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SUBDIVISION AND DEVELOPMENT APPEAL BOARD OF  
MOUNTAIN VIEW COUNTY

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**DECISION**

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Hearing held at: Mountain View County Office  
Council Chambers

Date of Hearing: July 26, 2018

Members Present: Alana Gibson  
Greg Harris  
Gil Hegel  
Laurel Pedersen  
Mark Olson

Basis of Appeal: This is an appeal from a Development Permit denied for Tree Clearing within an Environmentally Significant Area Level 2 (High) (The "**Proposed Development**") on NE 28-30-5-W5M (The "**Lands**") refused by Mountain View County on June 7<sup>th</sup>, 2018. The Appellant stated the following as the Reason for Appeal:

- Incorrectly classified;
- Tree harvesting is sustainable and environmentally responsible;
- Harvesting operations will meet or exceed all Provincial harvesting ground rules;
- Land has been actively harvested within the last 50 years;
- Timber to be removed is over mature and is creating an increased fire risk;
- Over mature trees are more prone to disease and bug infestation;
- Land is designated Agricultural, want to improve this rangeland.

Appellant: Darcy and Stephanie Coleman  
Landowner: Darcy and Stephanie Coleman

**Description of Application**

On July 26<sup>th</sup>, 2018, the Subdivision and Development Appeal Board (the "**Board**") opened the appeal hearing for the appeal filed by the Appellant in regard to a Development Permit refused with respect to Tree Clearing within an Environmentally Significant Area Level 2 (High) (the "**Proposed Development**") on NE 28-30-5-W5M (the "**Lands**") pursuant to Section 686 of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26, as amended. The Development Permit was denied by the Municipal Planning Commission on June 7<sup>th</sup>, 2018 (the "**Development Permit**").

The Notice of Development Appeal was filed by the Appellant with the Board on June 28<sup>th</sup>, 2018. (the "**Notice of Appeal**").

**Findings of Fact:**

1. The Lands are located at NE 28-30-5-W5M
2. The Lands are 158.97 acres with approximately 117 acres planned for the Proposed Development;
3. The Lands are currently zoned A (Agricultural District);
4. The Purpose of the A (Agricultural District) zoning is to “accommodate and promote agriculture land uses on larger parcels while having regard for the rural, agricultural character of the area”;
5. The Lands are currently contained within an Environmentally Significant Area (ESA) Level 2 (High) as determined by the 2008 Environmentally Significant Areas Report completed by Summit Environmental Consultants Ltd (Summit Report).
6. The Proposed Development is defined as Tree Clearing by Mountain View County Bylaw 15/15 and is a discretionary use requiring a development permit due to its location within an Environmentally Significant Area;
7. The 2008 Environmentally Significant Areas Report identified the Lands meet three ESA criteria: Areas with vital environmental, ecological or hydrological functions; Areas with large and relatively undisturbed habitats; Areas that provide a linking function and permit movement;
8. The 2014 Environmentally Significant Areas in Alberta Report completed by Fiera Biological Consulting (Fiera Report) did not locate the Lands within an Environmentally Significant Area;
9. The Board accepts that the Alberta Timber Harvest Planning and Operating Ground Rules Framework for Renewal produced by the Alberta Government provides a standard for Tree Harvesting and Clearing within the province;
10. The Board accepts the claims from the Appellant that in order to sell timber, they are required to meet the guidelines as laid out in the Alberta Timber Harvest Planning and Operating Ground Rules Framework for Renewal, they intend to undertake Tree Utilization of 15/11 as depicted in the guidelines, and they have no history of failed audits in regards to their operations;
11. The Board accepts that the evidence provided by the Appellant depicts that the Lands have been actively harvested within the past 50 years;
12. The Board accepts that the Appellant has previously undertaken similar Tree Clearing on parcels of land within Mountain View County, some of which are also labelled as an ESA by the Summit Report;

**Decision:**

The decision of the Subdivision and Development Appeal Board is to **uphold the appeal** and **vary** the decision of the Municipal Planning Commission. The decision of the Board is to approve Development Permit PLDP20180123 with the following conditions:

**Standard Conditions:**

1. The provisions of the Land Use Bylaw No. 15/15
2. Approval by the approving authority does not exclude the need and/or requirements of the Permittee to obtain any and all other permits as may be required by this or any other legislation, bylaws, or regulations.
3. The Development Officer may, by notice in writing, suspend a Development Permit where development has occurred in contravention to the terms and conditions of the permit and/or Land Use Bylaw.

