

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
PARKLAND COUNTY**

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HEARING DATE: August 29, 2022
FILE NO.: Stop Order Appeal

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

[1] The Development Authority of Parkland County (the "Development Authority") issued a Stop Order for a development without a development permit for lands located at SE-31-53-05-W5 and municipally described as 53508 Range Road 55, Parkland County (the "Lands"). The recipients of the Stop Order were Wish You Were Here Lakeside Resort Inc., Richard Bourbeau and Natasha Stenzel-Bourbeau.

[2] On July 18, 2022, Ifeoma Okoye of Ackroyd LLP, Agent for the Appellants, filed an appeal of the Stop Order (the "Appellants").

[3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on August 29, 2022 in person and with one virtual attendant.

PRELIMINARY MATTERS

A. Board Members

[4] At the outset of the appeal the Chair requested confirmation from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. None of the persons in attendance had any objection to the members of the Board hearing the appeal.

B. Exhibits

[5] At the beginning of the hearing the Chair asked if everyone in attendance had the hearing package that had been prepared for the hearing. All parties confirmed that they had received the materials received by the Board and marked as part of the Agenda Package.

[6] In response to a question by the Board if there was any further information to be submitted to the Board, Mr. Mark Fuhr indicated that he had submitted an email to the Clerk on August 25, 2022. Ms. Stenzel-Bourbeau submitted a copy of a map of the Lands. Following distribution of the 2 additional documents, none of the parties in attendance had any objection to the documents and the Board marked them as exhibits.

[7] There was no request for an adjournment of the hearing.

C. Miscellaneous

[8] There were no objections to the proposed hearing process outlined at the beginning of the hearing.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

[9] The Board upholds the Stop Order. The Board varies the timeline for compliance of the Stop Order, in part. The Appellant must remove all recreational trailers that are not used by the Appellants. For the 3 recreational trailers used by the Appellants and/or the Appellants family members, the Board grants a variance of section 1 of the Stop Order as follows: The Appellants do not need to immediately remove the 3 recreational trailers, but are given 3 weeks to confirm with the Development Authority whether those 3 recreational trailers require development approval. If the 3 recreational trailers do not need separate development approval, then those 3 recreational trailers can stay on the lands. If those 3 recreational trailers do require development approval, then the Appellants should apply for development approval within that 3 week period.

[10] The balance of the Stop Order is upheld and the timelines for compliance are not varied.

SUMMARY OF HEARING

[11] The following is a brief summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

Development Authority

[12] The Appellants are appealing a Stop Order issued on June 27, 2022, by the Designated Officer of Parkland County. The Lands are located at 53508 RGE RD 55, legally described as SE-31-53-05-W5 and are South of Lakeside Drive and North of TWP RD 534.

[13] The Lands are located within the CR – Country Residential District. Tourist Campground, Destination and Tourist Campground, Enroute are both discretionary uses on the lands outlined in Section 5.3.2 of Land Use Bylaw 2017-18.

[14] Section 616(b) of the MGA and Section 20.2 of LUB define a “development” as follows:

- a. an excavation or stockpile and the creation of them; or
- b. a building or an addition to or replacement or repair of a building, and the construction or placing of any of them in, on, over or under land; or
- c. a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or
- d. a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.

[15] Section 683 of the MGA and Section 16.1.1 of the LUB require a development permit to be issued prior to commencement of any development.

[16] The Development Authority included in its written submissions the following sections of the County's Land Use Bylaw ("LUB"): Section 1.3 Control of Development; Section 5.3.2 Uses; Section 16.1.1; and Section 18 Enforcement - 18.1 General. In addition, the Development Authority included portions of Section 20.3 Use Class Definitions:

TOURIST CAMPGROUND, DESTINATION means development of land which has been planned and improved for the seasonal use of holiday trailers, motor homes, tents, cottages, campers and similar Recreational Vehicles, and is not used as accommodation for residential use.

