

NOTICE OF TRANSMITTAL

Our File: S20/SOUT/SV-024

RECEIVED
April 8/21

March 30, 2021

Appellant: B. van Os, Alberta Environment and Parks

Respondent: M. Gallagher, Counsel for Summer Village of South View

Re: Decision: MGB 015/21

Enclosed is one copy of Board Order **MGB 015/21** which has been issued as a result of the hearing held on February 2, 2021.

Please quote our Board Order number in any future correspondence.



Municipal Government Board

cc: S. Oad, Alberta Transportation
G. Haekel, Alberta Environment and Parks
A. MacFarlane Dyer, Alberta Environment and Parks
J. Dauphinee, Municipal Planning Services (2009) Ltd.
K. Miller, Municipal Planning Services (2009) Ltd.
D. Slemko and G. Shewchuk, Landowner
M. Slemko
G. and D. Ward, Landowner
V. and P. Baril, Landowner
T. Baril, Landowner
R. and G. John, Landowner
J. Woslyng, Area Landowner
R. McLeod, Adjacent Landowner
S. Benford, Mayor of Summer Village of South View
B. Johnson, Deputy Mayor of Summer Village of South View
W. Wildman, CAO of Summer Village of South View
H. Luhtala, Assistant CAO of Summer Village of South View
H. Higgins, Navland Geomatics Inc.
Telus Communications
Alberta Health Services

MUNICIPAL GOVERNMENT BOARD

In the Matter Of A Subdivision Appeal filed by B. van Os on behalf of Alberta Environment and Parks (Appellant) under Part 17 of the *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (*Act*).

Citation: Alberta Environment and Parks v Summer Village of South View (Subdivision Authority) (*RE: D. Slemko and G. Shewchuk, G. and R. John, D. Ward, P. and V. Baril, T. Baril, and Summer Village of South View*) 2021 ABMGB 15

Date: March 30, 2021

File Number: S20/SOUT/SV-024

Board Order Number: MGB 015/21

Before:

Members:

H. Kim, Presiding Officer

D. Mullen, Member

S. Steinke, Member

Case Manager:

K. Lau

This is an appeal to the Municipal Government Board (MGB) from a decision of Summer Village of South View Subdivision Authority (SA) respecting the proposed subdivision of Lots 1 to 5 and Lot P, Block 1, Plan 2647KS. Upon notice being given to the interested parties, a hearing was held by videoconference on February 2, 2021.

OVERVIEW

[1] The MGB must consider whether to approve a boundary adjustment to remove 0.162 hectares (ha) of Park Reserve adjacent to Isle Lake, to be consolidated with five adjacent residential parcels. The SA approved the subdivision application after the Summer Village of South View (Summer Village) adopted Bylaw 207-2019 (Bylaw) pursuant to section 676 of the *Act*, to dispose of a portion of reserve lands adjacent to Isle Lake and consolidate it with the adjoining privately held land. Alberta Environment and Parks (AEP) filed an appeal, arguing that Environmental Reserve (ER) adjacent to the lake was beneficial and necessary, and that the proposed subdivision should not be approved. The MGB found the proposal did not conform with the uses of land in the Land Use Bylaw (LUB), was not consistent with the Alberta Land Use Policies (LUP), or the draft Municipal Development Plan (MDP) and refused the subdivision.

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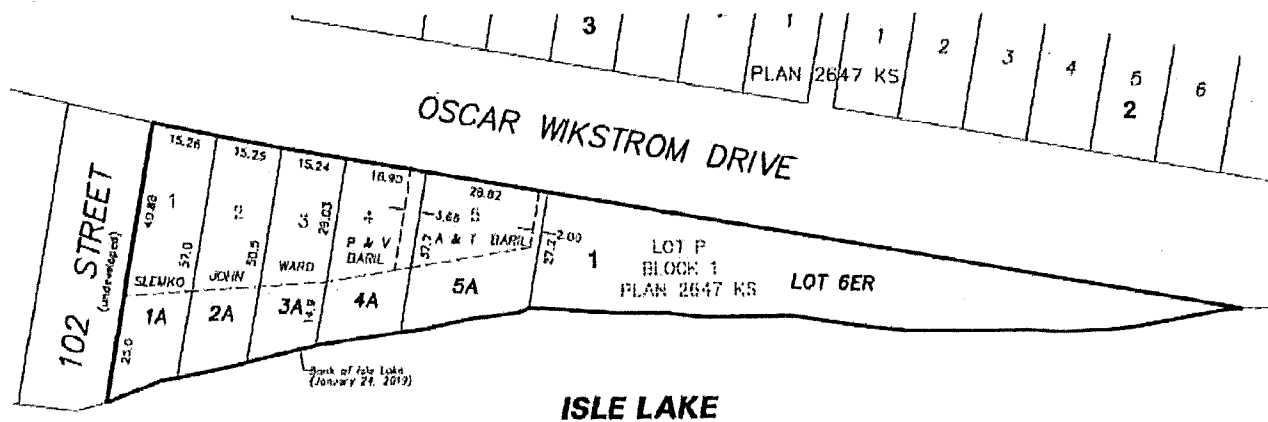
REASONS APPEAL HEARD BY MGB INSTEAD OF SDAB

[2] Section 678(2) of the *Act* directs subdivision appeals to the MGB when the subject land is within the provincial “Green Area” or within prescribed distances of features of interest to the province, including a highway, body of water, sewage treatment, waste management facility, or historical site. The distances are found in section 22 of the *Subdivision and Development Regulation*, Alta Reg 43/2002 (*Regulation*). In this case, the land is within the prescribed distance of two such features, namely:

Highway: Highway 633 is within 1.6 km
 Body of water: The parcel is adjacent to Isle Lake

PROPOSAL

[3] To subdivide 0.162 ha (0.40 acre) from an existing reserve parcel, to be to be consolidated with five adjacent residential parcels, with the remainder to be designated ER.



BACKGROUND

[4] The land to be subdivided is a 1.08 acre (ac) parcel shown as Lot P (Park Reserve) adjacent to Isle Lake in Plan 2647KS, which was registered in 1957. It extends between five residential lots and Isle Lake. There had been discussion in the Summer Village since 2009 with respect to whether there had been an error in the boundary of the Park Reserve lands. After investigation and analysis, the Council of the Summer Village passed the Bylaw, removing the “Park Reserve” designation on Lot P, changing the boundaries of Lot P and designating the remaining land (Lot 6ER) as ER. First reading of the Bylaw occurred on April 24, 2019. A public hearing was held on January 18, 2020, and the Bylaw passed second and third readings on April 15, 2020.

