

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

Board Order No.: 2021-SDAB-008  
File No.: 03908057 PRDP20210935  
Appeal by: Foster, Sharon  
Hearing Date: 2021 May 27  
Decision Date: 2021 June 10  
Board Members: Wendy Metzger, Chair  
Tricia Fehr  
Hazel George  
Morrie M. Goetjen  
Pam Whitnack

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**DEVELOPMENT APPEAL DECISION**

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**INTRODUCTION**

[1] This is an affected party appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued April 14, 2021. In this decision, the Municipal Planning Commission conditionally approved a development permit application for the keeping of livestock (horses) at a density greater than two (2) animal units on a parcel between 1.40 and 2.00 ha (3.46 and 4.94 ac), specifically from two (2) to three (3) animal units (horses) at 54161 Township Road 232 (Lot 4 Block 2, Plan 9411859; NW-8-23-5-W5M) (the Lands). The Lands are located approximately 1.0 km (2/3 mile) west of Range Road 54 and on the south side of Township Road 232.

[2] Upon notice being given this appeal was heard electronically on May 27, 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 April 14, 2021 decision on PRDP20210935 is upheld.

## **BACKGROUND**

[4] On March 9, 2021, Christianne Klaudt (the Applicant) submitted a development permit application for a variance for the keeping of livestock (horses) at a density greater than two (2) animal units on a parcel between 1.40 to 2.00 ha, specifically from two (2) to three (3) animal units (horse).

[5] The Lands are approximately 1.98 hectares (4.89 acres) in area and owned by Gary and Christianne Klaudt (the Owners).

[6] The Lands' land use designation is Residential, Rural District (R-RUR) under Land Use Bylaw C-8000-2020 (the *Land Use Bylaw*).

[7] On April 14, 2021, the Development Authority issued the written conditional approval for the variation of animal units on the Lands.

[8] On May 6, 2021, Sharon Foster (the Appellant) filed an affected party appeal of the Development Authority's decision to conditionally approve the variation of animal units.

[9] The appeal was received on time in accordance with section 686(1)(b) of the *Municipal Government Act* RSA 2000, c M-26 (MGA).

[10] A notice of hearing was circulated to the Appellant, Applicant, Development Authority, and adjacent landowners in accordance with the MGA and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

## **SUMMARY OF EVIDENCE**

[11] The Board heard verbal submissions from:

- (1) Wayne Van Dijk, Development Officer for the Development Authority;
- (2) Sharon Foster, the Appellant; and
- (3) Gary and Christianne Klaudt, the Applicants/Owners.

[12] 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*

[13] The Development Authority read from their PowerPoint, provided as an exhibit.

### *Sharon Foster's submissions – the Appellant*

[14] Provided all reasons for bringing appeal in the notice of appeal and has nothing further to provide so long as board members have copies of the notice of appeal.

*Christianne Klaudt's submissions – the Applicant*

[15] The Appellant's argument that the paddock's northerly slope swales into a ditch in a subsequent culvert on Township Road 232 is true but it is inaccurate to argue that manure is entering this culvert.

[16] The Appellant provided a photo that shows that there is no manure in the paddock and no manure entering the culvert. Anyone driving by the property would see the same thing.

[17] The only thing in the ditch is two small puddles of melted snow.

[18] The Lands are at the same elevation as the Lake Louise Townsite, are almost 1,000 feet higher than Calgary, and are also higher than Bragg Creek.

[19] The elevation means they get snow frequently and recently received snow and rain.

[20] The recent snow and rain the Lands received demonstrates what happens to water entering the paddock. It does not enter the ditch so concerns about whether they are complying with rules about manure entering the ditch are irrelevant.

[21] There is another culvert to the west but it is 50 metres away from the westerly end of the Applicant's fence. The fence runs west and then goes south.

[22] The culvert is 50 meters away from the corner, down a hill covered in trees, bushes, and moss. This culvert is a spill stream that comes out of a pond that is further south.

[23] The Appellant may be confused about the origin of the spill stream and unaware of how far it actually is from the paddock and the swale.

[24] With regards to the Appellant's photo of moss on her property, the Applicant also used to have moss on the property until they put up fences and got horses. Considers the issue of moss to be irrelevant to this appeal.

[25] The presence or absence of moss and grass is up to the owner.

[26] The Applicant believes they have been exemplary in how they've managed their property.

[27] The Applicant did send an email to the Appellant and it is now an exhibit. The Applicant wishes the Appellant had responded. This email demonstrates they did try to reach out and are still trying to reach out.

[28] The Applicant is not questioning the Land Use Bylaw's rules regarding the size of a lot that allows three horses but if the Lands were 2,100 square feet larger they would have been able to get the third horse without having to bother anyone with this appeal.

[29] The Applicant did respond to all of the Appellant's original questions and concerns and explained who they were.

[30] Since COVID-19, they have riders but only two horses. A lot of kids with special needs come to ride and visit with horses.

[31] No one has been able to come and ride the horses for three weeks because of latest restrictions. These restrictions are due to lift next week.

[32] Kids still come to visit with horses with their aide but are not able to ride currently. The Applicant is eager to get the riding going again.

[33] They are bringing on a third horse because they are passionate horse people. Horse people are more passionate and protective of the horses they look after than almost anything else in life.

[34] The Appellant's concerns about moss and high alpine spruce are irrelevant but were still responded to. They try to be fire smart by planting trees. They have planted over 150 saplings and continue to do so.

[35] The Applicant has proven how much land sustainability and the environment are important to them. The Applicant is a member of the Green Acreage Program.

[36] The Applicant also believes the Appellant's argument that there is a reduced number of native grasses but an increased number of weeds, non-native grasses, and oats is irrelevant but would like to address it as the Applicant does not feed their horses oats and does not know where oats are coming from.

