

HEARING DATE: SEPTEMBER 14, 2021

BOARD ORDER: D11/21

APPELLANT: W. J. THOMSON

APPELLANTS AGENT: L. ZACARUK

APPEAL AGAINST: STOP ORDER

SUBJECT PROPERTY: NW 22-20-02 W5M (THE "PROPERTY")

BEFORE: CHAIRMAN, G. BEACOM; BOARD MEMBERS, RD MCHUGH, B. MEYERS, B. ROBSON, D. MACDONALD; AND CLERK, F. FAIRWEATHER.

DECISION

Having been satisfied that notice of this hearing was provided in accordance with the Municipal Government Act, R.S.A. 2000, Chapter M-26;

And upon having read the materials provided, and upon having heard the representations from the Appellant, Appellant's Agent, Members of the Gallery, the Emergency Services Manager and the Development Authority for Foothills County with respect to the appeal filed by the Appellant in accordance with Section 685 of the Municipal Government Act against a Stop Order issued on July 30, 2021 for activities occurring on NW 22-20-02 W5M that were not in compliance with the current Land Use Bylaw 60/2014;

The Subdivision and Development Appeal Board for Foothills County (the "Board") has decided to:

Confirm that the Stop Order was issued properly as a result of activities occurring on NW 22-20-02 W5M that were not in compliance with the current Land Use Bylaw 60/2014;

And extend the time by which the landowner is required to meet all requirements of the Stop Order Notice to March 14, 2022. The Stop Order now reads as follows:

Accordingly, you are hereby ordered to stop the unauthorized development and use of the aforementioned lands and the buildings thereon and comply with the Land Use Bylaw by:

1. Effective as the date on the Stop Order, that no additional vehicle or parts thereof are to be brought on to the property.
2. That the owner must begin the process of removal of vehicles, vehicle parts, vehicle components, including any and all accessories therefor, and additionally any building materials from the parcel by March 14, 2022.
3. That the owner must provide the County with a comprehensive written plan by March 14, 2022, which details the removal of non-registered vehicles and vehicle parts from the parcel. This plan is to provide a clear schedule for the timely completion of the removal of non-registered vehicles and vehicle parts as well as completion of any necessary remediation of the parcel. If the owner fails to provide

the removal plan in sufficient detail illustrating their commitment to bring the parcel into the compliance with the Land Use Bylaw and the Community Standards Bylaw to the County by March 14, 2022, the County will provide the owner with a removal and remediation plan and schedule to bring the parcel into compliance.

4. That the County will be undertaking an inspection of the parcel and will be providing the landowner advance notice of that inspection date.

Failure to comply with the order and/or make the necessary application will have Foothills County taking whatever actions that are determined necessary to bring the Lands into compliance, which may require seeking legal action for a court order or other relief from the Court of Queen's Bench of Alberta pursuant to Section 554 of the *Municipal Government Act*.

INTRODUCTION

The subject property is a 160.0 +/- acre Agricultural District parcel located approximately 800 meters or 1 quarter section north of Highway 7 west and approximately 3 kilometers northeast of the Town of Black Diamond.

On July 30, 2021 the Development Authority for Foothills County issued a Stop Order as a result of activities occurring on NW 22-20-02 W5M that were not in compliance with the current Land Use Bylaw 60/2014.

An appeal was received from the appellant, William James Thomson, on August 17, 2021 against the Stop Order.

ISSUES

Stop Order

- [1] The Development Authority submitted that a Stop Order was issued on July 30, 2021 for the contravention of the Land Use Bylaw 60/2014 relating to the storage of more than 5 unlicensed and or unregistered, or inoperative vehicle or parts thereof being kept on the Lands in absence of an issued Development Permit; and, The storage of vehicles and mobile equipment located outdoors, visible from public roadways and adjacent properties on the Agricultural District Land and reiterated the Stop Order requirements.
- [2] The Development Authority submitted that the Development Appeal Board is to determine if the Stop Order was properly issued and whether there is a breach against Part 17 of the Municipal Government Act and/or the Land Use Bylaw and warranted the issuance of the Stop Order.
- [3] The Development Authority submitted that as per Section 645 of the Municipal Government Act of Alberta, a Stop Order is issued when the Development Authority finds that a development, land use, or use of a building is not in accordance with the Municipal Government Act, Land Use Bylaw, a Development Permit, or a Subdivision Approval.
- [4] The Development Authority submitted that the Appellant has confirmed that the operation on the subject parcel has been conducted for more than 45 years and that the operation existed prior to bylaws and land use rules later formalized by the

County.