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[5] The subject application for subdivision was received on April 10, 2019 and deemed complete on April 23, 2020 after the Bylaw was adopted. The application was approved by the SA on July 15, 2020 subject to the following conditions (typos corrected):

1. That the instrument effecting this tentative plan of subdivision have the effect of consolidating those portions of Lot P, Block 1, Plan 2647 KS with Lots 1, 2, 3, 4 and part of Lot 5 as shown on the conditionally approved plan in such a manner that the resulting titles cannot be further subdivided without Subdivision Authority approval.
2. Further, that the instrument effecting this tentative plan of subdivision have the effect of consolidating a portion of Lot 5 with Lot 4 as shown on the conditionally approved plan in such a manner that the resulting title cannot be further subdivided without Subdivision Authority approval.
3. That prior to endorsement of an instrument effecting this plan, approaches, including culverts and crossings to the proposed parcel(s) and to the residual of the land, be provided at the owner's and/or developer's expense and to the specifications and satisfaction of the Summer Village of South View.
4. That taxes are fully paid when final approval (endorsement) of the instrument effecting the subdivision is requested.
5. That the instrument for endorsement have the effect of identifying the water boundary of Isle Lake which is adjacent to the subdivision area, to the satisfaction of AB Environment and Parks.
6. Pursuant to Section 655(1) of the *Act*, the proposed subdivision must meet Part 1 Section 7(g) of the *Subdivision and Development Regulation*. In order to satisfy this requirement the proponent must provide, prior to endorsement of an instrument effecting this plan, a Certificate of Compliance stating that the existing sewage disposal system(s) on the subject site meet current code requirements or have been relocated or redesigned to comply with the current Alberta Private Sewage Systems Standard of Practice.

[6] The SA decision deleted a condition recommended by the SA's planning consultant. It stated:

Further to Condition 5, that any encroachments into the shore lands located within the subject site, be removed and/or remediated to the satisfaction of AB Environment and Parks prior to endorsement of an instrument effecting this plan.

[7] On August 10, 2020, Alberta Environment and Parks (AEP) filed an appeal against the approval, stating as its reasons for appeal:

1. AEP believes that it is not legally permissible under the *Municipal Government Act (MGA)* for the local municipality to remove the designation of an environmental

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reserve (ER). A municipality's powers over an ER, once created, are limited to those powers listed in s. 676 of the *MGA* which does not include removal of the ER designation.

2. AEP also believes that the Municipal Government Board (MGB) does not have the jurisdiction to hear an appeal to remove the designation of an ER. Should the decision be upheld, AEP may challenge this decision by judicial review of Council's decision in the Court of Queen's Bench.
3. AEP is the adjoining landowner as owner of the lake and its bed and shore. These lands are public land administered and regulated under the *Public Lands Act*. As an adjoining landowner, there is always a provincial interest involved when local decisions are made involving reserve parcels that share a boundary with the Crown owned lake bed. AEP is referred to on any application involving subdivision decisions involving a water body.
4. The *MGA* provides direction that Environmental Reserves should be taken when land subdivision occurs for a variety of stated reasons.
5. As AEP is a beneficiary of the functions ERs provide to our resource management, AEP always recommends that ER be taken next to waterbodies when multi-lot subdivisions are created (we have standard guidelines). The ER is a buffer to development and greatly assists to limit degradation to the lake bank and supporting physical and ecological functions of the shore area.
6. Although management of the ER resides with the local municipality, how those ER lands are used has a direct impact on the aquatic environment of the adjoining water body.
7. Benefits of ERs to a waterbody include:
 - a. Buffer against development – generally these areas are meant to remain in a natural state
 - b. Natural vegetated area supports habitat for wildlife including passage to safely move from one area to another and nesting areas for riparian bird species
 - c. Natural vegetation on banks of waterbody provide:
 - i. Bank stability - deep rooted native species reduce erosion potential.
 - ii. Adjoining riparian vegetation protects against wave erosion by their deep anchoring roots.
 - iii. Intact bank and riparian vegetation provides habitat and water quality controls to the aquatic environment.
8. ERs also have a risk management function in that if they flood by high water or are subjected to ice heave, no private land is impacted.
9. Consistent with the *MGA*, such areas also provide access to the lake by the public or for the public's use as a park.
10. Loss of ER would remove ability of local landowners in the subdivision including the public, to have access to the water body. Public waters should be publicly accessible.

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11. It's important to protect the principles for which ERs are designated, and to support AEP resource management objectives.

De-designation and consolidation with private property would have the following negative consequences:

1. Increase development to the water's edge.
2. Landscaping over time has high probability that much of riparian vegetation would be removed.
3. Removal of bank vegetation would significantly increase probability of erosion, requiring expenditures for creating erosion protection works to stop erosion.
4. Increased probability of the removal of aquatic vegetation by adjacent landowners in the adjoining littoral area. This has consequential impacts as follows:
 - a. Reduction in wave dampening that aquatic vegetation would provide and resultant increase wave attack and increased erosion potential
 - b. Removal of fish habitat
 - c. Removal of nesting habitat for aquatic dependent birds
5. Hardening of shoreline.
6. Loss of shore. Loss of ability for local residents and Albertans to have passage along the bed and shore of the lake.

In addition, the de-designation and consolidation of ER lands with private property would:

1. Set a precedent for other municipalities to do away with their existing ERs.
2. May set justification to local authorities that ERs need not be taken in the future when subdivision occurs.
3. The local community loses benefit of having public accessible municipal lands currently available for public use as park, natural area use, or access to the lake.

[8] The MGB scheduled a hearing on October 15, 2020. At the hearing, AEP requested a postponement. The MGB granted the request in DL 042/20, postponing the hearing to November 10, 2020. On November 2, 2020, AEP submitted a letter withdrawing its appeal on the understanding that the MGB did not have authority to hear it. As the request for withdrawal was less than 15 days prior to the hearing, the MGB Procedure Rules required the parties to attend and explain the reasons for the late withdrawal and whether the MGB should accept it. The MGB then issued MGB 053/20 on November 30, 2020 deciding while it did not have authority to hear a challenge of the Bylaw, it did have authority to determine an appeal of the subdivision approval. The MGB allowed AEP 14 days from the decision date to retract its withdrawal. On December 8, 2020 the AEP submitted a letter advising that it would proceed with the initial appeal.

