

**FOOTHILLS COUNTY  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Development Appeal Board Decision**

**HEARING DATE:** APRIL 14, 2026

**BOARD ORDER:** D08/2026

**LANDOWNER/APPLICANT/APPELLANT:** ROY STAPLE

**APPEAL AGAINST:** THE REFUSAL OF DEVELOPMENT PERMIT 25D 357 FOR A RELAXATION OF SETBACKS FOR EXISTING STRUCTURES AND SECONDARY SUITE, EXISTING

**SUBJECT PROPERTY:** PLAN 9110575, BLOCK 2, LOT 14; PTN. SE 22-22-03 W5M

**BEFORE:** CHAIRMAN G. BEACOM; BOARD MEMBERS R. SIEWERT, B. ROBSON, M. REID, B. SALTMAN AND RECORDING SECRETARY G. STANLEY

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**DECISION**

Having been satisfied that notice of this hearing was provided in accordance with the Municipal Government Act, R.S.A. 2000, Chapter M-26;

And upon having read the materials provided, and upon having heard the representations from the Appellant/Applicant/Landowner and the Development Authority for Foothills County with respect to the appeal filed by the Appellants in accordance with Section 685 of the Municipal Government Act against the refusal of Development Permit 25D 357 for a Relaxation of Setbacks for Existing Structures and Secondary Suite, Existing on Plan 9110575, Block 2, Lot 14; Ptn. SE 22-22-03 W5M (The "Property").

The Subdivision and Development Appeal Board for Foothills County (the "Board") has decided to:

DENY the appeal and UPHOLD the Development Authority's decision to refuse Development Permit 25D 357 for a Relaxation of Setbacks for Existing Structures and Secondary Suite, Existing on Plan 9110575, Block 2, Lot 14; Ptn. SE 22-22-03 W5M.

The application is thereby REFUSED.

**INTRODUCTION**

- i. The subject property is an existing 2.27 acre Country Residential District parcel, located adjacent to and west of Priddis Valley Rd W, adjacent to and east of Fish Creek, and 140 m south of 186 Ave W.
- ii. On February 25, 2026, the Development Authority for Foothills County refused Development Permit 25D 357 for a relaxation of setbacks for existing structures and secondary, suite, existing.

- iii. An appeal was received on March 18, 2026, from R. Staple against the refusal of Development Permit 25D 357.

#### **1. RELAXATION OF SETBACKS**

- i. The Development Authority submitted that the subject property is an odd-shaped property with the eastern boundary being Priddis Valley Road, and the south and west boundaries being Fish Creek.
- ii. The Development Authority reviewed the Provincial Flood Hazard Map, which indicates that the entire property is located within the flood fringe, high-hazard flood fringe, or floodway. Lands within the Floodway or Flood Fringe are subject to the Flood Hazard Protection Overlay, which requires development to obtain a Development Permit and demonstrate compliance with applicable flood-related provisions. This may include, without limitation, a flood assessment prepared by a qualified professional. If the Board were to approve the application, the Development Authority advised that conditions are available to address these requirements.
- iii. The Development Authority reviewed the site plan submitted by the Landowner showing the existing structures (outhouse, Dwelling, Sea-Can, Secondary Suite, Garden Shed, Wood shed and 2 garages) and their sizes.
- iv. The Development Authority submitted that the application also requires approval for a Sea-Can. The Development Authority further submitted that Sea-Cans require a Development Permit on properties less than 21 acres.
- v. The Development Authority submitted that Sea-Cans may be considered an accessory building for storage purposes only, in accordance with Land Use Bylaw 60/2014, Table 4.2.1.7A (Maximum Area for Accessory Buildings). The Development Authority further submitted that the exterior finish must match or complement the exterior finish of the principal building, or the Sea-Can must be screened from view.
- vi. The Development Authority submitted that, in the Country Residential District, a permanent dwelling is permitted up to two private garages, attached or detached, with a total cumulative area not to exceed 111.48 sq. m. (1,200 sq. ft.). The Development Authority further submitted that Section 4.2.1.7A of Land Use Bylaw 60/2104 sets out the maximum permitted area. Given that the subject parcel is 2.27 acres, a maximum of three accessory buildings with a total cumulative area not to exceed 155.6 sq. m. (1,675 sq. ft.), accessory to the residence, is permitted.
- vii. The Development Authority submitted that the application proposes the two small structures to be treated as garages, with a combined area of 52 sq. m. (560 sq. ft.). This would result in five structures on the property, totalling 173 sq. m. (1,862 sq. ft.). In addition to the relaxation of cumulative size limits, all structures require setback relaxations.

