1. **CALL TO ORDER**
   Chairperson L. Johnson called the meeting to order at 5:17 p.m.

2. **APPROVAL OF AGENDA**
   Resolution SDAB20190812.001
   MOVED: by Board Member R. Pries
   that the Agenda for August 12, 2019 be accepted as presented.
   Carried

3. **MINUTES APPROVAL**
   Resolution SDAB20190812.002
   MOVED: by Board Member C. Daniel
   to approve the minutes for the Subdivision and Development Appeal Board Thursday July 11, 2019 meeting as presented.
   Carried

4. **PUBLIC HEARING**
   Chairperson L. Johnson declared the Hearing open at 5:21 p.m. and a delegation consisting of Peter Van Immerzeel, Lucie Van Immerzeel, Rolland Begg, Lee Begg and Jarvis Grant, Development Officer entered the meeting.

   Chairperson L. Johnson introduced the members of the Subdivision and Development Appeal Board and asked if there were any objections to any of the members sitting on the Board.

   No objections were presented.

   Rod Hawken, Secretary to the Subdivision and Development Appeal Board presented the Summary of Events.

   Chairperson L. Johnson asked the Board if they felt the appeal was submitted properly and acceptable.

   The Board was of the opinion the appeal was submitted properly and acceptable.

   Chairperson L. Johnson asked the Board if they had any Conflict of Interest.

   No conflict of interest was noted.
4.1 Appeal of Stop Order for Unauthorized Development E 1/2 SW 16-46-27-W4M, Rolland and Rosalie Begg, Roll # 2360.00

On July 24, 2017, a Notice of Inspection was sent to Rolland and Rosalie Begg outlining that the County had received a complaint regarding an unauthorized dwelling on the lands and that the County would be inspecting the lands. During the inspection it was found that an unauthorized dwelling had been developed in the loft of an existing barn.

After the inspection a letter was received from Mr. and Mrs. Begg outlining the rationale for the development of the dwelling within the barn. It was outlined that the Beggs liked the security and help for property maintenance that is provided by having the extra dwelling within the barn.

On September 22, 2017, County Administration issued a letter to Mr. and Mrs. Begg following up on a meeting that had taken place between County staff and themselves. Within the letter it outlines that various options were analyzed but that the only way to achieve compliance was by rendering the dwelling within the barn uninhabitable. A deadline of June 29, 2018 was provided to the Beggs for the decommissioning of the dwelling.

On November 2, 2018, a Notice of Inspection was issued to Mr. and Mrs. Begg to confirm if the June 29, 2018 deadline had been complied with. The inspection was to take place on November 19, 2018.

On November 19, 2018, an inspection of the lands occurred and it was confirmed that the habitable dwelling was still present within the barn.

On November 30, 2018, in an email to the Beggs’ daughter, Ms. Karen Pezderic, Administration granted an extension until June 30, 2019 for the removal of the dwelling from within the barn.

On June 5, 2019, the County received a letter from Mr. and Mrs. Begg requesting an appeal regarding their dwelling within the barn. The Beggs were advised that no formal decision had been made yet that would enable an appeal.

On June 26, 2019, the County issued a Stop Order to Mr. and Mrs. Begg for the unauthorized third dwelling on the approximate 78.56 acre lands.

On July 15, 2019, the County received a Letter of Appeal from Mr. and Mrs. Begg.

The Stop Order issued reads as follows:

Dear Mr. and Mrs. Begg,

Re: E1/2 SW 16-46-27-W4M, approximately 78.56 acres, "the Lands" — Unauthorized Development

In my capacity of Development Officer I am hereby issuing a Stop Order pursuant to Section 645 of the Municipal Government Act with respect to the aforementioned lands. The Municipality's Land Use Bylaw states:

Unless exempted from requiring a development permit by this Bylaw or by federal or provincial legislation, any use or development of land, buildings or signs in the County requires a valid development permit."

Development as defined by the County's Land Use Bylaw means:

"a) an excavation or stockpile and the creation of either of them;

b) a building or an addition to or replacement or repair of a building and the construction or placing of any of them in, on, over or under land;

c) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or

d) a change in the intensity of use of land or a building or act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building."

