

Memo

File: 3090-20/DV 1B 20

DATE: June 15, 2020

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

FROM: Planning and Development Services Branch

RE: Development Variance Permit Application – 136 Croteau Rd (Killam)
Lot 1, District Lot 87, Comox District, Plan 45399, PID 008-079-544

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

Application Description

An application has been received to consider a Development Variance Permit for a 0.15 hectare parcel pertaining to the applicant's rear yard setback. The house is located on Croteau Road and is bound by Croteau Road to the west and other residential lots in all other directions (Figures 1 and 2). The one property directly behind the applicant's (139 Isabel Road) is largely undeveloped with dense tree and vegetation coverage. The applicants are seeking to vary the rear yard setback pertaining to an accessory building so it can be converted into a secondary dwelling. The main setback reduction sought is 5.56 metres, from the required 7.5 metres to the current 1.94 metres (Figure 3). A secondary setback reduction is also required as it pertains to the eaves of the structure, which protrude beyond the foundation. For this, a reduction of 4.2 metres is sought, from 5.5 metres to 1.3 metres.

Official Community Plan and Regional Growth Strategy Analysis

The property is designated as a Settlement Expansion Area in both the Regional Growth Strategy and the Official Community Plan (Appendix A and B), being the "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010" and the "Rural Comox Valley Official Community Plan, Bylaw No. 337, 2104" respectively. According to both documents, development is to be limited in these areas, generally because of servicing limitations, until they are incorporated into one of the Comox Valley Regional District's member municipalities.

Zoning Bylaw Analysis

The applicants have an accessory building which they have been using for non-residential purposes. Given this use, it meets the CR-1 zoning setback of 1.75 metres as outlined in Bylaw No. 520, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019" (Appendix C). However, the applicants want to convert this accessory building into a secondary dwelling and Section 315(3)(i) of the Zoning Bylaw stipulates that the "*siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks*" (Appendix D). Given this stipulation, the necessary setback for any structure used as a dwelling is 7.5 metres from the rear yard lot line.

A further stipulation is found in Section 403(1) of the Zoning Bylaw, which states that features that project from a building without adding square footage (such as bay windows or eaves) can be allowed a setback reduction of up to 50 per cent or 2.0 metres, whichever is less. This means that the allowed minimum setback for eaves is 5.5 metres, necessitating the second variance from 5.5 metres to where the eaves currently sit – 1.3 metres from the rear lot line (a reduction of 4.2 metres).

Please be advised that all adjacent properties within 100.0 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,

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services
Planning and Development Services Branch

/dt

Attachments: Appendix A – “Settlement Expansion Area Designation (Bylaw No. 120)”
Appendix B – “Settlement Expansion Area Designation (Bylaw No. 337)”
Appendix C – “CR-1 Zone”
Appendix D – “Section 315 of Bylaw No. 520”

