



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: Wednesday, February 19, 2020

Development Permit 41/19, Angela and Matt Dempster (Appellants)

I. Decision

For the reasons outlined below, the Subdivision and Development Appeal Board (the “Board”) conditionally grants the February 19, 2020 appeal of Angela and Matt Dempster (the “Appellants”), on the partial refusal of Development Permit Application No. 41/19 for a Retreat with a Change in Use of an Existing Accessory Building to a Retreat Main Assembly and Cooking Lodge, located on a portion of SW Section 33, Township 26, Range 7, W5M (near Richards Road), North Ranchlands, hereinafter referred to as “the subject property”.

The hearing commenced on January 16, 2020 and was then adjourned. The hearing concluded on February 19, 2020.

The Board approves Development Permit Application No. 41/19 for a Retreat with a Change in Use of an Existing Accessory Building to a Retreat Main Assembly and Cooking Lodge, subject to the following conditions:

1. Approval is granted based on the information provided by the applicant/owner for a Retreat (Trembling Aspen Retreat) only, as shown in the attached **Schedule “A.”** No further development, expansions, or change in use is permitted unless approved by The MD of Bighorn.
2. The Retreat shall be operated in accordance with the details set out in the application. Any increase in usage above the proposed level shall be subject to separate development approval.
3. The small cabins, hereinafter referred to as “Bunkies”, are approved for retreat usage only, and in no circumstances shall the use of the cabins be separated from retreat activities. The Bunkies are not to be rented out as visitor accommodation, staff accommodation or vacation rentals. Only guests registered at the Retreat may use the Bunkies.
4. The retreat use shall not provide any form of permanent habitation or any staff accommodation, unless a separate application is submitted and approved by the M.D. of Bighorn.
5. All construction related to the Retreat being the Change in Use of the Accessory Building (main cabin) and the Bunkies, shall conform to the National Building Code and building permits shall be obtained for this development as required.

6. All new installations or any changes to existing electrical wiring and plumbing, natural gas or propane connections, and/or sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
7. Any online advertisements for the Retreat shall list the current Development Permit Number on such advertisements. The Retreat shall not be advertised on any vacation rental websites, such as VRBO or Airbnb.
8. Overnight occupancy of the Retreat and related facilities is not to exceed thirty-five (35) people registered as guests of the Retreat.
9. Length of stay at the Retreat, by registered guests, shall not exceed seven (7) consecutive days.
10. The retreat cabins shall be serviced with power by a solar powered battery in accordance with Provincial regulations. The existing accessory building (change in use proposed) is connected to power onsite.
11. Potable water for the retreat use shall be brought to the site and stored onsite in accordance with Provincial regulations.
12. The landowner shall comply with any regulations and obtain any approvals from Alberta Health Services as it relates to all aspects of the Retreat Use (water, sewage, food preparation, etc.).
13. The retreat shall utilize portable toilets, portable camping sinks, and portable showers as outlined in the application. The wastewater from these units will be disposed of into a holding tank, which will be disposed of at a Provincially approved facility. **Prior to commencement of construction**, a copy of any sewage permit issued from a Provincial Accredited Agency for the installation of the portable toilet systems for the proposed cabins shall be provided, if required by that Agency. If a private wastewater sewage system is installed in the future, the applicants shall provide the municipality with evidence that a permit from an accredited agency has been obtained for the installation of the private wastewater sewage system in accordance with the Alberta Private Sewage Systems Standard of Practice 2016, or more current provincial standard.
14. In accordance with Section 3.15 of Land Use Bylaw 09-Z/18 ten (10) parking stalls shall be provided for the Retreat. Parking for all residents and retreat guests shall be accommodated entirely on site. Parking spaces that have been assigned for parking shall be available at all times for this purpose and not utilized for storage or other purposes.
15. If an employee is hired with respect to the Retreat, then one additional, on-site parking stall shall be provided in accordance with Section 3.15 of LUB 09-Z/18.