- viii. The Development Authority submitted that the outhouse (shown in burgundy) is located 11.87 metres from the north property line, where a 15-metre setback is required, resulting in a 20.9% setback relaxation.
- ix. The Development Authority submitted that the garage (shown in red) is located 11.5 metres from the north property line, where a 15-metre setback is required, resulting in a 23.3% setback relaxation. The Development Authority further submitted that the garage is located 39.5 metres from the centreline of Priddis Valley Road, where a 48-metre setback is required, resulting in a 17.7% setback relaxation.
- x. The Development Authority submitted that the garage (shown in orange) is located 39.5 metres from the centreline of Priddis Valley Road, where a 48-metre setback is required, resulting in a 17.7% setback relaxation.
- xi. The Development Authority submitted that the Sea-Can (shown in green) is located 20.6 metres from the centreline of Priddis Valley Road and requires a 57% setback relaxation.
- xii. The Development Authority submitted that the garden shed (shown in purple) is located 22.18 metres from the centreline of Priddis Valley Road and requires a 54% setback relaxation. The Development Authority further submitted that the wood structure (shown in pink) is located 16.5 metres from Priddis Valley Road and requires a 65.6% setback relaxation and is located 4.84 metres from the west property line, where a 15-metre setback is required, resulting in a 68% setback relaxation.
- xiii. The Development Authority submitted that previous development permits were issued, granting setback relaxations for the proposed dwelling. The Development Authority further submitted that an application for a setback relaxation for the temporary dwelling was refused because it exceeded the level of variance the Development Authority was authorized to approve. That decision was appealed, and the Subdivision and Development Appeal Board approved the requested setback relaxation. The Development Authority noted that, during the 2015 appeal, the temporary dwelling and the wood accessory building were discussed as remaining non-conforming.
- xiv. The Development Authority submitted that the Land Use Bylaw defines “non-conforming” as a building that was lawfully constructed, or lawfully under construction, on the date a land use bylaw affecting the building or the land on which it is situated came into effect. Given the age of the structure at the southern end of the property, previous permits have treated it as non-conforming. The Development Authority submitted that the structures may continue to be used; however, they may not be enlarged, added to, rebuilt, or structurally altered.
- xv. The Development Authority submitted that, at the 2015 appeal hearing, the southern building was acknowledged as non-conforming. However, the Development Authority further submitted that there is no record in the

physical land file establishing the age of the buildings or indicating that the County had previously considered this issue.

- xvi. The Development Authority confirmed that it may approve variances of up to 90%. None of the requested variances exceeds this limit, with the largest request being approximately 70%.
- xvii. The Development Authority submitted that the approval granted by the appeal board for the temporary dwelling during construction was not subject to any conditions imposed by the board.
- xviii. The Appellant/Landowner submitted that he purchased the property in 2013, shortly after the flood, with the intention of constructing a dwelling at the location of the current residence. At the time of purchase, the property was not located within the Hamlet of Priddis. The Appellant/Landowner noted that the hamlet boundary was amended in approximately 2019–2020.
- xix. The Appellant/Landowner further submitted that a road-widening right-of-way was removed at the same time as the hamlet boundary amendments were implemented.
- xx. The Appellant/Landowner acknowledged that none of the existing buildings on the property fully comply with current regulations, as the property is located within the flood fringe. He further acknowledged that a setback relaxation from the roadway was required for the construction of the new dwelling. The Appellant/Landowner indicated his desire to maintain the property in its current configuration.
- xxi. The Appellant/Landowner submitted that the two garages and the Sea-Can are not on permanent foundations and, while the Sea-Can could be relocated, he is uncertain whether a suitable location exists on the property that would meet required setback regulations. He further indicated that the Sea-Can has been painted green to reduce visual impact and that additional screening could be provided through fencing and/or vegetation.
- xxii. The Appellant/Landowner submitted that a 650 square foot tiny house is currently being stored on the property on a temporary basis for his sister. He confirmed that the unit is not occupied and stated that it will be relocated to a property in Foremost.
- xxiii. The Appellant/Landowner submitted that the two garages are intended as temporary structures. He explained that the original design contemplated a dwelling with attached garages; however, the house is now a modular home located closer to the creek, and he elected not to include a basement. He further indicated his intention is to construct attached garages in approximately the same location as the existing temporary garages.

- xxiv. The Appellant/Landowner submitted that there is a garden shed located on the property, with a small garden situated adjacent to it.
- xxv. The Appellant/Landowner submitted that he would be amenable to relocating the garages to reduce their visibility from the roadway, noting that the garages are intended to be temporary structures.
- xxvi. The Development Authority submitted that the compliance officer received a complaint regarding the subject property but was unable to provide the nature of the complaint. The Development Authority indicated that the complaint prompted the application for the development permit.

## **2. EXISTING SECONDARY SUITE**

- i. The Development Authority submitted that a 1,200 sq. ft. secondary suite is proposed within the existing structure (shown in blue), which previously served as the dwelling on the property. The Development Authority further submitted that the Landowner applied in 2013 for approval of a new dwelling and in 2015 for approval of a temporary dwelling during construction, and that, in the 2015 application, the Landowner advised that the existing home would be removed.
- ii. The Development Authority submitted that, if this application is approved for a secondary suite, relaxations of setbacks will be required because this was not addressed. The required setback from the west property line is 15 metres; the existing setback is 7.09 metres at the closest point. The required setback from the east property line is 48 metres from the centreline of Priddis Valley Road; the existing setback is 14.68 metres from the east property line (24.68 metres from the road centreline).
- iii. The Development Authority submitted that, according to proceedings during the 2015 appeal board hearing, the existing dwelling (identified in blue) was intended to be removed following completion of the new dwelling. The Development Authority further submitted that the temporary dwelling permitted during construction has since been removed from the property.
- iv. The Appellant/Landowner submitted that when demolition of the old dwelling began, a portion of the building was found to be structurally sound. Additionally, the building housed the existing utility infrastructure, which also serviced the new dwelling. As such, the Appellant/Landowner decided that the structure would remain.
- v. The Appellant/Landowner further submitted that the building originally intended to be removed, now identified as a secondary suite, is not currently occupied and is being used for storage, a tool room, and office space. The Appellant/Landowner expressed his intention to use the building as a secondary suite in the future, noting that the utility services

are connected to this structure and then branch off to serve the primary dwelling.

