

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

TRAINING EXERCISES

2011

Acknowledgements

Material for this course came from a number of sources provided to Alberta Municipal Affairs and we thank and acknowledge their contributions:

- ***Planning Law and Practice in Alberta*** (third edition), Dr. Frederick Laux, LLD Jurilibre, 2002
- ***Subdivision and Development Appeal Board Issues***, Brownlee Fryett LLP, 2003
- ***How to Make Effective Presentations to Subdivision and Development Appeal Boards*** April 15, 2003 Presentation to Urban Development Institute, Miller Thomson LLP
- ***Orientation Program for Development Appeal Boards***, Alberta Municipal Affairs, 1986
- ***Critical Skills for Communication***, Alberta Municipal Affairs, 2000
- ***Council and Councilor Seminar - Roles and Responsibilities***, Alberta Municipal Affairs, 2001
- ***Finding Agreement on Difficult Issues***, Alberta Municipal Affairs and Alberta Agriculture Food and Rural Development, 2000
- ***Decision Making at the SDAB and MPC Seminar for County of Forty Mile***, Jeanne Byron and Alberta Municipal Affairs, 2001
- ***Parkland County Subdivision and Development Appeal Board Manual***, 2001
- ***County of Lethbridge Subdivision and Development Appeal Board Manual***, 2001.

**Workshop Materials Design
Scheffer Andrew Ltd.**

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EXERCISE ONE

Assume you are sitting on a Subdivision and Development Appeal Board. The following case studies include the agenda for a public hearing which you are about to conduct. Please review the materials and consider the following:

- Does the SDAB have jurisdiction to hear the appeal?
- What, if anything, might the board suggest to the applicant if it does not have jurisdiction to hear the appeal?
- If the original development permit application was a deemed refusal, is this relevant to the Board's decision?
- Please support your reasons for upholding, denying, or not hearing the appeal.

Exercise One - A

1. SDAB Agenda

CITY OF URBANA

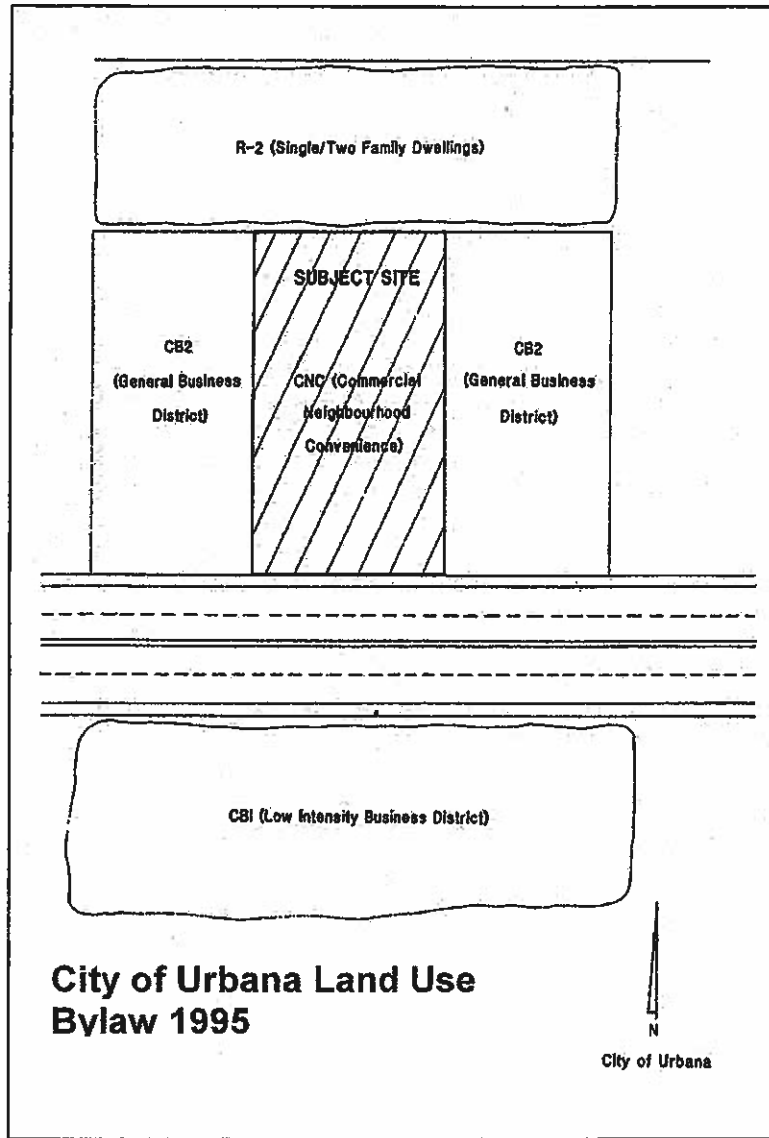
Appellant: Ed Norton

Application: To develop a self-serve gas bar and automobile repair shop.

Background: Ed Norton has launched this appeal because the development officer did not make a decision within 40 days of the application. The Development Authority had requested some additional information (as to how vehicles would be able to be driven into the building for servicing) which was not provided by the applicant. Mr. Norton has deemed his application refused (in accordance with Section 684 of the Municipal Government Act). The applicant proposes to develop a **self-serve gas bar and automobile repair shop** from a vacant 279 m² (3000 ft²) building that is on the subject property.

The subject site is designated CNC - Commercial Neighbourhood Convenience District, in the City of Urbana's Land Use Bylaw.

Exercise One - A



Exercise One - A

2. Development Officer's Report

- Subject Site:** The site is located along a major roadway, which has a number of different commercial land use designations. The landowner intends to convert the existing 279 m² (3000 ft²) building, which was used as a former tennis club, into a gas bar/automobile repair shop.
- Existing Land Use Classification:** CNC - Commercial Neighbourhood Convenience District
- Existing Structure:** Vacant 279 m² (3000 ft²) building
- Existing Land Use:** Vacant
- Adjacent Land Uses:**
North - single and two family residential
South - major road and retail commercial
East - retail commercial
West - gas bar
- Proposed Development:** Convert an existing 279 m² (3000 ft²) building into an automobile repair business and a self-serve gas bar.
- Decision:** This application was deemed refused by the applicant under Section 684 of the Municipal Government Act. No decision had been made within 40 days of receipt of the application due to insufficient information supplied by the applicant.
- Please note the attached definitions of specific uses related to this application. These definitions are from the Operative and Interpretive Clauses section of the Land Use Bylaw.
- A General Business District (CB-2) extract is also attached as the lots on the east and west of the subject site are classified CB-2.

Exercise One - A

3. Applicant's Statement

City of Urbana
Subdivision and Development Appeal Board
City Hall
Urbana, Alberta

Dear Sir or Madam:

I wish to appeal to the Subdivision and Development Appeal Board my development permit application. I have deemed this application refused as no decision was made by the development officer.

The development permit application is for a gas bar/automobile repair shop. This business will be similar to the business to the west of my property, and will be one of a number of gas bars and combined gas bar/automobile repair shops located on the street.

I feel this business will contribute to the improvement of the area by creating new development in a vacant building. My development will also add to the changing character of the area, which is becoming a major automobile service center in the city.

Yours sincerely,

Ed Norton

Exercise One - A

4. City of Urbana Land Use Bylaw (Extracts)

4.a CNC - COMMERCIAL NEIGHBOURHOOD CONVENIENCE DISTRICT

To establish a district for convenience commercial and personal service uses intended to serve the day-to-day needs of residents within new or established neighbourhoods.

PERMITTED USES:

- (1) Convenience Retail Stores
- (2) Health Services
- (3) Minor Eating and Drinking Establishments
- (4) Personal Service Shops
- (5) Professional, Financial and Office Support Services

DISCRETIONARY USES:

- (1) Apartment Housing
- (2) Commercial Schools
- (3) Daytime Child Care Services
- (4) Gas Bars
- (5) General Retail Stores
- (6) Indoor Amusement Establishments
- (7) Indoor Participant Recreation Services
- (8) Minor Veterinary Services
- (9) Religious Assemblies

Definitions:

Automotive and Equipment Repair Shops – means a development used for the servicing and mechanical repair of automobiles, motorcycles, snowmobiles and similar vehicles, or the sale, installation or servicing of related accessories and parts. This includes transmission shops, muffler shops; tire shops, automotive glass shops and upholstery shops.

Gas Bars – means a facility for the sale only of gasoline, lubricating oils and associated automotive fluids with no other services provided.

