

**DATE:** February 19, 2018

**FILE:** 3360-20/RZ 1C 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 – 4320 & 4356 Camco Road (Wing)  
Puntledge – Black Creek (Electoral Area C)  
Lot A, District Lot 136, Comox District, Plan 8418, PID 005-548-926**

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### **Purpose**

To seek Comox Valley Regional District (CVRD) Board support on external agency and First Nations referrals for a proposed rezoning to use Section 514 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) to subdivide the subject property to provide residence for a relative.

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

THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix A of staff report dated February 19, 2018, and direct staff to start the external agency referral process for Lot A, District Lot 136, Comox District, Plan 8418, PID 005-548-926 (Wing) as part of a proposed amendment (RZ 1C 18) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”;

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**

- The subject property is located at 4320 & 4356 Camco Road in Electoral Area C.
- The property owners wish to create a two-lot subdivision for their son using Section 514 of the LGA, which is subdivision to provide residence for a relative.
- Section 503(3)(i) of the zoning bylaw limits Section 514 of the LGA by requiring the size of the parent lot to be at least two times the minimum lot area required in the applicable zone.
- The minimum lot area for subdivision is 4.0 hectares, as the subject property is designated within Settlement Expansion Areas (SEAs) by the Regional Growth Strategy (RGS). However, the subject property is 3.5 hectares in area.
- The owners applied to rezone the subject property in order to use Section 514 of the LGA.
- The CVRD Board is recommended to conduct First Nations and external agency referrals for this rezoning application.
- The proposed new zone includes a limit of one dwelling per future lot to ensure overall density remains unchanged.

Prepared by:

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 Rural Planner

Concurrence:

**A. Mullaly**


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 Alana Mullaly, M.Pl., MCIP, RPP  
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Concurrence:

**A. MacDonald**


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 General Manager of Planning  
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### Background/Current Situation

The subject property is located at 4320 & 4356 Camco Road (Figures 1 to 3). It is bounded by Camco Road to the southwest and Lake Trail Road to the northwest, barricaded Comox Logging Road to the north and residential lots in all other directions. There are two right of ways for powerlines that cut through the property. Currently, there are two single detached dwellings, two barns and one accessory building (*i.e.*, garage) (Figure 4). The applicants wish to rezone the property to enable the use of Section 514 of the LGA, which permits subdivision to provide residence for a relative. The subject property is 3.5 hectares in area, and the applicants wish to subdivide 1 hectare off for their son.

### Official Community Plan Analysis

The Rural Comox Valley Official Community Plan (OCP), Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014,” designates the subject property within SEAs. The intent of this designation is to identify future growth areas for the adjacent urban municipalities. Development is limited to ensure the phased and timely development lands that is consistent with the goals and objectives of the member municipalities. Until this area is amalgamated with the adjacent municipality, significant change to the existing land use or further subdivision that increases the density, impact or intensity of use of land is not envisioned. Section 36(1) of the OCP states that minimum lot area for subdivision is 4 hectares. The proposed 1.01 hectares do not meet this policy. Section 36(2) state that subdivision application will be reviewed in light of the planning direction in the adjacent municipality in order to ensure that consideration is given to the compatible planning and zoning requirements of that municipality. The applicable residential policy for the SEAs is that new residential development must not preclude future land assembly and subdivisions that are compatible with the standard of the adjacent municipality. Subdivision of a 1 hectare parcel is consistent with the rural subdivision pattern in the area. In fact, at 1 hectare, the proposed lot will reflect the lot size of existing rural residential parcels in the immediate neighbourhood. Further, the proposal is consistent with the affordable housing objectives and enabling aging in place (Sections 28(2) and 28(3)).

### Zoning Bylaw Analysis

The size of the subject property is 2.51 hectares. As the subject property is in the SEAs, the minimum lot area for subdivision is 4 hectares regardless of the zone. The proposed 1.01 hectare lot is smaller than this minimum requirement. In addition, Section 503(3)(i) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” states,

*“No subdivision shall be permitted pursuant to Section 946 [presently, 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 applicable zone.”*

Therefore, the minimum lot area for the subject property should be at least 8 hectares for subdivision to occur. As noted previously, Section 514 of the LGA 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. The Act specifies that the minimum size for a parcel created under Section 514 is 1 hectare. The applicants' proposal meets this minimum.

### **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. The section establishes obligations for property owners following creation of a parcel under the section pertaining to land use in the first five years following subdivision.

