



STAFF REPORT

DATE: January 10, 2024

FILE: 0540-04 EASC

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Dave Leitch
Chief Administrative Officer

RE: REZONING APPLICATION: RZ 1D 22 (KRESS)

ROLL No.:	772 01349.640	PID No.:	018-874-738
APPLICANT:	Dwayne Kress		
AGENT:	N/A		
LAND DESCRIPTION:	Lot A, District Lot 90, Comox District, Plan VIP59401		
LOCATION:	3800 Block, Island Highway S.		
OCP:	Bylaw No. 276 "Oyster Bay – Buttle Lake Official Community Plan Bylaw, 2023"		
EXISTING DESIGNATION:	Residential		
ZONING BYLAW:	Bylaw No. 1404 "Campbell River Area Zoning Bylaw, 1991"		
EXISTING ZONE	Country Residential Four (CR-4)		
PROPOSED ZONE:	Residential Two (R-2)		

PURPOSE

To consider a zoning bylaw amendment to facilitate subdivision of a 2.41-hectare (5.95 acre) parcel into five residential lots.

POLICY ANALYSIS

Part 14 "Planning and Land Use Management" of the *Local Government Act (LGA)* addresses local governments' roles regarding zoning bylaws, namely s.479 (Zoning Bylaws) and s. 464 - 467 (Requirement for Public Hearings). With the passing of Bill 44, Section 464 has been updated to reflect Provincial changes, namely s.464(3) A local government **must not** hold a public hearing on a proposed zoning bylaw if (a) an official community plan is in effect for the area that is the subject of the zoning bylaw, (b) the bylaw is consistent with the official community plan, (c) the sole purpose of the bylaw is a development that is, in whole or in part, a residential development, and (d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

EXECUTIVE SUMMARY

An application has been received to rezone a 2.4-hectare parcel of land located in the 3800 block of the South Island Highway in Electoral Area D. The proposal requires the existing zoning be changed from Country Residential Four (CR-4) to Residential Two (R-2) to allow the development of a 5-lot residential subdivision to be accessed by a frontage road along the Island Highway. Each of the proposed lots will require a connection to the Electoral Area D community water system and onsite sewage disposal will be provided by way of onsite septic disposal, designed and installed as per Island Health standards.

Staff have negotiated a 5-metre wide trail along the north boundary of proposed Lot 1 to provide a non-motorized trail to the lands behind and will be requesting that at time of subdivision that this right-of-way be upgraded to a full road width to provide for vehicular access to future development. The provision of the requested right-of-way results in the proposed lot sizes being below the existing 4000 square metre requirement of the country residential zones and therefore a rezoning to residential, consistent with the parcel's OCP designation, is required.

The proposal is consistent with the OCP and complements existing lot sizes and densities of other parcels within the area. Most other lots in the vicinity are of similar size and density and therefore this proposal can be characterized as infill, providing for additional densities within an already developed residential neighbourhood within proximity to amenities and services within Electoral Area D and accessible via BC Transit.

Further, this proposal supports the Electoral Area D Housing Accelerator Fund (HAF) application and its accompanying Housing Action Plan, by responsibly increasing density, promoting missing middle housing and accessory dwelling units (ADUs), encouraging infill development to realize a sustainable increase in housing units and streamlining development applications. This development has the potential to assist Electoral Area D in reaching its target housing growth of approximately 1.3 percent over three years and increase the likelihood of it receiving the full incentive funding from the HAF should the application be successful.

With the recent passing of Bill 44, s.464(3), s.466 s.467 of the *Local Government Act* have been updated to reflect legislative changes to public hearing procedures. As per s.464(3), a public hearing for this proposal is prohibited and notice is to be provided in accordance with s. 467(1) of the *Local Government Act*. Notice will be given in accordance with s.467(1) and Bylaw No. 518 has been prepared for the Committee's consideration with a recommendation to proceed with first and second readings.

RECOMMENDATIONS

1. THAT the report from the Chief Administrative Officer be received.
2. THAT the Committee recommend that Bylaw No. 518 (Kress) be forwarded to the Board for consideration of whether to proceed with public notification in accordance with the *Local Government Act*.

