

AGENDA

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

Thursday, September 12, 2019

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
 - * August 15, 2019 Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing**
 - * a) 9:00 a.m. D19-153 Appeal by York Realty Inc. – relating to Development Permit D19-153 by Leduc County for a Free Standing Sign (40' wide X 20' high, overall height 26') located within Nisku Industrial Park (8th Street Road Right of Way).
5. **Next Meeting Date** – at the call of the Chair.
6. **Adjournment**



Legend

- * Items Attached To Agenda

MINUTES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, SEPTEMBER 12, 2019 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:29 a.m., Thursday, September 12, 2019 by Chair Mary-Ann McDonald as Chair with Board Members Doug Ruel, Pat Rudiger, Rod Giles and Larry Wanchuk present.

Also present were Ms. Joyce Gavan, Clerk; Lynn White Recording Secretary; and Charlene Haverland, Manager of Development Services.

Agenda Adoption

47-19 Board Member Rudiger -- that the Agenda for the September 12, 2019 Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Previous Minutes – August 15, 2019 Subdivision and Development Appeal Board Meeting

48-19 Board Member Wanchuk -- that the August 15, 2019 Subdivision and Development Appeal Board meeting minutes, be accepted as circulated.

Carried

Appeal by York Realty Inc. whereby Development Permit Application D19-153 by Leduc County was conditionally approved for a Free Standing Sign (40' wide X 20' high, overall height 26') located within Nisku Industrial Park (8th Street Road Right of Way).

Chair McDonald called the hearing to order at 9:30 a.m.

It was noted the appellants were not in attendance and requested clarification if the Board had jurisdiction to hear the appeal. The Clerk provided the following relating to the notification process:

1. At 9:00 a.m. today left a voice message and e-mail reminding of hearing scheduled and requesting a prompt response whether the appellant(s), or their agent(s), were on their way or planning to attend.
2. Notice of Adjournment was sent via email at 8:45 a.m. on August 19, 2019 to the appellants, Matt Woolsey (matt@yorkrealty.ca); Erin Wilson (erin@yorkrealty.ca); and Alex Thomson (alex@cameron-corporation.com).
3. Notification was also sent via Canada Post on August 19, 2019 with no returned mail received from Canada Post.
4. The agenda package was sent via email to the appellants (as noted above) on September 6, 2019 at 8:29 a.m. and was also posted to the Leduc County website.

The Board determined the appellant(s) were given adequate notice of today's hearing and determined to proceed with the hearing.

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

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



Joyce Gavan, Clerk, advised of the appeal by York Realty Inc. whereby Development Permit Application D19-153 by Leduc County was conditionally approved for a free standing sign located within Nisku Industrial Park (8th Street Road Right of Way).

The reason for appeal is as follows:

- Our competitors signage for Amazon is located directly in front of our site and Amazon is not moving into our development (Monarch Business Park).

Ms. Gavan advised the following information is attached for the Board:

- 1) Staff Report
- 2) Notice of SDAB hearing package dated July 23, 2019
- 3) Notice of SDAB adjournment notice dated August 19, 2019
- 4) Notice of Appeal received July 18, 2019
- 5) Notice of Decision (conditional approval) by Development Authority dated June 28, 2019
- 6) Conditionally approved site plan
- 7) Key Plan
- 8) Development Permit Application D19-153
- 9) June 25, 2019 submission from appellant, York Realty Inc., on behalf of Monarch Business Park Inc., a company co-owned by Cameron Development Corporation and York Realty Inc.

Board Clerk Gavan confirmed there was no response from the appellant to the voice message or email.

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 confirmed that there was no one in attendance to represent the Appellant.

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

Manager of Development Services Charlene Haverland, provided the following information relating to the appeal relating Development Permit D19-153 – Free Standing Sign:

1. The subject appeal is against the decision of the Leduc County Development Authority, dated June 28, 2019 where an application for a Free Standing Sign located within the Nisku Business Park was conditionally approved.
2. In accordance with the Notice of Appeal, the appellant is appealing the decision of the Development Authority based upon the signage is for Amazon, which is their competitor and is located directly in front of their business park and Amazon is not moving into their development Monarch Business Park.
3. The subject property is undeveloped County road right of way located at the end of 4th Street and 8th Street within the Nisku Business Park.
4. Development on the property consists of one free standing sign.
5. In accordance with the Land Use Bylaw 7-08, the subject property and areas immediately surrounding the site is districted within the Industrial (IND) District, in which an application for a Sign is considered a discretionary land use.

