

REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

DECISION

Hearing Date: March 24, 2025
Appellant: Salty Cat Inc.
Lands: Lot 2, Block 1, Plan 152 3551 (the "Site")
Appeal: Stop Order issued November 12, 2024

A. INTRODUCTION

1. On November 12, 2024, the County of Stettler No 6 (the "County") Development Authority (the "DA") issued a Stop Order with respect to a recreational vehicle park/campground ("RV Park") and recreational vehicle storage ("RV Storage") on the Site on the basis that the development does not have a development permit. The Appellant appealed the Stop Order to the Regional Subdivision and Development Appeal Board (the "SDAB").

B. PRELIMINARY MATTERS

2. Michael Keyes, counsel for the Appellant, requested that the hearing be recorded. The SDAB agreed to record the hearing.

3. There were no objections to the SDAB members and no objections regarding the hearing process.

4. There were no other preliminary issues raised.

C. SUMMARY OF HEARING

Development Authority

5. Craig Teal, DA, and Alifeyah Gulamhusein, legal counsel for the DA, made submissions on behalf of the DA. Andrew Brysiuk was also in attendance on behalf of

the DA. The DA provided the SDAB with a written submission, which is on the SDAB file. To summarize the DA's submissions:

- (a) The Site was subdivided from SW 34-38-22 W4M in 2015.
- (b) RV Park and RV Storage with approximately 65 recreational vehicle sites on the south west portion of the Site (the "Original Development") has been operating since at least 1978.
- (c) In approximately 2018, the north part of the Site (north and east of the Original Development) was developed with gravel pads and other infrastructure. This area is outlined in pink on the Stop Order (the "Subject Area").
- (d) By 2024, the Subject Area was being used for RV Park and RV Storage as an expansion of the Original Development.
- (e) The Site has been subject to various land use bylaws and subject to various rezonings. The current zoning of the Site is Recreational Facility (RF) District under County of Stettler Land Use Bylaw No 1443-10 (the "LUB").
- (f) Recreational Vehicle Park and/or Campgrounds are a discretionary use in the RF District. Recreational Vehicle Storage is not a permitted or discretionary use in the RF District.
- (g) Since the time of the Original Development, the County's land use bylaws have required that a development permit be obtained for any development (subject to listed exemptions).
- (h) The County did not issue a development permit for the Original Development or any subsequent development on the Site.
- (i) On June 15, 1979, the County Administrator issued a letter indicating that the County "has no objection to the operation of a Holiday Trailer Park on

... SW 34-38-22-4, adjacent to the Red Deer River” and that “[t]his approval is for a one year period” (the “1979 Letter”).

- (j) The DA inspected the Site in 2024 and determined that it was being used for RV Park and RV Storage without a development permit, contrary to the LUB. The DA subsequently issued the Stop Order.
 - (k) The SDAB must determine whether the Stop Order was properly issued and whether there were grounds for the Stop Order. The SDAB may confirm, vary or revoke the Stop Order.
 - (l) The Stop Order meets all technical requirements and therefore was properly issued.
 - (m) There is no development permit for RV Park and/or RV Storage on the Site. The 1979 Letter is not a development permit. Even if it was a development permit, it was time limited to one year.
 - (n) Even if there was a development permit for the Original Development, there has been expansion of the RV Park and RV Storage, which is an intensification of the use and therefore requires a development permit.
 - (o) The current RV Park and RV Storage is not a non-confirming use as it was not a legal use when it commenced. It is an unauthorized use.
 - (p) Past failure to take enforcement action does not preclude issuance of the Stop Order.
6. In response to questions from the SDAB, the DA advised:
- (a) The 1979 Letter was in response to a request related to a provincial licence. There is no record of any follow up.
 - (b) There is no development permit for RV Park and/or RV Storage on the Site. Therefore, the Stop Order applies to all development on the Site, including

the Original Development. The instructions regarding compliance focus on the Subject Area.

- (c) The County never issued a comfort letter.
 - (d) The DA does not have authority to approve a use that is not allowed in the LUB. Only Council can set the uses through the LUB.
7. In response to questions from Mr. Keyes, the DA advised:
- (a) Zoning of the Site prior to 1979 was Agricultural as that was the default zoning. Subsequent County documents also indicated that the previous zoning was Agricultural.
 - (b) The County would not normally indicate that development approvals are outstanding in a letter such as the County letter to Mr. Mercier dated August 26, 2013.
 - (c) There are traffic, flooding and other safety concerns related to the operation of the RV Park and RV Storage on the Site.

