

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

Board Order No.: 2021-SDAB-002
File No.: 03223312 PRDP20202898
Appeal by: Five Star Permits (David Atkinson)
Hearing Date: 2021 January 14
Decision Date: 2021 January 29
Board Members: Crystal Kissel, Chair
Tricia Fehr
Hazel George
Morrie M. Goetjen
Wendy Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) of the conditions of approval from a decision of the Rocky View County Development Authority issued December 16, 2020. In this decision, the Development Authority conditionally approved the installation of three fascia signs, associated to the principle use (restaurant) at 704 Centre Street NE (Dairy Queen) (Unit 1 Plan 0011878 NW-23-23-27-W4M) (the Lands).

[2] Upon notice being given, this appeal was heard electronically on January 14, 2021 in accordance with the Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

DECISION

[3] The appeal is denied and the Development Authority's December 16, 2020 decision on development permit application PRDP20202898 is upheld.

BACKGROUND

[4] On September 24, 2020, David Atkinson on behalf of Five Star Permits submitted a development permit application for three fascia signs and one free standing sign accessory to the principal restaurant use on the Lands.

[5] The Lands are approximately 0.33 hectares (0.84 acres) in area and owned by Heesin Investments Ltd. (the Owner).

[6] The Lands' land use designation is Direct Control District 2 (DC-2) which requires that the application be assessed with Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On December 16, 2020, the Development Authority conditionally approved a development permit application for three fascia signs accessory to the principal restaurant use on the Lands.

[8] On December 21, 2020, David Atkinson of Five Star Permits (the Appellant) filed an appeal of the Development Authority's conditions of approval for the proposed development on the Lands.

[9] A notice of hearing was circulated to the Appellant, Development Authority, and 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:

- (1) Evan Neilsen, Planner for the Development Authority; and
- (2) David Atkinson, the Appellant.

[11] The written documents submitted as exhibits and considered by the Board are listed in the exhibit list at the end of this decision.

Development Authority's Submissions

[12] The Lands are located in the Hamlet of Langdon and are zoned DC-2.

[13] The proposal is for signage associated with the principle restaurant use; for a fast food restaurant.

[14] In the application, the Applicant requested four signs for the development, three fascia signs and one freestanding sign located on the south west of the restaurant.

[15] The fascia signs contain the Dairy Queen logo and the catchphrase "Grill and Chill". The freestanding sign contain the logo and catchphrase as well as an LED display board on both the north and south facing sides of the sign.

[16] The application was reviewed using the Langdon Area Structure Plan, the Rocky View County Commercial, Office & Industrial Guidelines, DC-2 Bylaw and the historic *Land Use Bylaw C-4841-97* that DC-2 was based on.

[17] The freestanding sign directly faces residential parcels to the south of the development.

[18] There are two major intersections within close proximity of the freestanding sign, this could cause potential safety concerns on traffic.

[19] The Municipal Planning Commission (MPC) determined there were no other freestanding signs within the Hamlet.

[20] The MPC had concerns with proliferation of freestanding signs within the Hamlet.

[21] There is a potential to create a multi-tenant freestanding sign with commercial properties to the north of the development.

[22] Members need to consider section 685(4)(b) the *Municipal Government Act*, which governs appeals within Direct Control districts.

[23] The Langdon Centre Street Corridor Design Guidelines have not been adopted, they were introduced to bring it to the Board's attention that this policy is coming but to also confirm with the Board it is not an official policy yet.

[24] The zoning for the development is commercial in nature and the preamble in the DC Bylaw does talk about commercial uses.

[25] The purpose and intent statement gives some insight into Council's intent for the DC Bylaw.

[26] Administration did have concerns about the impact of the LED sign on adjacent lands. Administration presented three options to the MPC and recommended the option that allowed for the freestanding sign but with the LED south portion to be removed because it faced residential homes. The north LED was proposed to be allowed with some regulations. The MPC ultimately decided to remove the freestanding sign altogether.

David Atkinson's submissions - the Appellant

[27] The application was made in September 2020. The biggest concern was how the sign could work with the residential parcels to the west and the south of the development. To be a good neighbour all the while giving the business the exposure it needs to be successful.

[28] The Appellant provided studies of best practice to the Planning department in relation to the electronic message centres and how they apply within the freestanding sign.

[29] The Appellant thought they had they support from Administration for the application and was not aware of any complaints with the freestanding sign from the neighbours.

[30] The Appellant was not made aware they would have been allowed to speak at the MPC meeting to ask or answer any questions the MPC may have had.

[31] The freestanding sign is essential to the survival of the business and without the sign it will bring financial hardship. The business is tucked in behind the strip mall and the gas bar. The importance of the sign is essential.

[32] The Appellant did not speak to the neighbours, it was their understanding Planning would notify the affected neighbours.

[33] The proposal is a freestanding sign and not a billboard.

[34] There is an electronic message board on the sign and there was an agreement that the signage would be static images that would rotate every 6 seconds. There would be no flashing images on the sign.

[35] When the store is closed, it is the intention for the sign to be turned off.

[36] The fascia signs could also be turned off while the store is closed.

[37] There is only one proposed freestanding sign, there is a north and south portion of the sign.

[38] The proposed location for the freestanding sign is for the southwestern portion of the Lands.

[39] There has been no discussion with Alberta Transportation yet, they do have guidelines regarding signage for this type of development.

[40] The Appellant feels he had fair opportunity to present his evidence to the Board.

FINDINGS & REASONS FOR DECISION

[41] The Board finds that a freestanding sign associated with the principal use is a discretionary use as outlined in section 4.3 of the DC-2 Bylaw. There are no other regulations pertaining to freestanding signs outlined in the DC-2 Bylaw.

[42] The Board finds that fascia signs associated with the principal use are a permitted use as outlined in section 4.2 of the DC-2 Bylaw.

[43] Section 4.4.1 of the DC-2 Bylaw states that parts one, two, and three of *Land Use Bylaw C-4841-97* are applicable to developments under the DC-2 Bylaw. The Board finds that there are no regulations relating to fascia or freestanding signs that relate to this development under parts one, two, or three of *Land Use Bylaw C-4841-97*.

[44] The Board finds that the MPC:

1. Correctly allowed the proposed fascia signs which are permitted uses under the DC-2 Bylaw; and
2. Used its discretion when evaluating the freestanding sign portion of the development permit application.

[45] The Board finds that the Development Authority followed the direction of Council outlined in the DC-2 Bylaw and the Board therefore does not have jurisdiction to substitute its decision with that decision of the Development Authority's pursuant to section 685(4)(b) of the *Municipal Government Act*.

CONCLUSION

[46] For the reasons set out above, the appeal is denied and the Development Authority's December 16, 2020 decision on development permit application PRDP20202898 is upheld.

Dated at Rocky View County, in the Province of Alberta on January 29, 2021.



Crystal Kissel, 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 (63 pages) |
| 2. | Development Authority's PowerPoint (6 pages) |