TOURIST CAMPGROUND, ENROUTE means development of land which has been planned and improved for the seasonal short term occupancy of holiday trailers, motor homes, tents, campers and similar Recreational Vehicles for those travelers on their way to another destination and is not used as year round storage, or accommodation for residential use.

[17] In 2021, Parkland County received a complaint regarding an unauthorized campground being constructed on the lands located at 53508 RGE RD 55. On June 1, 2021, the Designated Officer conducted a site inspection to determine compliance with the approved Development Permit for the dwelling. During the site inspection, tree clearing was observed, construction of new roads was observed and approximately seven RV stalls without Development Permit approval. At this time, the landowner was informed the RVs must be removed and to submit a Development Permit application for a campground.

[18] On June 21, 2022, the Designated Officer, accompanied by a Community Peace Officer, conducted a site inspection of the Lands. During the site inspection it was identified that the Lands were being developed. Roads were constructed throughout the Lands, approximately 40 RV stalls were constructed, some of which were being used and unauthorized removal of trees occurred. After a detailed review of the property file, the LUB, and the evidence gathered at the time of the inspection, it was determined that the development occurred without Development Authority approval and no permits are in place to authorize the work.

[19] Based on the inspections, the Designated Authority concluded that the development on the Lands contravenes Section 683 of the MGA and Section 16.1.1 of the LUB as no development permit approval had been issued. A Stop Order was issued on June 27, 2022.

[20] The Stop Order ordered the Landowner to:

1. Immediately cease operation of the Campground and remove all recreational trailers, and
2. Submit the following documentation required to apply for a Development Permit by July 30, 2022:
 - a. Master Site Development Plan including:
 - i. Summary of proposed development

- ii. Summary of compatibility with Statutory Planning Documents
- iii. Professionally prepared Master Site Plan
- iv. Phasing Plan
- v. Comprehensive Biophysical Assessment
- vi. Wetland Assessment and Compensation Plan
- vii. Storm Water Management Report
- viii. Site Grading and Drainage Plan
- ix. Erosion and Sediment Control Plan
- x. Slope Stability Assessment
- xi. Traffic Impact Assessment
- xii. Public Consultation Summary
- xiii. Applicable Fees
- b. Development Permit Application including
 - i. Application Form
 - ii. Application Fee
 - iii. Certificate of Title
 - iv. Site Plan
 - v. Elevation drawings for all proposed structures
 - vi. Floor plans for all proposed structures
 - vii. Detailed RV Camping stall
 - viii. Phase Specific: Site Grading and Drainage Plan
 - ix. Phase Specific: Erosion and Sediment Control Plan
 - x. Phase Specific: Slope Stability Assessment

[21] The Designated Authority submitted that the Stop Order be upheld and the use of lands for operation of a Campground cease immediately, and all recreational trailers be removed from the Lands immediately.

[22] The Stop Order was sent by email and registered mail. The Stop Order was issued pursuant to the Municipal Government Act, Section 645 for a development and land use that is not in accordance with the LUB. The Development Authority included reference to the definition of "development" from Section 616(b) of the MGA and Section 20.2 of LUB.

[23] The Development Authority concluded that the Stop Order was properly issued based on the following reasons:

1. The legal owner of the Lands was notified through the following means:
 - a. Registered Mail: On June 27 2022, letters were sent to Wish you Were Here Lakeside Resort Inc. The letters sent to Natasha Stenzel-Bourbeau and Richard Bourbeau were all returned to Parkland County on June 29, 2022.
 - b. An emailed copy of the Stop Order was sent to Natasha Stenzel-Bourbeau at nstenzel@telus.net with a read and delivered receipt. A delivered receipt was received on June 27, 2022.
2. The Stop Order correctly describes the property subject to the Order.

