

DATE: August 28, 2017

FILE: 3360-20/RZ 2C 17

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

RE: Courtenay and District Fish and Game Protective Association Draft Zone and External Agency Referral - 3780 Colake Rd
Putledge – Black Creek (Electoral Area C)
Lot 1, Sections 32 and 33, Township 10, Comox District, Plan EPP56506, PID 029-762-103; Lot 1, Section 33, Township 10, Comox District, Plan VIP78343 except part in Plan EPP56506, PID 026-200-881; That part of Section 28, Township 10, Comox District, Plan 552H, included within the area shown in red on Plan 788W PID 000-864-889; and Section 32, Township 10, Comox District, Plan 552H, including within the area shown outlined in red on Plan 788W, except part in Plan EPP56506, PID 000-864-846

Purpose

To present a draft zone for use at the Courtenay and District's Fish and Game Protective Association's (CDFGPA) properties at Comox Lake and to recommend that the external agency referral process commence.

Policy Analysis

Section 479 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to regulate land use, density, the size and shape of land, buildings and structures. "Land" for the purpose of zoning authority includes the surface of the water. Section 464 states that a local government must hold a public hearing before adopting a zoning bylaw.

Executive Summary

- The CDFGPA currently operates a 54-site campground, recreational facilities and hosts special events under a temporary use permit (TUP) issued by the board in February 2016;
- The TUP will remain valid until the sooner of either February 3, 2019 (three years from date of issuance) or such time as the CDFGPA and the Comox Valley Regional District (CVRD) agree to cancel it;
- An application to rezone the property was received from the CDFGPA on June 29, 2017;
- Staff has prepared a draft comprehensive development zone that responds to the request of the CDFGPA as well as to the sensitive nature of the property given its proximity to Comox Lake as a drinking water supply area;
- The proposed zone includes three comprehensive development areas;
- CDFGPA representatives have reviewed the draft and agree with advancing the draft to external referral;
- Staff recommends commencing the rezoning process beginning with a referral of the draft zone to external agencies and First Nations for comment (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT proposed Bylaw No. 485, an amendment to Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005”, to create a new comprehensive development zone for the Courtenay and District’s Fish and Game Protective Association’s properties, legally described as Lot 1, Sections 32 and 33, Township 10, Comox District, Plan EPP56506, PID 029-762-103; Lot 1, Section 33, Township 10, Comox District, Plan VIP78343 except part in Plan EPP56506, PID 026-200-881; That part of Section 28, Township 10, Comox District, Plan 552H, included within the area shown in red on Plan 788W PID 000-864-889; and Section 32, Township 10, Comox District, Plan 552H, including within the area shown outlined in red on Plan 788W, except part in Plan EPP56506, PID 000-864-846 (RZ 2C 17) be referred to the external agencies identified in Appendix A of staff report, dated August 28, 2017, for review and comment;

AND FURTHER THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012 for property legally described as Lot 1, Sections 32 and 33, Township 10, Comox District, Plan EPP56506, PID 029-762-103; Lot 1, Section 33, Township 10, Comox District, Plan VIP78343 except part in Plan EPP56506, PID 026-200-881; That part of Section 28, Township 10, Comox District, Plan 552H, included within the area shown in red on Plan 788W PID 000-864-889; and Section 32, Township 10, Comox District, Plan 552H, including within the area shown outlined in red on Plan 788W, except part in Plan EPP56506, PID 000-864-846 (RZ 2C 17) as part of a proposed amendment to Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005.”

