

August 3, 2022

Rocky View County
262075 Rocky View Point
Rocky View, AB T4A 0X2

Attn: Dominic Kazmierczak – Manager, Planning Policy

Re: Tanis and Dave Larson
Lot 7, Plan 011 0239 at 31048 Twp Rd 255
Special Function Business (*Wedding Centre*)

Dear Dominic,

Tanis and Dave Larson are seeking permission from the Rocky View County Development Authority to resubmit an application for development permit to develop a Special Function Business within the subject lands.

As per Section 83 – Re-Application Interval of the County's Land Use Bylaw C-8000-2020:

Where an application for a Development Permit is refused, the submission of a second application for the same or similar development on the same parcel, may not be made for a period of six (6) months from the date of issue of the refusal, except where waived by Council.

On June 27, 2022, the Rocky View County Subdivision and Development Appeal board considered an appeal against the Development Authority's decision to approve a development permit for a Special Function Business (Wedding Centre) within the subject land. Following the hearing, the Board decided to uphold the appeal and overturn the Development Authority's decision. In reviewing the SDAB Board Order #2022-SDAB-007, it appears that they based their decision to uphold the appeal primarily due to their understanding that our subject property does NOT contain a primary dwelling (Section 101), and as a result, our proposed Special Function Business would not be 'secondary' to the residential nature of our property (Section 103). In fact, this is not true given that the principle building that presently exists within our property does in fact contain a dwelling. As such, any proposed Special Function Business would in fact be secondary to the residential use of our lands.

Given the nature of these incorrect assumptions, we believe the Board made a substantial error in considering incorrect evidence. We have consulted our legal counsel who is presently considering an application to the Provincial Court of Appeal. However, we'd prefer to simply re-apply for our development permit immediately and forego the time and expense accordingly.

Additionally, in reviewing the SDAB Board Order #2022-SDAB-007, it appears the Board also believe that our proposed Special Function Business would affect the neighbouring lands quality of life (Section 103) and would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land (Section 105). We disagree with this assumption given that we worked extremely hard to engage with our community and prepared a comprehensive development permit with a strategy to address many possible concerns from the local area. To this end, we were able to solicit letters of support from many of our directly impacted neighbours and felt confident that we were going to be able to operate our Special Function Business within our property without any negative impact to our neighbours.

However, given the concerns expressed by the one (1) adjacent landowner, we are prepared to amend our previously approved Special Function Business with the following considerations:

- Reduce the total number of wedding events annually from 20 – 15.
- Reduce the total maximum permitted number of weddings guests from 75 – 50.

With these proposed revisions to our previous approval, we are confident that the potential for any negative impacts to the surrounding landowners can be appropriately mitigated.

Accordingly, Tanis and Dave Larson respectfully requests that Council waive the six (6) month period within which another application can be submitted. We also respectfully request that this waiver request be decided upon by Council at the next available meeting.

Respectfully,

Tanis and Dave Larson

 大成 DENTONS**Bonnie J. Anderson**
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October 3, 2022

**SENT VIA E-MAIL LEGISLATIVESERVICES@ROCKYVIEW.CA
AND JREBELLO@ROCKYVIEW.CA**Rocky View County
262075 Rocky View Point
Rocky View County, AB T4A 0X2**Attention: Mayor and Members of Council and
Justin Rebello, Supervisor Planning & Development**

Dear Sirs/Mesdames:

**Re: Council Meeting: October 11, 2022
September 13 Tabled Agenda Item F.4: Request Reduction of DP Reapplication Interval
Property: 31048 Twp Rd 255 (Lot 7 Plan 0110239; SE-35-25-03-W5M)
File: 05735070**

As you are aware, we act for Tanis and Dave Larson.

We previously wrote to Council on September 13, 2022 asking for additional time to review the circumstances leading up to our client's request to reduce the time to reapply in respect of their development permit application for a Special Function Business on the property.

Since then, we were provided further materials in relation to the property by Administration. We have those materials, as well as the decision of the MPC dated May 11, 2022 approving the proposed development, and the decision of the SDAB on June 27, 2022 reversing that decision.

