



NOTICE OF APPEAL

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

In accordance with Sections 678, 685 and 686 of the Municipal Government Act and the Wheatland County Land Use Bylaw an appeal to the Subdivision and Development Appeal Board must be filed within the legislated time frame and each Notice of Appeal must be accompanied by payment of a **non-refundable \$300.00 filing fee for subdivision** appeals and a **\$200.00 filing fee for development appeals**. Non payment of the fee will result in no hearing being scheduled before the SDAB. For filing instructions and fee payment options, see the reverse side of this form.

Site Information			Date Received Stamp	
Municipal Address of Site 262049A RGE RD 255			<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="margin: 0;">WHEATLAND COUNTY</p> <p style="margin: 0; font-size: 1.2em;">MAR 28 2023</p> <p style="margin: 0; font-size: 1.2em;">RECEIVED</p> </div> <p style="margin-top: 10px; text-align: right;">(Office Use Only) <i>1:20pm</i></p>	
Legal Description of Site (must be completed for all appeals) NW-17-26-25-4				
Development Permit Number or Subdivision Application Number DP 2023-006				
Appellant Information				
Name of Appellant Janneane Madill				
Street Address (for notification purposes) [REDACTED]				
City [REDACTED]	Province [REDACTED]	Postal Code [REDACTED]	Residential Phone # [REDACTED]	FOIP s.17(1)
Business Phone #	Fax #	Email Address [REDACTED]		FOIP s.17(1)

APPEAL AGAINST (Check One Only)

Development Permit	Subdivision Application	Notice of Order
<input type="radio"/> Approval <input type="radio"/> Conditions of Approval <input checked="" type="radio"/> Refusal	<input type="radio"/> Approval <input type="radio"/> Conditions of Approval <input type="radio"/> Refusal	<input type="radio"/> Notice of Order

REASONS FOR APPEAL Sections 678 and 686 of the Municipal Government Act require that the written Notice of Appeal must contain specific reasons for the appeal.

I do hereby appeal the decision of the Subdivision or Development Authority for the following reasons:

Please see attached letter

(Attach a separate page if required)

This personal information is collected under the authority of the Freedom of Information and Protection of Privacy Act, Section 33(c) and the Municipal Government Act, Sections 678 and 686. NOTE: THIS INFORMATION WILL FORM PART OF A FILE AVAILABLE TO THE PUBLIC. If you have any questions regarding the collection of this information, contact the FOIP Program Administrator at 934-3321 or Hwy 1, RR1, Strathmore, AB, T1P 1J6.

Signature of Appellant / Agent 	Date YYYY MM DD 2023 03 27
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FOR OFFICE USE ONLY

Final Date of Appeal YYYY MM DD	SDAB Appeal Number	Fee Paid	Hearing Date YYYY MM DD	Date Applicant Notified YYYY MM DD	Date Appellant Notified YYYY MM DD

FOIP s.17(1)

Attn: SDAB Clerk, Wheatland County
242006 Range Road 243
Wheatland County, AB
T1P 2C4

A. Introduction

The Alice Sanctuary is a registered non-profit charity animal sanctuary located at 262049A RR 255 (the "**Property**"), home to over 200 animals. By this letter we are formally appealing the decision of the Municipal Planning Commission (the "**Commission**") to refuse our application for a Home Based Business Type 3 (HBB 3) to permit a 'Sanctuary for the Care of Rescued, Surrendered, Injured and Abandoned Farm Animals' (the "**Application**").

B. The Subject Property

The Property currently comprises two homes. It is a 118ac rectangular shaped lot with approximately 15 m of frontage along Township road 262a.

The Property is zoned Agricultural General District (AG) in the Wheatland County Land Use By-law 2016-01 (the "**By-law**"). The Property is surrounded by other AG zoned properties which are also used to raise animals.

The Property is owned by Barbara Stefanich, and The Alice Sanctuary operates the Property.

C. The Application

On January 13, 2023, The Alice Sanctuary applied for a development permit for a Home Based Business Type 3 in response to a request from the County's Development Officer who was following up on a complaint received from the adjacent neighbour. The Alice Sanctuary currently takes care of 200 animals on the Property - from cows to chickens - and relies on volunteers to assist in providing care for these animals and maintaining the Property. In addition, it offers sanctuary visits to members of the community, providing enriching opportunities to connect with and learn about animal care and behaviour. The Sanctuary previously held large events on the Property, but as of November 2019 all large events are held in the City with local businesses. The Alice Sanctuary rents part of the 118 acres to the neighbours to North for a hay field.

The Alice Sanctuary originally considered a rezoning, but was directed to a HBB 3 development permit given that large events are no longer held on the Property.

