

**WHEATLAND COUNTY
SUBDIVISION & DEVELOPMENT APPEAL BOARD**

Notice of Decision

Hearing Held At: Wheatland County Office – Council Chambers

Members Present: J. Anderson
E. Deeg
K. Williams
G. Szakaly
T. Tower
P. Metzger-Savoie

Appellant: John Graham

Basis of Appeal: The Development Authority issued a Stop Order on the property located at SE 11-27-18-W4M & SW 12-27-18W4M on March 3, 2023. The Stop Order stated the reasons as a commercial campground and recreational vehicle storage is occurring and several structures have been placed and/or constructed on the lands without permits.
An appeal to the stop order was received on March 24, 2023.

Finding the Facts:

1. Parcel is located at SE 11-27-18-W4M & SW 12-27-18W4.
2. Parcel is currently zoned Agriculture General.
3. The Development Authority issued a Stop Order March 3, 2023. Reasons for the Stop Order were a commercial campground and recreational vehicle storage is occurring and several structures have been placed and/or constructed on the lands without permits.
4. Appellant filed the Notice of Appeal with the Subdivision and Development Appeal Board on March 24, 2023.

Decision:

The decision of the Subdivision and Development Appeal Board is to uphold the Stop Order issued by the Development Officer March 3, 2023, on the parcel located at SE 11-27-18-W4M & SW 12-27-18W4.

Reasons For
Decision:

The Subdivision and Development Appeal Board is upholding the Stop Order for the following reasons:

1. The Stop Order was correctly issued in accordance with the requirements of the Municipal Government Act (MGA) and the Land Use Bylaw (LUB) to both the Landowner and Occupant.
2. Under section 645 of the *Municipal Government Act (MGA)*
Stop Order
645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
 - (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval,the development authority may act under subsection (2).
 - (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
 - (a) stop the development or use of the land or building in whole or in part as directed by the notice,

- (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.
3. Under Part 2 of the County's *Land Use Bylaw*, Bylaw No. 2016-01 (the "*Land Use Bylaw*"), applicable definitions include but are not limited to the following:
- "*Accessory Building / Structure*" means a detached building or structure, the use of which is incidental or subordinate to the use of the principle building which is located on the same parcel but in no instance shall be used as a temporary or permanent dwelling unit.
 - "*Campground (Minor)*" means development of land for the short-term use of holiday trailers, motor homes, tents, campers and similar recreational vehicles. See Campgrounds Section for more information.
 - "*Campground (Major)*" means development of land (public and private ownership) for the short or long-term use of holiday trailers, motor homes, tents, campers and similar recreational vehicles. Campground (major) may include facilities such as a central office, washrooms, cooking facilities and retail establishments for the sale of convenience items. See Campgrounds Section for more including slide-outs) in width. A recreational vehicle is not considered a dwelling unless it is being used for quarantine or self-isolation information.
 - "*Recreational Vehicle*" means a portable fabrication to be carried on a vehicle or to be transported on its own wheels and which is intended to provide temporary living accommodations for travel and recreational purposes. It includes vehicles such as a motor home, a camper, a travel trailer or a tent trailer, but does not include a mobile home, sea-can or any vehicle or trailer over eight (8) feet (not including slide-outs) in width. A recreational vehicle is not considered a dwelling unless it is being used for quarantine or self-isolation measures.
 - "*Recreational/Leisure Vehicle Storage*" means an industrial area of land set aside or otherwise defined for the purpose of storing recreational vehicles, boats, travel trailers, campers, motor bikes, ATV's and other leisure vehicles. No onsite occupancy, repair, or maintenance of recreational/leisure vehicles is permitted.
4. Under Part 4 of the County's *Land Use Bylaw*, Bylaw No. 2016-01 (the "*Land Use Bylaw*") applicable sections include the following:
- 4.2 Development Permits Not Required
- 4.2.20 Recreational Vehicle Storage:
- a) The outdoor storage of unoccupied recreational vehicles on a parcel where there is an existing occupied dwelling unit, as follows:
 - i) Not more than five (5) unoccupied recreational vehicles on parcels greater than 2.02 ha (5.0 ac) located outside of Hamlet boundaries.
5. Under Part 6 of the County's *Land Use Bylaw*, Bylaw No. 2016-01 (the "*Land Use Bylaw*") applicable sections include the following:

6.1.1 No person shall contravene this Bylaw by commencing or undertaking a development or use that is not permitted under this Bylaw.

