

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

Board Order No.: 2020-SDAB-018

File No.: 08731001 PRDP20185188

Appeal by: Patrick & Karen Singer, Maxine McArthur, and Elaine Watson

Hearing Date: 2020 December 17

Decision Date: 2020 December 31

Board Members: Crystal Kissel, Chair
Tricia Fehr
Morrie M. Goetjen
Pam Whitnack
Wendy Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

- [1] This Decision is in relation to three affected party appeals to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued May 14, 2019. In that decision, the Development Authority conditionally approved a development permit application for a campground (81 RV stalls) and tourism uses/facilities (recreational), the construction of a tourist building including accommodation units that is compatible with available servicing (16 rooms), and the relaxation of the maximum building height, at 285049 Range Road 35 (SE-31-28-03-W5M) (the Lands).
- [2] Upon notice being given, this appeal was heard electronically on December 17, 2020, in accordance with the Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

DECISION

- [3] The appeal is allowed and the decision of the Development Authority is overturned. A development permit shall not be issued.

BACKGROUND

- [4] On December 21, 2018, Chloe Cartwright (the Applicant) submitted a development permit application for campground (81 RV stalls) and tourism uses/facilities (recreational), the construction of a tourist building including accommodation units that is compatible with available servicing (16 rooms), and the relaxation of the maximum building height (the proposed development) on the Lands.
- [5] The Lands are 60.70 hectares (150.00 acres) in size and owned by the Applicant.
- [6] The Lands' land use designation is Business – Leisure and Recreation (B-LR) which is regulated in section 77 of Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).
- [7] On May 14, 2019, the Development Authority approved a development permit application for the proposed development on the Lands.
- [8] The Board received three separate affected appeals of the Development Authority's decision to conditionally approve the proposed development on the Lands. An appeal by Patrick & Karen Singer was filed on May 29, 2019, an appeal by Elaine Watson was filed on June 3, 2019, and an appeal by Maxine McArthur was filed on June 4, 2019.
- [9] A hearing for the appeals was held on June 26, 2019 and August 7, 2019. The Board issued Board Order 2019-SDAB-037 on August 22, 2019 allowing the appeals and revoking the Development Authority's decision.
- [10] On November 23, 2020, the Alberta Court of Appeal quashed Board Order 2019-SDAB-037 in *Cartwright v Rocky View County Subdivision and Development Appeal Board*, 2020 ABCA 408. In its decision, the Court of Appeal ordered the Board to rehear the appeals with an entirely differently constituted panel of the Board.
- [11] Upon receiving the Court of Appeal's decision, the Development Authority, Appellants, Applicant, and adjacent landowners were notified of the rehearing in accordance with the *Municipal Government Act*, RSA 2000, c M-26 (MGA) and Rocky View County Council policy C-327, *Circulation and Notification Standards*.
- [12] Consistent with the Court of Appeal's decision, none of the five Board Members who sat on December 17, 2020 were members of the panel which heard and decided the application in 2019.

SUMMARY OF EVIDENCE

- [13] The Board heard verbal submissions from:
- (1) Jacqueline Targett, Senior Development Officer for the Development Authority;
 - (2) Robert Moyse, representing the Appellants Patrick & Karen Singer;
 - (3) Maxine McArthur, Appellant;

- (4) Rob Watson, representing the Appellant Elaine Watson;
 - (5) Don Farquharson, in support of the appeal;
 - (6) Keren Farquharson, in support of the appeal;
 - (7) Chloe Cartwright, the Applicant in opposition of the appeal; and
 - (8) Brendan Miller, representing the Applicant in opposition of the appeal.
- [14] 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

- [15] The proposed development was assessed under County *Land Use Bylaw* C-4841-97.
- [16] The Lands were redesignated to Business - Leisure and Recreation District (B-LR) in 2012.
- [17] According to Section 77.1 of the *Land Use Bylaw*, the purpose and intent of the B-LR district is to accommodate business development that provides primarily outdoor participant recreational services, tourism opportunities, and entertainment services that may be located outside of adopted Area Structure Plans, Conceptual Schemes and Hamlet Plans (...).
- [18] The proposed development uses are discretionary in the *Land Use Bylaw*.
- [19] The Lands are agricultural in nature and developed with home and accessory buildings, and no recreational facilities yet.
- [20] The proposed development is planned for a 15 acre section of the northeast portion of the Lands.
- [21] The proposed event centre is two storeys tall with a footprint of 5,000 square feet. The height variance on the event centre is 7.63%.
- [22] The County's Fire Services department advised that first call would be the Madden volunteer fire hall 15 minutes away from the Lands. The target call time is 20 minutes, so the minimum response time to the Lands is approximately 35 minutes.
- [23] If firefighters had to respond from Bearspaw, Cremona, or Crossfield it would be a 20 minute drive plus the call time (i.e., 40 minutes total).
- [24] Initially Fire Services was not concerned with response times in regards to the proposed development. Fire Services' initial concerns were about having enough water and ensuring fire access to the Lands.