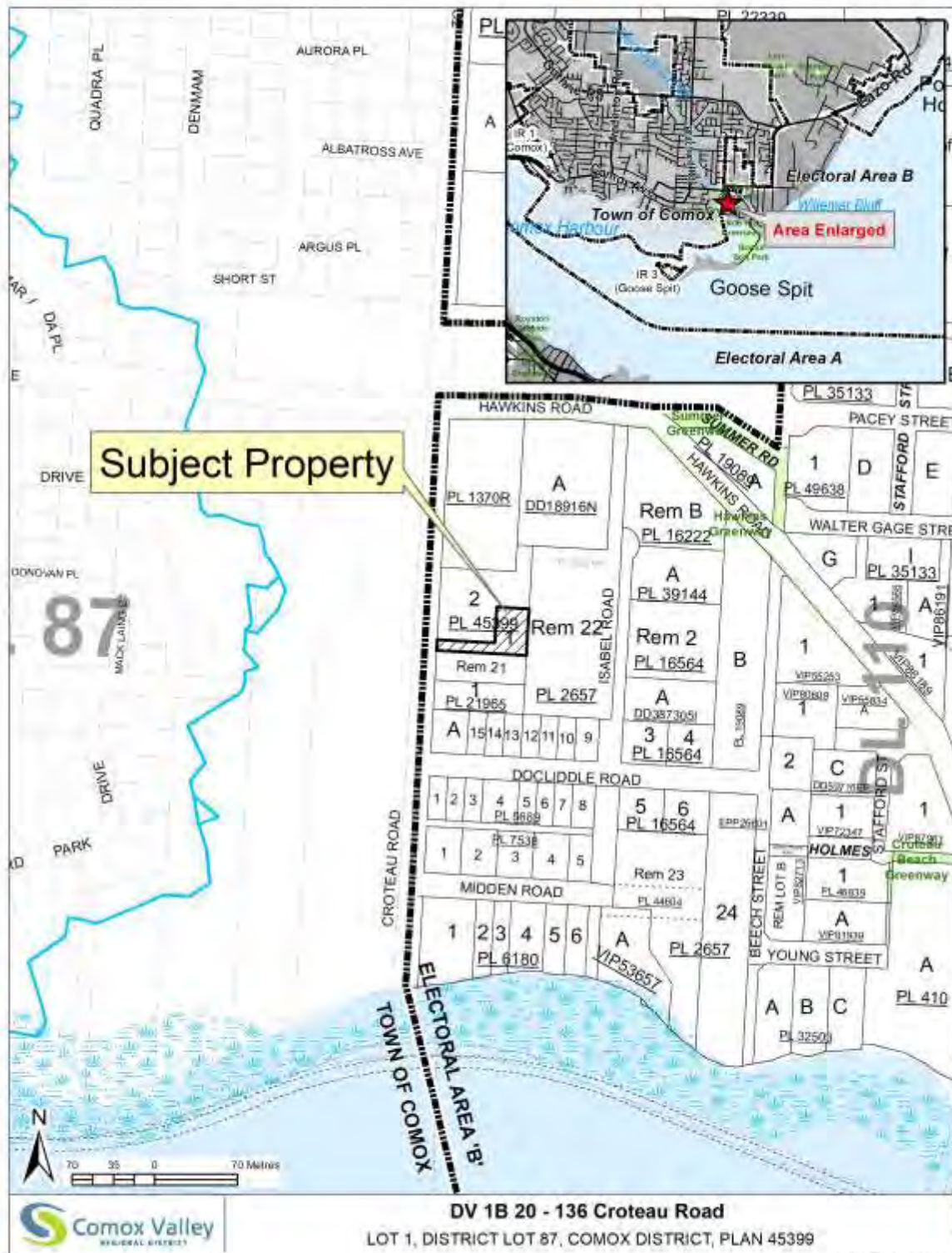


Figure 1: Subject Property Map

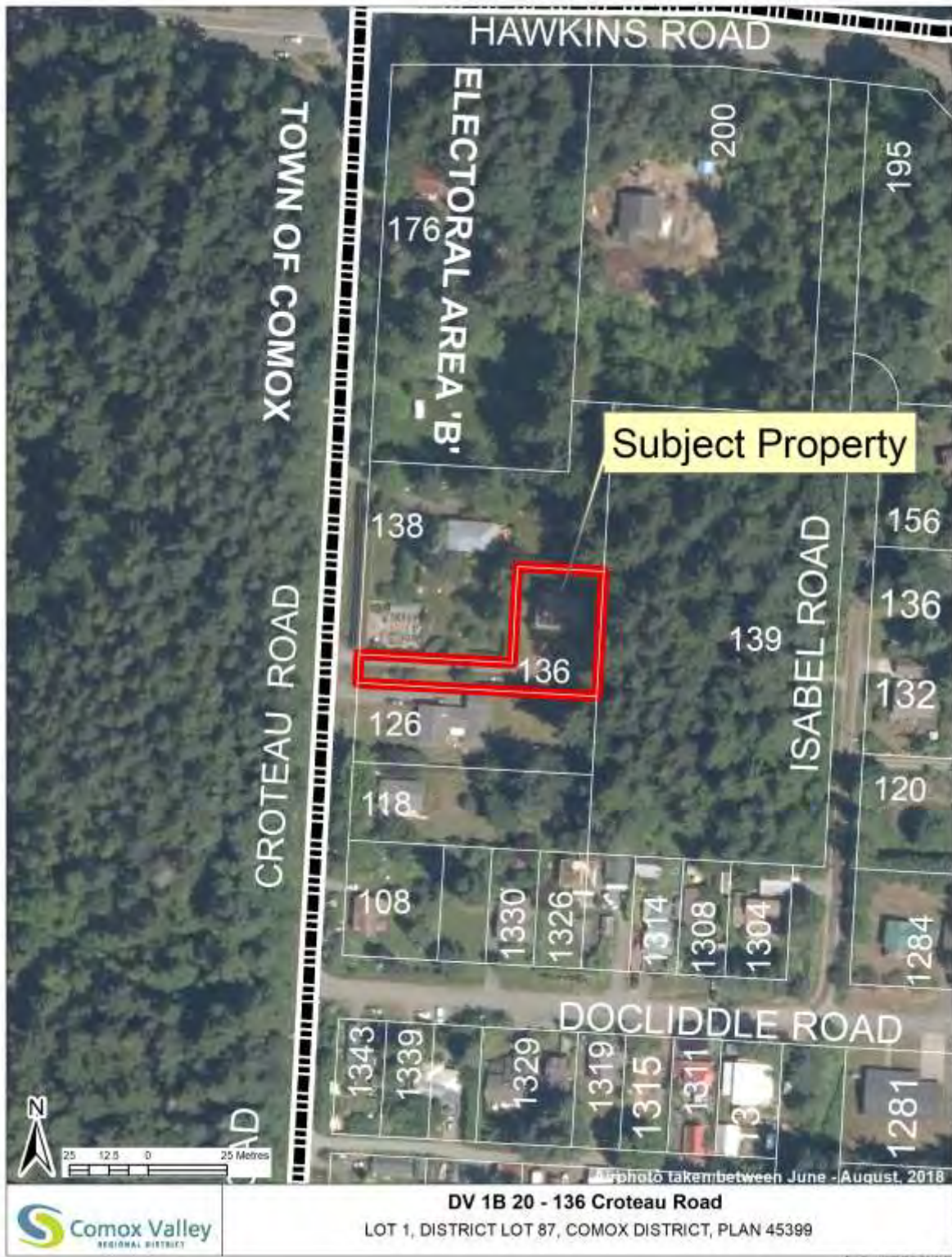


Figure 2: Property Aerial Photo

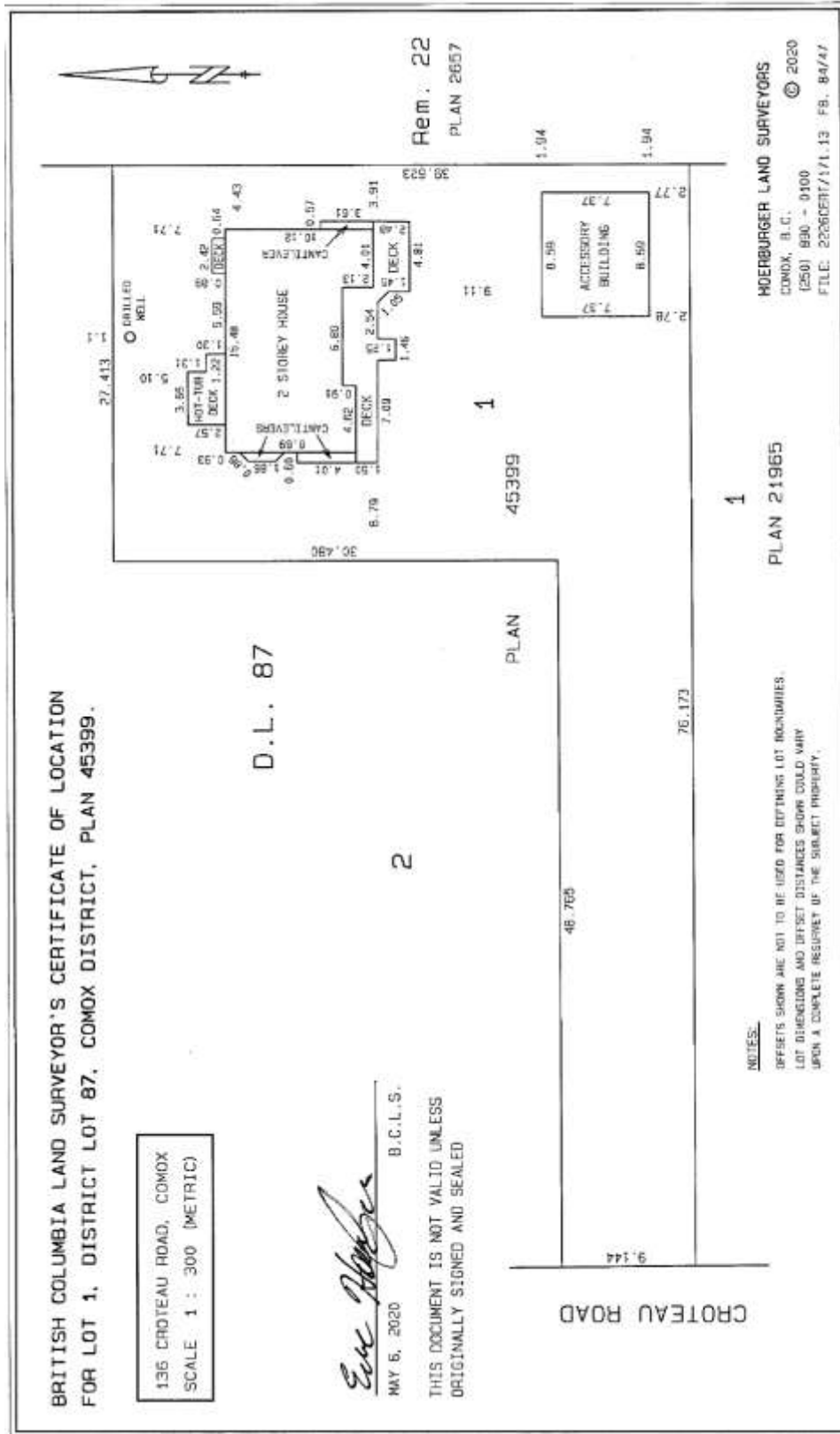


Figure 3: Site Plan

1. (e) Settlement Expansion Areas

Settlement Expansion Areas are located on the fringe of *Municipal Areas*. Any growth in *Settlement Expansion Areas* will occur in a phased and orderly manner and will undergo a public planning process in order to determine the appropriate scale and form of development. They have been identified for either, or a combination, of the following: (1) they contain existing settlements with private water and/or sewer servicing that will eventually require the extension of publicly operated water and sewer services, coincident with boundary extensions, or satisfactory servicing agreements, in order to address public health and environmental issues before they arise; or, (2) they have the long-term potential to accommodate future growth subject to boundary extensions and the provision of publicly-owned water or sewer services, provided that appropriate phasing policies are established, new development does not detract from compact growth options within *Municipal Areas* and that infrastructure capacity is available and financially sustainable.

There are a number of existing neighbourhoods, such as Marsden/Arden and Royston, located on the fringes of the *Municipal Areas*. For the most part, these neighbourhoods were built without full municipal infrastructure – in other words, they contain on-site servicing such as septic systems and/or private well or private/public water systems. Many of them are built at densities that today would be considered too high for such private servicing systems because of water quality and public health issues. Experience has shown that private septic and water systems need ongoing maintenance to prevent failure. While most landowners are responsible and keep their systems maintained, over time such systems have proven to fail and need to be replaced at considerable costs to landowners. More typically, a number of systems will fail at the same time (given that they have similar life cycles); creating pressure to extend publicly operated water and sewer services into the affected area.

