

AGENDA

PALLISER INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Monday, June 23, 2025 – 10:00 a.m.
Boardroom Palliser Regional Municipal Services
115 Palliser Trail, Hanna, AB T0J 1P0
Virtual attendance option available via Teams

Please email gwendolyn@shoresjardine.com no later than 9:00 a.m. on Monday June 23, 2025 to register for attendance via Teams.

1. Call to order
2. Introduction of Members Present
3. Adoption of Agenda
4. Appeal of permit issued located at:
Legal Location: Block 19 Plan 1280HU
Civic Address: 110 5th Ave W, Oyen AB
Permit Number:
 - a. Applicant: Darcy Volk
 - b. Appellant: Dixie McMullen and Darrell Tomkins
5. Adjournment

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May 25, 2025

To: The Secretary

Intermunicipal Subdivision and Development Appeal Board

Palliser Regional Municipal Services

PO Box 1900

Hanna, AB T0J 1P0

Dear Sir, or Madam:

Re: Notice of Development Permit Approval as follows:

Development/Use: PERMITTED: Accessory building - fabric covered;

DISCRETIONARY: Utilities (Sec. 10.1.9a)

Landowner/Applicant: Darcy Volk

Civic Address: 110, 5th Ave. West Oyen, AB

Legal Description: Block 19 Plan 1280HU

The narrative of the development permits related to this fabric covered building date back to July 2022 when the landowner applied for and was granted a permit for its construction. Letters of Notification of this approval/permit were never issued at this time to adjacent landowners, and consequently those landowners had no opportunity to voice their concerns nor appeal that development permit. In fact, the first that any of the neighbouring landowners were aware of this development was over a year later when on August 19, 2023 the first "hoops" that would support the fabric of the building were installed; within days the construction was complete.

It wasn't until January 13, 2025 that adjacent landowners were issued any form of communication related to this development (and then only after one landowner had inquired as to why a letter of notification had not been issued after the development permit had been

approved in July 2022). We received a letter which stated: "Development Permit 19-22 does appear to have been issued without notification to adjacent landowners". In light of this it was stated that in order to correct this error, the development permit had been cancelled, the landowner would have an opportunity to apply for a new permit, and the process would begin again. (See attachment.)

Since the Town of Oyen was at the time in the process of drafting and approving the current Land Use Bylaw #929-25 (which was adopted, signed, and came into effect on April 15, 2025), the landowner, Darcy Volk, conveniently did not apply for a new permit until after that date. However, he had communicated to Council (in written, not verbal form) at the public hearing on March 11, 2025 the following concern/request (contained within a print-out of the Regular Council Meeting on April 15, 2025); an excerpt from which reads as follows:

"Council heard from Darcy Volk at the public hearing that in order for his fabric covered storage shed to fit the land use Bylaw Residential Acreage regulations the following amendments would be required. Darcy cannot put a permanent structure on here as it is all fill, and footings would need to go down over 18 feet to ensure that the building did not shift around, making doors inoperable. His land is part of the town's storm water system. His building would not meet the size restrictions, and would not be allowed to have power in it."

As a result of this landowner's presentation, the Council set about to correct this problem for him by amending Accessory Buildings - Sections 10.1.8 and 10.1.9 of Bylaw # 929-25. Plus they went on to amend RA - Residential Acreage District, Sections 13.4.6 and 13.4.8 (as outlined in the previous drafts).

Up until the final draft of Bylaw #929-25, its final reading and adoption, Section 10.1.8 introduction read as follows:

10.1.8 Within residential districts Accessory Buildings - Fabric Covered must not

After the final amendment this same Section read as:

10.1.8 In all residential, excepting the RA - Residential Acreage District, Accessory Buildings - Fabric Covered must not

The introduction to Section 10.1.9 originally read as:

10.1.9 For non-residential uses in districts other than residential districts, Accessory Buildings - Fabric Covered may, at the discretion of the Development Authority:

As a result of the final amendment this portion of Section 10.1.9 now reads:

10.1.9 For the RA - Residential Acreage District, and non-residential uses in districts other than the residential districts,

As for Sections 13.4.6 and 13.4.8 which read as:

13.4.6 The maximum parcel coverage for principal buildings is 20%.

13.4.8 The maximum parcel coverage of Accessory Buildings is 150.0 sq. m (1,614.6 sq. ft).

These sections were combined to become Section 13.4.7 in the final draft, and read as:

13.4.7 The maximum parcel coverage including all buildings is 55%, where Accessory Buildings may comprise up to a maximum of 15% of the total parcel coverage.

Darcy's fabric covered building (66 feet X 29 feet) now "fits" the regulations set out for size, and he will be able to have power in it (which incidentally it already appears to have had). As concerned citizens of the Town of Oyen, we feel that this amendment maneuver in essence has made the new Land Use Bylaw #929-25 worth less than the paper it is written upon!

Adjacent landowners were informed of the approval of this development in a letter dated May 14, 2025, but postmarked May 16, 2025. (See attachments.) Since the amendments to the Bylaw, an appeal can now only apply to the discretionary portion (Utilities; i.e., electricity). How convenient!

On a daily basis this is the perspective faced by the adjacent landowners. The fabric covered building is located on a parcel of land in a residential area; however, this acreage is also home to a commercial business operation (Oyen Backhoe Services Ltd.). One would think that the purpose of this building would have been to house some of the equipment and supplies associated with this business. Not so! There may be a small amount of business related materials stored within, but most of it (various sizes of flatbeds; trailers; attachments for equipment such as backhoes, a bobcat/skidsteer; rolls of PVC piping; corrugated PVC culverts; various sizes of old and used septic holding tanks; and numerous other work related materials) is parked/scattered in the area around the fabric building. The immediate area is also home to a large shipping container that has been in place for many years, is over-sized (40 feet in length), and does not apparently have a permit. This scene is visible not only to the surrounding landowners, but also to anyone who walks, bikes, or drives by this location fronting on 4A Ave. West. This area that is so "in your face" to the general public is not, however, readily visible from the landowner's home or front yard as a grove of trees buffers him and his family from this view.

In reality, adjacent landowners were never given an opportunity to appeal the original permit for this fabric covered building that was issued in July 2022; nor are we being given an opportunity to appeal the permit issued on May 13, 2025 for the existence of this large building. A simple change (amendment) to a few Sections in the new Land Use Bylaw #929-25 makes all the problems go away for the landowner, and for Town Council. It does not, however, solve the dilemma that the adjacent landowners (neighbours) face.

Throughout the new Bylaw (#929-25) there are numerous occasions where mention is made of how a development must be compatible with its surrounding neighbourhood. For example, Section 4.3.1(a) specifically says, "the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use,

enjoyment or value of neighbouring properties. As adjacent landowners can, attest this "mess" that we face each day was not there when we purchased our properties, but is most certainly going to affect the value of said properties.

This brings us to the only thing that we are apparently allowed to appeal at this point - the Discretionary Permit for Utilities (i.e., electricity) in the Fabric Covered Building. The owner, himself, admits in his presentaion to Council that this building would require footings extending 18 feet into the ground in order to stabilize it. If this structure is not stable, one has to question why would a permit ever be granted for electicity to be installed in such a building? This is simply a disaster waiting to happen in an RA/CS neighbourhood! Is it little wonder that the neighbouring landowners are concerned?

As this scenario plays out, one can not but help but think of the old adage that, "Two wrongs do not make a right".

Thank you for taking the time to consider these opinions, objections, and concerns as you make your decision on this appeal.

Sincerely,

Palliser Intermunicipal Subdivision and Development Appeal Board

June 12, 2025

Clerk of the Palliser ISDAB
2250, 10104 – 103 Avenue
Edmonton, Alberta T5J 0H8

NOTICE OF SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING

Appeal of:	Development Permit Approval Permit Number: 03-2025
Location:	Legal Address: Block 19, Plan 1280HU Municipal Address: 110- 5 th Avenue W, Oyen
Appeal Received:	June 4, 2025
Applicant:	Darcy Volk
Appellant:	Dixie McMullen and Daniel Tomkins
Appeal Hearing Date:	10:00 a.m., Monday June 23, 2025
Appeal Hearing Location:	115 Palliser Trail, Hanna, AB T0J 1P0 Virtual attendance also available – Please contact the Clerk for details
Submissions Deadline:	June 18, 2025 Noon

The Town of Oyen received a Development Permit application for an accessory building – fabric covered with utilities at 110 5th Ave W, Oyen. The Development Permit was approved on May 14, 2025.