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[9] In all cases, the legislation requires the MGB to address whether a proposed subdivision complies with the *Act*, the *Regulation*, the LUP, uses of land as prescribed in the LUB, standards and requirements in the LUB, and requirements set out in any statutory plans (see section 680(2) of the *Act*). In this particular case, the parties focused on the following issues:

1. Does the MGB have the authority to consider the merits of the subdivision application in view of the adoption of the Bylaw?
2. If so, should ER be provided adjacent to Isle Lake?
 - a. If ER should be provided, how much should be required?
3. Does the proposed use conform with the uses of land in the LUB?

SUMMARY OF THE SA'S POSITIONValidity of the Bylaw

[10] The SA recognized the MGB had made a determination on whether it had jurisdiction to hear this matter in MGB 053/20, but stated for the record that it would maintain its position that the MGB does not have jurisdiction over the Bylaw. The SA's position was set out in detail in MGB 053/20; but, in summary, the Summer Village has the power under section 676(1)(d) of the *Act* to "change the boundaries of an environmental reserve or environmental reserve easement in order to correct an omission, error or other defect in the certificate of title, or to rectify an encroachment problem or other concern." The Summer Village concluded that an omission, error or other defect in the certificate of title existed and passed the Bylaw after holding a public hearing.

[11] The subdivision process is only necessary to give effect to the Bylaw because this is the mechanism by which the change in ER boundaries is implemented at the Land Titles Office (LTO). The SA submitted there is nothing in section 676 that suggests that the decision can be reviewed by the MGB, nor in the section dealing with the powers of the MGB. The SA submitted that there cannot be two bodies with competing powers and clearly Council has the power to pass the Bylaw. The SA concedes that this has not been judicially considered, but cited cases that dealt with competing jurisdiction.

[12] The proposed subdivision involves adjusting the boundary of the Park Reserve parcel. While the "Park Reserve" designation no longer exists in the current legislation, there is no dispute that it would be most similar to the current designation of ER. Council followed the procedure set out in section 676 of the *Act* and the subdivision application was incidental to the adoption of the Bylaw.

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[13] It is not the MGB's role to determine the reasonableness of Council's decision. The records submitted by AEP are historical land titles documents that often do not tell the whole story. The landowner who subdivided the land is deceased, and there is a variety of historical evidence that was presented to Council when they made their decision to adopt the bylaw.

[14] In response to questions from the MGB, D. Higgins of Navland Geomatics Inc., the applicant for the subdivision, stated that he had investigated with the LTO whether the boundary adjustment pursuant to the Bylaw could be registered, and had been advised that subdivision approval was required. He provided correspondence dated January 3, 2018 that was sent to the LTO requesting confirmation that the proposed form of bylaw would not require subdivision approval. The correspondence included LTO's response that stated "As per discussion with Merlyn Cajindos, supervisor surveys, LTO, this removal and subdivision/consolidation requires subdivision approval and plan of survey."

ER Adjacent to Lake

[15] The SA presented photos of the subject and neighbouring land. The five lots represent less than 100 m of width along the lake, and the proposed Lot 6ER is the remainder. The photographs show how it fits with other land along the lake – there is a fairly small strip with the five lots, a longer strip of scrubby area, a large park-like area and then a long row of other lots to the east that extend to the lake. There is no meaningful loss of access to the lake from this small strip of land, as there is a large park immediately to the east.

Land Use

[16] The SA agrees that the MGB must conform with the uses of land referred to in a LUB. In this case, the proposed subdivision would consolidate some former reserve lands with residential lands. The lands at issue are in the Residential (R) District and the Park (P) District in the LUB. Within the R District, single detached dwellings, modular homes, buildings and uses accessory to permitted uses and recreational vehicles and temporary living accommodations are permitted uses, while the P District has permitted uses including parks and playgrounds, and minor recreation and cultural facilities.

[17] The purpose of the Bylaw and subdivision is to adjust the boundaries of the ER, not to remove it, so the practical effect of the boundary change is to adjust the lands that fall within the respective districts. The existing private lands are being used for permitted uses under the R district; adjusting the boundaries of the lands does not change this. The remainder of the lands to be redesignated as ER will continue to be used for permitted uses. In essence, the proposed subdivision does not change the actual use of the lands as they have been used for a very long time. The existing residential use is continuing and the boundary adjustment merely formalizes the long-

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term status quo. It only changes the boundaries to correct a historical error. The uses conform to the LUB and the lands will remain in their respective districts.

[18] On the merits, the application should be approved, considering all the relevant factors including: history, consistency with the statutory plans, reasonable conditions, and compliance with uses of land in the LUB.

SUMMARY OF THE POSITION OF THE SA'S PLANNING CONSULTANTER Adjacent to Lake

[19] The SA's planning consultant, Municipal Planning Services (2009) Ltd. (MPS) prepared the report to the SA which outlined the proposal and provided analysis and recommendation. Shorelands adjacent to the bed and shore of a lake are considered environmentally significant lands. It is consistent with planning and environmental best practices to have an ER buffer to mitigate potential negative impacts from development on the water quality of the lake and also to ensure that the proposed lots do not include lands that are potentially subject to flooding, ice damage or other hazards such as slope instability which would make the lands unsuitable for residential use. Information such as a geotechnical report with information about slope stability, water table and recommended development setbacks, were not provided.

[20] The Summer Village does not have an approved MDP; however, the draft MDP has been reviewed by Council and circulated to the community. It includes policies that are inconsistent with the proposed subdivision:

- Figure 4 - Future Land Use and Development in the draft MDP identifies all of Lot P, Blk. 1, Plan 2647KS as within the Parks and Open Space Area.
- Policy 3.1.6 which states that lands deemed to be environmentally significant shall be protected via Environmental Reserve dedication or an environmental easement registered at the time of subdivision.

[21] If a new subdivision were proposed today to create new residential lots, reserves would be required between the bed and shore of the lake and the proposed residential lots to protect the environmentally significant shorelands and to ensure that flood hazard lands are not included in the residential lots. It is inconsistent with planning best practices to include the shorelands within the residential lots and would also create a conflict with the draft MDP. Further, in the absence of a report from a qualified engineer which delineates the bed and shore to the satisfaction of AEP and provides a recommended setback from the bed and shore of the lake, the proposed subdivision may result in the inclusion of hazard lands within the residential lots.

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[22] The existence of encroachments into the reserve area does not justify eliminating the ER to include the encroaching buildings in the parcels. The photographs show that the lake level fluctuates and that the land is subject to flooding. Of note, the parcels further east that do extend to the lake have buildings right on the shore and very little vegetation, whereas the subject parcels have significant vegetation. There is value in maintaining the buffer.

Land Use

[23] The subject site is located in the Residential (R1) District and the Park (P) District of the LUB. Residential uses are not permitted in the P District. Therefore, approval of the proposed subdivision would be inconsistent with the LUB.