Exercise One - A

4.c CB-2 - GENERAL BUSINESS DISTRICT

GENERAL PURPOSE:

To establish a district for businesses which require large sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

PERMITTED USES:

- (1) Auctioneering Establishments
- (2) Automotive and Equipment Repair Shops
- (3) Business Support Services
- (4) Commercial Schools
- (5) Custom Manufacturing
- (6) Equipment Rentals
- (7) Funeral Services
- (8) Gas Bars
- (9) General Retail Stores
- (10) Greenhouses and Plant Nurseries
- (11) Health Services
- (12) Household Repair Services
- (13) Indoor Amusement Establishments
- (16) Minor Eating and Drinking Establishments
- (17) Service Stations (Major or Minor)
- (18) Minor Veterinary Services
- (19) Personal Service Shops
- (20) Professional, Financial and Office Support Services
- (21) Recycling Depots
- (23) Warehouse Sales
- (24) Spectator Entertainment Establishments
- (25) Secondhand Stores

DISCRETIONARY USES:

- (1) Automotive/Minor Recreational Vehicle Sales/Rentals
- (2) Animal Hospitals and Shelters
- (4) Carnivals
- (5) Cremation and Interment Services
- (6) Daytime Child Care Services
- (7) Drive-in Food Services
- (9) General Retail Stores
- (10) Hotels
- (11) Major Eating and Drinking Establishments
- (13) Mobile Catering Food Services
- (14) Motels
- (18) Rapid Drive-through Vehicle Services

Exercise One - B

1. SDAB Agenda

TOWN OF WESTWOOD

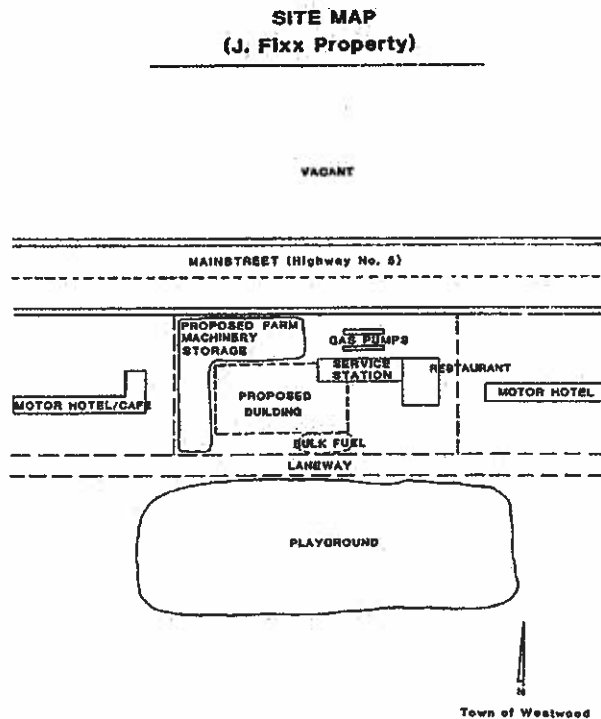
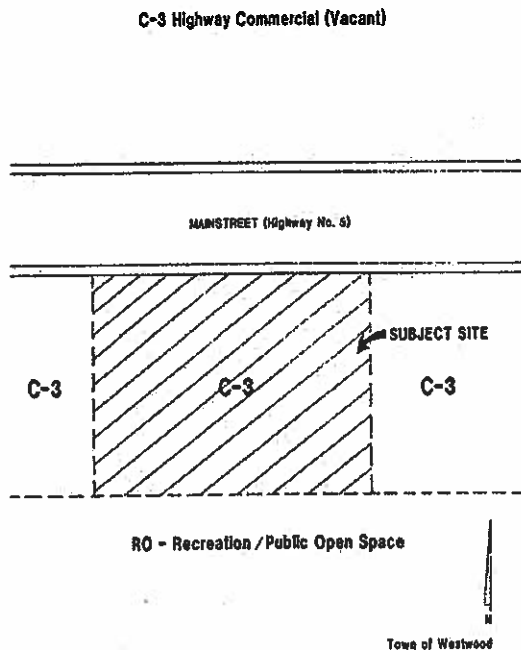
Appellant: J. Fixx

Application: To construct an addition to service station & restaurant for a new farm machinery & equipment business.

Background: John Fixx has launched this appeal because the development officer did not make a decision within 40 days of the development permit application (in accordance with Section 684 of the Municipal Government Act). The application proposes to construct a new building for a wholesale farm machinery/ equipment business and bulk fuel storage & sales. This new building will be added to an existing service station, (with a restaurant), currently operated by Mr. Fixx.

The subject site is designated C-3 Highway Commercial, in Land Use Bylaw #1995 in the Town of Westwood.

Town of Westwood Land Use Bylaw Map



Exercise One - B

2. Development Officer's Report

- Subject Site:** Subject site is located on Main Street, which runs through town as a continuation of Highway No.5. The site is already developed with a service station and restaurant, which have been in operation since 1995.
- Existing Land Use Classification:** C-3 Highway Commercial
- Existing Structures:** One 450 m² (5000 ft²) full service gas station with 3 repair bays, with attached restaurant.
- Existing Land Uses:** Service station and roadside restaurant.
- Adjacent Land Uses & Land Use Districts:**
North: Highway No.5 (Main Street) and vacant and designated C-3 Highway Commercial
South: Playground designated RO-recreation/public open space
East: Motor hotel designated C-3 Highway Commercial
West: Motor hotel and roadside cafe designated C-3 Highway Commercial
- Proposed Development:** Additional 450 m² (5000 ft²) building for wholesale farm machinery sales & service & bulk fuel storage & sales. The proposed addition will be attached to the service station on the opposite side of the restaurant.
- Decision:** This application was deemed refused by the applicant since, due to delays caused by changes in municipal staff, no decision had been made within 40 days of receipt of the application.

Exercise One - B

3. Applicant's Statement

Town of Westwood
Subdivision and Development Appeal Board
Town Hall
Westwood, Alberta

Dear Sir or Madam:

I wish to appeal my development permit application needed to expand my existing service station and restaurant business because no decision was made on this application.

I have recently acquired a franchise to sell and repair farm machinery, which is compatible with my auto service centre. Also, as part of my retail gasoline operation, I am expanding my business to include wholesale bulk fuels.

Therefore, I am requesting approval for the development of a 450 m² (5000 ft²) building for farm machinery sales and servicing. I believe my expanded operation will contribute to the economic health of our town through the purchase of material needed for construction and the creation of 5-8 permanent jobs.

Yours sincerely,

John Fixx

Exercise One - B

4. *Town of Westwood Land Use Bylaw (Extracts)*

4.a C-3 HIGHWAY COMMERCIAL DISTRICT

GENERAL PURPOSE

The general purpose of this district is to permit commercial uses which will serve the traveling public.

PERMITTED USES:

- (1) Motor hotels
- (2) Roadside restaurants and cafes
- (3) Service stations
- (4) Automotive
- (5) Motels
- (6) Accessory buildings

DISCRETIONARY USES:

- (1) Governmental
- (2) Hotels
- (3) Institutional
- (4) Residential accommodation in conjunction with an approved commercial use
- (5) Theatres
- (6) Light industry (non-polluting)

Exercise One - B

4.b COMMERCIAL DISTRICT C-2

GENERAL PURPOSE

The general purpose of this district is to permit commercial development of a secondary nature, involving workshop type uses, and at the discretion of the Development Officer, more land extensive uses.

