

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

Board Order No.: 2019-SDAB-043
File No.: 05333082; PRDP20191182

Appeal by: Maxine Kipling
Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 August 28
Decision Date: 2019 September 11

Board Members: D. Kochan, Chair
D. Henn
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 July 15, 2019. In this decision the Development Authority refused a development permit for the keeping of livestock (two horses, one llama) at 336 Shore Drive (the Lands).

[2] Upon notice being given, this appeal was heard on August 28, 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 be issued subject to the following conditions:

Description:

- (1) That a maximum of three (3) animal units may be permitted on NE-33-25-28-W04M (336 SHORE DRIVE) at any time.

Permanent:

- (2) That the Manure and Grazing Management Plan as submitted with the application shall be practiced at all times.
 - (a) If overgrazing becomes evident on the property, revised grazing procedures may need to be implemented by the Applicant/Owner, or the number of animal units may need to be decreased, to the satisfaction of the County.
 - (b) That the composting of manure is allowed as part of this management plan.
- (3) That the Applicant/Owner shall ensure the property contains adequate livestock fencing to ensure all livestock units remain on the subject property at all times.

Advisory:

- (4) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant.
- (5) That this permit shall be valid until September 30, 2029.

BACKGROUND

[4] On April 16, 2019, Roy & Maxine Kipling (the Owners) submitted a development permit application for keeping two horses and one llama on the property.

[5] The Lands are located at NE-33-25-28-W4M, located approximately 0.20 kilometres (1/8 mile) west of Range Road 283 and 0.41 kilometres (1/4 mile) south of Township Road 260. The Lands are approximately 1.62 hectares (4.00 acres) in area and are owned by Roy & Maxine Kipling.

[6] The Lands' land use designation is Residential Two, which is regulated in section 50 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On July 15, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The amount of animal units requested exceeds the amount permitted in Section 24.4 of Land Use Bylaw C-4841-97. **Permitted: 2 animal units; Proposed: 2.25 animal units.**

[8] On July 30, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 29 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) Christina Lombardo, Development Assistant, for the Development Authority;
- (2) Jeff Fleischer, Manager Agricultural and Environmental Services;
- (3) Daniel Chevrier, on behalf of the Appellant;
- (4) Amy Cole, in support of the appeal.

[10] The Board received fifty-one letters in support of the appeal from:

- (1) Dave and Debbie Cole
- (2) Wendell Lees
- (3) Angelina Pennell
- (4) Randy Pennell
- (5) Shane Daly
- (6) Karolina Dec
- (7) Don Round
- (8) Arlene Round
- (9) Don Colbourne
- (10) Shay Colbourne
- (11) Shyla Colbourne
- (12) Shanell Vasilogiannakis
- (13) Joan King and John Cattle

- (14) Lucia Castaian
- (15) George Castaian
- (16) Silvia Horhat
- (17) Debbie and Doug Lorraini
- (18) Cindy and Micah Johstone
- (19) Scott Wells
- (20) Melissa Gillespie
- (21) Amy Cole
- (22) Tim Burris
- (23) Jennifer Jellema
- (24) Jeremy Lupien
- (25) Mike Fox
- (26) Lindsey Morrison
- (27) Phillip Albuquerque
- (28) Jodie Holden
- (29) Karen Ellefson
- (30) Sandy Widmer
- (31) Doug Widmer
- (32) Shelly Spencer
- (33) Clark Spencer
- (34) Laura Chomyn
- (35) Dave Chomyn
- (36) Patty Phillips
- (37) Roy Dixson
- (38) Harold Line
- (39) Joanne Dupont

- (40) Mavis Lees
- (41) Alana Copithorne
- (42) Marianna Kilo-Zezulka
- (43) Maia Zezulka
- (44) Merle Remple
- (45) Jadranka Nacinovic
- (46) Georgina Blazey
- (47) Janne Kellough
- (48) Ryan Kellough
- (49) Patricia Basile
- (50) Vittorio Basile
- (51) Victoria Basile

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

Development Authority's Submissions

[12] The subject lands are currently under enforcement action through the Compliance Department, this proposal was to bring the property into compliance

[13] A four acre parcel is allowed one animal unit under the Land Use Bylaw, the Development Authority has the ability to double this to two animal units; however, they cannot vary the units more.

[14] Upon site inspection, there were no issues noted on site when the Development Authority did their inspection.

[15] The composting of manure can be utilized as part of the Manure Management Plan, as it is allowed.

Appellant's Submissions

[16] The three animals on the subject lands are all rescue animals, the llama has been there for 15 years, and the horses 10 years and 6 years respectively.

[17] There has been livestock on the parcel since 2001.

[18] The animals have full access to the parcel and the parcel is fully fenced. There is also a smaller one and a half acre parcel that is fenced for the animals when there is inclement weather.

[19] The animals make very little noise if any and are not bothersome.

[20] A full sized water trough, that includes a heater element for the winter months, is present for the animals to use.

[21] Hay is purchased for seven to eight months of the year, as well as during the summer to supplement during drier non-growing conditions.

[22] The grass is mowed to disperse the manure throughout and seed is laid. In the spring and fall, the manure is tilled into the garden.

[23] A horse shelter that is east facing is present for the animals during inclement weather.

[24] The animals have the ability to move around throughout the pasture and can graze freely.

Amy Cole Submissions

[25] The animals have been on the subject lands for a long time, there is no noise or smell that emanates from the property.

Appellant's Rebuttal

[26] None.

Development Authority's Closing Comments

[27] None.

Appellant's Closing Comments

[28] None.

FINDINGS & REASONS FOR DECISION

[29] The keeping of livestock is both a permitted and discretionary use in the Residential Two District, in accordance with section 50 of the *Land Use Bylaw*.

[30] 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*.

[31] 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.

[32] The Board acknowledges that the approval of this development permit would bring the property into compliance.

[33] The Board finds that there are adequate management plans in place that demonstrate care of both the animals and the property. The Board also finds that there are no negative effects to the community if the keeping of livestock is approved.

[34] The Board acknowledges that there is overwhelming neighbourhood support for the keeping of livestock. The Board also acknowledges that the property is adequately fenced for the animals.

[35] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

[36] The Board finds that the proposed development, in accordance with applicable sections of the *Land Use Bylaw* and section 687 of the *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

[37] For the reasons set out above, the appeal is allowed and the decision of the Development Authority is revoked. A development permit shall be issued subject to the above-noted conditions.

Dated at Rocky View County, in the Province of Alberta on September 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 (33 pages)
2.	Petition submitted by the Appellant (3 pages)