Robert Moyse submissions – representing the Appellants Patrick & Karen Singer

- [25] The Singers are requesting that the decision of the Development Authority be revoked and approval of the development permit be rescinded.
- [26] The Singers have standing before the Board under the MGA because they live a quarter section away from the Lands and share an access road with the Lands – Range Road 35.
- [27] The proposed development will adversely impact the use, enjoyment, amenities, and value of the Singer land.
- [28] The 2018 application is not the same as the development that was proposed back with the re-zoning in 2012. There are more uses, including an event center that would accommodate 500 people, 16 rooms, a large roof top patio, and an 81 RV stall park. The event centre includes a moat around the medieval castle, including three draw bridges.
- [29] The Singers submitted that the proposed development should be rejected for the following six reasons:
- (1) It is incompatible with existing agricultural land uses;
 - (2) It will adversely affect the Singers' quiet enjoyment of their property, from noise, dust and lack of privacy;
 - (3) The event centre structure is not appropriate having regard to the character of the neighbourhood;
 - (4) It will adversely impact traffic safety on local area roads;
 - (5) It will negatively affect land values in the area; and
 - (6) It may negatively affect area water supplies.
- [30] The proposed development is incompatible with the surrounding agricultural uses. The Alberta Court of Appeal determined it was appropriate for the Board to consider the impact of the development on the surrounding agricultural parcels.
- [31] The surrounding parcels, including the Singer land, is used for growing many types of crops and raising livestock. The County Plan discourages development that adversely impacts agricultural operations.
- [32] RV and event traffic would disrupt daily agricultural operations and the movement of equipment in the area, on both Highway 574 and Range Road 35. Some examples of the interference with agricultural uses in the area are described in the letters of support provided to the Board from area residents.
- [33] Residents would be required to adjust their operations and lifestyle to accommodate this development, for example the Singers will no longer be comfortable riding their horses around.
- [34] There is largely undeveloped land in the area that is not developed for tourists as tourists will not stick to the confines of the RV park. The area will be explored by unfamiliar people exposing the landowners to liability.

- [35] These examples are evidence that the development is not compatible with the County Plan.
- [36] The Singers invested their life savings into this property and the proposed development will negatively impact the Singers' quiet enjoyment of the land and their privacy.
- [37] The proposed development violates the County Plan's requirement that business outside of a business development area be limited in size, scale, intensity, and scope. The noise and dust pollution from the development will negatively impact the Singers as will the influx of traffic and tourists.
- [38] The event centre structure is not appropriate for the area and violates sections of the *Land Use Bylaw* and the County Plan. The design, build, and character of the event centre is not compatible with the area and disrupts the community's rural character.
- [39] This is an authentic working agricultural and ranch farming community, as proven by the submitted pictures of the area.
- [40] The proposed development will negatively impact the area's traffic safety. 55% of traffic would use Range Road 35 from the south and the remaining would access it through Township 290.
- [41] Range Road 35 is not suitable for high volume - it is gravel with deep ditches and no shoulders.
- [42] It is not uncommon for residents to be walking on the roads and the Singers are worried about unsafe conditions with tourists and potential drinking and driving.
- [43] One of the Development Authority's upgrading conditions is not enough for what the road needs – it will still be a gravel road that is just a bit wider.
- [44] The *Land Use Bylaw* requires that the road up to an RV outdoor storage development be paved. The proposed development is not technically outdoor RV storage but there will be just as much traffic. The road requirements for the proposed development should be the same as for an RV outdoor storage development.
- [45] There is lots of wildlife on the roads which is a concern.
- [46] Highway 574 and Township Road 290 are not suitable for high volume RV and event traffic. They are in need of upgrading and do not have acceleration or turning lanes.
- [47] Township Road 290 is not built up enough for its current users.
- [48] The biggest concern is about the traffic impact at the T-intersection of Highway 22 and Township Road RD 290 as it is already a very dangerous intersection. The turnoff to Township Road 290 is just below the crest of a steep hill and there are no turning lanes.
- [49] There are great concerns about side swiping or rear ending, as evidenced by the support letters from people with experience in the area and some of the Applicant's documents.

- [50] The TIA submitted by Applicant does not properly address the problems and does not consider the nature of traffic (RVs, partygoers) or that the traffic will come in bursts and late at night. The TIA does not consider the unique circumstances of each road.
- [51] The proposed development will negatively impact the Singers' land value as nobody will want to live next to this development.
- [52] There are great concerns about how the proposed development will negatively impact the Singers' and the area's water supply.
- [53] The Applicant's water reports submitted in 2011 were for a different use and not relevant to the current application.
- [54] The Singers had a hydrologist briefly look at the Applicant's October 2020 hydrology report submitted as an exhibit to this appeal. A preliminary review of the report brought up several concerns, including the fact that the report averages water use over a year and did not consider the seasonal nature of the proposed development.
- [55] The Singers' hydrologist also disagrees with the conclusion that there is no connection between the Singer aquifer and the aquifer on the Lands. There could potentially be a connection.
- [56] No fewer than 28 letters in support of the appeal that echo the Singers' six reasons for appeal

Maxine McArthur submissions - Appellant

- [57] Ms. McArthur's land borders the Lands to the east.
- [58] The proposed development will impact the McArthur family farm immensely as well as those of other members of the community. This is a quiet farming community, the McArthurs have lived there their entire lives. Ms. McArthur's sister has a parcel just to the south side of the Lands
- [59] Ms. McArthur agrees with the points made by Mr. Moyse, especially the concerns about roads and impact on wildlife.
- [60] The McArthurs have over 80 head of cattle that will be impossible to move around with the RV traffic.
- [61] The development will bring too many people, approximately 800-1000 people at once (three people times 81 RV's plus the 500 people at the event centre). The noise impact will be huge, especially from the roof top patio.
- [62] There are studies on the negative impact of noise on livestock and wildlife as well as the community.