Given the number and density of private systems located on the fringe of *Municipal Areas*, there is a need to develop a long-term strategy to prevent public health concerns before they arise. Private wells, watercourses and the marine foreshore within the Comox Valley could be seriously compromised should a number of septic systems fail in the coming years prior to detection. As a result, it is the long-term intention of the growth management strategy that existing neighbourhoods within designated *Settlement Expansions Areas* will eventually be provided with publicly owned water and sewer services. Such provision of services will be coincident with a boundary extension that incorporates the settlement expansion area into a municipal area, or a satisfactory servicing agreement, as detailed in the corresponding official community plan.

Excerpt

Schedule 'A' Comox Valley Regional Growth Strategy Bylaw No. 120, 2010 – Settlement Expansion Areas

The *Settlement Expansion Areas* designation also includes lands on the fringe of *Municipal Areas* with little or no existing development. Such areas have been identified as ‘reserve areas’ to help accommodate the long-term growth demands within the Comox Valley. Their close proximity to *Municipal Areas* means that future growth in these areas will help achieve many of the same benefits as growth within *Municipal Areas*. Namely, if developed in a compact form and in an orderly manner that does not detract from compact growth options within *Municipal Areas*, they will promote the efficient use of land, provide greater transportation choices, reduce public servicing costs and reduce sprawl into rural areas.

MG Policy 1E-1 – Boundary Extensions within Settlement Expansion Areas

It is the intention of Local Governments in the Comox Valley that *Settlement Expansion Areas*, as identified on *Map No. 5*, shall become part of a *Municipal Area* through a boundary extension. Local governments will work cooperatively with regard to such boundary extensions and ensure that the policies of the RGS are maintained.

MG Policy 1E-2 – Identification of Settlement Expansion Areas within OCPs

Settlement Expansions Areas, as identified on *Map No. 5*, shall be identified within the Comox Valley Regional District official community plan and within the official community plan of the *Municipal Area* intending to incorporate it. Such official community plans shall contain policies for *Settlement Expansion Areas* consistent with MG Policies 1E-3 through 1E-6.

MG Policy 1E-3 – Water and Sewer Services within Settlement Expansion Areas

Publicly owned water and sewer services will, in the long-term, be provided within *Settlement Expansion Areas*, coincident with boundary extensions, or mutually satisfactory servicing agreements, and infrastructure capacity in a financially feasible manner. Nothing shall however compel a local government or service provider to enter into a servicing agreement. Service agreements will take into consideration issues around taxation, service delivery, cost recovery and future initiatives in order to address inequities in the provision of service other than water and sewer.

MG Policy 1E-4 –Public Health and Environmental Issues in Settlement Expansion Areas

Where a demonstrated public health or environmental issue has been identified due to failing private water or sewer systems within *Settlement Expansion Areas*, local governments will work together to expedite the provision of publicly owned water and sewer services to such areas in a financially feasible manner.

Excerpt

Schedule ‘A’ Comox Valley Regional Growth Strategy Bylaw No. 120, 2010 – Settlement Expansion Areas

MG Policy 1E-5 – New Development within Settlement Expansion Areas

New development within *Settlement Expansion Areas* will be phased in an orderly manner in order 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. As such, a four-hectare minimum lot size shall be established in *Settlement Expansion Areas* until such time as the following criteria are met:

- a. the area has been incorporated into a *Municipal Area*;
- b. publicly owned water and sewer services are provided;
- c. phasing policies as established within the relevant official community plan are satisfied;
- d. a *Local Area Plan* is prepared (a commitment should be made to prepare the Local Area Plan within 12 months of the boundary extension; and
- e. in the case of Royston, where a *Local Area Plan* already exists, a new *Local Area Plan* should be prepared and the Royston community should be actively engaged with the planning process.