16. There shall be no home-based business operated on the subject property while a Retreat is being operated, unless a prior, separate development permit application is submitted and approved by the MD of Bighorn.
17. No food will be prepared and served as part of the retreat business. The retreat will function as a self-catering retreat, and guests will bring in their own food and prepare it themselves in the main cabin. The main cabin will have a food preparation area for guests to use, including an eating space. There will be an outdoor BBQ area for guests to use for cooking.
18. There will be no food storage, food cooking or food preparation in the Bunkies.
19. The applicant shall obtain any required approvals from Alberta Environment, pursuant to the Water Act, for water used at this retreat facility.
20. All development shall be located at least 100m from any sour gas lines, or a greater distance if required by the Alberta Energy and Utilities Board.
21. Buildings shall be set back a minimum of 20.0 m (65.6 ft) from the crest or toe of an escarpment having a slope of fifteen percent (15%) (15 rise: 100 run) or greater, unless a reduced setback is authorized by the submission of a Geotechnical Report prepared and stamped by a professional engineer, to the satisfaction of the Development Authority.
22. For fire safety purposes, no candles shall be permitted within the Bunkies.
23. Fire extinguishers shall be installed in each Bunkie and main cabin associated with the Retreat use onsite.
24. The site shall be accessible for emergency vehicles at all times.
25. Appropriate signage shall be installed identifying the property for emergency purposes (e.g. 911 signage) in a manner deemed acceptable to the MD of Bighorn.
26. **Prior to commencement of the construction**, an access easement must be entered into and registered on the respective property titles between the subject landowners and the neighbouring landowners located at Ptn. SW 33, Twp. 26, Rge. 7, W5M. Upon request, the applicants shall provide a copy of the access registered access easement to M.D. representatives.
27. The owners shall maintain a guest register (or similar documentation acceptable to the MD of Bighorn) and provide such register upon request by the M.D. of Bighorn for the purpose of confirming compliance with the M.D.'s Land Use Bylaw No. 09-Z/18 and this development permit. The guest register shall contain the name of the guests, the license plate number of each guest vehicle, and the dates of occupancy of the Retreat operation.
28. The development of new or modification of existing driveway approaches are not identified and are therefore not authorized. **A separate approval** is required by the

Operations Department should any modifications to the driveway approach from Richard's Road be required.

29. All overweight and/or over-dimensional loads on municipal roadways which may be required during development or as part of the regular operations of the site, shall be authorized by separate approval.
30. Unless otherwise permitted by Bylaw, any use or occupation of municipal property or right-of-way shall be authorized by separate application and approval from the MD of Bighorn.
31. The planting of trees, shrubs, forbs and the installation of large rocks, retaining walls, landscaping features or any other encroachment within the municipal road-right-of-way is not permitted.
32. The development of parking pads, parking lanes, grade alternations, or any other development within the municipal road-right-of-way shall be authorized by separate applications and approval from the MD of Bighorn.
33. Every precaution shall be taken to protect and safeguard municipal infrastructure and property. The Developer is responsible for repairing any damage resulting from the development at their own expense and to the satisfaction of the Municipality.
34. The Developer is responsible for obtaining the approvals and for meeting the requirements of any private utility having facilities in proximity.
35. The Developer is responsible for providing their own solid waste collection and disposal.
36. All outside solid waste containers shall be animal proof and in accordance with the MD of Bighorn Site Servicing Standards.
37. This Development Permit shall be valid for an **Eighteen (18) month period, expiring on September 6, 2021.**

II. Background

The Board heard an appeal from Angela and Matt Dempster (Appellants), with respect to the Development Authority's Notice of Refusal for Development Permit application 41/19, being the partial refusal of a Retreat with a Change in Use of an Existing Accessory Building to a Retreat Main Assembly and Cooking Lodge.

The subject property is located within the Agriculture Conservation District (AC), noted as Section 8 of the Land Use Bylaw (LUB). Retreat is listed as a Discretionary Use in the District under Section 8.3.

The Development Authority (the Municipal Planning Commission) issued a Notice of Refusal for Development Permit Application 41/19 dated November 30, 2019. The refusal for a Retreat with a

Change in Use of an Existing Accessory Building to a Retreat Main Assembly and Cooking Lodge, was based on the following reason:

1. Whereas multiple accommodation units are not acceptable in an Agriculture Conservation District. Therefore, the Municipal Planning Commission refuses a portion of Development Permit Application No. 41/19 as it relates to a Retreat (Trembling Aspen Retreat) and a Change in Use on the subject property.