Further, Part 17 of the Municipal Government Act and Section 5 of the Municipality’s Land Use Bylaw allow a Development Officer to issue a Stop Order where a
development or use of land or buildings does not comply with the Municipal
Government Act, the Land Use Bylaw, a development permit or subdivision approval

At present, the Lands do not comply with the County's Land Use Bylaw given:

1. There is an unauthorized third dwelling located within an existing barn structure on
the Lands that does not meet the requirements of Section 9.8 of the County’s Land
Use Bylaw 2017/48. Section 9.8 states the following:

“9.8.1 No person is allowed to construct or locate or cause to be constructed or
located more than one principal dwelling on a lot or parcel unless otherwise
authorized by this Bylaw.

9.8.2 Notwithstanding Section 9.8.1, the Development Officer may issue a
development permit to:

a) permit the construction or location of a secondary dwelling on a parcel with a
minimum area of 32.3 hectares (80 acres) where the dwelling is a permitted or
discretionary use for the district;

b) permit the placement of a second dwelling, being solely a mobile dwelling, on an
agricultural parcel less than 32.3 hectares (80 acres) for the purpose of
accommodating a person hired by the operator of an intensive agricultural operation,
intensive livestock operation or confined feeding operation, for a minimum period
of six consecutive months (183 consecutive days). The mobile dwelling shall be
removed when it is no longer being used for the purpose stated herein or upon the
expiry of any associated development permit authorizing said use;

c) permit the placement of a second or third dwelling, being solely a mobile dwelling,
on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the
purpose of accommodating one or two persons (one per dwelling) hired by the
operator of an intensive agricultural operation, intensive livestock operation or
confined livestock operation, for a minimum period of six consecutive months (183
consecutive days). The mobile dwelling(s) shall be removed when it is no longer being
used for the purpose stated herein or upon the expiry of any associated development
permit authorizing said use;

d) permit the placement of a third or fourth dwelling, being solely mobile dwelling,
on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the
purpose of accommodating persons hired by the operator of a confined feeding
operation, with an NRCB registration/approval, for a minimum period of six
consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed
when it is no longer being used for the purpose stated herein or upon the expiry of
any associated development permit authorizing said use;

e) in accordance with Sections 9.8.2 a), b) and c), permit the placement of a second
dwelling, being solely a mobile dwelling, on a lot not designated as Lakeshore
Residential District, Lakeshore Mixed Use District, Recreational Resort Holdings
District, Mixed Recreational Residential District, Urban Residential District, or Country
Residential District, in a Multi-Lot Residential Subdivision only, if the second mobile
dwelling is a permitted or discretionary use and shall be used by a person(s) who
require full-time care being provided by the primary resident of the parcel. Such
person must provide detailed written reasons from a physician. The mobile dwelling(s)
shall be removed when it is no longer being used for the purpose stated herein or
upon the expiry of any associated development permit authorizing said use;

f) permit the construction or location of a building with two or more dwelling units
where the building is a permitted or discretionary use for the district.”

Accordingly, you are hereby ordered to stop the unauthorized development and use of
the aforementioned lands and the buildings thereon and comply with the Land Use
Bylaw by:
1. Decommissioning the dwelling located within the barn structure to the point of meeting the County's definition of an Uninhabitable Dwelling by November 1, 2019, An Uninhabitable Dwelling is defined by the County's Land Use Bylaw as:

“A building or structure that is no longer used as a dwelling and has had all cooking facilities, washroom and bathroom facilities, sleeping quarters removed or permanently disabled to the satisfaction of the Development Authority to enable the building to be utilized exclusively as an accessory building.”

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of an appeal together with the applicable appeal fee ($150), must be received by the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of receipt of this letter. A letter is deemed to be received seven (7) days from the date of mailing.

Please be advised that the Municipality has the authority to put the costs and expenses for carrying out this Stop Order on the tax roll for the Lands (Municipal Government Acts. 553 (1(h.1)).

