



## AGENDA

### INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB) COUNCIL CHAMBER, LEDUC COUNTY CENTRE NISKU, ALBERTA

**Thursday, December 3, 2020**

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
  - \* October 8, 2020 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing - D07-2020**
  - \* a) **9:00 a.m.**

Apellant(s)	Warren Lundgren, Lundgren Enterprises Ltd.
Applicant's name	---
Landowner's name	Lundgren Enterprises Ltd.
Leduc County Municipal Roll #	6003120
Legal description of subject property	Lot N, Block 1, Plan 2705 NW, Pt. SE 29-49-23-W4
Municipal address	2010 49402 Range Road 234 (Rolly View)
Nature of development application	Non Permitted and Non Conforming Industrial Business
Development permit application Number	---

5. **Next Meeting Date** – at the call of the Chair.
6. **Adjournment**

*Legend*

*\* Items Attached To Agenda*

**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, DECEMBER 3, 2020 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.**

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**Order and Roll Call**

The meeting was called to order at 9:00 a.m., Thursday, December 3, 2020 by Vice Chair Pat Rudiger and Board Members Doug Ruel, Rod Giles and Larry Wanchuk present. Board Member Mary-Ann McDonald attended via teleconference.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead, Development
- Warren Lundgren, Appellant

**Agenda Adoption**

**39-20** Board Member Giles -- that the agenda for the December 3, 2020 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – October 8, 2020**

**40-20** Board Member Giles -- that the October 8, 2020 Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Warren Lundgren, Lundgren Enterprises Ltd., relating to the issuance of a Stop Order to Lundgren Enterprises Ltd. for non-permitted and non-conforming industrial business without a valid development permit located at Lot N, Block 1, Plan 2705 HW, Pt. SE 29-49-23-W4 (2010, 49402 Range Road 234, Rolly View).**

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Vice Chair Rudiger called the hearing to order at 9:01 a.m. and provided introductory remarks.

Vice Chair Rudiger then called upon the Board secretary to introduce the subject of this appeal.

Board Clerk Joyce Gavan advised of the appeal by Warren Lundgren, Lundgren Enterprises Ltd., whereby a stop order was issued for non-permitted and non-conforming industrial business without a valid development permit located at Lot N, Block 1, Plan 2705 HW, Pt. SE 29-49-23-W4 (2020, 49402 Range Road 234, Rolly View).

The reasons for appeal are as follows:

1. The notice of Stop Order is not justified; a request to get proper permits would have been more acceptable.
2. I am a one-person company and am always trying to find work so with Covid and our economy struggling I am always trying to better my yard and the community.
3. Please allow me to get permits and do things right. I have owned this property for ten years or better and have not changed any of my work practices.
4. I am also applying for a development permit for my shop in Rolly View.



Joyce Gavan, Clerk, advised the following information is attached for the Board:

- 1) Notice of ISDAB hearing package dated November 16, 2020
- 2) Notice of Development Appeal received November 13, 2020
- 3) Notice of the Stop Order issued by Registered Mail on November 6, 2020.
- 4) Development Authority's report
- 5) Copy or warning letter dated June 8, 2020
- 6) GIS, site and location maps
- 7) Photographs of site visits
- 8) Submission from Applicant, Warren Lundgren, received November 26, 2020

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

Vice Chair Rudiger asked if any Board member felt a need step down from this hearing within the boundaries of conflict of interest, and there was no one.

Vice Chair Rudiger asked the appellant, Mr. Lundgren if he had any objection to any of the members of the Intermunicipal Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

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

Vice Chair Rudiger called upon the Development Authority to provide background information.

