

AGENDA

SUBDIVISION AND DEVELOPMENT APPEAL BOARD LEDUC COUNTY COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA

Friday, November 16, 2018

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
4. **Subdivision and Development Appeal Hearing**
 - * a) 9:00 a.m. D18-191 Appeal by Laurel and Larry Scheffermaier -
Roll #1418020 Recreational Vehicle Storage (+4.5 ac) on Lot 1,
Block 1, Plan 1026573, Pt. SE 6-50-25-W4 (A 50020
Rge Rd 255)
5. **Next Meeting Date** – Call of the Chair
6. **Adjournment**

* Legend
Items Attached To Agenda



MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, NOVEMBER 16, 2018 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:00 a.m., Friday, November 16, 2018 by Chair Mary-Ann McDonald with Board Members Shirley Jolly, Pat Rudiger, Doug Ruel and Larry Wanchuk present.

Also present were Mr. Garrett Broadbent, Clerk of the Subdivision and Development Appeal Board; Ms. Joyce Gavan, Recording Secretary; Mr. Colin Richards, Team Lead Development; and Mr. Greg McGovern, Planner 1.

Present as well were four other individuals.

Agenda Adoption

87-18 Board Member Rudiger -- that the Agenda for the November 16, 2018 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Appeal by Laurel and Larry Scheffelmanier whereby Development Permit Application D18-191 was refused for a Recreational Vehicle Storage development on +4.5 acres of a +90 acre parcel located on Lot 1, Block 1, Plan 1026573, Pt. SE 6-50-25-W4.

Chair McDonald called the hearing to order at 9:01 a.m. and introduced Board Members and staff.

Chair McDonald then called upon the Clerk to introduce the subject of this appeal.

Mr. Garrett Broadbent, Clerk, advised of the appeal by Laurel and Larry Scheffelmanier whereby Development Permit Application D18-191 was refused by the Development Authority for development of recreational vehicle storage on +4.5 acres located on Lot 1, Block 1, Plan 1026573, Pt. SE 6-50-25-W4. The reasons for appeal are as follows:

- 1) We are farmers within Leduc County and love farming and the lifestyle it has afforded to raise our family. The struggles encountered in the past few years with all that farming entails and an off-farming business that has failed due to the nature of the oil and gas industry, brings us to wanting to subsidize our farming income which has led us to seek the business we have applied for.
- 2) Of the 90 acres our home is located on, are only asking for the 5% allotted for a home based business. Having 4.5 acres set aside for a recreational vehicle storage is a stay at home business that could deem profitable to help pay the bills and subsidize the farming business.
- 3) We were notified a few years ago that our land would be changing its status from farm to industrial. Can you explain in more detail how the Municipal Development Plan Part 3.1.1 and Part 3.1.2 which protects and requires agricultural land for non-agricultural development be minimized, would protect any farm land from industrial progression?
- 4) We can assure you that the recreational vehicle storage would not destroy any of the farmable land. We would be putting up a fence for security reasons, seeding grass and using our existing driveway within the property. All of which are common practice for farmers with livestock or wanting to give the land extra nutrients and it is a simple step to reclaim the area back to farmable acres without damage.
- 5) Are hoping for this refusal to be over-turned.



Mr. Broadbent advised the following information is attached for the Board:

- 1) Staff Report.
- 2) Notice of SDAB Hearing package dated October 25, 2018.
- 3) Notice of Appeal received October 22, 2018.
- 4) Notice of Refusal by Development Authority dated October 17, 2018 w/ refused site plan.
- 5) Key Plan.
- 6) Development Permit Application D18-191.
- 7) Business Information.
- 8) Air Photo.

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald asked if any Board Member felt a need to step down from this hearing within the boundaries of Conflict of Interest, and there was no one.

Chair McDonald asked if anyone had any objection to any of the members of the Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald called upon the Planning and Development staff to provide background information.

