

**AGENDA**

**INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)**

**COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU, ALBERTA**

**Friday, September 11, 2020**

**1. Order and Roll Call – 11:00 a.m.**

**2. Agenda Adoption**

**3. Adoption of Previous Minutes**

- \* July 9, 2020 Intermunicipal Subdivision and Development Appeal Board Meeting

**4. Subdivision and Development Appeal Hearing**

- \* a) **11:00 a.m.**

Apellant(s)	Victor E. Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke
Applicant's name	619455 Alberta Ltd., Dale Robinson
Landowner's name	The Canadian Historical Arms Society, Andrew Blundell
Leduc County Municipal Roll #	3935000
Legal description of subject property	SW 4-51-3-W5
Municipal address	3356 Township Road 510
Nature of development application	Accessory Building (three sided gun range shelter) 133.80 sq.m (1440 sq.ft.)
Development permit application #	D20-104

**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 FRIDAY, SEPTEMBER 11, 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 11:06 a.m., Friday, September 11, 2020 by Chair Mary-Ann McDonald and Board Members Pat Rudiger, Doug Ruel, Rod Giles and Larry Wanchuk present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead Development
- Charlene Haverland, Manager of Development Services
- Victor Howard, Pahl Howard LLP
- Lloyd & Janet Rosenke, Appellants
- Ralph Colistro, Colistro Chronopoulos LLP
- and two other interested parties

**Agenda Adoption**

**27-20** Board Member Giles -- that the agenda for the September 11, 2020 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – July 9, 2020**

**28-20** Board Member Giles -- that the July 9, 2020 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Victor E. Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke, relating to conditional approval of Development Permit Application D20-104 - Dale Robinson, 619455 Alberta Ltd., on behalf of the Canadian Historical Arms Society, for an accessory building (three sided gun range shelter) – 133.80 sq.m (1440 sq.ft.) located at SW 4-51-3-W5 (3356 Township Road 510).**

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Chair McDonald called the hearing to order at 11:08 a.m. and provided introductory remarks.

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

Joyce Gavan, Clerk, advised of the appeal by Victor Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke whereby Development Permit Application D20-104 was conditionally approved to Dale Robinson, 619455 Alberta Ltd., on behalf of the Canadian Historical Arms Society, for an accessory building (three sided gun range shelter) 133.80 sq.m (1440 sq.ft.) located at SW 4-51-3-W5 (3356 Township Road 510).

The reasons for appeal are as follows:



1. Condition #2 states that no expansion or intensification of use is permitted or authorized, but the shooting shelter approved is an expanded structure from that approved and existing under D15-321. The permission is inconsistent with this limitation and should not be granted.
2. The approval in 2015 was for a pistol shooting range, as opposed to a rifle range, or shotgun range. Is this limited use authorization being enforced?
3. Condition #4 contemplates noise attenuation measures, but contemplates no serious process to ensure its effectiveness, given the requirement for specialized expertise to attain effective attenuation of such an inherently noisy activity.
4. Condition #6 restricts shooting to “approved areas”, which are not defined. Clarity is important both for personal safety of shooters and neighbors, as well as for effective noise attenuation, assuming that effective attenuation measures are indeed implemented and utilized.

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

- 1) Notice of ISDAB hearing package dated August 25, 2020;
- 2) Notice of Development Appeal dated August 21, 2020;
- 3) September 2, 2020 letter from Ralph Colistro, Colistro Chronopoulos LLP, advising they have been retained by the Canadian Historical Arms Society.
- 4) Development Authority's submission including:
  - development permit application,
  - notice of decision (Conditional Approval),
  - conditionally approved site plan,
  - key plan,
  - building plans,
  - adjacent landowners submissions,
  - history of planning and development on subject property
- 5) Appellants submission (Victor Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke)
- 6) Submission from Colistro Chronopoulos LLP in reference to Planning Law and Practice in Alberta.

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

Chair McDonald 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.

Chair McDonald asked the appellant(s) if they 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.

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

Chair McDonald called upon the Development Authority to provide background information.

Colin Richards, Team Lead of Development, provided a PowerPoint presentation relating Development Permit D20-104 appealed by Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke, highlighting the following:



1. This is an appeal by Victor E. Howard, Pahl Howard LLP, on behalf of Lloyd and Janet Rosenke against a decision of Leduc County Development Authority, whereby an application to build an accessory building on an existing, previously approved pistol range within a larger gun range, was approved, with conditions.
2. Development permit application D20-104 was approved subject to 17 conditions on July 31, 2020. The appellants have appealed the decision to approve the application, citing concerns relating to conditions #2, #4 and #6 within the Notice of Decision. The appellants are requesting that due to their concerns with the aforementioned conditions, that the Intermunicipal Subdivision and Development Appeal Board (ISDAB) overturn the decision of the Development Authority and refuse the application.

Condition #2: This approval permits the construction of a shooting shelter over the previously approved Pistol Shooting Range approved under development permit D15-321, only, and does not permit any expansion or intensification of the existing shooting area.