[24] In the subdivision report, MPS had recommended the application be refused for the reasons stated.

SUMMARY OF AEP'S (APPELLANT'S) POSITION

Validity of the Bylaw

[25] The Crown owns the bed and shore of the lake and has an interest in maintaining the ER. AEP challenged the assertion that the original subdivision was made in error and that the existing encroachments can only be addressed by invoking section 676(1)(d) of the Act, which states:

676(1) A council may by bylaw, after giving notice in accordance with section 606 and holding a public hearing in accordance with section 230,

...

(d) change the boundaries of an environmental reserve or environmental reserve easement in order to correct an omission, error or other defect in the certificate of title, or to rectify an encroachment problem or other concern.

[26] There is no omission that requires correction; thus, the SA is proposing to amend the existing plan to address existing encroachments on the Park reserve, and to correct an error or other defect in the certificate of title for the reserve.

[27] The petitioners have argued that the Park reserve was never intended to separate their properties from the lake. AEP disagrees - there is no evidence of an error in the original 1955 subdivision of lands. The sketch plan of properties showing the lots extending to the lake (Ex. 1 page 110) is not a registered plan of survey, and cannot be relied on as evidence of intent. There may have been various proposed subdivision plans prepared by a surveyor for consideration by the landowner in 1954 and it is not uncommon for the plan to be adjusted to meet the intent of the

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subdividing landowner's objectives and to ensure alignment with regulatory requirements at the time, which likely included the need to dedicate a portion of the lands as Park Reserve.

[28] AEP submitted a copy of the registered plan of survey, Plan 2647 KS, for the subject land. The plan has signatures, under oath, by the surveyor and the landowner dated February 10 and 11, 1956 respectively. The Provincial Planning Advisory Board approved the subdivision plan on February 8, 1957. The surveyor showed a change in the boundary of the lake since the original 1904 survey, which was reviewed by the then Department of Lands and Forests and consented to on February 15, 1957. The provincial Director of Surveys further approved the plan of survey for registration purposes on 19 February 1957, and it was registered with the LTO on March 7, 1957. The plan was reviewed for accuracy no less than six times, including by the landowner. If the intent was to have Lots 1 to 5 extend to the lake without an intervening reserve, the surveyor would have reflected that on the plan. There is no evidence of an error.

[29] Section 676(1)(d) allows the reserve boundary to be changed to rectify an encroachment problem, but clearly the intent of this clause is to allow for reasonable adjustments and not to remove the ER entirely. It is not uncommon for properties adjacent to an ER to make use of it as an extension of their own land, as there is direct access and often no physical boundary marker. This is often in the form of cleared vegetation, sitting areas and fire pits, and seasonal equipment such as mooring structures. Fixed buildings, however, are uncommon. The building location plan prepared by Navland Geomatics (Ex. 1 p 23) shows the level of encroachments. Found iron survey posts indicated on the sketch are the legal survey posts and indicate the boundary of the lots.

[30] Minor structural encroachments can be addressed using encroachment agreements. AEP submitted that a reasonable accommodation could be made allowing the land owners to continue to use their sheds without removing the reserve. The use of section 676(1)(d) of the *Act* to designate portions of the reserve and give the lands to the lot owners is an over-reach to address the three encroaching sheds, and is unnecessary. AEP's preference and recommendation are that the Summer Village issue encroachment agreements for the sheds to assert its authority over its lands and allow the sheds' use until such time as they are no longer used, or require substantial repair or reconstruction. At that time, the sheds should be required to be removed at the owner's expense.

ER Adjacent to Lake

[31] AEP detailed the importance of riparian areas and buffers in the reasons for appeal. AEP referenced Provincial Policy, Guideline or Strategy related to Riparian Land Management:

Water For Life Strategy - Two of the three stated goals for this strategy include: 1) the maintenance of safe drinking water and 2) the maintenance of healthy aquatic

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ecosystems. The appropriate management of riparian lands is central to achieving desired outcomes as stated under the GOA water strategy.

Municipal Land Use Policies - Section 5 encourages municipalities to minimize habitat loss and other negative impacts of development through appropriate land use planning and practices. Section 6 encourages municipalities to incorporate measures into planning and land use practice that minimizes negative impacts on water resources, including surface and groundwater quality & quantity, water flow, soil erosion, sensitive fisheries habitat, and other aquatic resources.

Guidelines for Recommended Minimum Reserve Widths Adjacent to Water Features - Suggested minimum reserve widths to minimize impact to waterbodies and maintain public access to land resources located on public lands.

Stepping Back from the Water: A Beneficial Management Practices Guide for New Developments Near Water Bodies - Provides discretionary guidance to local authorities and watershed management groups to assist with “decision making and watershed management relative to structural development near water bodies” primarily within the settled area of AB.

[32] There is a large body of scientific evidence that riparian areas perform key ecological functions and shoreline development negatively affects them. The 2018 Sturgeon Watershed Riparian Assessment assessed the Summer Village of South View as having very low riparian intactness. Provincial policies require the ER and it should be maintained. With respect to the amount of ER, a survey should be conducted during the late spring or early summer when vegetation has emerged, to establish the boundary of the lake.

SUMMARY OF AT'S POSITION

[33] Alberta Transportation (AT) did not attend the hearing, but sent in a written submission and provided comments during the circulation period. AT stated that it is currently protecting Highway 633 to a minor undivided highway standard at this location. The parcels being subdivided are not adjacent to Highway 633 and access to all parcels is via the local road system. This proposal does not meet the requirements of sections 14 and 15(3) of the *Regulation*. Considering the nature of the proposal, AT is willing to approve the variance by the SA of the requirements of section 14. AT requires that any appeal of this subdivision be referred to the MGB.

BOARD ORDER:**MGB 015/21****FILE:****S20/SOUT/SV-024****SUMMARY OF LOTS 1-5 LANDOWNERS' POSITIONS**Validity of the Bylaw

[34] The adoption of the Bylaw and the subdivision application was initiated by the owners of Lots 1 to 5, who had petitioned the Summer Village in 2009 and in 2011 seeking return of property acquired in error through expropriation. The petition set out the history of the parcels and stated that the Park Reserve in the 1955 survey was acquired through error and without proper consultation to the original land owners. The properties were purchased prior to 1954 and, at the time, there were no requirements for a Park Reserve adjacent to the properties. In 1951 and 1952, the owner, Anker Satermo, placed stakes to delineate the properties and Lots 1, 3 and 4 were purchased via what was called a "survey by description" and was perceived by the owners to be legal.