Correspondence has been received appealing the decision for the approved Development and in accordance with Section 686(2) of the *Municipal Government Act*, a hearing will be held at the offices of Palliser Regional Municipal Services, 115 Palliser Trail, Hanna, AB on Monday, June 23, 2025 at 10:00 a.m.

All written submissions for the agenda package must be sent via email to gwendolyn@shoresjardine.com on or before noon on June 18, 2025.

The agenda package for this hearing will be emailed to any person who requests the information from the Clerk. Requests for the information may be made at any time from June 19, 2025 onwards.

Before the hearing starts, a copy of the application and supporting documentation will be available for inspection at Palliser Regional Municipal Services, during regular business hours. Please contact Devin Diano at 403-854-3371 – Ext 206 or by email at ddiano@palliserservices.ca to schedule an appointment to view these documents.

Please Note:

This meeting will be conducted in person at the offices of Palliser Regional Municipal Services.

However, for those unable to attend in person the option to attend via Teams conferencing is available.

Should you wish to attend via Teams conferencing please contact the SDAB Clerk by email at gwendolyn@shoresjardine.com no later than 9:00 a.m. on Monday, June 23, 2025.

If you have any questions, please contact the Clerk at 780-702-4275 should you require assistance or have any questions or concerns.

Yours truly,

Gwendolyn Stewart-Palmer
Clerk, Palliser Intermunicipal Subdivision and Development Appeal Board

List of Persons notified of the hearing

- Dixie McMullen
- Darrell & Beverly
- Peers, Taylor
- Evangelical Missionary Church
- Mehl, Keith

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

TELEPHONE (403) 664-3511
FAX (403) 664-3712
E-MAIL: cao@oyen.ca



Town of Oyen
P.O. BOX 360
OYEN, AB T0J 2T0

January 13, 2025

Development Permit 19-22

Upon review of the Development permit issued in July 2022, it does appear to have been issued without notification to adjacent landowners.

I have had a meeting with the landowner and reviewed the procedures required to correct this error. The development permit has been cancelled and the landowner will have the opportunity to reapply for the development permit.

Upon receipt of the application, the process for review will begin again, following all steps outlined in the development handbook that has been provided to us by Palliser Regional Municipal Services.

I wish to apologize for this oversight and any inconvenience this may cause you.

Debbie Ross, Development Officer
Town of Oyen



May 14, 2025

File Number: 03-2025

Dear Sir or Madam:

RE: Notice of Decision for Development Permit Approval

Development/Use: PERMITTED: accessory building- fabric covered; **DISCRETIONARY:** utilities(sec 10.1.9 a)

Landowner/Applicant: Darcy Volk

Civic Address: 110 5th Ave W

Legal Description: Block 19 Plan 1280HU

As an adjacent landowner, you are receiving this letter to inform you of an approval of a development permit for a discretionary use by the Town of Oyen.

The Town of Oyen Municipal Planning Commission approved the above noted development permit on May 13, 2025 subject to conditions. For more information, a copy of the development permit application and the approval can be viewed at the Town Office at 201 Main Street between the hours of 8:30 a.m. to 4:30 p.m., or you may request a copy to be mailed or emailed to you.

Appeal

Should you as an adjacent landowner or a person with interest in this application wish to appeal the approval of the **discretionary use**, an appeal must be made in writing pursuant to Sections 685 and 686 of the Municipal Government Act, by submitting it within 21 days of the date of this letter to:

The Secretary
Intermunicipal Subdivision and Development Appeal Board
Palliser Regional Municipal Services
PO Box 1900
Hanna, AB
T0J 1P0

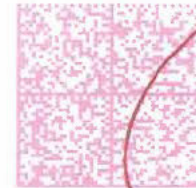
Please note: To help offset the cost of an appeal, a fee of \$500 will be issues by the Town of Oyen to the appeal applicant.

Please contact the undersigned if you require additional information.

Regards,

Debbie Ross
Development Officer

Town of Oyen
Box 360
Oyen, AB
T0J 2J0
(403)664-3511



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0516 100817



FORM A

TOWN OF OYEN
LAND USE BYLAW NO. 826-13
DEVELOPMENT PERMIT APPLICATION

FOR ADMINISTRATIVE USE ONLY

Application # 3-2025.

Tax Roll # 433000

Date Received Mar. 17/25

Application Fee

I/We hereby make application under the provisions of the Land Use Bylaw for a Development Permit in accordance with the plans and supporting information submitted herewith and which form part of the application.

APPLICANT: Darcy Volk TELEPHONE: (Home) (Business)

ADDRESS: POSTAL CODE:

Email:

MUNICIPAL ADDRESS OF PROPERTY TO BE DEVELOPED:

LEGAL DESCRIPTION OF PROPERTY: LOT: BLOCK: 19 PLAN: 1280HU

QTR./L.S.D.: SEC.: TWP.: RNG.: M.: C. of T.:

DESCRIBE EXISTING USE OF LAND: storage Residential

LAND USE DISTRICT: urban reserve Res ac.

DESCRIBE THE PROPOSED USE OF THE LAND: storage - indoor 32' x 66' fabric building -

LOT WIDTH: 200' SIDE YARD: 300' REAR YARD: 200'

FLOOR AREA: 2178 sq ft PERCENT OF LOT OCCUPIED: 5

OFF-STREET PARKING: SIZE OF SPACE: NUMBER OF STALLS:

lot size 2.1 Acres = 91476 sq ft

ACCESSORY USE: Accessory Bldg Fabric Covered - with power.

PERCENT OF LOT OCCUPIED: 2.4% HEIGHT OF ACCESSORY BUILDING: 16'

SET BACK FROM SIDE LOT LINE: 1 meter SET BACK FROM REAR LOT LINE: 1 meter

ESTIMATED PROJECT COST OR CONTRACT COST: \$30,000

ESTIMATED START DATE: 03/24/25 ESTIMATED COMPLETION DATE: 03/24/25

I/We hereby give my consent to allow all authorized persons the right to enter the above land and/or buildings, with respect to this application only, and I/We hereby declare that the above information is, to the best of my/our knowledge, factual and correct.

DATE OF APPLICATION: 03/17/25 SIGNATURE OF APPLICANT:

This is not an application for a building permit.

This form shall be accompanied by:

- (a) A detailed and scaled site plan showing the legal land description and the front, rear, and side yards, if any, and any provision for off-street loading and vehicle parking, and entry to and from the parcel;
- (b) Floor plans, elevations and sections if required by the Development Officer;
- (c) Such other plans and information as the Development Officer may request.

(Further information required over ...)



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DEVELOPMENT PERMIT No.: 3-2025
APPLICANT NAME: Darcy Volk.
MUNICIPAL ADDRESS:
LEGAL ADDRESS: Lot / Block 19 Plan 1280 HU
APPLICATION DATE: Mar 17/25.
DATE DEEMED COMPLETE: April 7/25.
DECISION DUE DATE: April 7/25

NOTICE OF DEEMED COMPLETE

THIS IS NOT A DEVELOPMENT PERMIT

It has been decided that the application be **DEEMED COMPLETE**.

Your application may now be circulated to other departments for a more comprehensive review. During that review, you may be required to submit additional information or documentation considered necessary to review of your application. Should the Town require additional time to review and make a decision on your application, it may be requested that you enter into a time extension agreement to extend the 40-day period.

If a decision is not made within the 40 days, you have the option to request the application be deemed refused and appeal to the Subdivision and Development Appeal Board (SDAB). A notice of appeal must be filed within 21 days after the 40-day period ends. An appeal hearing must be held within 30 days after receipt of a notice of appeal.