3. The Stop Order correctly identifies the land use infraction:
 - a. That the development and land use is not in accordance with the County's Land Use Bylaw; specifically, Section 1.3 which states, "No person shall commence or continue a development, other than a development described in Subsection 16.2. without a Development Permit issued in accordance with this Bylaw."
4. The Stop Order orders the owner to (in accordance with S.645(2) of the MGA:
 - a. Immediately cease operation of the Campground and remove all recreational trailers, and submit the following documentation required to apply for a Development Permit by July 30, 2022.

[24] As such, the Development Authority submits the Stop Order, issued for a development without development permits, should be upheld. In the Development Authority's view, the Stop Order is for an unauthorized development on the lands. There is no authority to do the work on the Lands.

[25] In response to Board questions, the Development Authority indicated that:

- a. The specific reference to the infractions is at page 13 of the Agenda Package;
- b. Only a dwelling has been approved for the Lands and that construction of the dwelling has been started but is not completed;
- c. The Development Permit approval was for a residential property;
- d. The Lands are zoned as Country Residential;
- e. In 2021, there were roads and RV stalls on the Lands. In 2022, there were more stalls and some RVs on the Lands, but the Development Authority did not have the exact number;
- f. There were approximately 40 RV stalls observed on the Lands in the June 2022 inspection;
- g. The Appellants had extracted gravel from the Lands and built out the road to a width that permitted 2 vehicles to be able to pass. The road was initially a quad trail;
- h. Tree clearing requires a permit.
- i. In relation to the question of whether the three RVs used by family require a permit, the Development Authority stated that the question is nuanced and if the development is a campground, then it does not matter if the RVs are used by family.
- j. Extraction of gravel requires a development permit.

Submissions Of the Appellants

[26] Ms. Okoye and Ms. Stenzel-Bourbeau spoke on behalf of the Appellants. They confirmed that the hearing was about the Stop Order, and not the proposed development (the campground which has been applied for).

[27] The Appellants want to work with the community to create a sustainable development. They obtained legal title in May, 2021 and obtained a development permit for the house on May

13, 2021. They have faced a number of challenges, including getting power to the Lands. The Appellants inherited a legacy development that failed. They have cleared the trees for the emergency access. There were dead trees on the Lands. They chose the location for the homestead site due to the dead trees. They have cleared dead trees that were on the Lands, and while it may look like they have created RV stalls, they are not RV stalls. These are just the locations of dead trees that were already on the Lands. The trees that they removed were burned in a fire.

[28] They own property in St. Albert but live in the trailers when working on their home. The workers who help them also live in RVs on the Lands as they cannot expected to go home each night. The Appellants disputed that there were RV stalls. They indicated that it was a clearing.

[29] The Appellants feel they are being held to a different standard because every third property in the neighbourhood has an RV trailer on it. They have spent hundreds of thousands of dollars in investment and applied for permits. They dispute having a campground on the Land. They have not done any marketing. In the early phases, they started a Facebook page to determine the viability of the campground.

[30] The Appellants advised that they were previously issued a Stop Order that was defended in Provincial Court and the County lost the dispute. They have held 2 community engagement events and changed the name of their corporation to "Wish You Were Here Ecovillage Inc." in response to those concerns. They intend to create a firewatch community to benefit the whole community.

[31] They will not be building to the property lines based upon community feedback. The Appellants advised that it is not possible to see what is happening on the Lands unless someone is on the Lands. It is their legal right to develop and they wish to do so. They have built a garden and have given vegetables to the neighbours.

