

Notice of meeting of the  
**Puntledge-Black Creek (Area C)**  
**Advisory Planning Commission**  
Wednesday, September 26, 2018  
To be held in the Comox Valley Regional District boardroom  
Located at 550B Comox Road, Courtenay, BC  
Commencing at 7:00 pm

**PAGE**

1. Call to order and recognition of traditional territories
- 2** 2. Receipt of the minutes of the Wednesday, August 1, 2018, Puntledge-Black Creek (Electoral Area C) Advisory Planning Commission meeting.
- 4** 3. Memorandum dated August 16, 2018, regarding 3090-20/DV 3C 18 – Development Variance Permit Application – Unaddressed lots (Presley/Scott/Whittaker)
- 8** 4. Memorandum dated August 29, 2018, regarding 3360-20/RZ 4C 18 – Rezoning Application - 2245 Schulz Road (Pajak)
5. Status update on APC recommendations – Verbal update regarding Electoral Area Services Committee and board decisions related to APC recommendations
6. Next meeting date: TBD - This is the final meeting of the year and of the commission's term.

**ADDENDUM**

- 23** 7. Memorandum dated September 23, 2018, regarding 3090-20/DV 3C 18 – Development Variance Permit Application – Unaddressed lots (Presley/Scott/Whittaker)

***Distribution:***

Area C APC members  
Area Director  
Alternate Area Director  
Chief Administrative Officer  
General Manager of Planning & Development Services  
Manager of Planning Services  
Manager of Legislative Services  
Corporate Legislative Officer  
Planners  
CVRD website  
File copy

Reception notice board (cover page)

Minutes of the meeting of the Electoral Area 'C' (Puntledge-Black Creek) advisory planning commission of the Comox Valley Regional District held on Wednesday, August 1, 2018 in the Comox Valley Regional District boardroom, located at 550B Comox Road, Courtenay, BC, commencing at 7:05 p.m.

PRESENT:	Chair	Pearl McKenzie
	Members	Grant Gordon
		Jim Langridge
		James Derry
		David Pacholuk
		Brad Chappell
		George Trousdell
		John Milne

ABSENT	Member	Dan Thran
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ALSO PRESENT:	Area 'C' Director	Edwin Grieve
	Alternate Director	Curtis Scoville
	Acting General Manager of Planning and Development Services	Alana Mullaly
	Guest	Dianne Bostock

### **Agenda Items**

#### **Minutes of Advisory Planning Commission Meeting**

CHAPPELL/PACHOLUK: THAT the minutes of the Electoral Area 'C' (Puntledge-Black Creek) advisory planning commission meeting held on Wednesday, June 27, 2018 be received.

CARRIED

#### **6410-01/PJ 4CV 15 – Comprehensive Zoning Bylaw Review.**

Alana Mullaly, Acting General Manager of Planning and Development Services presented information regarding the Comprehensive Zoning Bylaw Review and received feedback from the commission regarding:

- efforts to make the new zoning bylaw details readily available in a format that is understandable to the lay person; and
- providing public information to clarify the regional district's jurisdiction, and that of other relevant agencies, related to planning and development matters.

**Status update on APC recommendations – Verbal update regarding Electoral Area Services Committee and board decisions related to APC recommendations**

The status update did not occur due to the length of the preceding discussion.

**Next Meeting Date**

Tentatively scheduled for Thursday, September 6, 2018 at 6:00 pm

**Termination**

CHAPPELL:                                THAT the meeting terminate.

CARRIED

Time: 9:13 P.M.

Recording Secretary:	Chair:
Jim Langridge	Pearl McKenzie

# Memo

**File:** 3090-20/DV 3C 18

**DATE:** August 16, 2018

**TO:** Advisory Planning Commission  
Puntledge – Black Creek (Electoral Area C)

**FROM:** Planning and Development Services Branch

**RE:** Development Variance Permit – unaddressed lots (Presley/Scott/Whittaker)  
Part of Section 33, Township 9, Comox District, Plan 552G (PID 000-878-162)  
Part of Section 34, Township 9, Comox District, Plan 552G (PID 000-878-120)

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

An application has been received to consider a Development Variance Permit (DVP) that would enable a lot line adjustment involving four properties (Figure 1). The DVP would allow for two of the properties to end with road frontages of less than 10% of the final lot's perimeter, as summarized in Table 1 below.

**Table 1. Summary of requested variances**

Property	Current frontage	Proposed frontage Orr Road
PID 000-878-162	0 metres (0%)	30 metres (1.5%)
PID 000-878-120	24.86 metres (2.3%)	35 metres (5%)

## Lot Line Adjustment

The subject properties were created as a 30 metre corridor for the Esquimalt and Nanaimo Railway Company (E&N Railway) with the north-south property lines determined by section lines on the original 1893 survey. The neighbouring property owners acquired these properties. To provide the middle lot with road access, they are proposing extend it to Orr Road at the expense of the eastern lot. The subject properties are all within the Agricultural Land Reserve which requires that such lot line adjustments keep the properties over 1 hectare; therefore, to make the eastern lot 1 hectare, its width is proposed to be expanded by 5 metres, bringing its proposed frontage to 35 metres or 5% of the proposed lot's perimeter. The western lot involved in the adjustment would have frontage of 15% of its perimeter and, therefore, does not require a variance.

## Zoning

The properties are all zoned Rural-ALR. Section 503(2) of the zoning bylaw allows for lot line adjustments where the properties do not meet the minimum lot areas as long as they are contiguous. However, Section 503(1)(iii) and Section 803(7)(ii) require a minimum lot frontage of 10% of the perimeter of the lot. The applicants are seeking to vary this frontage requirement for two of the

proposed lots to allow for the lot configuration as portrayed in Appendix A.  
Please be advised that all adjacent properties within 500 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

/jm

Attachments Appendix A – “Subject properties involved in the proposed lot line adjustment”

