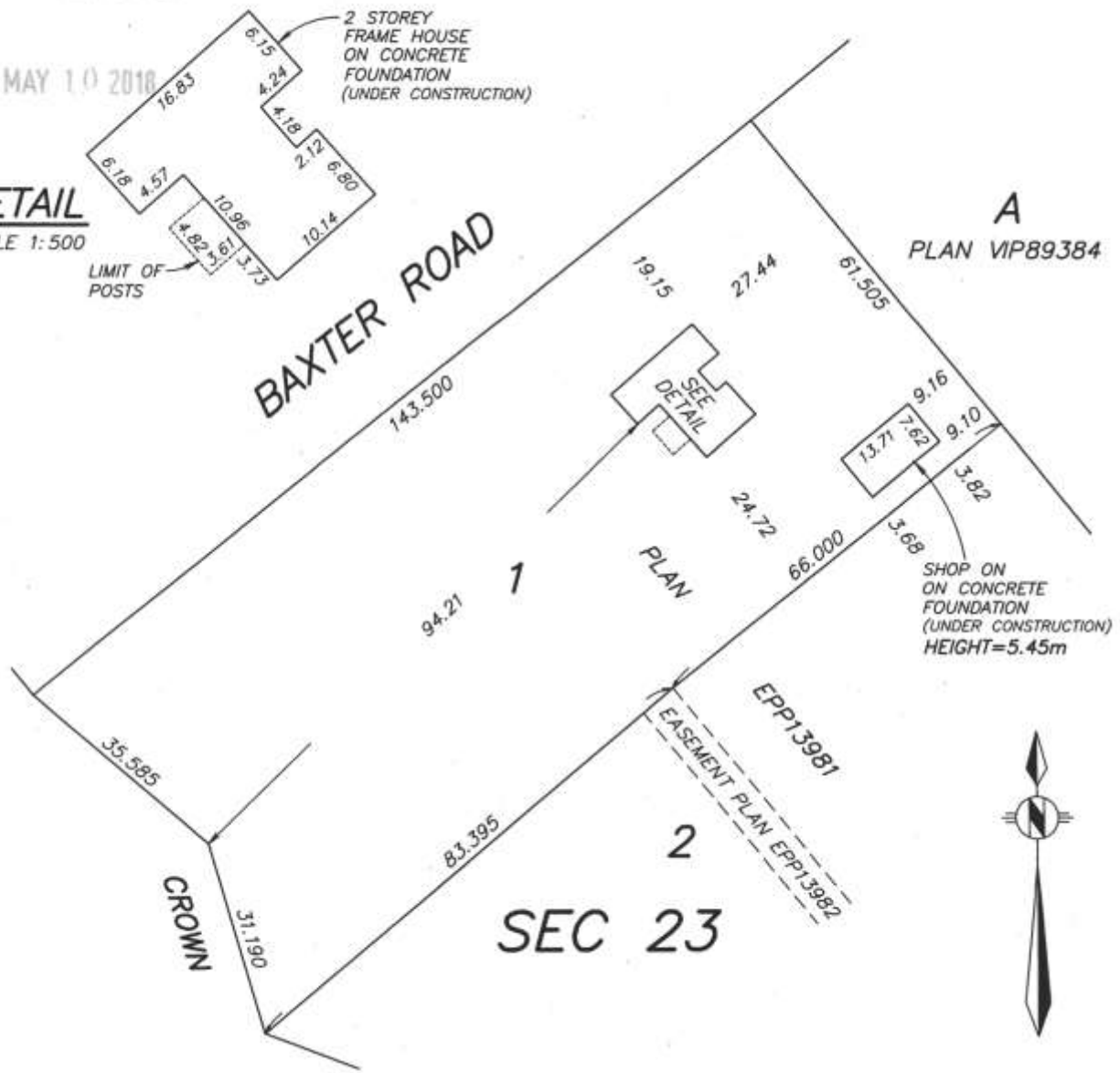


Figure 3: Site Plan

706

Residential-Rural (R-RU)

1. PRINCIPAL USE

- i) **On any lot:**
 - a) Residential use.
- ii) **On any lot over 4000 metres² (1.0 acre):**
 - a) Agricultural 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 metres² (968.8 feet²).