Respectfully:

R. Dyson

Russell Dyson
Chief Administrative Officer

Background/Current Situation

Since 2010, staff has met with various representatives of the CDFGPA regarding rezoning and use of the subject properties. The CDFGPA currently operates a 54-site campground, recreational facilities and hosts special events under a TUP issued by the CVRD board in February 2016 for a term ending on February 3, 2019. These accessory uses are conducted in addition to uses permitted via the properties’ underlying zone (e.g. firearm range, office). The TUP was issued to enable the non-compliant uses to continue until such time as the CDFGPA made an application to rezone the property. An application to rezone was received from the CDFGPA on June 29, 2017. Staff has prepared a draft comprehensive development zone that responds to the request of the CDFGPA as well as to the sensitive nature of the properties given their proximity to Comox Lake as a drinking water supply area (Appendix B). Staff recommends that the draft zone be circulated to external agencies and First Nations for comment.

Official Community Plan

The four subject properties are designated resource areas in the Official Community Plan (OCP). The portion of the properties that includes Comox Lake is designated fresh water.

Key objectives of the resource designation are protection of resource areas from encroachment by non-resource uses (i.e. creation of interface issues) and protection of the water quality and quantity of Comox Lake as a drinking water supply. Recreational trails and supporting infrastructure, but not including “commercial structures”, are permitted. Note that the existing buildings on the property that house recreational uses (e.g. firearm range) were granted approvals prior to adoption of the

Regional Growth Strategy (RGS) and current OCP. Buildings constructed since the adoption of the RGS were granted approval as “accessory buildings” per the provisions of the Upland Resource zone. Similarly, the key objective of the fresh water designation in this context is the protection of the drinking water supply while enabling access to freshwater for public enjoyment.

OCP policy concerning watershed protection requires that an applicant retain a qualified professional to assess impact of proposed development on water quality and quantity. The applicant has submitted a riparian area assessment pursuant to the provincial *Riparian Areas Regulation* for the proposed campground area adjacent to Comox Lake and a risk assessment of the proposed campground use, including the boat launch, on the pre-treatment water quality of Comox Lake. Staff has factored the findings of these studies into the proposed comprehensive development zone. A drainage plan was not requested as part of the rezoning application. A drainage plan will be required as part of future development permit application(s) for site alterations and/or construction of any buildings within a development permit area.

The proposed zone identifies sensitive ecosystems as defined in the CVRD’s sensitive ecosystem inventory. The comprehensive development areas have been delineated with the protection of these features and their ecosystem functions in mind. Staff’s proposed comprehensive development zone is consistent with the natural environment and sensitive ecosystem policies of the OCP as well the objectives and policies of the resource and freshwater land use designations.

Zoning Bylaw

The subject properties are zoned Upland Resource (UR-400) and Water Supply and Resource Area (WS-RA) (Appendix C). The existing buildings on the property were permitted as “accessory buildings” under the provisions of the Upland Resource zone. Non-conforming use of the properties, specifically the campground, recreational facilities and special events are currently enabled through a temporary use permit.

Staff has drafted a comprehensive development zone (Appendix B) that is based on precautionary principles. Key objectives of the draft zone are to:

- Recognize the sensitive location of the subject properties relative to the Comox Valley’s primary drinking water supply;
- Protect significant environmental features and their function;
- Enable compatible recreational uses;
- Enable the uses currently permitted via temporary use permit; and
- Anticipate possible compatible future uses.

The draft zone supports these objectives by:

- Delineating specific areas within the properties where various land uses can occur;
- Delineating mapped environmental features and including setback and buffer requirements;
- Removing uses that may create interface conflict (i.e. silviculture, agriculture, explosives sales, storage, manufacturing and distribution);
- Establishing zoning for the surface of the water; and
- Using the 2016 orthophoto to establish a frame of reference to clarify intent.

Options

The board could accept staff’s recommendation to refer the proposed “Comox Lake Comprehensive Development Zone” to the external agencies identified in Appendix A or could refer the draft zone back to staff with direction on next steps.

Financial Factors

Application fees have been levied in accordance with Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw, 2014”.

Legal Factors

Local government can zone the surface of the water, including water surfaces that may be under provincial crown license or lease. Local zoning is applicable to the extent that it does not directly conflict with provincial or federal regulation. The recommendation and discussion within this report have been prepared in accordance with the LGA.