If you have any questions, please contact the Town Office at 403-664-3511 or cao@oyen.ca.

Signature _____

April 7/25.
Date

Debbie Ross, Development Officer

Development Permit Review Form

Office Use Only

DP # 3-2025

Application Details

Civic Address:

Legal Address: Lot(s): ✓ Block: 19 Plan: 1280HU /Qtr. _____ Sec. _____ Twp. _____ Rge. _____ W4MTax Roll# 433000 LINC # 0019 264761Land Use District: RA. Proposed Use/Development: permitted Accessory Building-fabric Covered. Discretionary use on utilitiesPermitted Use ☒ Discretionary Use ☒ Non-Conforming Use ☐Development Permit Required: ☒ Yes ☐ NoDate Application Submitted: Mar. 17/25Complete Application Notice: Due: April 7/25 Sent: April 7/25 (20 days from submission date)Date Decision Required by: May 17/25 (40 days from Complete Application Notice sent)

Application Referral

☐ Internal Departments:☐ Adjacent Municipality: (Check IDP):☐ AER (where a permanent dwelling, public facility or country residential development is within 1.5 kms of a sour gas facility). Required setback distance:☐ Other:

Date Sent: _____ Deadline for comments: _____

Notice of Application

Required?: ☐ Yes ☒ No

Date Mailed/Posted: _____ Deadline for comments: _____

AER Oil and Gas Setbacks (Refer to Section 13, Matters Related to Subdivision and Development)

Does the development result in a permanent dwelling, public facility or unrestricted country residential development, as defined by the AER, within 100 m for a gas and oil well? ☐ Yes ☒ No

If yes, the application cannot be approved unless a lesser distance is approved by the AER in writing.

AER Abandoned Well Setbacks (Refer to Section 15, Matters Related to Subdivision and Development)

Does the development result in a building that is larger than 47 m² and the building will be located within the minimum setback of an abandoned well set out in AER Directive 079? ☐ Yes ☐ No ☒

If yes, the application cannot be approved.

AER Abandoned Well Setbacks (Refer to Section 16, Matters Related to Subdivision and Development)

Is the development an addition or repair to an existing building that will result in a building larger than 47 m², and the building will be located within the minimum setback of an abandoned well set out in AER Directive 079? ☐ Yes ☒ No

If yes, the application cannot be approved unless the development authority varies those minimum setback requirements after consulting with the well licensee.

Distance from Wastewater Treatment, Landfill, Waste Sites (Refer to Section 17(3), Matters Related to Subdivision and Development)

Does the development result in a school, hospital or residence building site within:

- ☐ 300 m of the working area of an operating wastewater treatment plant
- ☐ 450 m of the working area of an operating landfill
- ☐ 300 m of the disposal area of an operating or non-operating landfill
- ☐ 450 m of the working area or disposal area of a non-operating hazardous waste management facility
- ☐ 450 m of the working area or disposal area of an operating hazardous waste management facility
- ☐ 300 m of the working area of an operating storage site

If yes, the application may be approved by the development authority if the distances listed above are varied if the applicant submits a report from a professional engineer that meets the requirements of section 17(6).

Utility Right-of-Ways, Easements and Other Caveats on Title

- ☐ URW Plan #: _____ Utility Company: _____
- ☐ URW Plan #: _____ Utility Company: _____
- ☐ Easements: _____
- ☐ Restrictive covenants: _____

Lot Grading and Drainage

Is there an approved subdivision grading plan? If yes:

- ☐ do the elevations at the corners of the lot comply on the site plan?
- ☐ does the site plan show any required swales and appropriate direction of stormwater flow to comply with the grading plan?
- ☐ is there a 2% grade minimum from the building foundation to the property lines?

If no, is a professional engineer required to prepare a stormwater/grading plan? Yes ☐ No ☐

Utility Services and Access

- Is utility servicing required? ☒ Yes ☐ No
- Is there physical access to the lot/parcel? ☒ Yes ☐ No

Overlays or Development Hazards

Is there an applicable Overlay District? ☐ Yes ☒ No

Is there a flood hazard, or steep slope hazard? ☐ Yes ☒ No

Statutory Plan Consistency

Is the application consistent with all statutory plans (IDP, MDP, ASP, ARP)? Yes ☒ No ☐

Parcel/Lot Details

Lot Type: Interior ☒ Corner ☐ Reverse Corner ☐ N/A ☐ Lot Shape: Regular ☒ Irregular ☐

Lot/Parcel Size: Width: Length: Total Area: 2.1 acres.

Land Use Bylaw Compliance Review

Land Use Bylaw Requirement		Proposed Development	Variance (%)
Front Yard	1m.	320ft.	
Side Yard ()	1m.	16 ft.	
Side Yard ()			
Rear Yard	1m.	1m.	
Gross Floor Area (Principal Building)			
Gross Floor Area (Accessory Buildings)	1540		
Site Coverage (Principal Building)			
Site Coverage (Accessory Buildings)	15%.	2.4%.	
Building Height (Principal Building)			
Building Height (Accessory Buildings)	14m(45.9ft)	16'	
Parking Stalls	/		
Other Land Use Bylaw Requirements		Proposed Development	Variance (%)
Projection(s) into yards			
Projection(s) into yards			
Fence Height (Front yard)			
Fence Height (Rear & Side Yards)			

Screening			
Garbage			
Landscaping			

Is the building a non-conforming building? ☐ Yes ☒ No
Can a variance be granted? ☒ Yes ☐ No

Comments:
Take to MPC. Building meets bylaw requirements but applicant has requested a variance for utilities as per section 10.1.9(a)

Date of Review: May 13/25 Development Officer: _____

Decision

Development Authority: Development Officer ☐ MPC ☒
Approved ☒ Refused ☐ Date of Decision: May 13/25.
Is a Development Agreement required? ☐ Yes ☒ No

Issuing the Notice of Decision or Development Permit and Right to Appeal

Is there a right to appeal the decision?

☐ No: If the use is a permitted use and no variances have been granted. **Immediately issue a Development Permit.**

Development Permit Issue Date: _____

☒ Yes: If the use is a discretionary use, or if a variance has been granted. **Immediately issue a Notice of Decision.** If no appeals are received, issue a Development Permit immediately after the 21-day appeal period expires. If an appeal is received, do not issue a Development Permit. The SDAB/ISDAB will make further decisions.

Notice of Decision Issue Date: May 13/25.

Appeal Period Expiration for applicant: _____

Appeal Period Expiration for affected persons*: June 4/25.

Appeal received? ☐ Yes ☐ No

If no, Development Permit Issue Date: _____

* Please refer to the Land Use Bylaw to determine which notification triggers the 21-day appeal period (i.e. letters mail, newspaper ad, posting on property).



DEVELOPMENT PERMIT No.: 3-2025.

APPLICANT NAME: Darcy Volk.

MUNICIPAL ADDRESS:

LEGAL ADDRESS: Lot / Block 19 Plan 12804U

LAND USE DISTRICT: Res Ac.

APPROVED USE(S): Accessory Building-Fabric Covered with power.

DATE APPLICATION DEEMED COMPLETE April 7/25.

DATE OF DECISION: May 13/25.

APPROVED BY: MPC

NOTICE OF DECISION

THIS IS NOT A DEVELOPMENT PERMIT

It has been decided that the application be **APPROVED** subject to the conditions noted in the attached **Conditions Of Approval**.

Signature

May 13/25.
Date

Debbie Ross
Development Officer

A decision of the Development Authority on a development permit application may be appealed by serving a written Notice of Appeal to the **Secretary of the Intermunicipal Subdivision and Development Appeal Board** within twenty-one (21) days of the date that the applicant is notified of the decision in writing.

Should you have any questions or require information regarding any of the above please contact the Development Officer as noted in this document.



CONDITIONS OF APPROVAL

Variances:

- 1. May have utilities as approved by MPC.

Standard Conditions of Approval:

- 1.

Specific Conditions of Approval:

- 1. 21 days for appeal process.