[32] In response to Board questions, the Appellants advised:

- a. They did not remove any trees not required for access to or for the homestead, or that were not totally dead;
- b. The RVs on the Lands are for employees and family;
- c. They did not bring any gravel onto the Lands, but used what was there. They did not build any new roads, and the ones that were there were cleared wider than they needed to be. They had to level the grade of some of the road on the Lands;
- d. They are not currently operating a campground, but they intend to do so in the future. The Appellants questioned how they can meet the requirements without doing anything;
- e. They are currently operating as Country Residential. They have cleared out dead trees and created pockets.
- f. They have a permit for the access road.
- g. The Appellants dispute that the clearings are RV stalls. They are cleared from dead trees and some do not have gravel. Where they have parked RVs, they are more like a stall because they put gravel on the site.
- h. In regard to questions about the differences in the Lands as shown at pages 81 and 82 of the Agenda Package, the Appellants advised that they put in more gravel

on those locations. The dead trees in the centre where the homestead site is located are not particularly visible on the pictures. There is no development, but they pushed different coloured dirt into the locations;

- i. There are 6-7 RVs on the Lands. Three are used by family, and 3-4 are used by to others, including workers.

[33] The Appellants disputed that they are doing any work that affects any reserve lands. They made the access to the Lands off Range Road 55, which was in consideration of the neighbours. Ms. Stenzel-Bourbeau noted that other people have used the Lands for their own pleasure and that the Appellants' rights have been infringed upon. She advised that they have properly addressed the removal of sewage from the Lands.

[34] The Appellants argued that there is no development without a permit and therefore the Stop Order should be overturned. The Appellants have a road permit which requires the road to be of a specific slope and grade. The work done on the Lands was to comply with that permit.

[35] In response to pages 113-119 of the Agenda Package, they acquired the property in 2021 and had to rectify previous owners' actions on the land. Although it may look like development, the Appellants were not developing. They removed dead trees and managed the fire risk. They cleared the dead trees for the seacans for their personal use. They had an obligation to remove the trees.

[36] In regard to the electrical work, the initial work was conducted under a temporary permit from EQUS.

[37] The Appellants advised that it was an error to say that they were operating a campground. There are no amenities. The trailers are used by the Appellants themselves and are "different housing needs" as permitted by s. 5.3 of the LUB. The neighbouring properties have similar arrangements with cabins and trailers on those lands. Residents are allowed to have houses and trailers on their lands. There is no financial gain or business through those RVs.

[38] The evidence does not support a Campground, En Route or Destination. At the time of inspection, the Lands were used for residential use. The definition for Campground, En Route requires travelers on their way to another destination and is not used as year round storage. They are not travellers on their way to another destination and they are not there to enjoy the Lands for recreational purposes. The definitions don't apply to the Appellants, because the use does not meet these definitions. The position of the Appellant is that in order to be a camp ground, there must be services.

[39] The submissions about the road access and environmental issues relate to the camp ground application which is not before the Board and the Board has no jurisdiction to consider that. The concerns about extra vehicles on the road is also not part of the stop order.

Those Speaking In Favour of The Appeal

[40] Mr. Rudy Schenk, a neighbouring landowner, spoke in favour of the appeal. His understanding is that the Appellants have supplied information and paid for their permits. He

lived in the area in 2010 when the previous developer wanted a road. He lives at #1 Lakeside Drive and he noted that there is another RV development within 50 feet of his lot. He is supportive of the Appellants because he felt they were going to limit the size of the development which would then have less impact on the neighbours, including himself.

[41] Mr. Doug Baron spoke in favour of the appeal. He lives in Calgary, but comes to the Lands on the weekends and stays in his RV there. He helps with the garden on the Lands. He felt that the Appellants' project will contribute to a community feel and it feels like you are in nature when on the Lands.

Those Speaking Against the Appeal

[42] Mr. Mark Fuhr has owned property at #21 Lakeside Drive since 1969. He provided an overview of the history of the Lands, referencing the photographs at pages 113 and forward of the Agenda Package. He noted that in 2011, the developer who cut down trees for the road had no permits. The photographs indicate that in 2016, the growth had started to come in. In 2019, the cut areas were completely filled in and shrub brush was growing in. In 2021, there was significant cutting of trees. He denied that there had ever been a forest fire on the lands. He had questioned the Appellants in 2021 about whether they had permits to do the tree clearing that they were conducting. He advised that they told him that they were getting the permits. He also had concerns about the electrical permits.