#112

4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Residential Rural zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8 ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [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. **FLOOR AREA REQUIREMENTS**

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres² (2152.9 feet²).

7. **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 0.8 hectares (2.0 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

End • R-RU

Memo

File: 3360-20/RZ 1CV 18

DATE: June 12, 2018

TO: Advisory Planning Commission
Lazo North (Electoral Area B)

FROM: Planning and Development Services Branch

RE: Zoning Bylaw Amendment to Prohibit Non-Medical Cannabis Retailers and Production

The attached proposed zoning bylaw amendment (Appendix A) to the Zoning Bylaw, Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, is enclosed for commission members’ review and comments.

The federal government is in the process of passing legislation to legalize non-medical cannabis through the *Cannabis Act* anticipated in August 2018. The focus is on the legalization of non-medical cannabis activities including production, distribution and consumption. Medical cannabis will still be regulated separately under the existing *Access to Cannabis for Medical Purposes Regulation (ACMPR)*, which may be revisited once the *Cannabis Act* has become law. On April 26, 2018, the province introduced cannabis legislation that lays out the regulatory framework for implementation of legalized cannabis in BC:

- BC’s *Cannabis Distribution Act* (Bill 31-2018) will establish BC’s jurisdiction over wholesale distribution of cannabis and provide authority for government-run retail sales.
- BC’s *Cannabis Control and Licensing Act* (Bill 30-2018) will establish licensing of private retailers, and restrictions on the possession, personal cultivation and consumption of cannabis by adults and prohibitions of minors.

Although the planning services department is in the process of a comprehensive review of the Zoning Bylaw, the new Zoning Bylaw will not be in place by August 2018 and therefore there could be a window under which production and retail could lawfully be established (i.e., retail use, agricultural use). The proposed approach is a two-step process of precautionary zoning with the “door closed” until federal and provincial regulations are established, and then the Comox Valley Regional District (CVRD) can “open the door” to provide access in locations and to the degree that is acceptable to the community. To address implementation of cannabis legalization, staff recommends that the Zoning Bylaw be amended specifically to prohibit non-medical cannabis production and retail to prevent non-medical cannabis related uses from being established as a lawful use. Any location that is proposed for the production or retail sale of non-medical cannabis would require a rezoning or a Temporary Use Permit.

The CVRD Board granted first and second reading to this bylaw on June 5, 2018. Staff intend to report back to the Electoral Areas Services Committee on the external agency findings. Notice of the public hearing, which has been set for June 28, 2018, will be printed in the newspaper and advertised on the CVRD website. Anyone can provide comments of the proposed bylaw up until the close of the public hearing.

Sincerely,

A. Mullaly

Alana Mullaly, MCIP, RPP
Acting General Manager of Planning and Development Services

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Enclosure

Comox Valley Regional District

DATE: May 8, 2018**FILE:** 3360-20 / RZ 1CV 18**TO:** Chair and Directors
Electoral Areas Services CommitteeSupported by James Warren
Acting Chief Administrative Officer**FROM:** James Warren
Acting Chief Administrative OfficerJ. Warren**RE: Zoning Bylaw Amendment to Prohibit Non-Medical Cannabis Retail and Production**

Purpose

To recommend an amendment to the Zoning Bylaw that would prohibit the production and distribution of non-medical cannabis in anticipation of federal legalization.

Recommendations from the Chief Administrative Officer:

1. THAT the board endorse the external agency referral list outlined in Appendix A;

AND THAT the board give first and second readings of Bylaw No. 537, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 74”, Appendix B attached to staff report dated May 8, 2018, which proposes an amendment to the Zoning Bylaw to address implementation of the legalization of cannabis;

2. THAT staff report back to the Electoral Areas Services Committee with a fulsome analysis of options regarding regulations once the *Cannabis Act* and related regulations have been approved and made available to the public.

