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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: January 8, 2019

Members Present: Bruce Beattie  
Lori Conkin  
Alana Gibson  
Gil Hegel  
Kim Walton

Basis of Appeal: This is an appeal from a Development Permit approved with conditions for Industrial Storage and Warehousing – Outdoor Storage, 1 Office Trailer and Southerly and Westerly Setback Relaxations to Existing Sea Cans (The “**Proposed Development**”) on SW 34-32-5-5; Plan 9010509 Lot 2 (The “**Lands**”) approved by Mountain View County’s Municipal Planning Commission on December 6<sup>th</sup>, 2018. The Appellant stated the following as the Reason for Appeal, amongst others contained within the Notice of Appeal:

- Condition 29 be removed as most screening options would not be in compliance and other options would not allow proper maneuvering of the tractor trailers thus this provides no solution to the complainants which do not live in the vicinity where the screening would actually help;
- Condition 22 be removed as it is unfair to revoke existing development DP88-041 on this property for no just reason.

Appellant: Kevin Glubrecht  
Landowner: Kevin, Mary-Ann, Karen Glubrecht

**Description of Application**

On January 8<sup>th</sup> 2019, 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 approved with conditions for Industrial Storage and Warehousing – Outdoor Storage, 1 Office Trailer and Southerly and Westerly Setback Relaxations to Existing Sea Cans (the “**Proposed Development**”) on SW 34-32-5-5 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 approved by the Municipal Planning Commission on December 6<sup>th</sup>, 2018 (the “**Development Permit**”).

The Notice of Development Appeal was filed by the Appellant with the Board on December 10<sup>th</sup>, 2018. (the “**Notice of Appeal**”).

**Findings of Fact:**

1. The Lands are located at SW 34-32-5-5; Plan 9010509 Lot 2
2. The Lands are 1.68 acres and currently zoned I-BP (Business Park District)
3. The Purpose of the I-BP (Business Park District) zoning is to “accommodate a broad range of commercial and industrial uses in business and industrial parks, some of which may have outdoor storage or work activities. Any nuisance associated with such uses should generally not extend beyond the boundaries of the site”;
4. The Lands were re-designated in 1990 and the Proposed Development has operated on the site in various capacities since that time.
5. The Proposed Development is defined as Industrial Storage and Warehousing by Mountain View County Bylaw 16/18 and is a discretionary use requiring a development permit;
6. The setback requirements for the Proposed Development front yard is 12.0 metres (39.3 feet) and side yard is 13.5 metres (44.3 feet);
7. The Proposed Development requests a setback relaxation to a front yard of 9.4 metres (31 feet) and side yard of 12.2 metres (40 feet);
8. Mountain View County Policy 6018 “Business, Commercial and Industrial Design Guidelines Section 6.5(4) states that “Screening in the form of fences, hedges, landscaped berms or other means is required along the property lines of all business, commercial, and industrial lots where such lines are abutting a residential property line or are adjacent to lanes that abut neighbouring residential property. Such screening shall be at least 2.0 m (6.6 ft) high. Other dimensions of the screening shall be at the discretion of the Approving Authority”
9. Mountain View County Bylaw 16/18 Section 5.2(9) allows for the Approving Authority to “approve an application for Development Permit notwithstanding that the proposal does not comply with this Bylaw, in in the opinion of the Approving Authority the proposal would not unduly interfere with the amenities of the neighborhood, or materially interfere with or affect the use, enjoyment or value of neighboring properties”;
10. The Board accepts the evidence provided by the Appellant that the property owners located adjacent to, and most affected by, the Proposed Development, are in agreement with providing no additional screening;
11. Mountain View County Bylaw 16/18 does not provide any restrictions on hours of operation for the I-BP (Business Park District);
12. The Development Permit issued granted authority for 24 hours per day, 7 days per week operation;
13. The Board accepts the comments from residents opposed to the Proposed Development that there is a nuisance created particularly during the repair and maintenance of vehicles on the Lands;
14. The Board accepts the statement provided by the Appellant that reduced hours would be agreeable on Saturday and Sunday but not Monday to Friday;
15. The Board accepts the statement from the Appellant that Condition 22 of the Development Permit is acceptable and therefore no further action is required from the Board;

**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 PLDP20180401 with the following **amended** conditions:

**Standard Conditions:**

1. The provisions of the Land Use Bylaw No. 16/18.

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.
4. If the development authorized by a Development Permit is not complete 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.