MG Policy 1E-6 – New Settlement Expansion Areas

Designation of any new *Settlement Expansion Areas* will require an amendment to the regional growth strategy.

Excerpt

Schedule 'A' Comox Valley Regional Growth Strategy Bylaw No. 120, 2010 – Settlement Expansion Areas

Land Use Designation

Settlement Expansion Areas (SEA)

34. The settlement expansion areas have been identified as future growth areas for the adjacent urban municipalities. Development is limited in these areas to ensure the phased and timely development of lands that is consistent with the goals and objectives of the member municipalities. The areas contain a broad range of uses. Generally, significant change to the existing land use or further subdivision that increases the density, impact or intensity of use of land is not envisioned until these areas have been amalgamated with the adjacent municipality, except in those areas where public infrastructure is required to address environmental issues.

Objectives

35. In accordance with the RGS, development in settlement expansion areas must generally maintain a rural character with on-site servicing and low densities. Development must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion. The long term objective for the upland area east of Comox Road along the K'ómoks Estuary is to enhance and restore the environmental values and public access.

Policies (general)

36. The following policies apply to the lands designated as “settlement expansion area”.
- (1) The minimum parcel size for new lots within a settlement expansion area is four hectares.
 - (2) Any land use application for subdivision, or rezoning will be reviewed in light of the planning direction in the adjacent municipality in order to ensure that consideration is given to compatible planning and zoning requirements of that municipality.
 - (3) Density bonusing or density transfer provisions are not permitted within a settlement expansion area.
 - (4) Request a municipality proposing an extension into a settlement expansion area to demonstrate their efforts to intensify within existing boundaries prior to expanding into a settlement expansion area.
 - (5) Request a municipality seeking a boundary extension to provide to the CVRD a comprehensive assessment of potential costs and services including but not limited to water, sewer, street lighting and road improvements upon receipt of a referral from that municipality to seek a boundary extension.
 - (6) Provide this information to affected residents allowing for a reasonable amount of time for affected residents to consider the extension and to respond.
 - (7) The Ministry is encouraged to refer to its municipal boundary extension process and policy guidelines, requiring municipalities to demonstrate they have obtained consent for a municipal boundary extension from a majority of residents and property owners within the extension area.
 - (8) Discourage municipal boundary extensions intended to incorporate lands for green field development.

Policies (residential)

37. (1) Existing residential uses are permitted to continue.
- (2) Consider subdivision in the form of a lot line adjustment where parcels of less than four hectares are created. where:
- a. The adjustment does not create an opportunity for increased density on any parcel; and
 - b. The adjustment is proposed to accommodate servicing requirements (e.g. new well site, onsite sewage disposal field replacement) or address errors in survey or building encroachment; and,
 - c. Where no portion of a parcel whose boundaries are being adjusted lies beyond the settlement expansion area.
- (3) New residential development must not preclude future land assembly and subdivisions that are compatible with the standard of the adjacent municipality.

Policies (commercial)

38. (1) Existing commercial uses are permitted to continue.
- (2) Permit expansion or changes to an existing commercial development only when it can be demonstrated that the proposed use or expansion:
- (a) is compatible with the official community plan and any applicable local area plan of the adjacent municipality;
 - (b) is compatible with land uses in the adjacent municipality other than lawful non-conforming uses, and/or does not preclude redevelopment of the site in a manner that is consistent with a municipal local area plan affecting adjacent lands; and
 - (c) does not trigger an expansion of adjacent public servicing that was not otherwise planned.
- (3) Permit new commercial uses through temporary use permits where it can be demonstrated that the proposed use will not result in additional pressure on local servicing and infrastructure.