Executive Summary

- The federal government is in the process of passing legislation to legalize non-medical cannabis through the *Cannabis Act* anticipated in August 2018. The focus is on the legalization of non-medical cannabis activities including production, distribution and consumption.
- Medical cannabis will still be regulated separately under the existing *Access to Cannabis for Medical Purposes Regulation (ACMPR)*, which may be revisited once the *Cannabis Act* has become law.
- On April 26, 2018, the province introduced cannabis legislation that lays out the regulatory framework for implementation of legalized cannabis in BC:
 - BC’s *Cannabis Distribution Act* (Bill 31-2018) will establish BC’s jurisdiction over wholesale distribution of cannabis and provide authority for government-run retail sales.
 - BC’s *Cannabis Control and Licensing Act* (Bill 30-2018) will establish licensing of private retailers, and restrictions on the possession, personal cultivation and consumption of cannabis by adults and prohibitions of minors.
- Although the planning department is in the process of a comprehensive review of the Zoning Bylaw, the new Zoning Bylaw will not be in place by August 2018 and therefore there could be a window under which production and retail could lawfully be established (i.e., retail use, agricultural use).

- The proposed approach is a two-step process of precautionary zoning with the “door closed” until federal and provincial regulations are established, and then the Comox Valley Regional District (CVRD) can “open the door” to provide access in locations and to the degree that is acceptable to the community.
- To address implementation of cannabis legalization, staff recommend that the Zoning Bylaw be amended specifically to prohibit non-medical cannabis production and retail to prevent non-medical cannabis related uses from being established as a lawful use. Any location that is proposed for the production or retail sale of non-medical cannabis would require a rezoning or a Temporary Use Permit.

Prepared by:

R. Holme

Robyn Holme, MCIP, RPP
Long Range Planner

Concurrence:

A. Mullaly

Alana Mullaly, M.Pl., MCIP, RPP
Acting General Manager of Planning and
Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

The federal government is in the process of adopting the *Cannabis Act* (Bill C-45) and related impaired driving amendments to the *Criminal Code* (Bill C-46). These new regulations focus on the legalization of non-medical cannabis activities including production, distribution and consumption.

Under the proposed federal framework the provinces have some flexibility around the legalization of non-medical cannabis. To this end, B.C. has introduced two bills, currently at first reading. The bills include direction on home cultivation limits, possession limits and public space consumption. Further, the bills include direction on the proposed public retail model and indicate that local governments will be authorized to prohibit non-medical cannabis uses, or to supplement regulations should they choose.

Despite the information the province has provided in relation to the intended approach for the implementation of legalized non-medical cannabis, the provincial legislation has not been approved. As changes may arise as the two implementing bills move through the house, the specifics of the regulatory framework that local government will be working within remain relatively unclear.

Medical Marihuana Regulatory Framework

Medical cannabis will still be federally regulated separately under the existing ACMPR. The CVRD Rural Official Community Plan (OCP) and Zoning Bylaw regulate medical cannabis; no changes are proposed to the OCP framework at this time. Presently, production of medical marihuana requires a site-specific zoning amendment and can proceed without an amendment to the OCP if the proposed location is in either the Agricultural or Resource designation. Staff is not proposing any change to the fundamentals of this framework.

Non-Medical Cannabis Local Government Regulatory Framework

Generally, legal counsel has recommended that local governments initially establish a zoning bylaw prohibition of cannabis retail and production and then take time to work with their respective communities to establish a locally appropriate regulatory framework.

Prohibiting cannabis related uses prior to legalization of non-medical cannabis will ensure no potentially unwanted or inappropriate uses are established in the electoral areas. Given that the provincial bills were granted first reading on April 26, 2018 (and not made publically available prior to that date), staff recommend implementing interim zoning regulations to prohibit all non-medical cannabis related uses. This will allow sufficient time to review the provincial legislation (once approved), consult with citizens, stakeholders, external agencies and First Nations and develop CVRD appropriate changes to the Zoning Bylaw and other related bylaws, if necessary.

The proposed amendment to the Zoning Bylaw will be sufficient to prohibit the growing, cultivation, production, processing, storage and sale of non-medical cannabis in the electoral areas.

Next Steps

An inter-departmental working group of staff in planning and development, bylaw compliance, community services branch, human resources and communications will be established to review the legislative framework and assess options for the CVRD. The working group will bring forward an implementation strategy with recommendations to the executive management team in June to receive further direction. Staff will report back to the Electoral Areas Services Committee (EASC) with a fulsome analysis of options regarding regulations once the *Cannabis Act* and provincial legislation are in place.