Condition #4: The applicant/landowners shall incorporate noise mitigation / noise attenuation measures into the approved development, such as QBO blankets or a baffle system, in order to minimize any post development noise impacts. Prior to the commencement of development, the applicant/landowners shall notify the County of the proposed noise mitigation measure(s), which shall be implemented to the satisfaction of Leduc County.

Condition #6: No firearms shall be discharged outside of the approved areas.

3. Policy / Land Use Bylaw 7-08

The subject property is districted within the North Saskatchewan River Valley Valley (NSRV) District of the Land Use Bylaw 7-08.

In accordance with Part 9.17.1 of the Land Use Bylaw, the purpose of this district is to provide for primarily agricultural uses as well as active and passive recreation activities, and limited non-recreational land uses in the North Saskatchewan River Valley area.

Part 9.17.3 allows an Accessory Building greater than 100m<sup>2</sup> (1,080 ft<sup>2</sup>) to be considered as a discretionary land use within the NSRV district.

Part 3.5.1 directs that the Development Authority may approve a discretionary use if, in its opinion, the proposed development complies with the Municipal Development Plan and the general purpose of the land use district.

Part 3.5.2 directs that when considering an application for development, the Development Authority shall consider compatibility with the surrounding lands, the suitability of the site for development, the capacity of public roads to accommodate potential traffic generation and the ability for infrastructure to accommodate the potential development.

Part 11 - Definitions

*Accessory Building* means, for the purpose of administering the provisions of Part Nine – District Regulations, a building that is incidental and subordinate to a principal use or principal building on the same lot and is more than 10.0 sq.m (107.6 sq.ft.) or 2.0 m (6.5 ft.) in height.

#### Municipal Development Plan

The subject property is situated within 'Agricultural Area A – West Agriculture' of the Municipal Development Plan.

Agriculture Area A is intended to provide for a broad range of Agriculture where land use conflicts can be minimized and subdivision is limited.

Within Part 4 - Rural County, objective 2 seeks the promotion of rural communities that contain living, working and recreation activities that respect agricultural resources.

#### 4. Background / Proposed Development

Development permit application D20-104 proposed the construction of a 3-sided, covered shooting shelter within the shooting area of an existing Pistol Range, which was approved in 2015 under application D15-321. According to the applicant, the proposed shooting shelter was proposed in order to shield patrons utilizing the pistol range from the weather. The applicant also provided additional information regarding the proposed development, which noted the following details:

- The new building will be constructed from wood and metal. It will be identical to the existing gun range shelters and offering fifteen (15) shooting positions.
- There will be no increase in the number of shooting positions on the pistol range.
- The new shelter will not affect the operational hours of the facility (as previously approved).
- The new development will not increase the intensity of the site and will not affect membership numbers, numbers of shooters, noise or traffic.

#### Site Description

The subject property is located on the north side of Township Road 510 and approximately 800 metres west of Range Road 33. The parcel, which has been operating as a gun range since its initial approval in 1987 contains three shelters, a concrete pad, a metal Quonset warehouse and an electric fence/sliding gate to support the use.

The east and north side of the parcel contains mature treed areas. There are three dwellings located on the surrounding lands, which are located approximately 1.2 km, 1.5 km and 1.6 km from the area subject to this development decision.

#### Planning History

A planning history of the subject property indicates the following historical development decisions on the subject property:

D87-008: Approved March 2, 1987  
Rifle Range (Shooting Facility)

D13-354: Approved April 25, 2014  
Construction of Berms, Concrete Pads and Shelters

D15-321: Approved October 22, 2015  
Accessory Structure, Pistol Range (81.29 sq. m)

D15-322: Approved October 22, 2015  
Accessory Building (Quonset – 222.97 sq.m)

D18-106: Approved July 8, 2018  
Accessory Building (Quonset – 66.9 sq.m) and Removal of Existing Accessory Building

D18-230: Refused January 23, 2019 – Decision Upheld by SDAB March 19, 2019  
Expansion of Existing Shooting Range - 3 berms - shooting positions, 15 berms for shooting targets, tree clearing, and extraction & grading.

## 5. Referral Comments

The permit application D20-104 was referred to the adjacent and surrounding landowners and County internal departments. The following concerns were received from two nearby landowners:

- Unsure why P&D no longer sends notification regarding changes at the Genesee Gun Range to residents.
- Concerned that if the shelter is built, it will amplify the noise. Always requested noise abatement and Council is aware of it.
- Expansion of Gun Range took place over the years without neighbours knowledge.
- Unaware there was a specific pistol range on the property.
- Design of proposed building should be reconsidered with fourth side and insulation.
- In 2015, CHAS was given permit for accessory structure, along with a berm. Neither of those structures were built and they started using this area as a Pistol Range.
- During a 2014 open house at Genesee Hall, local residents requested that these structures be designed by Acoustical Engineer to address the noise issue emanating from the buildings.
- Tin shacks amplify the sound and project it down the valley and towards the residences.
- Feel this application should not be heard or approved because Leduc County cannot provide evidence of a permit for CHAS to operate a pistol range.
- Believe that the pistol range is illegal, and must be dealt with immediately to alleviate any possible legal action against the County.