The Applicants submitted the appeal of the Development Authority's decision on December 20, 2019 to the Secretary of the Subdivision and Development Appeal Board.

The appeal hearing by the Board was held on February 19, 2020, at the M.D. Administration building in the Hamlet of Exshaw; the Appellants (Angela and Matt Dempster) was present at the hearing. The Board heard from the Appellants, adjacent neighbours, Development Authority (a member of the Municipal Planning Commission), Development Officer Janice Thompson; all on the Development Authority's Notice of Refusal. Several documents were submitted to the Board, as follows:

- Copy of the Notice of Refusal for Development Permit Application 41/19 issued on November 30, 2019.
- Copy of the letter of appeal from the Appellant received December 20, 2019.
- Copy of Development Permit Application 41/19.
- Map of the Subject Property.
- Appellant's submission to the Board.
- Photographs (six) of the Subject Property.
- Photo of proposed cabins (Bunkies) the Subject Property.
- Photos the Existing Accessory Building (cabin) on the Subject Property.
- Excerpts from the MPC Minutes.
- Development Officer presentation.
- MCP member presentation.
- Excerpts from the Land Use Bylaw 04/10.
- Development Permit Application Receipt Record.
- Copy of Certificate of Title.

Issues Raised

The Board and Appellant discussed the following reasons for requesting the variance:

- The Appellants made presentation to the Board and described the proposed Retreat, including the placement of ten Bunkies, and the change of use of the Existing Accessory Building (main cabin) to a Retreat Main Assembly and Cooking Lodge.
- The Appellants explained that their proposal fits within the Retreat use listed as a Discretionary use in the Agriculture Conservation (AC) District and the definition of

“Retreat” in the Land Use Bylaw states:...may include Visitor Accommodation, eating facilities and accessory facilities.

- The Appellants noted the definition of Visitor Accommodation in the Land Use Bylaw includes building or group of buildings containing rooms or units and includes cabins or detached and attached buildings.
- The Board asked about short term accommodation in the AC district. The Development Officer responded that short term accommodations is not allowed in the District, but Retreats are allowed. She said that if the Appellants were renting out the units on a nightly basis to the travelling public, the development would not be considered a Retreat.
- The Board asked about staff working on site. The Development officer responded that staff accommodation is in the LUB, but the staff accommodation was not part of the application.
- The Board enquired about the Bunkies and seasonal operation of the proposed Retreat. The appellants stated the Retreat would be operated year-round. The Appellants stated the Bunkies were portable and not permanent structures on the site. The Bunkies are intended to allow a maximum of two user groups and a maximum of 40 people, or 4 people per Bunkie. Two adults would fit in each Bunkie and 40 people would be comprised of two adults and two children per Bunkie. The appellants said groups would most likely be around 8 people.
- The Board asked about guests using the Retreat. The Appellants said that they would have a maximum of two groups at the Retreat at any one time but would prefer one group at a time. The Appellants said they were not looking at individual bookings
- The Board asked about meals and catering. The Appellants stated most groups would bring their own food and that the Bunkies would not have cooking facilities or fridges. Food would only be prepared in the main cabin. Catering for the Retreat guests would not be provided by the appellants, the groups at the Retreat could arrange catering for their group if they did not want to prepare the food themselves.
- The Board asked about parking on the site. The Appellants indicated that vans were the preferred option for groups to access the site and most groups would use or have access to van transportation. A turnaround for vans was located near the main cabin as well as a parking space by the main cabin and parking areas near each of the Bunkies.
- The Appellants understood the Board could apply conditions to their development permit application and that they would like a trial period.

III Reasons for Decision / Findings of Fact

The reasons for the Board’s decision to grant approval for Development Permit Application No. 41/19 are:

- The subject property is located within the Agricultural Conservation District, referenced as Section 8 in the Land Use Bylaw. Under Section 8.3 “Retreat” is listed as a Discretionary Use.
- Under Section 2.4 Definitions in the Land Use Bylaw, Retreat “means a building or land used by small groups for study, relaxation, meditation and similar activities and may include Visitor Accommodation, eating facilities and accessory facilities.”
- Section 2.4 defines Visitor Accommodation (Accommodation, Visitor), as a building or group of buildings containing rooms or units, which are used for temporary lodging...units of facilities may include, but is not limited to an inn, a hotel, a motel, cabins or detached and attached buildings...”.
- The Board considers the Bunkies as “cabins”, which satisfies the use within the definition of Visitor Accommodation.
- Based on the definitions for Retreat and Visitor Accommodation, the Board feels the proposed Retreat conforms with the Agricultural Conservation District and its use as a Discretionary use within the district.
- The change in use of the existing Accessory Building (main cabin) to a Retreat Main Assembly and Cooking Lodge is as acceptable to the Board as the main cabin is the focal point for the retreat application and it will only be used for food storage and preparation and is not for visitor accommodation or residential use.
- The Board reviewed the written and oral submission made at the hearing and is satisfied that the proposed development of a Retreat, detailed in the Appellant’s submission at the hearing, would not unduly affect the amenities of the neighbouring properties.
- The Board noted that there were letters of support and objections submitted at the Hearing, including oral presentations.
- The Board is agreeable to the Appellants request to operate the Retreat for a trial period and considers an eighteen month (18) period to be a satisfactory length of time.

The findings of facts are as follows:

- The subject property is located in the Agricultural Conservation District, identified as Section 8 of the Land Use Bylaw.
- Retreat is listed as a Discretionary Use in the Agricultural Conservation District under Section 8.3 of the Land Use Bylaw.
- The definitions for Retreat and Visitor Accommodation are identified in Section 2.4 of the Land Use Bylaw.

The Board acknowledges the following submissions:

- Verbal support for the appeal was made at the hearing by Angela and Matt Dempster (the Appellants).

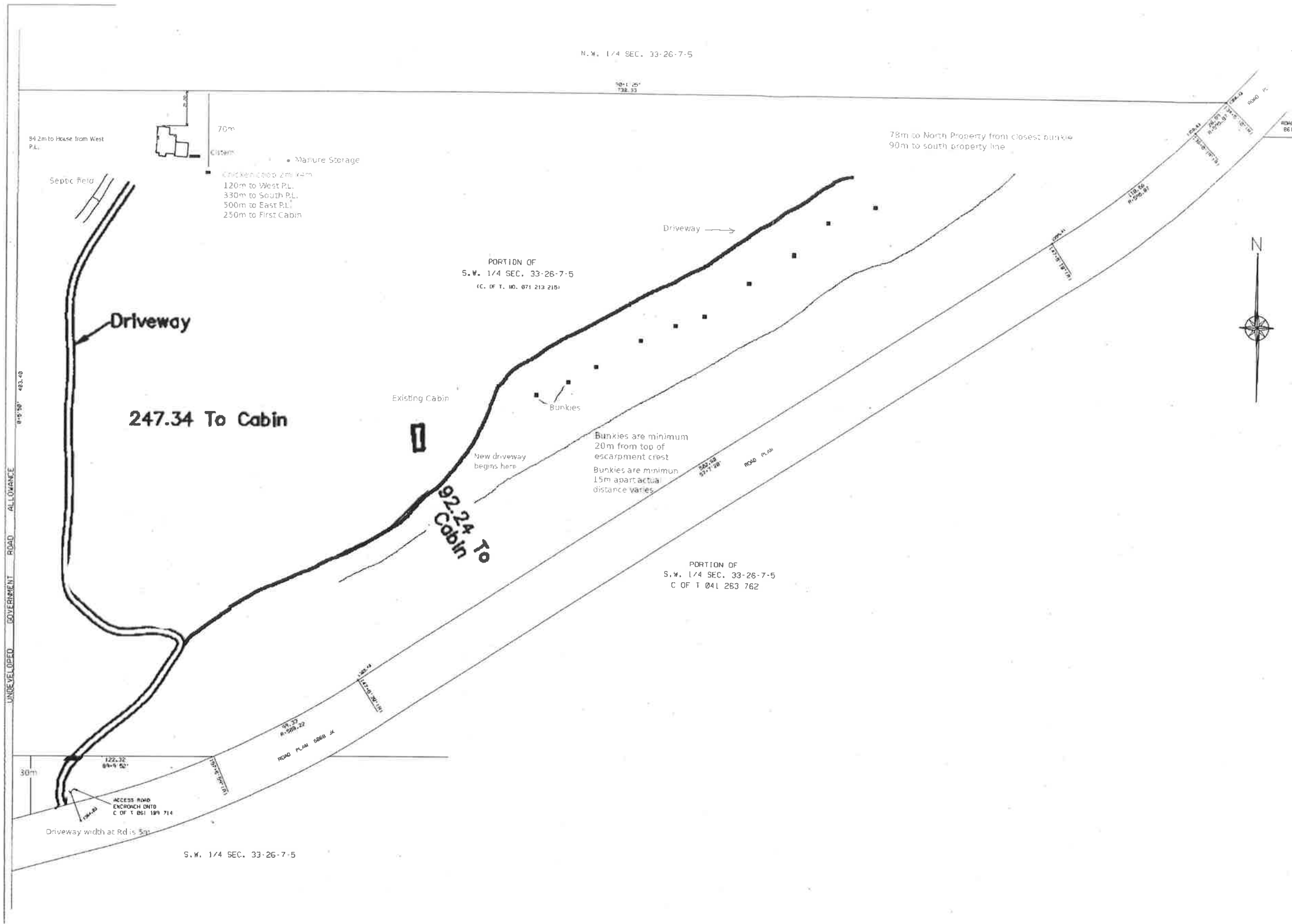
- Verbal support against the appeal was made at the hearing by II. Pepper (speaking on behalf of H. Kirmse), J. Cartwright, S. Wood-Wallace, D. Richards, and P. Ryan (representing the Municipal Planning Commission).