Policy Analysis

Part 14 of the *Local Government Act (RSBC, 2015, c. 1) (LGA)* provides the framework for local government authority over planning and land use management.

Options

The board may:

1. Authorize external agency referrals; grant first and second reading of the proposed Zoning Bylaw amendment; direct staff to report back to EASC with a fulsome analysis of options regarding regulations once the *Cannabis Act* and related regulations have been approved and made available to the public.
2. Maintain the status quo.

Staff recommends Option 1, as the proposed Zoning Bylaw amendment responds to legal advice, and mitigates potential risk related to not having regulations in place (i.e. establishment of lawful non-conforming uses).

Financial Factors

There are no immediate financial implications associated with this report. The Zoning Bylaw amendment was prepared in house by staff. The CVRD will bear the expenses of staff time, newspaper advertisements and costs related to a public hearing.

Legal Factors

The content of the proposed amendment has been reviewed by counsel as part of the comprehensive Zoning Bylaw review.

Regional Growth Strategy Implications

There are no directly related Regional Growth Strategy implications related to staff's proposed approach.

Intergovernmental Factors

The proposed two-step process of precautionary zoning with the “door closed” until federal and provincial regulations are established, and then a community-driven “opening of the door” to provide access in locations and to the degree that is acceptable to the community is akin to the approach that the Town of Comox has recently undertaken.

The City of Courtenay is in the process of reviewing options and may bring forward changes to their Zoning Bylaw later this spring. The Village of Cumberland already put a regulatory framework in place in 2016 to prohibit non-medical and medical cannabis retail use.

Appendix A contains a list of the external agencies to which the proposed Zoning Bylaw amendment be forwarded. The Zoning Bylaw amendment will also be referred to First Nations in accordance with the Referrals Management Program.

Interdepartmental Involvement

Planning staff have consulted with various CVRD departments including community parks, recreation services, communications, bylaw compliance and human resources. Departmental comments have been included in this report.

Citizen/Public Relations

The proposed bylaw amendment will be forwarded to Electoral Area A, B and C Advisory Planning Commissions (APC) and the Agricultural APC for comment. Public consultation will be undertaken in accordance with the LGA. If the board concurs with staff's recommendation to proceed to public hearing, staff will aim to schedule a hearing date in early July. This would enable the board to consider bylaw adoption prior to the anticipated August approval of the federal *Cannabis Act*.

Attachments: Appendix A – “External Agency Referral List”
Appendix B – “Bylaw No. 537”

Agency and First Nations Referral List

The following agencies will receive a referral of the proposed Development Permit Area amendments.

First Nations

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

Federal Departments and Agencies

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

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Municipal Affairs & Housing
<input type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations & Rural Development
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy and Mines
<input type="checkbox"/>	BC Ferry Services Inc.	<input type="checkbox"/>	Ministry of Environment & Climate Change Strategy
<input type="checkbox"/>	BC Transit	<input type="checkbox"/>	Ministry of Tourism, Arts and Culture
<input type="checkbox"/>	Ministry of Indigenous Relations & Reconciliation	<input type="checkbox"/>	Ministry of Transportation and Infrastructure
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations 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 checked="" type="checkbox"/>	Agricultural Advisory Planning Commission	<input type="checkbox"/>	Comox Valley Economic Development Society
<input type="checkbox"/>	School District No. 71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Advisory Planning Commission B Lazo North	<input type="checkbox"/>	Union Bay Improvement District
<input checked="" type="checkbox"/>	Advisory Planning Commission C Puntledge-Black Creek	<input checked="" type="checkbox"/>	Advisory Planning Commission A Baynes Sound – Denman/Hornby Islands

Title: Comox Valley Zoning Bylaw, 2005, Amendment No. 74

Applicant: Comox Valley Regional District

Electoral Area: Electoral Area A, B and C

File No.: 3360-20 / RZ 1CV 18

Purpose: To amend Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, to prohibit the production and distribution of non-medical cannabis

Participants: All Electoral Areas



Application Received:	Date:	
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: Date Sent: Date Approved:	No
Comox Valley Regional District Board: Decision:	Date:	

Comox Valley Regional District
Bylaw No. 537

**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. 537 may be cited as the “Comox Valley Zoning Bylaw, 2005, Amendment No. 74”

Read a first time this	day of	201X.
Read a second time this	day of	201X.
Public hearing held this	day of	201X.
Read a third time this	day of	201X.