[43] He questioned why there was so much cutting of trees for the single family home. He was concerned about the tree clearing due to its impact on birds.

[44] Mr. M. Fuhr had concerns about the 6 trailers on the Lands and questioned if they were being rented out. He had concerns about where the sewage was going. He questioned the biophysical report because it was done in November of a drought year.

[45] He was concerned about the number of RV stalls and stated that he heard a "caterpillar" plowing 12 hours a day. He stated that submitting an application for a permit is not the same as having a permit.

[46] Mr. Kevin Fuhr has property at #22 Lakeside Drive, which is located at the junction of the northern access point and Lakeside Drive. He is concerned about the removal of trees because of the impact that it will have on stormwater discharge that flows down to the lake at that point. He is worried that the water from that road will go through his property and into the lake. He stated that on March 14, 2022 he witnessed the tree clearing.

[47] Ms. Sigelinde Hahn and Mr. Jan Jacobsen live in close proximity to the Lands. They were also against the appeal, but indicated that they did not wish to make further statements, and supported the statements made by Mr. M. Fuhr. They asked that the Stop Order stay in place until the Appellants get their permits.

[48] Ms. Christine Haugen lives in close proximity to the Lands. She was also against the appeal. She has owned property near the Lands since 1966 and does not recall any kind of fire. She supported the statements made by Mr. Mark Fuhr and Mr. Kevin Fuhr.

FINDINGS OF FACT

[49] In addition to the specific facts set out under the Board's reasons, the Board finds the following as facts.

[50] The Lands are located at SE-31-53-05-W5 and municipally described as 53508 Range Road 55, Parkland County.

[51] The Stop Order is dated June 27, 2022 and was served on the Appellants on June 27, 2022.

[52] The appeal was filed July 18, 2022.

[53] The Appellants are affected persons.

[54] Mr. Schenk, Mr. Baron, Mr. M. Fuhr, Mr. K. Fuhr, Ms. Hahn, Mr. Jacobsen and Ms. Haugen are affected persons.

REASONS

Affected Persons

[55] The Board must determine is whether those appearing and speaking before the Board are affected persons. The Board notes that there was no objection made to those making submissions to the Board; however, the Board wishes to review this issue for completeness. The Appellants are the recipient of the Stop Order and are therefore affected.

[56] Mr. Schenk, Mr. Mark Fuhr, Mr. Kevin Fuhr, Ms. Hahn, Mr. Jacobsen and Ms. Haugen all own property which is along Lakeside Drive or in close proximity to the Lands. Due to their proximity to the Lands, the Board finds they are affected.

[57] Mr. Baron lives in Calgary, but stays on the Lands periodically. The Board is prepared to find that he is affected due to his visiting the Lands, particularly because no-one objected to his presentation.

Jurisdiction and Issues to be decided

[58] The Board is aware that in determining the merits of an appeal of a Stop Order, its jurisdiction is found in Section 687(3) of the MGA. In particular, the Board notes that Section 687(3)(c) provides that the Board may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own.

[59] In its decision, the Board must determine:

- a. Was the Stop Order properly issued?

- b. If so, should the Board exercise its authority under Section 687(3)(c) to vary the time for compliance?

[60] In making this decision, the Board has examined the provisions of the MGA and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority and the Appellants and the witnesses who spoke on behalf of the Appellant, as well as those who spoke in opposition to the appeal.