Leduc County's internal departments held no concerns concerning the proposed development.

## 6. Grounds of Appeal

Within the grounds of appeal, the appellants have cited concern with three conditions of the approval which they consider should warrant the refusal of the application by the ISDAB. In addition, the appellants consider that shooting practices within the range are unauthorized, which should also be considered within the scope of this decision.

The appellant's grounds of appeal are noted as follows:





- i. *Condition #2 states that no expansion or intensification of use is permitted or authorized, but the shooting shelter approved is an expanded structure from that approved and existing under D15-321.*

*The permission is inconsistent with this limitation and should not be granted.*

- ii. *The approval in 2015 was for a Pistol Shooting Range, as opposed to a Rifle Range, or Shotgun Range. Is this limited use authorization being enforced?*
- iii. *Condition #4 contemplates noise attenuation measures, but contemplates no serious process to ensure its effectiveness, given the requirement for specialized expertise to attain effective attenuation of such an inherently noisy activity.*
- iv. *Condition #6 restricts shooting to "approved areas", which are not defined. Clarity is important both for personal safety of shooters and neighbors, as well as for effective noise attenuation, assuming that effective attenuation measures are indeed implemented and utilized.*

## 7. Discussion

The development permit application subject to this appeal (D20-104) was to construct an Accessory Building (Three Sided Gun Range Shelter) 133.80 sq.m (1440 sq.ft) and was approved by the Development Authority on July 31, 2020.

The proposed building was approved to be constructed on a historically approved Pistol Range, within a previously approved wider shooting facility only. The application was for a building only, and does not include any factors applicable to the operation, size, scale or intensity of the previously approved shooting range. The sole intent behind the proposed building was to provide a sheltered shooting area to protect the patrons and guests of the gun range from weather conditions.

Following the submission of the application, the development authority contacted the applicant/landowners to obtain further details concerning the application. The applicant/landowners confirmed that the pre-existing 15 shooting positions contained within the pistol range (as approved in 2015) would remain the same after the construction of the proposed building. It was confirmed that the application was solely to consider the construction of a shelter-style building, constructed of wood and metal to match existing shooting shelters located elsewhere within the overall shooting range. Additionally, the applicants affirmed that the hours of operation and the intensity of the range will remain the same and there would be no increase in noise levels and traffic as a result of the proposed development.

Within the North Saskatchewan River Valley District (NSRV), accessory buildings larger than 100 m<sup>2</sup> (1,080 ft<sup>2</sup>) in size are considered a discretionary use. In accordance with the requirements of the Land Use Bylaw, discretionary use applications are referred to adjacent landowners for comment. In respect of this, it is important to note that the purpose of the referral was to seek comment concerning the proposed building only, and not to consider the extent approvals of the overall shooting range itself (as approved in 1987) or the pistol range element of the facility (as approved in 2015).

The appellant considers that the decision to approve application D20-104 should be overturned for the reasons discussed within the grounds of appeal. In consideration of this, the following will respond to the matters raised within the grounds of appeal.

Within part 1 of the grounds of appeal, the appellant raises concern with condition #2, stating that the approved shooting shelter is an expanded structure from the area approved under historical approval D15-321, and therefore the permission is inconsistent with that approval and should not be granted.

In response to the above, the County can confirm that the approved building is proposed within the area approved under D15-321 as a pistol shooting range. Furthermore, the purpose of the building is solely to provide a sheltered structure for pistol shooters to shoot from and not for any expansion or intensification of the pistol shooting range. Condition #2 of approval D20-104 is clear to this intent through its wording, which states:

*"This approval permits the construction of a shooting shelter over the previously approved Pistol Shooting Range approved under development permit D15-321, only, and does not permit any expansion or intensification of the existing shooting area."*


Part 2 of the appellants grounds of appeal questions the County's enforcement of historical approvals, stating that "the approval in 2015 was for a Pistol Shooting Range, as opposed to a Rifle Range, or Shotgun Range. Is this limited use authorization being enforced?"

In response to the above, the Development Authority can confirm that a pistol range element of the overall shooting range was approved in 2015. Within the same parcel of land, other areas exist for the shooting of rifles and other firearms (as approved through other historical approvals since 1987). In respect of the pistol shooting range specifically, the Development Authority has no viable reason to consider that the pistol range is being used for any purpose(s) other than that considered within its 2015 approval – as a pistol range. Should evidence be provided to the County that an infraction of a historical development permit is occurring, the County can commence its formal enforcement protocol in order to explore and rectify any infractions, should they exist. Notwithstanding the above, it is important to note that the current application subject to this appeal is to consider the proposed shooting shelter building only, and no other use or matter. Compliance with, or uses attributed to historical permits cannot be considered or addressed through this appeal process.