- vi. The Appellant/Landowner submitted that the construction of the new dwelling was completed in April of 2020.
- vii. The Appellant/Landowner submitted that he could reduce the size of the secondary suite by decreasing its footprint to that of a pump house, while maintaining the ability to accommodate and service the existing utility infrastructure.

### **REASONS FOR DECISION**

The Board is DENYING the appeal and UPHOLDING the Development Authority's decision to refuse Development Permit 25D 357 for Relaxation of Setbacks for Existing Structures and Secondary Suite, Existing on Plan 9110575, Block 2, Lot 14; Ptn. SE 22-22-03 W5M.

The Board considered the application, the reasons for refusal, the testimony of the Development Authority, and that of the Appellant/Landowner.

The Board reviewed Section 5.6.2 of the Land Use Bylaw, which permits the Development Authority to grant a variance on existing development for yard setbacks up to a maximum of 90%. While the Board acknowledged this discretionary authority, it determined that the extent and number of relaxations requested, when considered cumulatively, exceeded what could reasonably be supported.

The Board found that the number, type, and placement of structures on the property, including storage containers and accessory buildings, adversely affect the visual character of the Hamlet and were not in line with the allowable number of accessory buildings/structures as per Table 4.2.1.7A of the Land Use Bylaw. While the Appellant/Landowner proposed mitigation measures such as painting and screening, the Board determined that these measures would not adequately address broader land-use and development concerns and that the application exceeded what could be reasonably supported.

Finally, the Board found that the Development Authority properly exercised its discretion, appropriately considered the Land Use Bylaw and other relevant planning policies, and reasonably concluded that the request for relaxation of setbacks for the existing structures should be refused.

### **CLOSING**

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in Section 688 of the Municipal Government Act, R.S.A. 2000 Chapter M-26 which requires an application for leave to appeal to be filed and served within 30 days of this decision.

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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Dated at the Town of High River, in the Province of Alberta, this 29th Day of April, 2026 and signed by the Chairman of the Subdivision and Development Appeal Board, who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Subdivision and Development Appeal Board.



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Mr. Gar Beacom, Chairman

**RELEVANT LEGISLATION**

**FOOTHILLS COUNTY LAND USE BYLAW 60/2014**

**2.5 Definitions**

**NON-CONFORMING** -means a building that is lawfully constructed or lawfully under construction at the date a land use bylaws affecting the building or the land on which the building is situated becomes effective, and that on the date the land use bylaw becomes effective does not, or when constructed will not, comply with the land use bylaw. More information pertaining to non-conforming buildings and uses can be found under Section 1.8 of this bylaw.

**SEA-CAN** (*sea-can, intermodal shipping container, cargo container, steel container, and railway car*) means an intermodal shipping container off a chassis that was originally used for the shipping of goods, which is now used as an accessory building. A chassis may be defined as a wheeled structure which the Sea-Can may be affixed to for the purposes of vehicular transportation. Additional information on how Sea-cans relate to accessory building regulations can be found in Section 9.2 of this bylaw. Information on signage on Sea-cans can be found in Section 9.24 of this bylaw.

**SECONDARY SUITE, DETACHED** means a *Dwelling, Secondary Suite*, which is detached from and subordinate to, the principal dwelling located on the same parcel. A Secondary Suite, Detached may be a stand-alone suite or a suite within or attached to, an accessory building or detached garage on the same parcel as the principal dwelling and shall be constructed in accordance with all provisions under Section 10.26.

**4.2.1.7 Accessory Buildings/Structures**

<b>TABLE 4.2.1.7A</b>	
<b>PARCEL SIZE</b>	<b>SIZE OF ACCESSORY BUILDING</b>
Less than 1 acre	Maximum of two (2) buildings with a total cumulative size not to exceed 41.8 sq. m. (450 sq. ft.) accessory to the residence
1.0 - 1.99 acres in size	Maximum of three (3) buildings with a total cumulative size not to exceed 88.26 sq. m. (950 sq. ft.) accessory to the residence
2 - 2.99 acres in size	Maximum of three (3) buildings with a total cumulative size not to exceed 155.6 sq. m. (1,675 sq. ft.) accessory to the residence
3.0 - 4.99 acres in size	Maximum of four (4) buildings with a total cumulative size not to exceed 285.7 sq. m. (3,075 sq. ft.) accessory to the residence
5.0 - 9.99 acres in size	Maximum of four (4) buildings with a total cumulative size not to exceed 325.2 sq. m. (3,500 sq. ft.) accessory to the residence

10.0 - 14.99 acres in size:	Maximum of five (5) buildings with a total cumulative size not to exceed 380.9 sq. m. (4,100 sq. ft.) accessory to the residence
15.0 - 20.99 acres in size:	Maximum of five (5) buildings with a total cumulative size not to exceed 422.7 sq. m. (4,550 sq. ft.) accessory to the residence
21.0 acres and over in size:	Maximum of six (6) buildings with a total cumulative size not to exceed 478.5 sq. m. (5,150 sq. ft.) accessory to the residence.
Agricultural District and Agricultural Business District Parcels	Any size accessory building to be used for agricultural, general purposes on agricultural zoned parcels when an agricultural operation exists on the property, in accordance with Section 4.2.1.7 of this Bylaw.

