
SUBDIVISION AND DEVELOPMENT APPEAL BOARD OF
MOUNTAIN VIEW COUNTY

DECISION

Hearing held at: Mountain View County Office
Council Chambers

Date of Hearing: August 31, 2018

Members Present: Alana Gibson
Al Kemmere
Gil Hegel
Mark Olson

Basis of Appeal: This is an appeal from a Development Permit denied for Tourist Campground – 54 sites (The “**Proposed Development**”) on NW 1-33-7-W5M (The “**Lands**”) refused by Mountain View County on July 19, 2018. The Appellant stated the following as the Reason for Appeal:

- The MPC denied the development permit on the basis that insufficient information was provided with respect to fencing, specifics of the development, emergency access and enforcement; The Applicant understood that the application was complete and prepared to provide the necessary information; and
- The proposed development is consistent with the Bearberry/Red Deer River Corridor Area Structure Plan

Appellant: Michael & Kimberly Verkerk
Landowner: Schott’s Lake RV & Guest Ranch Inc.

Description of Application

On August 31, 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 a Tourist Campground – 54 campsites (the “**Proposed Development**”) on NW 1-33-7-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 July 19, 2018 (the “**Development Permit**”).

The Notice of Development Appeal was filed by the Appellant with the Board on August 8, 2018. (the “**Notice of Appeal**”).

Findings of Fact:

1. The Lands are located at NW 1-33-7-W5M;
2. The Lands are located within the Bearberry-Red Deer River Corridor Area Structure Plan (the “**Area Structure Plan**”);
3. The Lands are 79.9 acres;

4. The Lands are currently zoned P-PR (Parks and Recreation District);
5. The purpose of the P-PR (Parks and Recreation District) zoning is to “accommodate a wide range of public/private parks and recreational activities, primarily aimed at passive and active outdoor recreation”;
6. The Lands contain existing development consisting of a lodge and overnight accommodation unit (motel) (the “**Existing Development**”);
7. The Lands were previously named the Diamond Buffalo Guest Ranch and Spa which was renamed to Schotts Lake RV and Guest Ranch Inc in 2016;
8. The Proposed Development is classified as a Tourist Campground which is listed as a Discretionary Use in the P-PR (Parks and Recreation District);
9. The Board accepts the fencing and signage plan as presented by the Appellant to be adequate and appropriate for the Proposed Development;
10. The Board accepts the information presented by the Appellant relative to the site development plan, internal road network widths, campsite dimensions and proposed campground rules and regulations, and has determined that the information provided is adequate and appropriate for the Proposed Development;
11. The Board was presented with an emergency access plan for the Lands and has determined that it, in conjunction with appropriate Access Easement Agreements registered to both parcels, is appropriate for the Proposed Development;
12. Section 7.1.10 of the Area Structure Plan states that “The Bentz Lake Natural Area shall remain a natural preserve. Any development that may be approved on lands adjacent to the Natural Area shall be set back a sufficient distance from the boundaries in order to help maintain the character and integrity of the Natural Area.”
13. The Proposed Development is outside the Bentz Lake Natural Area but is adjacent to the Natural Area;
14. The Board accepts that the Proposed Development is set back a sufficient distance from the boundaries and would not comprise the character or integrity of the Natural Area;
15. The Board accepts the submission from the Appellant, Appellant’s landscape architect, and evidence submitted that details that the Lands are already disturbed from the natural state and that the intention of the Proposed Development is to compliment and preserve the existing natural features rather than to disturb them further;
16. Section 2.3 of the Area Structure Plan recognizes the Proposed Development as commercial recreation and states that “The Diamond Buffalo Guest Ranch and Spa that provides a variety of accommodations and activities year round and is located at Schott’s Lake North of Highway 584”.
17. Section 7.10.5 of the Area Structure Plan states that “Commercial recreation uses may be permitted in the plan area if the County is satisfied the proposed development would meet the following: compatible with the rural character of the plan area; the form, scale and intensity of the development is compatible with adjacent land uses; the provisions of adequate proposed screening and buffering of noise, light and other undesirable effects that may be associated with the proposed development; minimal effects on the nature of the natural environment, whereby actions to mitigate effects on the environment may be required; adequate existing and proposed vehicular access roads leading to the proposed development, access points, internal roads and on-site parking facilities; and adequate water supply, sewer collection, stormwater management and other services required to accommodate the proposed development.
18. The Board accepts that the Proposed Development is compatible with adjacent land uses and is a suitable complimentary use of the Existing Development;
19. The Board accepts that the Proposed Development is in alignment with the planning strategies of the Area Structure Plan, specifically related to section 5.2.2(d), 5.2.2(f) and 5.2.2(j).

Decision:

The decision of the Subdivision and Development Appeal Board is to **uphold the appeal** and **overturn the** decision of the Municipal Planning Commission. The decision of the Board is to approve Development Permit PLDP20180192 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. All access approaches must be to County standards. A no charge approach permit is required and can be obtained at the Mountain View County office.
6. An Alberta Land Surveyor is to locate / post the location of the building(s) / structure(s) prior to construction as per the approved sketch. The County shall not be responsible or liable for non-compliance with this condition.
7. N/A
8. N/A
9. A rural address is required to be posted on the property. The landowner shall contact Mountain View County to obtain a rural address and the requirements for posting it on the property as per the Rural Addressing Bylaw.
10. No development shall be constructed, placed or stored over an easement or utility right of way; the applicant/landowner is responsible for contacting Alberta-One-Call and/or other governing authority. Permits Associated with Building Construction:
11. If the development authorized by a Development Permit is not completed within twenty-four (24) months from the effective date of the permit, such permit approval ceases and the permit itself is deemed void, expired and without effect, unless an extension to this period has been previously granted.
12. Permittees are advised that they are subject to standards of the Safety Codes Act of Alberta and are responsible to meet the requirements of the Act in regards to building, electrical, gas, plumbing, and private sewage disposal systems. Prior to construction required permits must be obtained from Mountain View County. Mountain View County shall not be responsible or liable in any manner whatsoever for any structural failures, defects or deficiencies whether or not the said development has complied with the Safety Codes Act of Alberta.