Respectfully:



Dave Lettch
Chief Administrative Officer

BACKGROUND

This application is to consider a zoning amendment affecting a 2.41-hectare parcel in the 3800 block of the Island Highway in Electoral Area D to create five residential lots. The proposal includes the creation of a frontage road along the Island Highway and the provision of a minimum 5-metre wide right-of-way along the parcel's north boundary to provide a connection to the lands behind. The parcel is currently designated Residential, which provides for lots between 2000 and 4000 square metres in size and is currently zoned Country Residential Four (CR-4), which requires a minimum lot size of 2 hectares. To facilitate the proposed subdivision of the parcel into five lots of 4000 square metres each in size, a rezoning to Residential Two (R-2) is required.

AGENCY REFERRALS

The application was referred to a number of First Nations and agencies for their consideration and the comments received to date are summarized in the table below. An inaugural meeting of the Advisory Planning Commission for Electoral Area D is currently being scheduled, at which it is anticipated that this proposal will be presented. Any recommendations offered by the APC will be presented to the Board prior to third reading of the rezoning bylaw.

Agency	Comments
BC Assessment Authority	No response.
Area D Fire	No response.
Ministry of Environment	No response.
FLNRORD (Archaeology)	An archaeological site is recorded within 50 metres of the subject property. Archaeology Branch recommends engaging an eligible consulting archaeologist prior to any land altering activities on the property.
Ministry of Transportation and Infrastructure (MoTI):	No response.
School District 72	No response.
VIHA	Proposed post-rezoning subdivision to conform to Island Health's <i>Subdivision Standards</i> of February, 2020.
FIRST NATION	COMMENTS
Homalco First Nation	No response.
K'ómoks First Nation	No response.
Nanwakolas Council	No response. Crown referrals only.
We Wai Kai Nation	Defers to Nanwakolas.
Wei Wai Kum Nation	No response.

PLANNING ANALYSIS

The subject property is located within a residential area of the Oyster Bay-Buttle Lake Electoral Area (Area 'D') and are bounded to the north, south and west by residential properties, and to the east by the Island Highway. The parcel is currently designated Residential which permits subdivision subject to rezoning. The applicant wishes to rezone the to permit a residential subdivision of five parcels of 4000 square metre (1-acre) parcels, including a frontage road along the Island Highway. The provision of the trail/road right-of-way along the north boundary of proposed Lot 1 will reduce the overall size of the parcels being proposed.

Each of the proposed lots will require a connection to the Electoral Area D community water system and onsite sewage disposal by way of septic field, designed and installed as per Island Health standards. The parcel includes the Caddisfly Creek riparian area on its west boundary which will be the subject of a Riparian Area Regulation assessment and one or more development

permits. Any subsequent development must not impact the riparian area or its associated SPEA (Streamside Protection and Enhancement Area).

FINANCIAL IMPLICATIONS

Fees for the rezoning application process have been applied in accordance with the Regional District's Planning Procedures and Fees Bylaw (Bylaw No. 5).

LEGAL IMPLICATIONS

This report and the recommendations contained herein follow the *Local Government Act* (LGA) and Regional District bylaws. This includes the zoning of land, which includes the surface of the water, set out in s.479 of the LGA.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS

Should a recommendation of support be made for the application and Bylaw No. 517 proceed forward, public consultation will occur in the form of a notification in accordance with the requirements of s.464 - 467 'Public Hearings', of the LGA.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

The planning department will be responsible for all aspects of the bylaw amendment process. Additionally, corporate services staff resources will be required for the finalization of the adoption of the bylaw.