**5.6 VARIANCES**

5.6.1 The Development Authority may exercise its variance powers, prescribed in Sections 5.6.2 to Section 5.6.13, and approve a development permit for a permitted or discretionary use, with or without conditions, which does not comply with the regulations of this Bylaw, if the Development Authority determines that:

- a. The proposed development would not unduly interfere with the amenities, use, enjoyment, or value of adjacent lots.
- b. The proposed development would be consistent with the general purpose or character (urban or rural) of the district.
- c. There are factors unique to the development, use and site (such as the location of existing buildings) which are not generally common to other development and land in the same district, and which would result in unnecessary hardship or practical difficulties for the proposed development to comply with the provisions of this Bylaw; and
- d. There are mechanisms to mitigate the effect on adjacent lots.

5.6.2 The Development Authority may allow a variance on existing development, on any yard setback to a maximum of 90% of the setback required by this Bylaw, with the exception of:

- a) A side yard setback on lands zoned as Residential Community District.
- b) A setback to a Municipal road that would result in development being less than 5m from the ultimate right of way of the Municipal road, Municipal Road, Major, or Internal Subdivision road.

5.6.3 The development authority may allow with respect to existing development on Residential Community District Zoned property, a variance or a side yard setback to a maximum of 25% of the setback required by this Bylaw.

5.6.4 The development authority may allow with respect to a proposed development, a variance of any yard setback to a maximum of 25% of the setback required by this bylaw.

5.6.5 The variance power given to the development authority under section 5.6.4 of this bylaw shall not be exercised with respect to a proposed development unless the

landowner can demonstrate that the proposed location is the most appropriate site for the proposed development”.

5.6.6 the development authority may allow a variance of building height to a maximum of 50% required under this bylaw, with respect to development within the industrial districts, commercial districts, and the service district.

- A) The variance power given to the development authority with respect to building height within the industrial, commercial and the service districts, shall not be exercised unless it has been determined that such a request for variance is integral to the design or operations of the development.

5.6.7 A development officer may issue a letter of compliance where a minor noncompliance exists no greater than 5% in residential community district and for country estate district parcels 0.80 acres or smaller or 2.5% in all other land use districts, subject to the provisions of section 5.6 “variances”.

5.6.8 Compliance may be granted for structures which are no larger than 1.5 sq. m. (16 sq. ft.) in size and do not exceed 2m (6.5 ft.) in height that are fully contained within the boundaries of the property, which do not meet municipal setbacks.

5.6.9 within two years from the date the updated secondary suite provisions adopted under bylaw 68/2023 (January 31, 2024), the following variances may be considered when applying for approval to bring existing suites into compliance, which were not previously allowed in foothills county prior to the passing of said bylaw:

- A) The development authority may issue a development permit for an existing oversized secondary suite if:
  - i. the secondary suite existed prior to the date of the adoption of these regulations; and
  - ii. the secondary suite is no more than 25% greater than the size permitted under section 10.26 secondary suites; and
  - iii. a development permit has been granted approval within two years of the date which bylaw 68/2023 received third reading on January 31, 2024.
- B) The development authority may issue a development permit for reduced building setbacks for a secondary suite where:
  - i. the building code, safety code, and fire code requirements can be met (for example side yard setbacks may not be relaxed on smaller parcels due to separation distances of residential buildings with greater than 10 minutes fire department response time).
  - ii. it does not materially interfere with or affect the use, enjoyment, or value of the neighboring properties.

**9.27 SPECIAL SETBACK REQUIREMENTS**

**General Provisions:**

9.27.1 The minimum setback distances required for front, side, and rear yards do not apply to driveways, sidewalks, or steps with associated landings under 0.6m (2 ft.) above grade, wholly within the lot.

9.27.2 at grade (less than 0.60m (2ft) attached patios and decks may be constructed to within 1m (3ft) of a side or rear yard in all land use districts.

9.27.3 Above grade (0.60m (2ft) and more above grade) attached patios and decks must meet the setback requirements of the land use district in which they are located.

9.27.4 A deck with a roof shall be considered a part of the structure they are abutting and shall meet all applicable setbacks.

9.27.5 Balconies, eaves, fireplaces, sills, canopies, window wells, and cornices may project into the minimum front or side yard setback to a maximum of 600mm (1.97 ft.) or into the minimum rear yard setback to a maximum of 1.5m (4.92 ft.) on agricultural district, country residential district, cluster residential district parcels, and may project into the minimum rear yard setback, of a estate residential district and residential manufactured home district parcels to a maximum of 0.8m (2.62 ft.) for the principal building and 0.1m (0.33 ft.) for an accessory building.