[35] A survey was undertaken in 1953 to provide the purchasers clear definition of their property, but it could not be registered due to problems with ownership. The petitioners found a metal stake at the high water mark between Lots 2 and 3 in 2008 which was reminiscent of the 1953 survey. This shows that the purchasers, sellers and surveyors believed that the lots went to the high water line of the lake shore. It was discovered later through a search of the LTO archives that the reason the 1953 survey could not be accepted was the subject land was still owned by the Canadian Northern Railway which had previously expropriated it for railway use. In 1955, it was transferred from the railway to Ellen Satermo.

[36] In further support of their position, the petitioners noted that within the Summer Village, the 1959 subdivision plan for Southview Village East did not require Park Reserve on lake front lots, nor is there reserve on other lots in the area. They also noted that five cottages had already been built on the subject land at the time of subdivision registration in 1957, and tax notices from 1956 were presented showing the names of the cottage owners. Three of the cottages have porches encroaching on the Park Reserve, while one cottage built in 1955 is partly sitting on Park Reserve. The boathouses were built in their locations on the understanding that it was part of the parcels. It is the position of the petitioners that the Park Reserve was taken in the 1957 subdivision plan without notice or remuneration. The petitioners requested this error be corrected through the process under section 676 of the *Act* to have the titles of the properties reverted back to the existing property owners.

[37] G. Ward, the owner of Lot 3 noted that there was a letter from the Provincial Planning Advisory Board on June 1954 and a response on July 1954 supporting approval of the subdivision. There is no drawing attached but there is a land description. Mr. Ward agreed to submit the letters and they were noted as Ex. 16L. The letters had been included in the original package (Ex. 1 p. 150 and 151).

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[38] Mr. Ward stated that with respect to AEP's concerns about losing vegetation in the water, they already have boat moorings on the lake front. Public access does not currently take place as the land is not easily accessible by anyone else - the only people that use it are the landowners. With respect to flooding of the area last spring, Mr. Ward submitted photographs to show that it only affected a very small corner of the property. S. Benford requested that the MGB consider a lesser amount of ER between the shoreline and property line than the current approximately 60 feet.

[39] Several other Lots 1 to 5 landowners observed the videoconference but did not make any presentations or written submissions.

SUMMARY OF OTHER LANDOWNERS' POSITIONSValidity of the Bylaw

[40] J. Woslyng attended the hearing in addition to providing written submission. He argued that there was no mistake in the original subdivision; that the Council of the Summer Village had failed to act in the best interests of the Summer Village; and had held the public hearing in winter when ratepayers would not likely attend.

[41] P. and L. Adams did not attend the hearing but provided written submission. They also questioned the likelihood of an error, as creation of a buffer zone between residential properties and a lake is consistent with good environmental planning. They also noted that while the Bylaw indicates that the five lots have been taxed as though they extend to the lake, it is surprising that a property assessor would not consult a village lot plan, and not realize that the properties do not extend to the lake.

[42] J. and P. Napora also did not attend the hearing but provided a written submission and photograph. They stated that this application was approved without the consent of Summer Village taxpayers and that all of the lot owners fully understood where their property boundaries were.

ER Adjacent to Lake

[43] Mr. Woslyng referenced the Lake Isle Area Structure Plan / Area Redevelopment Plan, which was adopted in 1984 by the Summer Village, and rescinded in 2017. It states:

All future intensive residential or recreational development proposals will be required to include an adequate strip of reserve land between the proposal and the lakeshore. This reserve may be a combination of environmental and municipal reserve to provide

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public access, to define property boundaries, to preserve the aesthetic character of the shoreland, to provide wildlife habitat and to provide environmental protection from hazards such as ice and wave erosion. As a general guideline, this reserve should not exceed 200 feet (60 m) in width. The highest recorded lake level of 730.7 m.a.s.l.; will be used to determine flood prone areas and will assist in determining the location of future reserves.

[44] Mr. Woslyng stated that there is a new Municipal Development Plan that had first reading and was shown to the public in September, but second and third reading had not yet occurred, and suggested it was held up pending the outcome of this application. One of the policies in this plan is that parks and open spaces shall be preserved and maintained for the use and enjoyment of residents and visitors. This is coming under threat, with a large section of park reserve proposed to be given over to private hands. The east end of the Summer Village has virtually no public access to the lake. The west end where the subject land is has the only level access to the lake. He is a back lot owner and has very little access to the lake, and would not like to see it reduced further.

[45] Mr. Napora submitted that the survey does not show the high water mark, as it indicates the shoreline in January 2019. He attached a photograph taken in May 2020 between Lots 1 & 2 which shows the lake level and degree of flooding. If any further land is allowed for development it will be within the lake boundary. The lake level typically peaks in early June so the water would have risen further than the level shown.

FINDINGS

1. The MGB does not have the authority under the *Act* to rule on the validity of the Bylaw.
2. ER should be provided adjacent to Isle Lake, but the flood line must be established to properly determine the amount that should be provided.
3. The proposed subdivision does not conform to the uses of land in the LUB.

DECISION

[46] The appeal is allowed and the subdivision is refused.

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[47] The *Act* sets out the MGB's jurisdiction in section 488 of the *Act*, which does not include the power to determine the validity of a bylaw passed by a municipality – section 536 directs that responsibility to the Court of Queen's Bench. However, section 488(1)(i) does give the MGB power to hear appeals from subdivision decisions pursuant to section 678(2)(a). The SA made a decision to approve the subdivision now under appeal, and the MGB has an obligation to consider the appeal.

[48] As noted in MGB 053/20, the Registrar of the LTO has jurisdiction to cancel and reissue certificates of title in accordance with requirements of a bylaw made under section 676. This section does not give the MGB the same authority. In contrast, the MGB authority to grant subdivisions and the considerations relevant to the exercise of that authority stems from sections 678 and 680.

[49] In stating that subdivision approval was required, it is possible that the LTO considered the proposal exceeded the scope of the boundary change contemplated in section 676. In any event, any disagreement by the Summer Village with LTO's direction is more appropriately the subject of a court application to order the LTO to accept the plan of subdivision.

[50] As a matter of interest, the MGB notes that the letters from June and July 1954 did not have the referenced attachment, and the only plan that was submitted in support of the subject lots 1 to 5 were originally intended to extend to the lake was in Ex. 1 p. 110. While the drawing does show the lots extending to the lake, the MGB notes the dimensions specified on the lot lines are the same as the dimensions on the registered plan of survey. It would be expected that had the plan been intended to show the lots extending to the lake, the dimensions would have been different.

Land Use

[51] As mentioned above, section 680(2) of the *Act* sets out the matters the MGB must consider to determine an appeal. In particular, 680(2)(b) states that in determining an appeal, the MGB "must conform" with the uses of land referred to in a land use bylaw.