PERMITTED USES:

A workshop used by the following:

- (1) Cabinet Maker
- (2) Carpenter
- (3) Decorator
- (4) Electrician
- (5) Gas Fitter
- (6) Laundry
- (7) Metal Worker
- (8) Painter
- (9) Plumber
- (10) Printing Shop
- (11) Pipe Fitter
- (12) Tinsmith
- (13) Upholsterer

DISCRETIONARY USES:

- (14) Motel
- (15) Funeral Parlour
- (16) Service or Gas Station
- (17) Automobile Garage
- (18) Auction Mart
- (19) Veterinary Clinic
- (20) The storage and/or sale of:
 - Automobiles
 - Building Supplies
 - Farm Machinery
 - Lumber
 - Propane Gas
 - Fertilizer
 - Bulk Fuel and Oil

Exercise One - C

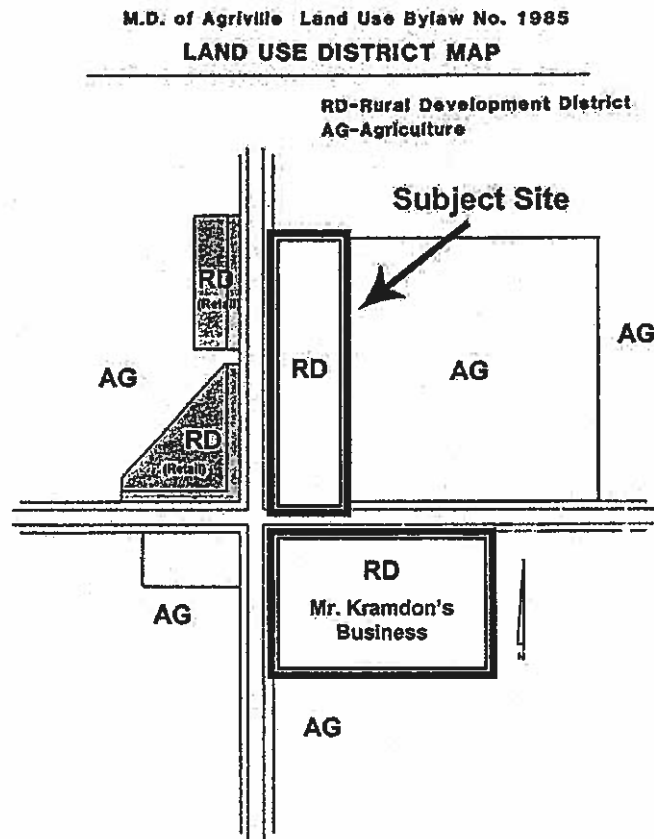
1. SDAB Agenda

MUNICIPAL DISTRICT OF AGRIVILLE

Application: Mr. Simpson has applied for and received a development permit to construct a new building for a farm machinery repair business.

Background: Ralph Kramden has launched this appeal against this application because he currently operates a farm machinery and storage business on the adjacent quarter section to the south of the subject property. Mr. Kramden feels that there is not enough business in the Municipal District to support two such operations and therefore it would be unfair of the Municipal District to approve the development.

The subject site is designated RD- Rural Development, in Land Use Bylaw #1995 in the rural municipality of Agriville.



Exercise One - C

2. Development Officer's Report

- Subject Site:** Subject site is a 4.0 hectare (10 acre) farmstead located at the intersection of Highway 2 and Highway 49. The parcel is accessible from both highways. The farmstead is 8.0 km (5.0 miles) from the Town of Dog River.
- Existing Land Use Classification:** RD - Rural Development
- Existing Structures:** The farmstead has 3 permanent structures: a farmhouse, a three-vehicle detached garage, and a barn.
- Existing Land Uses:** Primarily grain production with a 30 head cow/calf operation confined outdoors in a livestock pen. Farm equipment is stored outdoors and in the storage shed. Homestead is occupied by the owner and his family.
- Adjacent Land Use & Land Use Districts:**
North: Grain production operation (Ag – Agriculture)
South: Grain production operation (Ag – Agriculture), and a farm machinery repair business (RD – Rural Development)
East: Grain production operation (Ag – Agriculture)
West: Highway 2, Retail uses (RD – Rural Development) and a grain production operation (Ag – Agriculture)
- Proposed Development:** The applicant wants to construct a 225 m² (2500 ft²) building.

Exercise One - C

Proposed Land Use(s): Farm machinery repair business.

Decision: Approval

3. Appellant's Statement

Municipal District of Agriville
SDAB
Municipal Building
Agriville, Alberta

Dear Sir or Madam:

The Kramden family has owned our farm for almost 100 years, being passed down from generation to generation. In addition to the farming operation, my family also runs a farm machinery repair business. Unfortunately, the recent mad cow crisis almost collapsed our modest cow/calf operation and we must now rely almost entirely on the repair business to make ends meet.

Mr. Simpson was not affected by the mad cow crisis at all since he is primarily a grain farmer and a very wealthy one at that. We feel that it would be grossly unfair if the M.D. allowed Mr. Simpson to open another farm equipment repair business directly across the highway from ours. There is barely enough business in the area to support one such business let alone two. If this is allowed to happen we will most likely be forced to sell the

Exercise One - C

farm and move into town. Please don't let this happen to one of the longest standing farm families in the area.

Yours sincerely,

Ralph Kramden and Family

4. **M.D. of Agriville Land Use Bylaw (Extracts)**

Rural Development (RD) District

In this district no person shall use any lot or erect, alter or use any building for any purpose except for one or more of the following:

PERMITTED USES

- accessory building public utility
- agricultural industry
- building, or related type of contractor
- dwelling unit accessory to an agricultural use
- electrical or plumbing contractor
- farm machinery or equipment, sales or service
- sign

DISCRETIONARY USES

- abattoir
- alfalfa pelletizing or seed cleaning plant
- anhydrous ammonia storage
- asphalt or cement plant
- auto wrecker.
- bulk petroleum sales and/or storage
- fertilizer plant
- motel
- natural resource extraction industry
- oilfield service

Exercise One - C

- petro-chemical processing plant
- repair and/or auto body shop
- restaurant
- retail establishment
- sawmill
- service station and/or car wash - trucking contractor
- warehousing
- welding shop

Exercise One - D

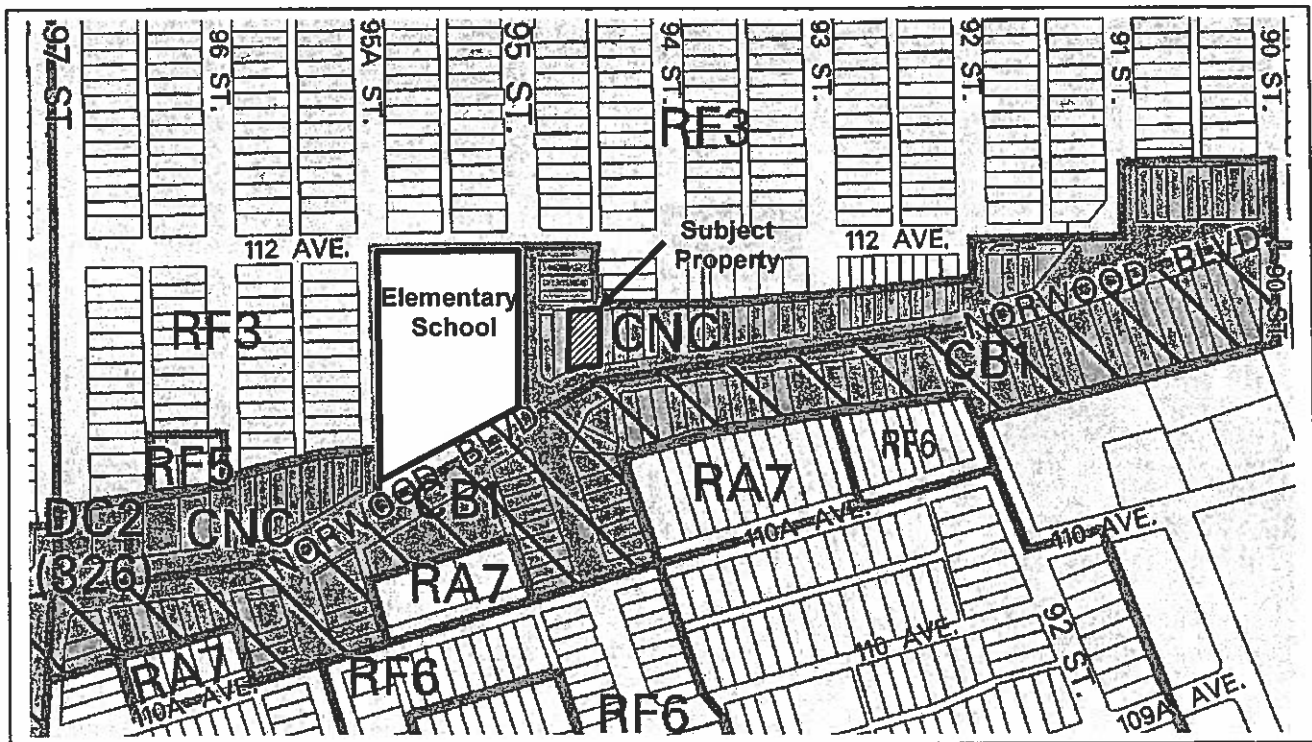
1. SDAB Agenda

CITY OF PETROVILLE

Application: Mr. Barker has applied for and received a development permit to open an adult video store in an existing commercial strip.

Background: Mrs. Kravitz, on behalf of a group of 150 neighbours that have signed a petition against the development, has launched an appeal against this application. The neighbours feel that an adult entertainment video store does not fit in with the character of the neighbourhood and that it is too close to the elementary school.