6. Pursuant to Section 9.14 of the Land Use Bylaw, the general purpose of this district is to accommodate a range of compatible industrial and commercial uses.
In accordance with Section 9.14.3 of the Industrial District regulations, a Sign is listed as a discretionary use in accordance with Part 8 Sign Regulations. Part 3.4.5(b) states that the Development Authority shall consider an application for development and may approve it, with or without conditions, or refuse it if it is a discretionary use and it complies with the Bylaw.
Sign means an object or device intended for the purpose of advertising or calling attention to a person, matter, thing or event.
Free standing sign means a sign permanently fixed to the ground independent of a building or other structure.
7. The subject property is located within the Nisku area of the Municipal Development Plan. The purpose of the Nisku area is to encourage and accommodate a broad range of commercial and industrial development pursuits. The Nisku area is an area where higher density, fully serviced development is to be concentrated. The Nisku area offers a central location for a range of businesses, services, housing types and amenities.
8. Referral Responses included:
Alberta Transportation – a road side development permit will be required to be obtained from Alberta Transportation.
Adjacent Landowners – there was one letter of opposition from an adjacent landowner (appellant) who objects that the sign promotes Border Business Park also known as One Properties which is their competitor and is located directly in front of their Business Park and Amazon is not moving into their development, Monarch Business Park.
9. The approved Development Permit Application was approved with eleven (11) conditions, as listed in the June 28, 2019 Notice of Decision.
10. There are several advertising signs of businesses along the Highway 2 corridor that do not correspond with the property located immediately adjacent to the signs erected. Monarch Business Park had a free standing sign located on their subject property located north of the County's free standing sign before they commenced construction.
11. The Development Authority considered the application for a free standing sign as a directional sign and an economic advantage to the Nisku Business Park, it does not consider the relevance of the material displayed on the sign unless it were to be deemed inappropriate for public consumption. The Development Authority approved the sign in relation to land use. The appellant's reason for appealing are not based on land use but based on competitive advantages and disadvantages. The Development Authority does not make their decision based upon what name is displayed on a sign. The decision is based upon land use and land use only. The sign was approved as a discretionary use meeting the Land Use Bylaw requirements. Should the writing on the sign change, a new permit would not be required as the permit approval is for a sign not for what is displayed on the sign.
12. The appellants have indicated to the County they have no issue with the sign, if the sign were to be relocated to another location just not in front of their subject property. A location further to the south was presented to the appellants as an alternative location for the sign however the appellants indicated they are not in support of the location as it is still too close to their development.
13. The Development Permit Application was approved with the condition of a two (2) year time period; this would permit for the removal of the sign and provides timing for the construction of Amazon to be completed. At no such time does the sign promote the selling of Border Business Park lots, it is clearly a directional sign. The advantages which Amazon bring to

the County for all developers will only boost the County's economy including the sale of lots within all of the Nisku Business Park.

14. In summary, the Development Authority considers that the proposed development meets the requirements of the Land Use Bylaw and would not materially interfere with or affect the use, enjoyment or value of neighbouring properties, or detrimentally impact the surrounding area. Accordingly the Development Authority recommends that the Subdivision and Development Appeal Board uphold the decision of the Development Authority to approve Development Permit D19-153 and allow the sign to remain on a temporary basis.

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

In response to questions from Board Members, Mrs. Haverland provided the following information:

- The Amazon building under construction is visible from Highway QEII; however there are no signs affixed to the building so you would have to know it is Amazon's development.
- The sign is directional and indicates that Amazon is accessible via the 41st Avenue exit.
- One Properties requested that the sign be erected on Leduc County property therefore Leduc County submitted the development permit application.
- Leduc County only owns a couple of parcels along QEII.
- As long as the sign meets eligibility requirements it would meet County standards and approved.
- Alberta Transportation has the final authority.

In the absence of the appellant's presentation, the Board Members reviewed the June 25, 2019 submission from York Realty Inc., on behalf of Monarch Business Parks Inc., a company co-owned by Cameron Development Corporation and York Realty stating the opposition to the proposed signs for the following reasons:

1. Competition – One Properties, the developer of Amazon's new facility, is a direct competitor in the marketplace for industrial real estate. The sign, hosted on Leduc County land, advertises directly for "One Properties" and includes their contact info only.
2. Location – the sign is located immediately in-front of our property and captures the attention of most north-bound traffic. While we are presently unable to host our own sign at Monarch due to on-going sitework, the sign in-question did block visibility to our previous signage. Once we have sitework completed, we plan to erect our own signage and do not want it blocked.
3. Content – the sign states, "Future Home of Amazon"; to the average observer the location of the sign paired with the on-going sitework behind, would look as though Monarch Business Park belonged to One Properties and was the future location of Amazon.
4. Investment – Monarch Business Park is investing a substantial amount of capital in Monarch Business Park this season to bring lots on-line, as well as constructing two new buildings over 18.0 acres of land. This investment comes directly from local private developers.
5. Precedent – understanding the County values flexibility and ease-of-business, there was clearly no consideration (or permits) granted before the sign was erected. In our view, the County has a duty to be as neutral as possible in their support for all developers in the region. Moreover, allowing the sign to go-up without consultation gave us no prior right to express our opinion on its negative effects to our business.



