

**Municipal District of Bighorn No. 8  
Public Hearing  
7:00 p.m., Tuesday, April 5<sup>th</sup>, 2011  
Beaupre Hall**

**RE: BYLAW NO. 02-z/11  
TO AMEND THE LAND USE BYLAW 04-10, RE DIRECT CONTROL 3 DISTRICT**

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**Present:** Reeve Dene Cooper (Chair)  
Deputy Reeve Erik Butters  
Councillor Reid Thomas

**Absent:** Councillor Carolyn Montgomery  
Councillor Paul Ryan

**M.D. Staff:** Martin Buckley, C.A.O./Recording Secretary  
Tracy Woitenko, Community Planner

**Gallery:** Ian MacGregor  
Grant McNabb  
Vince Lure  
Albert Rich (applicant)  
Susan Rich (applicant)

**Call to Order**

Reeve Cooper called the room to order at 7:05 p.m., and welcomed everyone to the hearing. He reminded everyone to turn off any electronic devices, and noted that procedure sheets for the hearing were placed in the gallery for reference. He provided a brief overview of the hearing purpose and those who would be heard, noting that the public hearing is for proposed Bylaw 02-z/11, a bylaw to amend the Land Use Bylaw, to create a new Direct Control district on the remainder of NW quarter Section 20 in Township 28 Range 6 W5M. He then asked for a motion to officially start the hearing.

**MOVED** by Deputy Reeve Erik Butters that the Public Hearing for Bylaw 02-z/11, a bylaw to amend the Land Use Bylaw, commence at 7:07 p.m.

CARRIED

**Outline of Public Hearing Procedure**

Reeve Cooper asked for and received, from a show of hands, an indication of the approximate number of people who wished to speak at the hearing. He explained the purpose of the hearing which is to receive public input regarding the proposed Bylaw 02-z/11, an amendment to the Land Use Bylaw. He then outlined in detail the procedures to be followed during the hearing. He emphasized that, when the public hearing is closed, no further oral or written submissions on proposed Bylaw 02-z/11 will be accepted. He then asked Administration to introduce the proposal, to be followed by any questions of Council.



## **Introduction by Administration**

Community Planner Tracy Woitenko provided the Administration introduction to proposed Bylaw 02-z/11, which is attached as Schedule "A" to these minutes. She noted that there had been two submissions received: a letter from Norm Kruesel of Alberta Health Services, and a letter from adjacent land-owners Bill and Maria Dunki. Those submissions are attached as Schedules "B" and "C" respectively.

Deputy Reeve Butters asked if the proposed bylaw was specifically limited to the lands as described (the remainder of the North-west quarter of Section 20, Township 26 Range 6 West of the Fifth Meridian, containing 150 acres, more or less). The Community Planner confirmed it was. Deputy Reeve Butters then asked if the bylaw required an appeal process for any Development Permit application; the Community Planner indicated that the bylaw did not, as Council was the final approving authority on direct control applications.

Councillor Thomas noted that there were two existing direct control districts in the M.D., where public hearings were required; the Community Planner responded that, for these situations and within proposed Bylaw 02-z/11, there is wording that allows that Council may require a public hearing before issuance of a development permit, but these are not appeal hearings.

Councillor Thomas noted that, with respect to the issue of "principle building", proposed Bylaw 02-z/11 referred to the plural "principle buildings": he asked for clarification on this. The Community Planner indicated that a principle building is usually one associated with the land's principle use: she gave the example of an agricultural operation in the AC zoning, whereby there could be several principle buildings. She further indicated that, for this proposed bylaw, there is a difference between principle dwelling and principle buildings: the principle buildings can remain only as long as the group care situation is operating, and must be removed if there isn't a group care facility – the buildings cannot be used as dwellings.

Reeve Cooper clarified that there has been a ten acre "first parcel out" taken from the NW Section 20; the Community Planner confirmed this. Reeve Cooper asked if there were different owners for the two parcels of land, being the first quarter out and the remainder of NW Section 20: the Community Planner indicated the first parcel out was the personal property of the applicants, while the remainder was owned by a registered company owned and operated by the applicants.