Administration recommends that the Subdivision and Development Appeal Board deny the appeal as submitted by Rolland and Rosalie Begg and uphold the issued Stop Order for an unauthorized third dwelling E1/2 SW 16-46-27-W4M for the following reasons:

Out of all of the allowances provided by the Land Use Bylaw for an extra residence(s) to be placed on a parcel of land, Mr. and Mrs. Begg do not meet the necessary provisions to be approved under any of them.

- The parcel in question is under 80 acres in size;
- Already has two detached dwellings located on the property;
- It is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
- It is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
- It is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;
- It is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation.

Mr. Grant, Development Officer reviewed recent changes to the Land Use Bylaw 2017/44 and the Development Officer's Report.

The Board questioned the zoning of the property.

Mr. Grant confirmed the property is zoned as Agricultural.

The Board requested a review of the definition of Secondary Suite, asking for clarification if the Secondary Suite must be attached to the primary dwelling.

Mr. Grant stated reviewed the definition of a Secondary Suite means a designated area within a dwelling, detached, providing accommodation as a separate dwelling that may include a kitchen independent from the primary dwelling and may include rental or lease arrangements (Land Use Bylaw 2017/44).

The Board questioned if the recent amendments to Land Use Bylaw 2017/48 will assist in the current situation.

Mr. Grant verified that the recent amendments would not affect a second dwelling. The Stop Order was issued for a third dwelling.

The Board understands the mobile is vacant and questioned if grandfathering a third residence is an option in a different structure.
Mr. Grant stated grandfathering is applicable until such time as use changes or ceases. At that time a new permit application is required and would be processed under the current Bylaw.

The Board questioned if the unit was habitable.

Mr. Grant was unsure of the current condition of the mobile home.

The Board questioned if the current residents of the barn loft are aware of the Stop Order.

Mr. Grant stated it is the responsibility of the land owners to convey all information to the renters.

Mr. Begg addressed the board with the following:

- The history of the property and the three residences;
- Confirmed the mobile is uninhabitable;
- The mobile is not connected to services;
- The property is listed for sale;
- Was unaware of any complaints regarding the property;
- The additional renters provide security for the property; and
- The barn was built in the 1940's and is well preserved.

The Board questioned if the stick built residence is occupied.

Mr. Begg confirmed it is occupied, however, the resident works away.

The Board questioned how the surrounding lands are used.

Mr. Begg stated the property is fenced for elk.

The Board questioned if Mr. Begg operated the elk farm year round.

Mr. Begg stated the elk are on site mostly in the summer, but can be fed year round onsite.

The Board questioned when the Loft was developed.

Mr. Begg stated the Loft was developed approximately five (5) years ago.

The Board reviewed the event history, including correspondence sent June 2017, an inspection completed September 22, 2017 and the previous requirement to decommission the Loft by June 29, 2018.

Mr. Begg stated at the time of the letter, they were away and no steps were taken to decommission the property.

Mrs. Begg stated the tenants are aware of the current situation and value their presence for security purposes.

Mr. Van Immezeel, an adjacent land owner, addressed the board with the following:

- Concerns a loophole may be created if approved to allow multiple residences on properties; and
- Differences between actively farming lands and owning lands.

Mr. Grant provided closing comments:

- An explanation as to why mobile home historically required provincial licenses with an annual fee; and
- Confirmed the number of dwelling is not grandfathered, but the use of a structure is until a change of use occurs and new permit is required.
Mr. Grant reviewed the notification process regarding discretionary permits and appeals.

The Board questioned if Mr. Van Immerzeel’s questions were answered.

Mr. Van Immerzeel confirmed his questions were answered and believes the rules should be adhered to.

Mrs. Begg addressed the Board:

- The Barn is not a new development and has existed for many years;
- The improvements increased the value of the barn and the changes did not require a permit;
- Concerned that a November 1, 2019 deadline does not give three months notice to the tenants to move; and
- Requested an extension to Spring 2020 if the appeal is denied.

The Board questioned if Safety Code Permits were issued.

Mr. Begg stated he did not apply for a Development or Safety Code Permits.

The Board questioned how the property is advertised for sale.

Mrs. Begg stated they have advertised as 160 acres (two 80 acre parcels) with two residences and a loft that could be used as an office.

Mr. Begg reviewed the requirements to render the loft uninhabitable which included removing the stove, beds and bathroom. He stated he wishes to keep the bathroom.