6. In closing, York and Cameron (through Monarch Business Park) intentionally purchased land with exposure and are investing substantial sums of money to add value to this land. We do not want our competitive advantage reduced or eliminated, especially through the explicit support of our competitors by the County.

Chair McDonald asked administrative staff to provide final comments, and there were none.

Chair McDonald asked the Clerk if there was any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

Conclusion of Public Hearing

Chair McDonald declared the Public Hearing concluded at 9:51 a.m.

Mrs. Haverland

Mrs. Haverland exited the Council Chamber at 9:52 a.m.

In Camera

49-19 Board Member Rudiger -- that the Subdivision and Development Appeal Board meet In Camera.

Carried

The In Camera session commenced at 9:53 a.m.

Revert to Subdivision and Development Appeal Board Meeting

50-19 Board Member Ruel -- 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 10:00 a.m.

Appeal by York Realty Inc. whereby Development Permit Application D19-153 by Leduc County was conditionally approved for a Free Standing Sign (40' wide X 20' high, overall height 26') located within Nisku Industrial Park (8th Street Road Right of Way).

51-19 Board Member Rudiger -- that the Subdivision and Development Appeal Board disallow the appeal by York Realty Inc. and uphold conditional approval of Development Permit Application D19-153 for the development of a free standing sign – 40' wide X 20' high (overall height – 26') within Nisku Industrial Park (8th Street Road Right of Way).

Findings of Fact

1. The Board was satisfied that the appellant was properly informed of the appeal despite their absence at the Hearing.
2. The June 28, 2019 conditional approval (condition #7) states the sign shall be permitted for a two (2) year term and the sign shall be removed from the lands on or before June 27, 2021.
3. There were no objections from other landowners.

4. The Board heard from the Development Authority that the County attempted to negotiate relocation of the sign; however, the appellant(s) indicated they were not in support of the location as it was still too close to their development.
5. The Appellant did not provide any evidence (i.e. a financial impact analysis) of how this sign affects them other than competition.
6. There are other signs placed along the Highway 2 corridor that do not correspond with the property located immediately adjacent to the signs erected.
7. There was previously a Monarch Business Park sign in the same area, which was removed; additionally, the applicant stated in the June 25, 2019 letter that once their site-work is completed they plan to erect their own signage and do not want it blocked.

The Board considered the following sections of the Municipal Development Plan and Leduc County Land Use Bylaw 7-08.

Municipal Development Plan

The subject property is located within the Nisku Area of the Municipal Development Plan. The purpose of the Nisku area is to encourage and accommodate a broad range of commercial and industrial development pursuits. The Nisku area is an area where higher density, fully serviced development is to be concentrated. The Nisku area offers a central location for a range of businesses, services, housing types and amenities.

Leduc County Land Use Bylaw No. 7-08

- The subject property and areas immediately surrounding the site is districted within the Industrial (IND) District, in which an application for a Sign is considered a discretionary land use.
- Pursuant to Section 9.14 of the Land Use Bylaw, the general purpose of this district is to accommodate a range of compatible industrial and commercial uses.
- Pursuant to Section 9.14.3 of the Industrial District regulations, a Sign is listed as a discretionary use in accordance with Part 8 Sign Regulations.
- Pursuant to Part 3.4.5(b), the Development Authority shall consider an application for development and may approve it, with or without conditions, or refuse it if it is a discretionary use and it complies with the Bylaw.

Definitions

Sign means an object or device intended for the purpose of advertising or calling attention to a person, matter, thing or event.

Free standing sign means a sign permanently fixed to the ground independent of a building or other structure.

Conditions for Approval

Development Permit D19-153 is approved subject to the following conditions:

1. Approval is granted for the approved development only and no other development.
2. The proposed development shall be located as shown on the submitted site plan dated June 28, 2019.
3. The sign shall not be flashing, animated, or display intermittent lights.
4. The applicant shall ensure that the sign is maintained and repaired as necessary.
5. The sign shall not obstruct free and clear vision of vehicular and pedestrian traffic.

6. The sign shall not interfere with or be confused with an authorized traffic sign, signal or device.
7. The sign shall be permitted for a period of two (2) years and shall be removed from the lands on or before September 12, 2021.
8. The overall height of the temporary sign shall not exceed 7.9 m (26 ft.).
9. The temporary sign shall be placed completely within the boundaries of the lot on which it stands.
10. A Provincial Road Side Development Permit is required prior to development in this location. No development shall commence on the site until a Provincial Road Side Development Permit has been issued by Alberta Transportation.
11. No further development, expansion or change in use is permitted unless approved by Leduc County.

Carried

Next Meeting

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


Adjournment

52-19 Board Member Giles -- that the Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Subdivision and Development Appeal Board meeting concluded at 10:03 a.m.


Chair


Clerk