- [5] The Development Authority submitted that the Zoning and Building Bylaw was adopted in 1957 and was replaced in 1971. In 1967 aerial imagery shows there was no apparent or visible development beyond the farmstead.
- [6] The Development Authority submitted that the Development Control Bylaw was adopted in 1971. Aerial imagery shows that the southwest corner of the subject lands had development occurring on the parcel with no previously approved Development Permits in 1974.
- [7] The Development Authority submitted that Section 2(5)(g) of the Development Control Bylaw states that 'Development includes: the use or more frequent use for storage purposes, or for the repair of motor vehicles or other types of machinery, of land that was hitherto either not used at all or not used so frequently for those purposes'.
- [8] The Development Authority submitted that Section 5(1) of the Development Control Bylaw states 'except as provided in section 5(2) no development whatsoever shall be undertaken anywhere within the Municipality unless (a) a Development Permit has first been issued; and (b) a building Permit has been obtained when a building By-Law so requires'.
- [9] The Development Authority submitted that Land Use Bylaw 566 was adopted in 1981 and Section 1.1.1 of Land Use Bylaw 566 states that 'except as provided in section 1.2.0 of this Bylaw, no person shall undertake any development unless: (a) A Development Permit has first been issued pursuant to this Bylaw; (b) The Development is proceeded with in accordance with the terms and conditions of the Development Permit issued in respect of the development; and (c) a Building Permit has been obtained when a Building Bylaw so requires'. Aerial imagery shows that the southwest corner of the subject lands had increased development occurring on the parcel with no approved Development Permits in 1982-1983. Aerial imagery from 1998 showed an increase in development spreading further east and north into the subject lands and no Development Permits had been approved for this development at the time.
- [10] The Development Authority submitted that Land Use Bylaw 1/99 was adopted in 1999 and introduced the definition for Auto Wreckers which means 'the storage, disassembly, dismantling, junking, or keeping of more than 3 unlicensed vehicles, or parts thereof, on a lot under 8.5 ha (21 acres) or more than 5 unlicensed vehicles, or parts thereof, on a lot 8.5 ha (21 acres) or greater'. Aerial imagery from 2005 shows increased development occurring on the parcel with no previously approved Development Permits.
- [11] The Development Authority submitted that Land Use Bylaw 60/2014 was adopted in 2014 and Auto Wrecker is not a listed permitted or discretionary use under the Agricultural Land Use District within Land Use Bylaw. Aerial imagery from 2021 showed an increase in development with no previously approved Development Permits.
- [12] The Development Authority submitted that previous development permit approvals for the subject property include Development Permit 5589 - to allow for the continued use of one of the two temporary mobile homes for farm help (14' x 68'

northern mobile home), Development Permit 6043 - to allow for the continued use of one of the two temporary mobile homes for farm help (12' x 65' southern mobile home) and Development Permit 96D 7563 - to allow for an office in the home for a massage therapy business. The Development Authority stated that there was no record of any renewal for Development Permits 5589 and 6043 to allow for continued use and there is no record of a business license application for the massage therapy business. The Development Authority noted that Development Permit applications were submitted by the appellant between the 1980's and 1990's for approval consideration and no previous development permits have been approved for an auto wrecker type business on the subject property.