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 537, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 74,” as read a third time by the board of the Comox Valley Regional District on the XX day of XX 2018.

Corporate Legislative Officer

Approved by the Ministry of Transportation and Infrastructure this	day of	201X.
Adopted this	day of	201X.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 537, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 74,” as adopted by the board of the Comox Valley Regional District on the XX day of XX 20XX.

Corporate Legislative Officer

Schedule A

Section One Text Amendments

- 1) Part 200, “Interpretation”, is hereby amended by deleting the definitions of “Medical marihuana production”, “Retail”, “Wholesale”, “Agricultural Use”, “Agricultural Products” and inserting the following new definitions in alphabetical order:

“Agricultural use”

Means the use of land, buildings or structures for the growing, rearing, producing, harvesting, packing, storing and wholesaling of agricultural crops or raising livestock; includes processing crops grown on the land, the storage and repair of farm machinery and implements of husbandry used on that farm, and the storage, sale and processing of agricultural products harvested, reared or produced by the agricultural use. For the purpose of this Bylaw, Agriculture also includes apiculture and aquaculture, but specifically excludes intensive agriculture and cannabis production.

“Cannabis”

Has the same meaning as in the *Cannabis Act* (Canada), subject to any prescribed modifications.

“Cannabis production”

Means the commercial production, cultivation, synthesis, harvesting, altering, propagating, processing, packaging, storing and distribution of plants or scientific research of cannabis or cannabis products under the *Cannabis Act*.

“Cannabis production (medical)”

Means the commercial production, cultivation, synthesis, harvesting, altering, propagating, processing, packaging, storing and distribution of plants or scientific research of cannabis or cannabis products for medicinal purposes in accordance with a license issued by Health Canada under the *Access to Cannabis for Medical Purposes Regulation* (ACMPR).

“Plant nursery and greenhouse”

Means the use of land or buildings for growing, cultivating, harvesting, storing and sale of flowers, trees, bushes, bedding plants, and may include the sale of related gardening products and materials but specifically excludes cannabis production.

“Retail sales” Means the sale of goods to the general public and the accessory maintenance and repair of goods sold, but excludes vehicular fuels and cannabis.

“Wholesale” Means establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies and includes the maintenance and repair of such goods that are sold, but excludes the wholesale distribution of cannabis.”

- 2) Part 302(2) “Uses Prohibited In All Zones” be amended by deleting:
 - “x) Medical marihuana production, or any component thereof, except as expressly permitted elsewhere in this bylaw”
 and replacing it with the following text:
 - “x) Cannabis production, or any component thereof.
 - xi) Wholesale or retail sale of cannabis.”

- 3) Part 303 (3) (viii) “Uses Permitted on Conditions” be amended as follows:
 - “viii) Cannabis Production (medical)**
 The establishment of medical marihuana production on ALR lands in relation to farming for consistency within the *Agricultural Land Commission Act*, its regulations and orders of the Commission must not be permitted unless by a rezoning of the land.”

- 4) Part 303 (2) “Farm Use Regulations” be amended by inserting the following new text after Part 303(2)(iv):
 - “v) Cannabis Production (Medical)**
 The establishment of cannabis production (medical) on ALR lands in relation to farming for consistency within the *Agricultural Land Commission Act*, its regulations and orders of the Commission must not be permitted unless by a rezoning of the land.”

- 5) Part 304 “Home Occupations”, Part 306 “Domestic Business”, and Part 307 “Domestic Industrial Use” be amended by replacing all instances of “medical marihuana” with “cannabis.”

6) Part 300 “General Regulations” be amended by deleting:

“316 Medical Marihuana Production

1. The establishment of medical marihuana production, or any component thereof, on non-ALR lands must not be permitted unless by a rezoning of the land, in accordance with official community plan policies”

and inserting the following:

“316 Cannabis Production (Medical)

1. The establishment of cannabis production, or any component thereof, on non-ALR lands must not be permitted unless by a Temporary Use Permit or rezoning of the land, in accordance with Official Community Plan policies”.