D. Decision on the Application

At its March 14, 2023 meeting, the Commission refused the Application by a 3-2 vote (the "Decision"), claiming that:

- a. The operation does not fall into the category of a business;
- b. The Sanctuary has been operating for many years without approval of the Development Authority and was continuing to grow;
- c. The development permit application had been made due to complaints received and it is likely there will be more issues if their permit is approved;
- d. The increase in traffic to the site has a negative impact on adjacent landowners;
- e. Tours and volunteers visiting the site adversely affect the neighbours; and
- f. Tour groups and volunteers are not compatible with adjacent land uses.

E. Reasons for Appeal

Pursuant to section 686 of the *Municipal Government Act*, RSA 2000, c M-26 the Sanctuary does hereby appeal the decision of the Development Authority. In support of this appeal, please accept the following material:

- This covering letter
- The enclosed SDAB Notice of Appeal Form
- A cheque for \$200 for the development appeal

It is our view that the Decision should be overturned and the Application approved for the following reasons:

1. The Decision was based on incorrect information. The municipal planning committee circular contained errors including:
 - a. The peace officers cited multiple complaints in the planning committee circular; however, when we asked for a copy of the complaints we learned that only 2 complaints were made during our tenure on the land, both related to parking.
 - In response, we would clarify that the parking complaint was made - even though we haven't parked on the road for over 3 years and we were only informed on one parking complaint not 2 as it is stated.
 - An e fence was placed along the county road on the south side by the adjacent neighbour to allow his cows to graze along the roadside. It is assumed the county had made the formal complaint since it wasn't from us or our landowner.
 - The third complaint in 2014 was made 2 years prior to my occupancy here.
 - b. When we identified this concern to the Development Officer, we were told that the circular could not be changed but we could address it during oral submissions before the Committee; however the MPC did not permit us to speak, and the Decision was made without these errors addressed.
 - c. The letter submitted by the Shoren's includes many erroneous statements. In response we would indicate the following:
 - The Sanctuary does not run a dog and cat rescue;
 - We do have quarantine procedures;
 - No animals have been dumped on the Property.

- There are no privacy issues given that no tours are run in the vicinity of the Shoren's yard.
- The Sanctuary has never had any of the diseases listed in the Shoren's letter, confirmed by a letter of support from our vet

2. Improper Basis for Decision

- a. The Committee made a biased Decision based on ideology rather than land use planning grounds, the statement that a sanctuary is the "polar opposite" of Wheatland County. This is an improper ground for the Decision and raises a Charter issue; see attached letter from Animal Justice in this regard.
- b. Similarly, some Committee Members raised issues that were clearly addressed in the Application including: biosecurity, deadstock, and land use. Little discussion actually centred around the permit, traffic or parking, which did not form the basis for the Decision.
- c. MPC policy states: *As per Wheatland County Policy 7.13, Municipal Planning Commission does not conduct public hearings and will not hear submissions by or ask questions of the Applicant or any other affected party at the MPC meeting. Written submissions will be accepted and reviewed by the commission prior to the meeting.*
 - The committee voted in Mr. Shoren to speak, only deferred as I was told I would be unable to do so, and was not present. It was voted that both parties would be able to speak at the next meeting.
 - The MPC did not discuss any of the reasons eventually given for refusal at that time. Nor was the discussion based on the application. After feedback from this meeting, they came up with a completely new list of why to deny the permit

3. At the March 14th meeting

- a. The committee did not allow either to speak. We were not made aware until they started voting. We sat patiently to be called on.
 - We spent weeks preparing and gathering all necessary documents, letters and financial numbers and lawyer consultations
 - Our speech had many points that would have been pertinent and clear up so much of this misrepresentation.
- b. Mr. Klassen stated that there were issues from the colony. I reached out and was assured that Mr. Klassen did call and that he was not told there was contention or opposition. In fact, we have a land rental contract for hay cultivation.
- c. A Committee member stated that he would vote to refuse because the Sanctuary spends more time on fundraising than animal care. In response, we would state the following:
 - Last year the Sanctuary hosted 14, 5-hour tours (~70h total) compared with working on the farm an average of 12h a day (~4000h total). Animal care is the Sanctuary's number one priority and takes the vast majority of our time. We are an agricultural operation with volunteer support.

4. Specific responses to reasons for refusal:

a. *The operation does not fall into the category of a business*

- The By-law defines “Home-Based Business, Type 3” as the “*secondary use of a dwelling and accessory building by an occupant of the residential dwelling to conduct an activity that will generate daily business-related visits*”.
- The Alice Sanctuary fits this definition: it is a business with a charitable purpose: it has a business number and reports to the CRA. The business is run by the occupant of the dwelling and the business is run out of the accessory buildings, resulting in business-related visits in the form of volunteers.

b. The Sanctuary has been operating for many years without approval of the Development Authority and was continuing to grow.