Regional Growth Strategy Implications

The Comox Valley RGS, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”, designates the subject properties as Resource Areas. The growth management framework for this designation is to maintain the working landscape for resource extraction and resource harvesting. Development is to be managed on the basis of precautionary principles. The proposed comprehensive development zone is predicated on the precautionary principle pertaining to protection of the Comox Lake drinking water supply and the properties’ ecosystem features and function. Supporting Policy 5B-4 states that the CVRD should formally consult jurisdictions receiving water from Comox Lake regarding the rezoning application. To that end, both the City of Courtenay and Town of Comox are included in the list of recommended external agencies. The proposed comprehensive development zone addresses nonconforming uses, while implementing the environmental and watershed protection policies of the RGS.

Intergovernmental Factors

Appendix A contains a list of agencies and First Nations to which staff recommends referring the proposal. Feedback from the referral will be reported at a future electoral areas services committee meeting.

In preparation of the draft zone, staff referred to the Village of Cumberland’s Lake Park Master Plan (2014) and BC Parks’ Zoning Guide (2012). As two of the subject properties are developed with a firearm range, submission of a site profile to the Ministry of the Environment (MoE) is required. The owners of the property submitted a site profile that was accepted, with conditions placed on future work, in 2014. Staff recommends referral to MoE again given the passage of time.

Comox Lake is not a navigable watercourse pursuant to the federal *Navigation Protection Act*; referral to Transport Canada is therefore not required (i.e. pertaining to water zoning).

Interdepartmental Involvement

The draft bylaw has been circulated internally and reflects feedback from engineering services, parks, and the manager of fire services.

Citizen/Public Relations

Staff recommends referring this proposed amendment to the Area C Advisory Planning Commission for comment. If the proposed amendment proceeds to the statutory public hearing stage, staff will undertake public consultation in accordance with the LGA and Bylaw No. 328.

Prepared by:

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Alana Mullaly, MCIP, RPP
Manager of Planning Services

Concurrence:

A. MacDonald

Ann MacDonald, MCIP, RPP
General Manager of Planning and
Development Services Branch

Attachments: Appendix A - “External Agency Referral List”
Appendix B - “Proposed Comox Lake Comprehensive Development Zone”
Appendix C - “Upland Resource and Water Supply/Resource Area zones”

Appendix A

AGENCY AND FIRST NATIONS REFERRAL LIST

First Nations

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

Provincial Ministries and Agencies

<input type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development
<input checked="" type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations
<input checked="" type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy and Mines
<input type="checkbox"/>	BC Transit	<input checked="" type="checkbox"/>	Ministry of Environment
<input type="checkbox"/>	Ministry of Aboriginal Relations and Reconciliation	<input type="checkbox"/>	Ministry of Jobs, Tourism and Skills Training
<input type="checkbox"/>	Ministry of Agriculture	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
		<input type="checkbox"/>	BC Wildfire Services

Other

<input checked="" type="checkbox"/>	Village of Cumberland	<input type="checkbox"/>	Comox Valley Economic Development Society
<input checked="" type="checkbox"/>	Town of Comox	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	City of Courtenay	<input type="checkbox"/>	School District #71 (Comox Valley)
<input checked="" type="checkbox"/>	Electoral Area 'C' Advisory Planning Commission Puntledge – Black Creek		

1104**Comox Lake Comprehensive Development Zone (CL-CD)****1. GENERAL PROVISIONS**

The Comox Lake Comprehensive Development Zone is divided into three comprehensive development areas (CDA), being:

- i) CDA-1 Intensive Recreation Zone;
- ii) CDA-2 Nature Recreation Zone;
- iii) CDA-3 Drinking Water Supply Protection Zone

The CDAs are shown on the attached map. The purpose of CDA-1, Intensive Recreation Zone, is to enable recreation and related uses that may involve the construction of buildings and/or related structures and to direct those uses to existing developed and/or cleared areas. The purpose of CDA-2, Nature Recreation Zone, is to enable low impact recreational use, including “walk-in” tent camping, while managing impact on the natural environment and the Comox Valley drinking water supply. The purpose of CDA-3 Drinking Water Supply Protection Zone is to establish a buffer adjacent to Comox Lake and to limit human use activity that may result in negative impact on the drinking water supply and the natural environment.