The subject site is designated CNC – Commercial Neighbourhood Convenience, in the City of Petrolville's Land Use Bylaw.



Exercise One - D

2. Development Officer's Report

Subject Site: The site is located along a major roadway, which has a number of different commercial land use designations. The landowner intends to open an adult video store in a building that was originally used as a convenience store.

Existing Land Use Classification: CNC - Commercial District Neighbourhood Convenience

Adjacent Land Uses:
North - single and two family residential
South - major road and retail commercial
East - retail commercial
West - retail commercial and an elementary school

Proposed Development: Open an adult video store in an existing 79 m² (850 ft²) building that used to be a convenience store.

Decision: This application was approved subject to the following conditions:

- provide 1 parking stall per 20 m² plus one stall for staff for a total of 5 stall. (the application shows the provision of 8 parking stalls; and
- the store front windows must be opaque and free of any advertising graphics.

Please note the attached definitions of specific uses related to this application. These definitions are from the Operative and Interpretive Clauses section of Land Use Bylaw.

Exercise One - D

3. Appellant's Statement

City of Petroville
Subdivision and Development Appeal Board
City Hall
Petroville, Alberta

Dear Sir or Madam:

We wish to appeal to the Subdivision and Development Appeal Board regarding the approval of this development permit application! We the concerned residents of this community (see attached 152 name petition) are outraged that this indecent business be allowed in this family-oriented community especially down the street from an elementary school.

We strongly urge you to overturn the decision of the development officer (who also happens to be the applicant's second cousin) and deny the development permit application.

Yours sincerely,

Alice Kravitz

Exercise One - D

4. City of Petroville Land Use Bylaw (Extracts)

4.a CNC COMMERCIAL NEIGHBOURHOOD CONVENIENCE DISTRICT

To establish a district for convenience commercial and personal service uses intended to serve the day-to-day needs of residents within new or established neighbourhoods.

PERMITTED USES:

- (1) Convenience Retail Stores with a gross floor area up to 100 m²
- (2) Health Services
- (3) Minor Eating and Drinking Establishments
- (4) Professional, Financial and Office Support Services
- (5) Video outlet with a gross floor area up to 80 m²

DISCRETIONARY USES:

- (1) Convenience Retail Stores with a gross floor area over 100 m²
- (2) Minor Eating and Drinking Establishments
- (3) Video outlet with a gross floor area over 80 m²
- (4) Apartment Housing
- (5) Commercial Schools
- (6) Daytime Child Care Services
- (7) Gas Bars
- (8) Indoor Amusement Establishments
- (9) Minor Veterinary Services
- (10) Religious Assemblies

Definitions:

Video Outlet – means a development where pre-recorded videocassettes or computer disks are rented to the public for any consideration for use off-site.

Exercise One - E

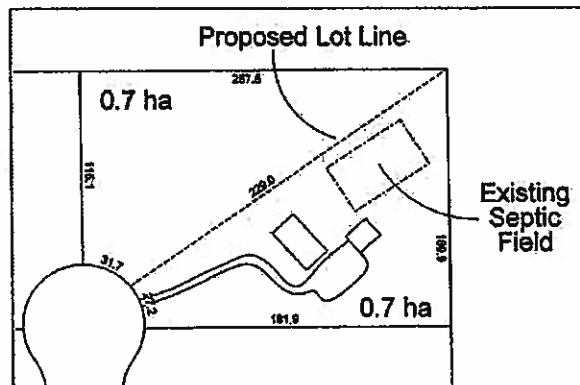
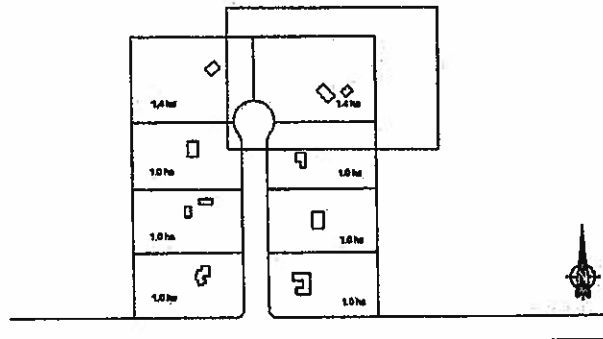
1. SDAB Agenda

COUNTRY COUNTY

Application: This is an appeal of the Subdivision Authority decision conditionally approving the creation of two 0.7 hectare (1.73 acre) parcels from an existing 1.4 hectare (3.46 acre) parcel within the Green Acres subdivision.

Background: Ike and Tina Turner are going through an acrimonious divorce and are in the process of separating their assets including a recreational property located in the Green Acres Subdivision. The property is of great sentimental value to both Ike and Tina and therefore they cannot come to an agreement on the division of the property.

As a result, they propose to subdivide the property into two smaller parcels. However, the lots will be smaller than are allowed for the Country Residential One (CR-1) land use district and in the Green Acres Area Structure Plan. The application was refused on that basis.



Exercise One - E

2. Subdivision Authority Report

Subject Site: The site is located in an existing country residential subdivision.

Existing Land Use Classification: CR-1 – Country Residential District

Existing Development: A house and a septic field are located in the eastern half of the property.

Adjacent Land Use & Land Use Districts:
North: Grain production operation (Ag – Agriculture)
South: Residence (CR-1 Country Residential)
East: Grain production operation (Ag – Agriculture)
West: Residence (CR-1 Country Residential)

Proposed Subdivision: Subdivide existing 1.4 ha lot in half to create two 0.7 ha lots.

Additional Information:

- All 8 lots in the subdivision conform to the 1.0 hectare (2.47 acres) minimum area requirement; two lots at the end of the cul-de-sac are each 1.4 hectares (3.46 acres); one of which is owned by the Turners.
- The Turners have asked the neighbours to sign a letter of non-objection; 6 of 7 neighbours have signed it.
- The proposed new lots will meet building setbacks and will conform to the other regulations contained in the land use district.
- Another septic field could be accommodated on the proposed vacant lot.
- Water is provided from a communal well serving all 8 lots.

Exercise One - E

Decision: This application was refused for the following reasons:

1. The proposed subdivision is contrary to the MGA which states that a subdivision must conform to the provisions of any statutory plan and be subject to any land use bylaw that affects the land proposed to be subdivided.
2. The Land Use Bylaw states that that the minimum size for a parcel in the CR-1 land use district is 1.0 hectare (2.47 acres).
3. The Green Acres Area Structure Plan indicates that the minimum lot size in the plan area should be one hectare.

Exercise One - E

3. Applicant's Statement

Country County
Subdivision and Development Appeal Board
County Hall
Oxford-on-Pipestone, Alberta

Dear Sir or Madam:

We wish to appeal to the Subdivision and Development Appeal Board regarding the refusal of our subdivision application. We are divorcing and it seems that this is the only way we can deal with our property settlement. We both want to stay in this location, but we can't live under the same roof anymore. (If you knew my wife, you'd understand why!)

We have the support of 6 of our 7 neighbours, and the other one is concerned about traffic. With only one lot being added, we think this objection is unreasonable.

We ask you to use your discretionary powers under the Municipal Government Act overturn the decision of the Subdivision Authority.

Yours sincerely,

Ike Turner

EXERCISE TWO

Assume you are sitting on a Subdivision and Development Appeal Board. The following case studies include the agenda for a public hearing which you are about to conduct. Please review the materials and consider the following:

- Does the SDAB have jurisdiction to hear the appeal?
- What, if anything, might the board suggest to the applicant if it does not have jurisdiction to hear the appeal?
- If the original development permit application was a deemed refusal, is this relevant to the Board's decision?
- Please support your reasons for upholding, denying, or not hearing the appeal.

Exercise Two - B

1. SDAB Agenda

CITY OF URBANA

Application: Appeal against the development officer's decision to approve a development application to allow the construction of a new residential building to accommodate a group care facility.

Background: The subject site is designated R-1 Low Density Residential District in the Land Use Bylaw. Neighbouring residents have launched the appeal.

2. Development Officer's Report

Proposed Development: Construction of a group care facility with 24 hour supervision to accommodate a maximum of 5 people. The house will have cooking and laundry facilities for residents to use. Structure will be bungalow style, 135 m² (1500 ft²) with 3 bedrooms on main floor and 2 bedrooms in basement. The group home has been proposed by a local service group in conjunction with a social services agency to help troubled youths re-enter the community.

A group care facility is a discretionary land use in the R-1 District. The proposed development meets all the regulations of the land use district.

Development Officer's Decision: Approval.