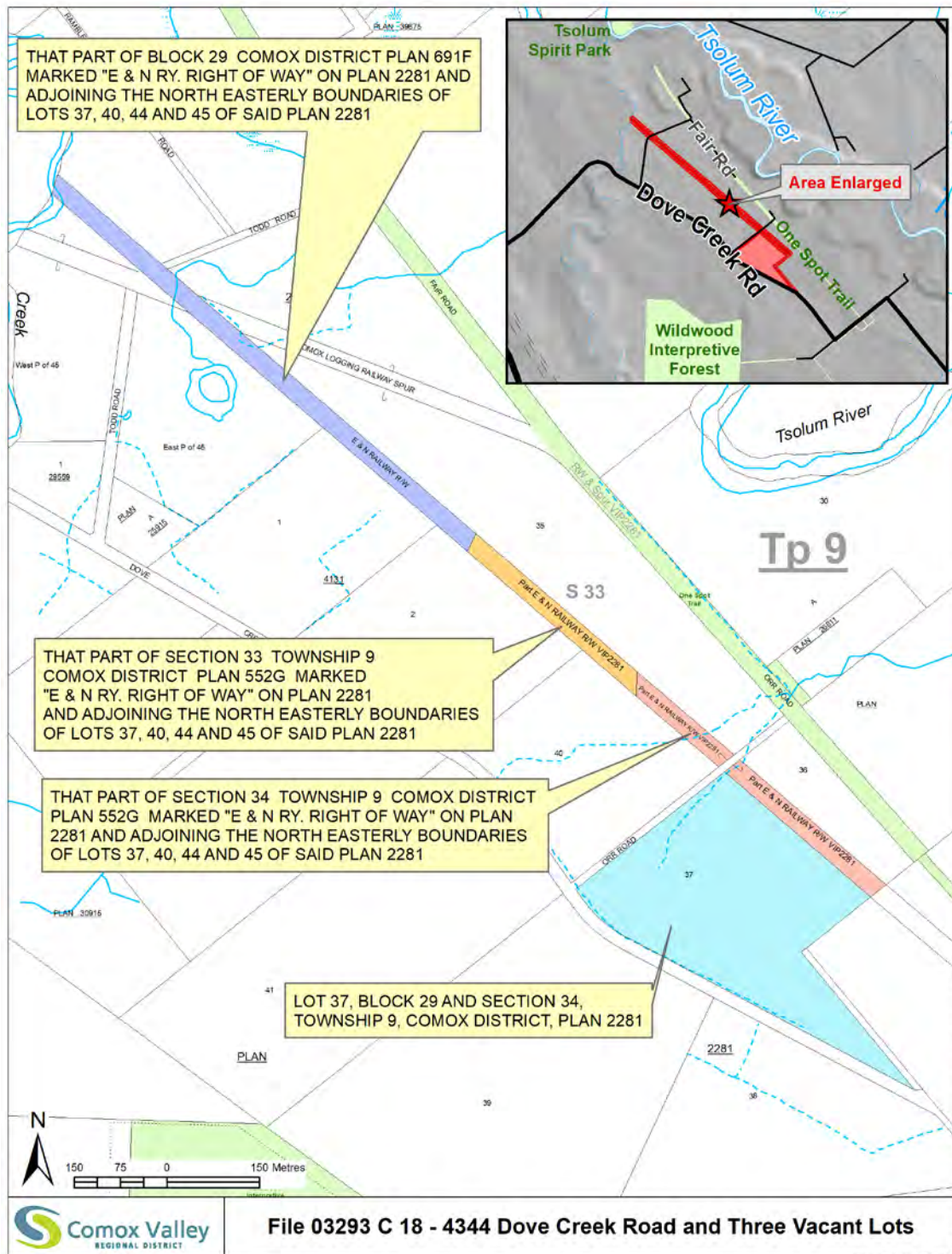
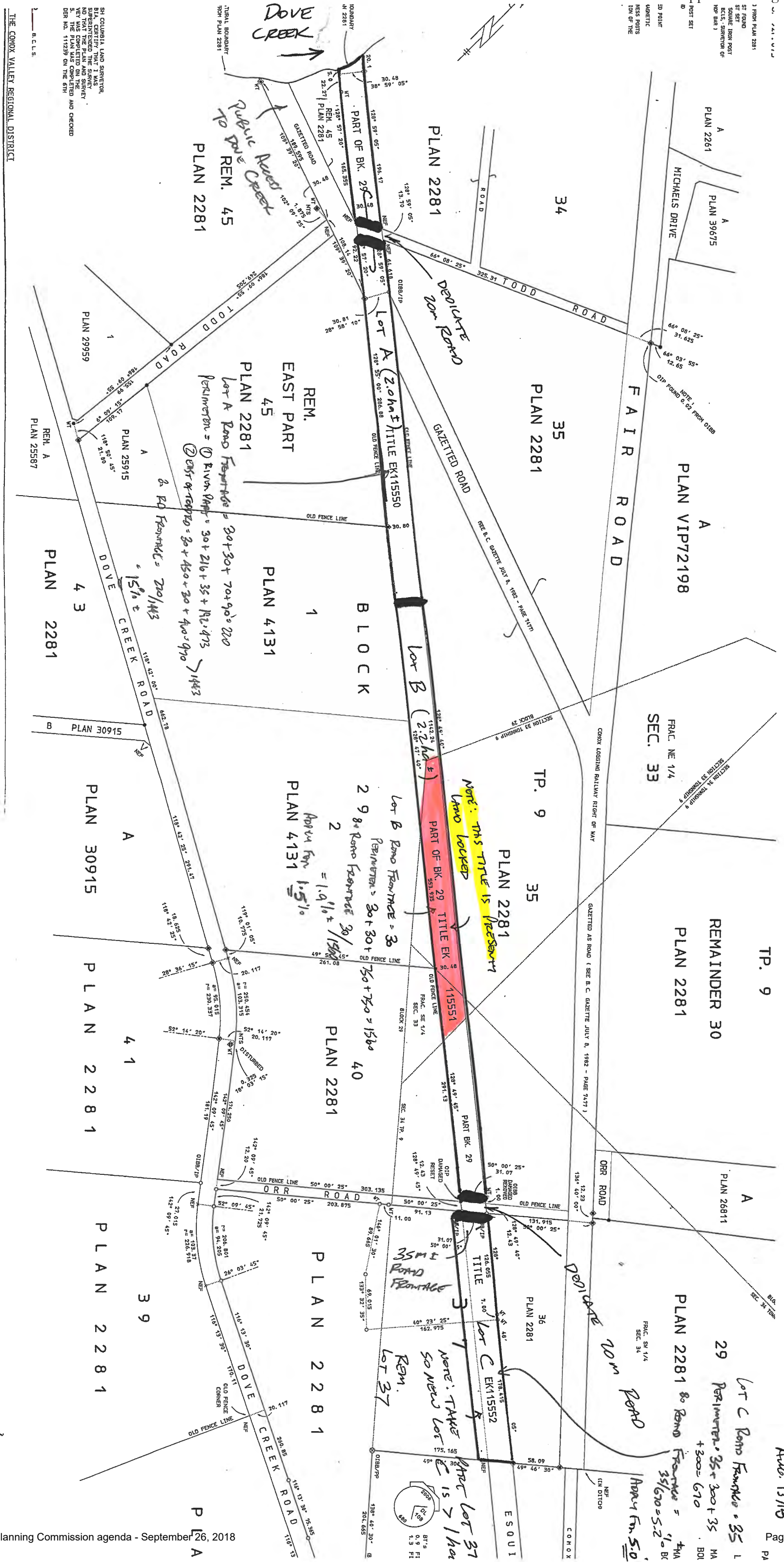


Figure 1: Properties involved in the proposed lot line adjustment which would see the orange lot extended to Orr Road at the expense of the red lot which will shrink to a 1 ha size with a small amount of land taken from the light blue lot; the dark blue lot will also shrink due to road dedication to connect Todd Road (and some land given to the orange lot).



