

DATE: May 24, 2018**FILE:** 3360-20/RZ 1C 18**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported 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****Purpose**

To summarize comments received from First Nations and external agencies, and to recommend first and second readings to the proposed bylaw 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. Finally, to recommend a public hearing date for this rezoning application.

Recommendation from the Chief Administrative Officer:

THAT the board give first and second readings to Bylaw No. 538, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 75” which rezones Lot A, District Lot 136, Comox District, Plan 8418, PID 005-548-926 (4320 & 4356 Camco Road, Wing) from Country Residential One (CR-1) to Country Residential One Exception 8 (CR-1-8);

AND FINALLY THAT pursuant to Section 464(1) of the *Local Government Act* (RSBC, 2015, c.1), the board schedule a public hearing for Bylaw No. 538, being the “Comox Valley Zoning Bylaw, 2005, amendment No. 75” (RZ 1C 18).

Executive Summary

- The subject property is located at 4320 & 4356 Camco Road in Electoral Area C.
- The applicants wish to create a new lot for a relative using Section 514 of the LGA, which is subdivision to provide residence for a relative.
- On March 27, 2018, the Comox Valley Regional District (CVRD) board adopted a resolution to refer the application to First Nations and external agencies for comment.
- Comments received are summarized in Appendix A. As of the date of this report, no comments have been received from First Nations. Comments were received from the Ministry of Transportation and Infrastructure, Island Health and Village of Cumberland. The Advisory Planning Commission Puntledge –Black Creek (Electoral Area C) supports this application.
- The proposed bylaw (Appendix B) is an exception to the current CR-1 zone. It retains the same range of permitted uses in the CR-1 zone, except for these two provisions:
 - Enable the use of Section 514 of the LGA to create one new lot of at least 1.0 hectare in area; and
 - Limit one dwelling unit for any lot less than 3.5 hectares to ensure “no net increase” in density and to be consistent with the growth management objectives of the Regional Growth Strategy (RGS) and Official Community Plan (OCP).
- Staff recommends that the proposed bylaw (Appendix B) be given first and second readings and that a public hearing date be set.

Prepared by:

Concurrence:

B. Chow**A. Mullaly**

 Brian Chow, MCIP, RPP
 Rural Planner

 Alana Mullaly, M.Pl., MCIP, RPP
 Acting General Manager of Planning and
 Development Services Branch
Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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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. 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 relative.

On March 27, 2018, the board endorsed the agency referral list and First Nations referrals management program. On April 5, 2018, staff sent out referrals. On May 8, 2018, staff sent follow up letters to the First Nations groups that did not respond. Note that any individual or agency can provide comments until the termination of the public hearing. The comments are summarized in Appendix A, and the highlights include:

- None of the First Nations have provided a response.
- Village of Cumberland indicates that their interests are unaffected.
- Advisory Planning Commission – Punt ledge - Black Creek (Electoral Area C) supports the rezoning application.
- Vancouver Island Health Authority recommends that the proposed subdivision meets the Island Health Subdivision Standards (*i.e.*, which provide a range of minimum lot areas depending on slope, native soil depth, and water system type: public supply or individual wells).

No objections to the proposed rezoning have been received.

Staff is proposing an exception to the current CR-1 zone, which will facilitate the provisions of Section 514 and maintain the intent of the Settlement Expansion Area (SEA) designation of the RGS and OCP. The proposed CR-1 Exception Eight (CR-1-8) zone retains the same range of permitted uses in the CR-1 zone, except for these two provisions:

- Enable the use of Section 514 of the LGA to create one new lot of at least 1.0 hectare in area.
- Limit one dwelling unit for any lot less than 3.5 hectares to ensure “no net increase” in density and to be consistent with the growth management objectives of the RGS and OCP. If the applicants do not pursue subdivision, there will be no change regarding density potential of the subject property. Upon subdivision, the existing density potential will be divided between the two lots. Limiting each lot to one dwelling unit results in a “no net increase” in density which is consistent with the growth management policies of the RGS and OCP. This approach is also consistent with the spirit of creating “a residence for a relative” which is, in part, based on principles of enabling aging in place/intergenerational living and housing affordability.

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.

Section 514(8) of the LGA states that a Section 219 restrictive covenant is required as a condition for subdivision approval. The covenant prohibits further subdivision using Section 514 of the LGA, and for the five years after the subdivision approval, limits the use of the lot for relative to residential use and the use of the remainder lot to be unchanged.

