



## AGENDA

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

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Friday, July 16, 2021

1. Order and Roll Call – 10:30 a.m.
2. Agenda Adoption
3. Subdivision and Development Appeal Hearing - D05-021
- \* a) **10:30 a.m.**

|                                       |   |
|---------------------------------------|---|
| Apellant / Applicant                  | James and Angela Pauls                          |
| Landowner's name                      | Frank and Susan Osterwoldt                      |
| Leduc County Municipal Roll #         | 1509010   |
| Legal description of subject property | Lot 1, Block 1, Plan 1420960, Pt. NE 3-48-26-W4 |
| Municipal address                     | 48052 Rge Rd 262                                |
| Nature of development application     | Home Based Business Type 3 - Petting Zoo        |
| Development permit application #      | D21-107   |

4. Next meeting date - Tuesday, July 20, 2021
5. Adjournment

Legend

\* Items Attached To Agenda

**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, JULY 16, 2021 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 10:30 a.m., Friday, July 16, 2021 by Chair Mary-Ann McDonald and Board Members Ivan Laing, Rod Giles, Doug Ruel and Ron Patrick present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Charlene Haverland, Manager - Development Services
- Colin Richards, Supervisor - Development Services
- Matthew Miller, Planning & Engineering Technician
- Angela Pauls, Appellant/Applicant
- One other individual

**Agenda Adoption**

**42-21** Board Member Ruel -- that the agenda for the July 16, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Appeal by James and Angela Pauls - refusal by the development authority of Development Permit Application D21-107 relating to a Home Based Business Type 3 - Petting Zoo located at Lot 1, Block 1, Plan 1420960, Pt. NE 3-48-26-W4 (48052 Rge Rd 262).**

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Chair McDonald called the hearing to order at 10:31 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 James and Angela Pauls relating to the refusal by the development authority of Development Permit Application D21-107 for a home based business - Type 3 - petting zoo located at Lot 1, Block 1, Plan 1420960, Pt. NE 3-48-26-W4 (48052 Rge Rd 262).

The reasons for appeal are as follows:

1. Prior to creating a business model of what we would like to do we approached the neighboring land owners about this and asked their approval. We did not receive any feedback against what we would like to do except the mention of the amount of traffic and dust from one neighbor. So opted to have dust control from the county each year and keep the traffic to a minimum on the road.
2. 7.19.1(a) operate at an unreasonable time, traffic, noise and dust

Our hours have been 10 am to 430 pm 5 days per week since April, with one night for a date night from 7 pm to 9 pm. In the application the number of hours and the estimated vehicles are grossly over estimated. We have kept a detailed log of how many vehicles we have on the property for an entire day and in the past 90 days we have averaged only 19.5 vehicles per week and had open hours of business 32.5 hour per week. We only allow the

*ms*

number of vehicles that can safely park on our property. Due to covid there has been a significant decrease in the amount of vehicles here. As well, we have maintained the proper single family tours in accordance to AHS regulations. We also keep 2 of our business days per week open for seniors and special needs groups to come for private tours. Our goal is to ensure that we offer a safe and fun place for people to be able to get out and enjoy nature and animals since the pandemic has gone on for so long. In the numbers of vehicles recorded would be staff and family members as well. We believe that number is incorrect. We paid for dust control through the county for this year as well to ease the amount of dust. There is absolutely no noise that comes from our property above regular farm animal noise. We do not play loud music at unreasonable hours, shoot guns, or allow constant screaming and yelling. In fact one of the most common comments we receive is how quiet it is out here.

3. 7.1.a(e) not use a county road for parking

There has never been one occasion where we have allowed parking on a county road. We have had people waiting at our gate for it to open but the wait has been very minimal, less than 5-10 minutes. When people do book to come out and visit we ask them not to arrive more than 5 minutes before their appointment time. If there has been a complaint we have never been contacted about it. Nor has our landlord.

4. 7.19.1(f) be limited to one home based business per parcel

When I was preparing the application I had help from someone at the county office. He struggled to find a suitable category for it as we had tours, outdoor events, camping and birthday parties at the time we discussed it. There may be some confusion as to what we offer, however it is all related to visiting with the animals on the farm. We have our own camper here that we offer guests to stay in and they can visit with the animals while they are here. The day camps are for kids to learn about the animals we have and how to care for them and of course have fun outside. The animal adoption program is for people who want to adopt a pig but they cannot have one at their home. The animals do not leave our farm but their new family gets to come and visit them.

5. 3.2.2 development requiring a permit

After speaking with the neighbors and none of them voicing further concerns we did not think we would be denied the permit. It was our mistake to presume it would be approved.