Memo

File: 3350-20/CP 1CV 18

DATE: June 18, 2018

TO: Advisory Planning Commission
Lazo North (Electoral Area B)

FROM: Planning and Development Services Branch

RE: Official Community Plan Amendment – *Local Government Act Section 514*

The attached Comox Valley Regional District initiated Official Community Plan (OCP) amendment of Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, is for commission members’ review and comment.

The purpose of the OCP amendment is to remove Section 44.(6) of the OCP that requires parcels proposed for subdivision, in accordance with Section 514 (subdivision to provide residence for a relative) of the *Local Government Act* (RSBC, 2015, c. 1), be two times the size of the minimum parcel size required in the zoning, on the basis that the rezoning tool adequately addresses the interest of preventing fragmentation but enabling subdivision for relatives in a context sensitive specific manner.

For more information, please refer to the attached staff report dated June 7, 2018, which was presented to the Electoral Areas Services Committee on June 18, 2018.

Thank you for your review.

Sincerely,

A. Mullaly

Alana Mullaly, MCIP, RPP
Manager of Planning Services
Planning and Development Services Branch

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Attachment

DATE: June 7, 2018**FILE:** 3350-20 / CP 1CV 18**TO:** Chair and Directors
Electoral Areas Service Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative OfficerR. Dyson**RE: Official Community Plan Amendment, Local Government Act Section 514****Purpose**

To seek board approval on the Official Community Plan (OCP) amendment (Appendix A) to remove Section 44.(6) of the OCP that requires parcels proposed for subdivision, in accordance with Section 514 (subdivision to provide residence for a relative) of the *Local Government Act* (RSBC, 2015, c. 1) (LGA), be two times the size of the minimum parcel size required in the zoning.

Recommendation from the Chief Administrative Officer:

THAT proposed Bylaw No. 514 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment 3”, which removes Section 44.(6) of the Official Community Plan that requires parcels proposed for subdivision in accordance with Section 514 of the *Local Government Act* (RSBC, 2015, c. 1) be two times the size of the minimum parcel size required in the zoning, be given first and second reading;

AND THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix B, of staff report dated June 7, 2018, and direct staff to start the external agency referral process as part of a proposed amendment of Bylaw No. 514;

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

- LGA Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirement of a zoning bylaw if the subdivision will provide a residence for a relative. The LGA enables local governments to specify a minimum parcel size for parcels created pursuant to Section 514.
- Currently, the OCP requires parcels in the Rural Settlement Areas (RSA) proposed for subdivision, in accordance with Section 514 of the LGA, be two times the size of the minimum parcel size required in the zoning.
- This policy has been in place since adoption of the OCP in November 2014 and is intended to minimize fragmentation of rural lots. The Comox Valley Regional District has received three applications regarding proposed Section 514 subdivisions. One application has been processed and two are in-stream.
- On October 25, 2016, the board passed a resolution directing staff to review the removal of parcel size requirement from the OCP for all properties in the RSAs on the basis that it is not supportive of the enabling legislation.
- Section 503(3)(i) of the Zoning Bylaw also limits Section 514 of the LGA by requiring the size of the parent lot to be two times the minimum lot area required in the applicable zone.

Property owners need to apply for a rezoning in order to subdivide under Section 514 of the LGA.

- Staff recommends removal of the parcel size requirement in the OCP, as the rezoning tool adequately addresses the interest of preventing fragmentation but enabling subdivision for relatives in a context sensitive specific manner.

Prepared by:

Concurrence:

R. Holme

A. Mullaly

Robyn Holme, MCIP, RPP
Long Range Planner

Alana Mullaly, M.Pl., MCIP, RPP
Acting General Manager of Planning and
Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

None	✓
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Background/Current Situation

LGA Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirement of a zoning bylaw if the subdivision will provide a residence for a relative. This section also allows a local government to establish minimum parcel sizes for that subdivision. Currently, the OCP has a policy that requires parcels proposed for subdivision, pursuant to Section 514 of the LGA, be two times the size of the minimum parcel size within the RSAs. The previous OCP bylaw (being Bylaw No. 2042) did not contain a similar policy. Rather, the policy was introduced as part of the Regional Growth Strategy (RGS) implementation work. The provision in the Zoning Bylaw was also contained in the previous Zoning Bylaw (Bylaw No. 869, being the “Comox Valley Zoning Bylaw, 1986”) and is common in contemporary rural regional district zoning bylaws.