- [63] 81 campsites will have 81 fire pits and the Lands are surround by treelines and natural pasture and crops. There is great concern about a fire disaster with that many fire hazards in the area. There can be strong winds in the area.
- [64] Toxic substances are released when wood is burnt - a study has been done that shows toxins and carcinogens from wood smoke. One campfire that smoke results in particles in the air for up to 10 days - imagine that times 81 campfires.
- [65] The road is too small, residents have to pull over now when meeting agricultural equipment.
- [66] The development permit conditions are that the Applicant only takes care of the road for two years and then it will be passed over to the taxpayer. As a taxpayer, Ms. McArthur does not feel it is appropriate for a taxpayer to pay for a private road that leads to a private facility.
- [67] The closest fire department is volunteer-based and it will take them a while to respond. By the time they arrive, everything will be burned.
- [68] With 800-1000 people on the Lands at a time and oil wells all around with carbon dioxide, what will happen if there is leak? How will the people on the Lands be evacuated?
- [69] Ms. McArthur spoke with insurance brokers who are professionals in agriculture. The liability of the residents in the area will definitely go up and if someone gets hurt on their land they can be held liable and sued personally.
- [70] Guests to the Lands will not stay there - they will wander.
- [71] The map provided by Ms. McArthur as an exhibit shows the golf courses, RV parks, community centres, and commercial kitchens that are already in the area; they are not currently busy because of the economy and various other factors.
- [72] There are pools and creeks and rivers around the existing recreational facilities - those lands are more suitable for camping and events. These are also more community facilities not just benefiting one private party.
- [73] Highway 290 is a bad road full of potholes and there is already a lot of traffic.
- [74] The other road from Highway 290 has a bad square corner, unless the traffic is watching, a person can be rear-ended.
- [75] The farm equipment used in the area is large as are the operations.
- [76] The gravel road is like driving on ice when it rains. That road is a trucking road for Rocky View County all summer long as there are several gravel pits in the area.
- [77] A farmer rents Ms. McArthur's lands to farm and there is a couple that rents the home. These people have said they will leave if the proposed development is allowed.

- [78] Ms. McArthur will not want to live on her land if her renters move out and nobody will want to live there. The development will cause a financial hardship for Ms. McArthur and her neighbours that will impact generations of family. Land in the area is passed from generation to generation and supports a generational farming way of life.
- [79] Ms. McArthur approximates that the nearest fire station is 15 miles away, which would be a 15-20 minute drive depending on the road conditions.-

Rob Watson – representing the Appellant Elaine Watson

- [80] The Watsons live to the north of the Lands.
- [81] There is not enough water in the area and the water consumption for the proposed development is too much. The water in the area has never been systemically studied.
- [82] Several reports have been done on the Paskapoo formation, including one from the University of Calgary sponsored by RBC and a Master's thesis, which show how hydrologically complicated of a region it is. Any hydrologist who studies the area always submits their analysis with caveats.
- [83] The proposed parking lots will be directly over the water and the change in the water flow patterns will be disastrous - drought conditions would be catastrophic for livestock and crops.
- [84] The proposed development will triple water demand in the region.
- [85] Wastewater will be held in a septic tank and a dumping station will be used. There are concerns about the impact on environmental water system as a disaster cannot be undone.
- [86] Highway 290 is a blind intersection with no turning lane and there is a 50 foot drop with no guard rails.
- [87] 81 RVs surrounded by a six foot chain link fence would be a disaster if there was a fire, even if the fire station were right next door.
- [88] It is not a natural fit to have those extra people in the area as they will not respect boundaries.
- [89] The Watsons have concerns about crime; they have never been bothered once in the area but were broken into twice at their property in Rimbey.

Don Farquharson submissions – in support of the appeal

- [90] Mr. Farquharson is local farmer in the area and his home residence is a mile northwest of the Lands. Mr. Farquharson also owns the property kitty corner to the southwest of the Lands. Mr. Farquharson, his sister (Keren Farquharson) and members of their family either own or rent 12 properties in the area.

- [91] Mr. Farquharson explained the large dimensions of the farm equipment used in the area to indicate that there is not a lot of room to pull over on the roads in the area.
- [92] Mr. Farquharson primarily read from his written submission with highlights listed below.
- [93] The development is inappropriate in nature and does not fit the nature, scope, and scale with the surrounding areas and Mr. Farquharson requests that the development permit application be refused. The campground and castle event centre do not fit the agricultural land.
- [94] There are serious concerns about the impact the development will have on traffic, fire, water, trespassing and liabilities, lifestyle and clashes, and existing community venues and volunteering.
- [95] The proposed condition to widen the road to 26 metres would not alleviate any conflict with resort and recreational traffic.

Keren Farquharson submissions – in support of the appeal

- [96] Ms. Farquharson owns land at SE 36-28-4-W5M, SE 29-04-29-3-W5M, and SE-2-29-5-W5M which are adjacent to the Lands.
- [97] Ms. Farquharson read directly from her written exhibit with some highlights listed below.
- [98] Administration originally recommended refusal of the 2012 redesignation in 2012 because it contradicted County policy to discourage conversion of agricultural lands and there were concerns about the impact of the commercial development on the surrounding parcels.
- [99] 54 letters from July 2019 opposing the appeal did not have addresses on them and the description of the development was misleading by saying the development was a permitted use when it is actually a discretionary use.
- [100] Ms. Farquharson is concerned there will be unexpected costs with the development and is worried that it will be abandoned and the community will be left with a mess.
- [101] Miss Cartwright's posts on Facebook and circulations show she does not acknowledge the concerns of the Appellants.
- [102] Any amendments to the size and scope of the development would not be acceptable to the community.
- [103] Any discretionary use approved on the Lands must be compatible with the agricultural parcels around the Lands. This development will have a tremendous negative impact on the Lands and is not acceptable to the community.
- [104] Ms. Farquharson is very against the development and supports the appeal.

