

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

Board Order No.: 2019-SDAB-032

File No.: 06414007; PRDP20191670

Appeal by: Rodney Potrie - Planning Protocol 3 Inc.

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 June 26

Decision Date: 2019 July 11

Board Members: D. Kochan, Chair
I. Galbraith
H. George
D. Henn
S. Hartley

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 June 3, 2019. In this decision the Development Authority refused a development permit for a Home-Based Business, Type II, for an indoor car storage business at 291144 Township Road 262 (the Lands).

[2] Upon notice being given, this appeal was heard on June 26, 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 denied and the decision of the Development Authority is upheld. A development permit shall not be issued.

BACKGROUND

[4] On May 23, 2019, Rodney Potrie - Planning Protocol 3 Inc. (the Applicant) submitted a development permit application for a Home Based Business Type II permit for indoor car storage.

[5] The Lands are located at SW-14-26-29-W4M, located approximately 0.81 kilometres (1/2 mile) east of Range Road 292 and immediately north of Highway 566. The Lands are approximately 15.90 hectares (39.29 acres) in area and are owned by Gurbax and Surinder Bedi, Harpinder & Ranbir Mahil.

[6] The Lands' land use designation is Ranch and Farm, which is regulated in section 43 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On June 3, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The proposed car storage business for a maximum of 150 cars beyond the scope of a Home-Based Business as described in the Land Use Bylaw (C-4841-97).
- (2) Per Section 12.3 of the Land Use Bylaw (C-4841-97), the proposed business does not meet the purpose and intent of Ranch and Farm District as described in Section 43.1 of the Land Use Bylaw (C-4841-97). It would be appropriate to locate the business in an identified business area with an appropriate business/commercial district.
- (3) The operation of the proposed business would change the residential character of the land, which is inconsistent of Section 21.3.d) of Land Use Bylaw (C-4841-97).

[8] On June 11, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 38 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

[9] The Board heard verbal submissions from:

- (1) Xin Deng, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (3) Gurbir Nijjar, Municipal Engineer, for the Development Authority;
- (4) Rodney Potrie - Planning Protocol 3 Inc., the Appellant;
- (5) Cameron Marks, in opposition.

[10] The Board received no letters in support of the appeal.

[11] The Board received no letters in opposition to the appeal.

Development Authority's Submission

[12] The site of the storage building for the business is a building that is 20,000 square feet with two large doors on both ends of the building. This building will provide leasing space for collector cars to the public (maximum 150 cars) and will also be used to store farm equipment.

[13] The accessory building was approved in April, and then in May the Home Based Business Type II permit was applied for.

[14] The proposed business is beyond scope of a Home Based Business and does not meet the specifications within the Ranch and Farm district as stated in the Land Use Bylaw.

[15] The proposed business would change the residential character of the lands. This land is within the future residential zoning of the Balzac Area Structure Plan.

[16] A Home Based Business Type II is usually a small business with 0-2 employees, and no customers visiting the property.

[17] The proposed business isn't secondary to the residential use of the property. The storage of 150 cars is no longer considered a secondary residential use.

[18] If the Board would like an advisory condition can be added with regards to the Agricultural Services Agricultural Design Guidelines noted in the comments from Agricultural Services within the report.

[19] Condition 10 is in regards to if the business grows above the guidelines specified there are grounds for enforcement in the future.

[20] The Board can add a condition to the approval for a maximum number of cars, as well as number of vehicle trips per day which is usually in the permit conditions but was missed.

[21] Alberta Transportation requires a Roadside Development permit be applied for.

[22] Alberta Transportation typically prohibits commercial access off Highways and the prefer a local road network be used to gain access to a commercial site. However, they did not comment on this for this submission.

Appellant's Submission

[23] The property is 40 acres and zoned Ranch and Farm and is partially double shelter belted. Both the home and landscaping has been recently updated.

[24] Landscaping will be added to obscure the building from the neighbours.

[25] Much of the building will be used for the storage of farm equipment, the owner would like to generate income on the residual space within the building. The owner has farm equipment on this property as well as others that will be stored in the building.

[26] There will be no outside employees of the business. There will be no more than 8 vehicles trips per day to the site. For security purposes the owner would like limited access to the site.

[27] The purpose of the application for the Home Based Business Type II permit is the owners wish to have a sign at the front of the driveway indicating the location of the storage facility.

[28] Condition 5 of the Building approval notes there is to be no commercial use of the building, by and large this is not the intent. The intent is to get residual income from the third party storage. This condition was not appealed on the Building Permit approval.

[29] The number of cars being stored will be more like 50-60 not 150.

[30] The storage within the building will be approximately 70% personal 30% business.

[31] The information on the number of cars being stored was based on a comment from the applicant that there will be no more than 150 cars at one time.

Cameron Marks Submission

[32] The entrance to the property will be commercial rather than residential.

[33] Alberta Transportation has determined that there is to be no commercial access allowed from Highway 566.

[34] Land has been taken from the commercial lands on the south side of the Highway 566 corridor for the widening of Highway 566.

[35] Allowing commercial access from Highway 566 would go directly against what Alberta Transportation has stated.

[36] The owner of the property has no farm equipment and has asked Mr. Marks to farm the land.

Appellant's Rebuttal

[37] A Roadside Development permit will be applied for through Alberta Transportation. Alberta Transportation has not objected to a Roadside Development permit based on the type of Home Based Business applied for.

[38] The property is currently used by the owner and was previously rented out. The land has been previously rented out for farming operations.

[39] The property owner has combines, swathers, tractors, and other farm equipment on an outdoor site behind the shelterbelt, and some equipment offsite that he would be moving onsite for storage.

Development Authority's Closing Comments

[40] The Board should be cognoscente of the number of vehicle trips per day and the number of cars being stored as the building is for a storage facility when deliberating.

Appellants Closing Comments

[41] None.

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FINDINGS & REASONS FOR DECISION

[42] Home Based Business Type II is a discretionary use in the Ranch and Farm District, in accordance with section 43 of the *Land Use Bylaw*.

[43] 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*.

[44] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the proposed development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[45] The Board finds that the size and scope of the proposed building and business appears excessive in the Ranch and Farm zoning. It is also noted that the proposed storage of 150 cars appears to be more appropriate in a business/commercial district.

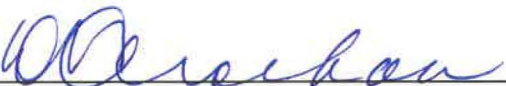
[46] The Board acknowledges that to date, Alberta Transportation has not given permission for commercial access from Highway 566

[47] The Board finds that the proposed development, in accordance with applicable sections of the *Land Use Bylaw* and the section 687 of Municipal Government Act, does not comply with the land use policies of the current *Land Use Bylaw* and, if approved, would unduly interfere with the amenities of the neighbourhood, and would materially interfere with or affect the use, enjoyment or value of the neighbouring parcels of land.

CONCLUSION

[48] For the reasons set out above, the appeal is denied and the decision of the Development Authority is upheld. A development permit shall not be issued.

Dated at Rocky View County, in the Province of Alberta on July 11, 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 (31 pages)
2.	Development Authority's Presentation (12 pages)
3.	Appellant's Presentation (22 pages)