From the SDAB decision, it is incorrect that "There is no primary building on the property, the Accessory Dwelling Unit is the only structure on the parcel" [para. 22]. There is only one building on the property which is confirmed by the Development Authority at para. 26. It appears that because the 2013 and 2014 were "not available electronically", that the "Development Authority was not able to answer questions related to them during the hearing" [para. 23]. Finally, it appears that the "Development Authority was unsure how this [2014] permit was issued" [para. 25].

Respectfully, it is the Development Authority's role to provide accurate information to the SDAB and, respectfully, that did not occur in this case and the SDAB relied upon inaccurate information (or the absence of information) to refuse the permit. To proceed with a hearing based on improper, or the absence of information that could have been resolved by adjourning the hearing, breaches a number of procedural fairness criteria that our client is entitled to.

It is a fact there is only one building on the property which is approved for residential use. There is no Accessory Dwelling Unit, as that requires two buildings. There is only one building.

Given the foregoing, we believe it is appropriate in the circumstances to shorten the development permit reapplication period.

We would, respectfully request, that the reapplication period be reduced so that a development permit for the Special Function Business can be applied for on October 4, 2022 or very shortly thereafter.

We look forward to addressing any questions Council may have as we will be in attendance on the October 11, 2022 meeting of Council.

Thanking you in advance,

Yours truly,

Dentons Canada LLP



Bonnie J. Anderson

Enclosure: SDAB Decision

ROCKY VIEW COUNTY SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Board Order No.: 2022-SDAB-007

File No.: 05735070; PRDP20221211

Appeal by: Fugate, Lance & Rachel

Hearing Date: 2022 June 27

Decision Date: 2022 July 11

Board Members: Crystal Kissel, Chair
Bob Doherty
Moire Dunn
Tricia Fehr
Morrie Goetjen

DEVELOPMENT APPEAL DECISION

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 May 11, 2022. In that decision, the Development Authority conditionally approved a development application for a Special Function Business, for an indoor & outdoor wedding and events venue and relaxation to the annual cumulative event days at 31048 Township Road 255 (Lot 7, Plan 0110239; SE-35-25-03-W05M) (the Lands).

[2] Upon notice being given, this appeal was heard on June 27, 2022 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 upheld and the Development Authority's May 11, 2022 decision on PRDP20221211 is overturned. The development permit is revoked.

BACKGROUND

[4] On March 18, 2022, Tanis and Dave Larson (the Applicants) submitted a development permit application for Special Function Business, for an indoor & outdoor wedding and events venue and relaxation to the annual cumulative event days on the Lands.

[5] The Lands are ± 2.40 hectares (± 5.93 acres) in size, are owned by 1917019 Alberta Ltd. (the Owner) and are located approximately 0.20 kilometres (0.08 miles) west of Woodland Road and on the north side of Township Road 255.

[6] The Lands' land use designation is Residential, Rural District (R-RUR) as regulated under sections 317-323.1 of Land Use Bylaw C-8000-2020 (the Land Use Bylaw). The Land Use Bylaw also addresses permits for a Special Function Business at sections 154-156.

[7] On May 11, 2022, the Development Authority issued a decision conditionally approving a Special Function Business, for an indoor & outdoor wedding and events venue and relaxation to the annual cumulative event days on the Lands.

[8] On June 3, 2022, Lance and Rachel Fugate (the Appellants) submitted an affected party appeal on the Development Authority's decision.

[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) Lance and Rachel Fugate, the Appellants; and
- (3) Tanis and Dave Larson, 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 presentation, which was provided as an exhibit.

[14] The parcel is 1.43 hectares and is designated Residential, Rural District.

[15] The application is for a Special Function Business for an indoor and outdoor wedding venue with a relaxation to the number of cumulative dates.

[16] A parking area for 50 parking stalls, to accommodate the venue, will be maintained on site but requires no additional grading to the lands.

[17] The Applicant provided an updated Action Plan for the site that was provided to the Board, as the outdated Action Plan was provided in the agenda.

[18] Events will have a 10:00 pm outdoor curfew and then events are expected to move indoors and conclude by 11:00 pm.