\*Note: An 4 titles are  
 Presently > 1ha and can  
 be > 1ha after subdivision.

Proposed Subdivision  
 Sketch Plan

Aug 13/18

Aug 13/18 ~ 1952 - DVP - Sketch - 1

May 27/18

# Memo

**File:** 3360-20/RZ 4C 18

**DATE:** August 29, 2018

**TO:** Advisory Planning Commission  
Puntledge – Black Creek (Electoral Area C)

**FROM:** Planning and Development Services Branch

**RE:** Rezoning Application – 2245 Schulz Road (Pajak)  
Parcel A (DD 10199W) of Lot 21, Block 29, Comox District, Plan 4267,  
PID 005-027-462

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

An application has been received to consider a Zoning Bylaw amendment for a property at 2245 Schulz Road. The subject property is approximately 4.2 hectares in area. It is a long, narrow lot, bounded by Schulz Road to the north, Miracle Beach Elementary School to the southeast, residential lots to the south and Old Island Highway to the west. The property is split zoned: Country Residential One (CR-1) in the western portion and Residential One B (R-1B) in the eastern portion. The applicant wishes to rezone the property in order to resolve the split zone situation, and to provide subdivision opportunities.

For more information, please refer to the attached staff report dated August 2, 2018, which was presented to the Electoral Areas Services Committee on August 13, 2018.

Thank you for your review.

Sincerely,

***A. Mullaly***

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

\bc

Attachment: Staff Report Dated August 13, 2018



**DATE:** August 2, 2018

**FILE:** 3360-20/RZ 4C 18

**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 – 2245 Schulz Road (Pajak)  
Puntledge – Black Creek (Electoral Area C)  
Parcel A (DD 10199W) of Lot 21, Block 29, Comox District, Plan 4267,  
PID 005-027-462**

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### **Purpose**

To seek Comox Valley Regional District (CVRD) Board support to undertake external agency and First Nations referrals for a proposed rezoning to resolve a split zoned situation and to enable future subdivision.

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

THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix B of staff report dated August 2, 2018, and direct staff to start the external agency referral process for Parcel A (DD 10199W) of Lot 21, Block 29, Comox District, Plan 4267, PID 005-027-462 (Pajak) as part of a proposed amendment (RZ 4C 18) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”;

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

AND FINALLY THAT the Comox Valley Regional District Board authorize staff to begin discussions on provision of community amenities as per Section 72 “Community Amenity Contributions” of Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014.”

### **Executive Summary**

- The subject property is located at 2245 Schulz Road in Electoral Area C (Figures 1 and 2).
- The approximate size of the property is 4.2 hectares.
- The property is split-zoned: Country Residential One (CR-1) in the western portion and Residential One B (R-1B) in the eastern portion (Figure 3).
- The applicant wishes to rezone the property in order to resolve the split zone situation, and to provide subdivision opportunities. While the current plan is to subdivide into three lots, the applicant requests a zone with a minimum lot area of subdivision of 0.4 hectares.
- Note that the zoning bylaw is under review. In the proposed zoning bylaw, the minimum lot area for residential zones will be 1.0 hectare, based on feedback from Vancouver Island Health Authority (VIHA).
- The subject property is in the Saratoga Miracle Beach Settlement Node as per the Comox Valley Regional District Regional Growth Strategy (RGS) and Rural Comox Valley Official Community Plan (OCP). The rezoning application is consistent with these plans.

- The draft Saratoga Miracle Beach Local Area Plan (LAP) designates the subject property within “Residential” and is within the Core Development Area. The rezoning application is also consistent with the draft.
- The CVRD Board is recommended to conduct First Nations and external agency referrals for this rezoning application (Appendix B). External referral will help in determining actual redevelopment potential. In addition, the CVRD Board is recommended to authorize staff to begin discussions on provision of community amenities as per Section 72 of the OCP.

Prepared by:

***B. Chow***

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Brian Chow, MCIP, RPP  
Rural Planner

Concurrence:

***A. Mullaly***

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

### **Background/Current Situation**

The subject property is located at 2245 Schulz Road and is approximately 4.2 hectares in area (Figures 1 and 2). It is a long, skinny lot, bounded by Schulz Road to the north, Miracle Beach Elementary School to the southeast, residential lots to the south and Old Island Highway to the west. The property is split zoned: CR-1 in the western portion and R-1B in the eastern portion (Figure 3). The applicant wishes to rezone the property in order to resolve the split zone situation, and to provide subdivision opportunities. While the current plan is to subdivide into three lots, the applicant requests a zone with a minimum lot area of subdivision of 0.4 hectares.

### Official Community Plan Analysis

Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” designates the subject property within Saratoga and Miracle Beach Settlement Node. The draft Saratoga Miracle Beach LAP designates this property as Residential and is within the Core Development Area. This designation is for small-lot neighbourhoods with single detached dwellings and provisions for secondary suites, carriage houses and secondary dwellings. The residential density is to be between four to 24 units per hectare subject to the availability of community water and sewer services. The rezoning application is consistent with the growth management framework of these plans.

Section 33(4) of the OCP indicates that the community amenity policy in part 4 of the OCP is to be applied for development in settlement nodes. It is a priority to have community amenities that support the goals and objectives of the settlement node and local area plan. Section 72 of the OCP contains the policies on community amenity contributions.

### Zoning Bylaw Analysis

The subject property is split zoned. In the review of zoning history, the property first appeared as split zoned in Bylaw No. 869, which was adopted on April 28, 1986. (The applicant owned this property in October 1986.) Currently, in Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, the minimum lot area for subdivision for the CR-1 zone is 2.0 hectares and the minimum lot area for the R-1B zone is 0.40 hectares, if the lot is connected to either community water or sewer. The subject property is in the Black Creek/Oyster Bay Water Local Service Area. Approximately 1.0 hectare of the 4.2 hectare lot is zoned R-1B.