Colin Richards, Team Lead Development, provided a PowerPoint presentation relating to the issuance of the subject Stop Order, highlighting the following:

1. In accordance with the County enforcement process, the Stop Order was issued in response to non-compliance with a warning letter that was issued on June 8, 2020 in relation to the operation of an industrial business without the necessary permits, and outdoor storage of construction materials commercial and industrial equipment and shipping containers.
2. The subject property is a 0.37 ac parcel located within the hamlet of Rolly View, which lies immediately north of Highway 623.
3. Development on the property includes a 178m<sup>2</sup> building that was constructed around the late 1970's as a dwelling and significant outdoor storage that includes various construction debris and sea containers. The County has no record of any development permits being in place for any development or business use of the property, however, the whole property including the existing building are being used for business purposes.
4. The parcel falls under the Rural Centre Mixed District which was designed for hamlets and local centres to provide for residential development and commercial uses that serve the immediate needs of the area, such as gas station, liquor store and convenience stores.
5. Although the County has no records of when the current parcel began use for industrial use, it was June 4, 2020 when the County received a complaint from a local resident to advise that the property was unsightly due to the operation of an unlawful business that was interfering with the amenities of the neighbourhood and affecting the use, enjoyment and value of neighbouring parcels.



6. In response to the complaint, a site inspection on June 5 observed unpermitted outdoor storage throughout the premises which included: construction debris including piles of earth and bricks, among other articles; sea containers; and trucks and vehicles of an industrial and commercial nature.
7. Following the site visit, a notification letter was issued to the landowner on June 8, 2020 that advised of the infractions on the property and that industrial uses are not supported within the Rural Centre Mixed District.
8. The warning letter specified that the lands needed to be brought into compliance with the Land Use Bylaw before August 8, 2020. This required ceasing any unauthorized use of the property and removing any industrial goods and equipment.
9. After the passing of that date, there had been no observed change to the property and the County had not been contacted by the landowner to discuss the requirements within the letter. Following an additional grace period for compliance, a further site inspection occurred on November 4, 2020 that confirmed the industrial use of the property was continuing. As a result of this, the County issued the Stop Order on November 6, 2020 that is subject to the appeal today.
10. The Stop Order specified that prior to November 20, the landowner:
  - a. Immediately cease unauthorized business operations including commercial transactions and the moving of any new merchandise into the property.
  - b. Remove outdoor storage of commercial and industrial goods and equipment; and
  - c. Re-establish the residential character of the lands after the removal of the outdoor storage by cleaning the entire yard to harmonize with surrounding residential developments.
11. In response to the Stop Order, this appeal was lodged.
12. The appellant considers that the Stop Order is not justified, and feels a request to get permits in place would have been a more acceptable action for the County to take.
13. The appellant states that he operates a one-person company, and due to economic struggles and Covid-19, he is always working to better his yard and the community.
14. The appellant stated that he has owned the property for ten years, and operates a masonry business where his work practices have not changed during that time. A desire to obtain necessary permits was discussed with planning staff at the time the appeal was lodged where a development permit application package was provided. As of today, the County has not received any applications for the property.
15. As the purpose of an appeal against a Stop Order is to determine whether the Stop Order was correctly issued and is justified, the County can confirm that the property is being utilized for industrial business purposes with associated outdoor storage and holds no permits for those uses.
16. As the uses occurring on the property do not fall within any of the planning-exempt land uses contained within the Land Use Bylaw or hold any historical approvals, the Stop Order should remain with the property until either the infractions are rectified, or appropriate development permits are in place.
17. Based on this, in accordance with the provisions of the Municipal Government Act and the Land Use Bylaw, the planning department believes a Stop Order is warranted on this property.
18. The Stop Order was correctly and appropriately administered in response to the Land Use Bylaw infractions reported by a community member, observed by the County and following non-compliance with a warning letter that provided ample time to rectify the infractions or work with the County on potential solutions.



19. The removal of the Stop Order would not change the fact that planning infractions are occurring on the site, nor would the removal of the Stop Order implicitly allow for the current uses to continue as-is.
20. With the Stop Order remaining in place, should the required actions contained within be satisfactorily completed, or a development permit be issued to allow for a supportable use of the property, the County will remove the Stop Order from the property's title.
21. Should the requirements of the Stop Order not be met, the County may proceed with the legal action in order to remedy the infractions and return the property to a pre-development state. As the Stop Order is an important part of that established process, it is important it remain in place throughout the duration of the infraction.
22. In conclusion, the planning department considers a Stop Order is warranted on the property and is a necessary part of the enforcement process to ensure land use bylaw infractions are rectified. As a result, the Stop Order should be upheld until such time the property is brought into compliance.