Sections 464 through 466 of the LGA establish the requirements and procedures for holding a public hearing prior to Zoning Bylaw adoption, including notification requirements. Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw, Bylaw No. 328, 2014,” implements the LGA’s requirements and states that public hearings are held following second reading and that notification within the Rural Settlement Area designation will be mailed to property owners and tenants within 100 metres of the property for which the bylaw amendment is proposed.

Options

At this time, the board has the following options:

1. Approve first and second readings of proposed Bylaw No. 538 (Appendix B) and set a date for the public hearing.
2. Refer proposed Bylaw No. 538 back to staff for revision.
3. Deny the application to rezone.

Based on the discussions contained within this report, staff recommends option 1.

Financial Factors

A \$2,000 rezoning application fee has been collected for the application under Bylaw No. 328. If the board concurs with staff’s recommendation to schedule a public hearing, a \$1,500 fee is required prior to the hearing. This fee covers the costs of the newspaper advertisement and direct mailing to property owners and tenants within 100 metres of the subject property, as well as the costs related to hosting the public hearing. The applicant is required to install a notice sign on the property, in accordance with Bylaw No. 328’s specifications; the costs of the sign and its installation are not included in the public hearing fee and are the responsibility of the applicant. Also, the costs of preparing and registering the covenant will be borne by the applicants.

Legal Factors

The recommendation contained within this report has been prepared in accordance with the LGA and applicable CVRD bylaws.

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.

Intergovernmental Factors

Appendix A lists the comments received from First Nations and external agencies on this rezoning application. None of the respondents have provided any objections with this application.

Interdepartmental Involvement

Planning staff is leading the review of this application. This application was referred to the following internal departments:

- Bylaw compliance
- Engineering services
- Emergency program
- Fire services
- Transit and sustainability
- Community parks
- Long range planning

Input from engineering services regarding development cost charges will be sought if the application proceeds to subdivision. Other departments did not have any comments or concerns with the application.

Citizen/Public Relations

Advisory Planning Commission – Puntledge – Black Creek (Electoral Area C) met on March 21, 2018, and the commission members supported the rezoning application. If the application proceeds to public hearing, there will be a development notice sign, newspaper advertisements and adjacent owners' letters in accordance with Section 464 of the LGA and Bylaw No. 328. Any members of the public can provide comments until the termination of the public hearing.

Attachments: Appendix A – “Comments from External Agency and First Nations”
Appendix B – “Bylaw No. 538”