Policies (industrial)

39. (1) Existing industrial uses are permitted to continue.
- (2) Permit expansion or changes to existing industrial development only when it can be demonstrated that the proposed expansion or change:
- (a) is compatible with the official community plan and any applicable local area plan of the adjacent municipality;
 - (b) is compatible with land uses in the adjacent municipality other than lawful non-conforming uses, and/or does not preclude future redevelopment of the site in a manner that is consistent with a municipal local area plan affecting adjacent lands; and
 - (c) does not trigger an expansion of adjacent public servicing that was not otherwise planned.

- (3) Permit new industrial uses through temporary use permits where it can be demonstrated that the proposed use will not result in additional pressure on local servicing and infrastructure.

Policies (institutional)

40.
 - (1) Existing institutional uses are permitted.
 - (2) Consider new institutional uses following an assessment of the use with the goals, objectives and policies of the applicable OCPs of adjacent municipalities. Require proposals to demonstrate that the proposed use will not add pressure to local servicing and infrastructure.

-End-

703**Country Residential One (CR-1)****1. Principal Use**

- i) **On any lot:**
 - a) Single detached dwelling
- iii) **On any lot over 4000 square metres in area:**
 - a) Agricultural use

2. Accessory Uses

- i) **On any lot:**
 - a) Carriage house
 - b) Secondary suite
 - c) Secondary dwelling
 - d) Home occupation use
 - e) Bed and Breakfast
- ii) **On any lot 2000 square metres in area or larger:**
 - a) Domestic agriculture
- iii) **On any lot 2.0 hectares in area or larger:**
 - a) Domestic industrial use
 - b) Animal kennel

3. Conditions of Use

- i) **Animal kennels shall be subject to the following conditions:**
 - a) A minimum setback for buildings and structures of 15.0 metres along all lot lines.
 - b) A minimum setback for buildings and structures of 30.0 metres from any lot line abutting a lot zoned under Part 700, Residential Zones.
 - c) All structures and area utilized in association with the animal kennel, shall be sited at least 30.0 metres from the boundary of any lake, sea, watercourse or wetlands.
 - d) No loading or storage areas shall be located in any required setback.
 - e) Screening shall be provided of not less than 1.5 metres in height for animal kennel use abutting a lot zoned under Part 700, Residential Zones.
 - f) No more than one sign, not exceeding 1.0 square metre in area on each side may be placed on the lot on which the animal kennel use is carried out.

4. Density

- i) **Residential density is limited to two dwelling units:**
- a) **On any lot:** one single detached dwelling and one carriage house, secondary suite, or secondary dwelling limited in area to 90 square metres are permitted.
 - b) **On a lot 1.0 hectare or larger:** two single detached dwellings.

5. Siting and Height of Buildings and Structures

The maximum height of single detached dwellings is 10.0 metres and the maximum height of accessory buildings is 7.0 metres.

- i) The minimum setbacks required for buildings and structures shall be as set out in the table below.

Type of Use	Height of Structure	Required Setback				
		Front Yard	Rear Yard	Side Yard		Side Yard Abutting Road
				Front Lot Line <31m	Front Lot Line >31m	
Principal	10.0m	7.5m	7.5m	1.75m	3.5m	4.5m
Accessory	4.5m or less	7.5m	1.0m	1.0m	1.0m	4.5m
Accessory	7.0m - 4.6m	7.5m	7.5m	1.75m	3.5m	4.5m

6. Lot Coverage

- i) The lot coverage of all buildings and structures shall not exceed 35 per cent.

7. Floor Area Requirements

- i) The combined floor area of all accessory buildings excluding the floor area of any secondary residential use shall not exceed 200.0 square metres.

8. Subdivision Requirements

- i) The minimum permitted lot area for lands shown in the zoning bylaw layer at <http://imap2.comoxvalleyrd.ca/imapviewer/> is 4.0 hectares.

ii) Lot Area for All Other Lands:

The minimum lot area for subdivision is 2.0 hectares.

For property legally described as Lot 1 and 2, Section 6, Plan EPP56666, a subdivision with lots smaller than 2.0 hectares may be created provided that the average lot area within the subdivision is a minimum of 2.0 hectares.