Mr. Greg McGovern, Planner 1, provided a PowerPoint presentation relating to the appeal by Laurel and Larry Scheffelman highlighting the following:

1. On October 17, 2018 the Leduc County Development Authority, refused Application D18-191 by Laurel and Larry Scheffelman to develop a recreational vehicle storage on ± 4.5 acres on Lot 1, Block 1, Plan 1026573, Pt. SE 6-50-25-W4. The refusal reasons are as follows:
 - 1) The proposed development is located within the Agricultural District (AG) of the Land Use Bylaw and Agricultural Area B of the Municipal Development Plan. The proposed development would take 1.7 ha (± 4.5 ac) of land rated at a Farm Assessment Rating (FAR) of 81 out of agricultural development, contrary to Municipal Development Plan 3.1.1 that requires productive agricultural lands to be protected for agricultural use, and Part 3.1.2 that requires that the removal of high capability agricultural land for non-agricultural development be minimized. The Development Authority considers that lands with a FAR of 40 or above are high capability agricultural lands.
 - 2) The Leduc County Land Use Bylaw defines the Recreational Vehicles Storage use as a facility used for the storage of recreational vehicles, including but not limited to: motor homes, travel trailers, fifth wheels, truck campers, tent trailers, or similar vehicles. In accordance with the business information submitted by the applicant, the proposed development would allow for the storage of vehicle types such as cars, trucks, boats and four-wheelers.
2. The subject property is a 90 acre agricultural parcel located approximately one (1) kilometre west of the City of Leduc and northwest from the intersection of Range Road 255 and

Township Road 500. Development on the property consists of a single family dwelling and a farm building. The surrounding properties are large parcels that are zoned and used for agricultural purposes. Site topography is relatively flat and there is a large meandering water course (a stream) passing through the west portion of the property. The stream is roughly one hundred metres from the proposed recreation vehicle storage development at its nearest point.

3. A search of the planning history of the subject property reveals the following:
 - Permit D10-348 – on January 4, 2011 a permit was issued to allow for a dwelling, detached.
 - Permit D12-213 – on August 30, 2012 a development permit was issued for a dwelling, detached with attached garage and deck. The existing dwelling on the property appears to correspond to this approval.
 - Permit D15-055 – on March 24, 2015 a development permit was issued for a dwelling, detached with attached garage.

4. In accordance with Section 3.4.2 of the Land Use Bylaw, notification of all discretionary permit applications shall be sent to adjacent landowners. The following responses were received:

Adjacent Landowners – one letter from an adjacent landowner in response to the referral letter mailed out on October 3, 2018. The respondent stands opposed to the proposed development siting non-compliance with the Municipal Development Plan policies; the Land Use Bylaw regulations and the Leduc County Agricultural Strategy.

County Resident – one county resident commented on this application to express her opposition to the proposed development because it would take agricultural land out of production.

Leduc County Agricultural Services – the proposed RV storage will further fragment highly capable agricultural land. Although the proposed siting of the RV allows for the use of the current driveway and is situated adjacent to the current yard site, this positioning will fragment a current 7.5 acres into the 4.5 acre RV lot and a remnant 3 acre portion which will likely not be farmable, essentially removing the full 7.5 acres from agricultural production.

5. On August 8, 2018 the appellants submitted a development permit application for the subject development. In accordance with Section 9.1.3 of the Land Use Bylaw, a recreational vehicle storage use is listed as Discretionary in the Agricultural (AG) District.
6. According to the business information submitted by the applicants, the proposed development would allow for the storage of non-recreational vehicles such as cars, trucks, boats and four-wheelers. This is contrary to the definitions within Part Eleven of the Land Use Bylaw No. 7-08.
7. The proposed development is located within Agricultural Area B of the Municipal Development Plan. The proposed development would take high capability land out of agricultural use. The Development Authority considers that lands with a Farm Assessment Rating of 40%, or above, are high capability agricultural lands. This development proposal is contrary to the municipal development plan that requires productive agricultural lands to be protected for agricultural use, and that requires that the removal of high capability agricultural land for non-agricultural development be minimized.
8. According to the Leduc County Agricultural Strategy, which was adopted on July 5, 2016 to inform the Municipal Development Plan Review, the subject property is located in the North

Central Agriculture Area (Area D). In accordance with Section 5.3.4, the conversion of land to non-agricultural uses (such as recreation, processing, recreational vehicle storage, etc.) in areas C-E should only be considered after a formal and extensive agricultural impact assessment. The stated intent is to maintain contiguous areas of agricultural land without conflict from other non-agricultural uses. Leduc County should direct conversion to areas outside priority agriculture areas that are less desirable for agriculture or with less impact on agriculture.

9. The application does meet the intent of Section 9.1.6(a) of Land Use Bylaw 7-08 which requires that recreational vehicle storage not exceed 5% of total site coverage. However, staff has evaluated all policies and found that the subject agricultural land is not suitable for conversion to a recreational vehicle storage development.
10. The appellants state in their appeal letter that the proposed development should be approved because the development will only occupy 4.5 acres (5 percent of site coverage) and may be profitable enough to allow them to supplement their farming income and pay bills. The appellants further state that the recreational vehicle storage development would not destroy any farmable land and that in the event the storage use be returned to farm use they would give extra nutrients to the storage development area.
11. The reasons provided in the appeal letter do not meet the intent of County policies. As a result, administration recommends that the Subdivision and Development Appeal Board uphold the decision by the Development Authority to refuse Development Permit D18-191 for the reasons outlined in the notice of decision.