Advisory Notes:

- Please note that you are also required to obtain any Building Permits and Inspections as required under the *Safety Codes Act*. Please contact Palliser Regional Municipal Services at 1-800-407-8361 or visit www.palliserservices.ca.
- Call before you dig
-
-

Development Permit Review and Process Checklist Summary

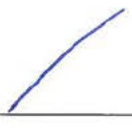
The following Steps outline the procedure for reviewing and making a decision on a development permit application once the application is submitted to the municipality and the fees have been paid. Place a checkmark in the "Complete" box when the task is completed. Note "N/A" if the task is not required to be performed.

Review for Completeness		
Step	Actions	Complete
Step 1	Assign DP number and enter this number, the receipt number and property tax roll number onto the DP application form.	3-2025
Step 2	Print a Development Permit Review Form for the file. Enter the date the application was submitted. Calculate the 20-day complete application due date and enter.	Mar 17 Apr 7.
Step 3	Determine the applicable land use district and enter on the Development Permit Review Form .	✓ RA
Step 4	Determine the use or development being applied for. Confirm the use/development is listed as a permitted or discretionary use in the land use district. Enter the use/development on the Development Permit Review Form. *The word entered for the use/development must match the use/development definition in the land use bylaw (i.e. Detached Dwelling). If the use/development is not listed in the district, the development permit cannot be approved. Proceed to Step 30 to issue a Notice of Refusal or to Step 5 for a non-conforming use.	Permitted Acc Build. fab cov. variance to power.
Step 5	If the development permit application is related to a non-conforming use, a development permit to extend the use throughout the existing building may be approved as long as the use has not been discontinued for a period of 6 consecutive months or more. Proceed to Step 6.	✓
	A development permit to enlarge, add to, or make structural alterations to a non-conforming use must be refused. Proceed to Step 30.	
	A development permit to extend the non-conforming use of part of a lot to any other part of the lot, or to construct additional buildings on the lot must be refused. Proceed to Step 30.	
Step 6	Confirm that a development permit is required for that type of use/development. Refer to the "Development Permits Not Required" section of the land use bylaw. *If a development permit is not required, the application can be cancelled and the fees returned to the applicant.	✓
Step 7	Confirm the applicant is the registered owner of land or the applicant has authorization from the landowner.	✓
Step 8	Perform a review for complete application within 20 days of the application submission date. This must include information related to abandoned well sites as required by the AER. If the application is incomplete, proceed to Step 9. If the application is complete, proceed to Step 10.	✓

	If greater than 20 days is required for the review for completeness, enter into a time extension agreement with the applicant. If the complete/incomplete application notice was not sent within 20 days and a time extension agreement was not entered into, the application is automatically "deemed" complete and a "deemed complete" notice must be sent.	✓
Step 9	If the application is incomplete, send a Notice of Incomplete Application. If it will take the applicant longer than the 20-day complete application review deadline to prepare and submit the information or documents required, enter into a time extension agreement included in the Notice of Incomplete Application. If the required information or documents are submitted before the deadline in the time extension agreement, proceed to Step 10. If the required information and documents are not provided before the agreed upon date in the time extension agreement, the application is deemed to be refused and a Notice of Refusal must be issued. Do not continue processing the application once the Notice of Refusal has been issued. The applicant has the right to appeal the refusal.	✓
Step 10	Prepare and send a Notice of Complete Application. Enter the date the notice was sent on, and calculate the 40-day decision time period and also note this date on the Development Permit Review Form.	Apr. 7/25 May 17.

Detailed Development Permit Review

Step	Actions	Complete
Step 11	Circulate the complete development permit application to any required or relevant agencies or internal departments, such as an adjacent municipality, the AER, or any internal municipal department (public works, roads, fire, engineering). Enter this information on the Development Permit Review Form. If any of the land that is subject to the application for a permanent dwelling, public facility or unrestricted country residential development (as defined by the AER) is within 1.5 kms or a lesser distance of a sour gas facility, a circulation must be sent to the AER.	✓
Step 12	Mail or post a Notice of Application , if applicable. Enter this information on the Development Permit Review Form .	✓
Step 13	Begin the detailed review of the development permit application while waiting for referral comments to be returned. Confirm the development conforms to the AER setbacks related to sour gas facilities or in accordance with the written AER referral response.	✓
Step 14	Confirm the development of a permanent dwelling, public facility or unrestricted country residential development conforms to the AER setbacks related to gas and oil wells (100 m setback). If not, the development may be approved only if the AER provides for lesser distance in writing.	✓
Step 15	Confirm if the development results in a building greater than 47 m², that the building meets the minimum setback requirements from an abandoned well specified in AER Directive 079. If not, the development must be issued a Notice of Refusal. Proceed to Step 31.	✓

Step 16	Confirm if the development is an addition or repair to a building that results in a building greater than 47 m², that the building meets the minimum setback requirements from an abandoned well specified in AER Directive 079. If not, the development may be approved with a variance from the Development Authority after consulting with the well licensee. If a variance is not granted, the development must be issued a Notice of Refusal. Proceed to Step 31.	
Step 17	Confirm that a development permit application for a school, hospital or residence meets the setback requirements of the Matters Related to Subdivision and Development Regulation section 17 to a wastewater treatment plan, a landfill, a hazardous waste management facility, or a storage site. If not, the application <i>may</i> be approved by the development authority if the distances listed above are varied if the applicant submits a report from a professional engineer that meets the requirements of section 17(6) of the Matters Related to Subdivision and Development Regulation.	
Step 18	Review the certificate of title for relevant utility rights-of-ways or easements. Ensure any development meets the requirements or conditions stated in any URW or easement agreement.	
Step 19	Review the certificate of title for relevant restrictive covenants registered against the property by the municipality.	
Step 20	Review lot grading and drainage.	
Step 21	Review utility services and road access.	
Step 22	Review overlays and development hazards.	
Step 23	Review for consistency with municipal statutory plans.	
Step 24	Determine and record the lot/parcel details that will be used in land use bylaw compliance reviews.	
Step 25	Complete the Land Use Bylaw compliance review.	
Step 26	Confirm if the Development Permit application is for an addition, enlargement or structural alteration to a non-conforming building. Confirm in municipal permit files if a variance has already been granted for the non-conformance through the previous issuance of a Development Permit. If yes, the building is considered "conforming". If not, determine if the Development Permit application complies with section 643(5) of the MGA or if the Land Use Bylaw specifically grants variance powers for non-conforming buildings. If the non-conforming building has been damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, confirm if the Land Use Bylaw allows a structure to be repaired or rebuilt.	 
Step 27	Review all referral responses.	

Step 28	Determine if additional information is required from the applicant prior to making a decision. Send a letter or email to the applicant requesting the documents or information.	
	In some cases, the letter might also explain if the application is not consistent with requirements of the Land Use Bylaw or other municipal policies. The applicant may choose to revise their application to be consistent and avoid the variance process.	
	Determine if a Decision Time Extension Agreement will be required to be entered into if the decision cannot be made within the 40-day deadline.	
Making the Decision		
Step	Actions	Complete
Step 29	Review the Land Use Bylaw to determine the appropriate Development Authority based on if the permit is for a permitted or discretionary use, and if a variance is requested. If the Development Officer is the decision authority, proceed to Step 31. If the Municipal Planning Commission is the decision authority, proceed to Step 30.	MPC.
Step 30	Schedule the MPC meeting, leaving the Development Officer adequate time to prepare an agenda and a report.	
	Prepare a written report that summarizes the application and provides a review of the application and its consistency to statutory plans, the land use bylaw, and municipal policies.	
	Prepare a recommendation for approval and the conditions approval,	
	or	
	Prepare a recommendation for refusal and the reasons for refusal.	
	Provide the MPC members and the applicant a copy of the meeting agenda package that contains the report and the development permit application prior to the meeting.	
Step 31	Where the decision of the Development Officer or the MPC is to issue a refusal, a Notice of Refusal must be issued immediately to the applicant. The notice must include a statement of who the appeal lies with (SDAB or LPRT). Note: A development permit application for a permitted use that meets the standards of the Land Use Bylaw <u>Must</u> be approved and there is no right to appeal the decision "unless the provisions of the land use bylaw were relaxed, varied or misinterpreted" (section 685(3)). If the decision is to approve the application, proceed to Step 32 for a discretionary use or where a variance will be granted. If the decision is to approve the application, proceed to Step 34 for a permitted use that complies with all standards in the Land Use Bylaw.	
Step 32	For a decision to approve a development permit for a discretionary use or where a variance has been granted, issue a Notice of Decision to the applicant on the same day the decision is made. Include a statement of who the appeal lies with (SDAB or LPRT). Prepare a notice as required in the Land Use Bylaw to inform potentially affected persons. This may include a letter mailed to adjacent landowners, a newspaper advertisement, or a posting on the property.	Jne 4/1/25