[61] Before setting out its reasons below, the Board notes that the only issues before the Board are the ones set out in paragraph [59]. The Board heard that the Appellants have applied for a development permit for a campground (although it is not clear which of the two types). The Board is not considering an appeal of a development permit, and thus, the suitability (or non-suitability) of a campground is not before the Board. The Board also noted that there was a significant amount of testimony from Mr. Mark Fuhr and the Appellant in response about the electrical permits and the handling of sewage. The Board is aware that any approvals for electrical permits and for sewage permits is addressed under the *Safety Codes Act*, RSA 2000, c-S.1. This Board does not have jurisdiction to approve permits under that Act, or to hear appeals in relation to that Act. For that reason, the Board has disregarded any evidence in relation to those items as being irrelevant to the questions before the Board.

a. Was the Stop Order properly issued?

[62] The position of the Development Authority was that the Lands have development without a permit. The Stop Order lists Tourist Campground, Destination and Tourist Campground, Enroute and at page 2 of the Stop Order (see page 17/145 of the Agenda Package), the Development Authority notes that "development occurred without Development Authority approval and no permits are in place to authorize the work." The evidence of the Development Authority is that in 2021 there were 7 recreational vehicle stalls, and in 2022 there were approximately 40, as well as clearing of trees and grading of roads.

[63] During the hearing, the Development Authority stated that there has been development on the Lands, including tree clearing, which requires a development permit under the LUB.

[64] The Appellants argued that there was no development on the Lands. They stated that the Recreational Trailers are used for residential purposes by the Appellants, and their workers. Therefore, the use does not meet the definition of Tourist Campground, Destination. Further, they argued that there was no short term occupancy of recreational vehicles for people on their way to another destination, and since the Appellants use the recreational vehicles for residential uses while they are there, the use does not meet the definition of Tourist Campground, Enroute. The Appellants argued that in order for there to be a campground, there needed to be serviced sites. They also argued that the work done on the Lands was in furtherance of the permits already granted.

[65] The relevant definitions are set out below:

TOURIST CAMPGROUND, DESTINATION means development of land which has been planned and improved for the seasonal use of holiday trailers, motor homes, tents,

cottages, campers and similar Recreational Vehicles, and is not used as accommodation for residential use.

TOURIST CAMPGROUND, ENROUTE means development of land which has been planned and improved for the seasonal short term occupancy of holiday trailers, motor homes, tents, campers and similar Recreational Vehicles for those travelers on their way to another destination and is not used as year round storage, or accommodation for residential use.

[66] Tourist Campground, Destination requires:

- a. Development of land which has been planned and improved
- b. For the seasonal use of holiday trailers, motor homes, tents, cottages, campers and similar Recreational Vehicles, and
- c. is not used as accommodation for residential use.

[67] Tourist Campground, Enroute requires:

- a. development of land which has been planned and improved
- b. for the seasonal short term occupancy of holiday trailers, motor homes, tents, campers and similar Recreational Vehicles
- c. for those travelers on their way to another destination and
- d. is not used as year round storage, or accommodation for residential use.

[68] The Appellants have improved the Lands. The Development Authority has indicated that there are 40 RV stalls that have been prepared. The Appellants argued that these were not RV stalls, but also said that while they are not currently operating a campground, they intend to do so in the future and questioned how they can meet the requirements without doing anything.

[69] In regard to the improvement, the Board notes that the evidence is that at least 7 of the stalls have been gravelled. Page 81 shows the state of the Lands in 2021 and page 82 shows the Lands some time after 2021, when the Appellants own the Lands. The Appellants did not deny that they improved the Lands and cleared out what appears to be 5 parking spaces. Their argument was simply that these were the locations of dead trees and that they were not operating a campground.

[70] The Appellants confirmed that there are recreational vehicles/trailers on the Lands: 3 they or their family use and 3-4 which are used by workers and Mr. Baron.

[71] There was no evidence that the people using the Lands are on their way to another destination, so this element of Tourist Campground, Enroute is not met and therefore the use of the Lands is not Tourist Campground, Enroute.