Chloe Cartwright submissions – the Applicant in opposition to the appeal

- [105] A lot of work went into the land redesignation before the development application was submitted. There were many community consultations and open houses.
- [106] Water supply, land use, compatibility were all considered at land use redesignation.
- [107] No one wanted to buy the Lands and it was foreclosed on twice as it is not viable for agricultural.
- [108] There was a previous development permit on the Lands that there was no objections to. This development permit lapsed due to financial concerns and family issues.
- [109] Ms. Cartwright has an academic background in social sciences, social welfare, entrepreneurship, and digital marketing and is close to finishing her Masters in Business Administration.
- [110] The value of land does not decrease based on what is around it.
- [111] Ms. Cartwright offered to have all of her neighbours' wells tested because she did not want to impact them. Some neighbours allowed the testing but others did not.
- [112] These pump tests were provided to Alberta Environment and they determined none of the neighbours' aquifers are connected to the Cartwright aquifer. The only one that potentially could be connected is the Davies well. There are letters from Alberta Environment submitted in the exhibits.
- [113] The safe yield from Ms. Cartwright's well is nearly double the license application volume of 26,982 m³/ year. There is plenty of capacity, and that is if she is running full capacity 365 days a year which will not happen.
- [114] Ms. Cartwright does not want to negatively impact neighbours' water.
- [115] The development plan changed from 2012 as Ms. Cartwright needed to make some changes that made more financial sense. This included compacting the RV portion and moving it to an area that is better buffered by trees. The event centre was also moved more central into the Lands to mitigate noise impact on neighbours.
- [116] The golf course was designed by a professional from Alberta named Rod Whitman.
- [117] There are lift stations on site for fire trucks to pull water from the underground fresh water reservoir in case of an emergency. Ms. Cartwright even thought about getting her own pumper truck as she is very concerned about fire in the area. She has had an experience with fire on her land in the past. RV users also tend to keep their own fire extinguishers.

- [118] The septic tank is to the northwest of the developed area and will be pumped out.
- [119] There will be a six foot chain link fence all around the property except to the west where people can walk out to the trees and the golf course.
- [120] There will be a security manager living and working on the Lands and they will control traffic in and out. They will keep drivers at the site if they feel they have been drinking too much. There will be arrangement made to drive the driver and their vehicle home. Ms. Cartwright is a social worker and is also concerned about drunk driving.
- [121] The development has the required fire emergency exits.
- [122] The castle is not medieval – it is Scottish, like Ms. Cartwright and many of her neighbours. The castle will be made of sandstone which is a natural product and readily available on the Lands. The sandstone also makes the castle more fireproof. A very good contractor has been hired to build the castle.
- [123] The guest rooms are for people who want to have a small party in a safe environment.
- [124] There are two traffic access methods to the Lands; one is Township 290 which is a paved road. Ms. Cartwright has been trying to get the other access road Highway 574 paved but it is a provincial road and the Province says the road does not warrant paving due to low traffic volumes.
- [125] There will be signage to direct Ms. Cartwright's guests north to take the 1.3 kilometres to the paved road Township 290 and not towards the gravel road to the south. Of course traffic cannot be forced one direction but there will be signage.
- [126] Some of the land surrounding the Lands is leased so there are really only two landowners who need the road for farm equipment. Ms. Cartwright is responsible for widening the road as part of the development and she is prepared to do that for the benefit of the community.
- [127] Ms. Cartwright had Rocky View County install residential signs in the area and asked them to reduce the speed to 50 kmh but a lot of people in the area use it as a short cut which is preferred to the Dog Pound valley. Ms. Cartwright is open to solutions on how to reduce speeding on Range Road 35.
- [128] The development only has occupancy for 500 people and it is a closed gate event centre. Ms. Cartwright does not agree with the Appellants' claim that 800-1000 people could attend the Lands.
- [129] There are very wide ditches for horse riders and horse riding does not happen very often. There are plenty of roads in the area for people to ride on.
- [130] The Singer and Jarmack houses are quite low from the Lands on the other side of a hill and ¼ mile out of sight of the Lands. The development location will not be seen.

- [131] Jim Davies is a long way from the location of the development.
- [132] The Singer home is about 30 metres back from the road and is almost 8,000 square feet, which is larger than the proposed 5,000 square foot, two storey castle.
- [133] The Cartwright home is barely visible at night from the road.
- [134] Quotes from previous County Councillors from previous hearings say that water and traffic in this instance are really the jurisdiction of the Province.
- [135] Former Councillor Solberg noted how people usually oppose golf courses at first and then are happy with them after they have been developed and integrated into the community.
- [136] Former Councillors said recreational land is really important during the 2012 redesignation application.
- [137] Council Chambers were packed with supporters back at the 2012 redesignation and it was passed by a vote of 7 to 2.
- [138] No one wanted to buy the Lands in the past because there it was believed that there was no water. Only in the last few years has it come to light that there is water and neighbours have offered to buy the land since.
- [139] The castle will be two storeys high, not four storeys high, plus the rooftop patio. Ms. Cartwright considers it to be between 2 storeys tall and approximately 5,000 square feet.
- [140] The lower level would have storage and an infrared sauna that would be open to the public.
- [141] Ms. Cartwright has lived on the Lands since 1988 and will remain on the Lands when the development becomes operational.
- [142] There will be education of guests of the boundaries of the Lands. Ms. Cartwright has had parties on the Lands before with 200-250 people with bands playing and neighbours have not noticed. Campers will need to be educated to stick to the Lands and the walking paths. The attendant on the Lands will watch for trespassers.
- [143] The occupancy for the event centre and the RV centre is 500. They come as a package. If the event centre is booked they will also use the RV park.
- [144] There will be 3-5 employees for the RV centre. For the event centre there will be between 12-25 employees to support the spa services, housekeeping, and food services. Outside caterers could possibly be used by guests.

- [145] The RV park will be open to the public if the event centre and RV park are not booked for a big event.
- [146] The moat around the castle may not be developed, different plants may be planted to give the appearance of water instead.
- [147] There will be no long-term stays at the RV park, that is not permitted in the bylaw.
- [148] The development will be built in stages. A golf course takes 2-3 years to build so phase 1 is the RV park, Phase 2 is the castle which should happen soon. The golf course would be last, approximately 3-5 years from now. The RV park and castle could be done in the same year. The golf course would be probably be started at the end of year 3. Income from the first two projects are needed to fund the golf course.

