

**ROCKY VIEW COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2019-SDAB-012

File No.: 06706019; PRDP20152541

Appeal By: Johanna Schiff, Brent and Cathrine Anderson, David and Aila Ellerington, Shawn and Crista Keating, Micheline Maes, Rick and Bev Snyder, Russ and Denise Rays, Sing and Theresa Lai, Allan and Julie Trites, Marty and Jean Wright, Frank Bennett, Paul Giannelia, Jim Jones, Neil and Janet Ollerenshaw, Keith Boonstra, Kip Fyfe and Victoria Briiz, Jim and Jennifer Rooney, Trudy Ferguson, Nick and Heena Mehta, Mike and Vesna Petrovic, Rob and Elaine Watson

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 March 13

Decision Date: 2019 March 18

Board Members: D. Kochan, Chair
D. Henn, Vice-Chair
I. Galbraith
H. George
W. Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued September 15, 2015. In this decision the Development Authority conditionally approved a development permit for Funeral Services and Entombment, construction of an office, prayer hall, gathering hall, and relaxation of the maximum height requirement and minimum front yard setback at 260144 Mountain Ridge Place (the Lands).

[2] Upon notice being given, this appeal was heard on March 13, 2019 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

DECISION

[3] The appeal is allowed and the decision of the Development Authority is overturned. A development permit shall not be issued.

BACKGROUND

[4] On June 26, 2015, Cubit Design Group (the Applicant) submitted a development permit application for funeral services and entombment, a prayer hall, an office, and a gather hall on the Lands.

[5] The Lands are located at NE-06-26-03-W5M, approximately a quarter mile south of Alberta Highway 1A and on the east side of Mountain Ridge Place. The Lands are approximately 4.55 hectares (11.25 acres) in area and are owned by the Muslim Association of Calgary (the Owner).

[6] The Lands' land use designation is Public Services District, which is regulated in section 65 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On September 15, 2015, the Development Authority conditionally approved a development permit.

[8] On September 28, 2015, Johanna Schiff, Brent and Cathrine Anderson, David and Aila Ellerington, Shawn and Crista Keating, Micheline Maes, Rick and Bev Snyder, Russ and Denise Rays, Sing and Theresa Lai, Allan and Julie Trites, Marty and Jean Wright, Frank Bennett, Paul Giannelia, Jim Jones, Neil and Janet Ollerenshaw, Keith Boonstra, Kip Fyfe and Victoria Briiz, Jim and Jennifer Rooney, Trudy Ferguson, Nick and Heena Mehta, Mike and Vesna Petrovic, and Rob and Elaine Watson appealed the Development Authority's decision. The appeal hearing went to the Board on October 28, 2015 and was postponed to December 9, 2015 and then to January 27, 2016. At the hearing on January 27, 2016, the Board determined further information was required to make a decision and adjourned the hearing *sine die*.

[9] After review of the appeal and procedural history, the Board decided to bring the matter forward. On February 27, 2019, a Notice of Hearing for the matter to be re-heard was circulated to 46 adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

SUMMARY OF EVIDENCE

[10] The Board heard verbal submissions from Lisa Mrozek, Municipal Planner, for the Development Authority.

[11] In addition to Appellants' written submissions, the Board received letters in support of the appeal from:

- (1) Harry Hehar of 260185 Mountain Ridge Place; and
- (2) Michael Heier of 35258 Highway 1A.

[12] No letters in opposition to the appeal were received.

Development Authority's Submissions

[13] Nagah Hage, on behalf of the Owners, e-mailed the Development Authority the night before the hearing. The e-mail states that the Owners, "... decided to withdraw and we will reapply in the future...".

FINDINGS & REASONS FOR DECISION

[14] Given the Owner's written submission, the Board determined this is sufficient information to make a decision on the appeal and did not hear any other evidence at the hearing.

[15] Funeral services and entombment is a discretionary use in the Public Services District, in accordance with section 65 of the *Land Use Bylaw*. The Board finds it has the authority to make a decision on this matter pursuant to section 687(3)(d) of the *Municipal Government Act*.

[16] The Board accepts the written submission of Nagah Hage, submitted on behalf of the Owner, that the Owner does not intend to continue with the proposed development and shall re-apply for development at a later date.

CONCLUSION

[17] For the reason set out above, the appeal is allowed and the decision of the Development Authority is overturned. A development permit shall not be issued.

Dated at Rocky View County, in the Province of Alberta on March 18, 2019.



Don Kochan, Chair
Subdivision and Development Appeal Board

EXHIBIT LIST

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

NO.	ITEM
1.	Development Authority's Report to the Board (66 pages)
2.	Letters of Support from Appellants (17 pages)
3.	Additional Letters of Support (5 pages)
4.	Applicant's Withdrawal email dated 2019 March 12 (1 page)