Reeve Cooper asked about the business itself, indicating uncertainty as to how long it had been in operation; it was clarified the business had started in 1992. Reeve Cooper asked how many buildings were on site; it was indicated there was one staff accommodation unit, and five buildings for the group care facility.

## **Introduction by Applicant**

Reeve Cooper then asked the applicants to come forward and make a presentation in support of the proposed bylaw.

Albert and Susan Rich, operating as AR Investments, indicated the company owned the 150 acres of NW Section 20, and that they resided on the aforementioned first parcel out.

Mr. Rich indicated he thought they had been operating legally since they started in 1992; he thought the M.D. and all the neighbours knew about the operation. He explained that they tend to have up to five males with disabilities: these people can function well in a farm setting, but "don't do so well" in an urban/city setting. He indicated the facility is run through the Persons with Development Disabilities part of Community Living Alternative Services program.



Mr. & Mrs. Rich indicated the clients are long-term persons (one has been at the facility for 15 years) and range in age from 24 – 50. The clients can, and do, help out around the farm setting. The clients have developmental disabilities: they are not mentally ill, nor any danger to the community. They don't run away, nor can they drive. This location has been the most successful, due to the quiet.

The facility is staffed 24/7, and they try to have staff on a 3 – 4 day cycle. The ratio is one staff per client. Staff are thoroughly trained (CPR, First Aid, WHMIS, medication administration, abuse reporting protocol, etc.). The staff have been there for 4 – 5 years: staff levels/personnel are very stable.

The Richs indicated they have several other such facilities, located in Calgary, Cochrane and Edmonton. They have a variety of programs, and a total of 500 staff. They are the longest-serving delivery of such facilities in Alberta.

The Richs submitted their comments as Schedule "D" attached.

Councillor Reid Thomas asked if the applicants felt their operations fit the definition of "group care facility" as proposed. Mr. Rich indicated it seemed to be the only way to fit under the M.D.'s regulations: "it suits us fine as long as we don't get construed as an 'in the front door, out the back door' process." Their clients have to enjoy the isolation: they need the ability to wander around, but not wander away. The definition fits, but not under any concept of "treatment".

Councillor Thomas, noting the submission from Mr. Kruesel of Alberta Health Services, asked what body regulates the operation. Mrs. Rich indicated they functioned under the Persons with Developmental Disabilities program of the Province's Seniors and Community Health division. Councillor Thomas asked if Seniors & Community Health has come out; Mr. Rich indicated that Persons with Developmental Disabilities monitors them regularly, with the prerequisite reports being filed as necessary. He noted the program manager was present tonight (Vince Lure), from Community Living Alternate Services.

Reeve Cooper asked if the applicants were supplying a contracted service to their clients; Mr. Rich responded affirmatively. Reeve Cooper asked who the surrounding property owners were: Mr. Rich responded that the Dunkis lived to the south, Ian MacGregor owned lands to the east, the Richs had a Crown lease parcel to the north, and it was determined that the Coyote Creek subdivision lay to the west.

Reeve Cooper asked about the buildings, and conformance to electrical/plumbing standards; Mr. Rich indicated they had not modified any of the buildings, but "updating" was done a year/year-and-a-half ago. Mrs. Rich indicated they have dealt with risk assessment concerns as a result of insurance requirements; Mr. Rich added that, to his knowledge, they weren't lacking anything. Mrs. Rich also noted that they have contracted out, on a monthly basis, an inspection service that comes through and checks things out.

## **In Favour**

Reeve Cooper asked if there was anyone present who wished to speak in favour of proposed Bylaw 02-z/11.

Ian MacGregor spoke in favour, with conditions, submitting his comments as Schedule "E" attached. He noted that he has no objections to the Richs, nor to what is currently there.

There was no one else present who wished to speak in favour of the proposed bylaw; there were no further written nor oral presentations made.

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## **In Opposition**

Reeve Cooper asked if there was anyone present who wished to speak in opposition to proposed Bylaw 02-z/11.