The application to rezone the entire lot to a residential zone that will enable subdivision. The applicant requests to rezone the lot to a zone with the minimum lot area of 0.4 hectares, based on the current minimum subdivision lot area in the R-1B zone. The current plan is to subdivide into three lots and leave the remainder density for the future. Note that the current zoning bylaw is under review, and in the draft zoning bylaw, the minimum lot area for residential zones will be 1.0 hectare, based on feedback from VIHA. Through the rezoning process, the applicant will be required to demonstrate the actual subdivision potential based on on-site servicing capacity. A site specific study will ensure that onsite wastewater treatment systems will be sustainable for the long term.

### Easement Analysis

The land title of the subject property identifies that there is an easement agreement (ID: L5606) between the applicant and property owners to the south (Appendix A). The easement agreement indicates that there are two easement areas, identified and outlined as Easement Area A and Easement Area B, on the subject property. The two easement areas can be used by the property owners to the south to trespass; to construct and maintain roads and associated ditches, drains, sewers or other necessary installations; and to be dedicated as public roads to the Ministry of Transportation and Infrastructure, if the signatories agree. While the CVRD is not a signatory in this easement, there exists an opportunity for neighbourhood connectivity, such as having another access to the school. This could be the basis for community amenity discussions per Section 72 of the OCP.

### **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, 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**

The board can:

1. Refer the application to external agencies and First Nations for review, or
2. Deny the application to rezone the property to allow for a reduced parcel size.

Staff recommends option 1. This will enable staff to collect specific feedback on the application.

### **Financial Factors**

The applicant has paid for the rezoning application review in accordance with the Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”. If the application proceeds to statutory public hearing, additional fees will be required. Fees paid to date account for the rezoning only and not future subdivision or development permit fees.

### **Legal Factors**

This report and the recommendations contained herein are in compliance with the LGA and CVRD bylaws. The LGA authorizes a local government to regulate the use of land and buildings.

### **Regional Growth Strategy Implications**

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”, designates the subject property within the Saratoga and Miracle Beach Settlement Node. Settlement Nodes shall accommodate growth through a balance of new development, intensification and improvements to public infrastructure (MG Policy 1B-1). The growth management framework is to direct 90 per cent of growth to Core Settlement Areas, and this Settlement Node is part of the

Core Settlement Area. Therefore, the proposed rezoning to enable subdivision is consistent with this growth management framework. Specific uses within the settlement nodes are identified in the Saratoga Miracle Beach LAP (MG Policy 1B-2).

### **Intergovernmental Factors**

Appendix B contains a list of agencies and First Nations, to which staff recommends referring the application. Feedback from the referral will be reported at a future Electoral Areas Services Committee meeting.

### **Interdepartmental Involvement**

Planning staff is leading this application. Input from engineering services regarding development cost charges and water connections will be sought if the application proceeds to subdivision. A rainwater management plan is required at this rezoning application stage in order to determine and confirm the development potential. The rainwater management plan should include appropriate mitigation measures in order to maintain pre-development or natural hydrologic conditions including natural rates of surface runoff, infiltration to shallow groundwater and infiltration to deep groundwater. If the CVRD Board accepts Jim Dumont's Saratoga Master Drainage Plan, the application would need to meet the plan's recommendations.

Parkland dedication at time of subdivision only applies when a proposal includes subdivision of more than three lots.

### **Citizen/Public Relations**

Staff recommends that the application be referred to the Area C Advisory Planning Commission. If the application proceeds to bylaw preparation, community consultation will be held in accordance with Bylaw No. 328 (*i.e.*, statutory mailing and public hearing).

Attachments: Appendix A – “L5606 Easement”  
Appendix B – “Agency List”