- [13] The Emergency Services Manager submitted that once a complaint is received by the Protective Service Department, Municipal Enforcement is bound to look at the nature of the complaint and complete an investigation. An initial complaint was received on January 26, 2021 and Municipal Enforcement found that there were no approvals in place for the auto wrecker type business located on the subject property. Aerial imagery from 2018 showed an estimate of approximately 850 vehicles/trailers and large vehicle parts located on the property.
- [14] The Emergency Services Manager submitted that a letter was sent to landowner W. Thomson on February 22, 2021 which identified the nature of concerns on the property, the relevant sections of the Land Use and Community Standards Bylaw, the County's wish to work collaboratively on a remediation process, that Mr. Thomson is to stop bringing additional vehicles, trailers, or other items on the property and lastly requested a meeting to discuss the current state of the subject property and establish an incremental clean up/remediation plan.
- [15] The Emergency Services Manager submitted that Mr. Thomson had left her two voicemail messages on March 12, 2021 and on March 16, 2021 she made a return phone call to Mr. Thomson reiterating the same points as made in the February 22, 2021 letter. It was noted that during the phone call Mr. Thomson agreed that the state of the property was not good, and he did intend to reduce the number of items on the property. Mr. Thomson stated the price of iron at that time was too low to remove the items. Mr. Thomson also explained concerns that he has paying a commercial tax rate on the property for the past 20 years.
- [16] The Emergency Services Manager submitted that she offered to facilitate a meeting to include the assessment, development, landfill, and patrol departments to discuss his concerns, but Mr. Thomson indicated he was not able to meet in person as he had a busy schedule and stated he would call back in a few weeks.
- [17] The Emergency Services Manager submitted that a second complaint was received on March 31, 2021 stating a derelict trailer was brought onto the subject property and off loaded on March 15, 2021. The complaint also specified that there have been other instances of vehicles and other items in states of disrepair being brought onto the property between January 17, 2021 (the initial complaint) and the current complaint.
- [18] The Emergency Services Manager submitted that a second letter was sent to landowner W. Thomson on April 20, 2021 which identified steps to bring the property into compliance, advise that there had been no Development Permit issued for the subject property related to an Auto Wrecker Type business, advised that a development permit could be applied for by May 17, 2021 regarding the activities currently operating on the property and noted that if a permit was issued there would be conditions to comply with. Lastly, the letter noted that the County

wishes to work with Mr. Thomson collaboratively but if there is no compliance, further enforcement action may be taken pursuant to the Land Use Bylaw, Community Standards Bylaw, or the Municipal Government Act.

- [19] The Emergency Services Manager submitted that Mr. Thomson left messages on April 27, 2021 and May 3, 2021 requesting a call back and on May 4, 2021 a phone conversation transpired where Mr. Thomson noted some items have been removed but some items need to remain as they may be needed for an upcoming movie, the property should be grandfathered and some items should be allowed to remain. Mr. Thomson noted he did not wish to proceed with making a Development Permit Application due to concerns of the application cost and tax increase.
- [20] The Emergency Services Manager submitted that a third complaint was received on May 11, 2021 stating three more vehicles have been brought to the property.
- [21] The Emergency Services Manager submitted that a fourth complaint was received on June 28, 2021 stating two loads had been dropped off onto the property on June 27, 2021.
- [22] The Emergency Services Manager submitted that after two letters and phone conversations with W. Thomson and it was determined that items are continuing to be brought onto the property, a decision was made by Foothills County to proceed with a Stop Order. The Stop Order was posted at the Thomson Property on July 30, 2021.
- [23] Agent K. Hodson submitted that she will speak on behalf of Agent L. Zacaruk, Appellant W. Thomson and the other family members in attendance at this hearing as to why the Stop Order should be overturned.
- [24] Agent K. Hodson submitted that the definition for grandfather status is being exempt from a new law or regulation and the grandfather clause refers to when an old rule continues to apply to an existing situation and a new rule will apply to all future cases.
- [25] Agent K. Hodson presented an aerial photo from 1966 noting an increase in vehicles/machinery and submitted that historically, family and friends relied on the Thomson family as mechanics, and often purchase entire vehicles rather than individual parts in case more repairs were need at a future time.
- [26] Agent K. Hodson submitted that over time the number of vehicles increased as other residents within the County were looking for storage, trading, or disposal. Mr. Thomson had a desire to reduce waste and had become a local resource for used parts.
- [27] Agent K. Hodson submitted that the Thomson property has been recognized as a junk yard on a 1977 Canadian Topographical map.
- [28] Agent K. Hodson submitted that a bylaw was created restricting County residents to have less than 3-5 unregistered vehicles. It was estimated that in 1995, a Council meeting took place regarding Mr. Thomson's property. K. Hodson noted that the yard was well established prior to the adoption of the Bylaw, and she has had conversations with attendees of that particular Council meeting, and they have confirmed that a decision was made to grandfather the yard. It was suggested at this meeting that commercial taxes may need to be assessed.
- [29] Agent K. Hodson reiterated statements regarding the grandfather status from the following submitted letters: D. Lansdell, D. and J. Ball and G. Duke.