Basis of Appeal: Neighbouring families have appealed the Development Officer's decision because they feel that the *troubled youths* will present security problems in the neighbourhood. The neighbours are concerned with the possibility of increased vandalism and security problems if this development is approved.

Exercise Two - B

3. City of Urbana Land Use Bylaw (Extracts)

R-1 – LOW DENSITY RESIDENTIAL DISTRICT

The general purpose of this District is to permit development of low-density single-family dwellings and associated uses at the discretion of the Development Officer.

PERMITTED USES

- (1) One family dwellings
- (2) Accessory buildings and uses

DISCRETIONARY USES

- (1) Small parks and playgrounds which serve specific residential developments
- (2) Churches
- (3) A public or quasi-public building which is required to serve in the immediate area
- (4) Home occupations and professional offices
- (5) Group care facilities

REGULATIONS

1. Relating to One Family Dwelling serviced by water and sanitary sewer.

- Minimum site area: 495 m² (5500 ft²)
- Front yard setback: 7.6 m (25 ft.) minimum
- Rear yard setback: 7.6 m (25 ft.) minimum
- Side yard setback: 10% of the lot width
- Minimum floor area: 90 m² (1000 ft²) for 1

2. Maximum Lot Coverage:

- Dwellings - 23%
- Accessory - 12%
- Others - as required by the Development Officer

"Group Care Facility" means a facility, which provides resident services to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. This category includes supervised uses such as group homes (all ages), halfway houses, resident schools, resident facilities and foster or boarding homes.

Exercise Two - B

1. SDAB Agenda

CITY OF URBANA

Application: Appeal of development officer's decision to approve a development application to allow the construction of a new residential building to accommodate a group care facility.

Background: The subject site is designated R-1 Low Density Residential District in the land use bylaw. Neighbouring residents have launched the appeal.

2. Development Officer's Report

Proposed Development: Construction of a group home to accommodate a maximum of 4 people and one 24 hour staff member. The house will have cooking and laundry facilities for residents to use. Structure will be bungalow style, 135m² (1500 ft²) with 4 bedrooms on main floor and a staff suite in the basement. The group home has been proposed by a local service group in conjunction with a social services agency to house the elderly who cannot live independently but wish to live in a residential setting.

A group care facility is a discretionary land use in the R-1 District. The proposed development meets all the regulations of the land use district.

Development Officer's Decision: Approval.

Basis of Appeal: Neighboring families have appealed the Development Officer's decision because they feel that there will be a significant increase in local traffic due to visiting family members, staff shift changes and possible medical emergency vehicles. They also feel that development of a group home in the neighbourhood will have a negative impact on their property values.

Exercise Two - B

3. City of Urbana Land Use Bylaw (Extracts)

R-1 - LOW DENSITY RESIDENTIAL DISTRICT

The general purpose of this District is to permit development of low-density single-family dwellings and associated uses at the discretion of the Development Officer.

PERMITTED USES

- One family dwellings
- Accessory buildings and uses

DISCRETIONARY USES

- Small parks and playgrounds which serve specific residential developments
- Churches
- A public or quasi-public building which is required to serve in the immediate area
- Home occupations and professional offices
- Group care facilities

REGULATIONS

1. Relating to One Family Dwelling serviced by water and sanitary sewer.
 - Minimum site area: 495 m² (5500 ft²)
 - Front yard setback: 7.6 m (25 ft.) minimum
 - Rear yard setback: 7.6 m (25 ft.) minimum
 - Side yard setback: 10% of the lot width
 - Minimum floor area: 90 m² (1000 ft²) for 1
108 m² (1200 ft²) for 1.5 or split level
2. Maximum Lot Coverage:
 - Dwellings - 23%
 - Accessory - 12%
 - Others - as required by the Development Officer

"Group Care Facility" means a facility, which provides resident services to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. This category includes supervised uses such as group homes (all ages), halfway houses, resident schools, resident facilities and foster or boarding homes.

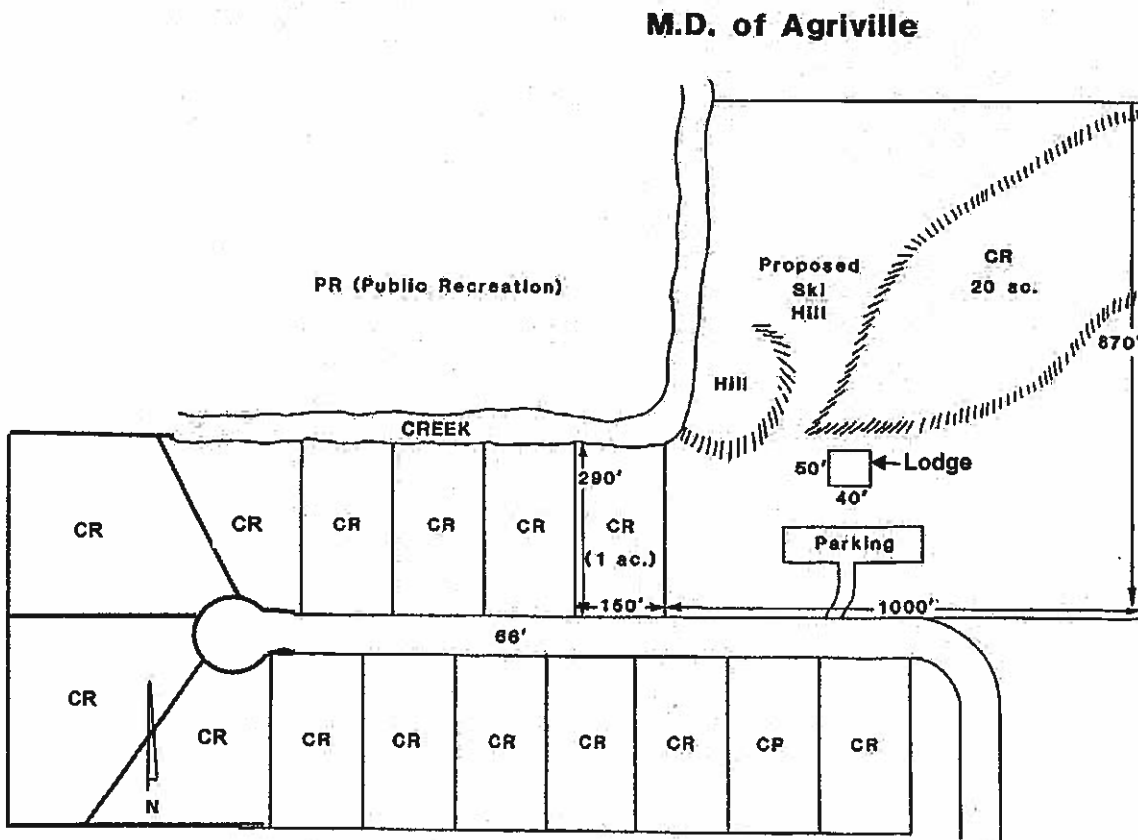
Exercise Two - C

1. SDAB Agenda

MUNICIPAL DISTRICT OF AGRIVILLE

Application: Appeal of development officer's decision to approve a development application to allow (with conditions) recreational uses in a residential area.

Background: The subject site is districted CR – Country Residential District in the land use bylaw. Neighbouring residents have launched the appeal.



Exercise Two - C

2. **Development Officer's Report Development Officer's Report**

- Proposed Development:** Recreational ski area – 8 ha (20 acre) parcel
- 180m² (2000 ft²) lodge
 - two ski lifts - one T-bar; one rope tow
 - 125 stall parking lot
 - a BMX Bicycle park is proposed for summer use

This recreational land use is considered a "discretionary" use in the CR – Country Residential District of the MD of Agriville's Land Use Bylaw.

The development conforms to the Land Use Bylaw's "Special Provisions", which states for Recreational Development:

1. Recreational development may only be allowed on lower capability agricultural land.
2. The developer shall identify, to the Development Officer's satisfaction, all servicing costs associated with the development.

Development Officer's Decision:

Approval, subject to these conditions:

- a) parking areas to be screened & landscaped to minimize visual intrusion on neighbouring properties; and
- b) summer operation will be restricted to day light hours.

Basis of Appeal:

Every country residential household (15) in the Fox Creek subdivision has submitted letters of appeal on this development.

The residents argue that the 'quality' of their subdivision will be destroyed in winter by traffic generated by the ski hill, and in summer by the BMX Bicycle Park.

Other Information:

The Development Officer has attempted to minimize the impact of the development by attaching conditions. Also, the development officer has held meetings between the developer and the residents, without resolving their differences.