The “two times the parcel size” provision applies to lands outside of the Agricultural Land Reserve (ALR) and is intended to preclude small lot subdivisions in the rural areas. In the ALR, the “two times parcel size” does not apply and has historically been used to enable retiring farmers to remain in proximity to the lands that they have farmed (i.e. “home site severance”).

Since the adoption of the OCP, staff have received three applications for proposed subdivisions under Section 514. One application has been reviewed and processed and two applications are presently in-stream. The subdivision proposals required the owners to apply for a site-specific zoning amendment to obtain relief from the zoning bylaw provision. On October 25, 2016, instead of requiring an application for an OCP amendment, the board passed a resolution directing staff to review the removal of the policy on the basis that it is not supportive of the enabling legislation.

Official Community Plan Bylaw No. 337

The “two times the parcel size” provision applies to the designated RSA. Lands in the RSA are intended to support low density rural residential living, including agriculture and home based businesses. New development within the RSA should maintain rural character and support a functioning working landscape. Minimum parcel size within the RSA ranges between 20 and 4 hectares so as to ensure long-term self-sufficiency (i.e. on-site water and sewer service). In respect to parcels created through Section 514, the OCP states:

“44.(6) Permit subdivision of land in the rural settlement area for a residence for a relative under Section 946 [now Section 514] of the Local Government Act only if the parent lot is at least two times the minimum lot size required within the applicable zone in the zoning bylaw.”

The intent of the OCP policy was to ensure compliance with the density and servicing policies of the RGS. The provision was added to the OCP in 2014 in an effort to support the minimum parcel size for subdivision in the RGS.

Zoning Bylaw No. 2781

As noted previously, Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirements of a zoning bylaw if the subdivision will provide a residence for a relative. The section also allows a local government to establish minimum parcel sizes for subdivisions that provide a residence for a relative.

Pursuant to Section 514, the Zoning Bylaw states:

“503(3)(i) No subdivision shall be permitted pursuant to Section 946 [now Section 514], of the Local Government Act on lands not within the Agricultural Land Reserve, unless the parent lot is at least two times the minimum lot area required within the zone.”

As such, a parcel proposed for subdivision that does not meet the minimum parcel size, an application to rezone would be required to relieve the proposal from the regulation.

Staff recommend the removal of OCP Section 44.(6) “two times the size” policy for all properties within the RSAs, as it imposes an unnecessary barrier. Property owners applying to subdivide parcels under LGA Section 514 would still require a zoning bylaw amendment in order to obtain relief from the zoning bylaw provision. But instead of requiring an additional OCP amendment, the rezoning tool alone provides a more flexible and site specific approach to the enabling legislation, while still achieving the intent of the RGS.

Policy Analysis

Section 514 of the LGA enables an approving officer to approve subdivision of a parcel of land that would otherwise be prevented from subdivision by a provision of a bylaw or regulation that establishes a minimum parcel size. The subdivided parcel is to be used to provide a residence for a relative. Further, the section allows a local government to establish a minimum parcel size for subdivision for a residence for a relative.

Options

1. Give the OCP amendment first and second reading and direct staff to proceed with referrals to First Nations and external agencies outlined in Appendix B.
2. Direct staff to further review Section 44.(6) of the OCP requiring that parcels proposed for subdivision, pursuant to Section 514 of the LGA, be two times the size of the minimum parcel size within the zone and return to the Electoral Areas Services Committee for additional direction.

Staff recommends Option 1, as the proposed OCP amendment responds to previous board direction and recommends removal of the policy on the basis that it is not supportive of the enabling legislation.

Financial Factors

The bylaw process for this OCP amendment is an internal bylaw process, so funds from the planning service will be used for the statutory public hearing, newspaper advertisements and other expenses.

Legal Factors

The recommendations contained within this report have been prepared in accordance with the LGA.