Appellant

8. Allan Burton, the Appellant's representative, and Mr. Keyes made submissions on behalf of the Appellant. The Appellant also called Shane Mercier, the most recent former owner of the Site, as a witness. The Appellant provided the SDAB with a written submission, which is on the SDAB file.

9. To summarize Mr. Keyes' submissions:
- (a) The Site has been used continuously for RV Park and RV Storage since 1979.
 - (b) The 1979 Letter from the County is a comfort letter to the province confirming that there was development approval for the Original Development.

- (c) The 1979 development approval was not restricted to a portion of the Site. It applied to the entire Site.
- (d) The Original Development was a permitted use at the time of the 1979 Letter. Therefore, the County did not have authority to impose a time limit and any time limit on the approval is of no effect.
- (e) The “one year period” referred to in the 1979 Letter requires that development commence within one year.
- (f) There is no boundary to separate the location of the Original Development from the Subject Area.
- (g) The Original Development was not limited to a specific number of sites.
- (h) The entire Site has been available for use as RV Park and RV Storage since the Original Development commenced and the Subject Area has historically been used as part of the RV Park and RV Storage. Storage is only available as an ancillary use to seasonal users of the RV Park.
- (i) The Site has been classified as non-residential for property tax assessment and taxation purposes.
- (j) In light of the foregoing, the use of the entire Site for RV Park and RV Storage is a legal non-conforming use.
- (k) The work done in 2018 in the Subject Area was not a new development. It simply facilitated and organized the area for its already existing use as RV Park and RV Storage.
- (l) The Stop Order applies only to the Subject Area, which suggests that there was development approval for RV Park and RV Storage in the area of the Original Development. If this is the case, then the development approval applies to the entire Site.

- (m) The 2011 subdivision approval referred to a total of 89 recreational vehicle sites, all of which were within the current boundaries of the Site. The 2015 subdivision approval confirms that as of that time, all uses of the Site were legal.
- (n) In 2018 and again in 2022, the County advised Mr. Mercier that there were no outstanding development approvals related to the Site.
- (o) The Appellants made a significant investment in the purchase of the Site based on the representation made by the County to Mr. Mercier. The cost of complying with the conditions in the Stop Order is significant.
- (p) There is no imminent danger or harm associated with the use of the Site for RV Park and RV Storage. Enforcement is discretionary. The SDAB should exercise its discretion not to enforce in the absence of imminent danger or harm.
- (q) If the SDAB decides to uphold the Stop Order, the SDAB should allow additional time for compliance.

10. Shane Mercier, the former owner of the Site, provided evidence to the SDAB. The Appellant provided an Affidavit from Mr. Mercier, which is on the SDAB file. To summarize Mr. Mercier's evidence:

- (a) The Site was consistently used for RV Park and RV Storage during the time that he owned it.
- (b) There has been no expansion as the entire Site was used as RV Park and RV Storage.
- (c) The work done in 2018 to the Subject Area was not to create a new use but simply to organize the existing use. The County was aware of the 2018 work.
- (d) In 2022, the County confirmed that use of the Site was in compliance.

11. Mr. Burton also provided evidence on behalf of the Appellant. The Appellant provided written notes of Mr. Burton's evidence, which is on the SDAB file. To summarize Mr. Burton's evidence:

- (a) The Site has been used for an RV Park and RV Storage for 45 years.
- (b) There was no indication that there was any outstanding development approvals related to the Site.
- (c) There are no problems associated with the use of the Site for an RV Park and RV Storage. There is no compelling reason for the Stop Order.
- (d) The cost of complying with the Stop Order is prohibitive.

12. In response to a question from the SDAB, the Appellant advised that the bare land condominium subdivision did not proceed.

13. In response to questions from Ms. Gulamhusein, Mr. Burton clarified his role with the Appellant.

Closing

14. Both parties made closing comments that reiterated their earlier submissions.

15. Both parties confirmed that they did not have any procedural concerns not previously raised and had a fair hearing.

D. DECISION

16. The SDAB allows the appeal and varies the Stop Order by replacing the directions and deadlines on page 3 with the following:

- (a) no additional recreational vehicles, related accessory structures, chattels or other improvements shall be placed on the Subject Area;

- (b) use of any of the recreational vehicles, related accessory structures, chattels or other improvements currently located on the Subject Area shall cease no later than April 30, 2026;
- (c) all recreational vehicles, vehicles, accessory structures such as sheds, gazebos, decks, chattels such as barbeques and outdoor furniture, and other improvements shall be removed from the Subject Area no later than April 30, 2026;
- (d) the Subject Area shall be restored to its pre-development state by removing all roads, gravel pads, infrastructure such as electrical services, water services and wastewater collection services, any similar improvements to those listed, and re-seeding all disturbed areas with grass no later than April 30, 2026;
- (e) in the alternative to conditions (a) – (d), the Appellant shall obtain a development permit for a recreational vehicle park/campground, recreational vehicle storage and all structures, improvements and infrastructure on the Subject Area no later than April 30, 2026.