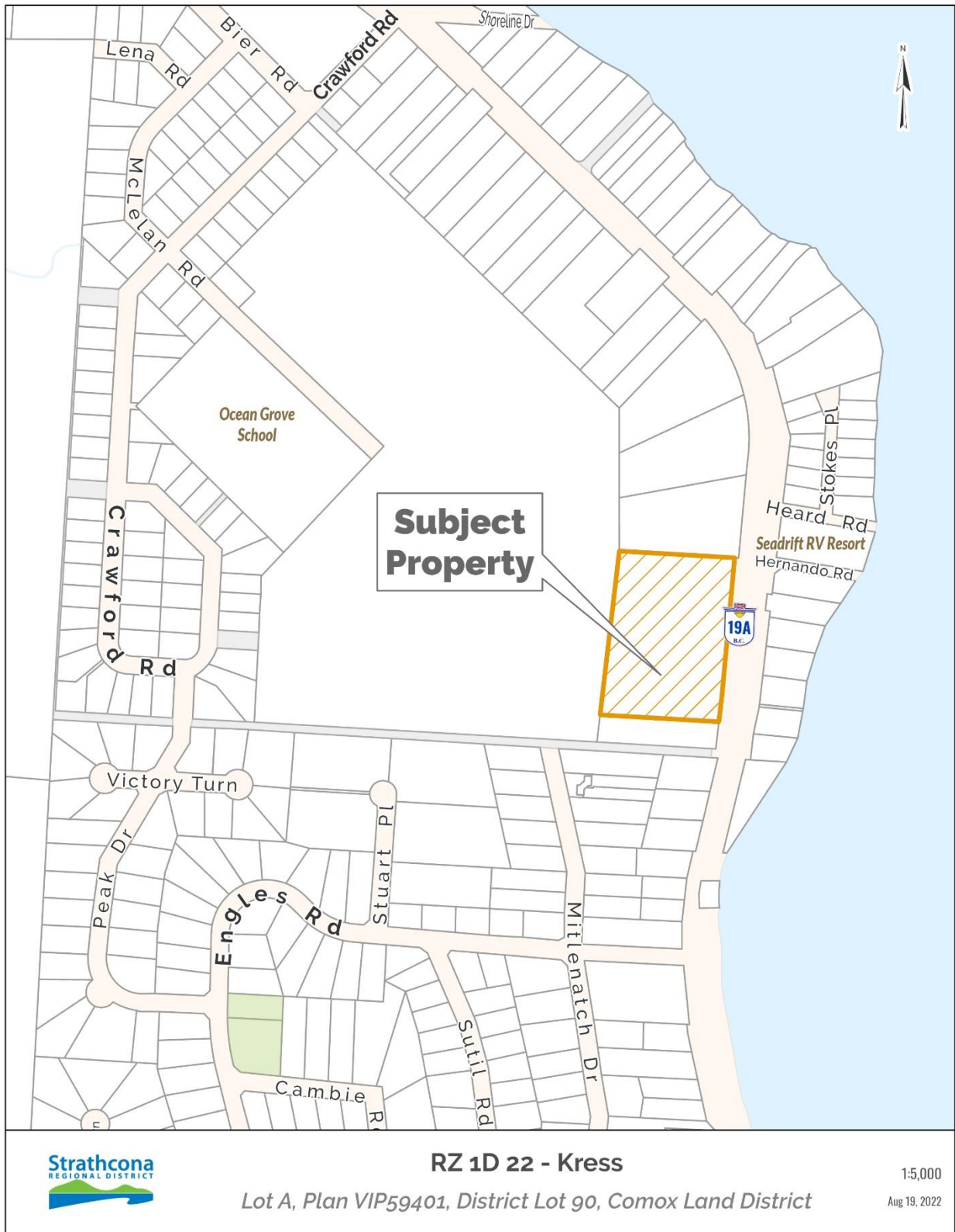
Submitted by:



Aniko Nelson
Senior Manager, Community Services

Prepared by: *J. Neill, Planner*

Attachment: Bylaw No. 518



Location Map



**Site Plan – Five lots at 4000 square metres each,
Including a 19-metre wide road right of way and
a 5-metre wide trail**

20.3 Settlement Areas

Areas for development should be designated as described below and illustrated on Map 2 and 3.