Vice Chair Rudiger asked if there were any questions by the Board members of Development Authority staff.

In response to questions by Board members, Mr. Richards advised of the following:

- The warning letter that was issued on June 8, 2020 specified that the lands needed to be brought into compliance before August 8<sup>th</sup>. The landowner was given a grace period until November 4 when a site inspection was conducted, at which time no change was observed to the property. The Stop Order was issued on November 6, 2020.

Vice Chair Rudiger called upon appellant Warren Lundgren, Lundgren Enterprises Ltd., to speak to the stop order.

Warren Lundgren, on behalf of Lundgren Enterprises Ltd., appellant, provided the following information:

1. When property was purchased about 13 years ago, there was no existing chain link fence and from that time forward, I have been doing the same thing.
2. There are no other staff members, just me.
3. Everything that is on the property are jigs or spare tools for repairs (and some junk). Anything to make the job easier on my body. Do concrete work. Other items on the property include bricks, rocks, scaffolding.
4. There were three people who wanted dirt and then they got sick and now the dirt is frozen.
5. Did some measurements for the permit. Hopefully it will be satisfactory.
6. Material on the property is for my business.
7. The sea cans have roll-up doors which I use to pull my truck and trailer into. Rocks go inside as well.
8. Summer is the busy season.
9. Don't totally understand the Stop Order. Don't understand what I can do and cannot do.
10. Have been discussing a permit with planning staff.





11. Business doesn't fit into the use of the district, other than a storage yard.

Vice Chair Rudiger asked if there were any questions by the Board members of Mr. Lundgren.

In response to a questions by Board members, Mr. Lundgren advised the following:

- Thirteen years ago, someone in the planning department said it was okay to use the land for storage. That was all I needed so I thought it was okay.
- Was also told that shop was too close to the highway. There was no permit for the shop and I never pursued getting one.
- Do not live on the property. There is no sewer or power.
- Did not follow-up on the letter issued in June.
- Never intend to live on property. The land is used to fix equipment and store material.
- The debris is actually a firewood pile with a couple of pieces of concrete on top that were designed for a client who ended up not taking them.
- Appreciate that the County watches over properties.
- My situation is 100% lack of ability to get at it.
- Hope to get permit and clarify what my vision is for the yard.

Vice Chair Rudiger noted there was no one else in attendance to speak to the appeal.

Vice Chair Rudiger asked the clerk to read/present any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

Vice Chair Rudiger asked administrative staff to provide final comments.

Mr. Richards provided the following closing comments:

- The Development Authority confirms that the Stop Order was issued correctly.
- The appellant is ready to submit a development permit application. We will then be able to view what is on the property and work with the landowner.
- Should the property be brought into compliance, the Stop Order will be removed.

Vice Chair Rudiger called upon the appellant to provide final comments.

Warren Lundgren provided the following final comments:

- Still not clear on what I can do and cannot do on my property.
- Will submit permit today.

Mr. Richards indicated that when the permit application is received, the planning staff will review it and then work towards compliance with Mr. Lundgren. They will also step through the application process with him.



Vice Chair Rudiger asked the appellant, if he felt he received a fair hearing, and Warren Lundgren responded affirmatively.

### **Conclusion of Public Hearing**

Vice Chair Rudiger declared the Public Hearing concluded at 9:27 a.m.

### **In-Camera**

**41-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:27 a.m.

Mr. Richards and Mr. Lundgren

Mr. Richards and Mr. Lundgren exited the council chamber at 9:28 a.m.

### **Revert to Intermunicipal Subdivision and Development Appeal Board Meeting**

**42-20** Board Member McDonald -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 9:35 a.m.

**Appeal by Warren Lundgren, Lundgren Enterprises Ltd., relating to the issuance of a Stop Order to Lundgren Enterprises Ltd. for non-permitted and non-conforming industrial business without a valid development permit located at Lot N, Block 1, Plan 2705 HW, Pt. SE 29-49-23-W4 (2010, 49402 Range Road 234, Rolly View).**

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**43-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board disallow the appeal by Warren Lundgren, Lundgren Enterprises Ltd., and upholds the issuance of a Stop Order for the non-permitted and non-conforming industrial business located at Lot N, Block 1, Plan 2705 NW, Pt. SE 29-49-23-W4 (2010 49402 Range Road 234, Rolly View).