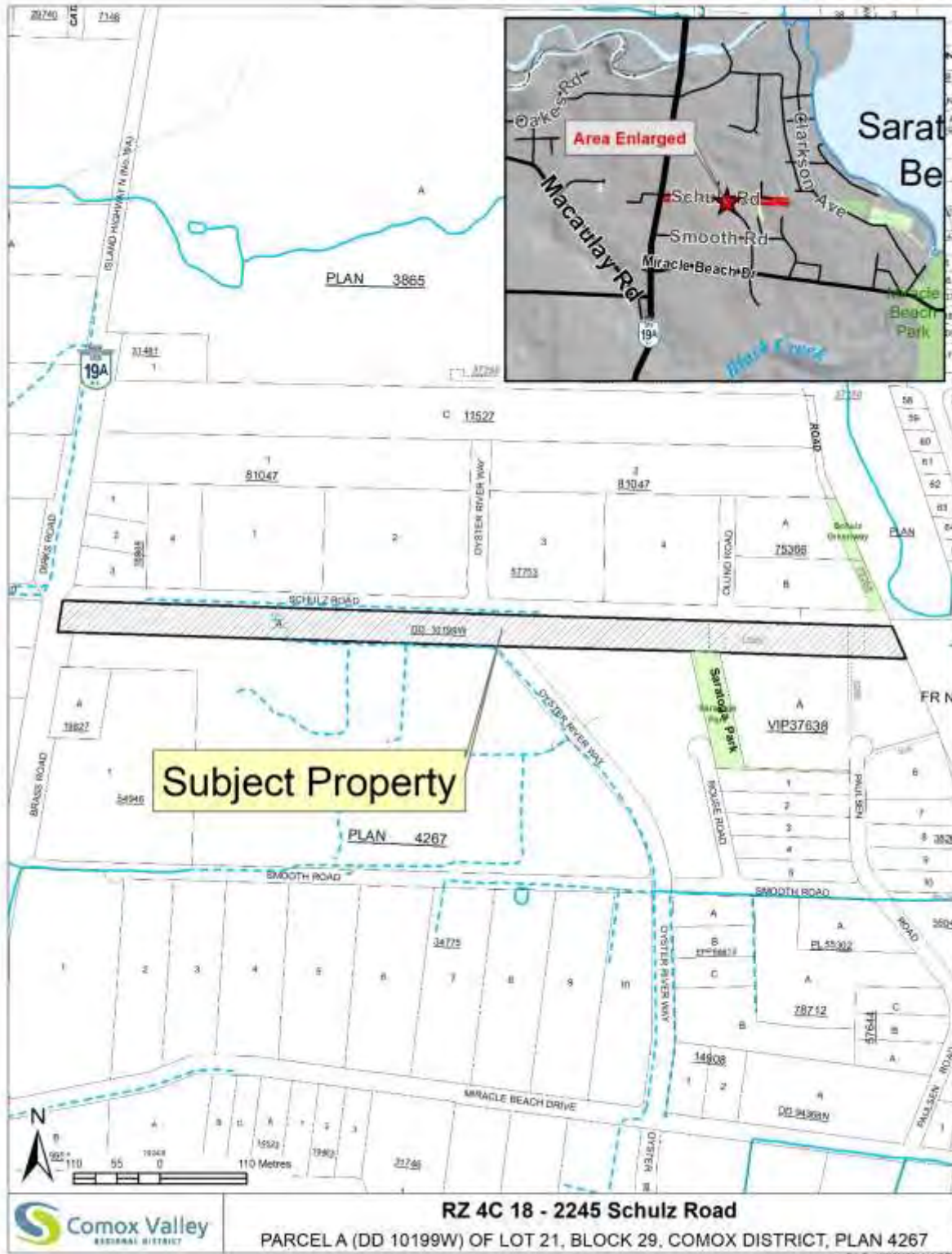


Figure 1: Subject Property Map



Figure 2: Air Photo

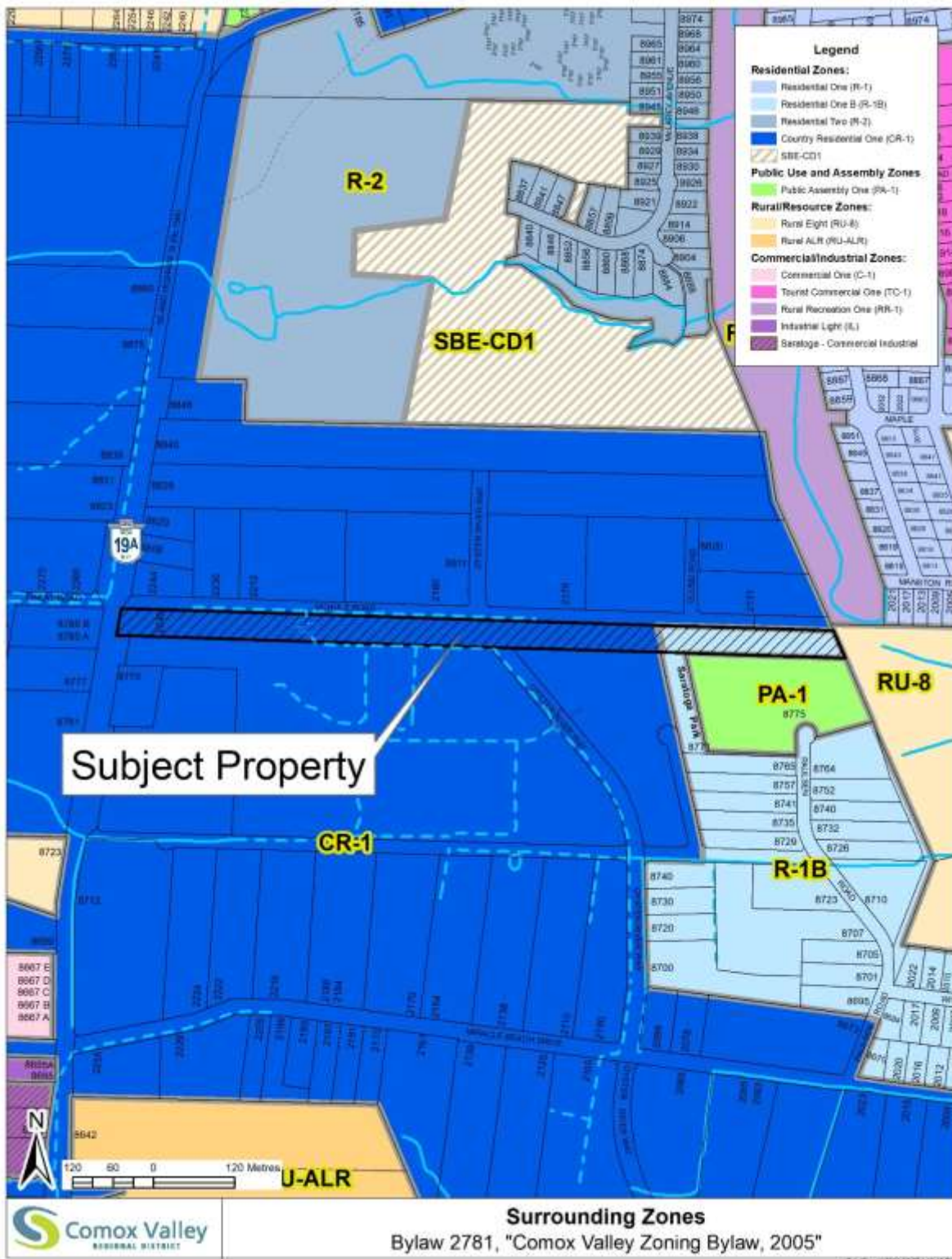


Figure 3: Zoning Map

Status: Registered

Doc #: L5606

RCVD: 1982-01-27 RQST: 2018-06-05 13.53.36

FORM 17 - LAND TITLE ACT  
APPLICATION

*2/2*  
**L 5606**  
*IR 8/11*  
*CTC 8979*

NOTE: Before submitting this application, applicants should check and satisfy themselves as to the tax position, including taxes of the Crown Provincial, a municipality and improvement water and irrigation districts.

➔ Send All Documents & Notices To

NATURE OF INTEREST: EASEMENT  
HEREWITH FEE OF: \$10.00

**VICTRO Registry Services Ltd. - Agent**  
**Box 1537, Victoria, B.C.**  
**V8W 2X7**

FULL NAME of person entitled to be registered as owner:  
Shown in instrument: Leo Baldwin Richards and Evelyn Jean Richards  
LEGAL DESCRIPTION:  
Shown in instrument

FULL NAME, ADDRESS AND TELEPHONE NUMBER of person presenting this application:  
IAIN A. BRAND, Barrister & Solicitor, 968 Fitzgerald Avenue, Courtenay, B.C. V9N 2R5  
Telephone: 338-9242

*Gene Dela*  
(Signature of Authorized Agent)

GRANT OF EASEMENT

LAND REGISTRY  
'82 JAN 27 10:50  
VIC

THIS DEED MADE THE 30<sup>th</sup> DAY OF *December*, A.D. 1981.