2. PRINCIPAL USES

Only the following principal uses are permitted in the following comprehensive development areas;

- i) CDA-1 Intensive Recreation Zone
 - a) Low impact recreation
 - b) Recreational facilities
 - c) Dock
 - d) Firearm range
 - e) Interpretive/Cultural centre
 - f) Rural resource centre
 - g) Campground
 - h) Fish Hatchery
 - i) Utility
- ii) CDA-2 Nature Recreation Zone
 - a) Low impact recreation
 - b) Utility
- iii) CDA-3 Drinking Water Supply Protection Zone
 - a) Low impact recreation, excluding “walk-in” tent camping
 - b) Boat launch
 - c) Dock
 - d) Utility

3. **ACCESSORY USES**

All accessory uses shall be related to a principal use and can only be established following establishment of a principal use. Only the following accessory uses are permitted in the following comprehensive development areas;

- i) CDA-1 Intensive Recreation Zone
 - a) Office
 - b) Residential dwelling unit (limited to one)
 - c) Special events
 - d) Dock

4. **LOT AREA**

- i) The minimum lot area for subdivision shall be 400ha

5. **SETBACKS**

- i) All buildings and structures shall be setback a minimum of 15m from exterior lot lines. All buildings and structures, except a dock and buildings or structures containing, or related to, utility use, shall be setback a minimum of 15m from a watercourse, except adjacent to Comox Lake where the setback shall be 30m. The natural boundary of the watercourse which may change over time shall be used to establish the beginning of the setback area. Campsites shall be setback 30m from a watercourse.

6. **HEIGHT**

- i) No building or structure, except buildings or structures containing or related to utility use, shall exceed 12m.