[52] Lot P is districted P – Parks under the LUB, and the Bylaw did not redistrict the portion of the land to be consolidated with the adjacent residential parcels when it removed the reserve designation from Lot P. Residential uses are not a permitted or discretionary use in the P district. The SA argued that as a practical matter, the current park and residential uses will continue on the consolidated land. The MGB rejects that argument. If the former reserve land is consolidated it

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will be privately held land that is part of a residential lot and used for residential purposes. Accordingly, the MGB determined that the proposal did not conform with the uses of land and that the MGB could not approve the subdivision.

[53] In addition to conforming with uses in the LUB, section 680(2)(a.1) requires the MGB to have regard to any statutory plans. As noted by MPS, the Summer Village does not have an adopted MDP, but a draft plan has received first reading and was submitted to the MGB. The draft MDP has several policies that discuss the importance of reserve land and public access to the lake, as noted by MPS – the SA’s Planning Consultant - as well as one of the area landowners. These provisions are inconsistent with the proposal to convert existing reserve land to private residential use. The MGB placed less weight on the provisions as they are only in draft form; however, the MGB finds they reflect prudent planning policy and align with the Provincial Land Use Policies as described below.

ER Adjacent to Lake and Site Suitability

[54] The MGB has some sympathy for the landowners, as it is clear that ER was not historically required and that other subdivisions in the Summer Village - which were registered after the subject land - do extend to the lake. However, in view of the current body of evidence with respect to the need for setbacks from bodies of water, it would not be advisable to eliminate existing ER.

[55] The *Act*, *Regulation* and provincial policies address reserve lands adjacent to lakes - in particular, where the land is subject to flooding. The photographic evidence shows flooded land, and the MGB finds that some amount of setback is required. Further studies are needed to show the extent of land prone to flooding and to ensure site suitability.

[56] The Land Use Policies contain relevant goals and policies. Specifically, Goal 5.0 Natural Environment Policy 3 states that municipalities are encouraged to identify areas that are prone to flooding and to establish appropriate land use patterns within these areas. In the absence of further studies, the MGB finds reserve land is the appropriate land use for the subject reserve lands. Similarly, 6.3 Water Resources aims to protect water resources - including lakes - by mitigating negative impacts of subdivision and development. Further, municipalities are “encouraged to facilitate public access and enjoyment of these water features, and to protect sensitive fisheries habitat and other aquatic resources” (Policy 6.3.3). Converting existing reserve land adjacent to a lake to be used for private residential use does not conform to these policies and goals – whether or not the land is still in its natural state.

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Bylaw 207-2019

[57] Section 680 of the *Act* does not mention bylaws under s 676 as one of the enactments for which the MGB must comply or for which it must have regard. Nevertheless, the MGB's practice is to be consistent with other bylaws established under Part 17 of the *Act* where possible and where they are consistent with the higher-level policies, including the LUP. However, in this case, having found it would be inconsistent with the LUP to convert environmental reserve to private residential use, the MGB cannot also give effect to the Bylaw 207-2019, which purports to adjust the reserve boundary by effectively deleting the reserve in most areas. Section 618.4 of the *Act* directs that all "action undertaken pursuant to this Part by a municipality... or the Municipal Government Board must be consistent with the land use policies..."

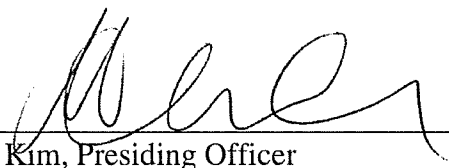
[58] A further consideration is that although the MGB has no power to declare bylaws invalid, it is well established that courts and tribunals with the power to decide questions of law should not give effect to legislation created that is ultra vires or otherwise unconstitutional (see for example *Nova Scotia (Workers' Compensation Board) v. Martin*, 2003 SCC 54, at para 28; *Calgary (City) v. Canadian Natural Resources Limited*, 2010 ABQB 417 at para 89). In this case, it is difficult to reconcile the power granted by the *Act* to adjust ER boundaries to correct errors with what the Bylaw has done – which is to convert ER to private use where the evidence does not establish any errors took place.

Summary

[59] In conclusion, the MGB agrees with the accommodation suggested by AEP, that an encroachment agreement between the landowners and the Summer Village would achieve many of the objectives of the application without the need to eliminate the reserve land.

DATED at the City of Edmonton, in the Province of Alberta, this 30th day of March 2021.

MUNICIPAL GOVERNMENT BOARD



H. Kim, Presiding Officer

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APPENDIX "A"

PARTIES WHO ATTENDED, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARINGS:

NAME	CAPACITY
B. van Os	Appellant, Alberta Environment and Parks
G. Haekel	Alberta Environment and Parks
A. MacFarlane Dyer	Alberta Environment and Parks (Nov 10, 2020 hearing only)
M. Gallagher	Counsel for SA
J. Dauphinee	Municipal Planning Services, Consultant for Summer Village
K. Miller	Municipal Planning Services (Nov 10, 2020 hearing only)
D. Slemko	Landowner, Lot 1, observer
G. Ward	Landowner, Lot 3
S. Benford	Mayor, Summer Village of South View
V. Baril	Landowner, Lot 4, observer
T. Baril	Landowner, Lot 5, observer
J. Woslyng	Area Landowner
R. McLeod	Adjacent Landowner, observer
W. Wildman	CAO, Summer Village of South View
H. Luhtala	Assistant CAO, Summer Village of South View
D. Higgins	Navland Geomatics Inc. Applicant for Subdivision
B. Johnson	Deputy Mayor, Summer Village of South View
R. John	Landowner, Lot 2, Observer (Nov 10, 2020 hearing only)

APPENDIX "B"

DOCUMENTS RECEIVED PRIOR TO THE HEARING:

NO.	ITEM
1	Information package
2A	AEP PowerPoint Presentation
3AT	Alberta Transportation Submission
4R	SA Submission
5L	Email and Letter to Council from P. Abrams (Area landowner)
6L	Email from J. Napora (Area Landowner)
7L	Email from J. Woslyng (Area Landowner)
8L	Additional email from J. Woslyng

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9R	Photographs of parcels and surroundings
10R	Agenda Jan 2020 Public Hearing
11R	Public Hearing Minutes Bylaw 207-2019
12A	Plan of Subdivision 2647KS
13A	AEP Submission

APPENDIX "C"

DOCUMENTS RECEIVED AFTER THE HEARING:

NO.	ITEM
14R	AEP email correspondence October 2019
15R	Land Titles Office correspondence January 2018
16L	Letters from Provincial Planning Advisory Board 1954
17L	Photos of flooding
18R	Lake Isle ASP and Bylaws to adopt and rescind
19L	J. Woslyng Rebuttal
20A	SA Rebuttal

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The *Act* and associated regulations contain criteria that apply to appeals of subdivision decisions. While the following list may not be exhaustive, some key provisions are reproduced below.