Within Part 3 of the appellant's grounds of appeal, the effectiveness of Condition 4, that addresses noise concerns, has been raised. Condition 4 states the following:

*The applicant/landowners shall incorporate noise mitigation / noise attenuation measures in to the approved development, such as QBO blankets or a baffle system, in order to minimize any post development noise impacts. Prior to the commencement of development, the applicant/landowners shall notify the County of the proposed noise mitigation measure(s), which shall be implemented to the satisfaction of Leduc County.*

In response to this concern, the Development Authority ascertains that the purpose of this application was to consider the approved building only, and no other factors, acknowledging that the pistol range to which this structure relates was previously approved in 2015. Although the Development Authority were provided with no viable reasons to believe that the addition of a shooting shelter would increase the noise associated with the extant use, in response to concerns from nearby landowners concerning the noise associated with the facility, Condition 4 was included within the approval. The purpose of the condition is to





ensure that the approved structure contains noise attenuation measures, which, in turn, should reduce the overall noise impact of the existing shooting area. This condition requires the applicant to discuss the proposed noise attenuation measures with County staff prior to their approval/implementation in order to ensure an industry standard/acceptable measure is implemented that is utilized and effective throughout other shooting shelters or noise-producing activities across the world.

Part 4 of the grounds of appeal questions approval Condition 6 that states “*No firearms shall be discharged outside of the approved areas*” and suggests that clarity is important concerning this condition. In response to this, the Development Authority can confirm that the purpose of this condition is solely to affirm that the current approval does not consider any other factor than the proposed accessory structure itself, and that the approval does not permit any firearm use outside of areas considered within previous approvals. For any landowner(s) seeking clarity around the previous approvals upon this property, those historical decisions are part of the public record and are available for any interested party who require clarification. For clarity, all historical decisions relating to this property are included within the appendices of this report.

In summary, the purpose of development permit application D20-104 was to consider an accessory structure to be sited within the area of a historically approved pistol shooting range, and no other use or factor. During the referral of the application, the Development Authority was not presented with any viable planning rationale to refuse the proposed structure, nor could the Development Authority utilize this application to apply additional or stricter conditions concerning the physical use of the shooting ranges as approved through historical applications. Notwithstanding this, in response to concerns that the shooting shelter may amplify the noise created from shooters within, the Development Authority included a condition of approval that the applicant must incorporate noise dampening / noise attenuation measures into the structure to ensure that existing noise levels will be either maintained, or reduced. The applicant is required to gain approval from the County prior to incorporating a mutually agreeable noise attenuation measure.

The Development Authority is satisfied that the conditions of approval are satisfactory to both ensure that the approval relates to the physical building only, and to ensure that the historical approvals, and conditions within those approvals, remain valid and pertinent to this property. As a result, the Development Authority consider that the approval of development permit application D20-104 was properly administered, and therefore should be upheld by the Intermunicipal Subdivision and Development Appeal Board, along with the 17 conditions of approval.

Chair McDonald 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:

- In previous approvals, conditions to deal with noise mitigation blankets were not required.
- Do not believe there are any noise mitigation blankets installed in any of the other existing buildings.
- There are companies who design noise mitigation blankets for buildings.



- Confirmed that the proposed development is for a 3-sided building.
- The open side of the building will face east. The surrounding residents are east and northeast.
- Subject property is bermed and the surrounding residents are beyond that.

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

Victor Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke, provided the following information based on the submitted documentation forming part of the agenda package:

- 1) The Rosenke's property is the closest to the gun range.
- 2) Described the context and background of the core complaint which is basically the persistent and very significant noise which persists 365 days per year, starting at 7:00 a.m. and continuing until one hour after sunset. It is worse on the weekends.
- 3) The Rosenke's live approximately a half mile from the site. Between the site and the Rosenke's residence there is a coulee. It appears likely that the coulee acts as a funnel or channel for the sound to travel to the Rosenke's property and their residence, at very substantial volume.
- 4) Mr. Rosenke says that the first shot of each day makes him jump. The noise is so significant that the Rosenke's have looked at selling their property. They have engaged two different realtors who were not able to sell it. Both realtors told them good luck due to the extent of the noise problem.
- 5) The Rosenke's cattle avoid the western portion of the property (both north and south of the coulee) as a result of this noise. The Rosenke's moved to this area prior to 2000, and were able at that time to graze about 30 head of cattle on their pastureland. As this noise problem has grown, they have found they are now only able to graze about 20 head. The cattle will graze the western portion of the property only when there is no shooting activity going on, which is quite rare. This is a notable imposition on this natural agricultural activity on this property. County Land Use Bylaw 6.12.1 requires the County to endeavour to protect agricultural operations when they are listed as a permitted use from any undue pressures that may arise due to nearby nonagricultural development. Agricultural operations are listed as a permitted use for this zone.
- 6) The substantial noise impacts their enjoyment of their property and agricultural use of their property.
- 7) The Canadian Historical Arms Society was incorporated as a Society in 1967. (Copies of the Certificate of Incorporation were distributed to Board members.) There are limitations on their powers and the permitted scope of its activities - it does not have natural person powers, only those granted on its incorporation. It is questionable whether or not they are in fact authorized and empowered to carry on the active shooting range that they are undertaking on this site, and to have made these Applications for permits. Their objects don't explicitly contemplate such activity, obviously being focused upon historical artifacts, with side activities of "encouraging safe handling of and respect for arms", and "promoting recreation and social activities among the members of the society". This is beyond the Board's jurisdiction to determine as a tribunal but is a point of some significant note and question.