[72] The Appellants argued that they are not a campground because there were no amenities or services, and they were not obtaining financial gain from it. The Board does not accept this argument. There is no question that at least 4 recreational vehicles/trailers are on the Lands. The evidence is that the workers are on temporarily. There is no evidence that these workers live on the Lands. In the case of Mr. Baron, his home is in Calgary and he stated he travels to

the Lands to work in the garden, which is seasonal. These meet the requirements of the definition of Tourist Campground, Destination and the Board finds as a fact that the use of the Lands is Tourist Campground, Destination.

[73] Further, the definition does not require monetary gain as an element of the use, nor does the definition require that there be amenities or services to be a Tourist Campground, Destination.

[74] In coming to its conclusion that the use is Tourist Campground, Destination, the Board notes that the field assessment of the Project Area was conducted on November 10-11, 2021. At page 101 of the Agenda Package, the Biophysical assessment notes: "Several RV lots had already been developed along the road in the southwest portion of the Project Area, some of which contained RVs to be stored overwinter." This evidence supports the Board's conclusion that the use of the Lands is Tourist Campground, Destination.

[75] The Board also considered the Development Authority's argument that the activities on the lands, particularly tree clearing, constituted development. The Board notes that Section 11.9 of the LUB provides that tree clearing requires a development permit, and the Appellant did not provide any evidence that they have such a permit. The Appellant argued that the work done on the Lands, both the tree clearing and the road levelling, was done as part of the permit they obtained for access to the Lands and as part of the work on the residential dwelling on the Lands for which they have a development permit.

[76] The photograph at page 122 shows the Lands in 2019, before the Appellants took ownership in 2021. The photograph shows that the cutlines where previous roads had been had grown over. The photograph at page 123 shows that the area to the north of the homestead site has been cleared, as has the area to the west of the road north to the homestead site. If the clearing had been done to access the homestead site, there would have been no need to clear trees in these 2 areas. In the same way, while the Board accepts that the Appellants were required to decrease the slope of the road giving access to the homestead site. However, there would be no need to work in the road to the west of the northern "fork" (see the area identified with the yellow area below) because this portion of the road was not required for access to the homestead site.



[77] In light of all of the evidence, the Board finds that the use of the lands is Tourist Campground, Destination.

b. Should The Board Exercise Its Power Under Section 687(3)(c) To Change The Time For Compliance?

[78] Having concluded that the Stop Order was properly issued, the Board now turns to the question of whether it should exercise its power under Section 687(3)(c) to vary the time for compliance with the Stop Order.

[79] Neither party made any submissions in regard to this point. In its Stop Order, the Development Authority asked for immediate compliance. In their submissions, the Appellants argued that the Stop Order was issued based upon an error.

[80] In considering this question, the Board notes that of the 6-7 recreational vehicles/trailers on the Lands, 3 are used by the Appellants. The Board upholds the Stop Order and requires immediate removal of all additional recreational vehicles/trailers. The Appellants argued that the additional recreational vehicles/trailers were used by the workers assisting the Appellants in building their house and that it was not feasible for the workers to travel to the workers' homes after working on the dwelling on the Lands. The Board is not persuaded by this argument and was presented with no evidence that indicated how far the workers lived from the Lands to be able to assess this argument. Further, the Board notes that the definition of Tourist Campground, Enroute includes reference to short term occupancy, which seems to be what is occurring on the Lands. There was no evidence that the workers are living on the Lands, merely that they stay on the Lands from time to time. Staying for short durations meets the definition of Tourist Campground, Enroute as well as Tourist Campground, Destination. Moreover, the Board notes that Mr. Baron travels to the Lands periodically, but that his permanent home is in Calgary. His short term stays on the Land, particularly during the summer season when he helps in the garden, appears to the Board to be a seasonal use of the Lands.

[81] The Appellants did not provide any evidence that there would be any harm or prejudice if the additional recreational vehicles/trailers would be removed. The Board is aware that it is more convenient for the Appellants to have these recreational vehicles/trailers remain. However, there is no development permit for their use. In the absence of evidence that there would be any harm or prejudice to the Appellants to have all additional recreational vehicles/trailers immediately removed, the Board upholds the Stop Order in relation to the additional recreational vehicles/trailers.