BETWEEN: THOMAS JOSEPH NORTON, Logger, and  
WENDY ELIZABETH NORTON, His Wife,  
both of R.R.#1,  
Black Creek, B.C. VOR 1C0

As Joint Tenants  
(hereinafter called "the Grantors")

OF THE FIRST PART

AND: LEO BALDWIN RICHARDS, Businessman, and  
EVELYN JOAN RICHARDS, Housewife,  
both of R.R.#1,  
Black Creek, B.C. VOR 1C0

As Joint Tenants

OF THE SECOND PART

WHEREAS:

*27-82 371084 L513 10.00*

1. The GRANTORS are the Registered Owners in Fee Simple of the land situate immediately adjacent and to the north of the Dominant Tenement, namely:

Parcel "A" (DD 10199-W) of Lot 21, Block 29, Comox District, Plan 4267

hereinafter known as the "Servient Tenement".

2. The GRANTEES are the Registered Owners in Fee Simple of the following lands in the Comox Assessment District, namely:

Remainder of Lot 21, of Block 29, Comox District, Plan 4267, EXCEPT Parcel "A" (DD 10199-W) thereof and except those parts thereof included within the boundaries of Plan 19827 and Plan 37370

FORM 1

(Section 36)

hereinafter known as the "Dominant Tenement".

MORANDUM OF REGISTRATION

Registered on application received on the day and time written hereon

R E HOOPER, Registrar of the  
Victoria Land Title Office



Status: Registered

Doc #: L5606

- 2 -

3. The GRANTORS have agreed to grant to the GRANTEES such Right of Way as is hereinafter contained and described.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. In consideration of the sum of \$2,000.00 paid by the GRANTEES to the GRANTORS (the receipt whereof the GRANTORS hereby acknowledge) the GRANTORS hereby GIVE AND GRANT unto the GRANTEES FULL RIGHT AND LIBERTY for the GRANTEES and their successors in title, the owners and occupiers for the time being of the Dominant Tenement or any part thereof, and their respective servants and licensees (in common with the GRANTOR and all others having the like right) at all times hereafter by day or night with or without vehicles to pass and repass along over and upon the Servient Tenement in the Easement Areas shown outlined in red on the Plan annexed hereto (which Plan is entitled Annex "A" to Grant of Easement, Norton and Norton to Richards and Richards) and which are more completely described hereinafter.

2. Without restricting the generality of the foregoing, the GRANTEES shall have the right to construct and maintain a roadway and all ancilliary ditches, drains, sewers or other installations deemed necessary, practical or expedient in each of the Easement Areas for furthering the purposes and intents of the Easement granted herein and hereby.

3. The Easement Areas are comprises of two separate parcels shown as Easement Area "A" and Easement Area "B" on the Plan attached hereto.

4. Easement Area "A" is more particularly described as:

All that portion of Parcel "A" (DD 10199-W) of Lot 21, Block 29, Comox District, Plan 4267, lying to the West of and out to a limit 20 m perpendicularly distant from and parallel to a certain base line and its extensions, which said base line commences on the Southerly boundary of the said Parcel "A" 54.685 m, more or less, Westerly of the Southeast corner of the said Parcel "A" and bears Northerly to intersection with the Northerly boundary of the said Parcel "A" 37.37 m, more or less, Westerly from the Northeast corner of the said Parcel "A".

5. Easement Area "B" is more particularly described as:

All that portion of Parcel "A" (DD 10199-W) of Lot 21, Block 29, Comox District, Plan 4267, lying to the West of and out to a limit 20 m perpendicularly distant from and parallel to a certain base line and its extensions, which said base line commences on the Southerly boundary of the said Parcel "A" 274.71 m, more or less, Westerly of the Southeast corner of the said Parcel "A" and bears Northerly to intersection with the Northerly boundary of the said Parcel "A" 255.490 m, more or less, Westerly from the Northeast corner of the said Parcel "A".

6. In the event that the GRANTORS shall dedicate the land encompassed within either Easement Area "A" or Easement Area "B", or both, to the Department of Highways of the Province of British Columbia for the purposes of a public roadway,

Status: Registered

Doc #: L5606

RCVD: 1982-01-27 RQST: 2018-06-05 13.53.36

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3

then the GRANTEES agree and undertake to execute such releases as may be required in order to permit such dedication to take place.

7. This Deed and everything contained herein shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, assigns, and the like.

IN WITNESS WHEREOF the parties have hereunto set their respective hands and seals the day and year first shown above.

SIGNED, SEALED AND DELIVERED by )  
THOMAS JOSEPH NORTON and WENDY )  
ELIZABETH NORTON in the presence of: )

Lena Nelson   
Name )

LENA NELSON   
Address  2945 Muir Road   
 Courtenay, B.C. V9N 6A2   
 Legal Secretary  )

Occupation )

Thomas Joseph Norton   
THOMAS JOSEPH NORTON )

Wendy Elizabeth Norton   
WENDY ELIZABETH NORTON )

SIGNED, SEALED AND DELIVERED by )  
LEO BALDWIN RICHARDS and EVELYN )  
JOAN RICHARDS in the presence of: )

Iain A. Brand   
Name )

IAIN A. BRAND   
Address  968 FITZGERALD AVENUE   
 COURTENAY, B.C. V9N 2R5   
 TELEPHONE: 338-9242   
 BARRISTER & SOLICITOR  )

Occupation )

L. Richards   
LEO BALDWIN RICHARDS )

Evelyn Joan Richards   
EVELYN JOAN RICHARDS )

APPROVAL AND CONSENT

The UNION BAY CREDIT UNION, its authorized signatories, having read and understood the above Grant of Easement made by Thomas Joseph Norton and Wendy Elizabeth Norton to Leo Baldwin Richards and Evelyn Joan Richards, as Grantees, does hereby APPROVE and CONSENT to the said Grant of Easement over Parcel "A" (DD 10199-W) of Lot 21, Block 29, Comox District, Plan 4267.