- 8) The Rosenke's acquired their property in 1998, when utilization of the gun shooting range which had been approved, apparently in 1987, was quite minimal. Road access to the Club's property at that time was quite poor. Subsequently, Burnco developed its gravel pit in the area and improved road access, leading to increased use of the site. Since that time, membership appears to have substantially increased particularly with the shutting down of the Spruce Grove shooting range.
- 9) Believe that the County has not taken the increase in noise activity problem seriously in dealing with the development of this property. The Rosenke's were advised by a County representative that they should perhaps wear hearing protective headphones. That is like telling a neighbour, to an intensive pig operation, to "simply use nose plugs". Obviously in those circumstances there are serious efforts made to control the emanation of pungent smells, and many requirements are imposed on those development to assure that such emanations to not occur, except briefly and under controlled circumstances, which are all prescribed either in the permits in earlier days, or now, in Confined Feeding Regulations.
- 10) The application by the Club for development in 2013 was opposed by a number of the residents in the area surrounding the Applicant's property, because of its noise. At that time, discussions were undertaken by the club with landowners, including in particular Rosenke's, providing oral assurances that some serious noise attenuation measures would be installed. Unfortunately, the County did not deal with that issue in granting its Permit Approval, and without that requirement, the discussions and assurances from the Club were not followed through on. With the erection of those shelters, the noise problem has in fact increased - basically they echo the gunshots.
- 11) The Rosenke's feel forced to pursue this appeal, certainly opposing any increase in the intensity of the inherently noisy use of the property, and also seeking to have measures introduced to seriously address and attenuate the very obvious noise problem which exists, and the very substantial nuisance which it imposed upon Rosenke's reasonable and normal use of their own agricultural property.
- 12) The proposed accessory building would be 133 m<sup>2</sup> (1440 ft.<sup>2</sup>) whereas the pistol shooting range structure (approved under Permit D15-321) was 81.29 m<sup>2</sup>. Mr. Rosenke advises that the concrete pad is 30 feet wide, leading to the conclusion that the width of the new proposed accessory building to be erected over this pad would be from 30 feet to 50 feet, which would seemingly contemplate more shooters and more potential shooting. How is the statement of "no intensified use" realistically realized by granting this approval? It would appear to be inconsistent with that stipulation and should therefore not be granted.
- 13) It is also noted that the approval in 2015 was for a "Pistol Shooting Range" which presumably is different from a rifle range or shotgun range or other gun range. Obviously, the Rosenke's are interested in any restriction of the use which is possible so as to reduce the extent of the present sound imposition upon his property. It is noted that reference to a "Pistol Shooting Range" exists in the Land Use Bylaw as an example use, under the definition of Indoor Recreation. Notably, it is not presented as an example for Outdoor Recreation. This omission is an implicit recognition of the inherently noisy nature of the activity, and of the need to contain that noise.
- 14) Condition #4 in the discretionary approval refers to noise mitigation and noise attenuation measures to be taken in the approved development, but it gives little guidance or reference to any standards for achievement of significant attenuation and noise control. Such matters are challenging and require expertise in order to effectively achieve such containment.

- 15) Section 6.20 of the Land Use Bylaw dealing with noise mitigation measures are to be required in connection with a subdivision when the proposal is adjacent to an arterial road, highway or collector road. Those are circumstances recognized to generate significant ongoing noise. It contemplates that a noise study would be required, recognizing the expertise involved in evaluating and making realistic noise mitigation measures to address the problem. It is suggested, with respect, that County personnel are unlikely to have any such expertise to be able to properly evaluate the effectiveness of measures to be taken towards such mitigation and attenuation.
- 16) The Rosenke's would very much like to see the noise problem seriously addressed. Very significant mitigation of this sound problem must be undertaken in order to remove the serious imposition it makes upon the enjoyment by the Rosenke's of their reasonable use of their agricultural property. It affects other neighbours in the area as well.
- 17) Condition #6 indicates shooting must be restricted to approved areas, without providing any definition of what approved areas means, who approves, and for what purposes. It is evident that this could refer to safety concerns, but it can also equally apply to noise attenuation concerns if effective noise mitigation measures are indeed undertaken.
- 18) Noisy activity, like shooting, must consider its effects on neighbouring properties, in a similar way that intensive operations producing smoke, or pungent smells, or noxious fumes, must take preventative measures against the undue escape of those elements onto adjoining properties. Here such escape is persistent and significant, and clearly affects both agricultural use of Rosenke's property, and their reasonable residential enjoyment, as well as that of any proposed purchaser of the property from them.
- 19) Do not allow any further expansion or extension of the existing noise-making capability; and impose conditions requiring a serious addressing of the existing noise problem.

Chair McDonald asked if there were any questions by the Board members of the appellant(s).