March 5, 2020

DATE


CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

A decision of the Subdivision/Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon, or questions of jurisdiction or law pursuant to, Section 688 of The Municipal Government Act, SA 2000, as amended. An application for leave to appeal to the Appellate Division of the Court of Alberta shall be made to a judge of the Appellate Division within THIRTY (30) days after the issue of the order, decision, permit or approval sought to be appealed.



FOIP

LEGAL DESCRIPTION

PORTION OF
LSD 3 & 6 IN
S.W. 1/4 SEC.

TO THE NORTH AND
EAST OF THE

ROADWAY ON PLAN 6068JK

WITHIN THE

S.W. 1/4 SEC. 33,
TWP. 26, RGE. 7,
W. 50M

SCALE 1:1000

Legend

- A S C M DENOTES ALBERTA SURVEY CONTROL MARKER
- B O C DENOTES BACK OF CURB
- B O W DENOTES BACK OF WALK
- CB DENOTES CATCH BASIN
- CC DENOTES CURB CUT
- CL M DENOTES CHECK MEASURED
- C/L DENOTES CENTRE LINE
- Ha DENOTES HECTARES
- L O G DENOTES LIP OF GUTTER
- LP DENOTES LAMP POLE
- m DENOTES METRES
- M DENOTES MERIDIAN
- Md DENOTES MARKED
- PA DENOTES POLE ANCHOR
- PI DENOTES PLACED
- P/L DENOTES PROPERTY LINE
- Rad DENOTES RADIAL
- Rgr DENOTES RANGE
- R/W DENOTES RIGHT-OF-WAY

SEC. DENOTES SECTION

- SP DENOTES SIGN POST
- Twp DENOTES TOWNSHIP

NOTES

ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF UNLESS OTHERWISE SHOWN. DISTANCES ON CURVES ARE ARC DISTANCES.

ELEVATIONS ARE GEODETIC AND ARE OBTAINED FROM NRCAN PRECISE POINT POSITIONING DERIVED FROM GNSS OBSERVATIONS MAY 4TH, 2012.

TITLE INFORMATION IS BASED ON CERTIFICATE OF TITLE No. 071 213 215. TITLE SEARCH DATED 30/04/12 D M Y.

PROPERTIES ARE SUBJECT TO THE FOLLOWING INSTRUMENTS:

DATE OF SURVEY MAY 4, 2012

SURVEYOR'S INITIALS TB/MB/YK

James Geomatics Ltd.
Alberta Land Surveyor

620, 1205-44th Ave. N.E., Calgary, Alberta T2E 6L5
Ph: (403) 230-0778 Fax: (403) 230-0714
E-mail: jamesg@jgls.com Web No. 901388-12

Welcome to our proposal for Trembling Aspen Retreat, located in the serene Ghost River Valley an hour northwest of Cochrane. Our retreat would be situated in our privately owned 45 acres of pine, spruce and aspen forest, alongside some of the most scenic Forestry Reserve areas of Alberta.