9.27.6 Balconies, eaves, fireplaces, sills, canopies, window wells, and cornices may project into the minimum rear yard setback to a maximum of 1.5m (4.92 ft.) on residential community district parcels for the principal building and 0.1m (0.33 ft.) for an accessory building.

9.27.7 If the title to a lot is subject to a caveat in respect of a land dedication or an agreement for the acquisition of land for road widening or road dedication purposes, the front, side, and rear yard setback shall be the greater of 15m (49.21 ft.) from the future front yard boundary or the distance set out in minimum requirements for yard setbacks in the appropriate land use district.

9.27.8 Utilities, underground parking, and similar structures constructed entirely beneath the surface of the ground may encroach into required yards provided such underground encroachments do not result in a grade inconsistent with abutting properties and the encroachments are covered by sufficient soil depth or surface treatment to foster landscaping.

9.27.9 Where more than one minimum setback distance is applicable under this bylaw, the greater distance shall prevail.

9.27.10 Notwithstanding any other provision contained in this bylaw no person shall place or maintain any object, structure, fence, hedge, shrub, or tree in or on that part of a corner lot location:

- A) within agricultural district, country residential district, cluster residential district, rural business district, natural resource extraction district, all park and recreation districts which lies within a triangle as illustrated on the sketch below:

9.2.8 A Sea-can may be considered as an accessory building to be used for storage purposes only in accordance with the following:

- a. On parcels 21 acres or more, one (1) Sea-can no larger than 48' in length and 10' in width, is permitted without a Development Permit, provided it meets the minimum setback requirements for that Land use District and does not exceed the maximum requirements under the applicable land use district;
- b. In all other instances, a Development Permit is required for placement of Sea-can and must be in compliance with Table 4.2.1.7A "Maximum Area for Accessory buildings not requiring a permit";

- c. The exterior finish should match or compliment the exterior finish of the principal building or be screened from view to the satisfaction of the Development Authority.

## 10.26 SECONDARY SUITES

**10.26.1** A Secondary Suite may be considered in accordance with the following:

- b. Secondary Suite, Detached - detached from and subordinate to the principal dwelling, and may be a stand-alone suite, or a suite within, or attached to an accessory building or detached garage on the same parcel as the principal dwelling, as per the definitions in Section 2.5 in accordance with all provisions under Section 10.26.

**10.26.9** A parcel shall be limited to one Secondary Suite.

**10.26.10** Occupancy shall be restricted to a maximum of two bedrooms per suite.

**10.26.11** A Secondary Suite, Principal, shall be smaller than the habitable area of the principal dwelling to a maximum of 1,400 sq. ft. in size.

**10.26.12** Notwithstanding Section 10.26.11, a Secondary Suite may exceed 1,400 sq. ft. in size where a Secondary Suite, Principal is situated:

- a. Entirely within the basement of the principal dwelling and the building footprint of the basement is greater than 1,400 sq. ft. in size.
- b. Within the entire loft area above a garage attached to the principal dwelling, provided the Secondary suite does not exceed the building footprint of the attached garage and the Secondary suite remains smaller in size than the habitable area of the principal dwelling.

*Building Footprint* means the total ground coverage or impermeable surface of the building area, including any covered roof structures, cantilevers, eaves, attached and covered decks, garage space, carports, porticos, etc. The Building Footprint is used for assessing lot coverage and cumulative area for accessory buildings on a parcel.

For the purpose of determining Secondary Suite size, the habitable area of a Secondary Suite is the sum of all floors of all livable space contained within the exterior walls of the structure, including the basement, which is designated for human occupancy. This includes areas for living, sleeping, eating or food preparation, or recreational purposes, but does not include the garage, or areas devoted exclusively to mechanical or electrical equipment servicing the development.

**10.26.13** A Secondary Suite, Detached shall meet the following maximum size requirements:

- a. on parcels 1 acre and larger in size, the Secondary Suite shall be smaller than the habitable area of the principal dwelling up to a maximum of 1,400 sq. ft. in size, so long as all other requirements under the appropriate land use district are met (including but not limited to minimum building setbacks, maximum height requirements, maximum dwelling unit density, and maximum lot coverage) and the Secondary Suite meets all requirements of Section 10.26.

**10.26.14** A Secondary Suite, Detached shall be considered as part of the total allowable number of accessory buildings and total accumulated area of accessory buildings

in accordance with parcel size as identified in Table 4.2.1.7A of the Land Use Bylaw.