Step 33	Wait for an appeal to be submitted. The applicant may submit an appeal up to 21 days from the date the Notice of Decision is issued.	
	A member of the public who claims to be affected may appeal the decision up to 21 days from the date the required notice is given as specified in the Land Use Bylaw.	
Step 34	For a permitted use that complies with the standards of the Land Use Bylaw, issue a Development Permit.	
	If no appeal is received on a permit for a discretionary use or where a variance has been granted, issue a Development Permit.	
Step 35	Except as indicated in a condition of approval of the Development Permit, the applicant can commence development. The Development Officer will need to work with or monitor the applicant on any conditions that need to be completed prior to commencement.	
Step 36	Monitor the development to ensure it is complete prior to the required completion date in the Land Use Bylaw or where the Land Use Bylaw allows, as specified in a condition of a permit.	
Step 37	Close the file when all conditions of approval have been completed.	



May 14, 2025

File Number: 03-2025

Dear Sir or Madam:

RE: Notice of Decision for Development Permit Approval

Development/Use: PERMITTED: accessory building- fabric covered; **DISCRETIONARY:** utilities(sec 10.1.9 a)
Landowner/Applicant: Darcy Volk
Civic Address: 110 5th Ave W
Legal Description: Block 19 Plan 1280HU

As an adjacent landowner, you are receiving this letter to inform you of an approval of a development permit for a discretionary use by the Town of Oyen.

The Town of Oyen Municipal Planning Commission approved the above noted development permit on May 13, 2025 subject to conditions. For more information, a copy of the development permit application and the approval can be viewed at the Town Office at 201 Main Street between the hours of 8:30 a.m. to 4:30 p.m., or you may request a copy to be mailed or emailed to you.

Appeal

Should you as an adjacent landowner or a person with interest in this application wish to appeal the approval of the **discretionary use**, an appeal must be made in writing pursuant to Sections 685 and 686 of the Municipal Government Act, by submitting it within 21 days of the date of this letter to:

The Secretary
Intermunicipal Subdivision and Development Appeal Board
Palliser Regional Municipal Services
PO Box 1900
Hanna, AB
T0J 1P0

Please note: To help offset the cost of an appeal, a fee of \$500 will be issues by the Town of Oyen to the appeal applicant.

Please contact the undersigned if you require additional information.

Regards,

Debbie Ross
Development Officer





























Development Officer's Report to the Subdivision and Development Appeal Board (SDAB)
Town of Oyen
Development Permit Appeal – File No. 3-2025
Hearing Date: June 23, 2025

1. Purpose of Report

This report is submitted to the Subdivision and Development Appeal Board (SDAB) by the Development Officer for the Town of Oyen. It provides the relevant planning and legal context regarding the appeal filed against the approval of a Development Permit for a fabric-covered accessory building located at 110 5 Ave. West Oyen, Ab.

This report outlines the facts, planning rationale, legislative framework, and Administration's position that the appeal is not valid due to the permit being for a permitted use under the Land Use Bylaw. Further, the Administration acknowledges an error in the issuance of public notification suggesting appeal rights where none legally existed under the Municipal Government Act (MGA).

2. Background and Description of Development

- **Applicant:** Darcy Volk
- **Civic Address:** 110 5 Ave. West
- **Land Use District:** Residential Acreage
- **Proposed Development:** Fabric-covered accessory building (e.g., storage structure)
- **Permit No.:** 3-2025
- **Permit Status:** Approved on May 13, 2025
- **Discretionary Elements:** Electrical servicing to the accessory building

The principal structure on the lot is a single detached dwelling. The accessory building complies with all applicable setback requirements and size restrictions for the district. The only discretionary aspect of this application was the inclusion of electrical service.

3. Legislative and Policy Context

a. Municipal Government Act (MGA)

Section 685(1) of the MGA states:

"If a development authority... (a) refuses or fails to issue a development permit to a person, or (b) issues a development permit subject to conditions, the person applying for the permit may appeal."

Section 685(2):

"In the case of a development permit issued for a permitted use that complies with the land use bylaw, no appeal may be made."

b. Town of Oyen Land Use Bylaw #929-25

- **Accessory Buildings:** Listed as a permitted use within the Residential Acreage District
- **Discretionary Component:** Electrical connections to accessory structures are subject to discretion.
- **Setbacks, height, and massing:** Fully compliant based on the approved plans.

4. Notification Error and Administrative Oversight

In accordance with past practice, notification of the permit approval was issued to adjacent landowners and included language stating they had the right to appeal the decision. This was an administrative error.

Given that the proposed development is a permitted use under the Land Use Bylaw and complies with all applicable regulations, there was in fact no appeal right under the MGA.

The only discretionary component—the provision of power to the structure—was reviewed and approved under the discretionary use powers of the Development Officer, with no valid planning rationale to deny. No relaxation of setbacks, height, or size was requested or granted.

We acknowledge the Town's notification error may have inadvertently implied that an appeal right existed. However, per Section 685(2) of the MGA, the Appeal Board does not have jurisdiction to hear appeals for permitted uses that comply with the Land Use Bylaw.

5. Summary of Appellant Concerns

The appellants, Dixie McMullen, Darrell Tomkins, submitted concerns regarding:

- Aesthetic impact of the fabric-covered building
- Perceived noise from electrical equipment within the structure

These are not valid grounds for an appeal under the MGA when the use is permitted, and no variance has been granted.

6. Legal Consideration and Recommendation

Under the MGA, the SDAB must determine whether it has jurisdiction to hear the appeal. In this case:

- The use (accessory structure) is permitted;
- No variances were granted;
- The only discretionary aspect (power) was approved appropriately under existing authority.

Therefore, the appeal is invalid, and the SDAB should dismiss the appeal without hearing, in accordance with Section 685(2) of the MGA.

It is also our legal position that while the notification error was regrettable, it does not confer appeal rights that do not exist in law.

7. Conclusion

The development permit issued for the accessory fabric-covered building, including electrical servicing, is consistent with the Town of Oyen Land Use Bylaw and the MGA. The appeal submitted is not valid under provincial legislation, and the SDAB lacks jurisdiction to overturn a permit for a permitted use that complies with applicable bylaws.

We respectfully request the Subdivision and Development Appeal Board to dismiss the appeal on the grounds that it has no jurisdiction to hear it under Section 685(2) of the Municipal Government Act.

Submitted by:

Debbie Ross
Development Officer, CAO
Town of Oyen
cao@oyen.ca
June 17, 2025

Attachments:

1. Approved Development Permit and Plans
2. Copy of Notification Sent to Adjacent Landowners
3. Appellant's Letter of Appeal
4. Relevant Sections of Land Use Bylaw
5. MGA Section 685 Excerpt

FORM A

TOWN OF OYEN

LAND USE BYLAW NO. 826-13
DEVELOPMENT PERMIT APPLICATION

FOR ADMINISTRATIVE USE ONLY

Application # 45-2025Tax Roll # 433000Date Received Mar. 17/25

Application Fee _____

I/We hereby make application under the provisions of the Land Use Bylaw for a Development Permit in accordance with the plans and supporting information submitted herewith and which form part of the application.