Brendan Miller submissions – representing the Applicant in opposition to the appeal

- [149] Administration's report submitted by the Farquharsons was submitted before the current bylaw was passed by an elected council and is not relevant.
- [150] The Board cannot say that the Lands should be used for agricultural purposes. The redesignation is decided.
- [151] The capacity of 300-500 persons was addressed at the redesignation stage including traffic therefore to deal with those at the development stage would be a collateral attack on the redesignation.
- [152] The traffic issue is the only relevant issue here and it can be dealt with through conditions on the development permit. For example, signs could be posted to force traffic to the paved road.
- [153] Concerns with fire from Appellants are not valid or based on evidence, based on the information provided by Fire Services through the Development Authority. Fires Services stated they were satisfied by response times. Any other fire issues can be dealt with through conditions and any development must comply with the *Safety Codes Act*.
- [154] The tribunal needs to consider section 687(3) of the *Municipal Government Act* (MGA), as proven in the 2009 Alberta Court of Appeal case *Shane Homes v Chestermere*, 2009 ABCA 185.
- [155] The Board must follow the South Saskatchewan Regional Plan under the *Alberta Land Stewardship Act*. The relevant sections to the proposed development are as follows:
 - (1) Page 19 states that:

Through tourism activity in the region, communities and Albertans benefit from a range of economic, social and environmental benefits. Additionally, recreation infrastructure and tourism investment has been shown to be key for rural areas to retain residents and support economic diversification. The growth and sustainability of existing tourism

operations and the innovative development of new tourism products, experiences and destinations also supports the retention of vacation dollars within Alberta and ensures the continued appeal of the province to existing and emerging domestic and international markets.

- (2) Page 40 gives strategic direction that recreation and nature-based tourism preserve and promote the region's unique cultural and natural heritage; and
 - (3) Page 124 supports nature-based tourism that takes advantage of natural attractions and activities such as camping, bird-watching, hunting, mountain biking, and motorized recreation.
- [156] The proposed development aligns with the South Saskatchewan Regional Plan as outlined above, which the Board must take into consideration. For example, the Scottish castle will be made of sandstone which is the foundation of many of the buildings in the surrounding area, thus representing Alberta's natural heritage materials.
- [157] The second point under section 687(3) of the MGA is that the application must comply with applicable land use policies. The two main policies at play are the Rocky View County Plan and the County's Agriculture Master Plan
- [158] Page 7 of the County Plan outlines the County as an "inviting, thriving, and sustainable county that balances agriculture with diverse residential, recreational, and business opportunities". The proposed development is the perfect synergy of agricultural and recreational coming together. The proposed development is a campsite that will use the natural surroundings in a sustainable way and is embedded in an agricultural setting without disturbing it.
- [159] The Appellants spoke a lot about how the development will destroy the surrounding agricultural community but there is no evidence to support these submissions. The Appellants' submissions are based on speculation and puffery.
- [160] Page 18 of the County's Agriculture Master Plan says there is an increased need for recreational opportunities in rural areas.
- [161] The County's Agriculture Master Plan promotes the preservation and enhancement of "natural capital", as defined on page 60. The proposed development is in alignment with this requirement.
- [162] The most important part of the County's Agriculture Master Plan is section 3.2.2.2 on page 62 which states:

The opportunities in the eco and agri-tourism sectors continue to expand. This expansion is due to the increasing regional population spurred with a renewed public focus and media attention on environmental sustainability, and safe, healthy, local food sources. People removed from farming are now again being drawn to it, and they are exploring opportunities to have their children and families exposed to this lifestyle, if even only on a recreational basis. The success and start up of numerous local operations attest to this. Operations already existing in or around the County include: the Calgary Corn Maze, the Chinook Arch Meadery, the Bow North Lodge (full-service lodging for fly fishing on the

Bow River), and several local children's camps. Further opportunities in this regard may include small scale campgrounds, bed and breakfasts, Farmstays, or Guest Ranches, that either provide a stepping stone for access further west into the Rockies, or as a destination location for the urban population in the area. These relatively small scale market driven endeavors should be supported by the County, as uses related to maximizing the natural capital potential of the lands. It is always important to achieve an appropriate scale, location, and integration with adjacent land uses. Development related criteria need to be further developed in conjunction with future MDP and LUB amendments in this regard.

- [163] The proposed development meets the requirements of the County's Agricultural Master Plan. The proposed development, which is a golf course, a campground, and an event centre that supports the campground, is built with natural materials to Alberta and is an eco and agri-tourist development. These types of developments are what the County's Agricultural Master Plan is talking about.
- [164] Just because a campground and an event centre are next to a farm it does not mean the farm is going to be destroyed.
- [165] There are valid traffic concerns that can be dealt with by conditions. The remaining concerns of the Appellants are not base in evidence and are scare tactics.
- [166] What has not been mentioned is that the campground permit cannot last forever - it has a mandatory expiry of up to five years and the Board can change that time period to be any time period between one to five years. This would allow the development to operate for a few years and then have it be re-evaluated when there is real evidence about what has happened while it is open. The Appellants can then come back in the future with real evidence of the negative impact (e.g. crime and fires) of the development.
- [167] Concerns about trespassing could be listed in any development in a rural setting.
- [168] The Applicant has provided actual evidence to disprove the concerns of the Appellants. The evidence says the proposed development meets the needed considerations under planning policy.
- [169] There is no evidence the proposed development will impact the area's privacy or be a danger.
- [170] The Appellants have questioned the Applicant's Traffic Impact Assessment without providing their own expert evidence on traffic.
- [171] The Appellants' hydrology concerns have been disproven and is actually provincial jurisdiction.
- [172] The Appellants have provided no evidence on how the proposed development will impact wildlife in the area. A campground will not impact the ability of neighbours to farm their land and concerns about hypothetical gas or oil leaks are not based on evidence.