- 10.26.15** Where a Secondary Suite, Detached exceeds the maximum total number of buildings and/or total cumulative size of buildings allowed, based on parcel size in accordance with Table 4.2.1.7A of this bylaw, the Development Authority reserves the right to refuse a Development Permit for the Secondary Suite should they feel the number of buildings and/or cumulative size of buildings on the parcel is excessive and may materially interfere with, or affect the use, enjoyment, or value of the neighbouring property.
- 10.26.16** Each Secondary Suite shall provide the following on-site parking spaces for Secondary Suites:
- a. a minimum of one additional on-site parking space for a Secondary Suite up to a maximum 1,000 sq. ft. in size, in accordance with Section 9.19 of this bylaw.
  - b. a minimum of two additional on-site parking spaces for a Secondary Suite larger than 1,000 sq. ft. in size, in accordance with Section 9.19 of this bylaw.
- 10.26.17** All Secondary Suites shall have their own distinct County address to facilitate accurate emergency response.
- 10.26.18** All restrictive covenants existing on title shall be submitted with applications for Secondary Suites. Should a restrictive covenant be contrary to allowing for a Secondary Suite or additional dwelling unit, the application shall be considered a Discretionary Use under the land use district in which the Development Authority may refuse the Development Permit application.
- 10.26.19** A Dwelling, Manufactured Home or Dwelling, Mobile Home may be approved by Development Permit as a Secondary Suite, Detached where:
- a. The unit has been prefabricated, built or factory-constructed within ten (10) years of the date of the application.
  - b. The unit is placed upon an approved permanent foundation pursuant to the provisions of the building code.
  - c. The development is in compliance with all requirements of Section 10.26 for Secondary Suites.
  - d. It would not cause the maximum dwelling density for the parcel to be exceeded.
  - e. The development meets all other development requirements as per the applicable land use district.
  - f. All applicable fire, building and safety codes requirements are met.
  - g. The Secondary Suite is finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the visual character of the area (consideration given to color/finish) to the satisfaction of the Development Authority.
  - h. A current report, completed by a certified engineer, is submitted for consideration with the application, confirming that the construction and condition of the unit meets all building code requirements, if deemed necessary by the Development Authority.
  - i. Site design features are submitted for consideration with the Development Permit application, including landscaping or screening proposed to provide privacy between the Secondary Suite and adjacent properties and dwellings, if deemed necessary by the Development Authority.
- 10.26.20** The Development Authority, in their discretion, may consider a development

permit for a change of use from an existing Dwelling, Temporary to a Secondary Suite, Detached, if the Dwelling, temporary has approvals under a previous Development Permit and can provide, to the satisfaction of the Development Authority, the following:

- a. The unit is placed upon an approved permanent foundation pursuant to the provisions of the applicable building code as part of the change of use approval.
- b. The unit must be prefabricated, built or factory-constructed more recently than September 2, 2007.
- c. Must be in compliance with all requirements of Section 10.26 for Secondary Suites.
- d. Does not exceed the maximum dwelling density and maximum height requirements and meets all other requirements as per the applicable land use district.
- e. The unit is finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the visual character of the area (consideration given to color/finish).
- f. A current Engineer's report is submitted for consideration with the application, confirming that the construction and condition of the unit meets all building code requirements, if deemed necessary by the Development Authority.
- g. Site design features are submitted for consideration with the Development Permit application, including landscaping or screening proposed to provide privacy between the Secondary Suite and adjacent properties and dwellings, if deemed necessary by the Development Authority.

**10.26.21** Further to 10.26.20, in all cases a Development Permit for the change of use of a Dwelling, Temporary to a Secondary Suite, Detached will be considered a Discretionary Use.

**10.26.22** The Development Authority reserves the right to refuse a Development Permit for a prefabricated dwelling (Dwelling, manufactured home or Dwelling, mobile home) that is of poor appearance or condition.

**10.26.23** Existing unpermitted Secondary Suites that were not allowed under the land use bylaw prior to the passing of Bylaw 68/2023 (January 31, 2024), may be allowed some variances, within two years from the date these provisions were passed, in accordance with Section 5.6 of this bylaw when applying for Development Permit approval to bring them into conformance.

### **Servicing Requirements**

**10.26.24** It is the landowner's responsibility to provide proof of adequate water servicing and sanitary sewer servicing for a Secondary Suite, to the satisfaction of the Development Authority.

**10.26.25** Where a proposed Secondary Suite is to be serviced with a communal or Municipal piped water supply, the following is required:

- a. a letter shall be submitted to the Development Authority providing confirmation from the owner/operator of the piped water system, indicating that there is adequate water available to service the additional use of the proposed Secondary Suite on the subject parcel.
- b. Where a separate water connection/or line extension may be required, confirmation from the utility corporation/ owner/operator of the piped water system, that the line has been installed, connected, and where applicable appropriate meters installed to their satisfaction, shall be submitted to the

Development Authority.

In some areas, such as the Foothills County Hamlets, the water connection may need to be assessed on a case-by-case basis to ensure there is sufficient line size to accommodate the additional use for the site prior to approval. Separate water meter devices may be required for Secondary Suites at the discretion of the utility provider.

- 10.26.26** Where a secondary suite is to be serviced utilizing ground water, the Development Authority (Development Officer, Council, or Development Appeal Board) may require an updated pump test and/or hydrogeologist report or other validation data, completed by a professional engineer or hydrogeologist, on the source groundwater well be submitted to the County for review to confirm that the source water well can sustain an adequate water supply for the existing and proposed development with no anticipated interference to any neighboring wells.
- 10.26.27** Where water is hauled to the site as the primary water source for a Secondary Suite (to a cistern or water storage system) the applicants must provide proof, to the satisfaction of the Development Authority, that the system will provide an adequate quantity of potable water for the proposed use.

Where there is no piped municipal or communal water system available for water supply to a Secondary Suite, installation of a water cistern, in support of the water supply, is encouraged and recommended.

