

Municipality of Crowsnest Pass

CHINOOK INTERMUNICIPAL
SUBDIVISION & DEVELOPMENT APPEAL BOARD

December 11, 2024

1:30 pm

Hearing No. DP 2024-321

Appellant / Applicant: Dell and Danielle Mathews

LIST OF ADDITIONAL EXHIBITS

- I. Development Authority Report to SDAB DP 2024-321



**Municipality of Crowsnest Pass
Subdivision and Development Appeal Board
Development Authority Report**

Meeting Date December 11, 2024 –1:30pm
Application No. DP2024-321
Roll No. 1057354
Civic Address 8630 24 Ave, Coleman
Legal Address Lot 37, Block 1, Plan 2210833
Land Use District Residential R-1
Proposed Development For the operation of a “Tourist Home” (discretionary use)

Development Standards

TOURIST HOME - STANDARDS	PROPOSED	VARIANCE REQUESTED
Minimum separation distance between Tourist Homes - 200m	Greater than 200m	N/A
# of off-street parking stalls (1 stall per 4 guests)	2 stalls	N/A
# of Guests Per Bedroom - Maximum two guests per bedroom	3 bedrooms + 1 Bonus Room Max 2 guests per room	N/A
Maximum Occupancy - Maximum of 6 guests over the age of two in the Residential R-1 district	6 guests	N/A
Maximum Number of Rental Units - Maximum one	1	N/A
Sign – one sign is required, between 0.18m² and 0.72m² in sign area, not exceeding 1.5m in height, and located in the front yard	1 sign that meets the requirements	N/A

Background

- The property is located within the new Aurora subdivision of approximately 45 Residential R-1 lots.
- The subdivision has had approximately ten lots developed of duplexes and single-detached dwellings over the last 2 years.
- The majority of the parcels are under the ownership of the developer.
- The current Land Use Bylaw No. 1165, 2023 requires that a Tourist Home operation obtains a development permit and complies with the standards outlined in the Land Use Bylaw under *Schedule 17 Short-Term Rentals/Bed & Breakfast and Tourist Homes*.
- A Development permit application was submitted on September 23, 2024 for the operation of a Tourist Home with a maximum occupancy of 8 guests. The land use bylaw standard for maximum occupancy in a Tourist Home is 6 guests, therefore the application required a variance.
- Typically, the Development Authority may approve a variance to any development standard. In the case of Tourist Homes and Short-Term Rentals / Bed & Breakfasts, the Municipal Council, based on a balanced view of all public input, stipulated that the Development Authority shall not approve variances of specific standards, including the maximum occupancy.
- As a result, the Development Authority could take one of two approaches to the application that proposed an occupancy of 8 guests:
 - deny the application which requested a variance of the maximum occupancy from six to eight guests, or
 - approve the development permit while denying the variance request for the maximum occupancy, and impose a condition that the maximum occupancy shall not exceed six guests over the age of two years.
- After some discussion between the applicant and the Development Office, the applicant revised the application to a maximum of 6 guests. The application was deemed complete on October 14, 2024 meeting the 20 day requirement.
- Section 11.2 (c) in the Administration section of the Land Use Bylaw authorizes the Development Officer to decide upon a discretionary use Tourist Home application that meets all the applicable minimum standards. The Development Officer approved the revised application because all the minimum standards were met:
 - Schedule 17 section 2.3 maximum occupancy standard is 6 guests over the age of 2 for a Tourist Home in the Residential R-1 Land Use District.
 - The dwelling unit contains 3 bedrooms, and 1 bonus room. Section 2.3 of Schedule 17 Standards for Short-Term Rentals / Bed & Breakfast and Tourist Homes stipulates a maximum of 2 guests per bedroom including one bonus room. Although the dwelling can accommodate 8 guests, the Development Authority does not have the mandate to vary the maximum occupancy standard of 6 guests in the R-1 District [see Land Use Bylaw Administration section 5.1 (b) (iii)].

- The proposed site plan provides two (2) parking stalls. Section 8 of Schedule 6 Standards for Off-Street Parking and Loading Areas requires a minimum of 1 parking stall per four (4) guests. The parking requirement for 6 guests is two stalls.
- The number of parking stalls and bedrooms meet the standards to accommodate up to eight guests however, the maximum occupancy in the Residential district is six (6) guests regardless of the parking and sleeping areas available.
- The proposed sign meets the minimum standards in the Sign Standards section 2.9 of Schedule 17.
- The application was deemed complete on October 14, 2024 and a decision was made on October 24, 2024. An appeal was made within the 21- day appeal period on November 12, 2024.
- The applicant was advised that they may appeal the decision of the Development Authority to the Subdivision and Development Appeal Board, who is not bound by the prohibition against the approval of variances to specific standards [refer s. 687 (3) (a.3) and (d)].
- In 2023 when Municipal Council adopted the bylaw to regulate Tourist Homes in the community, it was done with significant public consultation. Council heard all sides of the matter and, after careful consideration, they restricted the maximum occupancy to six guests in the Residential districts. Although it is within the SDAB’s mandate to vary the standard for maximum occupancy, doing so would go against the specifications of a bylaw that was developed for Tourist Homes after broad public input. SDAB decisions do not typically set a precedent, but in this matter it is possible and even likely that the granting of a variance to the maximum occupancy could undermine the fundamentals of Council’s direction for Tourist Homes.

Grounds for Appeal

Municipal Government Act, s. 685(1) provides that the person applying for a development permit may appeal to the SDAB when a development permit is issued subject to conditions under s. 685 (1)(b).

Section 686 (3) (c) of the MGA requires that the SDAB must notify 1) those owners required to be notified under the land use bylaw, and 2) any other person that SDAB considers to be affected by the appeal.

Based on the above considerations, the grounds for the appeal are met.

Considerations in Making a Decision

The Subdivision and Development Appeal Board (SDAB) may:

1. Deny the appeal of the discretionary use development permit and let the development permit stand with conditions, pursuant to section 685(1)(b) of the MGA,

or

2. Uphold the appeal of the discretionary use and approve the development permit in its entirety with the variance to the maximum occupancy.

or

3. Issue a development permit of its own,

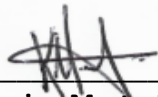
and in the event of 2 or 3 above, pursuant to Municipal Governments Act, s. 687 (3) (a.3) and (d), may issue a development permit even though the proposed development does not comply with the provisions of the Land Use Bylaw if, in its opinion,:

- a) the proposed development would not:
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land,

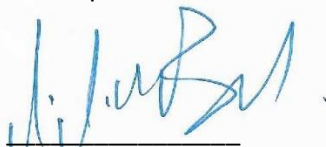
and

- b) the proposed development conforms with the use prescribed for the subject land and building in the Land Use Bylaw.

The Development Authority respectfully requests that the SDAB carefully considers whether it is prudent or not to approve a variance to the maximum occupancy for this Tourist Home, and consider the potential implications of this decision.



Katherine Mertz, B.SC
Development Officer



Johan Van Der Bank, RPP, MCIP
Manager Development & Trades

SCHEDULE 'A'

DP2024-321