- Unfortunately we were unaware that a permit was required but look forward to rectifying this. The operation of a business without a permit is not relevant to the determination of the permit.
- As far as growth, we have significantly decreased tours and held no events over the last few years. We have not had any big events since COVID and will continue to hold them offsite.

c. The development permit application had been made due to complaints received and it is likely there will be more issues if the permit is approved.

- While it is true that this Application was made in response to two parking complaints, reported three years after the fact, this is not a reason for refusal. Regardless, following the two complaints, peace officers that visited the site agreed that parking on the shoulder is legal.

d. The increase in traffic to the site has a negative impact on adjacent landowners

- If the Application were approved, the Sanctuary would host a total of 14 tours over the summer months. We would be happy to have this as a condition of approval. Volunteers are necessary to provide care for our animals in our unique agricultural operation. We have significantly scaled back visitors by hosting all fundraisers off-site, and we will have less traffic coming to the Property in the future, mitigating any potential impacts alleged in the past.
- The Sanctuary produces less traffic than the closest neighbour who originally complained about our traffic. The Shoren's run multiple businesses from their 40 acre property including storing trailers, vehicle repair, slaughtering/butchering onsite. These businesses create a flow of traffic. Our traffic-load comprises 5 vehicles once a week 10 months of the year and 5-15 vehicles a week for the summer months. Any alleged impacts on the adjacent property of the Shoren's are not caused by the Sanctuary.

- Despite the above, the Sanctuary intends on going above and beyond its legal requirements and has agreed to pay for 200 m of dust control along Township 262a as well as using our funding to build a well established and constructed privacy fence along our side of the shared fence line that bares the visual of both homesteads.
- e. Tours and volunteers visiting the site adversely affect the neighbours
- Our volunteers are no different than paid farmhands or friends helping with chores as far as traffic or number of people.
 - Residents are allowed to have visitors to their property, we have always been respectful, we have 2 people living on the property, in two separate homes, the traffic is minimal.
 - None of our volunteers or visitors have any interaction with the adjacent neighbour.
 - When we were made aware of the parking complaint we took it very seriously and responded by applying for the appropriate permit.
- f. Tour groups and volunteers are not compatible with adjacent land uses.
- Farm tours are a discretionary use for this land use and are the subject of this permit. As per the above, they have no impact on adjacent land-uses.
 - The Sanctuary's ability to make use of volunteers is not properly the subject of this Application, and is permitted for the Agricultural Operation on the Property as of right.

Summary

The Alice Sanctuary is a small rescue with 200 animals (many of whom are birds) on a 118 acre parcel of land. Our tours are important: Over 95% of our funding comes from donations and larger events held off site. Tours allow us to meet new supporters and volunteers. This is our community connection. We support local agribusiness, spending over \$120,000 in the community last year. We spent an additional \$17,000 on vet care last year alone. We have decent and respectful relationships with many people in agriculture! including our hay broker and hay haulers of 5 years, our straw vendor of 4.5 years, UFA in Strathmore for 7 years and numerous farmers who have brought animals into our care.

Our volunteers also facilitate the clean up of 13 km of local highway annually. We bring visitors to Wheatland County.

We will be asking that the Board allow our appeal, overturn the Decision of the Committee, and grant a HBB 3 permit to allow tours to take place on the Property for a period of two-years, facilitating our volunteer-run and donation-funded charity agricultural operation, in the form of an animal sanctuary.

March 13, 2023

Wheatland County
Municipal Planning and Development
242006 Range Road 243
Wheatland County, AB
T1P 2C4

Via Email:

planninganddevelopment@wheatlandcounty.ca
sherry.baers@wheatlandcounty.ca
admin@wheatlandcounty.ca

To Whom It May Concern:

Re: Constitutional Concerns Surrounding MPC's Consideration of The Alice Sanctuary's Permit Application (DP 2023—006)

I write to you on behalf of Animal Justice—Canada's leading national organization focused on using the law to protect animals—regarding The Alice Sanctuary's business permit application which was subject to debate and consideration before the Municipal Planning Commission ("MPC") on February 14, 2023.¹

At the February 14, 2023 meeting, MPC members raised a number of improper considerations regarding the Sanctuary's application, including indicating that the ethical belief system of the Sanctuary and its owners is at odds with the agricultural history of the region. The Sanctuary offers care and compassion to rescued farmed animals in need. Denying the Sanctuary's permit on this basis would violate the *Canadian Charter of Rights and Freedoms* (the "**Charter**"),² as is set out in greater detail below.