Chair McDonald asked Board Members if there were any questions of administrative staff.

In response to questions by Board Members, Mr. McGovern provided the following clarification:

- Clarification was provided with respect to the referenced Leduc County/City of Leduc Intermunicipal Development Plan (IDP) agreement, which was jointly adopted by both councils and the future growth concept was considered in a planned manner. The IDP Agreement does not include this property within their agreement.
- Clarification was provided with respect to the reference by the appellants of their understanding that the subject land would be converted to industrial.
- Boats are not considered within the definition of recreational vehicle.

Chair McDonald called upon the Appellant(s) to speak to the proposed development.

Mr. & Mrs. Laurel and Larry Scheffelmaier, Appellants, provided the following information:

- There was no prior knowledge until this appeal process that there were so many bylaws that one could be refused on proceeding with a home based business; and claim have no expertise on the process of all the bylaws.
- Moved to our 90 acre parcel in spring of 2010; are farmers and as soon as set up farming here soon realized that it took more than farming income to make ends meet. Had invested in an off farm business in oil patch however that unfortunately did not provide the means to supplement the farm. Have entertained the idea of green houses, cattle, pigs, chickens, goats and sheep (something entirely agricultural) however they all emanate its own problems such as odors, sounds, extensive babysitting, etc. Also the initial set up costs would be more than feasibly possible.
- The refusal by the Development Authority was on two parts:

- (i) The MDP Part 3.1.1 that requires productive land to be protected for agricultural use.

We beg to differ on the grounds of protection – just after 2010 purchase we received a notice saying that our land was going up for reassessment from agricultural to industrial (as I remember). Was advised by the County that this letter was sent out for adjacent land that was identified for industrial land in future. In any case, all adjacent land is #1 soil and would ask what industrial means for agricultural deemed land? Would any bylaws protect these lands?

We live ± 2 miles west from the City of Leduc and 1 mile north of Hwy 39. Since we moved here we have seen #1 prime agricultural land bought out by the City of Leduc and turned into residential dwellings. I understand the City of Leduc grows and so does the need for dwellings and thus the expansion of residential developments.

Just 2 years ago the City of Edmonton tried to annex the land right up to Hwy 39 which would have included our home. It's just a matter of time till the City of Edmonton or the expansion of the City of Leduc attempts once more to annex this area.

- (ii) The MDP Part 3.1.2 that requires the removal of high capacity agricultural land for non-agricultural development be minimized.

Of the 90 acres we have only asked for the allotted 5% of land used for home based business for the RV storage facility. This piece of land is already fragmented; that has not stopped us from farming those fragmented acres and it would not stop us from continuing to farm the remaining 3 acres as it was assumed we would not. There would be no need for a secondary driveway as the RV storage facility would have the existing driveway to access and no extra land used up for that.

- By speaking with other Planning and Development Department staff and inquiring what vehicles that RV storage meant, I was advised to add all types to the application of which occurred. If this does not fit the definition of recreational vehicle we are good with keeping it as is and complying with its current definition.
- Do not take the comments and concerns by neighbours lightly as being part of a community which means a lot and having an amicable relationship with our neighbours is valuable. On the other hand surviving in this farming world also means that we must think outside the box and is important to us as we explore other means of subsidizing our farming business.
- Conclude that most of the bylaws the neighbour stated in her letter are a repeat of the same bylaws and that the Development Authority referenced in the refusal of the application.
 - Bylaw 3.3.7(a) and 3.3.7(d) – states that non-agricultural land uses on high capability land shall be avoided unless the County is convinced that the land use or subdivision could not reasonable or practically locate elsewhere in the County on lands with a low capability for agricultural production and the non-agricultural use of subdivision is consistent with an approve area structure plan – could not find this.
 - Bylaw 3.3.11(a) stating smallholdings may be allowed in the agricultural areas where the land is low capability agricultural land. This is not what we are applying for.
 - Bylaw 9.2.8(a) and (e) stating that RV storage maximum site coverage of RV storage use shall not exceed 5% of the parcel area and maximum number of RV units not exceed 50; and that the recreational storage shall be sited to the satisfaction of the development authority. In such a location as to ensure it is not visually intrusive from outside the parcel.
 - Amended Bylaw 7.19.1(b) states a home based business shall not negatively affect neighbouring or adjacent residents by way of excessive lighting, operation at unreasonable times, traffic, noise, dust or excessive on-street or off-street parking or any other factor considered relevant.
 - With respect to the Agricultural Strategy referenced an insert as part of submission.