7. **CONDITIONS OF USE**

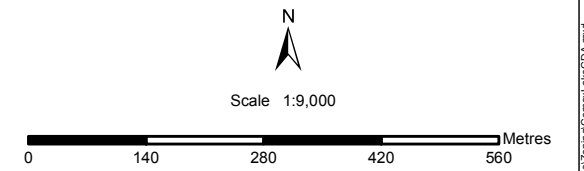
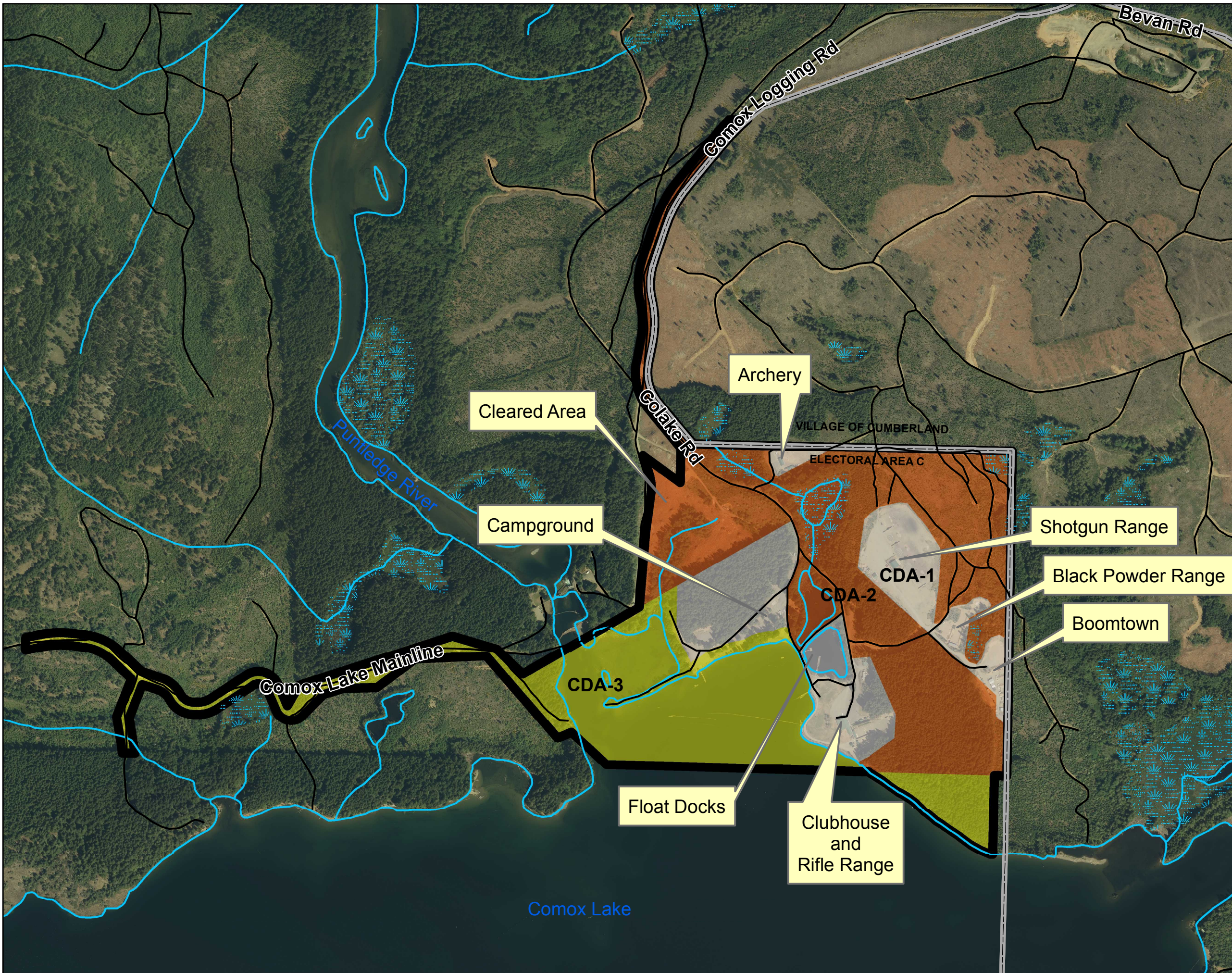
- i) All recycling/compost/waste shall be stored in a centralized and contained location(s). No recycling/compost/waste shall be stored within 30m of a watercourse.
- ii) Each campsite shall have a minimum area of 110m².
- iii) The combined total number of campsites in all CDAs is 75.
- iv) Centralized wash station(s) (i.e. facility for dishwashing, showering) shall be provided for patrons of the campground. Wash station(s) shall adhere to the requirements of the health authority (i.e. discharge).

End • CL-CD

Comox Lake
 Comprehensive Development
 Area (CLCDA)

Legend

- Ditch
- Stream
- ▨ Wetland
- Administrative Boundary
- Zone Type**
- CDA-1
- CDA-2
- CDA-3
- Comox Lake
Comprehensive
Development Area (CLCDA)



2016 Airphoto

This map was prepared by the CVRD for planning purposes only and is not a legal document. This map is a composite of different datasets that were developed from different methods and dates. This map should be used with caution. The CVRD is not responsible for any damages resulting from any omissions, deletions or errors.

804**Upland Resource (UR)****1. PRINCIPAL USE****i) On any lot:**

- a) Residential use;
- b) Silviculture;
- c) Agricultural use;
- d) Fish hatcheries;
- e) Explosives sales, storage manufacturing and distribution; and
- f) Firearm ranges
- g) On any lot in the Agriculture Land Reserve any other use specifically permitted by the Agricultural Land Commission under the *Agricultural Land Reserve Act*, regulations and orders

2. ACCESSORY USES**On any lot:**

- i) Accessory buildings and structures;
- ii) Wood processing.

