

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD****DECISION**

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Hearing held at: Mountain View County Office  
Council Chambers

Date of Hearing: March 8, 2016

Members Present: Ernie Israelson, Chair  
Alana Gibson  
Bruce Beattie  
Duncan Milne  
Greg Harris

Basis of Appeal: This is an appeal to a development permit approved by the Municipal Planning Commission on January 21, 2016. The Appellant has sited the following as the Reasons for Appeal:

- The Approving Authority did not properly consider Section 10.14 (1) of Land Use Bylaw No. 15/15
- The Approving Authority did not properly consider Section 10.14 (3) of Land Use Bylaw No. 15/15
- The Approving Authority did not give proper consideration to a previous decision regarding approval of re-designation of the property.

Appealed By: Douglas McCullough

**Description of Application:**

On March 8, 2016 the Subdivision and Development Appeal Board (SDAB) heard an appeal by Douglas McCullough, in regard to the approval of a development permit by the Municipal Planning Commission for a Recreational Resort for 100 seasonal RV sites on NW 32-33-4-W5M, Plan 0010019, Block 3. The Municipal Planning Commission approved the development application on January 21, 2016.

The essential issue that the Subdivision and Development Appeal Board must address in this appeal is whether a proposal for Recreational Resort (100 RV sites), which is a Discretionary Use, is consistent with the intent and direction provided in Mountain View County's statutory documents.

**Findings of Fact:**

1. The Development Permit application is for Recreational Resort use as defined by Land Use Bylaw No. 15/15.
2. The Application requests approval for 100 Recreational Vehicle (RV) sites with a maximum occupancy of 6 People per site.

3. A portion of the property proposed for development is the site of a former Gravel Pit, which has been reclaimed and returned to the property owner.
4. The application is adjacent to the Eagle Valley Cemetery. There will be a 50 meter buffer between the Cemetery and the closest RV site.
5. The subject parcel is zoned Parks and Recreation District and the Recreational Resort use is listed as a Discretionary Use within this Land Use District.
6. There is a Sour Gas pipeline on the West side of the Property that is rated as a Level 3 Sour Gas line. The Pipeline is operated by Shell and the License number is 25243.
7. There is also a Level 4 Sour Gas well located immediately adjacent to the SW corner of the subject land on the adjoining property.
8. The Alberta Energy Regulator and Land Use Bylaw No. 15/15 states no public facility will be located within 1500 meters of a Level 3 and Level 4 Sour Gas facility.
9. The Application for the Recreational Resort use is considered to be a Public Facility as defined by the Alberta Energy Regulator.
10. The majority of traffic accessing the subject property will travel from the East via Township Road 340 which is a chip sealed road.
11. In 2010 Mountain View County hired AMEC to conduct an Intersection Assessment for the intersection of Range Road 44 and Township Road 340.
12. The Application is within the Eagle Valley Area Structure Plan Boundary (Bylaw No. 47/97). This Area Structure Plan was approved in 1997.

**Decision:**

In determining this Appeal the Board:

Considered all of the relevant evidence presented at the Hearing which included the verbal arguments and written submission made by the Applicant, the Appellant, and the verbal arguments and written report provided by the Planning and Development Department.

**The decision of the Subdivision and Development Appeal Board is to uphold the appeal and refuse the Development Permit application.**

**Reasons:**

1. Notwithstanding the previous approval and existence of the Golf Course, the SDAB has determined that the Application for Recreational Resort, 100 RV sites, would be considered a Public Facility as designated by the Alberta Energy Regulator (AER). The application for 100 RV sites is considered to be a "major recreational facility" and has the capacity to accommodate more than 50 individuals. In addition to AER regulations, Land Use Bylaw No. 15/15 section 10.13 (3) (c) states "no rural public facility shall be permitted within 1500 meters of the sour gas (level 3) facility. The Applicant estimates in the map attached with the Development permit application that the Recreation Resort will be +/- 1000 feet (305 M) from the West property boundary. The Level 3 sour gas pipeline operated by Shell Canada is located on the west side of the subject property which places this application within 1500 meters of a level 3 sour gas facility.
2. Traffic Safety Concerns: The intersection of Range Road 44 and Township Road 340 does not conform to Alberta Transportation's Highway Geometric Design Guide (1999). Approving this application would increase the safety risks associated with this intersection.

3. Non-compliance with Area Structure Plan: Section 2.0 (c) Plan Objectives requires new Development to be protected from Man Made Hazards (Level 3 Sour Gas facility).

**Evidence:**

The Board considered the following evidence in making its decision:

1. Report and verbal presentation to the Subdivision and Development Appeal Board including all attachments presented to the Board by the Planning and Development Department and the Applicant.
2. Verbal presentation and written submission to the Subdivision and Development Appeal Board by the Appellant.
3. Verbal presentation and written submission to the Subdivision and Development Appeal Board by adjacent Landowners.

**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)

The appeal must be to the Court of Appeal of the Province on a question of law or jurisdiction with respect to a decision of the Subdivision and Development Appeal Board.

## Section 688(2)

An application for leave to appeal pursuant to subsection (1) must be made to a judge of the Court of Appeal within 30 days after the issue of the decision sought to be appealed, and notice of the application must be given to:

- (a) the Subdivision and Development Appeal Board; 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 leave 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.

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

Per: \_\_\_\_\_

Chair

Date Signed: \_\_\_\_\_

MARCH 17 / 2016