APPLICANT: Darcy Volk TELEPHONE: (Home) _____ (Business) 403 664 0587

ADDRESS: 110 5th ave west oyen AB POSTAL CODE: T0J 2J0

Email : djvolk@telusplanet.net

MUNICIPAL ADDRESS OF PROPERTY TO BE DEVELOPED: 110 5th ave west oyen

LEGAL DESCRIPTION OF PROPERTY: LOT: _____ BLOCK: 19 PLAN: 1280HU

QTR./L.S.D.: _____ SEC.: _____ TWP.: _____ RNG.: _____ M.: _____ C. of T.: _____

DESCRIBE EXISTING USE OF LAND: storage Residential

LAND USE DISTRICT: urban reserve Res ac.

DESCRIBE THE PROPOSED USE OF THE LAND: storage - indoor 32' x 66' fabric building -

LOT WIDTH: 200' SIDE YARD: 300' REAR YARD: 200'

FLOOR AREA: 2178 sq ft PERCENT OF LOT OCCUPIED: 5

OFF-STREET PARKING: _____ SIZE OF SPACE: _____ NUMBER OF STALLS: _____

lot size 2.1 Acres = 91476 sq ft

ACCESSORY USE: Accessory Bldg Fabric Covered - with power.

PERCENT OF LOT OCCUPIED: 2.4% HEIGHT OF ACCESSORY BUILDING: 16'

SET BACK FROM SIDE LOT LINE: 1 meter SET BACK FROM REAR LOT LINE: 1 meter

ESTIMATED PROJECT COST OR CONTRACT COST: \$30,000

ESTIMATED START DATE: 03/24/25 ESTIMATED COMPLETION DATE: 03/24/25

I/We hereby give my consent to allow all authorized persons the right to enter the above land and/or buildings, with respect to this application only, and I/We hereby declare that the above information is, to the best of my/our knowledge, factual and correct.

DATE OF APPLICATION: 03/17/25 SIGNATURE OF APPLICANT: Darcy

This is not an application for a building permit.

This form shall be accompanied by:

- A detailed and scaled site plan showing the legal land description and the front, rear, and side yards, if any, and any provision for off-street loading and vehicle parking, and entry to and from the parcel;
- Floor plans, elevations and sections if required by the Development Officer;
- Such other plans and information as the Development Officer may request.

Darcy Volk Property - Subtitle



Setback
1 meter
proposed
Cover All
Building

The makes no representation as to the completeness, timeliness and accuracy of the information contained on this website. The expressly disclaims liability for any ar all damages and losses arising from or in any way related to the use of this websit

Town of Oyen



DEVELOPMENT PERMIT No.: 3-2025

APPLICANT NAME: Darcy Volk.

MUNICIPAL ADDRESS: 110 5th Ave West.

LEGAL ADDRESS: Lot / Block 19 Plan 1280 HU

APPLICATION DATE: Mar 17/25.

DATE DEEMED COMPLETE: April 7/25.

DECISION DUE DATE: April 7/25

NOTICE OF DEEMED COMPLETE

THIS IS NOT A DEVELOPMENT PERMIT

It has been decided that the application be **DEEMED COMPLETE**.

Your application may now be circulated to other departments for a more comprehensive review. During that review, you may be required to submit additional information or documentation considered necessary to review of your application. Should the Town require additional time to review and make a decision on your application, it may be requested that you enter into a time extension agreement to extend the 40-day period.

If a decision is not made within the 40 days, you have the option to request the application be deemed refused and appeal to the Subdivision and Development Appeal Board (SDAB). A notice of appeal must be filed within 21 days after the 40-day period ends. An appeal hearing must be held within 30 days after receipt of a notice of appeal.

If you have any questions, please contact the Town Office at 403-664-3511 or cao@oyen.ca.

Signature

Date

April 7/25.

Debbie Ross, Development Officer

Development Permit Review Form

Office Use Only

DP # 3-2025

Application Details

Civic Address:

110 5th Ave WestLegal Address: Lot(s): ✓ Block: 19 Plan: 1280HU /Qtr. _____ Sec. _____ Twp. _____ Rge. _____ W4MTax Roll# 433000 LINC # 0019264761Land Use District: RA Proposed Use/Development: permitted Accessory Building-fabric Covered. Discretionary use on utilitiesPermitted Use ☒ Discretionary Use ☒ Non-Conforming Use ☐ use on utilitiesDevelopment Permit Required: ☒ Yes ☐ NoDate Application Submitted: Mar. 17/25Complete Application Notice: Due: April 7/25 Sent: April 7/25 (20 days from submission date)Date Decision Required by: May 17/25 (40 days from Complete Application Notice sent)

Application Referral

☐ Internal Departments:☐ Adjacent Municipality: (Check IDP):☐ AER (where a permanent dwelling, public facility or country residential development is within 1.5 kms of a sour gas facility). Required setback distance:☐ Other:

Date Sent: _____ Deadline for comments: _____

Notice of Application

Required?: ☐ Yes ☒ No

Date Mailed/Posted: _____ Deadline for comments: _____

AER Oil and Gas Setbacks (Refer to Section 13, Matters Related to Subdivision and Development)

Does the development result in a permanent dwelling, public facility or unrestricted country residential development, as defined by the AER, within 100 m for a gas and oil well? ☐ Yes ☒ No

If yes, the application cannot be approved unless a lesser distance is approved by the AER in writing.

AER Abandoned Well Setbacks (Refer to Section 15, Matters Related to Subdivision and Development)

Does the development result in a building that is larger than 47 m² and the building will be located within the minimum setback of an abandoned well set out in AER Directive 079? ☐ Yes ☐ No

If yes, the application cannot be approved.

AER Abandoned Well Setbacks (Refer to Section 16, Matters Related to Subdivision and Development)

Is the development an addition or repair to an existing building that will result in a building larger than 47 m², and the building will be located within the minimum setback of an abandoned well set out in AER Directive 079? ☐ Yes ☐ No

If yes, the application cannot be approved unless the development authority varies those minimum setback requirements after consulting with the well licensee.

Distance from Wastewater Treatment, Landfill, Waste Sites (Refer to Section 17(3), Matters Related to Subdivision and Development)

Does the development result in a school, hospital or residence building site within:

- ☐ 300 m of the working area of an operating wastewater treatment plant
- ☐ 450 m of the working area of an operating landfill
- ☐ 300 m of the disposal area of an operating or non-operating landfill
- ☐ 450 m of the working area or disposal area of a non-operating hazardous waste management facility
- ☐ 450 m of the working area or disposal area of an operating hazardous waste management facility
- ☐ 300 m of the working area of an operating storage site

If yes, the application may be approved by the development authority if the distances listed above are varied if the applicant submits a report from a professional engineer that meets the requirements of section 17(6).

Utility Right-of-Ways, Easements and Other Caveats on Title

☐ URW Plan #: _____ Utility Company: _____

☐ URW Plan #: _____ Utility Company: _____

☐ Easements: _____

☐ Restrictive covenants: _____

Lot Grading and Drainage

Is there an approved subdivision grading plan? *If yes*:

- ☐ do the elevations at the corners of the lot comply on the site plan?
- ☐ does the site plan show any required swales and appropriate direction of stormwater flow to comply with the grading plan?
- ☐ is there a 2% grade minimum from the building foundation to the property lines?