Municipal Government Act

Application to the Court of Queen's Bench

A bylaw may be challenged:

- 536(1) A person may apply to the Court of Queen's Bench for*
(a) a declaration that a bylaw or resolution is invalid, or
(b) an order requiring a council to amend or repeal a bylaw as a result of a vote by the electors on the amendment or repeal.
(2) A judge may require an applicant to provide security for costs in an amount and manner established by the judge.

Purpose of this Part

Section 617 is the main guideline from which all other provincial and municipal planning documents are derived. Therefore, in reviewing subdivision appeals, each and every plan must comply with the philosophy expressed in 617.

617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted
(a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
(b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,
without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

Subdivision approval required

The *Act* sets out the requirement for when subdivision approval is required.

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652(1) A Registrar may not accept for registration an instrument that has the effect or may have the effect of subdividing a parcel of land unless the subdivision has been approved by a subdivision authority.

(2) Despite subsection (1) and subject to subsection (4), a Registrar may accept for registration without subdivision approval an instrument that has the effect or may have the effect of subdividing a parcel of land described in a certificate of title if registration of the instrument results in the issuing of one or more certificates of title and the parcel of land described in each certificate of title so issued would consist only of any or all of the following:

- (a) a quarter section;*
- (b) a river lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;*
- (c) a lake lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;*
- (d) a settlement lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;*
- (e) a part of the parcel of land described in the existing title if the boundaries of the part are shown and delineated on a plan of subdivision;*
- (f) a parcel of land created pursuant to a bylaw passed by a municipality under section 665.*

Decision

The Act provides for appealing a decision of the subdivision authority.

656(1) A decision of a subdivision authority must be given in writing to the applicant and to the Government departments, persons and local authorities to which the subdivision authority is required by the subdivision and development regulations to give a copy of the application.

(2) A decision of a subdivision authority must state

- (a) whether an appeal lies to a subdivision and development appeal board or to the Municipal Government Board, and*
- (b) if an application for subdivision approval is refused, the reasons for the refusal.*

Designation of municipal land

A parcel of land created pursuant to a bylaw passed by a municipality under section 665 does not require subdivision approval.

665(1) A council may by bylaw require that a parcel of land or a part of a parcel of land that it owns or that it is in the process of acquiring be designated as municipal reserve, school reserve, municipal and school reserve, environmental reserve, conservation reserve or public utility lot.

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(2) Subject to subsection (3), on receipt of a copy of a bylaw under this section and the applicable fees, the Registrar must do all things necessary to give effect to the order, including cancelling the existing certificate of title and issuing a new certificate of title for each newly created parcel of land with the designation of

- (a) municipal reserve, which must be identified by a number suffixed by the letters "MR",*
- (b) public utility lot, which must be identified by a number suffixed by the letters "PUL",*
- (c) environmental reserve, which must be identified by a number suffixed by the letters "ER",*
- (c.1) conservation reserve, which must be identified by a number suffixed by the letters "CR",*
- (d) school reserve, which must be identified by a number suffixed by the letters "SR",*
- (e) municipal and school reserve, which must be identified by a number suffixed by the letters "MSR", or*
- (f) a lot, which must be identified by a number.*

(3) The certificate of title for a municipal reserve, school reserve, municipal and school reserve, environmental reserve, conservation reserve or public utility lot under this section must be free of all encumbrances, as defined in the Land Titles Act.

(4) For greater certainty, where a bylaw of the council requires that land be designated as environmental reserve, the designation becomes effective on the day the Registrar issues a new certificate of title for the land under subsection (2)(c).

Changes to environmental reserve's use or boundaries

The Act provides for a council to change the boundaries of an environmental reserve by bylaw:

676(1) A council may by bylaw, after giving notice in accordance with section 606 and holding a public hearing in accordance with section 230,

- (a) use an environmental reserve for a purpose not specified in section 671(1),*
- (b) transfer an environmental reserve to the Crown or an agent of the Crown for consideration, as agreed,*
- (c) lease or dispose of an environmental reserve other than by a sale for a term of not more than 3 years, and*
- (d) change the boundaries of an environmental reserve or environmental reserve easement in order to correct an omission, error or other defect in the certificate of title, or to rectify an encroachment problem or other concern.*

(2) A council may include terms and conditions in a bylaw under subsection (1).

(3) Any proceeds from a lease or other disposition under subsection (1) may be used only to provide land for any or all of the purposes referred to in section 671(2).

(4) On receipt of a bylaw under subsection (1)(b) or (d), the Registrar must cancel the existing certificates of title or amend an environmental reserve easement affected by the bylaw and issue

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any new certificates of title required by the bylaw.

Appeals

Section 678 of the *Act* sets out the requirements for appeal of a decision by the subdivision authority and the appeals that are heard by the MGB.

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

...

(b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,

...

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority ...

(a) with the Municipal Government Board

...

(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii)...

Hearing and decision

Section 680(2) of the *Act* requires that MGB decisions conform to the uses of land referred to in the relevant land use district of the LUB. It does not require that the MGB abide by other provisions of the LUB, the MDP or the *Subdivision and Development Regulation*, although regard must be given to them.

680(2) In determining an appeal, the board hearing the appeal

(a) repealed 2020 c39 s10(48);

(a.1) must have regard to any statutory plan;

(b) must conform with the uses of land referred to in a land use bylaw;

(c) must be consistent with the land use policies;

(d) must have regard to but is not bound by the subdivision and development regulations;

(e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;

(f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

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Subdivision and Development Regulation - Alberta Regulation 43/2002

Application referrals

Section 5 of the *Regulation* deals with application referrals.

5

...

(5) On an application for subdivision being determined or deemed under section 653.1 of the *Act* to be complete, the subdivision authority must send a copy to

....

(e) the Deputy Minister of the Minister responsible for administration of the *Public Lands Act* if the proposed parcel

(i) is adjacent to the bed and shore of a body of water, or

(ii) contains, either wholly or partially, the bed and shore of a body of water;

Relevant considerations

While the MGB is not bound by the *Subdivision and Development Regulation*, it is the MGB's practice to evaluate the suitability of a proposed site for the purpose intended using the criteria in section 7 as a guide.