- [173] Ms. McArthur's claim that the renters on her land will leave if the proposed development is allowed is inappropriate and not a proper consideration for the Board.
- [174] The Board is not allowed to factor in the proximity of other similar developments to the Lands. The fact that the proposed development would take away business from other event centres and facilities in the area cannot be considered, as decided previously by the Alberta Court of Appeal.
- [175] The Watsons' reference to an online thesis is not evidence before the tribunal and should not be considered by the Board.
- [176] Ms. Farquharson's entire argument was a collateral attack on the redesignation of the Lands and was also a personal attack. The Board should disregard Ms. Farquharson's entire submission as it was not relevant or appropriate.
- [177] This development aligns with statutory documents under 687(3) of the MGA, sound municipal planning, and follows the Agricultural Master Plan to economically diversify the County.
- [178] The time period of the development permit term could be limited by the Board under section 130 of the County's land use bylaw to give the Applicant chance to prove the positive impact of her development.

Robert Moyses rebuttal submissions – representing the Appellants Patrick & Karen Singer

- [179] Mr. Moyses misspoke at the outset—the height of the proposed development is two storeys and not four storeys as he originally claimed.
- [180] The proposed development was not part of the 2012 redesignation and has not already been decided on by Council. It is possible to envision other, lower impact developments under the B-LR designation that would be more appropriate and could be approved. The question is whether this particular development should be approved.
- [181] This development permit application started in 2018 and it is proper for the Board to consider impact of the proposal on surrounding agricultural uses - it is imperative that the Board do so.
- [182] In relation to section 687(3) of the MGA, the County Plan is the most relevant planning document and the points made at the beginning of the hearing on how the County Plan requires the protection of agriculture are the most important.
- [183] The County's Agriculture Master Plan is just a general guideline.
- [184] County policy is to reduce the impact of development on real agricultural operations.
- [185] The Singers do not agree Mr. Miller's statement that there is no evidence before the Board. The Board has heard from plenty of people, including 28 letters, and testimony from local farmers who use the roads and are saying that his development will impact their livelihoods.

- [186] The Board has heard testimony from people who live at the intersection who state that it is a dangerous intersection.
- [187] It is a sound planning principle to consider whether the proposed development is appropriate for the area.

Maxine McArthur rebuttal submissions – Appellant

- [188] All the noise and the smoke from the development will impact the enjoyment of Ms. McArthur's Lands as both Ms. McArthur and members of her family have serious medical respiratory issues.
- [189] Carcinogens stay in the air up to 10 days which Ms. McArthur read in some studies.
- [190] The McArthurs and other neighbours have heard noises from the Applicant's parties, including the fireworks that startled their horses. Nothing was said about the parties because they were trying to be good neighbours.
- [191] The fire safety has been worked out on the Lands but Ms. McArthur is concerned about the fire hazard on adjacent properties.
- [192] Ms. McArthur agrees that preserving cultural heritage is essential and there already is an existing cultural heritage in the area. The proposed development, including the Scottish castle, will ruin the existing cultural heritage.
- [193] The noise will be bad with the height of the property and number of people on the Lands.
- [194] Ms. McArthur still has concerns about water and changes to water flow in the area.
- [195] The Applicant's hydrologist explained to the County in 2019 that aquifers in the area have dried up.
- [196] The McArthurs rely on the County to protect arable land.
- [197] The proposed development will dramatically change the area's community.

Rob Watson rebuttal submissions – representing the Appellant Elaine Watson

- [198] The small hay field referenced by the Applicant is 34 acres that the Watsons pulled 120+ bales from - a local farmer does this for the Watsons because the farmer has the equipment.
- [199] There are 40 cattle on that piece of land as well. It is well used for farming.
- [200] The Watsons think there is evidence in the 2011 Stantec Report that says that there are water concerns in the area. Evidence about the lack of water has been provided to the Board.

- [201] The proposed development is a fire hazard and if one of the trailers catches on fire, there will be a disaster.
- [202] The Watsons are concerned about liability.
- [203] There is a lot of evidence of rural crime occurring in Alberta and it is a real concern.

FINDINGS & REASONS FOR DECISION

- [204] 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* (MGA). The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on key evidence and arguments in outlining its reason.
- [205] The Board finds that accommodation units, compatible with available servicing; campground, tourist; indoor participant recreation services; outdoor participant recreation services; tourism uses/facilities, recreational are a discretionary use in accordance with section 77.3 of the *Land Use Bylaw*.
- [206] The Board, in its evaluation of this proposed discretionary use, considered the context of the proposed development, applicable legislation, plans and policies, sound planning considerations and the merits of the application.
- [207] In determining an appeal, the Board is obligated under section 687(3)(a) – (a.3) of the MGA to act in accordance with any applicable ALSA regional plan, comply with any applicable land use policies and any statutory and the land use bylaw in effect.
- [208] The current land use bylaw in effect in the County is *Land Use Bylaw C-8000-2020* (the 2020 LUB). The 2020 LUB went into effect on September 8, 2020. The 2020 LUB repealed and replaced *Land Use Bylaw C-4841-97* (the 1997 LUB).
- [209] Section 10 of the 2020 LUB states:
- All development permit applications received in a complete form prior to the effective date of this bylaw shall be processed based on 'Land Use Bylaw C-4841-97', unless the Applicant requests in writing that the application be processed based on the regulations of this bylaw.
- [210] The Board finds that:
- (1) the Applicant submitted the development permit application on December 21, 2018;
 - (2) the 2020 LUB came into full force and effect on September 8, 2020 (section 8); and
 - (3) the Applicant did not provide a written request to the Development Authority to have the development permit application assessed under the 2020 LUB.