[19] Following the application was approved by the Municipal Planning Commission on May 11, 2022 there was one appeal received but no letters in support of the appeal were received. There were four letters of support were received with the initial application, 2 of those letters did not provide addresses.

[20] The permit allows for 20 cumulative events, an event could be a single day or it could span the weekend. Any tents that are required for the event would be allowed to be set up ahead of time. The cleanup of the event would happen after the event.

[21] There was a development permit in 2014 that converted the single-family dwelling into an Accessory Dwelling Unit.

[22] There is no primary dwelling on the property, the Accessory Dwelling Unit is the only structure on the parcel.

[23] The Development Permits on the parcel that are from 2013 and 2014 (construction of a dwelling single detached) are not available electronically and the Development Authority was not able to answer questions related to them during the hearing.

[24] The Development Permit from 2019 that was for a Home Based Business Type II for a yoga business was approved May 5, 2020 and expired January 28, 2021.

[25] The Development Permit for a Home-Based Business was issued on the parcel without a primary residence on title, there is a structure was converted into an Accessory Dwelling Unit in 2014. The Development Authority is unsure how this permit was issued.

[26] The Development Authority has no knowledge of any other dwellings on the Lands.

Lance and Rachel Fugate's submissions – the Appellants'

[27] The Appellants stated that the appeal process is uncomfortable, and that they do not want to be the ones complain in the neighbourhood and they wish the applicants no ill will. However, this permit directly impacts their quiet way of life.

[28] The Appellants stated that they purchased their home with every intention of it being their forever home have had to had real conversations about whether they will have to move if this application is approved.

[29] The Appellants stated that they are concerned about living next to a semi-permanent Business. The Appellants just live in their house, and they struggle with the zoning requirements for the area. Just about everyone on the road runs a business and there is equipment and tool storage for civil works, some are a drop shipping business receive, the Barn has a variety of uses associated with it an AirBnB is one of them.

[30] The Applicants do not live on the Lands.

[31] The Appellants have not appealed any other businesses in the area, but this business is a party business.

[32] The Appellants stated that there are a variety of risks associated with this business, the first of which is noise, the DJs, the lights, and the party. The curfew is for 10:00 pm but the Appellants have not been to a wedding that stops at 10:00 pm, the Appellants are concerned that the Noise Bylaw will be relaxed just like the number of days the Applicant's can hold events was.

[33] Township Road 255 is a gravel road; the Appellants are concerned the condition of the road will degrade with the increased traffic from the proposed development.

[34] The corner turning from Township Road 255 onto Woodland Road is already a safety issue and having the additional traffic on the road and the potential of people drinking and driving in the dark produces additional concerns.

[35] There are so few nice weekends and now most of them may be impacted by a party happening right next to them.

[36] The Appellants are concerned because the proposed business would be operating directly outside the Appellants bedroom window, the material from the Applicants stated that the barn is 266 metres from the Appellants house.

[37] The location of the trees and the north and south ends of the property provide some protection from the noise, but this also creates an amphitheatre effect and allows the sound to travel to the west, where there is only a small amount of caragana bushes between the proposed development and the Appellants.

[38] The Applicants did build a berm of sorts to the east to maybe deflect some of the noise but the barn is right out the window and completely visible to the east of the Appellants.

[39] The parking area and the outdoor tents for the events would be within the 266 metre radius. The Appellant believes the partying and noise would be within 100 metre radius of their house.

[40] A church and a restaurant that are in a commercially zoned area are much different than a business such as the Applicants have proposed operating in a Rural Residential area.

[41] The Appellants would have no issue if it was a single use for a special event but this is a business.

[42] The Applicants did complete a public engagement strategy with the community but there were commitments made to adhere to bylaws and there was no reference to weddings. However, when the Appellants received the approval letter in the mail from Rocky View County it included the wedding element and a relaxation to the number of total number of days.

[43] From a process perspective, the Appellant struggles with the process of the application being approved and neighbours only being informed after the fact.

[44] The Appellants wonder why business owners who are not residents have more rights than property owners and residents do that are actually impacted by the business.