[82] In considering the 3 remaining recreational vehicles/trailers, the Board noted that the evidence was that these 3 recreational vehicles/trailers on the Lands are used by the Appellants and their children. The Board also noted the submissions of the Appellants that other property owners in the vicinity of the Lands have recreational vehicles on their lands. The Board also noted the Appellants' submissions that Section 5.3 of the LUB sets out the purpose of the CR district which includes to accommodate residential development that meets varied housing and lifestyle needs.

[83] The Board asked the Development Authority whether recreational vehicles, if used for family, would require a development permit. The answer from the Development Authority was

that if the use was a campground, then it would not matter whether the recreational vehicles were used by family members.

[84] The Board has upheld the Stop Order, and therefore, the Board is under the assumption that any use that is not residential will cease, particularly because the recreational vehicles/trailers other than the 3 that are used by the appellant are to be immediately removed. Once the additional recreational vehicles/trailers are removed, the only recreational vehicles/trailers will be those used by the Appellants. The Board is prepared to grant the Appellants 3 weeks to obtain confirmation from the Development Authority that these 3 recreational vehicles/trailers are able to remain on the Lands without development approval. Should these 3 recreational vehicles/trailers require development approval for the residential use, then this 3 week period will permit the Appellants to make an application for a development permit.

Conclusion

[85] For the above reasons, the Board denies the appeal and varies the time for compliance with the Stop Order for the 3 recreational vehicles/trailers used by the Appellants for personal use. All other recreational vehicles/trailers must be removed immediately.

[86] Issued this 12th day of September, 2022 for the Parkland County Subdivision and Development Appeal Board.



B. Williams, Clerk of the SDAB, on behalf of B. Bundt, Chair
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, RSA 2000, c M-26.

APPENDIX "A" REPRESENTATIONS

PERSON APPEARING

1. Karen Kormos, Development Authority, Parkland County
2. Kayla Gunnerson, Designated Officer, Parkland County
3. Ifeoma Okoye, Ackroyd LLP for the Appellants
4. Natasha Stenzel-Bourbeau, Appellant
5. Rudy Schenk
6. Doug Baron
7. Mark Fuhr
8. Kevin Fuhr

APPENDIX "B"
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

August 29, 2022 Agenda Package			
Exhibit	Description	Date	Pages
1.	Agenda Coversheet	August 25, 2022	1
2.	Table of Contents	August 25, 2022	2
3.	Notice of Appeal – Wish You Were Here Lakeside Resort Inc. Richard Bourbeau and Natasha Stenzel-Bourbeau Agent: Ifeoma Okoye, Ackroyd LLP	July 18, 2022	3
4.	Submission of Subdivision and Development Appeal Board – Waiver Form Agent: Ifeoma M. Okoye	July 20, 2022	9
5.	Notice of Subdivision and Development Appeal Hearing	July 26, 2022	10
6.	Submission of the Development Authority	August 23, 2022	12
7.	Submission of the Appellant – Wish You Were Here Lakeside Resort Inc., Richard Bourbeau, and Natasha Stenzel-Bourbeau – Agent: Ifeoma M. Okoye, Ackroyd LLP	August 16, 2022	65
8.	Submission In Support of Stop Order Blair and Dawn Kover	August 17, 2022	75
9.	Submission In Support of Stop Order Adam Laidlaw and Dr. Carla Laidlaw	August 21, 2022	142
10.	Submission In Support of Stop Order Mark and Susan Fuhr	August 23, 2022	143
11.	Submission In Support of Stop Order Morris Hunter	August 24, 2022	145
12.	Email from M. Fuhr	August 29, 2022	
13.	Map of Site (Ms. Stenzel-Bourbeau)	August 29, 2022	