- [30] Agent K. Hodson submitted that in 1998 the residential and farmland property tax for the subject property was \$958.00. In 1999 commercial property taxes were included within the assessment and tax notice and the total tax amount was \$2,008.00. In 2021 commercial property taxes were included within the Property Taxes and Assessment values and the total tax amount was \$5,926.00. K. Hodson provided a tax summary from 1998-2021 and noted that the total tax paid was \$94,500.00 and of that amount \$43,500.00 was commercial tax paid.
- [31] Agent K. Hodson provided a summary of the tax narrative from 2002-2021 and noted in 2002 the narrative stated, "add scrap pile – 3 acres" and in the notes portion it stated, "corral cleaning business out of shop and storage of wrecked car".
- [32] Agent K. Hodson submitted that in discussions with other farmers who have houses, working yards, mechanics shops and calving facilities, she found they only pay agricultural taxes resulting in her belief that the small custom corral cleaning business is unrelated in the land tax assessment, leaving only the salvage yard to be classified as commercial. K. Hodson provided a comparison of 2021 Combined Assessment and Tax Notice from W. Thomson and a neighbouring landowner.
- [33] Agent K. Hodson reiterated statements of support from the following submitted letters: neighbours signature list dated September 6, 2021, G. Thomson, J. Mikkelsen, P. Rowland, S. Loberg, L. and S. Cannon and L. Larson,
- [34] Agent K. Hodson submitted that the yard has attracted the public to use the space as a photo shoot location.
- [35] Agent K. Hodson submitted that the subject property is a film industry asset as it is a good location for filming and obtaining props. The location and props have been used as early as 1986 for music video's, documentaries, and movies.
- [36] Agent K. Hodson referenced a CBC article from July 2021 and submitted that the subject property creates an economic impact and creates significant revenues for Foothills County.
- [37] Agent K. Hodson reiterated statements regarding the film assets as a location for filming and set dressing from the following submitted letters: A. McCullagh, L. Azevedo, H. Roscorla and A. Humphries.
- [38] Agent K. Hodson submitted that the yard and its operations are slowing down and items are being reduced. More than 20 vehicles have removed prior to the Stop Order being issued. It was noted that since the letter was received from Municipal Enforcement in February 2021, the front of the property is now able to be locked and will be replaced with a more permanent fence, and the portion of the property along the road allowance is re-organized and will be maintained. At this time, the property is being reorganized and equipment that no longer serves the family activities are being removed. This is occurring over time so that items may be organized, sold, recycled, and disposed of in a cost effective and environmentally safe manner.
- [39] Member of the Gallery D. Lansdell submitted that he had been to the subject property over the summer and noted that it was apparent that items had been removed from the property and he is of the opinion that the Stop Order is irrelevant at this time.

FINDINGS OF FACT

- [40] The subject lands have been used to operate an auto wrecker type business on a 160 +/- acre Agricultural District Parcel on Ptn: NW 23-20-02 W5M;
- [41] The auto wrecker type business was operating without appropriate approvals by Foothills County;

REASONS FOR DECISION

- [42] Based on the testimony heard from the Development Authority, the Appellant, the Agent and the Gallery, the Board determined that the Auto Wrecker Property does not have the required Municipal approvals in place.
- [43] On the issue of 'grandfathering' of a use as described by the landowner's representative, the Board considered the definition of a 'Non-conforming' use under the Municipal Government Act, R.S.A. 2000, Chapter M-26; Part 17, Definitions – S. 616(r) and S. 643(1) 'Non-conforming use and non-conforming buildings' which states that 'If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.'
- [44] The Board determined that the use did not have appropriate approvals in place at any time prior to the Land Use Bylaw or amendments thereto coming into affect, and therefore could not be considered a non-conforming (or grandfathered) use.
- [45] As such, the Board determined that the Stop Order was issued properly and as a result of a development that is not in accordance with the current Land Use Bylaw 60/2014.

CLOSING

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in Section 688 of the Municipal Government Act, R.S.A. 2000 Chapter M-26 which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the Town of High River, in the Province of Alberta this 14th day of September 2021 and signed by the Chairman of the Subdivision and Development Appeal Board who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Subdivision and Development Appeal Board.



Mr. Gar Beacom, Chairman

RELEVANT LEGISLATION

FOOTHILLS COUNTY LAND USE BYLAW 60/2014

2.5 – DEFINITIONS

ACCESSORY USE means a use that is naturally or normally incidental, subordinate and exclusively devoted to the uses approved on the land located on the same lot as the principal use.

AUTO WRECKERS means the storage, disassembly, dismantling, junking, or keeping of more than 3 unlicensed or inoperative vehicles, or parts thereof, on a lot under 8.5 ha (21 acres) or more than 5 unlicensed or inoperative vehicles, or parts thereof, on a lot 8.5 ha (21 acres) or greater.