- With respect to the Municipal Development Plan – this document is not yet approved by Council and not currently in effect.
- Bylaw 4.5.4 under Home Based Business states that home based businesses provide self-employment opportunities for rural residents and are encouraged throughout.
- Are only asking for 5% (allotted in the Bylaw 9.1.6) and are not trying to turn the whole property into an RV storage facility.
- Because the land is rated #1 soil does not mean the production is always rated #1 high yielding. Along with #1 soil, comes very high land prices and very high land rent. Unless you are a large-scale farmer, which we are not, other means of making the farm viable is to pursue non-farming business even if it is on the home property that is being farmed.
- To hold on to the bylaw that protects the land at the sake of progression is archaic; business and residences flourish in this area.
- The things needed for an RV storage would not be anything that conventional farming operation would not be entitled to practice, if one was to fence in for livestock, add a barn, or a green house.
- There would be a fence surrounding the proposed RV storage and a gate within our property for security reasons.
- Grass would be seeded which would provide extra nutrients if the RV storage was to be re-used for crop land. Nothing would be disrupted that normal farming could not resume.
- A shelter belt tree line would be planted as to reduce visual impact on our neighbours and add to the beauty of our property line.
- Hours of operation would be seasonal as is the traffic and we do not potentially see a problem with it adding more noise or dust. Nor would there be a problem with on-street or off-street parking with the nature of using RV's.
- Also be advised that the neighbour that submitted opposition does not live on our Range Road, but the 2 businesses she speaks of are respectful and compliant with maintaining an amicable neighbourly relationship.
- The needs of the growing City of Leduc would be that of RV storage and the proximity of our property can help alleviate the need to drive elsewhere to store their RV's.
- Hope the Board will consider this proposed development and allow us to proceed with the proposed RV storage facility; it would be an asset to the County and a well needed contribution to our farming business as it would alleviate the stress of unpredictable ways in the farming industry.

Mrs. Scheffelmanier submitted a written email dated November 16, 2018 from Loma and Kory Udholm, 25515 Township Road 500, expressing support to their neighbours in the application for an RV Storage; have no issues or concerns with the application and trust the Scheffelmanier's would manage this endeavor with the same integrity they have displayed as neighbours thus far. Do not feel that the RV business would negatively impact our lives as neighbours and hope the County approves their application.

Chair McDonald asked if there were any questions by the Board Members of the appellants.

In response to a question by a Board Member, Mrs. Scheffelmanier confirmed the type of agricultural presently in use is rotated seed crops.

Chair McDonald asked anyone one in attendance to speak in support of the appeal.



Mr. Kevin Molsberry, resident directly south of proposed development, spoke in support and feels the proposed development is a good idea as towns and cities need this storage; and there is no harm to the agricultural land in fact if it returns to agricultural use will have better nutrients as a result of the grass seeding.

Chair McDonald called upon anyone in attendance to speak against the appeal.

Ms. Lynette Schurko, adjacent landowner to the south, spoke in opposition to the appeal for the following reasons:

- Referenced the original subdivision application in 2010 whereby concerns were expressed with taking good agricultural land out of production and still stand by that position.
- The annexation by the City of Edmonton forced Leduc County to take a close look at future agricultural land use and from that the Leduc County Agricultural Strategy was adopted and from that a new Municipal Development Plan was developed. Through consultations with ratepayers, two priorities were identified: land fragmentation and soil priority. Leduc County has an obligation to enforce these priorities and protect a valuable non-renewable resource. If the County fails to do this then the Agricultural Strategy and Municipal Development Plan are a waste of time and money. If the County cannot protect this 81% land capacity then agricultural in this County is doomed.
- The land is currently being farmed so why would the County want to take 4.5 acres from farming to subsidize farming income?
- Feels the proposed development is a conflicting land use with agricultural and am very opposed.

In response to a question by a Board Member, Mrs. Schurko confirmed she resides on seven acres that have been subdivided out of a quarter and is not an adjacent landowner.


Chair McDonald asked if there was any additional correspondence submitted, and Mr. Broadbent advised there was none.