If no, is a professional engineer required to prepare a stormwater/grading plan? Yes ☐ No ☐

Utility Services and Access

Is utility servicing required? ☒ Yes ☐ No

Is there physical access to the lot/parcel? ☒ Yes ☐ No

Overlays or Development HazardsIs there an applicable Overlay District? ☐ Yes ☒ NoIs there a flood hazard, or steep slope hazard? ☐ Yes ☒ No**Statutory Plan Consistency**Is the application consistent with all statutory plans (IDP, MDP, ASP, ARP)? Yes ☒ No ☐**Parcel/Lot Details**Lot Type: Interior ☒ Corner ☐ Reverse Corner ☐ N/A ☐ Lot Shape: Regular ☒ Irregular ☒Lot/Parcel Size: Width: _____ Length: _____ Total Area: 2.1 acres.**Land Use Bylaw Compliance Review**

Land Use Bylaw Requirement	10-1.6 Accessory Buildings	Proposed Development	Variance (%)
Front Yard	1m.	320ft.	
Side Yard ()	1m.	16 ft.	
Side Yard ()			
Rear Yard	1m.	1m.	
Gross Floor Area (Principal Building)			
Gross Floor Area (Accessory Buildings)	1540		
Site Coverage (Principal Building)			
Site Coverage (Accessory Buildings)	15.4%	2.47%	
Building Height (Principal Building)			
Building Height (Accessory Buildings)	14m (45.9ft)	16'	
Parking Stalls			
Other Land Use Bylaw Requirements		Proposed Development	Variance (%)
Projection(s) into yards			
Projection(s) into yards			
Fence Height (Front yard)			
Fence Height (Rear & Side Yards)			

Screening			
Garbage			
Landscaping			

Is the building a non-conforming building? ☐ Yes ☒ No

Can a variance be granted? ☒ Yes ☐ No

Comments:

Take to MPC. Building meets bylaw requirements but applicant has requested a variance for utilities as per section 10.1.9(a)

Date of Review: May 13/25 Development Officer: R. Boss

Decision

Development Authority: Development Officer ☐ MPC ☒

Approved ☒ Refused ☐ Date of Decision: May 13/25.

Is a Development Agreement required? ☐ Yes ☒ No

Issuing the Notice of Decision or Development Permit and Right to Appeal

Is there a right to appeal the decision?

- ☐ No: If the use is a permitted use and no variances have been granted. ***Immediately issue a Development Permit.***

Development Permit Issue Date: _____

- ☒ Yes: If the use is a discretionary use, or if a variance has been granted. ***Immediately issue a Notice of Decision.*** If no appeals are received, issue a Development Permit immediately after the 21-day appeal period expires. If an appeal is received, do not issue a Development Permit. The SDAB/ISDAB will make further decisions.

Notice of Decision Issue Date: May 13/25.

Appeal Period Expiration for applicant: _____

Appeal Period Expiration for affected persons*: June 4/25.

Appeal received? ☐ Yes ☐ No

If no, Development Permit Issue Date: _____

* Please refer to the Land Use Bylaw to determine which notification triggers the 21-day appeal period (i.e. letters mail, newspaper ad, posting on property).

Town of Oyen



DEVELOPMENT PERMIT No.: 3-2025.

APPLICANT NAME: Darcy Volk.

MUNICIPAL ADDRESS: 110 5th Ave West

LEGAL ADDRESS: Lot / Block 19 Plan 12804U

LAND USE DISTRICT: Res Ac.

APPROVED USE(S): Accessory Building-Fabric Covered with Power.

DATE APPLICATION DEEMED COMPLETE April 7/25.

DATE OF DECISION: May 13/25.

APPROVED BY: MPC

NOTICE OF DECISION

THIS IS NOT A DEVELOPMENT PERMIT

It has been decided that the application be **APPROVED** subject to the conditions noted in the attached **Conditions Of Approval**.

Debbie Ross
Signature

May 13/25.
Date

Debbie Ross
Development Officer

A decision of the Development Authority on a development permit application may be appealed by serving a written Notice of Appeal to the **Secretary of the Intermunicipal Subdivision and Development Appeal Board** within twenty-one (21) days of the date that the applicant is notified of the decision in writing.

Should you have any questions or require information regarding any of the above please contact the Development Officer as noted in this document.



CONDITIONS OF APPROVAL

Variances:

1. May have utilities as approved by MFC.

Standard Conditions of Approval:

- 1.

Specific Conditions of Approval:

1. 21 days for appeal process.

Advisory Notes:

- Please note that you are also required to obtain any Building Permits and Inspections as required under the *Safety Codes Act*. Please contact Palliser Regional Municipal Services at 1-800-407-8361 or visit www.palliserservices.ca.
- Call before you dig
-
-

May 25, 2025

To: The Secretary

Intermunicipal Subdivision and Development Appeal Board

Palliser Regional Municipal Services

PO Box 1900

Hanna, AB T0J 1P0

Dear Sir, or Madam:

Re: Notice of Development Permit Approval as follows:

Development/Use: PERMITTED: Accessory building - fabric covered;

DISCRETIONARY: Utilities (Sec. 10.1.9a)

Landowner/Applicant: Darcy Volk

Civic Address: 110, 5th Ave. West Oyen, AB

Legal Description: Block 19 Plan 1280HU

The narrative of the development permits related to this fabric covered building date back to July 2022 when the landowner applied for and was granted a permit for its construction. Letters of Notification of this approval/permit were never issued at this time to adjacent landowners, and consequently those landowners had no opportunity to voice their concerns nor appeal that development permit. In fact, the first that any of the neighbouring landowners were aware of this development was over a year later when on August 19, 2023 the first "hoops" that would support the fabric of the building were installed; within days the construction was complete.

It wasn't until January 13, 2025 that adjacent landowners were issued any form of communication related to this development (and then only after one landowner had inquired as to why a letter of notification had not been issued after the development permit had been

approved in July 2022). We received a letter which stated: "Development Permit 19-22 does appear to have been issued without notification to adjacent landowners". In light of this it was stated that in order to correct this error, the development permit had been cancelled, the landowner would have an opportunity to apply for a new permit, and the process would begin again. (See attachment.)

Since the Town of Oyen was at the time in the process of drafting and approving the current Land Use Bylaw #929-25 (which was adopted, signed, and came into effect on April 15, 2025), the landowner, Darcy Volk, conveniently did not apply for a new permit until after that date. However, he had communicated to Council (in written, not verbal form) at the public hearing on March 11, 2025 the following concern/request (contained within a print-out of the Regular Council Meeting on April 15, 2025); an excerpt from which reads as follows:

"Council heard from Darcy Volk at the public hearing that in order for his fabric covered storage shed to fit the land use Bylaw Residential Acreage regulations the following amendments would be required. Darcy cannot put a permanent structure on here as it is all fill, and footings would need to go down over 18 feet to ensure that the building did not shift around, making doors inoperable. His land is part of the town's storm water system. His building would not meet the size restrictions, and would not be allowed to have power in it."

As a result of this landowner's presentation, the Council set about to correct this problem for him by amending Accessory Buildings - Sections 10.1.8 and 10.1.9 of Bylaw # 929-25. Plus they went on to amend RA - Residential Acreage District, Sections 13.4.6 and 13.4.8 (as outlined in the previous drafts).

Up until the final draft of Bylaw #929-25, its final reading and adoption, Section 10.1.8 introduction read as follows:

10.1.8 Within residential districts Accessory Buildings - Fabric Covered must not

After the final amendment this same Section read as:

10.1.8 In all residential, excepting the RA - Residential Acreage District, Accessory Buildings - Fabric Covered must not

The introduction to Section 10.1.9 originally read as:

10.1.9 For non-residential uses in districts other than residential districts, Accessory Buildings - Fabric Covered may, at the discretion of the Development Authority:

As a result of the final amendment this portion of Section 10.1.9 now reads:

10.1.9 For the RA - Residential Acreage District, and non-residential uses in districts other than the residential districts,

As for Sections 13.4.6 and 13.4.8 which read as:

13.4.6 The maximum parcel coverage for principal buildings is 20%.

13.4.8 The maximum parcel coverage of Accessory Buildings is 150.0 sq. m (1,614.6 sq. ft).

These sections were combined to become Section 13.4.7 in the final draft, and read as:

13.4.7 The maximum parcel coverage including all buildings is 55%, where Accessory Buildings may comprise up to a maximum of 15% of the total parcel coverage.

Darcy's fabric covered building (66 feet X 29 feet) now "fits" the regulations set out for size, and he will be able to have power in it (which incidentally it already appears to have had). As concerned citizens of the Town of Oyen, we feel that this amendment maneuver in essence has made the new Land Use Bylaw #929-25 worth less than the paper it is written upon!