- [211] The Board is therefore satisfied that, pursuant to section 10 of the 2020 LUB, the Applicant's development permit application is to be assessed for the purposes of s. 687(3)(a.3) of the MGA based on the provisions of the 1997 LUB.
- [212] The Board notes that the development permit application is for a discretionary use development pursuant to section 77 of the 1997 LUB. Therefore, the development permit application can either be granted or refused on the basis of sound planning considerations.
- [213] The Board had regard to the 1997 LUB including, but not limited to, the following sections:

12.2 Use, Discretionary Applications:

The Development Authority, in making a decision on a Development Permit application for:

(a) A Use, Discretionary:

(i) May approve the application, with or without conditions, if the proposed development conforms with the Bylaw:

(ii) May approve the application, with or without conditions, if the proposed development does not conform with the Bylaw, if:

(1) The proposed development would not:

(A) Unduly interfere with the amenities of the neighbourhood, or

(B) Materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land,

And

(2) The proposed development conforms with the use prescribed for that land or building in the land use bylaw.

(iii) May refuse the application even though it meets the requirements of the Bylaw.

12.3 In reviewing a Development Permit application for a Use, Permitted with a proposed variance or a Use, Discretionary, the Development Authority shall have regard to:

(a) The purpose and intent of the applicable District;

(b) The purpose and intent of any Statutory Plan adopted by the County;

(c) The Purpose and intent of any other plan and pertinent policy adopted by the County; and

(d) The circumstances and merits of the application.

12.4 Notwithstanding the provisions of the Bylaw, the Development Authority may impose more stringent development regulations or standards on a Development Permit for a Discretionary Use in order to ensure that the Development is compatible with, and complementary to, surrounding land use and other planning considerations.

SECTION 77 BUSINESS – LEISURE AND RECREATION (B-LR)

77.1 Purpose and Intent

The purpose and intent of this district is to accommodate business development that provides primarily outdoor participant recreational services, tourism opportunities, and entertainment services that may be located outside of adopted Area Structure Plans, Conceptual Schemes, and Hamlet Plans. Developments within this district are meant to serve both a local and regional clientele. Accommodation Units may be included as ancillary to the principal business undertaking, and should be appropriate to the level of servicing available, at the discretion of the County, and in accordance with an adopted Area Structure Plan, Conceptual Scheme, or Hamlet Plan.

77.3 Uses, Discretionary

Accommodation Units, compatible with available servicing

Amusement and Entertainment Services

Athletic and recreation services

Bed and breakfast home

Campground, institutional

Campground, tourist

Golf Driving Range Lodging Houses and Country Inn

Indoor Participant Recreation Services

Outdoor Participant Recreation Services

Patio, accessory to the principal business use

Public Park

Restaurant

Tourism Uses/Facilities, Agricultural

Tourism Uses/Facilities, General

Tourism Uses/Facilities, Recreational

Any use that is similar, in the opinion of the Development Authority, to the permitted or discretionary uses described above that also meets the purpose and intent of this district.

77.4 Development Permit applications for both permitted and discretionary uses shall be evaluated in accordance with Section 12

[214] As noted above, counsel for the Singers submitted that the proposed development should be rejected for the following six reasons:

- (1) It is incompatible with existing agricultural land uses;
- (2) It will adversely affect the Appellants' quiet enjoyment of their property, from noise, dust and lack of privacy;
- (3) The event centre structure is not appropriate having regard to the character of the neighbourhood;
- (4) It will adversely impact traffic safety on local area roads;
- (5) It will negatively affect land values in the area; and
- (6) It may negatively affect area water supplies.

[215] The Board finds that the submissions of the Ms. McArthur and the Watsons were largely consistent with the position outlined on behalf of the Singers. The Board has therefore assessed the appeals having regard to these six arguments.

Compatibility of the proposed development with existing surrounding agricultural land uses

[216] It is clear that under the MGA and the 1997 LUB, when making a decision on a development permit application for a discretionary use, the Board must take into account the appropriateness of the location and parcel for the proposed development and the compatibility and impact of the proposed development with respect to adjacent development and the neighbourhood. The appropriateness of the development on this parcel and the compatibility with other uses depends on the surrounding properties.

[217] The Board accepts that the surrounding area is primarily agriculture land. Mr. Miller argued that there is no evidence that the proposed development would actually have any impact on surrounding agricultural operations. However, the Board heard evidence from Mr. Farquharson that he and other area farmers use Range Road 35 for moving large and wide agricultural equipment. The Board also heard evidence that local landowners ride horses and move cattle along Range Road 35.

[218] The Board considers that the movement of equipment and livestock on local roads is an integral part of carrying out agricultural operations. The ability of Range Road 35 and the connecting township roads to accommodate both large agricultural equipment and livestock, on the one hand, and large RVs on the other, was raised as a concern by all those opposing the proposed development. While this was largely argued as a "traffic issue", the Board believes it also relates to the question whether the proposed development is compatible with the surrounding agricultural uses. The Board agrees with the Appellants that it is not.

[219] The Board also has concerns about the compatibility of the RV park and the medieval/Scottish castle with the rural character of the neighbourhood.