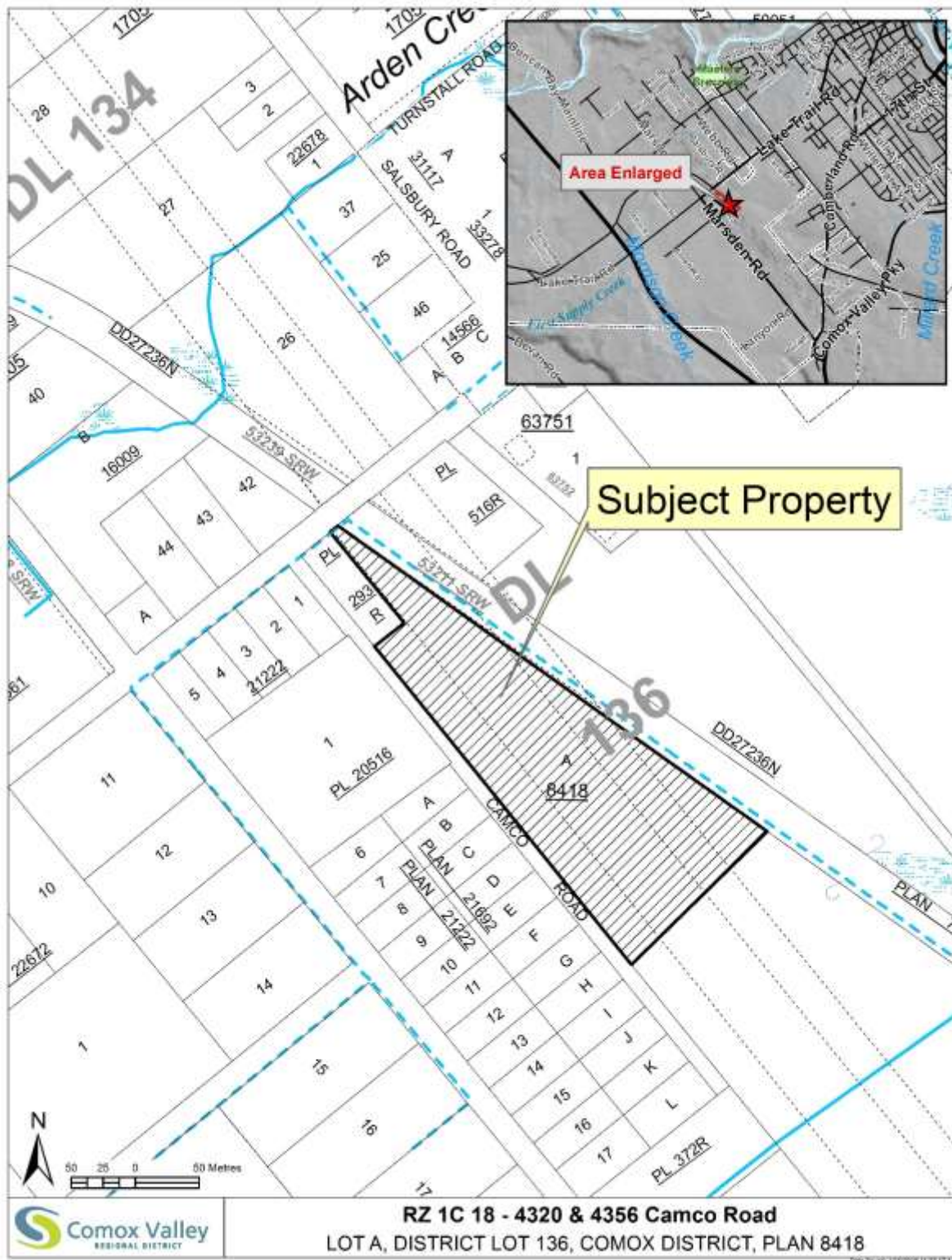


Figure 1: Subject Property Map

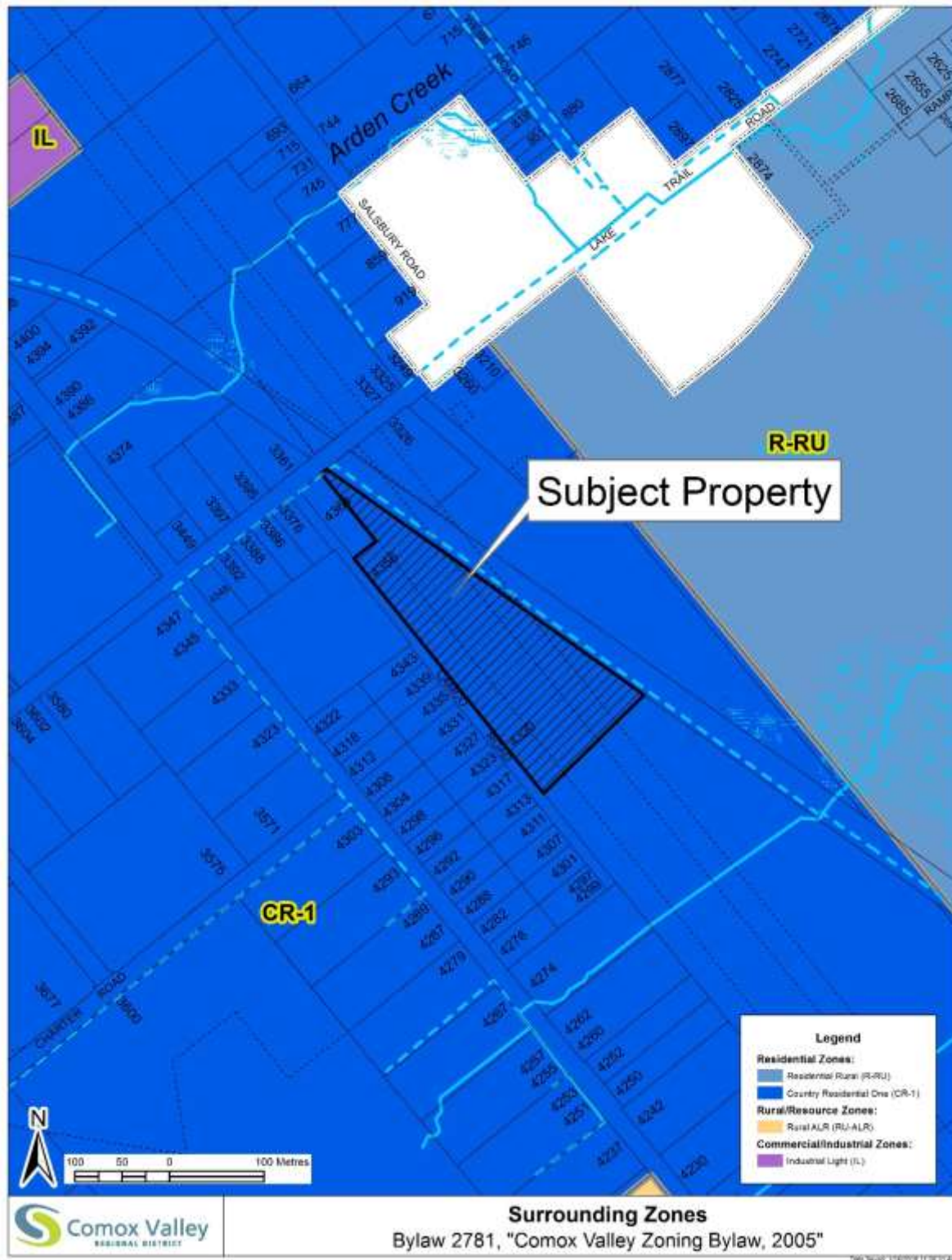


Figure 2: Zoning Map



Figure 3: Air Photo

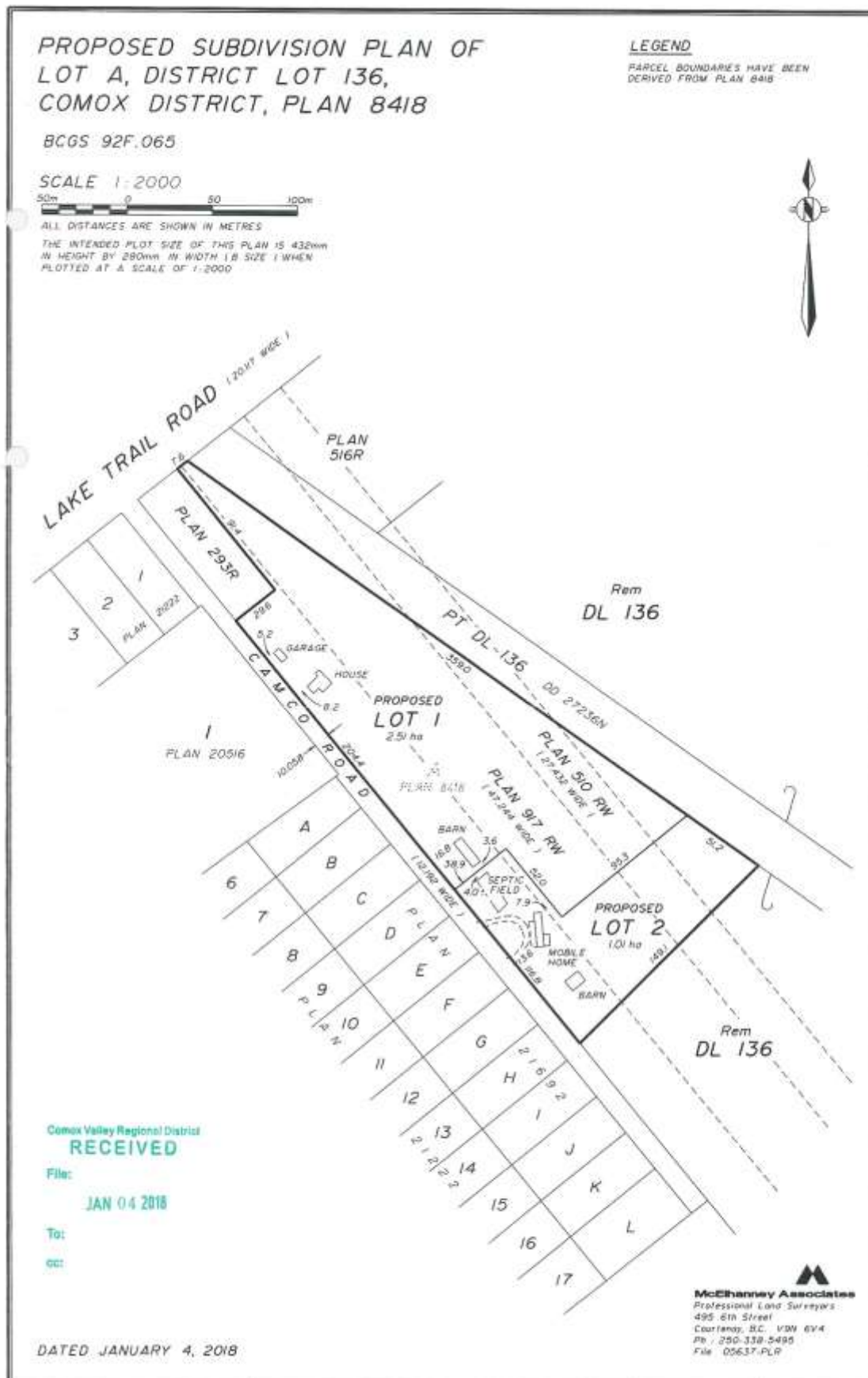


Figure 4: Proposed Subdivision Plan if Rezoning were to be Successful

Comments from First Nations and External Agencies

First Nations

K'ómoks First Nation	No response
Homalco Indian Band	No response
We Wai Kai Nation of the Laich-Kwil-Tach Treaty Society	No response
Wei Wai Kum First Nation / Kwaikah First Nation of the Kwaikah Treaty Society	No response

Provincial Ministries and Agencies

BC Assessment Authority	No response
Ministry of Transportation and Infrastructure	“As the subject property is not located within 800 meters of Controlled Access Highway Intersection the Ministry is not required to provide comments on the proposed rezoning.”

Local Government

Town of Comox	No response
Village of Cumberland	“While the Village of Cumberland’s interests are unaffected by the application, staff suggests that the CVRD consider a mechanism to ensure the “subdivision for a relative” remains that for at least a 5 year period. There is nothing to stop the selling the property on the open market as soon as the subdivision is approved. Also a minimum lot size