

NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
AUGUST 3, 2023

**Municipality of Crowsnest Pass**  
**Subdivision and Development Appeal Board**

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
OF THE MUNICIPALITY OF CROWSNEST PASS.**

**DECISION DATE:** AUGUST 3, 2023

**BEFORE:** Subdivision and Development Appeal Board

**MEMBERS:** Chair, Rupert Hewison, Glen Girhiny, Marlene Anctil, Ken Allred  
Recording secretary, Glen Snelgrove

**ATTENDING** Dave and Linda Nowak, Appellants,  
Johan Van Der Bank, Manager of Development and Trades,

In the matter of the Municipal Government Act, Statutes of Alberta, 2000, Chapter M-26, as amended (MGA); and in the matter of the Municipality of Crowsnest Pass Land Use Bylaw No, 868, 2013 and amendments thereto, and in the matter of an appeal by David and Linda Nowak against the decision of the Development Officer to deny a development permit application DP2023-TH013 for two Tourist Homes on either side of an existing duplex (discretionary use)

Notice of the Hearing was sent to adjacent land owners, the property owner, The Development staff of the Municipality of Crowsnest Pass and, six members of the Subdivision and Development Appeal Board.

**PERTINENT FACTS:**

1. The property is legally described as LOT 6 BLOCK 1 PLAN 0812254
2. The civic address of the property is 251 Southmore Place in the Municipality of Crowsnest Pass
3. The property is zoned Comprehensive Ski Village (CSV)
4. An application for a development permit was received on February 28, 2023.
5. The proposed development is to operate a separate "Tourist Home" (discretionary Use) on either side of an existing duplex.
6. The Development Officer denied a development permit application for a Tourist Home on either side of an existing duplex for the following reasons:

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- The Land Use Bylaw Schedule 18 regarding Short-term Rentals/Bed & Breakfasts and Tourist Homes, section 3.5 prohibits the development authority from approving more than one Tourist Home on any property.
- The Land Use Bylaw Schedule 18 regarding Short-term Rentals/Bed & Breakfasts and Tourist Homes, section 3.6 prohibits the development authority from approving a tourist home in a duplex where the duplex units are on the same certificate of land title and one of the duplex units is rented out to a third party for any period of time or is occupied by the landlord for any period of time. For greater clarity, the approval of a Tourist Home does not approve the property for the use of more than one dwelling unit.
- The Land Use Bylaw Administration Schedule section 14.2 (b)(v) prescribes that the Municipal Planning Commission shall not approve a variance to the number of Tourist Homes on a property in any land use district.

David and Linda Novak submitted the following points:

- As per our previous conversation, we have decided to appeal the decision made by the development committee to reject our application to operate both sides of our duplex property as a short-term rental (Air B&B) for the following reasons:
  - Prior to us putting an offer to purchase on the property in October or 2022, I had a conversation with Catherine Mertz stating our intentions to purchase this property as an investment and future home. The purchase of this property was contingent upon us creating a business plan to generate revenue, therefore, making it an affordable feasible investment for our future. We had the understanding from Catherine Mertz that this property was in a unique neighbourhood which was zoned for that rental market.
  - We purchased this property at 75% completion and now have invested over \$700,000.00 into this project. Therefore, we are requesting from the committee to honour the information we were provided with at the time of purchase as we feel we did our due diligence.
  - Even though there are 2 units on one titled parcel of land, The property was granted the permitting to be constructed as 2 separate legal suites. All building codes, and final inspections have been completed and approved.
  - As mentioned above, the property is located in a very unique Land use District: as Comprehensive Ski Village. Thus, properties operating as a short-term rental (Air B&B's), do not require the standard 200m offset from each other, and may be next door to another property operating as such.

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DECISION:

Having considered the written and oral submissions, including Exhibits A through H and having regard to the provisions of the Land Use Bylaw 1103, 2021, and the Municipal Development Plan, the decision of the Board is as follows:

The appeal is DENIED and the refusal of the Development Permit stands as decided by the Development Authority.

REASONS:

1. The proposal is contrary to the Land Use Bylaw which prohibits the Development Authority from approving a Tourist Home in a Duplex, where the two dwelling units are on the same certificate of Land Title.

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