- [220] With regard to the castle, the Applicant is seeking a variance because the height of the building exceeds the maximum height allowable under the 1997 LUB. In addition, the design includes a roof-top patio. The Board does not believe the structure is compatible with the character of the neighbourhood.
- [221] With regard to the RV park, the Board heard from the Applicant that the maximum occupancy for the development will be 500 persons. The Board does not believe that a development of that density is compatible with the character of the neighbourhood.
- [222] Section 687(3)(a.2) of the MGA requires that the Board comply with any applicable statutory plan. In making its decision on the appeal, the Board must comply with the County Plan which incorporates the Agriculture Master Plan. The Agriculture Master Plan was approved by Council on November 29, 2011 and includes 35 recommendations to fulfill its vision for the future. The Agriculture Master Plan is one of the key documents that guided the development of the County Plan applicable to the current appeal.
- [223] The Board considered Mr. Miller's argument on behalf of the Applicant regarding the provisions of the County Plan and the Agriculture Master Plan. The Board reviewed both documents and notes that while the County Plan is a statutory plan within the definition of section 616(dd) of the MGA, the Agriculture Master Plan does not meet this definition. Instead, the Agriculture Master Plan is a guidance document used to assist in future planning decisions and policy development by the County, including through the adoption of the County Plan. The County Plan incorporates the vision and policy framework for agriculture and land use planning in agricultural areas within the County set out in the Agriculture Master Plan. Therefore, the Board places more weight on the provisions and policies outlined in the County Plan.
- [224] The Board accepts the County Plan contemplates land uses beyond agricultural development as argued by Mr. Miller. However, the County Plan emphasizes that agriculture is "an important aspect of the County's culture and economy." The Board finds the County Plan places an extremely high value on protecting and promoting the development and diversification of the agriculture sector in the County. For example, section 8.25 of the County Plan recognizes that "non-agricultural development adjacent to, or near, an agricultural operation may adversely impact that operation" and therefore intrusive and/or incompatible land use in the agricultural area should be discouraged. The Board finds that based on the County Plan, non-agriculture developments in agriculture areas must not create unnecessary hardship for the agriculture community and not compromise the viability of the agriculture opportunities.
- [225] As noted above, the Board agrees with the Appellants' argument that the proposed development is incompatible with the surrounding agricultural uses for the various reasons discussed above. The Board is concerned that the proposed development compromises the viability of surrounding agricultural operations and therefore contrary to the County Plan.

Effect on the Appellants' Quiet Enjoyment of their Properties

- [226] As noted above, the proposed development will accommodate 81 RVs and the event centre will have maximum occupancy of 500 persons. The Board accepts the concerns expressed by the Appellants that the introduction of RV traffic onto local gravel roads will generate a significant amount of dust. The Board also accepts the concerns expressed

by the Appellants about the noise that will be associated with events of up to 500 persons. In particular, the Board is concerned about the potential for noise from events held on the roof top patio.

The Proposed Castle Event Centre is not Appropriate for the Area

- [227] The proposed castle structure that will be an event centre has a footprint of 17.07 metres by 31.70 metres. As noted above, it has a maximum height of 12.9 metres and requires a variance of the 1997 LUB.
- [228] In their written presentation, the Singers point to section 19.2 of the 1997 LUB, which states that the “design, character, and appearance of all buildings shall be appropriate and compatible with the surrounding area” and argue that the “castle” is not compatible with the character of the surrounding agricultural area. As noted above, the Board agrees.

The Proposed Development will Negatively Impact Traffic Safety

- [229] All parties, including the Applicant, agreed that the development will place stresses on the local roads, many of which are gravel and not wide. There was also agreement that the intersection of Township Road 290 and Highway 22, on a downslope travelling north, has limited sightlines and raises concerns.
- [230] The Applicant states that the concerns about traffic and local roads can be addressed through the imposition of appropriate conditions. In particular, the Applicant suggested that traffic issues can be dealt with through road signage. The Board is not convinced that traffic issues will be resolved/mitigated with the use of road signage.
- [231] For example, the Applicant suggested that signs could be erected directing RV traffic to access the development from the north, not the south, so as to deter RVs from using Township Road 284 and travelling north on Range Road 35, a longer distance than travelling south from Township Road 290. But as the Applicant acknowledged, drivers cannot be forced to obey signs. In addition, directing traffic to use Township Road 290 instead of Township Road 284 does not address the concern expressed about the intersection of Township Road 290 and Highway 22.

The proposed development would negatively impact land values

- [232] The Appellants expressed concern that the proposed development would adversely affect the value of their properties. The Board finds that this is an issue on which more concrete evidence (such as from an appraiser) was required to substantiate those concerns. The Board is not persuaded that the evidence supports this concern.

The proposed development would negatively impact the local water supply

- [233] The Appellants also expressed concern the proposed development would negatively impact the local water supply. As with the property value argument, the Board finds that there was a lack of evidence brought forward by the Appellants to support this concern. The Board placed no weight on the Watsons’ evidence about a study and a Masters’ Thesis on the Paskapoo Formation in the area. Neither document was placed in evidence and the authors were not presented to speak to the documents.

CONCLUSION

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

Dated at Rocky View County, in the Province of Alberta on December 31, 2020.



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 (83 pages)
2.	Development Authority's PowerPoint Presentation (8 pages)
3.	Singer Appellant Exhibit 1 – Appeal Brief of Karen and Patrick Singer (95 pages)
4.	Singer Appellant Exhibit 2 – Written Statement of Karen Singer (70 pages)
5.	Singer Appellant Exhibit 3 – PowerPoint Presentation (38 pages)
6.	McArthur Appellant Exhibit 1 (9 pages)
7.	Watson Appellant Exhibit 1 (3 pages)
8.	D. Farquharson PowerPoint in support of the appeal (41 pages)
9.	K. Farquharson PowerPoint in support of the appeal (36 pages)
10.	28 letters to the Board in support of the appeal (38 pages)
11.	Applicant Exhibit 1 – 105 letters in support of Bylaw (113 pages)
12.	Applicant Exhibit 2 – 56 support letters for DP Appeal Hearing (56 pages)
13.	Applicant Exhibit 3 – Court of Appeal Decision (51 pages)
14.	Applicant Exhibit 4 - C-7188-2012 Bylaw (2 pages)
15.	Applicant Exhibit 5 - SOCs not valid concerns regarding well water (5 pages)
16.	Applicant Exhibit 6 – Valid SOC Davies (1 page)
17.	Applicant Exhibit 7 – PowerPoint Presentation 2020 (75 pages)
18.	Applicant Exhibit 8 - Solstice Water Well Report (49 pages)
19.	Applicant Exhibit 9 – TIA – 2019 (7 pages)
20.	Applicant Exhibit 10 – 2012 Hearing comments and vote (2 pages)
21.	Applicant Exhibit 11 – Local Business Support of Chinook Ridge (96 pages)
22.	Applicant updated PowerPoint presentation used on December 17, 2020 (79 pages)