of 2 ha rather than the proposed 1.01ha would comply with the zoning minimum lot size, although not the RGS SEA minimum lot size of 4ha. Or is the CVRD considering that the smaller lot size of 1.01ha leaves the remainder with more potential under the SEA, should it get taken into a municipality?”

Other

Advisory Planning Commission Puntledge –Black Creek (Electoral Area C):	“THAT the Area 'C' Advisory Planning Commission support the requested rezoning application RZ 1C 18 for 4320 and 4356 Camco Road (Wing) as proposed, subject to a site specific restriction of one residence per subdivided lot.”
Vancouver Island Health Authority (Island Health):	“Our office recommends that the proposed subdivision meets the Island Health Subdivision Standards.”

BYLAW NO. 538
COMOX VALLEY REGIONAL DISTRICT

STATUS

TITLE: Comox Valley Zoning Bylaw, 2005, Amendment No. 75

APPLICANT: Mark & Katherine Wing

ELECTORAL AREA: Puntledge - Black Creek (Area C)

FILE NO.: RZ 1C 18

PURPOSE: To enable a two-lot subdivision pursuant to Section 514 of the *Local Government Act* (RSBC, 2015, c. 1), subdivision to provide residence for a relative.

PARTICIPANTS: All Electoral Areas



Application received:	Date:	January 4, 2018
Electoral Areas Services Committee:	Date:	March 5, 2018
	Recommendation:	Commence external agency referral and First Nations referral process.
Regional Board:	Date:	March 27, 2018
	Decision:	Approved external agency referral and First Nations referrals.
Electoral Areas Services Committee:	Date:	
	Recommendation:	
Regional Board	Date:	
	Decision:	
Public hearing:	Date:	
Regional Board:	Date:	
	Decision:	
Ministry of Transportation and Infrastructure	Required:	No
Regional Board:	Date:	
Decision:		

COMOX VALLEY REGIONAL DISTRICT
BYLAW NO. 538

**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. 538 may be cited as the “Comox Valley Zoning Bylaw, 2005, Amendment No. 75.”

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.
Adopted this	day of	2018.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 538, being the “Comox Valley Zoning Bylaw, 2005, Amendment No. 75”, 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. Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, is hereby amended by:
 - a. Rezoning the property legally described as Lot A, District Lot 136, Comox District, Plan 8418 (4320 & 4356 Camco Road) from Country Residential One (CR-1) to Country Residential One Exception Eight (CR-1-8); and
 - b. Inserting the following zoning exception in Part 1200 “Exceptions to Zone Designations”