3. CONDITIONS OF USE

- i) Any conditions imposed on applications made to the Provincial Land Reserve Commission under the *Agricultural Land Reserve Act*.

4. DENSITY:**Residential Use is limited to:**

- i) **On any lot:** One single detached dwelling.

5. LOT COVERAGE

- i) The maximum lot coverage on existing lots of all buildings and structures shall be 35% of the total lot area to a maximum of 1000.0 metres² (10,764.3 feet²).

6. SITING OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Upland Resource zone shall be as set out in the table below.

Type of Structure	Heights	Required Setback				
		Front yard	Rear yard	Side yard		Side yard abutting road
				Frontage <31m	Frontage >31m	
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)	7.5m (24.6ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)	7.5m (24.6ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)	7.5m (24.6ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback area. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the “Floodplain Management Bylaw, 1997” may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]

7. SUBDIVISION REQUIREMENTS

- i) The minimum lot area for subdivision shall be as follows:
 - a) 40.0 hectares (98.8 acres) for the area east of the most westerly boundary of the BC Hydro transmission right-of-way Plans 509, 510, 511, 512, 914, 932, 933 and 934;
 - b) 40.0 hectares (98.8 acres) for the area within 1.0 kilometre (0.6 miles) west of the most westerly boundary of the said rights-of-ways, with measurement made perpendicular to the said right-of-ways boundary, except as modified in Clause (e) below;
 - c) 40.0 hectares (98.8 acres) for the areas approximately 1.0 kilometre (0.6 miles) east, south, and west of the Village of Cumberland, except as modified in Clause (e);
 - d) 400.0 hectares (988.3 acres) for the area more than 1.0 kilometre (0.6 miles) west of the most westerly boundary of the said right-of-ways, with measurement made perpendicular to the said right-of-ways boundary except as modified in Clause (e) below;
 - e) Notwithstanding the above, where a lot is subject to both the 40.0 and 400.0 hectare minimum lot area, the minimum lot area which applies to the greatest portion of the lot shall be the minimum lot area for subdivision. Where a lot is divided into portions of equal area by a line one kilometre west of the most westerly boundary of the said rights-of-way, with measurement made perpendicular to the said right-of-way’s boundary, the minimum lot area in respect of the entire lot shall be 40 hectares.
- ii) The minimum permitted road frontage for lots created by subdivision shall be 100.0 metres (328.1 feet).

End • UR

805**Water Supply and Resource Area (WS-RA)****1. PRINCIPAL USE****On any lot:**

- i) Residential use;
- ii) Silviculture use;
- iii) Explosives sales, storage manufacturing and distribution;

2. ACCESSORY USES**On any lot:**

- i) Accessory buildings and structures.

3. DENSITY**Residential Use is limited to:**

- i) **On any lot:** One single detached dwelling.

4. LOT COVERAGE

- i) The maximum lot coverage on existing lots of all buildings and structures shall be 35% of the total lot area to a maximum of 1000.0 square metres (10,764.3 square feet).

5. SITING OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Community Watershed zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	Side yard abutting road
Principal	10.0m (32.8 ft)	7.5m (24.6ft)	7.5m (24.6ft)	7.5m (24.6ft)	7.5m (24.6ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	7.5m (24.6ft)	7.5m (24.6ft)
Accessory	6.0m-4.6m (19.7t)	7.5m (24.6ft)	7.5m (24.6ft)	7.5m (24.6ft)	7.5m (24.6ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback area. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the "Floodplain Management Bylaw, 1997" may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]

6. SUBDIVISION REQUIREMENTS

- i) The minimum lot area for subdivision shall be 400.0 hectares (988.8 acres).
- ii) The minimum permitted road frontage for lots created by subdivision shall be 100.0 metres (328.1 feet).

End • WS-RA