End • CR-1

365 day period and that the recreational vehicle will be removed from the lot or, where permitted, placed into storage on the lot.

- c) A \$1,000 security deposit in an irrevocable letter of credit or other form satisfactory to a Comox Valley Regional District Officer. If an irrevocable letter of credit is chosen, it shall be automatically renewable unless cancelled, and shall be redeemable locally.
2. On any lot zoned Rural Eight (RU-8), Rural Twenty (RU-20), Rural-ALR (RU-ALR) or Upland Resource (UR) for a maximum duration of 60 days, consecutive or non-consecutive within any 12 month period. There shall be no more than one recreational vehicle occupied on a lot.
 3. Within any other zone, for a maximum duration of 30 days, consecutive or non-consecutive in any 12 month period. There shall be no more than one recreational vehicle occupied on a lot.

314 Residential Use

1. Neither a secondary dwelling, carriage house nor secondary suite carry with them the privilege of separate ownership in fee simple or building strata and further, permission for the above forms of residential units is not to be construed in any way as a justification for future subdivision or change in land use designation. All subdivision requirements and land use designations are applicable.

315 Secondary Residential Use

1. Where permitted in this bylaw, secondary suites must meet the following criteria:
 - i) Secondary suite means an additional dwelling unit.
 - ii) A secondary suite shall be located only within a principal dwelling unit containing only one other dwelling unit and shall have a total floor area of not more than 90.0 square metres exclusive of the areas used for common storage, common laundry facilities or common areas used for access.
 - iii) A secondary suite shall have a floor area less than 40 per cent of the habitable floor area of the building excluding the area of any attached garage.
 - iv) The entrance to the secondary suite from the exterior shall be separate from the entrance to the principal dwelling unit.
 - v) One off-street automobile parking space shall be provided for the exclusive use of the secondary suite.
2. Where permitted in this bylaw, carriage houses must meet the following criteria:
 - i) The siting of carriage houses shall be in accordance with principal structure setbacks.
 - ii) The maximum height for a carriage house is 8.0 metres.
 - iii) The residential use of a carriage house must be located within the second storey of a building accessory to an existing residential dwelling on the same lot.

- iv) The second storey floor area occupied by the residential use may contain interior access to any part of the accessory use below. The interior entryway, landing or similar space must not exceed 2.8 square metres in area.
 - v) A carriage house shall not contain any floor area below grade level.
 - vi) The total floor area occupied by the residential use must not exceed 90.0 square metres.
 - vii) The total floor area of the ground level of the building must not exceed 90 square metres.
 - viii) The carriage house cannot be subdivided from the building it is part of under the *Strata Property Act*.
 - ix) One off-street automobile parking space shall be provided for the exclusive use of the occupants of the carriage house.
 - x) A minimum of one automobile parking space shall be provided within the ground level of the carriage house.
3. Where permitted in this bylaw, a secondary dwelling unit must meet the following criteria:
- i) The siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks.
 - ii) The maximum height of a secondary dwelling unit is 8.0 metres.
 - iii) The total floor area occupied by the secondary dwelling is for residential use only and the total floor area shall not exceed 90.0 square metres.
 - iv) One off-street parking space shall be provided for the exclusive use of the secondary dwelling unit.

316 Portable Sawmills

Portable sawmills are permitted only:

1. On a lot on which it is used solely to saw logs from trees grown and harvested on the lot on which the portable sawmill is located; or
2. As a Domestic Industrial Use where permitted in this bylaw subject to the requirements of Section 307.

317 Gravel Pits: Equipment Storage and Maintenance

Where gravel, sand or soil extraction occurs within or abutting an area zoned under Part 700, Residential Zones, and not within the Agricultural Land Reserve, the storage and maintenance of vehicles and equipment used on the lot shall be subject to the following conditions unless otherwise specified:

1. Buildings, structures, and outdoor areas used for storage and maintenance of equipment and vehicles shall have a minimum setback of 100.0 metres from all lot lines.