



# Municipal District of Bighorn No. 8

No.2 Heart Mountain Drive, P.O. Box 310, Exshaw, Alberta T0L 2C0

Phone: (403) 673-3611 • Calgary Direct: (403) 233-7678

Fax: (403) 673-3895 • Email: [bighorn@md.bighorn.ab.ca](mailto:bighorn@md.bighorn.ab.ca)

## DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: February 8<sup>th</sup>, 2016

Development Permit 65/14, River's Bend Development Inc. (Appellants)  
Lot 37 Block 7 Plan 1513129 in the Hamlet of Dead Man's Flats (the subject property)

### I. Decision

For the reasons outlined below, the Board upholds the 15 January 16 decision of Development Officer to refuse to amend Development Permit 65/14, specifically the condition regarding the provision of barrier free (3) and visitor parking (3) stalls; the appeal of River's Bend Developments Inc., received 18 January 16, requesting an amendment to reduce the total number of stalls to three, is denied.

In upholding the decision of the Development Officer, and in accordance with Section 687 (3) (c) of the Municipal Government Act, the Board hereby varies Development Permit 65/14 by requiring a total of six (6) visitor parking stalls, with none of the stalls being required to be barrier-free.

### II. Background

The Subdivision and Development Appeal Board (the "Board") heard an appeal from River's Bend Development Inc. (the Appellants), with respect to the Development Officer's 15 January 16 refusal to amend Development Permit 65/14. Development Permit 65/14 was issued for the development of a 28 unit multi-dwelling townhouse complex; the Permit included a condition requiring three barrier-free [visitor] parking stalls and three visitor parking stalls, for a total of six visitor stalls. The Appellants were requesting a reduction to one barrier-free stall and two visitor parking stalls.

The subject property is located within the Hamlet Medium Density Multi-Dwelling Unit Residential District (R-M). Part 3 Section 12 of the Land Use Bylaw outlines the requirements for parking stalls within the R-M district.

The appeal hearing by the Board was held on February 7<sup>th</sup>, 2016, at the M.D. Administration building in the Hamlet of Exshaw. The Appellants were present at the hearing (represented by Shane Jonker) and one other attendee in the gallery (Wade Downer, also of River's Bend Developments Inc.). The Board heard from the Appellant and also from the Development Officer. There were no written submissions received, from any other parties/agencies.. Documents were submitted and provided to the Board, as follows:

- Board Secretary's Case Outline/Overview;
- copy of the 15 Jan 16 Notice of Refusal on the request to amend Development Permit 65/14;
- copy of the 18 Jan 16 appeal letter from the Appellants;
- copy of the 18 Dec 15 letter of request to amend DP 65/14 (from the Appellants);
- copy of a site plan of the Subject Property;
- copies of Part 3 Section 3 (Parking and Loading requirements) of the Land Use Bylaw;
- recommended approval conditions to be imposed on approval of Development Permit 65/14 amendment (submitted by the Development Officer).

The Appellants submitted the following documents, as part of their presentation:

- a site plan showing the approved parking layout for the development on the Subject Property (as approved under Development Permit 65/14), with three barrier free parking stalls and three [regular] visitor parking stalls;
- a site plan showing the proposed amended parking layout for development on the Subject Property, with one barrier free parking stalls and two [regular] visitor parking stalls;
- a site plan showing the existing barrier-free parking stalls in front of the individual dwelling units (24 in all) and the proposed additional one barrier free parking stall, for the development on the Subject Property.

There were no submissions received in support of nor in opposition to the appeal.

The aforementioned documents are attached as Exhibits to the minutes of the hearing.

### **Issues Raised**

The following issues were noted as being before the Board:

1. The number and location of the parking stalls.
2. The need (or conversely the lack of need) for barrier free stalls.
3. The availability of on-street parking.

1. The number and location of the parking stalls

The Appellants noted that, pursuant to the provisions of Section 3.12 of the Land Use Bylaw, the development was required to provide only three parking stalls (in addition to those stalls provided with each dwelling unit) to be used as visitor parking; the Development Permit 65/14, therefore, had an additional three stalls requirement, which exceeded the Land Use Bylaw provisions.

The Appellants also noted that, under Development Permit 65/14 as approved, three of the visitor parking stalls were aligned, in a parallel-parking fashion, directly against the fence separating the Subject Property from the adjacent property (a single detached serviced residential dwelling lot), while the remaining three were at the eastern side of the Subject Property, aligned in a perpendicular fashion to River's Bend Drive. It was felt that the location of the three parallel stalls would have a negative impact on the adjacent property, aesthetics-wise.

The Board noted that the parking requirements were a stated condition in Development Permit 65/14 as approved, and that, if it had been felt that six stalls was an excessive requirement, the Applicant/Appellants could have appealed the Development Permit within the statutory time frame allowed for appeals. The Board noted that an appeal had not been filed at that time.

The Board also noted that, with respect to the negative impact on the adjacent property, there are landscaping solutions that could address this: screening of the parking stalls by use of fencing, hedges, trees, etc.

2. The need (or conversely the lack of need) for barrier free stalls.

The Appellants noted that, under Section 3.12 of the Land Use Bylaw, barrier free stalls are not in addition to (regular) visitor parking stalls, but rather that a barrier free stall forms part of the parking stall requirements.

The Board did not have any concerns with the elimination of the designation of barrier-free status on the parking stalls.

3. The availability of on-street parking

The Appellants indicated that any over-flow visitor parking could park on the streets [presumably River's Bend Drive and River's Bend Way]; this could not be confirmed nor refuted at the hearing, by the Development Officer, as she was not aware of on-street parking abilities on the two roads.

In reaching its decision, the Board noted that, while the status of on-street parking abilities would have been informative, the Board members were focused on the issue of on-site parking. There were concerns that deleting three on-site visitor parking stalls from the development could lead to over-reliance on on-street visitor parking, which would impact all residents of the River's Bend community.

**III Reasons for Decision**

The reasons for the Board's decision to uphold the MPC decision are as follows:

- the Board does not believe that the three parking stalls alongside the adjacent single detached serviced residential dwelling lot will materially interfere with, nor affect the use, enjoyment nor the value of that adjacent lot.
- the existing parking requirements (a total of six visitor parking stalls), as approved in Development Permit 65/14, were not appealed at the time of the Development Permit's approval. The Board therefore sees no reason to delete any visitor parking stalls required under the Development Permit.

**IV Findings of Fact**

The findings of fact are:

- The existing parking requirements (a total of six visitor parking stalls), as approved in Development Permit 65/14, were not appealed at the time of the Development Permit's approval.

February 12<sup>th</sup>, 2016  
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.