



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: August 4, 2022

Development Permit 20/22 Robert Templeton (Appellant)

I. Decision

The MD of Bighorn Municipal Planning Commission (the “MPC”) approved development permit 20/22 for the development of an outdoor community rink (“recreation facility”) and shed (“accessory building”) on Lot 6, Block 1, Plan 1113618 (the “subject property”), in the hamlet of Dead Man’s Flats. Mr. Robert Templeton appealed that decision to this Board.

For the reasons which are set out below, the appeal is refused and the development permit is upheld as approved with three changes to the conditions.

First, condition 17 of the development permit is hereby replaced with the following:

17. The Deadman’s Flats Community Association is responsible for providing their own solid waste collection and disposal. A new bin shall be installed in close proximity to the new facility.

Second, condition 21 of the development permit is hereby replaced with the following:

21. The developer shall use FireSmart construction materials for the exterior of the buildings and, in particular, should use a roofing material with a Class A or B Underwriter’s Laboratories of Canada (ULC) fire rating.

Third, new condition 28 is added to the development permit, as follows:

28. No recreation activities associated with the rink and shed shall occur between the hours of 22:00 hours and 07:00 hours, and all rink lights turned off by 23:00 hours.

II. Background

The subject property is located within the Public Service District (P). The development permit application 20/22 was approved for the development of an outdoor community rink (“recreation facility”) and shed (“accessory building”). The MPC, acting as the Development Authority, approved the application with conditions on the basis that the proposed development, being the recreation facility and accessory building, is a discretionary use in the Public Service District (P).

The hearing of this appeal was held on August 4, 2022 and was conducted at the MD of Bighorn's administration building in the Hamlet of Exshaw. The Appellant was represented by Robert Templeton, whose residence is adjacent to the subject property.

The Board heard submissions from the Appellant, Applicant and Development Officer. The parties made verbal and/or written submissions which the Board acknowledges.

III. Reasons for Decision / Findings of Fact

Wildlife Corridor

The Appellant's primary concern is the impact the development of a rink and shed will have on animals using a wildlife corridor that runs through the subject property. The Development Officer and Applicant also provided information that the subject property is part of the Bow Flats Regional Habitat Patch and is not designated as a wildlife corridor. The Board acknowledges the statements by the parties. The Board is satisfied that the proposed development conforms to the land use policies in the Dead Man's Flats Area Structure Plan which intends these lands to be used for future recreation uses. In Section 31.1.1 of Land Use Bylaw 09-Z/18, the Purpose and Intent of the Public Service states:

"The purpose of this district is to provide land for public and community developments for cultural, educational, institutional, recreation and utility uses, as well as to protect and enhance lands which are in a natural or largely undisturbed condition and may be used for non-intensive park and recreation uses."

The Board asserts that Council approved an area structure plan and land use district that allows for recreation uses on these lands.

Flooding

The Board acknowledges the Appellant's concern about potential flooding of the site. The Board accepts the information provided by the Development Officer that according to the provincial flood maps, the site is outside of the 1:100 year floodway and flood fringe of the Bow River.

The Board offers no opinion on the Appellant's statements regarding climate change.

Parking

The Appellant stated that on street parking is inadequate for rink use as parking spaces on Limestone Valley Road and the cul de sac on River's Bend Close makes the project unworkable. The Development Officer noted the rink is for local use and that other rinks in the M.D. do not require parking. The Development Officer stated that "Recreation facilities" are not prescribed

minimum parking and loading requirements in Land Use Bylaw 09-Z/18 and that the Municipal Planning Commission determined that parking was not required for the rink.

The Board is satisfied that parking for rink users is available using on-street parking.

Garbage

The Appellant stated that garbage has been an issue at the current rink location. The Development Officer states condition 17 addresses this concern: “The Dead Man’s Flats Community Association is responsible for providing their own solid waste collection and disposal, unless approved otherwise by the MD is writing.” The Development Officer also noted that condition 11, requires the Community Association to enter into a Caretaker Agreement with the MD, that includes among other things the Community Association’s responsibility for operations and maintenance of the rink and building.

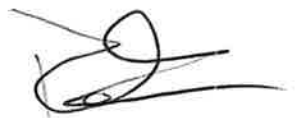
The Board is concerned the current wording of condition 17 leaves ambiguity for the installation of a garbage bin on the site by the Deadman’s Flats Community Association. The Board has addressed this concern by amending condition 17.

Fire Risk

The Appellant stated the rink application should have been subject to a comprehensive fire risk assessment and emergency vehicle access assessment. The Development Officer noted two fire mitigation conditions were part of the development approval. Condition 21 requests the developer consider the use FireSmart construction for buildings on the site; and condition 20 requires unencumbered access emergency vehicle access to the site at all times during construction. The Development Officer noted that both conditions were reviewed by the MD’s Fire Chief and found satisfactory.

The Board is satisfied the Appellant’s concern has been addressed by conditions 20 and 21. The Board has some concern about the wording of condition 21 and amends the condition to require the developer to use FireSmart construction for buildings on the site.

August 15, 2022
DATE



CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