Exercise Two - C

3. *Municipal District of Agriville Land Use Bylaw (Extracts)*

CR – COUNTRY RESIDENTIAL

This district is intended to protect more intensively developed country residential areas from the problems of incompatible development.

PERMITTED USES

- (1) Dwelling
- (2) Accessory buildings and uses
- (3) Park

DISCRETIONARY USES

- (1) Greenhouse
- (2) Mobile Home
- (3) Stable
- (4) Public buildings
- (5) Recreation facilities
- (6) Dugouts
- (7) Home occupations
- (8) Other uses of a similar nature as approved by the MPC.

MINIMUM DEVELOPMENT STANDARDS

- (1) Lot Area: For parcels not served by a sewage collection or a water distribution system, 0.4 hectares (1 acre) with a minimum width of 30.5 metres (100 feet).
- (2) Setback from Roads:
 - (a) 40 metres (131.2 feet) from the centre line of any local or secondary road. Any waiver of the 40-metre regulation shall be a recommendation from the Municipal Planning Commission to Council for final approval.
 - (b) 7.5 metres (24.6 feet) from the property line to any service road or subdivision street.
 - (c) As required by Alberta Transportation for primary highways.
- (3) Setback from Other Property Boundaries:
 - (a) Corner sideyard: as required for the setback from roads.
 - (b) Internal sideyard: 3 metres (9.8 feet)
 - (c) Rear yard: 15 metres (49.2 feet)

Exercise Two - D

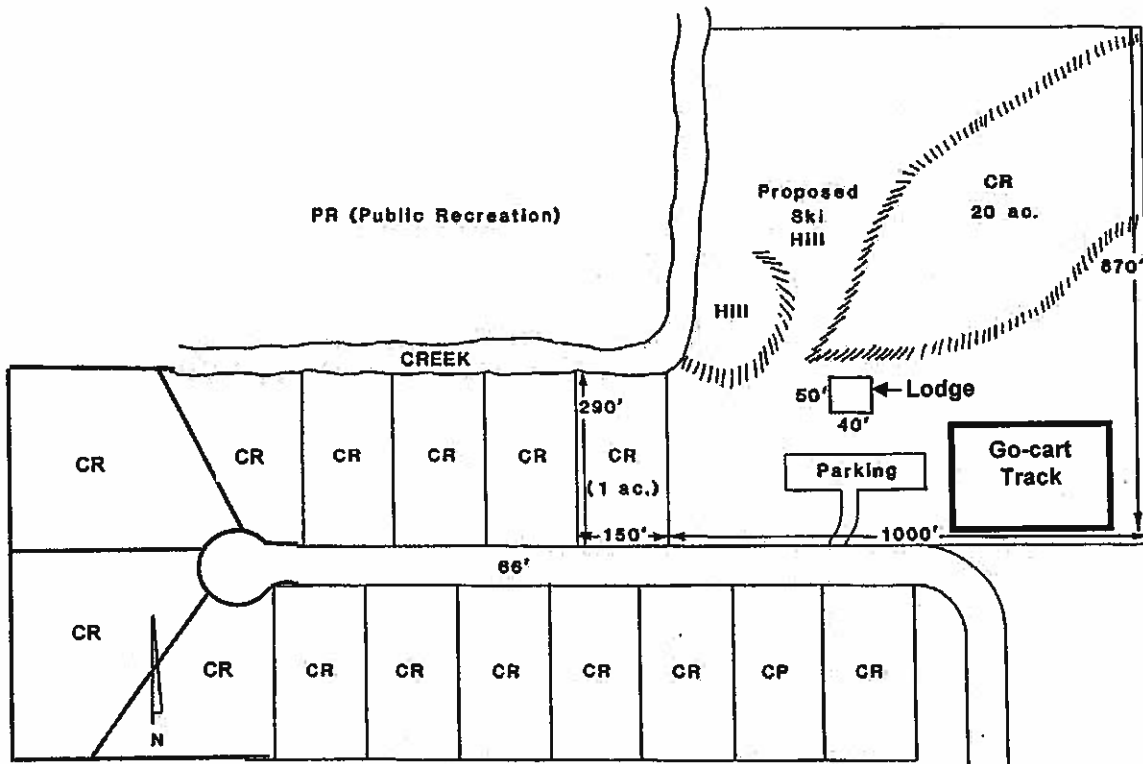
1. SDAB Agenda

MUNICIPAL DISTRICT OF AGRIVILLE

Application: Appeal of development officer's decision to approve a development application to allow (with conditions) recreational uses in a residential area.

Background: The subject site is districted CR – Country Residential District in the land use bylaw. Neighbouring residents have launched the appeal.

M.D. of Agriville



Exercise Two - D

2. *Development Officer's Report Development Officer's Report*

MUNICIPAL DISTRICT OF AGRIVILLE

Development Officer's Report

- Proposed Development:** Year round recreation camp for sick children and their families on 8 ha (20 acre) parcel
- 180m² (2000 ft²) lodge and overnight accommodations.
 - two ski lifts - one T-bar; one rope tow
 - parking lots
 - a go-cart track is proposed for summer use

This recreational land use is considered a "discretionary" use in the CR – Country Residential District of the MD of Agriville's Land Use Bylaw.

The development conforms to the LUB's "Special Provisions", which state for Recreational Development:

1. Recreational development may only be allowed on lower capability agricultural land.
2. The developer shall identify, to the Development Officer's satisfaction, all servicing costs associated with the development.

The proposed development meets with these provisions.

Development Officer's Decision:

Approval, subject to these conditions:

- parking areas to be screened & landscaped to minimize visual intrusion on neighbouring properties; and
- the summer go cart track is restricted to day light hours to minimize noise impact.

Basis of Appeal:

Every country residential household (15) in the Fox Creek subdivision has submitted letters of appeal on this development.

The residents argue that the 'quality' of their subdivision will be destroyed in winter by traffic generated by the ski hill, and in the summer from noise generated by the go-cart track.

Other Information:

The Development Officer has attempted to minimize the impact of the development by attaching conditions. Also, the development officer has held meetings between the developer and the residents, without resolving their differences.

Exercise Two - D

3. *Municipal District of Agriville Land Use Bylaw (Extracts)*

CR – COUNTRY RESIDENTIAL

This district is intended to protect more intensively developed country residential areas from the problems of incompatible development.

PERMITTED USES

- (1) Dwelling
- (2) Accessory buildings and uses
- (3) Park

DISCRETIONARY USES

- (1) Greenhouse
- (2) Mobile Home
- (3) Stable
- (4) Public buildings
- (5) Recreation facilities
- (6) Dugouts
- (7) Home occupations
- (8) Other uses of a similar nature as approved by the MPC.

MINIMUM DEVELOPMENT STANDARDS

- (1) Lot Area: For parcels not served by a sewage collection or a water distribution system, 0.4 hectares (1 acre) with a minimum width of 30.5 metres (100 feet).
- (2) Setback from Roads:
 - 40 metres (131.2 feet) from the centre line of any local or secondary road. Any waiver of the 40-metre regulation shall be a recommendation from the Municipal Planning Commission to Council for final approval.
 - 7.5 metres (24.6 feet) from the property line to any service road or subdivision street.
 - As required by Alberta Transportation for primary highways.
- (3) Setback from Other Property Boundaries:
 - Corner sideyard: as required for the setback from roads.
 - Internal sideyard: 3 metres (9.8 feet)
 - Rear yard: 15 metres (49.2 feet)