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

- Appears that the square footage of the proposed accessory building is an increase over the concrete pad. This would imply the capacity for more shooting stations.

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

- The structure may be slightly larger but that does not translate to more shooting stations. The structure is to provide shelter. The applicant has clarified that this will not increase the number of shooting positions and it would not be allowed.
- Proposed accessory building is within area approved in 2015.
- The structure will be slightly larger than the concrete pad; approximately 24 metres in length and 5 metres in width.

In response to questions by Board members, Mr. Rosenke provided the following:

- Even though they're not going to increase the number of shooting stations, the proposed accessory building will intensify the noise.
- This is not the only location on the property where they shoot pistols.





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

- The proposed accessory building is not outside the approved area.
- There have been no noise studies conducted.

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

Ralph Colistro, Colistro Chronopoulos LLP, on behalf of the Canadian Historical Arms Society, provided the following information:

- 1) Agree, in large, with development authority comments.
- 2) The application today is for an accessory building which complies with the Land Use Bylaw. The Land Use Bylaw treats the building as a discretionary use which is why notices are sent to adjacent landowners. This application does not deal with gun use, this has already been approved. If there are concerns or suggestions that the Society is operating outside the previous approvals, those are enforcement matters. The matter before the Board today is for an accessory building. The permit will authorize construction of a three-sided building.
- 3) There are no valid reasons to refuse this application. Regardless of whether or not the accessory building gets approved, the site can still be used as a gun shooting range.
- 4) There is no evidence to support the allegation that construction of an accessory building will amplify noise levels.
- 5) Appellants feel that Condition #2 is allowing for expansion of use. Just because a building is being added doesn't mean you will have increased intensification.
- 6) Condition #4 is over and above typical approval. The County is requiring that the Society shall incorporate noise mitigation / noise attenuation measures, such as QBO blankets or a baffle system, to the satisfaction of the county.
- 7) Section 6.12.1 of the Land Use Bylaw endeavors to protect agricultural operations from any undue pressures that may arise due to nearby non-agricultural development. This proposed development is for an accessory building. Gun use has already been permitted and is not part of this application.
- 8) Discretionary use includes both Outdoor Recreation and Indoor Recreation.

Chair McDonald asked if there were any questions by the Board members of the applicant(s).

In response to questions by Board members, Mr. Colistro advised that there is no evidence to prove one way or the other if a four-sided building would reduce more noise than a three-sided building.

Mr. Steve Emblin, President, The Canadian Historical Arms Society, added the following:

- Whether the building is three-sided or four-sided, all projectiles must be contained.
- A four-sided building would require windows to shoot through.

Chair McDonald called upon anyone wishing to speak in support of the appeal (against the conditionally approved proposed development).



Mrs. Janet Rosenke spoke in support the appeal for the following reasons:

- The application states that the new development will not increase traffic or intensity of noise. The reason they want a shelter is so that participants can shoot in inclement weather which will likely increase both traffic and noise.

In response to a question from a Board member, Mr. Colistro, indicated that existing approvals do not limit the number of people on site. The limits are where they can shoot and the hours of operation.

Chair McDonald then called upon anyone wishing to speak against the appeal (in support of the conditionally approved proposed development).

Mr. Steve Emblin indicated that participants will come to shoot regardless of the weather. On an average Saturday, they probably get about 15-30 participants.

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

### **Recess**

Chair McDonald called a recess at 12:26 p.m. and reconvened at 12:31 p.m. with Board Members Pat Rudiger, Doug Ruel, Rod Giles and Larry Wanchuk present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead Development
- Charlene Haverland, Manager of Development Services
- Victor Howard, Pahl Howard LLP
- Lloyd & Janet Rosenke, Appellants
- Ralph Colistro, Colistro Chronopoulos LLP
- and two other interested parties

Chair McDonald asked administrative staff to provide final comments.

Colin Richards provided the following closing comments:

- The application is for placement of a shelter in an area previously approved.
- Noise is the main concern of the adjacent landowners. Condition #4 deals with the noise.
- Could not find any information to support the statement that a shelter will create more noise.
- The Board could choose to include a condition to authorize a maximum of 15 shooting positions in the accessory building.

Chair McDonald called upon the applicant(s) to provide final comments.

Mr. Colistro, on behalf of the Canadian Historical Arms Society, indicated that he had nothing more to add.





Chair McDonald called upon the appellant(s) to provide final comments.

Mr. Rosenke provided the following final comments:

- If the Board does include a condition to limit the number of shooting positions to 15, who will enforce this? It's difficult to get Enforcement Services out to the far end of the County. By the time you get the complaint in and enforcement gets out there, they're gone and how can you prove who is doing the shooting.

Chair McDonald asked Board members if they had any further questions.

In response to questions by Board members, Mr. Rosenke provided the following:

- Aware that the gun range was there when they purchased the property. Have submitted letters of opposition to every application except one.
- Specifically asked that the County set conditions to deal with noise and that did not happen.
- Once all the shelters were built, the noise intensified.
- They can do what they want out there but we shouldn't have to listen to it.
- It shouldn't affect our agricultural operations.
- The existing buildings do not contain any noise mitigation measures.