The Common Seal of the UNION BAY )  
CREDIT UNION was hereunto affixed this )  
25th day of January , 1982 )  
in the presence of: )

W. A. Johnson President   
 J. P. White Counselor - Manager  )

(seal)

Status: Registered

Doc #: L5606

RCVD: 1982-01-27 RQST: 2018-06-05 13.53.36

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Map Printers and Stationers Ltd., Vancouver, B.C.  
Law and Commercial Stationers Form No. L1A 6

### LAND TITLE ACT

FORM 6  
(Section 46)

### PROOF OF EXECUTION BY CORPORATION

I CERTIFY that on the 25th day of January, 1982  
at Courtenay in British Columbia,

~~XX~~ (State full name, address, and occupation)

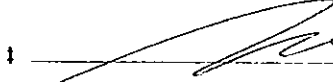
PAT WATERFIELD

who is personally known to me, appeared before me and acknowledged to me that ~~he~~<sup>she</sup> is the authorized signatory of UNION BAY CREDIT UNION

and that ~~he~~<sup>she</sup> is the person who subscribed ~~his~~<sup>her</sup> name and affixed the seal of the corporation to the instrument, that ~~he~~<sup>she</sup> was authorized to subscribe ~~his~~<sup>her</sup> name and affix the seal to it, (and that the corporation existed at the date the instrument was executed by the corporation.)

IN TESTIMONY of which I set my hand and seal of office at Courtenay, British Columbia

this 25th day of January, 1982

  
ROY WILLIAM POUSS  
A Commissioner for Taking Affidavits  
for British Columbia

\*Where the person making the acknowledgment is personally known to the officer taking it, strike out these words in brackets.  
†These words in brackets may be added, if the applicant wishes the registrar to exercise his discretion under the section 162(5) not to call for further evidence of the existence of the corporation.  
‡Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

Status: Registered

Doc #: L5606

5

5606

Mack Printers and Stationers Ltd., Vancouver, B.C.  
Law and Commercial Stationers Form No. LTA 2

LAND TITLE ACT

FORM 2  
(Sections 43 (a) and 44 (a))

AFFIDAVIT OF WITNESS

I, LENA NELSON, of CITY OF COURTENAY

in British Columbia, make oath and say:

1. I was present and saw this instrument duly signed and executed by Thomas Joseph Norton and Wendy Elizabeth Norton the party(ies) to it, for the purposes named in it.
2. The instrument was executed at Courtenay, British Columbia
3. I know the party(ies), who is(are) 19 years old or more.
4. I am the subscribing witness to the instrument and am 16 years old or more.

Sworn before me at Courtenay

in British Columbia, this 18

day of January, 19 82

Doyle W. Ostrud

Lena Nelson

\*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.  
NOTE — This affidavit must be sworn by a witness who is not a party to the instrument.

Mack Printers and Stationers Ltd., Vancouver, B.C.  
Law and Commercial Stationers Form No. LTA 2

LAND TITLE ACT

FORM 2  
(Sections 43 (a) and 44 (a))

AFFIDAVIT OF WITNESS

I, \_\_\_\_\_, of \_\_\_\_\_

in British Columbia, make oath and say:

1. I was present and saw this instrument duly signed and executed by Leo Baldwin Richards and Evelyn Joan Richards the party(ies) to it, for the purposes named in it.
2. The instrument was executed at Courtenay, British Columbia
3. I know the party(ies), who is(are) 19 years old or more.
4. I am the subscribing witness to the instrument and am 16 years old or more.

Sworn before me at Courtenay

in British Columbia, this \_\_\_\_\_

day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_

\*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.  
NOTE — This affidavit must be sworn by a witness who is not a party to the instrument.

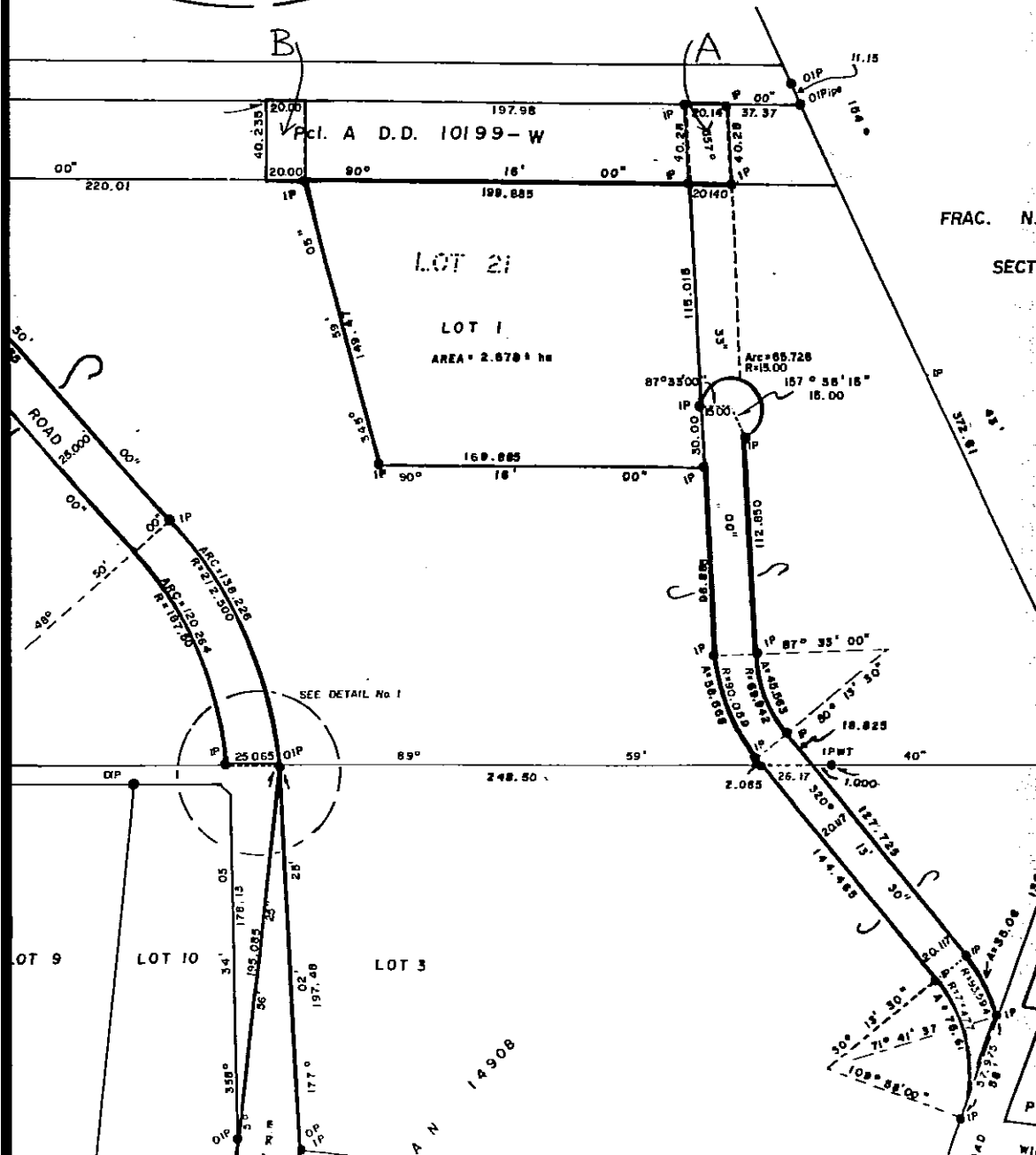
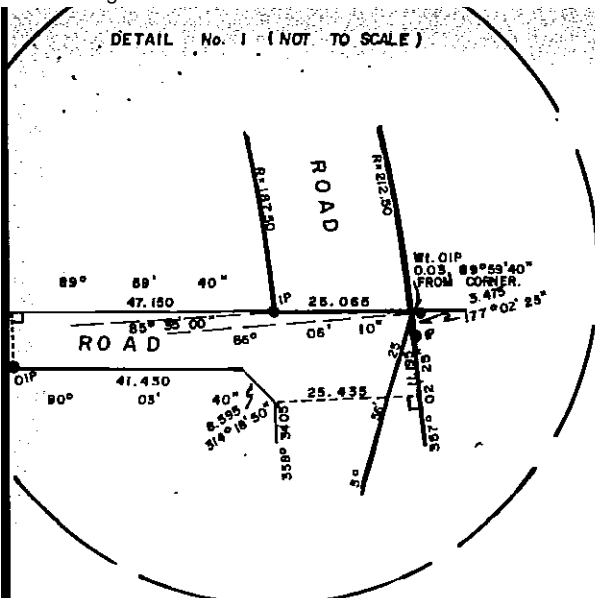
Status: Registered