Alice Sanctuary Permit Application

The Alice Sanctuary's application (DP 2023—006) is for a home-based business permit (type 3) for a sanctuary for the care of rescued, surrendered, injured, and abandoned farmed animals. The Alice Sanctuary is a registered charity that was founded in 2014 and is home to over 200 animals.³ The Sanctuary partners with farmers and organizations such as enforcement agencies

¹ Footage of the February 14, 2023 meeting is available online:

https://www.youtube.com/watch?v=0SZ1TeT7yhl&feature=youtu.be&ab_channel=WheatlandCounty

² Available online: <https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html>

and humane societies to offer lifelong care to farmed animals such as horses, cows, sheep, goats, pigs, and chickens.

In order to purchase materials including feed, bedding, and other necessities, the facility engages in fundraising activities, including events open to the public. The larger of these events are now held entirely offsite, with only smaller events occurring onsite. While the housing and care of farmed animals would typically be considered an “Agricultural Operation”, given that the Sanctuary is not focused on profit, and that fundraising events occur on the premises lands, the above-noted business permit is being pursued by the Sanctuary.

At the February 14, 2023 meeting of the MPC, the Sanctuary’s permit application was discussed in detail before being deferred to a future meeting to allow for the Sanctuary to participate in the discussion (the next MPC meeting is set for March 14, 2023). During the Commission’s discussion, Councilors expressed concern with the nature of the Alice Sanctuary’s business operations. Councilor Scott Klassen in particular indicated that the work that the Sanctuary conducts and the beliefs it espouses represent the “polar opposite” of agricultural operations in the region. He further stated that “agriculture in this County is **who we are**” and that the Sanctuary’s application and business was “a part of animal welfare that... butts heads with agriculture”, noting that it is “hard to mitigate [these] concerns.”⁴ MPC Chair, Tom Ikert, further stated that the Sanctuary’s application “is not supporting agriculture” and that it was “different [from] any other farming operation out there.”⁵

Freedom of Conscience under the Canadian Charter of Rights and Freedoms

Animal Justice has significant concerns with the considerations raised by MPC members ahead of the Commission’s decision with respect to The Alice Sanctuary’s permit application. Indeed, the County has raised improper factors for consideration of the Sanctuary’s application by expressing a clear apprehension to grant this facility its permit on the basis that the work conducted there and the “animal welfare” beliefs espoused by the Sanctuary’s operators stand contrary to the region’s agricultural ties, including the farming and slaughter of animals for food.

The County must comply with the *Charter* in making permitting decisions. Section 2(a) of the *Charter* provides that every Canadian has the fundamental freedom of conscience and religion.⁶ This includes the protection of deeply held moral belief systems such as beliefs related to animal welfare or ethical veganism or vegetarianism.⁷ In other words, “even if a practice is grounded in

³ See: <https://www.thealicesanctuary.ca/about>

⁴ https://www.youtube.com/watch?v=0SZ1TeT7vhl&feature=youtu.be&ab_channel=WheatlandCounty, at 43:50 - 44:15

⁵ *Ibid*, 47:25 - 48:45

⁶ See: <https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html>

a belief that does not qualify as religious, it may still be protected by section 2(a) if the belief is a conscientious one.”⁸

Denying The Alice Sanctuary’s permit application due to considerations related to the ethical belief system of its owners and operators would violate the s 2(a) *Charter* rights of the Sanctuary’s owners and operators.

In *Roncarelli v Duplessis*, [1959] SCR 121, the Supreme Court of Canada made it clear that government actors can not interfere in the licensing of businesses to “punish” them for their beliefs or for acting in a way that is wholly irrelevant to the matter at hand.⁹ Per Rand J., “in public regulation of this sort there is no such thing as absolute and untrammelled ‘discretion’, that is that action can be taken on any ground or for any reason that can be suggested to the mind of the administrator.”¹⁰

Animal Justice is in close contact with The Alice Sanctuary regarding the permit application and has an interest in ensuring that the rights of animal protection advocates are respected by all levels of government. In the event that the Sanctuary’s permit is denied on the basis of the nature of the business and the ethical belief systems of its owners and operators, the two groups will explore legal options to challenge that decision in court.

Sincerely,



Scott Tinney

Staff Lawyer, Animal Justice

stinney@animaljustice.ca

CC: Sherry Baers, General Manager of Community and Development Services

⁷ *Maurice v Canada (Attorney General)*, 2002 FCT 69 [“*Maurice*”] at paras 8-9.

⁸ Bruce Ryder, “State Neutrality and Freedom of Conscience and Religion”, *Osgoode Hall Law School of York University*, *The Supreme Court Law Review* vol. 29 (2005), available online:

<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1076&context=sclr>

⁹ [1959] SCR 121, at paras 42 - 44

¹⁰ *Ibid*, at para 41