

SUBDIVISION AND DEVELOPMENT APPEAL BOARD**DECISION**

Hearing held at: Mountain View County Office
Council Chambers

Date of Hearing: February 16, 2016

Members Present: Reeve Bruce Beattie, Chair
Duncan Milne
Elisa Humphreys
Greg Harris
Ron Vogel

Basis of Appeal: This is an appeal to a development permit approved by the Municipal Planning Commission on January 7, 2016. The Appellant has cited the following as the Reasons for Appeal:

- Condition #18 that requires the applicant to remove all materials on the property by June 30, 2016 and restricts outside storage.
- The denial of Business, Contractors use.

Appealed By: Lawrence Haddow

Description of Application:

The Municipal Planning Commission approved portions of a development application on January 7, 2016, with conditions. On February 16, 2016 the Subdivision and Development Appeal Board heard an appeal by Lawrence Haddow requesting removal of condition 18, and approval for Business, Contractors use on the property, which was refused by the Municipal Planning Commission.

Findings of Fact:

1. The subject property is designated Agricultural.
2. The application is being considered under Land Use Bylaw 01/14. The current Land Use Bylaw is 15/15, however Section 3.01 of Land Use Bylaw 15/15 provides that: "All redesignation, subdivision and development applications received in a complete form prior to the effective date of this Bylaw shall be processed and considered based on the regulations in effect consistent with Bylaw No. 01/14, unless prior to a decision being made on the application, the County receives a duly signed amended application requesting that said subdivision, redesignation, or development application be processed and considered based on the regulations of this Bylaw."
3. Land Use Bylaw 15/15 was approved on November 25, 2015. The completed application from Mr. Haddow was received on November 13, 2015.
4. The Development Permit application includes multiple items. The Dwelling and Accessory Building identified as a Shop and Drive Shed, are considered permitted uses under Land Use

- Bylaw 01/14 Section 11.1, Agricultural District Uses. The second part of the permit application is for Business, Contractors use to support the operations of Trevcon Enterprises Ltd. Business, Contractors is a Discretionary use as per section 11.1 of Land Use Bylaw 01/14.
5. The application falls within the Bearberry – Red Deer River Corridor Area Structure Plan, Bylaw 02/15.
 6. The subject property contains a waterbody that forms part of the Bearberry Creek watershed.
 7. The appellant and the appellants representative sited portions of the Land Use Bylaw that they felt were most relevant to this hearing, including sections 10.4
 8. The appellant and the appellants representative sited portions of the Municipal Development Plan that they felt were most relevant to this hearing, including sections 5.2.3, and 5.3.18
 9. The appellant and the appellants representative sited portions of the Area Structure Plan that they felt were most relevant to this hearing, including sections 7.7.13

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 Appellant, and the verbal arguments and written report provided by the Planning and Development Department and area landowners.

The decision of the Subdivision and Development Appeal Board is to deny the appeal and uphold the Municipal Planning Commission’s decision to approve the Development Permit application for the proposed dwelling and accessory building –shop and drive shed, with the same conditions identified in the January 7, 2016 decision. The Subdivision and Development Appeal Board also deems it appropriate to refuse the application for Business, Contractors – Trevcon Enterprises

Reasons:

1. The Application for Business, Contractors is a discretionary use for Agricultural zoned property. The appeal board did not hear sufficient evidence that the application will meet the intent of 10.4 (3) i: “mitigation measures that will be undertaken to avoid potential nuisance effects for neighbours.” The application does not adequately address screening or indoor storage of equipment associated with the Business and further, the potential exterior impacts such as noise, odour, exhaust and refuse matter have not been sufficiently addressed by the appellant.
2. Section 5.2.1 of the Area Structure Plan states that the overriding planning strategy is to: “Preserve the existing quality of life through growth management that seeks to preserve rural qualities, agricultural characteristics, environmental integrity, and community cohesiveness within all new development. Further, recognize historical patterns of growth and development; and to minimize land taken out of agricultural production.” The Business, Contractors application to store and operate Heavy equipment on the property is not consistent with Section 5.2.1 The appellant has not demonstrated that the application for Business, Contractors use will conform with the term “appropriate” that is referenced in

section 5.2.3. The location of Heavy equipment on the subject property will increase Noise and Traffic impacts experienced by area land owners.

3. The application for Business, Contractors use is not consistent with the Municipal Development Plan section 3.2.1 “To conserve agricultural land by encouraging the development of long-term preservation strategies for the County’s agricultural/environmental land base.” And further, the application for Business, Contractors is not compatible with Section 3.2.2 “To minimize the loss of agricultural land by limiting the amount of land removed from agricultural use.” The appellant has stated that this property will not be the primary site used to operate the Contractors Business, however the appellant also confirmed the property is not currently being used for Agricultural purposes. The Appeal Board has not received sufficient evidence that the application for Business, Contractors will address the Municipal Development Plan intent to conserve Agricultural land.
4. The application for Business, Contractors use is not consistent with Municipal Development Plan 5.3.2 “piecemeal development along the highway and major county road corridors is generally discouraged as the intent is to locate commercial and industrial uses in well integrated nodes in close proximity to highway access points.” The Appeal Board recognizes that section 5.3.18 of the Municipal Development Plan encourages home occupations; however locating heavy equipment on the subject property may create situations where negative impacts are experienced by surrounding properties. Therefore the Appeal Board is of the opinion that the offsite impacts generated by this type of home occupation are not consistent with the intent of section 5.3.18.

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.
2. Verbal presentation and written submission to the Subdivision and Development Appeal Board by the Appellant.
3. Verbal presentations and written correspondence received from area 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: February 26, 2016