- 10.26.28** The proposed method of managing the wastewater/sewage system for the Secondary Suite shall be provided to the satisfaction of the Development Authority and shall consist of either:
- a. A private sewage treatment system that can adequately manage the additional waste; or a new system or additions to the existing system, that have been adequately sized to accommodate the additional waste, and the location is suitable, and meets the current Safety Codes.
  - b. Where sewage disposal is connected to an approved piped communal collection system, a letter providing conformation from the sewage disposal operator that the system has adequate capacity for the additional sewage and authorization to connect.

### Permit Considerations

- 10.26.29** In considering a Development Permit application for a Secondary Suite, the Development Authority may consider factors such as:
- a. Any significant adverse impacts on the adjacent properties and dwellings (for example: drainage, fire protection, access, etc.).
  - b. Adequate water and wastewater services to sustain the current and proposed additional use on the site.
  - c. The architectural character of the Secondary Suite, including:
    - i. In the case of a Secondary Suite, principal, the use of design strategies that minimize structural changes to the exterior of the principal dwelling, so that it maintains the appearance of a single dwelling; and
    - ii. In the case of a Secondary Suite, Detached, the suite, should be constructed and finished in a manner that is visually compatible with the principal dwelling on the same lot and in keeping with the

- visual character of the area (consideration given to size/scale, location, and/or color/finish).
- iii. The availability of an indoor storage area located on the property for use of the residents of the Secondary Suite to minimize visual impact to neighboring properties.
- d. Site design features, including:
  - i. The need for landscaping or screening to provide privacy between the Secondary Suite and adjacent properties and dwellings.
  - ii. The need for adequate space to accommodate parking and loading for use by residents of the Secondary Suite.
- e. Such other considerations as the Development Authority may deem to be relevant.

All Secondary Suites, with a valid Development Permit may be recorded on the Secondary Suite Registry for public information.

**13.1 COUNTRY RESIDENTIAL DISTRICT**

**13.1.1 PURPOSE AND INTENT**

To provide for acreage development consistent with the policies outlined in the Municipal Development Plan.

**13.1.3 GENERAL REQUIREMENTS:**

- 13.1.3.1 Refer to Section 4.2 “No Development Permit Required” in the Land Use Bylaw for uses not requiring a development permit.
- 13.1.3.2 Refer to Section 9 and Section 10 respectively for the general and specific land use regulations and provisions that apply to this District.

13.1.4 PERMITTED USES	13.1.5 DISCRETIONARY USES
Accessory buildings not requiring a development permit	Accessory buildings requiring a development permit
Accessory uses	Agricultural intensive – on lots 3 acres or more in size
Agricultural (general)	Agricultural specialty
Dwelling, single family	Antenna structures, private
Home Based Business Type I	Arenas, private
Home office	Bed and Breakfast
Signs not requiring a development permit	Day home services
Solar Power System, Private (Not requiring a Development Permit)	Dwelling, moved on
Temporary storage of no more than 1 unoccupied recreation vehicles (within Hamlet boundary)	Dwelling, temporary
Temporary storage of up to 5 unoccupied recreation vehicles (outside a Hamlet boundary)	Home based business Type II
Public works	Home based business Type III
Secondary Suite, Principal	Intensive vegetation operation
	Kennels, private
	Lot grading
	Manmade water bodies, private
	Secondary Suites, Detached

Utility services, minor

Signs requiring a Development Permit  
Solar Power System, Private (Requiring a  
Development Permit)

**13.1.6 LAND USE REQUIREMENTS**

- 13.1.6.1 A person who wishes to subdivide land in this district into additional lots must first apply for and be granted approval of a land use bylaw amendment.
- 13.1.6.2 In order to facilitate the purpose and intent of this district and ensure the comprehensive development of country residential uses within the District, the following applies to applications for subdivision:
  - a. Parcel Density:
    - i. Maximum one lot per 2.02 ha (5 acres) of existing land contained under the same title to a maximum of 32 lots per quarter section.
  - b. Minimum Parcel Size:
    - i. The area in title at the time of passage of this Bylaw; or
    - ii. A parcel of land no less than 0.81 ha (2.0 acres).
  - c. Maximum Parcel size:
    - i. 8.49 ha (20.99 ac); or.
    - ii. The area in title at the time of passage of this Bylaw.
- 13.1.6.3 Required Developable Area:
  - a. In accordance with Section 9.8 of this Bylaw.
- 13.1.6.4 Utility Servicing Criteria
  - a. Individual wells and individual wastewater disposal systems;
  - b. Communal water and communal wastewater disposal systems; or
  - c. A combination of a. and b. as determined by Bylaw amending this section.

**13.1.7 DEVELOPMENT REQUIREMENTS**

- 13.1.7.1 Maximum Lot Coverage
  - a. No building or group of buildings including their accessory buildings and impervious surfaces shall cover more than forty (40) percent of the lot area.
- 13.1.7.2 Maximum Dwelling Unit Density
  - a. Maximum dwelling unit density for a parcel under 80 acres is one Dwelling, Single Family and either one Dwelling, Secondary Suite in accordance with Section 10.25, or one Dwelling, Temporary in accordance with Section 10.26 Secondary Suites and Section 10.10.
  - b. Or as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan.
- 13.1.7.3 Minimum Yard Setbacks Requirements
  - a. Front Yard Setbacks:
    - i. 40m (131.23 ft.) from the ultimate right of way or 70 meters from the centreline of a Provincial highway, whichever is greater;
    - ii. 48m (157.48 ft) from the centreline of a Municipal road;
    - iii. 15m (49.21 ft.) from the right of way of an internal subdivision road.