MOTOR VEHICLE, UNREGISTERED AND/OR INOPERATIVE means a motor vehicle as defined by this Bylaw that is either not registered through the Traffic Safety Act or is inoperative, or both. For the purposes of this definition, inoperative means the motor vehicle cannot be used in its present condition for the purpose for which it was manufactured.

NUISANCE means anything that is obnoxious, offensive or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. This could include that which creates or is liable to create a nuisance through emission of noise, smoke, dust, odor, heat, light, fumes, fire or explosive hazard; results in the unsightly or unsafe storage of goods, salvage, junk, waste or other materials; poses a hazard to health and safety; or adversely affects the amenities of the neighborhood or interferes with the rights of neighbors to the normal enjoyment of any land or building. Businesses operating within the parameters of their approvals are not presumed to be creating nuisances.

OUTDOOR STORAGE means the accessory storage of equipment, vehicles, goods, and materials in the open air where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. This does not include Recreation Vehicle Storage.

RECREATION VEHICLE means a portable structure designed and built to be carried on a vehicle or to be transported on its own wheels and which is intended to provide temporary living accommodation for travel or for recreation purposes and which does not need any special license or permit to travel on the public road systems other than a usual trailer or vehicle license, and without limiting the generality of the foregoing, includes such vehicles as a motor home, a camper, a travel trailer, a tent trailer, or boat but does not include a Dwelling, Manufactured Home; Dwelling, Mobile Home or Park Model.

VEHICLE means a device on wheels, runners or tracks designed for the carrying of people or goods. Vehicles include but are not restricted to automobiles, trucks, trailers, all-terrain vehicles and snowmobiles.

4.1 - DEVELOPMENT PERMIT REQUIRED

4.1.1 Except as provided in Section 4.2.1 of this Bylaw, no person shall undertake any development unless:

- a. A Development Permit has first been issued pursuant to this Bylaw;
- b. The development proceeds in accordance with the terms and conditions of the Development Permit issued in respect of the development;
- c. A Building Permit has been obtained when the Building Officer so requires;
- d. All necessary plumbing, gas, septic, and electrical permits have been issued.

4.2 - NO DEVELOPMENT PERMIT REQUIRED

4.2.1.14 The temporary storage of the following number of unoccupied recreation vehicles on a parcel where a dwelling unit exists on site and the use is listed as a Permitted Use.

- a. No more than five (5) unoccupied recreation vehicles on a parcel where it is located outside of a Hamlet boundary.
- b. No more than one (1) unoccupied recreational vehicle on a parcel in all other land use districts where listed as a permitted use;
- c. Notwithstanding Section 2.4.2 "Special Provision for Parcels with Sub-districts", the above exemption to a Development Permit is applicable on sub-district "A:" designated lands

7.13 - ORDER TO REMEDY DANGERS AND UNSIGHTLY PROPERTY

7.13.1 Pursuant to Section 546 of the Municipal Government Act, if a Designated Officer finds that a structure, excavation or hole is dangerous to public safety or property, because of its unsightly condition, is detrimental to the surrounding area, the Designated Officer may, by written order direct the person responsible for the contravention to remedy the contravention.

7.13.2 The Order to Remedy may:

- a. Require the owner of the structure to eliminate the danger to public safety in the manner specified or remove or demolish the structure and level the site.
- b. Require the owner of the land that contains the excavation or hole to eliminate the danger to public safety in the manner specified or fill in the excavation or hole and level the site.
- c. Require the owner of the property that is in an unsightly condition to

improve the appearance of the property or if the property is a structure, remove or demolish the structure and level the site.

- d. State a time within which the person must comply with the order
- e. State that if the person does not comply with the order within a specified time, the County will take the action or measure at the expense of the person.

7.15 - ENFORCEMENT OF ORDER TO REMEDY

7.15.1 Pursuant to Section 550 of the Municipal Government Act, if a person fails or refuses to comply with an order to remedy, the County may take whatever actions or measures are necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property.

7.15.2 Pursuant to Section 546.1 of the Municipal Government Act, the County may register a caveat under the Land Titles Act against the certificate of title for the land, in relation to an order to remedy issued pursuant to Section 546 of the Municipal Government Act. Any such caveat must be discharged when the order has been complied with or when the County has performed the action or measures referred to in the order.