Chair McDonald asked Mr. Colistro if he had any final comments and he responded no.

Chair McDonald asked the appellant(s), if they felt they received a fair hearing, and Mr. Howard responded affirmatively.

### **Conclusion of Public Hearing**

Chair McDonald declared the Public Hearing concluded at 12:40 p.m.

### **In-Camera**

**29-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 12:40 p.m.

### **Recess**

Chair McDonald called a recess at 12:41 p.m. and reconvened at 1:02 p.m. with Board Members Pat Rudiger, Doug Ruel, Rod Giles and Larry Wanchuk present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary

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

**30-20** Board Member Ruel -- 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 1:26 p.m.

**Appeal by Victor E. Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke, relating to conditional approval of Development Permit Application D20-104 - Dale Robinson, 619455 Alberta Ltd., on behalf of the Canadian Historical Arms Society, for an accessory building (three sided gun range shelter) – 133.80 sq.m (1440 sq.ft.) located at SW 4-51-3-W5 (3356 Township Road 510).**

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**31-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Victor Howard, Pahl Howard LLP, on behalf of Lloyd & Janet Rosenke and upholds the conditional approval of Development Permit Application D20-104 to Dale Robinson, 619455 Alberta Ltd., on behalf of the Canadian Historical Arms Society, for an accessory building (three sided gun range shelter) 133.80 sq.m (1440 sq.ft.) located at SW 4-51-3-W5 (3356 Township Road 510).

Findings of Fact

1. The proposed development is considered a discretionary use within the North Saskatchewan River Valley (NSRV) District in accordance with the Leduc County Land Use Bylaw No. 7-08.
2. The Board heard the following concerns of the Appellant(s):
  - The noise emanating from the use of the gun range is heard from the appellants property pretty much 365 days a year.
  - The topography of the area consists of the coulee bisecting the Rosenke's property to the west and opening out into the area where the shooting range is located; the sketch submitted demonstrates the direction of the shooting and the sound dissemination.
  - The significance of the noise is to the point that the Rosenke's have contacted two separate realtors and being told "good luck" in selling it due to the extent of the noise problem.
  - The ability to graze cattle on the Rosenke property is limited to the western portion of the property when no shooting activity is going on.
  - The size of the proposed accessory building is 133.8 sq.m (1440 sq.ft.); the pistol shooting range structure previously approved under D15-321 was 81.29 sq.m. The concrete pad which was poured is 30 feet wide, which leads to believe that the width of the new proposed accessory building to be erected could be expanded to 50 feet thereby contemplating more shooters and more potential shooting.
3. The Applicant(s) submitted the following information:
  - The subject of this appeal is the use of the accessory building as a discretionary use under the Leduc County Land Use Bylaw.
  - The appeal is not an enforcement matter; rather whether the gun range is operating within the permit conditions.



- The nature of the development permit is for a three sided gun range shelter and the size has no connection with an increase of intensification as the shooting positions (15 shooting positions) were addressed under the approval of Development Permit D15-321.
  - The development authority's condition to incorporate noise mitigation/noise attenuation measures into the approved development, such as QBO blankets or a baffle system, in order to minimize any post development noise impacts, goes above and beyond to address the concerns expressed by the appellant(s) relating to noise mitigation.
4. The development authority confirmed:
- The proposed development is for construction of a 3-sided, covered shooting shelter within the shooting area of an existing pistol range, which was approved in 2015 under Development Permit Application D15-321.
  - The applicant(s) confirmed to the development authority that the subject shooting shelter is proposed in order to shield patrons utilizing the pistol range from the weather and further provided the following additional information:
    - The new building will be constructed from wood and metal and identical to the existing gun range shelters offering 15 shooting positions.
    - There will be no increase in the number of shooting positions on the pistol range.
    - The new shelter will not affect the operational hours of the facility, as previously approved.
    - The new development will not increase the intensity of the site and will not affect membership numbers, numbers of shooters, noise or traffic.
5. The following planning history on the subject property is as follows:
- i. D87-008 approved March 2, 1987 - rifle range (shooting facility)
  - ii. D13-354 approved April 25, 2014 - construction of berms, concrete pads and shelters
  - iii. D15-321 approved October 22, 2015 - accessory structure, pistol range (81.29 sq.m)
  - iv. D15-322 approved October 22, 2015 - accessory building (quonset 222.97 sq.m)
  - v. D18-106 approved June 11, 2018 - accessory building (quonset 371.6 sq.m) and removal of existing accessory building (66.9 sq.m)
  - vi. D18-230 refused January 23, 2019 and upheld by SDAB on March 19, 2019 - expansion of existing shooting range: 3 berms - shooting positions, 15 berms for shooting targets, tree clearing and extraction and grading

The Board considered the following legislation in making their decision:

Leduc County Land Use Bylaw No. 7-08

*The subject property is districted within the North Saskatchewan River Valley (NSRV) district.*