[45] The Applicants are good people and good business owners but the Appellants believe this application was sold to the neighbours in a misleading way.

[46] The Appellant is not aware of any events on the property.

Tanis and Dave Larson's submissions – the Applicant

[47] The Applicants stated that their original vision for the barn was to be a yoga studio, during COVID they realised there was a need in the community for support and a place and space for people in the community to get together.

[48] Small weddings will make up a small small part of this business. There is a bigger vision to bring moms and community together, there is much support from the women in the community of Bearspaw.

[49] The Applicants stated that this will not be a party going place, they have faith and community in mind first.

[50] As a mother to five children and an influencer in the city the Applicant stated she has an responsibility to uphold.

[51] The Applicants have another business called Tanner's Masonry, this business has given to charitable events in Bearspaw and built the Special Olympics monument at COP. Recently Susan Church came to the Appellants and asked if they would sponsor the Bearspaw farmers market, which the Applicants gladly accepted. The Applicants are all about community.

[52] The vision for this business includes craft fairs, small events, workshops, small boutique upscale weddings (very small small elopements), fundraisers and charity events, awards ceremonies, and conferences and seminars.

[53] The Applicant stated that there have been many false accusations about in this appeal about the Appellants and their family and their business. The Appellants have not accepted the open invitation from the Applicants to learn about their family and their vision for their business.

[54] The Applicants have eight support letters from the community that surround their home. These people understand what kind of people the Applicants are and are confident in the vision to make the space safe for mothers to have workshops, yoga retreats and more at the barn. By no means will this be a party going drunken fest.

[55] The Applicants have completed a good neighbour action plan with their operations and management policies.

[56] The vision is not to have huge weddings on the property.

[57] The Applicants stated that from the Appellants home to the Applicants home is 266 metres, the Appellants home is closer to Highway 1A than to the Applicants home.

[58] The Applicants have received approval letters from all surrounding neighbours, but the Appellants are outside that perimeter.

[59] The good neighbour action plan addresses the noise. A 10:00 pm outdoor curfew will be implemented to align with the County's noise bylaw, direct contact information is provided to resolve issues very quickly and all events will be concluded at 11:00 p.m.

[60] Prospective event hosts will be vetted by the Applicant and asked to respect the space.

[61] The Applicants stated that the events will be monitored from pre-event set up to post-event clean up. The Applicants also stated that there are 24-hour surveillance cameras on all corners of the property and that there will be hired staff present that will monitor the events.

[62] Traffic will be reviewed by an engineer as per the conditions of the permit.

[63] As per the good neighbour action plan, no lighting is to encroach roadway or neighbouring properties. All fixtures will be dark sky compliant, and timers will be used to turn the lights on and off.

[64] This is more of a place for community so most events will occur during the day, very few will occur at night.

[65] As per the good neighbour action plan, the Applicants will personally screen and pre-approve all perspective hosts. All events will be monitored with a staff member there, and hosts will be required to sign a contract agreeing to safety measurements.

[66] Appropriate liquor licensing will be obtained, if necessary.

[67] The property is an upscale place where groups can come together.

[68] The Applicants have spent a lot of time and effort into this property, as they do with all of their properties.

[69] The Applicants have had assessments done by realtors on the property and have confirmed that this enhancement increases property values in area.

[70] The Applicants stated that people have commented on how well the property has been improved and how it looks nice.

[71] There is a church and fire hall across the freeway and down the road, there are reasons why these places are close to a freeway. It is a loud area and a great place to have music events.

[72] The Applicants stated that Tanner's Masonry is not operating out of property.

[73] The Applicants stated that it is true that the property was rented out less than 5 times to see if there was a need for this. During the pandemic friends and family who didn't want to stay in hotels stayed on the property.

[74] The Bearspaw community has much to gain by approving this special events permit. It will provide a sense community and a place to connect and enhance the place we call home.

[75] The permit allows 50-75 people maximum, however most of the people who have contacted the Applicants are chiropractors in the Cochrane area. The Applicant expects that most events would be closer to 20-30 people.

[76] The Applicant will be the one approving the groups and groups of 75 will have to be taken into account when they are being approved.