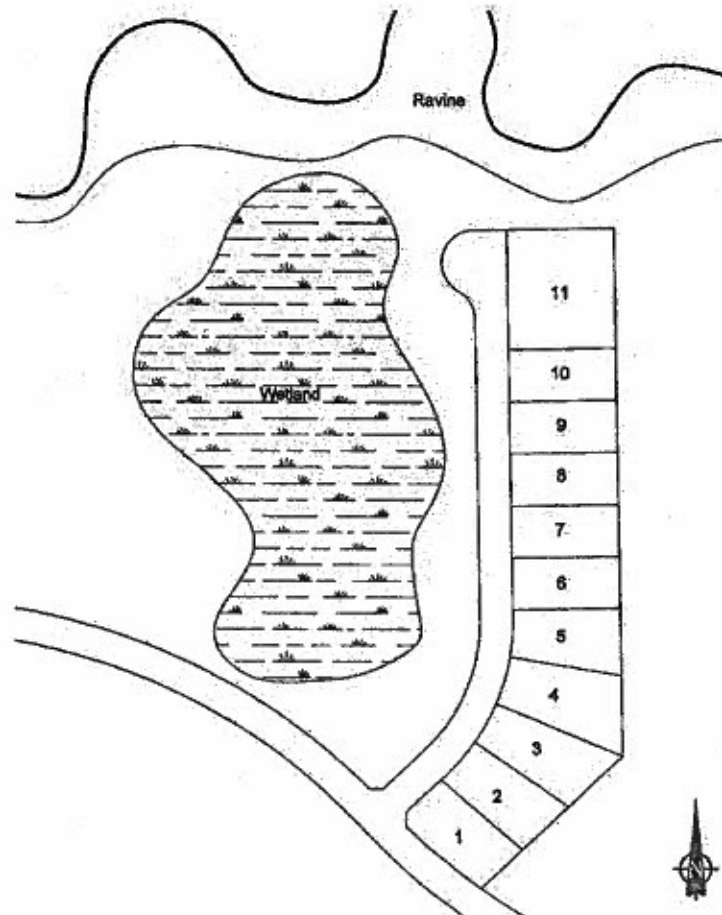
Exercise Two - E

SDAB Agenda

MUNICIPAL DISTRICT OF RAGING RIVER

Application: This is an appeal by the applicants of the Subdivision Authority decision refusing the creation of two 0.16 hectare (0.4 acre) parcels from the existing 0.32 hectare (0.8 acre) Lot 11 within the Riverview Estates subdivision.

Background: Brad and Angelina Pitt own the municipally serviceable but undeveloped Lot 11 in an upscale country estate subdivision. They propose to subdivide the parcel into two lots to give to each of their children.



Exercise Two - E

2. Subdivision Authority Report

Subject Site: The site, Lot 11, is located in an existing country residential subdivision.

Existing Land Use Classification: CR-E – Country Residential – Estate District

Existing Development: None.

Adjacent Land Use & Land Use Districts:
North: Public Open Space (OS – Open Space)
South: Residence (CR-E Country Residential - Estate)
East: Grain production operation (Ag – Agriculture)
West: Public Open Space (OS – Open Space)

Proposed Subdivision: Subdivide an existing 0.32 ha (0.8 acre) lot in half to create two 0.16 hectare (0.4 acre) lots.

Additional Information:

- The lots will be smaller than 0.2 hectare (0.5 acre) minimum area allowed for the Country Residential – Estate (CR-E) land use district. The Water World Area Structure Plan designates the land *Serviced Country Residential*, but does not specify a minimum lot area.
- The proposed new lots will meet building setbacks and will conform to the other regulations contained in the land use district.
- All 10 developed lots in the subdivision currently conform to the 0.2 hectare (0.5 acre) minimum area requirement. The Pitts' Lot 11 is the remnant at the end of Dead End road;
- Municipal services (water and sanitary) are located in the road; capacity exists to service three additional lots;
- No comment has been received from the neighbours, but an objection was received from the *Friends of Alberta Wetlands* organization. The letter cites increased traffic and the negative impact of additional population on wildlife habitat as reasons.

Exercise Two - E

Decision:

The Subdivision Authority refused this application for the following reasons:

1. The lot areas proposed are 20% less than the minimum lot size of 0.2 hectare (0.5 acres) specified in the applicable Country Residential Estate district.
2. Section 654 (2) of the MGA grants the Subdivision Authority some discretion with respect to land use bylaw regulations, where the use of the land conforms to the land use bylaw and the variance would not have an unduly negative impact on other land in the vicinity. However, the Subdivision Authority feels that granting a 20% variance in lot area is beyond the limits of its discretion.

Exercise Two - E

3. Letter from Friends of Alberta Wetlands

SDAB

MD of Raging River

POB 456, RR17

Hyperbole, AB T9H 4W5

Dear Board Members:

Our organization consists of some 250 members from all walks of life, including many environmental experts. We are dedicated to the protection and preservation of Alberta's natural heritage and environmental sustainability. We focus our efforts on wetlands, both as a source of groundwater recharge and as wildlife habitat, as well as, of course, as amenities for all Albertans. Although we are based in Calgary, and the subject subdivision is 200 km north of Lac La Biche, we see the problem of disappearing and damaged wetlands as a province-wide concern.

We also see the negative impacts of many forms of development as incremental – each decision to allow further degradation of our natural heritage, no matter how small, just adds to the problem.

The Water World Area Structure Plan attempts to keep any residential development as compact as possible and to minimise development impacts on our natural environment. Adding even one lot, and relaxing standards to do so defeats the purpose of long range, comprehensive planning.

We therefore ask that the SDAB reverse the decision of the Subdivision Authority and thereby protect our environment and support the policies and direction of the area structure plan that Council has adopted.

Yours for a Better World,

Tweed Beaverton III

For the Friends of Alberta Wetlands

EXERCISE THREE

Assume you are sitting as a member of the Subdivision and Development Appeal Board. The following case study includes the Agenda for the hearing, the Notice of Appeal and the Development Officer's Report. Please review the materials and consider the following:

- Does the SDAB have jurisdiction to hear the appeal?
- What is the scope of the SDAB jurisdiction in relation to the appeal?
- What is your decision in relation to the appeal including your reasons for decision?

Exercise Three - A

1. SDAB Agenda

Meeting of the Subdivision and Development Appeal Board of Wilma County scheduled for January 24, 2011.

Appellant: Mr. Joe Grogan

Appeal: The landowner is appealing the decision of the Development Officer of Wilma County to issue a Stop Order pursuant to section 645 of the *Municipal Government Act*, R.S.A. 2000, c M-26, as amended, claiming the shop/garage located on the lands is unauthorized and a contravention of the County's Land Use Bylaw.

Background: The subject site is designated CR- Country Residential pursuant to the County's Land Use Bylaw, Bylaw 06-211, as amended. The Development Officer issued a Stop Order December 15, 2010 in relation to a 222.967 m² (2400 sq. ft.) shop/garage located on the lands for which no development permit has been issued and which is in contravention of the County's Land Use Bylaw. The Stop Order was delivered to the landowner via registered mail and was signed for by the landowner on December 23, 2010. The landowner filed a Notice of Appeal to the Subdivision and Development Appeal Board on January 4, 2011.

A copy of the Stop Order under appeal is attached.

NOTICE OF APPEAL

January 4, 2011

Subdivision and Development Appeal Board of Wilma County
c/o Wilma County Administration Office
11111 – 11 Avenue
Wilma, Alberta T0G 0G0

To Whom It May Concern:

I wish to appeal to the Subdivision and Development Appeal Board of Wilma County the Stop Order issued by the Development Officer for Wilma County dated December 15, 2010.

The Stop Order claims that the development of the shop/garage located on my lands is unauthorized as no development permit has been issued. However, on February 23, 2010 a development permit for an Accessory Building (Shop/Garage) was issued by Wilma County for my lands.

Therefore, there is no basis for the Stop Order and the Board should rescind the Order.

Yours truly

MR. JOE GROGAN

DEVELOPMENT OFFICER'S REPORT

SUBJECT SITE: The site is located in a Country Residential subdivision and contains 1.42 hectares (3.5 acres). Currently located on the site is a 278.209 m² (3000 sq. ft.) single detached dwelling, a small shed 13.935 m² (approx. 150 sq. ft.) and a 222.967 m² (2400 sq. ft.) shop/garage. A development permit has been issued for the single detached dwelling and no development permit is required for the shed pursuant to the County's Land Use Bylaw.

EXISTING LAND USE CLASSIFICATION: CR- Country Residential

ADJACENT LAND USES: Single Detached Dwellings

DECISION: A Stop Order was issued as a result of a 222.967 m² (2400 sq. ft.) Accessory Building being located on the lands in contravention of the County's Land Use Bylaw. The Stop Order provides that the landowner either has to apply for an obtain a development permit or remove the Accessory Building and restore the lands to the satisfaction of the Development Officer, within 30 days of receipt of the Stop Order.

DISCUSSION: The *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended provides:

"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 subdivision approval,

within the time set out in the notice.

(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."

The County's Land Use Bylaw provides:

"6.3 Any use or development of lands within the County requires a valid development permit unless the use or development of the land has been exempted from the requirement of obtaining a development permit pursuant to this Bylaw."

The Land Use Bylaw goes on to provide:

"6.4 A development permit is not required for the following uses or developments:

-
- (d) Accessory Buildings not exceeding 13.935 m² (150 sq. ft.) that comply with all other provisions of this Bylaw;
-

Accessory Building is defined in the Land Use Bylaw as:

"Accessory Building means a building that is separate from the principal or primary building and the use of which is incidental to the principal or primary building."