### **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**

The recommendations and discussion contained within this report have been prepared in accordance with the LGA. Further, if the application proceeds and the provincial approving officer approves the Section 514 subdivision, the LGA requires that concurrent with subdivision plan registration, a covenant (pursuant to the *Land Title Act*) be registered on the titles of the severed and retained parcels requiring that for five years following subdivision, use of the parcels will remain residential and that the severed parcel will provide a residence for a relative. This means that the local government is responsible for ensuring that the owners comply with the terms of Section 514. Covenants are private law mechanisms and need to be actively enforced otherwise the local government may be considered to have acquiesced to any non-compliance.

### **Regional Growth Strategy Implications**

The Comox Valley RGS designates the subject property within the SEAs, which are boundary areas of municipal areas, and the intent of this designation is to have phased and orderly growth for the municipal areas to expand their boundaries. Until a municipality has annexed the subject property, there is a minimum lot area for subdivision of 4 hectares to ensure that appropriate infrastructure capacity is available, that new development does not detract from compact growth options within municipal areas, and that the financial stability of municipal areas is not negatively impacted. Nevertheless, the RGS does not contemplate Section 514 of the LGA, which enables subdivisions for relatives, and this provision promotes housing affordability and aging in place.

As SEAs are located on the boundaries of Municipal Areas, and it is the intention that they will become future Municipal Areas, it is important to refer this application to applicable member municipalities for their review and comment.

**Intergovernmental Factors**

Appendix A 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 will be sought if the application proceeds to subdivision.

**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).

Attachment: Appendix A – “Agency List”