Adjacent landowners were informed of the approval of this development in a letter dated May 14, 2025, but postmarked May 16, 2025. (See attachments.) Since the amendments to the Bylaw, an appeal can now only apply to the discretionary portion (Utilities; i.e., electricity). How convenient!

On a daily basis this is the perspective faced by the adjacent landowners. The fabric covered building is located on a parcel of land in a residential area; however, this acreage is also home to a commercial business operation (Oyen Backhoe Services Ltd.). One would think that the purpose of this building would have been to house some of the equipment and supplies associated with this business. Not so! There may be a small amount of business related materials stored within, but most of it (various sizes of flatbeds; trailers; attachments for equipment such as backhoes, a bobcat/skidsteer; rolls of PVC piping; corrugated PVC culverts; various sizes of old and used septic holding tanks; and numerous other work related materials) is parked/scattered in the area around the fabric building. The immediate area is also home to a large shipping container that has been in place for many years, is over-sized (40 feet in length), and does not apparently have a permit. This scene is visible not only to the surrounding landowners, but also to anyone who walks, bikes, or drives by this location fronting on 4A Ave. West. This area that is so "in your face" to the general public is not, however, readily visible from the landowner's home or front yard as a grove of trees buffers him and his family from this view.

In reality, adjacent landowners were never given an opportunity to appeal the original permit for this fabric covered building that was issued in July 2022; nor are we being given an opportunity to appeal the permit issued on May 13, 2025 for the existence of this large building. A simple change (amendment) to a few Sections in the new Land Use Bylaw #929-25 makes all the problems go away for the landowner, and for Town Council. It does not, however, solve the dilemma that the adjacent landowners (neighbours) face.

Throughout the new Bylaw (#929-25) there are numerous occasions where mention is made of how a development must be compatible with its surrounding neighbourhood. For example, Section 4.3.1(a) specifically says, "the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use,

enjoyment or value of neighbouring properties. As adjacent landowners can, attest this "mess" that we face each day was not there when we purchased our properties, but is most certainly going to affect the value of said properties.

This brings us to the only thing that we are apparently allowed to appeal at this point - the Discretionary Permit for Utilities (i.e., electricity) in the Fabric Covered Building. The owner, himself, admits in his presentaion to Council that this building would require footings extending 18 feet into the ground in order to stabilize it. If this structure is not stable, one has to question why would a permit ever be granted for electicity to be installed in such a building? This is simply a disaster waiting to happen in an RA/CS neighbourhood! Is it little wonder that the neighbouring landowners are concerned?

As this scenario plays out, one can not but help but think of the old adage that, "Two wrongs do not make a right".

Thank you for taking the time to consider these opinions, objections, and concerns as you make your decision on this appeal.

Sincerely,

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10.1 ACCESSORY BUILDINGS

- 10.1.1 **Accessory Buildings** must be secondary and subordinate to the *principal building* or *principal use* on the same *parcel*.
- 10.1.2 The determination of whether a *use, building* or *structure* is considered accessory shall be at the discretion of the *Development Authority*.
- 10.1.3 An enclosed *structure* which is attached to the *principal building* by a roof, a floor or a foundation is not an **Accessory Building** and is to be considered part of the *principal building*.
- 10.1.4 An **Accessory Building** shall not be used as a **Dwelling Unit** unless approved in accordance with the provisions of this Bylaw.
- 10.1.5 Except the RA – Residential Acreage District, no **Accessory Building** shall be located in the *front yard* of a *parcel* in a residential district.
- 10.1.6 The minimum *yard setbacks* of an **Accessory Building** in any District shall be 1.0 m (3.3 ft) in the *rear yard* and *side yards*, except:
 - (a) on *corner lots*, where the minimum *side yard setback* shall be no less than the *side yard setback* requirement for the *principal building*.

Accessory Buildings - Fabric Covered

- 10.1.7 **Accessory Buildings - Fabric Covered** shall be:
 - (a) *setback* a minimum of 3.0 m (10.0 ft) from any *structure* or equipment that contains open flames (i.e. fire pits or other open flame accessories);
 - (b) kept in good condition and the fabric not frayed or damaged; and
 - (c) fully enclosed with closable doors on the ends.
- 10.1.8 In all residential districts, excepting the RA- Residential Acreage District, **Accessory Buildings - Fabric Covered** must not:
 - (a) exceed one (1) **Accessory Building - Fabric Covered** per *parcel*;
 - (b) be connected to any **Utilities**;
 - (c) exceed 20.5 m² (220.7 ft²) in *floor area*; and
 - (d) be used in a manner that would cause or create a nuisance by way of noise, vibration or dust to impact the privacy and enjoyment of *adjacent residential uses* or the amenities of the neighbourhood.
- 10.1.9 For the RA Residential Acreage District, and non-residential *uses* in districts other than residential districts, **Accessory Buildings - Fabric Covered** may, at the discretion of the *Development Authority*:
 - (a) be connected to **Utilities**; and
 - (b) exceed more than one (1) **Accessory Building - Fabric Covered** per *parcel*.

Accessory Buildings - Shipping Container

13 RA - RESIDENTIAL ACREAGE DISTRICT

13.1 PURPOSE

- 13.1.1 To accommodate acreage-style low density residential development in a semi-rural setting.

13.2 PERMITTED USES

- 13.2.1 The following *uses* are *permitted uses* in the RA - Residential Acreage District:

Accessory Building*	Home Occupation*
Accessory Building - Fabric Covered*	Dwelling, Manufactured*
Accessory Dwelling Unit - Attached*	Park
Accessory Dwelling Unit - Detached*	Sign** (Sign type 3, 6)
Bed and Breakfast*	Utilities
Dwelling, Detached	

*See Section 10 Specific Use Regulations

**See Section 11 Sign Regulations

13.3 DISCRETIONARY USES

- 13.3.1 The following *uses* are *discretionary uses* in the RA - Residential Acreage District:

Accessory Building - Shipping Container*	Short Term Rentals*
Public Building	Veterinary Clinic

*See Section 10 Specific Use Regulations

13.4 REGULATIONS

- 13.4.1 The minimum *parcel area* is 0.4 ha (1.0 ac).
- 13.4.2 The maximum *parcel area* is 2.4 ha (5.9 ac).
- 13.4.3 The minimum *front yard setback* is 6.0 m (19.7 ft).
- 13.4.4 The minimum *side yard setback* is 1.52 m (5.0 ft), except an *exterior side yard* where it is 3.0 m (10.0 ft).
- 13.4.5 The minimum *rear yard setback* is 7.62 m (25.0 ft).

- 13.4.6 The maximum ***building height*** of a **Detached Dwelling** or **Manufactured Dwelling** is 10.67 m (35.0 ft).
- 13.4.7 The maximum ***parcel coverage*** including all ***buildings*** is 55%, where **Accessory Buildings** may comprise up to a maximum of 15% of the total ***parcel coverage***.
- 13.4.8 The maximum ***building height*** is 14.0 m (45.9 ft) for **Accessory Buildings**.

RSA 2000 Section 685 Chapter M-26 MUNICIPAL GOVERNMENT ACT

Grounds for appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal the decision in accordance with subsection (2.1).

(1.1) A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Land and Property Rights Tribunal.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal the decision in accordance with subsection (2.1).

(2.1) An appeal referred to in subsection (1) or (2) may be made

(a) to the Land and Property Rights Tribunal

(i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application

(A) is within the Green Area as classified by the Minister responsible for the Public Lands Act,

(B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,

(C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission, or

(D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Protected Areas or the Minister of Forestry, Parks and Tourism, or

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

or

(b) in all other cases, to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

(4) Despite subsections (1), (2), (2.1) and (3), if a decision with respect to a development permit application in respect of a direct control district

(a) is made by a council, there is no appeal to the subdivision and development appeal board, or

(b) is made by a development authority, the appeal may only be made to the subdivision and development appeal board and is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

RSA 2000 cM-26 s685;2015 c8 s73;2016 c24 s127; 2020 cL-2.3 s24(41);2022 c16 s9(81);2022 c21 s57;2020 c39 s10(50)