7.15.3 Council may add any unpaid expenses and costs associated to an action or measure taken by the County to remedy a contravention where the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or part of the parcel, pursuant to Section 553(1)(c) of the Municipal Government Act.

9.3 - APPEARANCE OF PROPERTIES

9.3.1 Properties shall be maintained in an orderly fashion including all buildings, structures, and improvements kept in a reasonable state of repair so as to not become an unsightly premise or safety hazard.

9.3.2 Properties that possess conditions that constitute an unsightly premise will be dealt with and enforced in accordance with the "Community Standards Bylaw" included as Appendix J of this bylaw.

9.19 - PARKING AND LOADING FACILITIES

9.19.5 For residential development, including home businesses, on-site parking stall for heavy vehicles and/or mobile equipment shall be located indoors or outdoors in a location which is generally not visible from public roads or adjacent properties.

9.28 - USE AND ENJOYMENT OF PROPERTY

9.28.1 All landowners and residents shall act in accordance with the "*Community Standards Bylaw*" adopted by Council under bylaw 34/2009 included in Appendix J of this bylaw, dealing with unsightly properties, maintenance

standards for residential development, nuisance, and noise.

9.28.2 In accordance with the “Community Standards Bylaw”, a landowner and/or resident shall not cause or allow property or the use of that property to constitute an unreasonable interference with the use and enjoyment of other properties.

MUNICIPAL GOVERNMENT ACT, R.S.A. 2000, CHAPTER M-26

Stop Order

- 645 (1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval, the development authority may act under subsection (2).
- (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Hearing and Decision

- 687 (3) In determining an appeal, the subdivision and development appeal board
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

Non-Conforming Use

Definitions

616 (r) “non-conforming use” means a lawful specific use

- (i) being made of land or a building or intended to be made of a building lawfully under construction at the date a land use bylaw affecting the land or building becomes effective, and
- (ii) that on the date the land use bylaw becomes effective does not, or in the case of a building under construction will not, comply with the land use bylaw;

Non-conforming use and non-conforming buildings

643 (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

APPENDIX "A"

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

<u>NAME</u>	<u>CAPACITY</u>
1. Alex Vainshtein	Foothills County - Development Officer
2. Darlene Roblin	Foothill County – Emergency Services Manager
3. Brett Anderson	Foothills County – Foothills Patrol
3. William James Thomson	Appellant
4. Lori Zacaruk	Agent
5. Keri Hodson	Agent
6. Julie Thomson	Gallery
7. Lee Thomson	Gallery
8. Viki Morrison	Gallery
9. Monica Zacaruk	Gallery
10. Sheila Thomson	Gallery
11. Dave Zacaruk	Gallery
12. Randy Zacaruk	Gallery
13. Marge Zacaruk	Gallery
14. Luke Morrison	Gallery
5. Doug Lansdell	Gallery

APPENDIX "B"

I. DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

NO. ITEM

1. Stop Order Letter issued July 30, 2021
2. Stop Order Posted - July 30, 2021
3. Notice of Appeal submitted by William James Thomson
4. Letter of Support – G. Duke
5. Letter of Support - S. Loberg
6. Letter of Support - L. and S. Cannon
7. Letter of Support – J. Mikklesen
8. Letter of Support - J. Williams
9. Letter of Support – K. Garnier
10. Letter of Support - L. Azevedo
11. Letter of Support – A. McCullough
12. Letter of Support - A. Humphries
13. Letter of Support – H. Roscorla
14. Letter of Support – A. Clark
15. Letter of Support – B. Kerr
16. Letter of Support – D. Lansdell
17. Letter of Support – C. Schmitke
18. Letter of Support – P. Rowland
19. Letter of Support – R. Cuthbertson
20. Letter of Support – W. and T. Middleton
21. Letter of Support – G. Thomson

22. Letter of Support – M. and L. Deloretto
23. Letter of Support – D. and J. Ball
24. Letter of Support – R. Larson
25. Letter of Support – C. Berry
26. Letter of Support – B. Hornett
27. Letter of Support – L. Rosell
28. Neighbours signature list in support dated September 6, 2021
29. Neighbours signature list in support dated September 7, 2021

APPENDIX “C”

EXHIBITS MADE AVAILABLE AT THE HEARING

NO. ITEM

1. Presentation by the Foothills County Development Officer
2. Presentation by Foothills County Emergency Services Manager
3. Presentation by Agent Keri Hodson on behalf of the Thomson family