
Three Sisters Developments: Where do things Stand?

The saga of the Three Sisters Mountain Village Properties Ltd. development in the town of Canmore is set to head into

the next stage of legal proceedings in the first half of 2023.

Alberta Wilderness Association has been watching this issue closely and supports the Town of Canmore in opposing the development. The Bow

Valley provides a crucial migration corridor for wildlife — including large predators and ungulates, such as bears and elk respectively. The Bow Valley provides a key migratory route between habitat in Banff National Park

and Kananaskis through otherwise unprotected habitat that includes urban areas, industrial developments, and major highways. The project is controversial because of its proximity to this important corridor that is already under extreme pressure from human activity and existing developments.

This all began with a renewed proposal from a group of developers for a new subdivision in southeast Canmore that had previously been given approval way back in 1992 by the National Resources Conservation Board (NRCB) as a golf resort development. The NRCB is a provincial, arms-length regulatory body responsible for reviewing projects related to Alberta's natural resources. This includes tourism and recreational projects, which is why this project fell under the NRCB umbrella when it was first proposed in 1992.

The developers submitted two Area Structure Plans (ASPs) to the Town of Canmore in 2021. Both were voted down following strong public opposition. Their decision was appealed to the Land and Property Rights Tribunal (LPRT), a quasi-judicial body responsible for making decisions about land-use planning and development. The developers successfully argued that

the Town of Canmore must approve the ASPs because they align with the original NRCB approval.

Photo: three_sisters_map

Caption: A map showing the proposed location for the Three Sisters Mountain Village developments from the Area Structure Plans that were submitted to the Town of Canmore. Map © Three Sisters Mountain Village Properties Ltd.

In October 2022, the Town of Canmore was granted the right to appeal the LPRT's decision to the Alberta Court of Appeal, providing an opportunity to argue that the decisions on both ASPs should be overturned due to errors in law. Prior to this successful leave to appeal, The NRCB and Stoney Nakoda Nations secured intervenor status that allows them to have a role in the appeal hearing. Stoney Nakoda comprises the Bears paw First Nation, the Chiniki First Nation and the Wesley (Goodstoney) First Nation which are all signatories to Treaty 7. The appeal decision is one of the last legal steps that will result in the ASPs being adopted or denied thanks to an agreement between the Town of Canmore and the developers. In that agreement, Canmore agreed not to make a further appeal to the Supreme Court of Canada should the developers win the

appeal. The developer filed a separate application in the Court of King's Bench of Alberta that would compel the Town of Canmore to adopt the ASPs and move forward with the development.

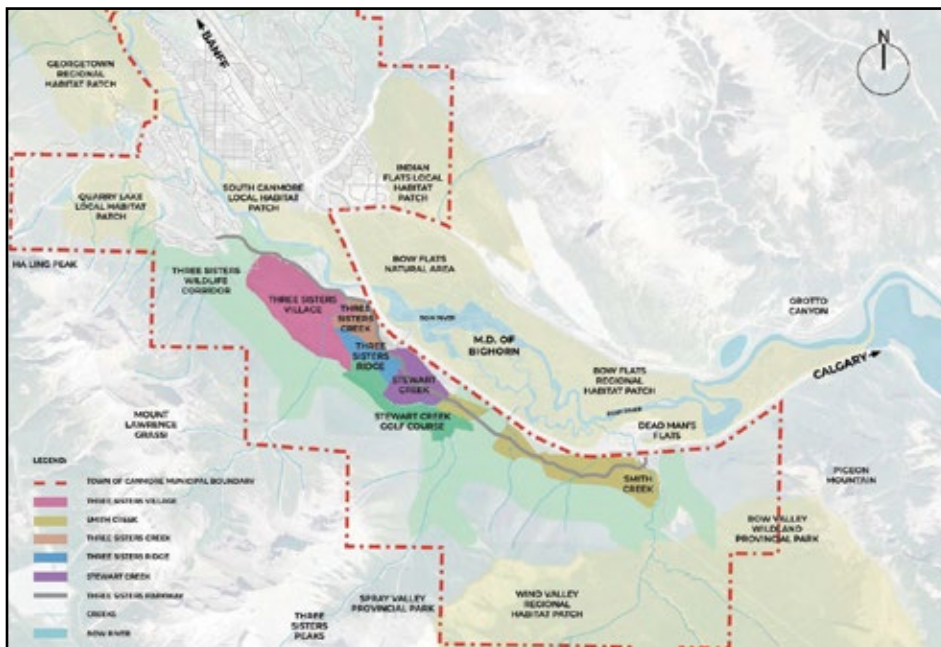
As part of their agreement, the parties have agreed to adjourn the mandamus application to await the Alberta Court of Appeal decision. The mandamus application may still commence pending the outcome of the Alberta Court of Appeal decision which has a hearing date set for April 1, 2023, while the mandamus application was previously scheduled for June 1, 2023. However, it is also possible the decision on appeal will settle the matter and make the mandamus application irrelevant.

In their arguments for intervenor status, Stoney Nakoda has raised issues of reconciliation and the honour of the Crown. The latter issue relates to Aboriginal rights and a duty to consult Indigenous groups when these rights are potentially affected. This will introduce a new legal dimension to the hearings that Stoney Nakoda argues were missing from the preceding decisions and must be considered. It will be interesting to see how this is considered by the Court of Appeal and if this contributes to their final decision.

Community opposition to the project remains strong. Groups like Bow Valley Engage have been formed to educate the public about the project and organize public opposition on the effects of the project. Bow Valley Engage also sought intervenor status for the appeal hearing but was unfortunately denied, meaning they will not play a direct role in the appeal hearing.

Ultimately, this land will remain open to development even if these ASPs are rejected because of the original NRCB approval. To reach a point where the remaining undeveloped land could be set aside as an expansion to the existing wildlife corridor, the original NRCB designation would need to be challenged.

- By Nathan Schmidt and Devon Earl



A map showing the proposed location for the Three Sisters Mountain Village developments from the Area Structure Plans that were submitted to the Town of Canmore. Map © Three Sisters Mountain Village Properties Ltd.