Regional Growth Strategy Implications

The RGS does not specifically contemplate the enabling of Section 514 legislation of the LGA. The LGA states that all bylaws and services enacted following adoption of an RGS must be consistent with the RGS.

Staff's recommended removal of the OCP policy is in accordance with this requirement.

Intergovernmental Factors

Appendix B contains a list of organizations and authorities for external referral. The OCP amendment will also be referred to First Nations in accordance with the referrals management program.

Interdepartmental Involvement

There are no interdepartmental factors related to staff's recommendations.

Citizen/Public Relations

Staff will forward the proposed OCP amendment to the Electoral Area A, B and C Advisory Planning Commissions for review and comment. Statutory notice requirements (*i.e.*, public hearing) will be addressed as the amendment moves through the process.

Attachments: Appendix A – “Proposed Bylaw No. 514”
Appendix B – “External Agency and First Nation Referral List”

Title: Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3

Applicant: Comox Valley Regional District

Electoral Area: Electoral Area A (Baynes Sound excluding Denman and Hornby Islands), Electoral Area B (Lazo North), Electoral Area C (Puntledge – Black Creek)

File No.: CP 1CV 18

Purpose: To amend the Rural Comox Valley Official Community Plan

Participants: All Electoral Areas



Application Received: **Date:** N/A

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

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

Public Hearing: **Date:**

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

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

Comox Valley Regional District
Bylaw No. 514

A Bylaw to amend the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014"

WHEREAS the board has pursuant to the provisions of Section 477 of the *Local Government Act* (RSBC, 2015, c. 1), in preparing the Official Community Plan, and after first reading, the board has given consideration, in sequence, to its most recent Financial Plan, the Agricultural Land Commission Act, and Waste Management Plan to ensure consistency between them and the Official Community Plan;

AND WHEREAS pursuant to the provision of Section 473 and Section 477 (3) of the *Local Government Act*, the board considered consultation matters and held a public hearing on the proposed official community plan amendment;

NOW THEREFORE the board of the Comox Valley Regional District in open meeting assembled, enacts the following amendments to the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014:

Section One Text Amendment

- 1) Bylaw No. 337, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014," is hereby amended as set out in Schedule A attached to and forming part of this Bylaw.

Section Two Title

- 1) This Bylaw may be cited as the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3."

Read a first time this	day of	2018.
Read a second time this	day of	2018.
Public hearing held this	day of	2018.
Read a third time this	day of	2018.

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 514, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3", as read a third time by the board of the Comox Valley Regional District on the **XX** day of **XX** 2018.

Corporate Legislative Officer

Adopted this	day of	2018.
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Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 514, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3", as adopted by the board of the Comox Valley Regional District on the XX day of XX 2018.

Corporate Legislative Officer

Schedule A

Section One Text Amendment

1. Part 3 Land Use Section 44.(6), “Rural Settlement Areas – Policies (General)” be amended by deleting the existing text:

44. Rural Settlement Areas – Policies (General)

“(6) *Permit subdivision of land in the rural settlement area for a residence for a relative under Section 946 of the Local Government Act only if the parent lot is at least two times the minimum lot size required within the applicable zone in the zoning bylaw.*”

Appendix B
AGENCY AND FIRST NATIONS REFERRAL LIST

First Nations

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

Provincial Ministries and Agencies

<input type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development
<input type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy and Mines
<input type="checkbox"/>	BC Transit	<input type="checkbox"/>	Ministry of Environment
<input type="checkbox"/>	Ministry of Aboriginal Relations and Reconciliation	<input type="checkbox"/>	Ministry of Jobs, Tourism and Skills Training
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	Ministry of Transportation and Infrastructure
		<input type="checkbox"/>	BC Wildfire Services

Other

<input type="checkbox"/>	Agricultural Advisory Planning Commission	<input type="checkbox"/>	Comox Valley Economic Development Society
<input checked="" type="checkbox"/>	Electoral Area 'A' Advisory Planning Commission Baynes Sound – Denman/Hornby Islands	<input type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Electoral Area 'B' Advisory Planning Commission Lazo North	<input type="checkbox"/>	School District #71 (Comox Valley)
<input checked="" type="checkbox"/>	Electoral Area 'C' Advisory Planning Commission Puntledge – Black Creek		