7 In making a decision as to whether to approve an application for subdivision, the subdivision authority must consider, with respect to the land that is the subject of the application,

(a) its topography,

(b) its soil characteristics,

(c) storm water collection and disposal,

(d) any potential for the flooding, subsidence or erosion of the land,

(e) its accessibility to a road,

(f) the availability and adequacy of a water supply, sewage disposal system and solid waste disposal,

(g) in the case of land not serviced by a licensed water distribution and wastewater collection system, whether the proposed subdivision boundaries, lot sizes and building sites comply with the requirements of the *Private Sewage Disposal Systems Regulation* (AR 229/97) in respect of lot size and distances between property lines, buildings, water sources and private sewage disposal systems as identified in section 4(4)(b) and (c),

(h) the use of land in the vicinity of the land that is the subject of the application, and

(i) any other matters that it considers necessary to determine whether the land that is the subject of the application is suitable for the purpose for which the subdivision is intended.

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ALBERTA LAND USE POLICIES

Land Use Policies were established by Lieutenant Governor in Council pursuant to section 622 of the *Act*. These policies apply in this case, since there is, as of yet, no applicable *Alberta Land Stewardship Act (ALSA)* regional plan for the subject area.

2.0 The Planning Process

Goal

Planning activities are to be carried out in a fair, open, considerate, and equitable manner.

Policies

1. Municipalities are expected to take steps to inform both interested and potentially affected parties of municipal planning activities and to provide appropriate opportunities and sufficient information to allow meaningful participation in the planning process by residents, landowners, community groups, interest groups, municipal service providers, and other stakeholders.
2. Municipalities are expected to ensure that each proposed plan amendment, reclassification, development application, and subdivision application is processed in a thorough, timely, and diligent manner.
3. When considering a planning application, municipalities are expected to have regard to both site specific and immediate implications and to long term and cumulative benefits and impacts.

...

5.0 THE NATURAL ENVIRONMENT

Goal

To contribute to the maintenance and enhancement of a healthy natural environment.

Policies

1. Municipalities are encouraged to identify, in consultation with Alberta Environmental Protection, significant ravines, valleys, stream corridors, lakeshores, wetlands and any other unique landscape area, and to establish land use patterns in the vicinity of these features, having regard to their value to the municipality and to the Province.

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2. If subdivision and development is to be approved in the areas identified in accordance with policy #1 municipalities are encouraged to, within the scope of their jurisdiction, utilize mitigative measures designed to minimize possible negative impacts.
3. Municipalities are encouraged to identify, in consultation with Alberta Environmental Protection, areas which are prone to flooding, erosion, landslides, subsidence, or wildfire and to establish appropriate land use patterns within and adjacent to these areas.
4. If subdivision and development is to be approved in the areas identified in accordance with policy #3 municipalities are encouraged to, within the scope of their jurisdiction, utilize mitigative measures to minimize the risk to health, to safety, and to loss due to property damage.
5. Municipalities are encouraged to identify, in consultation with Alberta Environmental Protection, areas of significant fish, wildlife and plant habitat and to establish appropriate land use patterns designed to minimize the loss of valued habitat within and adjacent to these areas.
6. If subdivision and development is to be approved in the areas identified in accordance with policy #5 municipalities are encouraged to, within the scope of their jurisdiction, utilize mitigative measures to minimize the loss of habitat.

6.0 RESOURCE CONSERVATION

...

6.3 Water Resources

Goal

To contribute to the protection and sustainable utilization of Alberta's water resources, including lakes, rivers, and streams, their beds and shores, wetlands, groundwater, reservoirs, and canals.

Policies

1. Municipalities are encouraged to identify, in consultation with Alberta Environmental Protection, significant water resources within their boundaries.
2. Municipalities are encouraged to determine appropriate land use patterns in the vicinity of the resources identified in accordance with policy # 1, having regard to impacts on an entire watershed as well as local impacts.
3. If subdivision and development is to be approved in the vicinity of the resources identified in accordance with policy #1, municipalities are encouraged to, within the scope of their jurisdiction, incorporate measures which minimize or mitigate any negative impacts on water quality, flow and supply deterioration, soil erosion, and ground water quality and availability. Municipalities are also encouraged to facilitate public access and enjoyment of these water features, and to protect sensitive fisheries habitat and other aquatic resources.

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- a) To maintain South View as a recreation focused, residential lakeside community.
- b) To be supportive of new development and infill that is sensitive to the surrounding community.

Policies

- 3.1.1 Single-family residential development is encouraged on vacant residential lots.
- 3.1.2 Natural vegetation and tree cover should be retained when development occurs, where possible.
- 3.1.3 Servicing requirements and off-site upgrades shall be at the expense of the developer.
- 3.1.4 Buildings shall be setback from the high-water mark of Isle Lake.
- 3.1.5 The maximum Municipal Reserve as indicated by the MGA shall be required for all subdivision. These reserves may be in the form of land, cash-in-lieu or a combination thereof.
- 3.1.6 Lands deemed to be environmentally significant shall be protected via Environmental Reserve dedication or an environmental easement registered at the time of subdivision.
- 3.1.7 Future Area Structure Plans shall conform to the MGA.
- 3.1.8 New Campgrounds are not permitted in the Summer Village.

3-2 Parks, Open Space and Recreation**Goals**

- a) To develop and maintain green spaces and recreational areas for South View residents.
- b) To provide additional recreational opportunities and facilities.

Policies

- 3.2.1 Parks and Open Spaces shall be preserved and maintained for the use and enjoyment of residents and visitors.
- 3.2.2 The development of new recreation facilities for both active and passive uses is encouraged.

3-3 Mobility**Goals**

- a) To maintain a well-connected, walkable community.
- b) To provide a safe and efficient road network that meets residents' current and future needs.

Policies

- 3.3.1 Trails and pathways shall be maintained and enhanced to link parks and open spaces and provide lake access.



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3.3.2 Opportunities to improve safety and connectivity for pedestrians and cyclists, such as separate walkways are encouraged.

3.3.3 The roadway network shall be maintained to meet current and future needs.

...

Land Use Bylaw

SUMMER VILLAGE OF SOUTH VIEW Land Use Bylaw No. 179

...

5.5 P – Parks

1. General Purpose of District

This district is generally intended to establish an area for recreational and leisure activities

2. Permitted Uses

- Parks and playgrounds
- Publicly owned minor recreation and cultural facilities

Discretionary Uses

- Commercial recreation facility
- Major recreation and cultural facility
- Schools
- Buildings and uses accessory to discretionary uses
- Other uses, which, in the opinion of the Development Authority, are similar to the permitted and discretionary uses