Prior to Issuance Conditions:

13. **PRIOR TO ISSUANCE OF THE DEVELOPMENT PERMIT**, the landowner shall enter into an Access Easement Agreement to provide alternative emergency access. The Agreement shall be registered against the affected titles and the County shall be party to the Agreement.

Additional Conditions:

14. Permit approval is conditional on information supplied on the application form for a Tourist Campground for 54 Unserviced Dry Seasonal Campsites. The applicant shall maintain a non-intrusive business and preserve the privacy and enjoyment of adjacent properties. This permit does not allow for water or sanitary infrastructure to be provided to each individual campsite;
15. Future development, expansion, new or additional uses, will require a new Development Permit.
16. The applicant, landowner and/or operator shall ensure all Provincial and Federal approvals are obtained for the proposed campground prior to proceeding with the development, including but

- not limited to, the Recreation Area Regulation Alberta Regulation 198/2004 and the Alberta Private Septic Systems Standards of Practice.
17. If the applicant, landowner and/or operator is providing sewage disposal on site, including outhouses/privies, then approvals through Alberta Environment may be required. Should Alberta Environment require Municipal approval, Safety Codes Permits shall be obtained from Mountain View County. The applicant, landowner and/or operator shall provide the County with copies of the Alberta Environment's approval. If the applicant, landowner and/or operator provides a communal system, then a Private Sewage System Suitability Analysis, prepared by a qualified professional will be required prior to construction of the septic disposal system.
 18. That no use of the Tourist Campground occur until construction of the onsite sewage disposal is constructed;
 19. That the applicant, landowner and/or operator meet any standards and obtain any approvals required from Alberta Health Services and Alberta Gaming & Liquor Commission.
 20. Parking shall be contained within a specified area as established on the site. No parking of vehicles shall be permitted on any County road allowances at any time.
 21. The applicant, landowner and/or operator shall ensure that all occupants of the campground sites enter into a rental, lease and/or agreement with the operators to ensure campground regulations and rules are followed.
 22. The applicant, landowner and/or operator shall ensure that use of firepits shall be in conformance with Mountain View County's Fire Bylaw No. 11/13.
 23. The applicant, landowner and/or operator shall ensure all waste products, such as garbage, that is generated on the subject property is disposed of in bear-resistant garbage bins and disposed of in a timely manner at a certified Waste Management Facility.
 24. There shall be an identification sign at the entrance of the campground along Range Road 71. This sign shall be on the subject property and must be legible and shall include the contact information, emergency contact information, the legal & rural address, hours of operation as well as a diagram of the lot layout of the campground.
 25. There shall be no ATV, off-road vehicles, and/or dirt bike use within the campground facility by any occupants of the sites nor shall the campground facility be the staging area for ATV, off-road vehicles, and/or dirt bike uses.
 26. There shall be no camping or public occupancy of the 54 campsites from November 1st to March 31st annually, including storage of RV units.
 27. That the applicant, landowner and/or operator obtains, and adheres to, a Roadside Development Permit from Alberta Transportation, if required.
 28. Yearly dust suppression shall be required in front of the approach to the property on the gravel road from the approach to 100m south of the access to Plan 0012469 Block 1. Consultation with the County's Operational Services department will occur prior to any dust suppression being done.
 29. The applicant, landowner and/or operator shall continue with the agreement with the landowner(s) of SW 1-33-7-5 (Curtis Luzi) for access into the property or provide physical access onto the property with the appropriate approach permit.
 30. The applicant, landowner and/or operator are encouraged to incorporate BearSmart principles into their proposal. Additional information may be obtained at www.bearsmart.alberta.ca
 31. All new development is encouraged to utilize fire retardant building materials and shall practice FireSmart principles outlined in the FireSmart Manual which can be obtained from www.wildfire.alberta.ca/firesmart/default.aspx
 32. That Development Permit PLDP20180068, issued on April 27, 2018, remains valid and continued compliance must be maintained.

Reasons for Decision:

1. The Board has determined that the Proposed Development is a suitable use for the area and complimentary to Existing Development on the Lands;
2. The Board has determined that the Proposed Development will not impact the natural features of the area, nor the Bentz Lake Natural Area as contemplated within the Area Structure Plan;
3. The Board determined that the Proposed Development is supported by the Area Structure Plan in relation to the economic and recreational benefits of the Proposed Development;
4. Although the Board accepts that the Proposed Development may have raised concerns from adjacent land owners, the Board accepts that the rules and regulations as outlined by the Appellant, and the conditions included with the permit, have addressed and will mitigate concerns that were raised;
5. The Board determined that any information previously listed by the Development Authority as outstanding has now been submitted and is satisfactory to the Board.

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. Mountain View County Bylaw 02/15 – Bearberry/Red Deer River Corridor Area Structure Plan

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: September 13, 2018