Mr. Grant advised Mr. and Mrs. Begg could apply for a change of use for the Loft from Barn Space to Office Space, which includes washroom facilities as a solution to allow the existing bathroom to remain, subject to permit approval prior to November 1, 2019.

Chairperson L. Johnson questioned the appellants if they felt they had a fair hearing.

The appellants stated that they felt they had a fair hearing.

Chairperson L. Johnson stated that with Provincial Legislation, the Board is required to issue a decision within 15 days from the date of today’s hearing. No decision is binding on the Board until it issues a written decision.

The Decision of the Subdivision and Development Appeal Board is final and binding on all person’s subject only to an appeal upon question of law or upon a question of jurisdiction pursuant to Section 688 of the Municipal Government Act, Chapter M-26.

Chairperson L. Johnson declared the hearing closed at 6:15 p.m. and the Board thanked the delegation for attending and they left the hearing.

The Board discussed the following to come to a decision:

- Stop Order Deadline of November 1, 2019;
- Lack of Development Permit Application;
- Lack of Superior Safety Codes Permits;
- Land Use Bylaw 2019/44 regulations regarding multiple dwellings;
- The request for an extension if the Stop Order is upheld;

Reason's for the Board’s Decision:

- The Board was of the opinion that the parcel in question is under 80 acres in size;
• The Board was of the opinion that there are two detached dwellings located on the property;
• The Board was of the opinion that it is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
• The Board was of the opinion that it is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
• The Board was of the opinion that it is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;
• The Board was of the opinion that it is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation;
• The Board was of the opinion that evidence indicating a Development Permit and Safety Codes Permits (electrical/plumbing/etc.) had not been acquired, cannot verify the loft is habitable, therefore not considered a dwelling;
• The Board was of the opinion that the building exceeds maximum allowed size;
• The Board was of the opinion that the applicant had requested an extension of the Stop Order to Spring 2020, however, the landowner had been granted previous opportunities to become compliant. An initial inspection completed September 22, 2017, followed by a previous deadlines of June, 29, 2018, with an extension granted to June 30, 2019.

Resolution SDAB20190812.003
MOVED: by Board Member E. Matiko
that the Subdivision and Development Appeal Board deny the appeal as submitted by Rolland and Rosalie Begg and uphold the issued Stop Order for an unauthorized third dwelling E1/2 SW 16-46-27-W4M which requires decommissioning the dwelling located within the barn structure to the point of meeting the County’s definition of an Uninhabitable Dwelling by November 1, 2019.

Carried

Reason’s for the Board’s Decision:
• That there are currently two dwellings on a parcel less than 80 acres in size. Section 9.8.1 of the Land Use Bylaw stipulates that no more than one dwelling shall be constructed or located on a parcel less than 80 acres in size. The dwelling in the barn would represent the third dwelling on this parcel. Section 9.8.1 of the Land Use Bylaw allows for the placement of a third dwelling on a parcel less than 80 acres if the dwelling is a mobile home and will be used to accommodate persons hired by the operator of an intensive agricultural or livestock operation for a minimum of six months.
• The dwelling is not a mobile home and the evidence provided at the hearing indicated that the dwelling was not for the purpose of accommodating persons hired by the operator for an intensive agricultural or livestock operation.
• The Board was of the opinion that evidence indicating a Development Permit and Safety Codes Permits (electrical/plumbing/etc.) had not been acquired, cannot verify the loft is habitable, therefore not considered a dwelling;
• The Board was of the opinion that the building exceeds maximum allowed size;
• The Board was of the opinion that the date identified in the Stop Order to decommission the dwelling was appropriate as no Safety Code Permits were obtained and therefore the safety of the dwelling is not known. The applicant’s request to extend the decommissioning of the dwelling was denied as the Board was of the opinion that the landowner had already been granted one extension.
6. **ADJOURN**

Resolution SD20190812.004

MOVED: by Board Member R. Pries

that the meeting adjourn at 6:36 p.m.

*Carried*

_________________________
CHAIRPERSON

_________________________
SECRETARY

MINUTES APPROVED:

Ref: Resolution #