1. Residential

1. Areas of suburban lots serviced by septic systems and community water.
2. Upgrading of water system and the development of alternative sewage treatment and disposal systems to be pursued to permit limited growth.
3. Lot size requirements will be regulated through the zoning bylaw; as a general guideline, new lots should maintain a scale of lot size consistent with suburban neighbourhoods [encouraging averages of 2000m² (0.49 acre) to 4000m² (0.99 acres)], lot size may be further regulated by servicing requirements.

Policies

1. The provision of a community water service will continue to be a priority for areas designated 'Residential'.
2. The provision of a community sewer service will continue to be pursued for areas designated 'Residential' to meet the needs of existing residents and protect public health and the natural environment where private onsite systems are insufficient.
3. Areas designated 'Residential' will be considered priority for the expansion and establishment of community facilities.
4. Extensions of the areas designated 'Residential' may be considered if the following conditions are met:
 - a. opportunities for development in the existing "Residential" areas have been exhausted or denied.
 - b. the new areas are logical extensions of the existing settlement areas, and will be served by community water service, community sewage treatment and any needed stormwater management systems.
 - c. a strategy for the development, staging, and finance of infrastructure or community facilities for the extension is adopted.
 - d. the cumulative impacts of development on rural and recreational characteristics and natural features and functions are assessed, defined and protected.
 - e. within developments of 10 lots or more, opportunities to use renewable energy supplies or energy conservation devices have been included.
 - f. the proposed development has a compact or clustered form with densities that utilizes efficient use of land, infrastructure, and community facilities.
5. Designation of new areas as 'Residential' may be considered dependent upon demand and proximity to established areas.
6. To encourage residential intensification in this designation, a parcel should be permitted additional density, provided there is appropriate servicing, as follows:

SCHEDULE 'A' of BYLAW NO. 1404
 "CAMPBELL RIVER AREA ZONING BYLAW, 1991"

4.6.7 COUNTRY RESIDENTIAL FOUR (CR-4)

i) **PERMITTED PRINCIPAL USES**

a) **On any lot:**

- 1) Residential use; #2483
- 2) Utility use;
- 3) Park use.

b) **On any lot over 4000 m² (0.99 acres):**

- 1) Agricultural use.

ii) **PERMITTED ACCESSORY USES**

a) **On any lot:**

- 1) Home occupations;
- 2) Accessory buildings;
- 3) Bed and Breakfast. #2163

iii) **CONDITIONS OF USE** #1458

- a) Nothing shall be permitted which is or can become an annoyance or nuisance to any person who believes their interest in property is affected, including the surrounding residents and general public, by reason of unsightliness, odour emission, dust, noise, smoke, or electrical interference, excluding agricultural uses.

b) **Residential use is limited to:**

- | | |
|---|------------------------------|
| On any lot size: | One single family dwelling. |
| On any lot over one hectare (2.47 acres): | Two single family dwellings. |

iv) **FLOOR AREA REQUIREMENTS** #2423

The maximum combined gross floor area of all accessory buildings shall not exceed 5% of the lot area or 200 square metres (2152.85 square feet), whichever is greater.

v) **SITING OF BUILDINGS AND STRUCTURES**

a) **Except where otherwise specified in this by-law no building or structure shall be located within:**

- 1) 7.5 metres (24.6 feet) of that portion of a front lot line, or rear lot line;
- 2) 3.5 metres (11.48 feet) of a side lot line or that portion of a front lot line that does not abut a public road right-of-way except where the width of a lot is 31 metres (101.7 feet) or less at the required front yard setback, and where there is no street flanking the side yard in which case this requirement may be reduced to 1.75 metres (5.74 feet);

**SCHEDULE 'A' of BYLAW NO. 1404
"CAMPBELL RIVER AREA ZONING BYLAW, 1991"**

- 3) 3.5 metres (11.48 feet) of an accessory building.
- 4) Minimum separation between dwellings - 15 metres (49.21 feet) on the same lot.

b) Minimum setback requirements for accessory buildings shall be as follows:

REQUIRED SETBACK	Accessory Building Height	
	4.5 m (14.8 ft) or less	4.5 - 6.0 m (14.8-19.7 ft)
Front Lot Line	7.5 m (24.6 feet)	7.5 m (24.6 feet)
Side Lot Line	1.0 m (3.3 feet)	1.0 m (3.3 feet)
Rear Lot Line	1.0 m (3.3 feet)	2.0 m (6.6 feet)

#2171

c) Other specifications include:

- 1) If a side lot line abuts a public road right-of-way, refer to Section 4.5.4(e).
- 2) If the lot is located at the intersection of two public road rights-of-way, refer to Section 4.5.4(d) and (e).
- 3) If the lot abuts a river, lake, sea or any other watercourse refer to Bylaw No. 2782 being the "Floodplain Management Bylaw, 2005".
- 4) For any exceptions to siting, refer to Section 4.5.5(a).

#2423

vi) LOT COVERAGE

- a) On any lot less than or equal to 2500 square metres (0.62 acre), the maximum lot coverage of all buildings and structures shall not exceed 20% of the lot area.
- b) On any lot greater than 2500 square metres (0.62 acre), the maximum lot coverage of all buildings and structures shall not exceed 15% of the lot area."

vii) SUBDIVISION REQUIREMENTS

- a) **Minimum lot area:** 2 hectares (4.94 acres).
Existing lots below the minimum lot area within this zone may be used for the permitted uses within this zone, subject to compliance with site area requirements for each use.
- b) **Minimum lot frontage:** 10% of the perimeter of the lot.
Existing lots below the minimum frontage for this zone may be used for the permitted uses within this zone.
- c) Notwithstanding the provisions of 4.6.7(vii)(a) one parcel can be created from the Remainder of Lot A, Section 34, Township 4, Comox District, Plan VIP61244 in the size of 0.540 hectares (1.3 acres) in return for the dedication of an additional 0.34 hectares (0.8 acres) of land to "Hagel Park".

#1458

End • CR-4

PART 4 • LAND USE REGULATIONS

Existing Country Residential Four (CR-4) Zone

4.6.2**RESIDENTIAL TWO
(R-2)****i) PERMITTED PRINCIPAL USES****a) On any lot:**

- 1) Residential use;
- 2) Public utility use;
- 3) Park use.

ii) PERMITTED ACCESSORY USES**a) On any lot:**

- 1) Home occupation use;
- 2) Agricultural use excluding the keeping of livestock;
- 3) Accessory buildings; and
- 4) Bed and Breakfast.

RDCS
2163

b) On any lot over 4000 m² (0.99 acres):

- 1) Agricultural use.

iii) CONDITIONS OF USE

a) Nothing shall be permitted which is or can become an annoyance or nuisance to any person who believes their interest in property is affected, including the surrounding residents and general public, by reason of unsightliness, odour emission, dust, noise, smoke, or electrical interference, excluding agricultural uses.

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b) Residential use is limited to:

- 1) On any lot size: One single family dwelling or one duplex.
- 2) Duplexes on the ocean side or eastern side of the Island Highway in Electoral Area "D" in the area north of Section 34, Township 4, Comox District are limited to a total combined floor area of 225.0 square metres (2422 square feet) excluding any garages, unenclosed decks or balconies and a maximum height limitation of 5 metres (16.4 feet) measured from the average natural grade of the building area.

BYLAW NO. 1404
 CAMPBELL RIVER AREA ZONING BYLAW, 1991

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iv) **FLOOR AREA REQUIREMENTS**

The maximum combined gross floor area of all accessory buildings shall not exceed 5% of the lot area or 200 square metres (2152.85 square feet), whichever is greater.

v) **SITING OF BUILDINGS AND STRUCTURES**

a) **Except where otherwise specified in this bylaw, no building or structure shall be located within:**

- 1) 7.5 metres (24.6 feet) of that portion of a **front lot line** that abuts a public road right-of-way;
- 2) 3.5 metres (11.48 feet) of a side lot line or that portion of a front lot line that does not abut a public road right-of-way except where the width of a lot is 31 metres (101.7 feet) or less at the required front yard setback, and where there is no street flanking the side yard in which case this requirement may be reduced to 1.75 metres (5.74 feet).
- 3) 7.5 metres (24.6 feet) of a **rear lot line**.
- 4) 3.5 metres (11.48 feet) of an **accessory building**.