Trembling Aspen Retreat

The retreat would be available for groups to use overnight, or for day use.

How Is Local Traffic Going to be Impacted?

Angela is a stay-at-home mom. This retreat will allow her to continue to work from home, and not drive into Calgary daily for work. Instead, groups using our retreat would be brought out in a Ford Transit-type vehicle – meaning instead of Angela's daily road use, there would be 1 vehicle coming to Trembling Aspen Retreat. In essence, the traffic will be the same, or potentially even less.

Many of the retreats will be led by Matt & Angela themselves. Angela has a Bsc in Psychology, and has a strong interest in providing respite space for families of children on the autistic spectrum.

Parking Plan – there is a parking space in front of the existing cabin that would allow for the transit-type vehicle. In the event that an individual would need to drive to their Bunkie, there will be 1 parking space by each Bunkie.

What is the Retreat's Purpose?

Trembling Aspen Retreat is designed to be an eco-nature experience.

When we moved to our property in 2008, we enjoyed living in a 700 square foot off-grid cabin for the next 9 years, until we moved into our new home on the same property in the summer of 2018.

The cabin meanwhile is sitting there vacant and unused. Which is a shame because it is a wonderful space for people to come and connect with nature off the grid. Over the years, we have had yoga enthusiasts, musicians, and climbers come and stay with us, enjoying the peaceful and quiet environment.

We envision a space where the cabin becomes a communal space for learning and connecting, and a space for groups to prepare simple meals.

Surrounding the cabin in a space of 5 acres, we would like to build 10 tiny off-grid Bunkies in and among the existing forest.

What Would The Retreat Spaces Be Used For?

The retreat Bunkies would be used as flex spaces for relaxation, liberal arts, and physical & spiritual renewal.

- reading - yoga - music/recording
- photography - hiking - therapy
- painting - rest - meditation
- sketching - writing - birding

What Would The Bunkies Look Like?

The Bunkies would be less than 107sq ft in area, and less than 14 feet high. They will be designed to blend in with the natural environment, and will be able to be easily removed and sold and repurposed as backyard shed/flex spaces in the event that the retreat function ceases to exist.

The footprint of the retreat space will encompass less than 0.02% of our 45 acre property.

Like our neighbours, we enjoy living in this special environment and raising our family here. We have a strong interest in seeing this space protected and preserved.

Who Would Use The Retreat?

The retreat space would be used by invited groups only. Groups that have a leadership in place that has been approved by Trembling Aspen Retreat.

Examples of our ideal user groups:

- HerSecondNature
- The Art of Adventure
- Farmgirl Pilates
- Ten Toes Family Yoga
- SnowFun YYC
- The Journey registered groups
- Set Free user groups
- Arise Canada & 4th Muskateer Canada
- Alliance church pastoral & administrative staff

Retreat Density:

As per the Municipal Development Plan, Section 13.3.3- which states a density allowed of one person per acre, Trembling Aspen Retreat would have a maximum of 40 guests at a time, and quite often much less than that.

Each Bunkie would contain one queen bed, and a small loft. Typically, the retreats would be for one individual or one couple per Bunkie, having a usual density of 10 (individuals) or 20 (people as couples) In the event that children attend the retreat, there would be potential for up to 40 guests, as the children would utilize the lofts.

Community & Safety:

Each user group will be asked to provide an itinerary of where & how they plan to spend their time.

Trembling Aspen will be imposing fines, which will be deducted from their damage deposit, if noise restrictions are breached, or if the local forest & eco-system is altered (ie: and trees cut, etc).

Site Servicing:

Wastewater:
Will be collected in wastewater storage containers and disposed of using septic trucks services.

Potable Water:
Will be provided to guests using 5 gallon water jugs and water dispensers.

Anticipated Operating Period:

Bookings will primarily be on weekends, but the retreat will be open for booking 7 days a week, 52 weeks a year.