- b. Side Yard Setbacks:
  - i. 15m (49.21 ft.) from the property line.
- c. Rear Yard Setbacks:
  - i. 15m (49.21 ft.) from the property line.
- d. If the title to a lot is subject to a caveat in respect of a land dedication or an agreement for the acquisition of land for road widening purposes, the dedicated area or area of future road widening shall be considered the future property boundary for which setback distances set out shall apply.
- e. See Section 13.1.8 “Exceptions” for any setbacks exemptions that have been approved by Bylaw.

**13.1.7.4 Corner Parcel Restrictions**

- a. In accordance with Section 9.27.9 - 9.27.12.

**13.1.7.5 Other Minimum Setback Requirements:**

- a. See Section 9.27 “Special Setback Requirements” of this bylaw for additional setback requirements that may apply.

**13.1.7.6 Maximum Height of Structures:**

- a. Principal buildings, first vehicle garage, and car ports:
  - i. 12m (39.37 ft.)
- b. Accessory buildings and arenas:
  - i. 10.67m (35 ft)
- c. Radio antennas, internet towers and wind turbines:
  - i. 16m (52.49 ft.);

**13.1.7.7 Minimum habitable area per dwelling - 100 m2 (1,077 sq. ft.)**

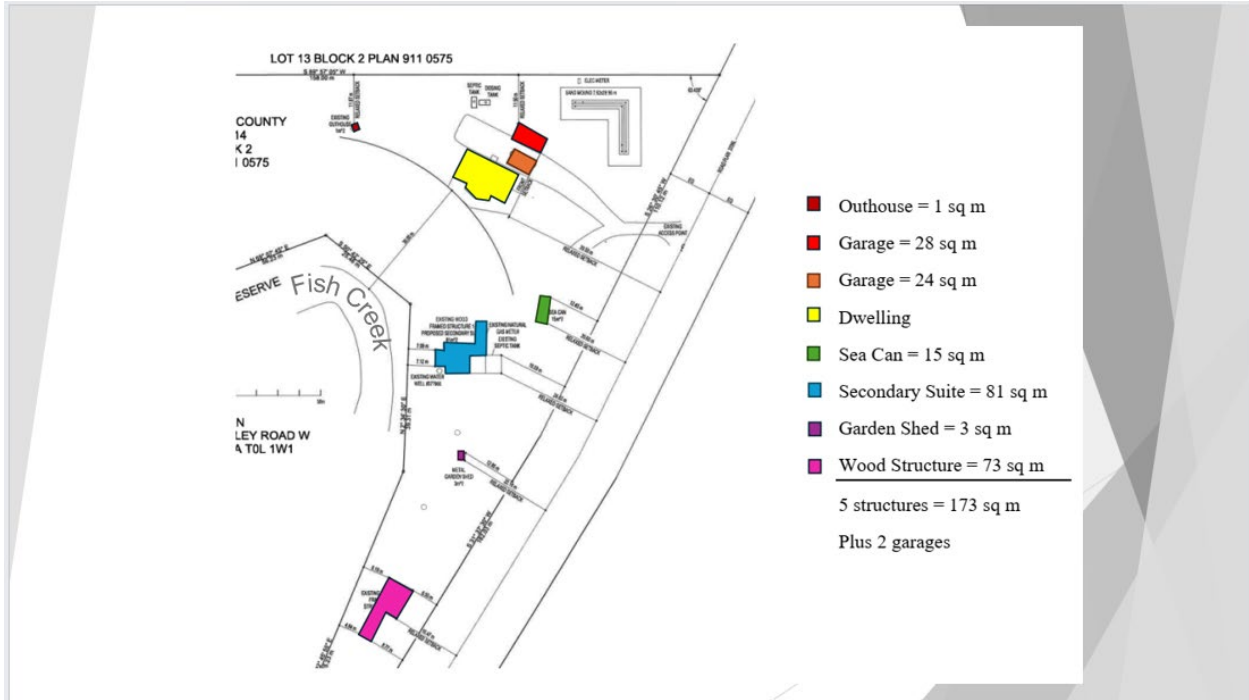
**MUNICIPAL GOVERNMENT ACT, R.S.A. 2000, CHAPTER M-26**

**Hearing and Decision**

**687(3) In determining an appeal, the subdivision and development appeal board**

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

Map of Accessory Building/Structures on Subject Property



**APPENDIX “A”**

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

<u>NAME</u>	<u>CAPACITY</u>
1. S. Kotlar	Foothills County - Development Officer
2. R. Staple	Appellant/Landowner/Applicant

**APPENDIX “B”**

I. DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

<b>NO.</b>	<b>ITEM</b>
1.	Decision from the Foothills County Development Officer 25D 357
2.	Notice of Appeal submitted by R. Staple

**APPENDIX “C”**

EXHIBITS MADE AVAILABLE AT THE HEARING

<b>NO.</b>	<b>ITEM</b>
1.	Presentation by Foothills County Development Officer S. Kotlar
2.	Accessory Building/Structures Map