Chair McDonald asked if Technical Staff had any final comments.

Mr. McGovern provided the following closing comments:

- Clarification was provided with respect to reference of this being a home based business; the proposed development is for a Recreational Vehicles Storage development which is a discretionary use.
- The proposed development is to be located on #1 soil (81%FAR) which is high capability and not in line with Leduc County bylaws and regulations.
- The Municipal Development Plan has not yet been adopted; however the current MDP requires the loss of high agricultural land be minimized and high capability be protected which contributed to the reason for refusal.

Chair McDonald asked the appellants if they had any final comments, and Mrs. and Mrs. Scheffellaier provided the following final comments:

- Requested clarification with respect to the difference between what we applied for and the home based business.
 - Feel the concerns with the neighbour have been addressed.
 - The proposed development will not destroy good agricultural land; it could be tilled up after seeding into grass and the land would be better capability.
- 

- The proposed piece of land to be taken out of agricultural is presently being farmed.
- With respect to comments submitted by the Mayor, question why that comment was included in the package.

Chair McDonald clarified that this Board is a quasi-judicial board and each hearing is held on its own merit and treated as a brand new hearing. The Board does not consider precedence when hearing appeals. Further the Board does not take any direction from Council and makes their decision on the merits of each hearing.

Chair McDonald asked the appellants if they felt they received a fair hearing, and Mrs. and Mrs. Scheffelmaier responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 9:45 a.m.

Messrs. Richards and McGovern and Mr. & Mrs. Scheffelmaier and Two Other Individuals

Messrs. Richards and McGovern and Mr. & Mrs. Scheffelmaier and two individuals exited the Council Chamber at 9:46 a.m.

In Camera

88-18 Board Member Rudiger -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:47 a.m.

Revert to Subdivision and Development Appeal Board Meeting

89-18 Board Member Jolly -- that the In Camera session revert to the Subdivision and Development Appeal Board meeting.

Carried

The In Camera session reverted to the Subdivision and Development Appeal Board meeting at 9:56 a.m.

Appeal by Laurel and Larry Scheffelmaier whereby Development Permit Application D18-191 was refused for a Recreational Vehicle Storage development on ± 4.5 acres of a ± 90 acre parcel located on Lot 1, Block 1, Plan 1026573, Pt. SE 6-50-25-W4.

90-18 Board Member Ruel -- that the Subdivision and Development Appeal Board disallow the appeal by Laurel and Larry Scheffelmaier and upholds the refusal of Development Permit Application D18-191 for a Recreational Vehicle Storage development on ± 4.5 acres of a ± 90 acre parcel located on Lot 1, Block 1, Plan 1026573, Pt. SE 6-50-25-W4.

Findings of Fact

- 1) The proposed development is located on soil rated at a Farmland Assessment Rating of 81% and would take (± 4.5) acres out of agricultural development for the proposed Recreational Vehicle Storage.
- 2) The appellant indicated the use is presently being used as seeded crop on a rotational basis.
- 3) There were two letters submitted in support and two submissions opposed.

Reasons for Refusal

Development Permit Application D18-191 is refused for the following reasons:

- 1) The proposed development is located within the Agricultural District (AG) of the Land Use Bylaw and Agricultural Area B of the Municipal Development Plan. The proposed development would take 1.7 ha (± 4.5 ac) of land rated at a Farm Assessment Rating (FAR) of 81 out of agricultural development, contrary to Municipal Development Plan 3.1.1 that requires productive agricultural lands to be protected for agricultural use, and Part 3.1.2 that requires that the removal of high capability agricultural land for non-agricultural development be minimized. The Development Authority considers that lands with a FAR of 40 or above are high capability agricultural lands.
- 2) The Leduc County Land Use Bylaw defines the Recreational Vehicles Storage use as a facility used for the storage of recreational vehicles, including but not limited to: motor homes, travel trailers, fifth wheels, truck campers, tent trailers, or similar vehicles. In accordance with the business information submitted by the applicant, the proposed development would allow for the storage of vehicle types such as cars, trucks, boats and four-wheelers.

Carried

Next Meeting

The next scheduled Subdivision and Development Appeal Board meeting will be held at the Call of the Chair.

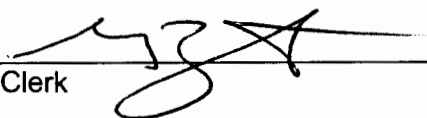
Adjournment

91-18 Board Member Jolly -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 10:00 a.m.


Chair


Clerk