*Section 9.17.1 - the purpose of this district is to provide for primarily agricultural uses as well as active and passive recreation activities, and limited non-recreational land uses in the North Saskatchewan River Valley Area.*

*Section 9.17.3 allows an accessory building greater than 100 sq.m. (1,080 sq.ft.) to be considered as a discretionary land use within the NSRV district.*

*Part 3.5.1 directs that the development authority may approve a discretionary use, if in its opinion, the proposed development complies with the Municipal Development Plan and the general purpose of the land use district.*

Municipal Development Plan (MDP)

*The subject property is situated within Agriculture Area A - West Agriculture of the MDP.*

*Agriculture Area A is intended to provide for a broad range of Agriculture where land use conflicts can be minimized and subdivision is limited.*

*Within Part 4 - rural county, objective 2 seeks the promotion of rural communities that contain living, working and recreation activities that respect agricultural resources.*

In consideration of the above, the Board concludes:

- The subject of the appeal is consideration of the accessory building, which is a three sided gun range shelter only.
- The concerns expressed by the appellant(s) is the impact (mainly noise) on quality of life due to the operation by the Canadian Historical Arms Society.
- The rifle range (shooting facility) was approved in 1987 with four (4) subsequent approvals for expansion to the facility.
- An additional condition imposed on the decision, by the Board, could address the concern of the applicant relating to the number of shooting positions on the pistol range.

Conditions for Approval

Development Permit Application D20-104 is approved, subject to the following conditions:

1. Approval is granted based on the information provided by the applicant for the approved development only and no other development.
2. This approval permits the construction of a shooting shelter over the previously approved pistol shooting range approved under Development Permit D15-321 only and does not permit any expansion or intensification of the existing shooting range.
3. There shall be no more than 15 shooting stations within the accessory building.
4. The approved development shall be located as shown on the attached approved site plan.
5. The applicant/landowners shall incorporate noise mitigation/noise attenuation measures into the approved development, such as QBO blankets or a baffle system, in order to minimize any post development noise impacts. Prior to the commencement of development, the applicant/landowners shall notify the County of the proposed noise mitigation measure(s), which shall be implemented to the satisfaction of Leduc County.
6. Operational hours for the facility continue to be restricted to those specified in previous development approvals for the site that consider the operational parameters of the gun range.
7. No firearms shall be discharged outside of the approved areas.



8. Range hours must be clearly posted at the gate of the approved development.
9. The range must comply with all related federal and provincial legislations, regulations, best practices and guidelines.
10. The Historical Arms Society shall educate and advise its membership on following the operational hours and to abide by the conditions of the approved development.
11. There shall be no parking of vehicles by the users and visitors of the Gun Range on County Road Right of Way.
12. The approaches must be maintained to avoid any damage to the County owned road surface due to construction activity. A post development inspection will be conducted and the applicant/landowner must rectify any damage to the approach or County roadway.
13. The movement of construction material onto the property may require the applicant to enter into a Road Use Agreement with the County. The applicant must contact Public Works & Engineering prior to the movement of construction material to discuss this requirement.
14. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
15. The site shall be maintained in a neat and orderly manner including the containment of all construction materials and refuse, to the satisfaction of the Development Authority.
16. All new accesses, approaches or upgrades, including driveways required off of a Leduc County public roadway, as a result of the development shall first require an Access Application to be provided to the satisfaction of, and approved by Leduc County Public Works & Engineering.
17. Any new signage related to this development requires the approval of Leduc County by a separate development permit application.
18. No further development, expansion or change in use is permitted unless approved by Leduc County.

The applicant is also advised of the following:

1. This Development Permit is issued under the Leduc County Land Use Bylaw 7-08. It does not exempt you from compliance with any other municipal bylaw or statutory plan applicable to the approved development, any relevant federal and provincial statute or regulation, or any easement, covenant, agreement or contract affecting the subject lands.
2. The County administers the Safety Codes Act and you must obtain any Safety Codes (building, electrical, gas or plumbing) permit(s) required prior to commencing construction. Increased setback distances from property lines, and/or modifications to plans for proposed buildings may be required in order to achieve compliance under the Alberta Safety Codes Act.
3. To contact Leduc Public Works & Engineering at 780-979-6185 regarding approach approvals and Road Use Agreements as required.
4. To contact Leduc County Fire Services at 780-955-7099 regarding compliance with the Alberta Fire Code.



5. Please be advised that this development may initiate inspections from the Assessment Department. If you would like to schedule an appointment or have questions, please contact the Assessment Department at 780-955-6412.
6. The applicant/landowner is advised that the lands, subject to proposed development may contain historical resources as per available imagery. Please contact Alberta Culture at 1-800-232-7215 to determine if a provincial approval will be required.
7. The applicant/landowner is advised that the parcel may contain wetland (Fen). If required, the applicant shall obtain a Water Act approval prior to commencing the development.

Development Permit D20-104 shall expire after one year from the date of decision unless development has commenced.

Carried

#### **Next Meeting**

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

#### **Adjournment**

**32-20** Board Member Rudiger -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 1:27 p.m.



Chair



Clerk