### **Findings of Fact**

1. The subject property is within the Rural Centre Mixed (RCM) district where the purpose is to provide for residential development and commercial uses that serve the immediate needs of the area. The subject property is 1,497 sq.m. (0.37 ac) in size, located within Rolly View.
2. Development consists of a 178 sq.m. building constructed circa 1977 and outdoor storage of items such as construction debris and a sea container. There are no development permits in place for any development or uses(s) upon the property.
3. Upon receipt of a complaint from a resident of Rolly View, Leduc County staff conducted a site inspection on June 5, 2020 where unpermitted outdoor storage throughout the premises was observed, including:
  - i. Construction debris including piles of earth and bricks
  - ii. Metal racking
  - iii. A sea container



- iv. Trucks and vehicles of an industrial/commercial nature
4. The county issued the following enforcement notices:
  - June 8, 2020 notification letter via registered mail advising of infractions on property and that the landowner must cease any unauthorized use of the property and remove any commercial/industrial goods and equipment from the property on, or before August 8, 2020.
  - November 6, 2020 Stop Order issued via registered mail after a site inspection on November 4, 2020 revealed the continued use of the property for industrial use and that no materials had been removed.
5. The appellant, Warren Lundgren, indicated the following:
  - bought the property 13 years ago and does not reside on property
  - understood when he purchased the property that storage was allowed
  - the property is used for the storage of equipment and tools related to his one-person business
  - obtained a development permit application which he hopes to submit to the county today and obtain clarity from administrative staff of what the vision is for the subject yard
6. The Board acknowledged that the appellant did not follow the required protocol with the issuance of the warning letter and Stop Order as no clean-up has commenced on the property and a development permit has not been submitted.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08

3.1.1 states *“any use or development of lands, buildings or signs in the County requires a valid development permit unless it is specifically exempted from requiring a development permit by this bylaw or by federal or provincial legislation.”*

Part 7.23.1(a) (Outdoor Storage) states *“No person shall store goods, products, materials or equipment outside of a building unless the storage is subject of an approved development permit or deemed by the Development authority to be an integral part of another use that has been approved or does not require a development permit.”*

Part 17 of the Municipal Government Act and Part 4, Section 4.2 of the Leduc County's Land Use Bylaw 7-08 allows 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, or a development permit or subdivision approval.

In consideration of the above, the Board concludes that the subject lands do not comply with Leduc County Land Use Bylaw No. 7-08 and accordingly, the appellant/landowner is hereby ordered to **Stop** all unauthorized activities at the subject lands and comply with the Land Use Bylaw 7-08 by taking the following actions:

1. Immediately cease unauthorized business operations including commercial transactions and the moving of any new merchandise into the property upon receipt of this order.
2. Remove outdoor storage of commercial/industrial goods and equipment on or before January 15, 2021. The storage includes the following:





- Construction debris including earth, bricks, chairs, wood posts, plastic, siding, wood, fencing etc.
  - Metal rack
  - Sea container
  - Five (5) commercial vehicles
3. Re-establish the residential character of the above mentioned lands after the removal of the outdoor storage by cleaning the entire yards of the property to match in appearance of the property with the surrounding residential development.

In the event that this Stop Order is not complied with within the time limit provided, Leduc County has the authority to enter onto the lands in accordance with Section 542 of the Municipal Government Act to take whatsoever actions are determined by Leduc County to bring the lands into compliance, and may seek an Injunction or other relief from the Court of Queen's Bench of Alberta pursuant to Section 554 of the Municipal Government Act. Further, Leduc County has the authority to add the costs and expenses to carry out this Stop Order to the tax roll for the lands pursuant to Section 553(1) (h.1) of the Municipal Government Act.

Carried

#### **Next Meeting**


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


#### **Adjournment**

**44-20** Board Member McDonald -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 9:36 a.m.

  
Vice Chair

  
Clerk