As Development Officer for the County I conducted a visual inspection of the lands and determined that a large shop/garage has been constructed on the lands. The shop/garage is not connected to the single detached dwelling and therefore falls within the definition of "Accessory Building" as defined in the County's Land Use Bylaw. As a result of the Accessory Building having a floor area of 222.967 m² (2400 sq. ft.), a development permit is required as the exemption from the requirement for a development permit only applies to Accessory Buildings with a floor area of less than 13.935 m² (150 sq. ft.). From a review of the County's records a development permit was issued to the landowner on February 23, 2010 for a 55.74 m² (600 sq. ft.) Accessory Building – garage use. No 55.74 m² (600 sq. ft.) garage is currently located on the lands. No development permit has been applied for or issued for a 222.967 m² (2400 sq. ft.) shop/garage.

As no development permit has been issued and the County's Land Use Bylaw requires a development permit be obtained for an Accessory Building exceeding 13.935 m² (150 sq. ft.), I was able to conclude that the Landowner was in contravention of the Land Use Bylaw. As a result, the Stop Order was issued to the landowner requiring the landowner to apply for and obtain a development permit for the shop/garage or to remove the Accessory Building from the lands and restore the condition of the lands within 30 days of receipt of the Stop Order.

A copy of the relevant district of the Land Use Bylaw is attached, together with a site drawing.

WILMA COUNTY

STOP ORDER

December 15, 2010

Joe Grogan
13 Wilma Close
Wilma, Alberta T0G 1G0

X **HAND DELIVERED
REGISTERED MAIL**

Dear Sir:

RE: Plan 0324557 Block A Lot B2

In my capacity as Development Officer for Wilma County, I hereby issue a Stop Order pursuant to Section 645 of the Municipal Government Act, with respect to the aforementioned Lands.

The County's Land Use Bylaw states:

6.3 Any use or development of lands within the County requires a valid development permit unless the use or development of the land has been exempted from the requirement of obtaining a development permit pursuant to this Bylaw

Part 17 of the Municipal Government Act allows a Development Officer to issue a Stop Order where a development or use of land or buildings does not comply with the *Municipal Government Act*, the Land Use Bylaw, or a development permit or subdivision approval.

At present, the Lands do not comply with the County's Land Use Bylaw given:

There is a 2400 sq. ft. shop/garage located on lands for which no development permit has been applied for or obtained.

Accordingly, you are hereby ordered to stop the unauthorized development and use of the aforementioned lands and the buildings thereon and comply with the Land Use Bylaw by:

- Applying for an obtaining a development permit for the Accessory Building; or
- Removing the Accessory Building and restoring the condition of the Lands to the satisfaction of Development Officer

within thirty (30) days of receipt of this Order.

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of an must be received by the Secretary of the Subdivision and Development Appeal Board within fourteen (14) days of receipt of this letter. The address for filing an appeal is:

Subdivision and Development Appeal Board of Wilma County
c/o Wilma County Administration Office
11111 – 11 Avenue
Wilma, Alberta T0G 0G0

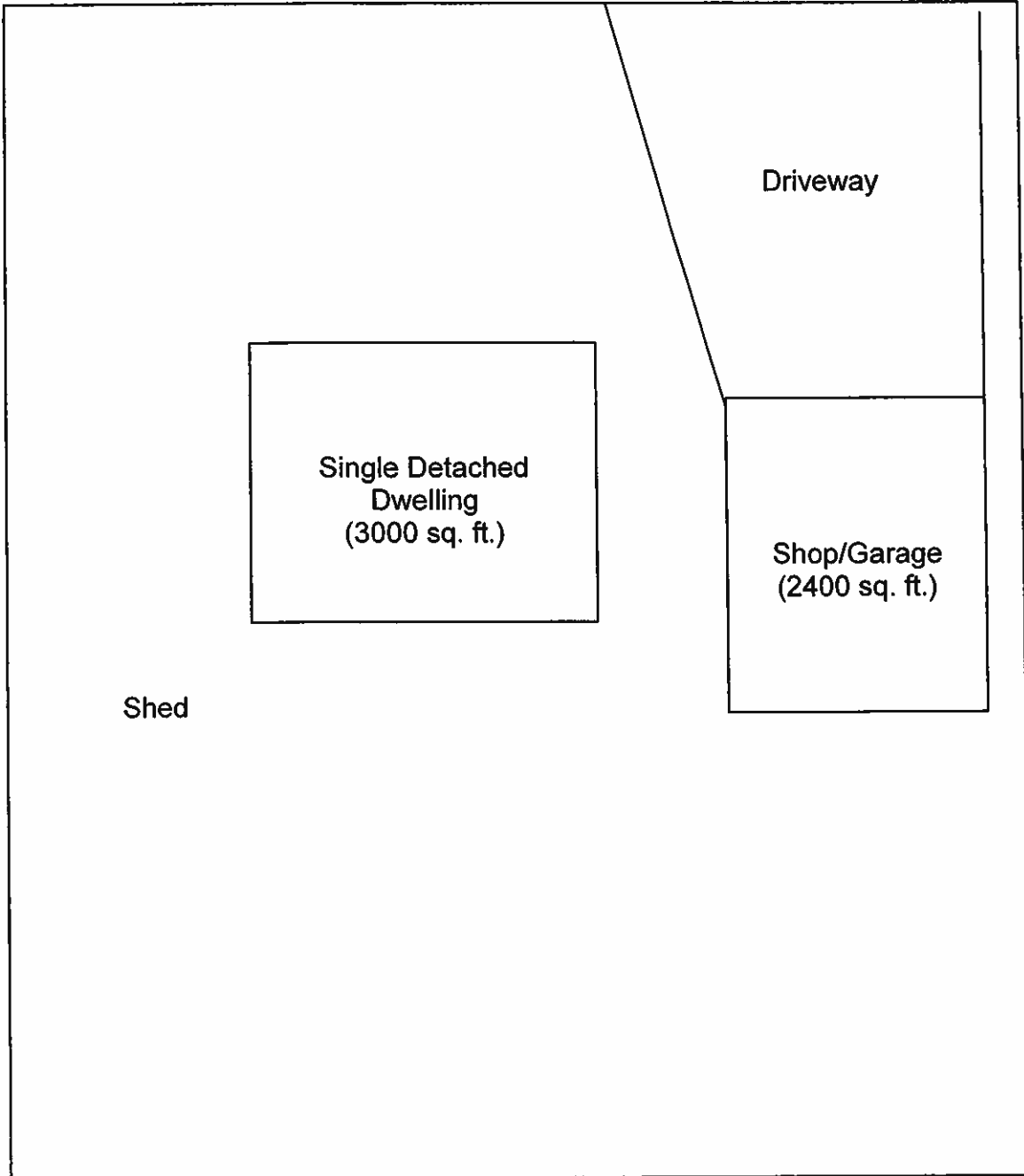
Please be advised that Wilma County has the authority, in the event that this Stop Order is not complied with within the time limit provided, to enter onto your lands to take whatsoever actions are determined by Wilma County to bring the lands into compliance, and may seek an Injunction or other relief from the Court of Queen's Bench of Alberta pursuant to section 554 of the *Municipal Government Act*. Further, Wilma County has the authority to add the costs and expenses for carrying out this Stop Order to the tax roll for your Lands pursuant to Section 553(1)(h.1) of the Municipal Government Act.

YOURS TRULY,

Wilma County
Per:

George Lemon
Development Officer

Internal Subdivision Road



CR – Country Residential

Purpose

The purpose of this district is to foster residential development of 2 acres or greater within multi-lot residential subdivisions and to regulate such development.

Permitted Uses:

Single Detached Dwelling
Modular Home
Manufactured Home
Accessory Building

Discretionary Uses:

Minor Home Occupation
Major Home Occupation
Garden Suite
Bed and Breakfast
Group Home
Residential Sales Centre

Subdivision Regulations

- a) The minimum parcel area is 2 acres
- b) The minimum parcel width is 60 m

Development Regulations

- a) The minimum front yard setback is 15 m
- b) The minimum side yard setback is 7 m unless adjacent to a road then the minimum side yard setback is 10 m
- c) The minimum rear yard setback is 7 m
- d) Any Accessory Building shall be located at least 7 ft from the principal or primary building
- e) An Accessory Building shall not have a floor area more than 70% of the floor area of the principal or primary building
- f) An Accessory Building shall not be located closer to the front of the site than the principal or primary building
- g) In addition to the regulations set out above the following other regulations also apply: General Development Regulations, Landscaping and Screening Regulations, Parking and Loading Regulations, Manufactured Home Regulations, and Sign Regulations.