Doc #: L5606

DEPOSITED L 5606

Annex "A" to Grant of Easement  
Norton and Norton to Richards and Richards

Easterly portion of Parcel "A" (DD 10199-W)  
Block 29, Comox District, Plan 4267,  
shown outlined in yellow.



## Agency and First Nations Referral List

The following agencies will receive a referral of the proposal .

### First Nations

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

### Provincial Ministries and Agencies

	Agricultural Land Commission		Ministry of Community, Sport & Cultural Development (responsible for TransLink)
<input checked="" type="checkbox"/>	BC Assessment		Ministry of Energy & Mines
	BC Parks		Ministry of Forests, Lands and Natural Resource Operations
	Ministry of Environment	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Tourism & Skills Training (responsible for Labour)
	Ministry of Agriculture		Ministry of Indigenous Relations and Reconciliation

### Local Government

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

### Other

<input checked="" type="checkbox"/>	Puntledge – Black Creek Area 'C' Advisory Planning Commission		Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)

## ADDENDUM

DATE: September 23, 2018

TO: Area C Advisory Planning Commission

FROM: Patrick and Niki Whittaker (75% owners of the three titles of the former E&N railway right-of-way)

RE: Development Variance Permit – unaddressed lots (Presley/Scott and Whittaker) Part of Section 33, Township 9, Comox District, Plan 552G (PID 000-878-162) Part of Section 34, Township 9, Comox District, Plan 552G (PID 000-878-120)

We would like to introduce ourselves (Niki and Patrick Whittaker) as the majority owners of the three properties in question; we own these three properties with the other 25% owners, Murray Presley and Ann Scott.

We would like to ensure that the Planning Commission is working on correct information with regards to the PDF attachment detailing the agenda and details to this meeting (September 26, 2018 Area C Advisory Planning Commission). Firstly, we were not mentioned as owners. Secondly, we are NOT the adjacent/neighboring land owners and thirdly, we have NO intentions of selling the lots. Finally, we have questions around the use of the word “develop” because our intentions are to relocate our young family and to enhance and continue to farm.

A brief history about us and our intentions. Patrick was born and raised in the Comox Valley and grew up in Dove Creek on his parent’s farm. Patrick’s family is one of the adjacent land owners to the properties in question and have held the land for near fifty years. Patrick left the Valley to study agriculture at the University of Saskatchewan, and finished his formal education as a Doctor of Veterinary Medicine in 2004. From 2004 to 2016, Patrick worked as a cattle veterinarian in Alberta. Niki holds a Bachelor of Science in Agriculture from The University of British Columbia and is a Professional Agrologist in B.C.. Niki’s career to date has involved working for the Agriculture Division of Statistics Canada in Ottawa for 4 years and 11 years with Alberta Agriculture and Forestry as a Senior Policy Analyst/Advisor working on The Land Use Framework amongst other projects. We are both passionate about agriculture and believe strongly in its value and place in the Comox Valley.

Two and a half years ago, we moved our family from Alberta to B.C., to be nearer family, to help and become involved with the family farm, and to hopefully begin the process of succession with Patrick’s parents, a shared dream of ours. We have two young children aged 4 and 6 and currently own and live in a house in the City of Courtenay. Our intention with regards to the properties in question, is primarily to continue to farm; this is a challenge when we are not present and living on the premises. The land is currently used to put up forage and is used for cattle grazing. Niki keeps bees on the properties and would like to grow this enterprise amongst others. Due to ALR restrictions, we are unable to build our own home on Patrick’s family’s land and we are not in a position, nor would we want to suggest anybody should leave prematurely. As such, we have always seen the land we own as an opportunity to build a home and move our family from the city out to the farm in order to be present and farming.

For assorted reasons, succession of the family farm is not guaranteed. As such, we have always discussed the feasibility of farming the properties in question as stand-alone pieces without owning Patrick's family's adjacent land. Due to the properties being part of the former E&N railway right-of-way, by design, the parcels in question, although very long, are only 100 feet wide. Although this might seem narrow in a rural agricultural setting, this is almost double or even triple the width of many city lots, and actually constitutes over 10 acres in total. The Development Variance Permit has come to the forefront only because of this inherent narrow width of the properties. We feel farming these pieces as stand-alone pieces is absolutely possible and we have investigated several options. This is where we come to the issue of accessibility on the middle piece, which is **currently land locked and the reason we are going through this process.**

Due to the history of the properties being part of the former E&N railway right-of-way, we also own part of Todd and Orr Roads crossing our properties. As roads make for logical boundaries, we want to dedicate road as part of this process.

To us, the objectives of this process have always been clear. To provide road access to all three titles in order to facilitate farming and to dedicate the road portions, which we feel should be public road, back to the province. Our hope through this addendum is that we might be better able to demonstrate our desire to promote and strengthen the long-term viability of agriculture in the Comox Valley.

Sincerely and With Best Regards,

Niki and Patrick Whittaker