Grant McNabb spoke in regards to the M.D.'s notice that was sent out, advising of the proposed bylaw and the public hearing opportunity, noting a lack of clarity/information in the notice. He felt the notice could be "more precise" and could have been done "a little better". He indicated that he did not have time to contact the M.D. for further information, when he received the notice.

There was no one else present who wished to speak in opposition to the proposed bylaw; there were no further written nor oral submissions made.

## **Rebuttal by Applicant**

Reeve Cooper then stated that Council would hear any rebuttal from the applicants. He added that this is not an opportunity to provide new information but rather is an opportunity for rebuttal only on any of the points or comments submitted tonight.

Mrs. Rich indicated that, in response to comments from I. MacGregor, the facility is not something they would sell as is, as their use was a one-time only situation. She noted that there is also strict criteria as to what clientele can use the facility: the Richs would not want to put the community nor their clients at risk.

Mr. Rich indicated he agreed with Mr. MacGregor regarding the land reverting to agricultural use: he thought it would only be a portion of the property that was to be zoned DC 3, with the rest remaining Agriculture Conservation.

## **Final Questions of/Comments from Administration**

The Community Planner indicated that the reason for going with a direct control zoning was for the same reason as the other existing DC zonings in the M.D.: the majority of M.D. lands are Agriculture Conservation (AC), with pockets of different non-AC uses. Administration chose to recommend DC zoning because the lands involved are a special site: if anyone wants a similar situation elsewhere in the M.D., they have to get the Land Use Bylaw amended as well.

She noted that, in response to comments made, that there cannot be a time limitation on use within the Land Use Bylaw. That aspect can be controlled through the development permit: Council can request a provision on the permit expiry, which would then require the development permit holder to re-apply on a regular basis. If there is a problem with the facility in future years, therefore, a permit might not be issued/re-issued, and the facility would have to cease operations and remove all related structures.

The Community Planner finally noted that, by putting the development approval in front of Council, there is an opportunity for a public hearing, but there isn't any opportunity for appeal of the Council decision.

Deputy Reeve Butters confirmed that the bylaw cannot allow for a sunset clause; the Community Planner indicated that was correct.

Reeve Cooper asked, if Council approved the proposed Bylaw, could Council hold a public hearing at any time, or only when dealing with development permit issuance/renewal; the Community Planner indicated only at development permit approval stage.

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Reeve Cooper asked, if wanting to revert to another zoning, how would this be done. The Community Planner indicated that, if the property were sold, it could be re-zoned to Small Holdings and thus could be further subdivided. The lands could also be re-zoned by Council at any time.

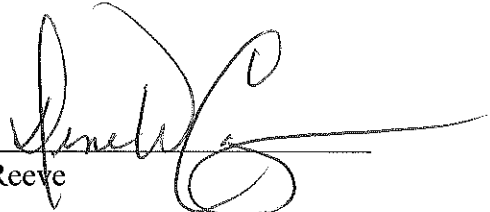
Reeve Cooper asked how a development permit is handled. The Community Planner indicated the application is circulated to appropriate agencies, but is generally not circulated to neighbours; often conditions are put in the development permit. Reeve Cooper, noting that guardianship had been discussed tonight, asked if notice of a development permit application was circulated to tenants/clients; the Community Planner indicated notice was not circulated to these parties.

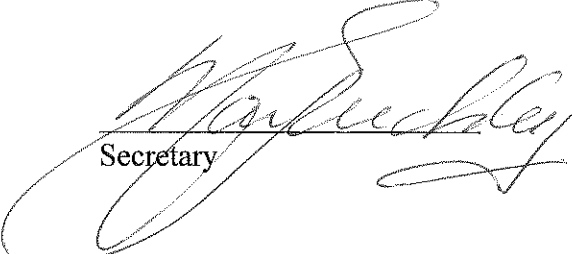
There were no more comments from nor questions of Administration.

### **Closure of the Public Hearing**

The Reeve reminded the gallery that no further oral or written submissions would be received by Council on Bylaw 02-z/11, and all submission received regarding this public hearing are a matter of public record. No further submissions will be considered in this matter.

The Reeve declared the Public Hearing on Bylaw 02-z/11 closed at 8:06 p.m.

  
Reeve

  
Secretary