[77] The Applicants live in Church Ranches which is 5 minute drive away, this place is a place the Applicants call home. They do not want people to destroy the property.

[78] If there is a small wedding event at the property, an elopement wedding, the Applicant will be on site to greet the guests, after she leaves her assistant will be on the property for the remainder of the event.

[79] There will be mostly daytime events at the property.

[80] The Applicants stated that the location was chosen because they were told that this would be an ideal location for a small business like this to operate because it was so close to the highway.

[81] The Applicants did not purchase property to pursue this business. They fell in love with this property and the barn and thought it was a great investment to have another property in Bearspaw and they enjoy fixing up property.

[82] The Applicants stated that they may sell their other property and build and live in the Barn for a year while that is happening.

[83] The Applicants applied for and received a development permit to hold yoga classes in the barn.

[84] The Applicant stated that the letters of approval they submitted are from the properties to the east and west of the panhandle and the north of the property.

[85] The Applicants stated that they do not live on the property.

[86] The Applicants stated that ideally for an elopement or small boutique wedding they would like to keep it all to one day for set up and take down, if possible. For larger weddings if they would like to come on the property the night before they can have the one day before.

[87] If tents are required the set up will be one day before and one day after the event. Tents will only be used if necessary, there is room in the indoor shop to hold the people and this will be decorated for the event. This shop has both an indoor and outdoor space available to the events.

[88] If small tents would only take 4-6 hours to taken down by staff, if allowed.

[89] The Applicants stated Minimum staff requirement would be 2 plus bartenders and caterers and the Applicants assistant who would be present at all events.

Lance and Rachel Fugate's rebuttal submissions – The Appellant

[90] The Appellants confirmed that there was a letter submitted earlier in support of the appeal.

[91] The letters in support of the application were dated in February as part of the justification for the business and may be outdated.

[92] The Appellants stated that the highway is not issue because of tree cover to north and south of the property, but there is no tree cover other than a row of caragana bushes between business and the Applicants home.

[93] The location is either a peaceful and idyllic location or it is directly adjacent to the road.

[94] The Appellants stated that it is impossible to reconcile that an owner who does not live on the property has more rights than someone who lives there, and are able to have such an impact on the people that do live there.

[95] The Appellants stated that when this was a yoga studio, there were no issues and they had no objection to that business.

[96] The properties that surround the lands are all operating businesses and storing vehicles.

[97] The Appellants never complain about anything in the area they are just concerned about parties; not about the operation of business.

[98] Small elopements are still parties and will have an impact on the Appellants way of life.

FINDINGS & REASONS FOR DECISION

[99] The Board finds that Special Function Business is Discretionary in Residential, Rural District, as outlined in section 318 of the *Land Use Bylaw*. The Board finds it has the authority to make a decision on the matter pursuant to section 687 of the *Municipal Government Act*.

[100] 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.

[101] The Board heard that there is no primary dwelling on the subject property. There is an Accessory Dwelling Unit on the property, however, the *Land Use Bylaw* states that this structure is to be secondary to a primary dwelling.

[102] The Board heard no evidence that there are plans to construct a primary dwelling on the lands.

[103] The Board finds that the business does not appear to be secondary to the residential nature of the area and the subject property.

[104] The Board finds that this will affect the neighbouring lands quality of life.

[105] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would 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 does not conform to the use prescribed for the Lands in the *Land Use Bylaw*.

CONCLUSION

[106] For the reasons set out above, the appeal is upheld and the Development Authority's May 11, 2022 decision on development permit application PRDP20221211 is overturned. The development permit is revoked.

Dated at Rocky View County, in the Province of Alberta on July 11, 2022.



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 Report (51 pages)
2.	Development Authority PowerPoint (7 pages)
3.	Appellant Exhibit (6 pages)
4.	Letter in Support of Appeal (1 page)
5.	Applicant Exhibit (10 pages)
6.	Applicant Exhibit (presented at hearing) (13 pages)
7.	Revised Applicant Action Plan (9 pages)
8.	Letters in Opposition of Appeal (5 pages)