[37] The smell of manure is to be expected in country living and does not believe there is any proven statistics about an additional horse increasing odor.

[38] They have a proven record of taking care of their property and neighbourhood. They upgrade their property annually, contributing to property values.

[39] A letter from Megan Stuart, a realtor who works in the area, was provided in the exhibit packages and the Applicant feels that the letter supports her position and affirms that the value of agricultural properties are not affected by being surrounded by other agriculture properties.

[40] 0.7 KM down the road, west of the Lands, is a property with a 100 year lease for cattle. Having 1,000 cattle out there every year would create more smell and flies than thirty horses.

[41] The Applicant included an article as part of their exhibits regarding black flies. The article is mostly about cluster flies but it may explain the flies the neighbours who live in log homes have been experiencing.

[42] The Applicant does not have cluster or black flies on their property. They do have mosquitos but that is part of living in the country, in an area surrounded by wetlands.

[43] The Applicant assists in maintenance and upkeep of the shared driveway every year. They bring in gravel and collect payment from the other neighbours except the Appellant because the Appellant's husband uses a tractor to level the road.

[44] Last year they rented a skid-steer for the summer to assist in the road maintenance.

[45] The Applicant removes snow from the shared driveway for the benefit of neighbours.

[46] It is a shared roadway and everyone needs to maintain it together.

[47] The Applicant always wants to comply with legislation and has applied for a Type I Home Business Development Permit. Prior to COVID-19, they had one rider every other day and now they have more special needs riders and have applied to become an equestrian centre.

[48] The Applicant has never taken on a horse without approval and never built a building without approval. They have a proven track record of obtaining necessary permits.

[49] The Applicant is part of a family of five with six vehicles and the Appellant is part of a family of two with three vehicles. The other neighbour is up every other weekend at night and the Appellant's other neighbour's property is empty but will be built on. Traffic already exists.

[50] It is the County who puts out the bylaws and how they measure the size of space for horses is up to them.

[51] The two culverts spoken of earlier go under the road, traverse through ½ KM of land and then whatever is left enters Bragg Creek.

[52] The amount of manure produced by three horses is very manageable and useable. The Applicant has worked with horses for 45 years.

[53] Tried to address concerns of appellant privately but received no response so is providing the email to the Board as part of the exhibit package to demonstrate that they are trying to support their neighbours.

[54] The Applicant is always available to have the Appellant reach out and discuss issues.

[55] The Applicant compost manure to the west of the paddock when they otherwise cannot use it. They lay it out with diatomaceous earth and then it is cultivated. Even when it frozen in the winter, tarps go over it and it warms and breaks down. It currently smells of pure earth.

[56] The Applicant has no concerns about the additional horse placing increased pressure on their well. They do not have a cistern and only have five gallons/minute. They fill their trough with pails and all through the winter and via hose in the summer. They have never had a water shortage.

[57] The Applicant has never had a water shortage but with a family of five they sometimes notice issues if someone is showering, running the dishwasher, and doing laundry at the same time but those shortages only last 10 minutes.

[58] One extra horse will no way affect the well, the water, or anything around it.

*Sharon Foster's rebuttal submissions – The Appellant*

[59] Since the Appellant has moved in, they have done almost all of the driveway maintenance.

[60] The driveway is not a shared driveway. It is owned by two back lots, as is clear from how the property lines are drawn.

[61] The Appellant understands that flies and smells come with horses and believes a 50% increase in horses will obviously result in more flies and smell.

[62] The Appellant is unaware of any underlying issues between the Appellant's and the Applicant's families.

[63] The Appellant found it difficult to oppose the application because of the damage to the relationship with neighbours but would not have brought the application if there was not a genuine issue with flies, smell, and traffic.

[64] The Appellant wants Rocky View County to abide by existing livestock density bylaw.

## **FINDINGS & REASONS FOR DECISION**

[65] The Board finds that livestock is permitted in R-RUR, as outlined in section 148(a) of the *Land Use Bylaw*. The number of permitted animal units by parcel size is addressed in Table 3 under section 149(a). The Board finds it has the authority to make a decision on the matter pursuant to section 687 of the *Municipal Government Act*.

[66] The Board reviewed all evidence and arguments, written and verbal, 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.

[67] The Board finds that the Lands appear to be neat and tidy and that the request for a 50% variance of the number of animal units is a reasonable request for the size and rural nature of the property.

[68] The Board finds the Applicant and the Lands seems capable of and prepared for supporting the addition of a third horse.

[69] The Board finds Applicant has presented a Pasture Management Plan and Manure Management Plan, as required by section 150(b) of the *Land Use Bylaw*, that are thoughtful and well prepared.

[70] The Board does acknowledge that flies and smell are unpleasant but are not foreign to a rural County.

[71] 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*.

## CONCLUSION

[72] For the reasons set out above, the appeal is denied and the Development Authority's April 14, 2021 decision on development permit application PRDP20210935 is upheld.

Dated at Rocky View County, in the Province of Alberta on June 10, 2021.



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Wendy Metzger, Chair  
Subdivision and Development Appeal Board

## EXHIBIT LIST

Documents presented at the hearing and considered by the Board

- | <b>NO.</b> | <b>ITEM</b>                                |
|------------|--|
| 1.         | Development Authority Report (48 pages)    |
| 2.         | Development Authority PowerPoint (5 pages) |
| 3.         | Appellant Exhibit 1 (3 pages)              |
| 4.         | Applicant Exhibit 1 (8 pages)              |
| 5.         | Applicant Exhibit 2 (8 pages)              |
| 6.         | Applicant Exhibit 3 (9 pages)              |