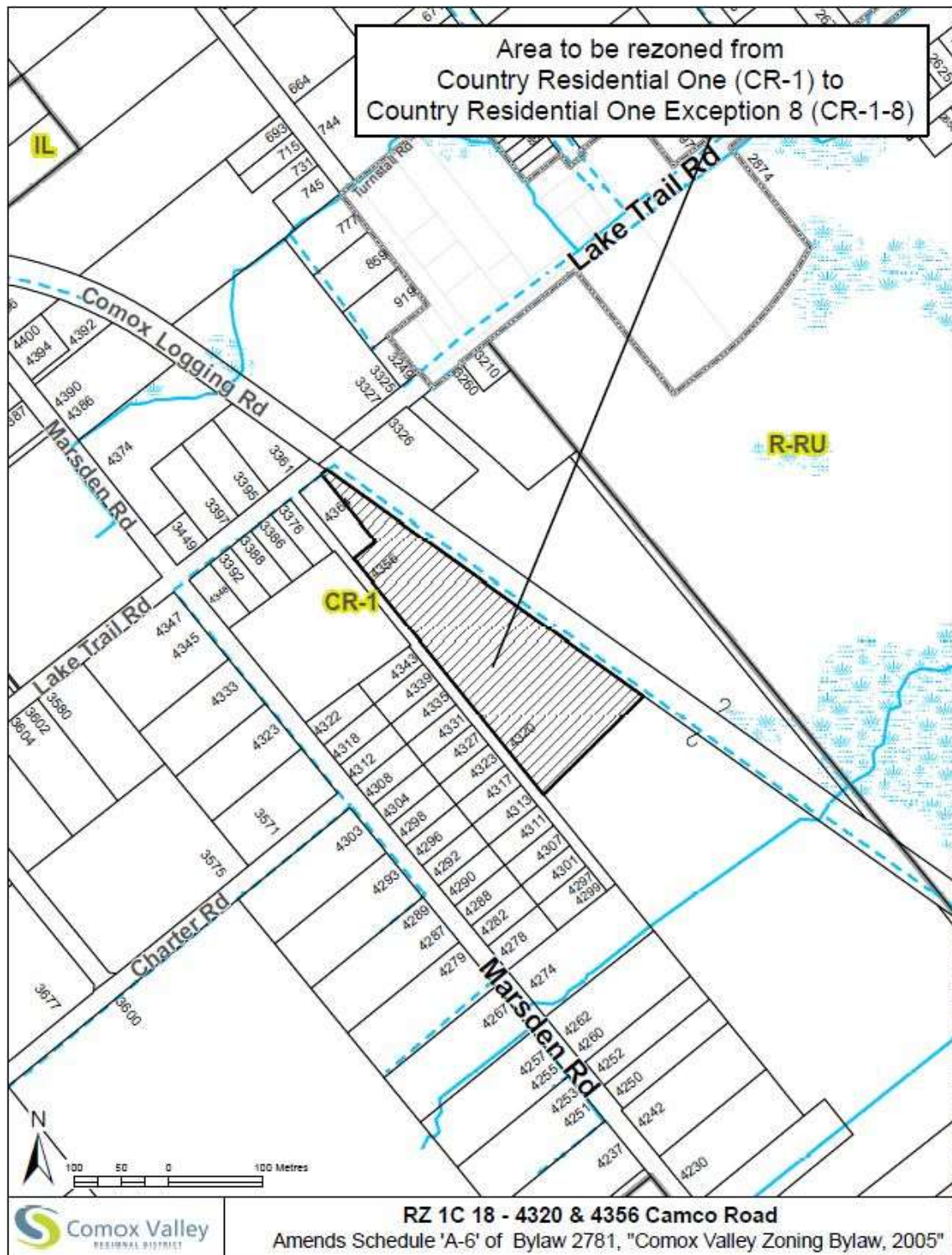
“Exception 8

Exception 8	Zone CR-1	Map A-6	Amendment No. 75	Enacted
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1. Subdivision Requirements
 - i) Notwithstanding any other provision of this bylaw, the minimum parcel size for a parcel created under Section 514 of the *Local Government Act* (RSBC, 2015, c. 1) (subdivision to provide residence for a relative) is 1.0 hectare.
2. Density
 - i) On parcels less than 3.5 hectares, density is limited to one dwelling unit.”

Section Two Map Amendment

1. Map A-6 forming part of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, is hereby amended by rezoning property legally described as “Lot A, District Lot 136, Comox District, Plan 8418, PID 005-548-926” (4320 & 4356 Camco Road) from Country Residential One (CR-1) to Country Residential One Exception Eight (CR-1-8) as shown on Appendix 1.



Appendix 1

Part of Schedule A to Bylaw No. 538 being the "Comox Valley Zoning Bylaw, Amendment No. 75".

Amends Schedule Map A-6 to Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005".