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b) **Minimum setback requirements for accessory buildings shall be as follows:**

	ACCESSORY BUILDING HEIGHT	
	4.5M (14.8 ft) or less	4.5 – 6.0m (14.8919.7 ft)
REQUIRED SETBACK		
Front Lot Line	7.5m (24.6 feet)	7.5m (24.6 feet)
Side Lot Line	1.0m (3.3 feet)	1.0m (3.3 feet)
Rear Lot Line	1.0m (3.3 feet)	2.0m (6.6 feet)

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c) **Other specifications include:**

- 1) If a side lot line abuts a public right-of-way, refer to Section 4.5.5(f).
- 2) If the lot is located at the intersection of two public road rights-of-way, refer to Section 4.5.5(e)(f).
- 3) If the lot abuts a river, lake, sea or any other watercourse, refer to Section 4.5.5(a)(ii-iii).
- 4) For any exceptions to siting, refer to Section 4.5.6(a).
- 5) Where siting is proposed adjacent to a stream refer to Section 4.5.5(a) "Stream Setbacks".

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*BYLAW NO. 1404
CAMPBELL RIVER AREA ZONING BYLAW, 1991*

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vi) **LOT COVERAGE**

The maximum lot coverage of all buildings and structures shall not exceed 25% of the total lot area.

vii) **SUBDIVISION REQUIREMENTS**

- a) **Minimum lot area:** 2500 square metres (0.62 acres).

Existing lots below the minimum lot area within this zone may be used for the permitted uses within this zone, subject to compliance with site area requirements for each use.

- b) **Minimum lot frontage:** 10% of the perimeter of the lot.

Existing lots below the minimum frontage for this zone may be used for the permitted uses within this zone.

End • R-2



BYLAW NO. 518

**A BYLAW TO AMEND THE ZONING REGULATIONS APPLICABLE TO ELECTORAL AREA
'D'**

WHEREAS the former Comox-Strathcona Regional District has, by Bylaw No. 1404, adopted zoning regulations for Electoral Area 'D' pursuant to Part 14 of the *Local Government Act*;

AND WHEREAS a bylaw of the former Comox-Strathcona Regional District that regulates the use or development of land within the area comprising the Strathcona Regional District remains in force until amended or repealed;

AND WHEREAS the Regional Board wishes to amend the aforesaid Bylaw No. 1404 having due regard to the requirements of the *Local Government Act*;

NOW THEREFORE the Board of Directors of the Strathcona Regional District, in open meeting assembled, enacts as follows:

Amendments

1. Bylaw No. 1404, being Campbell River Area Zoning Bylaw 1991, is hereby amended as set out in Schedule 'A', attached to and forming part of this bylaw.

Citation

2. This bylaw may be cited for all purposes as Bylaw No. 518, being Campbell River Area Zoning Bylaw 1991, Amendment No. 69.

READ A FIRST TIME ON THE ____ DAY OF _____, 2024

READ A SECOND TIME ON THE ____ DAY OF _____, 2024

PUBLIC HEARING HELD ON THE ____ DAY OF _____, 2024

READ A THIRD TIME ON THE ____ DAY OF _____, 2024

RECONSIDERED, FINALLY PASSED AND ADOPTED ON THE ____ DAY OF _____, 2024

Chair

Corporate Officer

SCHEDULE 'A'

SECTION ONE MAP AMENDMENT

1. The land described as Lot A, District Lot 90, Comox District, Plan VIP59041 as shown on the attached Appendix '1', is rezoned from Country Residential Four (CR-4) to Residential Two (R-2).



GIS: U:\proj\EA_D\SubjectProperties\EA_D_SubjProp.aprx

Appendix '1'

Part of Schedule 'A' to Bylaw No. 518, being Campbell River Area Zoning Bylaw 1991, Amendment No. 69.

Amends 'Map 1' of Bylaw No. 1404, being Campbell River Area Zoning Bylaw 1991.