

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

Board Order No.: 2019-SDAB-049
File No.: 03332016; PRDP20191888

Appeal by: Leonard Stakenas
Appeal Against: Development Authority of Rocky View County

Hearing Date: 2019 October 9
Decision Date: 2019 October 24

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 August 21, 2019. In this decision the Development Authority refused a development permit for the renewal of a Hobby Kennel (10 dogs) at 235093 Range Road 284 (the Lands).

[2] Upon notice being given, this appeal was heard on October 9, 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 hobby kennel with ten (10) dogs, may continue to operate on the subject property SE-32-23-28-W4 (235093 RANGE ROAD 284) in accordance with the approved site plan as submitted with the application.

Permanent:

- (2) That all dogs involved in the hobby kennel operation shall be privately owned by the Applicant/Owner.
- (3) That all dogs must be kept indoors between the hours of 9:00 p.m. and 7:00 a.m.
- (4) That any outside runs shall be enclosed with fences a minimum of 2.00 m. (6.56 ft.) in height and shall be a solid visual barrier.
- (5) That the 2.00 m. (6.56 ft.) high chain link fence dog run shall remain in place.
- (6) That there shall be no boarding of dogs, not owned by a resident of the parcel at any time.
- (7) That all waste shall be stored in solid metal or plastic containers, and shall be disposed of off-site.
- (8) That any dogs that cause a nuisance by barking shall be kept indoors at all times.

Advisory:

- (9) That Dog Licenses shall be obtained yearly from Rocky View County Finance Department for each of the ten (10) dogs involved in the Hobby Kennel.
- (10) That any other government permits, approvals, or compliances are the sole responsibility of the Applicant/Owner.
- (11) That this Development Permit shall be valid until **November 1, 2029**.

BACKGROUND

[4] On April 30, 2019, Leonard Stakenas (the Applicant) submitted a development permit application for the renewal of a hobby kennel.

[5] The Lands are located at SW-23-23-27-W4M, located approximately 1.21 kilometres (3/4 mile) south of Township Road 240 and the west side of Range Road 284. The Lands are approximately 1.89 hectares (4.67 acres) in area and are owned by Leonard and Gayle Stakenas.

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

[7] On August 21, 2019, the Development Authority refused to grant a development permit on the following grounds:

- (1) The existing number of dogs on the subject parcel of land exceeds the maximum permitted as defined in Section 23.1 (d)(ii) of the Land Use Bylaw C-4841-97.
- (2) The "breeding" of dogs constitutes a "kennel" as defined in Section 8 of the Land Use Bylaw C-4841-97.
- (3) "Kennels" are not a permitted or discretionary use on Residential Two District (R-2) parcels as defined in Section 50 of the Land Use Bylaw C-4841-97.
- (4) The number of dogs being kept on the subject parcel does unduly impact adjacent parcels.

[8] On September 9, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 14 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) Jacqueline Targett, Development Officer, for the Development Authority;
- (2) Gayle Stakenas, the Owner.

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

Development Authority's Submissions

[11] The lands are located within the transitional area of the Janet Area Structure Plan. Some of the lands in the area have been converted to commercial land use from residential.

[12] The Development Authority can only approve up to six dogs for a hobby kennel.

[13] The business is a long-standing established business in the area.

[14] There have been no complaints or enforcement issues from the property or business.

[15] The Development Authority can only grant a development permit for 5 years, however, the Board can extend the time period.

Appellant's Submissions

[16] This kennel has been in operation for 20 years and is used for the breeding of dogs.

Appellant's Rebuttal

[17] None.

Development Authority's Closing Comments

[18] None.

Appellant's Closing Comments

[19] None.

FINDINGS & REASONS FOR DECISION

[20] Hobby Kennel is a discretionary use in the Residential Two District, in accordance with section 50 of the *Land Use Bylaw*.

[21] 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*.

[22] 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.

[23] The Board acknowledges that this business has operated for a significant length of time with no complaints or enforcement issues. The Board also acknowledges that the applicants have demonstrated that they are knowledgeable and responsible dog owners and business people.

[24] The Board finds that the proposed business is appropriate for the area in which it has been operating.

[25] 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*.

CONCLUSION

[26] 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 October 24, 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 (28 pages)
2.	Development Authority's Presentation to the Board (8 pages)