6. Under Part 7 of the Land Use Bylaw applicable sections include the following:

7.21.1 The Development Permits Not Required Section of this Bylaw outlines all provisions where no development Permit is required, all other instances require a Development Permit.

7. Under Part 8 of the County's Land Use Bylaw No. 2016-01 applicable sections include the following:

8.3.1 The following shall apply to all campgrounds:

- a) Adjacent site conditions, the interface with neighboring uses, accessibility to natural areas, physical suitability, serviceability and environmental protection will be key considerations when determining the appropriateness and suitability of a site for a proposed campground development;
- b) Public road access to a proposed campground shall be required, as a condition of development approval, to be constructed or upgraded to a condition acceptable to the County;

8.8 Dwellings

8.8.1 General Regulations:

- c) Recreational Vehicles shall not be used as a dwelling on a parcel, unless there is an existing dwelling unit on the parcel and the Recreational Vehicle is being used for quarantine or self isolation measures.

8. Under Part 9.1 of the County's *Land Use Bylaw*, Bylaw No. 2016-01 (the "*Land Use Bylaw*") – Agricultural General Land Use District:

- 1) Accessory Buildings are uses which require a development permit and must conform to the Land Use Bylaw definition for Accessory Building/Structure.
- 2) Campground Major, Campground Minor, and Recreational Vehicle Storage are not allowable uses listed within the Agricultural General Land Use District.

9. The Contraventions

- 1) Multiple Accessory Buildings/Structures have been constructed or placed onsite without development or safety code permits and they do not conform to the Land Use Bylaw definition for an Accessory Building/Structure as they are not incidental or subordinate to the use of a principle building which is located on the same parcel.
- 2) A commercial Campground is operating on the lands without the required development permits and the current land use designation does not list "Campground" as a permitted or discretionary use which may be applied for in the Agricultural General land use district.
- 3) Commercial Recreational Vehicle Storage is occurring on the lands without the required development permits and the current land use designation does not list "Recreational Vehicle Storage" as a permitted or discretionary use which may be applied for in the Agricultural General land use district.
- 4) The Recreational Vehicle Storage occurring on the lands does not qualify for the exemption criteria detailed in section 4.2.20 of the Land Use Bylaw which allows a maximum of 5 recreational vehicles to be stored on an Agricultural General parcel if there is an existing, permitted, occupied dwelling unit.
- 5) A Recreational Vehicle is being used for residential occupancy on the parcel and does not meet the Land Use Bylaw or safety code requirements for use as a dwelling.
- 6) There is no public access road to property, it is only accessible by using the existing oilfield lease road.

10. **Immediately** ceasing any further work to occupy, complete, maintain, renovate, add to, or continue the Unauthorized Development, including, but not limited to, ceasing each and all of the following:

- a) Continuing to allow any existing unpermitted buildings or structures to remain onsite.
- b) Continuing to allow any recreational vehicles to remain on the property for recreation purposes (camping).
- c) Continuing to utilize the subject property for recreational/leisure vehicle storage.
- d) Continuing to allow any residential occupancy within a "Recreational Vehicle".
- e) Placing any additional buildings/structures or recreational vehicles on the property or commencing any further "Development" (as defined in the Land Use Bylaw) on the subject parcel without obtaining the required land use designation, development and safety code permits.

11. To provide a fair opportunity to comply with the requirements set out in the Stop Order issued March 3, 2023, an extension to July 1, 2023 from April 3, 2023 **will be considered** if a removal plan has been submitted to and approved by the Development Authority by May 10, 2023.


12. **If an extension is granted as per point 11 above, then By July 1, 2023:**

- a) Complete Removal of the Accessory Buildings/Structures from the parcel.
- b) Complete removal of all the recreational vehicles and related campground items from the parcel.

Closing:

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in Section 688 of the *Municipal Government Act*, R.S.A 2000 Chapter M-26 which requires an application for permission to appeal to be filed and served within 30 days of this decision.

Dated at Wheatland County Municipal Office, in the Province of Alberta this the 27 day of April 2023 and signed by the Chair of the Subdivision and Development Appeal Board who agrees that the content of this document adequately reflects the appeal hearing and decision of the Board.



J. Anderson, Chairman