Standard Conditions if Applicable:

5. Landowners shall be responsible for dust control on the County road adjacent to their property;
6. N/A
7. 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.
8. N/A
9. N/A
10. 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.
11. No development shall be constructed, placed or stored over an easement or utility right of way; the applicant/landowner is responsible for contact Alberta-One-Call and/or other governing authority.

Permits Associated with Building Construction:

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 structure failures, defects or deficiencies whether or not the said development has complies with the Safety Codes Act of Alberta.

Additional Conditions:

13. Permit approval is conditional to information supplied on the application form for an Industrial Storage and Warehousing – Outdoor Storage Development Permit to provide trucking services.
14. A southerly and westerly setback relaxation from the property line to the existing sea cans shall be permitted as per the submitted site plan.

15. The applicant shall ensure that all storage and/or parking of commercial vehicles shall be located a minimum of 13.5 metres (44.29 ft) from the south property line, and 12 meters (39.37 feet) from the west property line. No storage shall be allowed within the setbacks.
16. That the entire site shall be maintained in a neat and orderly manner at all times.
17. The hours of operation shall be 24 hours, 7 days a week with the exception of repairs and maintenance of vehicles which shall be restricted to 24 hours Monday through Friday, 8:00 am to 4:00 pm on Saturday and 8:00 am to 12:00 pm on Sundays and Statutory Holidays.
18. Future expansion, work area, additional uses and/or additional employees will require a new permit.
19. That the applicant complies with the South East Sundre Area Structure Plan.
20. That the applicant complies with the Business, Commercial and Industrial Design Guidelines, with the exception of screening requirements.
21. That the applicant adheres to Alberta Transportation Roadside Development Permit RSDP023606.
22. That the applicant is notified that DP88-041 - Mobile Home (dwelling) and LP91-026 - Residence is no longer valid.
23. Approval of this application is for an Industrial Storage and Warehousing development on the SW 34-32-5-5 Plan 9010509 Lot 2.
24. Sea cans must be painted to compliment the surrounding development or screened from view.
25. No signage has been permitted with issuance of this permit. Placement of signage requires issuance of a new permit.
26. The applicant shall not direct outdoor lights into the adjacent residential lots.
27. The applicant shall be permitted to perform minor maintenance onsite. The applicant shall dispose of any and all scrap metal and chemicals collected and contained on site in a timely manner to prevent possible soil contamination and shall comply with all environmental standards and permit requirements of the authority having jurisdiction for the containment and disposal of scrap metal and chemicals on site.
28. There shall be no more than a total of eight (8) tractor trailers/semi-trailer units stored on the subject property at any time.
29. The applicant shall be permitted to store no more than a total of four (4) personal recreation vehicles on the subject property at any time.

**Reasons for Decision:**

1. The Board determined that the Proposed Development, while a Discretionary Use, is a suitable use for the Lands and the I-BP (Industrial Business Park) zoning;
2. The Board determined that the setback relaxations requested are appropriate for the Proposed Development and suitable for the Lands;
3. The Board determined that although Policy 6018 requires that screening be placed on a Business, Commercial or Industrial Development when abutting residential properties, that screening should not be required as the adjacent residential properties most impacted are in agreement with not requiring additional screening and that any screening placed in compliance with Policy 6018 would be ineffective at mitigating concerns raised by other landowners. Further, the Board determined that the placement of screening would cause the Lands to be decreased to a size that would affect the efficiency of the Proposed Development and/or make manoeuvrability on the lot difficult for operations of the business.
4. The Board determined that the reduced hours of operation for repairs and maintenance will mitigate a portion of the concerns raised by adjacent landowners but still respect that the Lands are appropriate for an Industrial use.
5. The Board determined that as the Appellant did not provide further comment on the request to remove condition 22 from the Development Permit and acknowledged their agreement to allow condition 22 to remain, that the condition would not be removed.

**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. Verbal presentations provided to the Subdivision and Development Appeal Board by individuals opposed to the proposed development;
5. **Municipal Government Act**, R.S.A. 2000, Chapter M-26;
6. Mountain View County Municipal Development Plan 09/12;
7. Mountain View County Land Use Bylaw 15/15;
8. Mountain View County Policy 6018 "Business, Commercial and Industrial Design Guidelines"

**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: Jan 23, 2019