Guests will have the option of booking:

- day use only
- overnight, up to a maximum of 7 nights

Minimum Group Size:

- 4 guest minimum
- up to 2 different user groups at a time

Maximum Group Size:

- 40 guest maximum



Trembling Aspen Retreat

Events:

No events are to be held on the property.

Activities at the retreat would be meditative, relaxing, and studious in nature.

Firefighting:

Each Bunkie will have a fire extinguisher, as will the existing cabin.

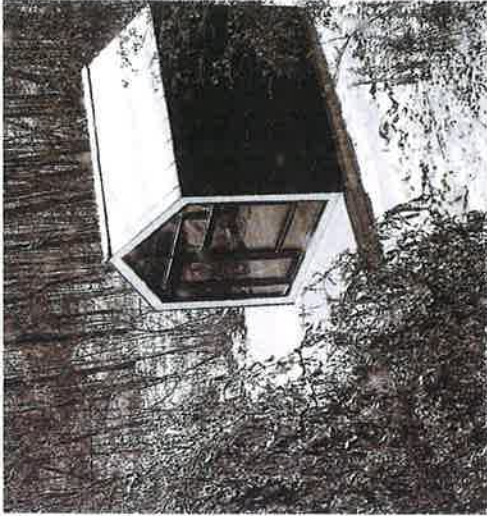
Each Bunkie will have a smoke detector and a carbon monoxide detector.

There will be an AED (Automated External Defibrillator) in the existing cabin, as well as a basic First Aid Kit.

The external material of each Bunkie will steel cladding, and the roofing will be steel as well.

The driveway to the existing cabin, as well as the Bunkies, will be accessible for a firetruck or other emergency response vehicles.

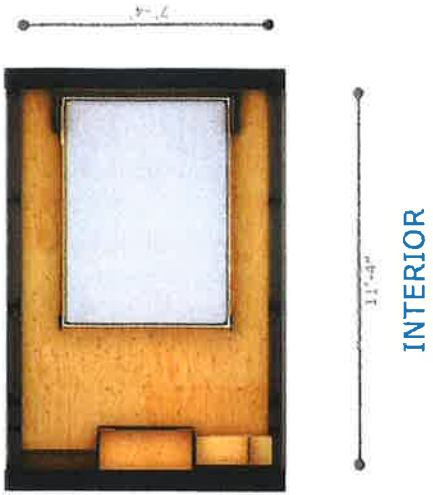
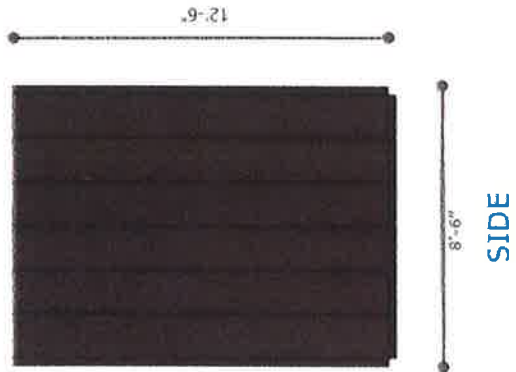
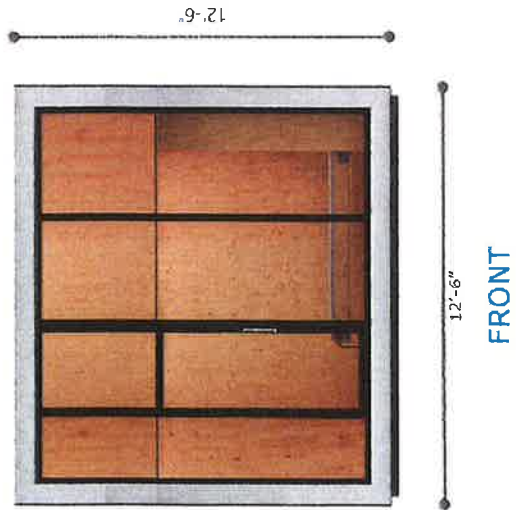
There is access to a 2,000 gallon water tank on site.



(Bunkies in a similar environment in Ontario)



BUNKIE DIMENSIONS
Overall Square Footage: 106.25 sq ft



INDIVIDUAL BUNKIE AREAS



EXISTING CABIN

5.27m x 14.75m = 77sq m

to be used as a family bedroom & a communal eating & meeting area