## Standard Conditions if Applicable:

4. Landowners shall be responsible for dust control on the County road adjacent to their property;
5. N/A
6. N/A
7. N/A
8. N/A
9. N/A
10. N/A

## Permits Associated with Building Construction:

11. N/A
12. N/A

## Additional Conditions:

13. Hours of operation for tree clearing shall be Monday thru Saturday 7:00 am to 6:00 pm. No tree clearing operations shall occur on Sundays or Statutory holidays. Hours of operation shall be strictly adhered to.
14. Timber, brush, stumps, logs or roots shall not be piled or buried outside of the area that is permitted for tree clearing. Special precaution must be exercised to protect the Environmentally Significant Area outside of the tree clearing boundary.
15. The applicant, landowner and/or operator shall ensure that all truckers and/or contractors are aware of and comply with the conditions of this development permit.
16. **Prior to hauling from the subject property**, the applicant, landowner and/or operator shall contact the County's Operational Services Department with the intended haul route for a proposed haul. If a Road Use Agreement is determined to be required by the County's Operational Services, then the Road Use Agreement must be obtained prior to any haul from the subject property.
17. The applicant shall adhere to the Alberta Timber Harvest Planning and Operating General Rules Framework for Renewal. This approval shall only be for Tree Utilization of 15/11 as outlined by the Framework.

**Reasons for Decision:**

1. The Board determined that through reviewing the evidence of active harvesting of the Lands, that the Lands are not undisturbed and therefore questions the relevance of Criteria 7 of the Summit Report;
2. The Board did not receive evidence of any vital environmental, ecological or hydrological functions on the Lands and therefore questions the relevance of Criteria 2 of the Summit Report;

3. The Board determined that as there is insufficient evidence to support the criteria as established within the Summit Report, the Proposed Development would likely have little effect on the environmental significance of the Lands, if any;
4. The Board determined that the adherence to the Alberta Timber Harvest Planning and Operating Ground Rules Framework for Renewal would ensure the intent of the Proposed Development to remove marketable timber while maximizing their pasture and decreasing the potential wildfire risk;
5. The Board determined that the Proposed Development is a suitable discretionary use for the Lands;
6. The Board determined that the Proposed Development would support an increased Agricultural Use of the Lands in alignment with the purpose of the district;
7. The Board determined that the Proposed Development would assist with forest management and the overall future health of the Lands.

**Evidence:**

The Board considered the following evidence in making its decision:

1. The Agenda and Notice of Appeal;
2. Report and verbal presentations to the Subdivision and Development Appeal Board including all attachments presented to the Board by the Appellant;
3. Report and verbal presentations to the Subdivision and Development Appeal Board including all attachments presented to the Board by the County's Planning and Development Department;
4. ***Municipal Government Act***, R.S.A. 2000, Chapter M-26;
5. Mountain View County Municipal Development Plan 09/12;
6. Mountain View County Land Use Bylaw 15/15;
7. 2008 Environmentally Significant Areas Report completed by Summit Environmental Consultants Ltd;
8. 2014 Environmentally Significant Areas in Alberta Report completed by Fiera Biological Consulting.

**Appeals:**

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the ***Municipal Government Act*** as follows:

**Section 688(1)**

An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the Subdivision and Development Appeal Board.

**Section 688(2)**

An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to

- (a) the Municipal Government Board or the Subdivision and Development Appeal Board, as the case may be; and
- (b) any other persons that the judge directs.

**Section 688(3)**

On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success.

**Section 688(4)**

If a judge grants permission to appeal, the judge may:

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the questions of law or the questions of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

**Section 688(5)**

If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice of the application for permission to appeal and the board and the municipality

- (a) Are respondents in the application and, if permission to appeal is granted, in the appeal, and
- (b) Are entitled to be represented by counsel at the application and, if permission to appeal is granted, at the appeal.

**SUBDIVISION AND DEVELOPMENT APPEAL  
BOARD OF MOUNTAIN VIEW COUNTY**

Per:

  
Chair

Date Signed: August 7, 2018