E. REASONS FOR DECISION

17. In considering an appeal from a Stop Order, the SDAB must determine:
 - (a) Whether the Stop Order was properly issued;
 - (b) Whether there were grounds for the Stop Order, namely was there a breach of the LUB or *Municipal Government Act* (the “MGA”);
 - (c) If the SDAB determines that the Stop Order should be upheld whether the conditions should be varied.
18. There was no suggestion that the Stop Order was not properly issued. Based on the evidence and a review of the Stop Order, the SDAB is satisfied that the County met the technical requirements for issuance of the Stop Order.

19. The main issue before the SDAB was whether there was a development permit for RV Park and RV Storage on the Site, such that it could be treated as a non-conforming use under section 643 of the *MGA*. This involved a consideration of:

- (a) Whether the 1979 Letter was a development permit (or evidence of development approval);
- (b) Whether the 1979 Letter applied to the entire Site.
- (c) The effect of the “one year period” in the 1979 Letter.

20. Upon careful review of the 1979 Letter and other surrounding evidence, the SDAB finds that the 1979 Letter is confirmation of the existence of a development permit for what was referred to as a “Holiday Trailer Park” on SW 34-38-22 W4M. The SDAB further finds that, on the face of the 1979 Letter, the development permit was not confined to a particular portion of SW 34-38-22 W4M, and therefore included the entire Site.

21. The SDAB considered the “one year period” referenced in the 1979 Letter. The SDAB accepts the Appellant’s submission that the one year period refers to the time for commencement of development. However, upon reviewing all of the surrounding evidence and based on the wording of the 1979 Letter, the SDAB finds that the one year period was a reference to a condition of development approval that the development approval only applied to development commenced within the one year period. After the expiry of the one year period, the development approval was no longer in effect. As such, development commenced outside the one year period would require a new development permit.

22. The SDAB reviewed the aerial photos and 1987 rezoning, which only rezoned the south portion of the Site adjacent to the Red Deer River area. Based on this evidence, the SDAB finds that only the Original Development was commenced before the expiry of the one year period. The Subject Area was not used for RV Park and RV Storage until after the expiry of the one year period. Therefore, by that time, any approval granted by the 1979 Letter with respect to the Subject Area for RV Park and RV Storage had expired

and use of the Subject Area for RV Park and RV Storage required a new development permit.

23. In summary, the SDAB finds that:

- (a) The Original Development is a non-conforming use and does not require a development permit.
- (b) The RV Park and RV Storage in the Subject Area is not a non-conforming use and requires a development permit.

24. The Appellant raised the following arguments:

- (a) The Appellant argued that the SDAB should consider whether there were any serious problems associated with the use of the Site for a recreational vehicle park/ campground and recreational vehicle storage that the Stop Order addresses.
- (b) The Appellant also raised the cost and inconvenience of complying with the Stop Order.

25. The SDAB is of the view that while these arguments may be relevant in considering whether to vary the Stop Order, they are not relevant to the issue of whether the Stop Order should be upheld.

26. The SDAB also considered the representations alleged to have been made by the County regarding compliance. While these representations (if proven) may give rise to other legal recourse, they are not relevant to the issue of whether the Stop Order should be upheld.

27. Based on the foregoing, the SDAB finds that there were valid grounds for issuance of the Stop Order with respect to the development of RV Park and RV Storage on the Subject Area as there is no development permit for that development and it is not a non-conforming use.

28. The SDAB then considered whether to vary the Stop Order. On this issue, the SDAB took into consideration the Appellant's submissions regarding the time and cost of compliance, as well as the impact on users of the development. The SDAB also accepts the evidence that there are no pressing issues of safety to be addressed with respect to the development and notes that the development has been in continuous operation for many years with the County's knowledge.

29. The SDAB is of the view that the time to comply with the Stop Order is insufficient given the scope of the work that is required for compliance. The SDAB has varied the Stop Order to allow the Appellant more time to either take steps to remove the RV Park and RV Storage from the Subject Area or obtain a development permit with respect to the Subject Area.

Dated this 1st day of APRIL, 2025

Per: 

Chair
Regional Subdivision and
Development Appeal Board

IMPORTANT INFORMATION

This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c. M-26.