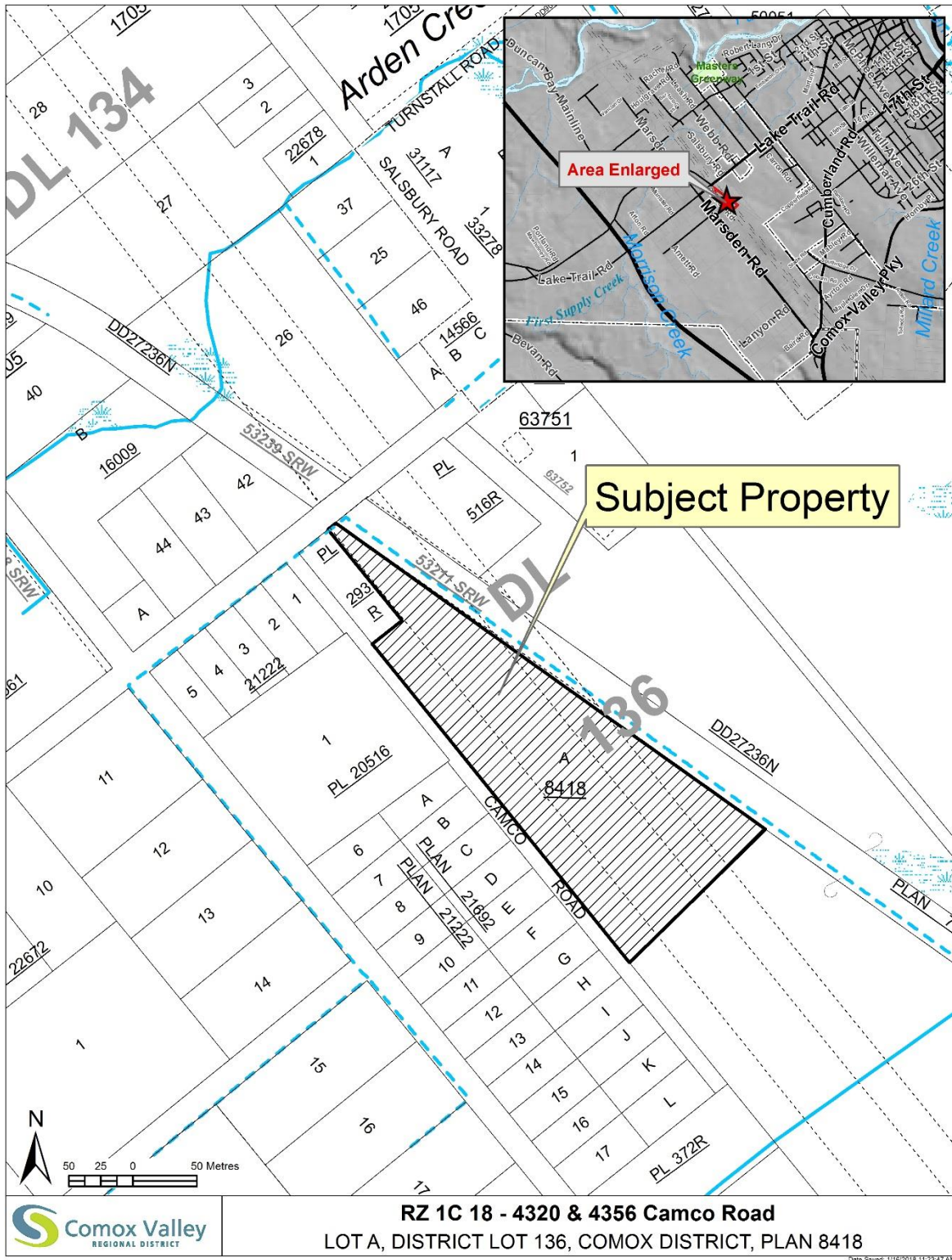


Figure 1: Subject Property Map





Figure 2: Air Photo



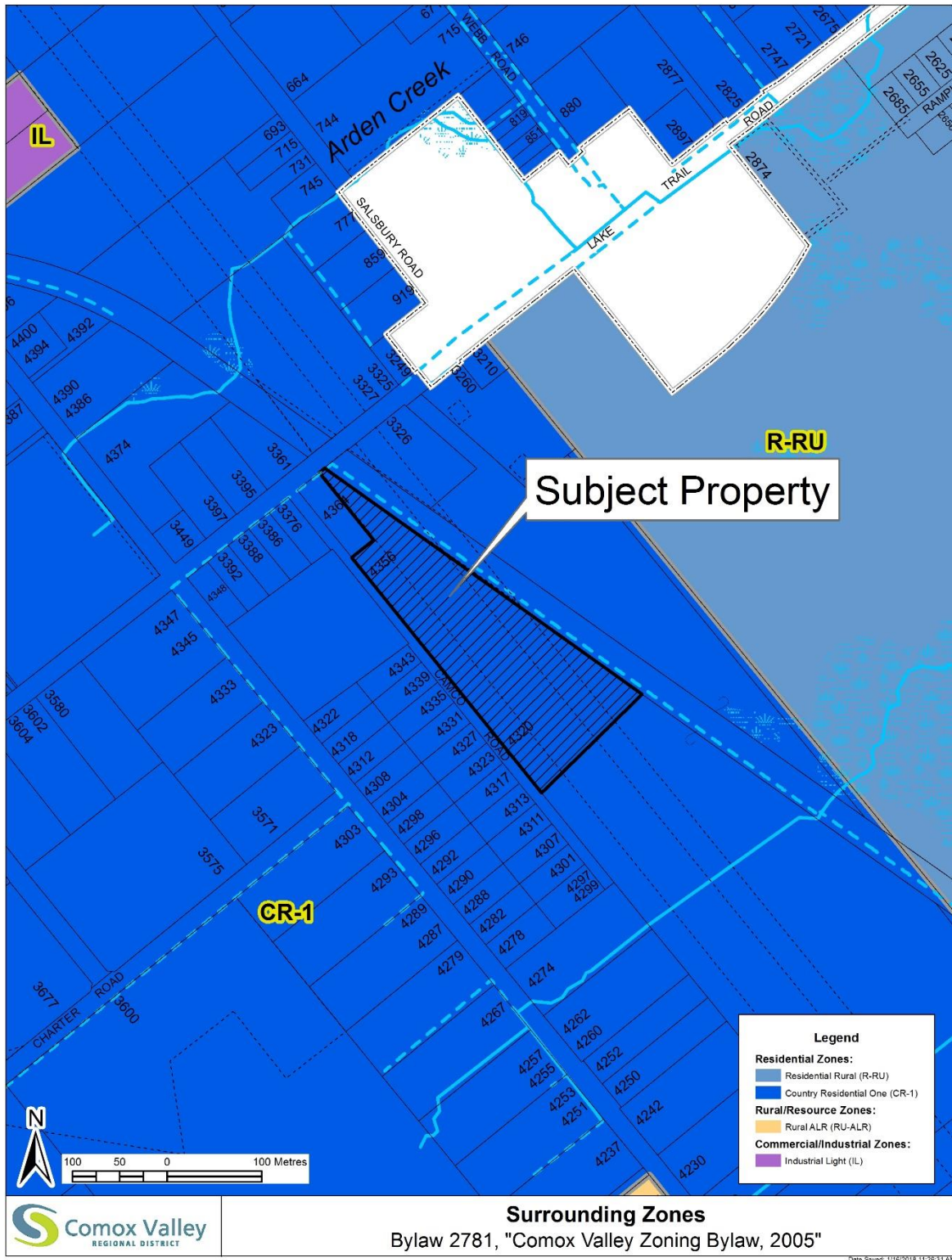


Figure 3: Zoning Map

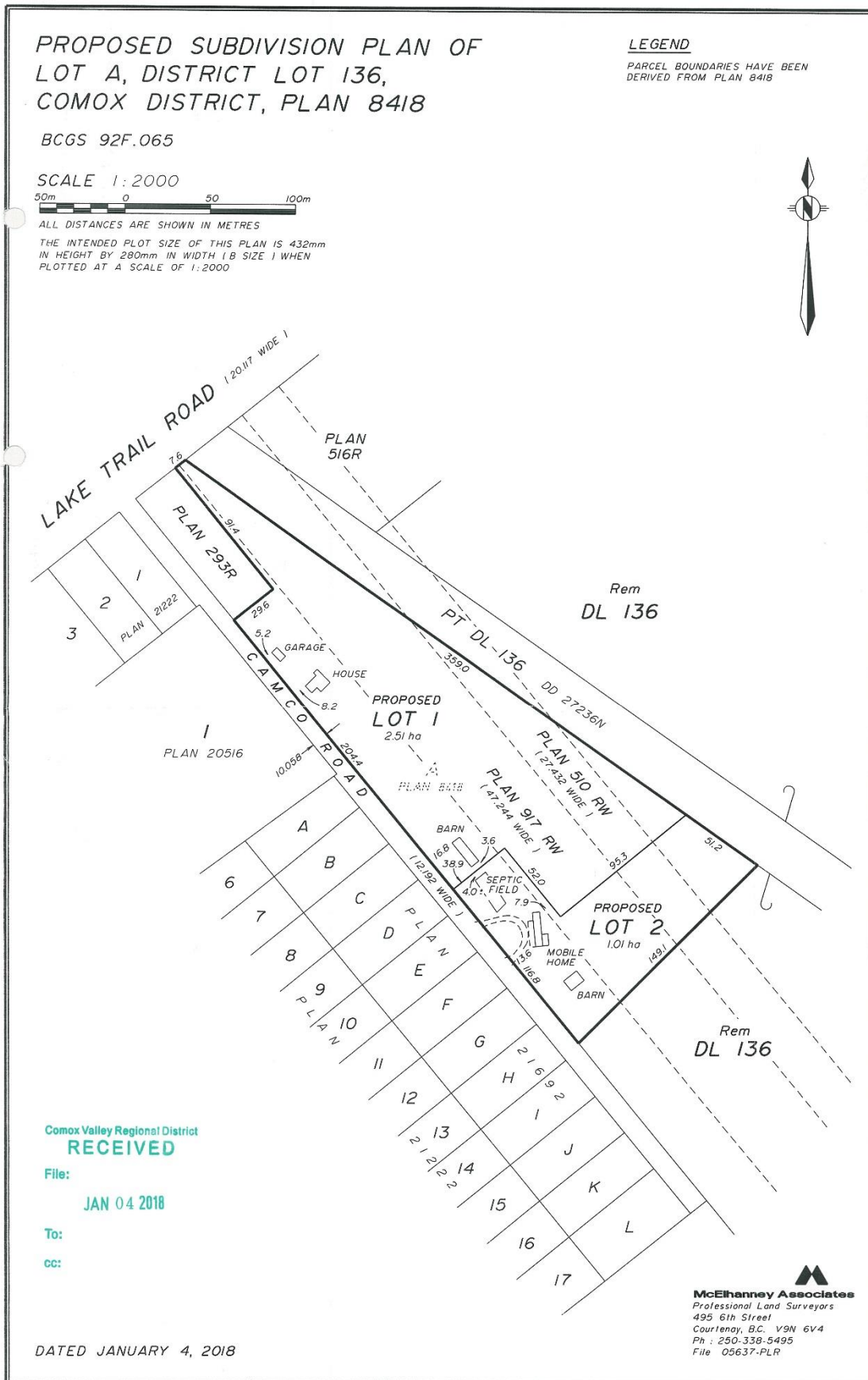


Figure 4: Proposed Subdivision Plan if Rezoning were to be Successful



## 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 (Xwemalhkwa) 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 Aboriginal Relations and Reconciliation                             |

### Local Government

|                                     |                         |  |                                       |
|-------------------------------------|-------------------------|--|---------------------------------------|
|                                     | Comox (Town of)         |  | Alberni-Clayoquot Regional District   |
| <input checked="" type="checkbox"/> | Courtenay (City of)     |  | Strathcona Regional District          |
| <input checked="" type="checkbox"/> | 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                |
|                                     | School District #71 (Comox Valley)                            | <input checked="" type="checkbox"/> | Vancouver Island Health Authority (Environmental Health) |