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

- 1) Notice of ISDAB hearing package dated June 30, 2021
- 2) Notice of appeal received by Angela and James Pauls on July 9, 2021
- 3) Notice of decision (refusal) by Development Authority including site plan dated June 25, 2021
- 4) Development Permit Application D21-107 by Angela and James Pauls
- 5) Landowner's authorization
- 6) Business Information
- 7) Key Plan
- 8) Development authority report:
  - i) GIS FAR and Imagery
  - ii) Landowner objection map
  - iii) Excerpt from Land Use Bylaw - AG district regulations
  - iv) Adjacent landowner comments
- 9) Appellant's submission

- 10) Submissions received:
- i) Josh Hall - adjacent landowner (48052)
  - ii) Jeanette Dunnett (48043 Rge Rd 262)
  - iii) Allan & Marilyn Devries
  - iv) Josh Hall - adjacent landowner (submitted July 14, 2021)

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 if anyone 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.

Manager - Development Services Charlene Haverland provided a PowerPoint presentation relating to Development Permit D21-107, highlighting the following:

- The proposed development is located at 48052 Range Road 262, close to the County of Wetaskiwin border.
- There are four residential dwellings within 300 metres of the subject property.
- A home based business shall not negatively affect neighboring or adjacent residents by way of excessive lighting, operating at unreasonable times, traffic, noise, dust or excessive on-street or off-street parking or any other factor considered relevant. A home based business shall not use a County road for parking and be limited to one home based business per parcel. A home base business Type 3 shall limit client visits and vehicle traffic at the discretion of the Development Authority.
- A site plan was provided with the application.
- In accordance with Leduc County Land Use Bylaw 7-08, the subject property is districted AG - Agricultural. The purpose of this district is to provide primarily for larger agricultural operations and limit higher intensity agricultural activities on small lots, while at the same time providing for limited residential and other uses having a secondary role to agriculture.
- In accordance with Part 3.5.2 of the Bylaw, when processing an application for a discretionary use, the Development Authority shall consider compatibility of the proposed development with surrounding lands in terms of function, form and scale.
- In accordance with Section 6.4.2 of the Land Use Bylaw, the Development Authority when reviewing the design and appearance of a development, shall consider the quality and durability of finishing materials, aesthetic compatibility with surrounding development, visual impacts on roads and other public areas, site security, public safety, and any other factors deemed to be relevant.



- Notification of all discretionary use development permit applications shall be sent to adjacent landowners and to anyone who may be affected by the proposal.
- Photos depict parking areas, laneway, playground, petting zoo area, stalls where pigs reside and other public areas.
- Applicants have been hosting farm tours, birthday parties, camping, and summer programs.
- On April 12, 2021 the Development Authority received a development application for a proposed Home Based Business Type 3 for a Petting Zoo. The proposed development was operational prior to the decision of the Development Authority being rendered. The applicants indicated that they were not aware that a development permit was required.
- On June 25, 2021, the Development Authority refused the application based on the following:
  - Excessive operational hours (63 hours per week, 7 days per week).
  - Excessive vehicle trips within a residential community (70 business trips per week).
  - Potential impact on adjacent properties by way of noise, dust and garbage concerns.
  - Concerns of parking on county roads due to the proposed vehicle trip movements.
  - The overall scope of the business is considered beyond the acceptable parameters of a home business type 3.
- Four letters of concern were received from adjacent landowners (3 from residents within 150 metres of the development, and the 4<sup>th</sup> from a resident located 700 metres south of subject property). Noted concerns:
  - Excessive traffic.
  - Using the road for parking.
  - Noise concerns.
  - Dust control issues.
  - Privacy issues.
  - Operating outside proposed hours of operation.
  - Multiple businesses operating and/or advertised from property.
  - Exceeding outdoor storage area maximums.
  - Land value concerns.
  - Fear of increased crime in the area.
- Internal referral comments received included the following:
  - Utilities and Engineering - No concerns.
  - Agricultural Services - No comments from Ag at this time. The Ag tourism-based business is already established on land zoned as agricultural and is not impacting the agricultural capability of the surrounding agricultural land.
  - Safety Codes - No safety codes permits are required if there are no changes to the buildings on site.

- The Development Authority is of the opinion that this application exceeds the considerable parameters and intent of a home based business type 3 due to the number of uses encompassed within the business. The uses include farm tours, events and parties and overnight accommodations in addition to the petting zoo.
- The proposed development will result in business activity 7 days per week within an active agriculture area and in close proximity to multiple residential developments.
- The Development Authority is of the opinion that the proposed home based business is not compatible and in character with surrounding properties, particularly due to the comments received in response to the referral of the application of nearby landowners.
- The three closest properties to the proposed development provided objection, with the fourth being located only 700 metres from the property. As the majority of adjacent landowners objected to the proposal, the desires of the local community played a key role in the decision of the Development Authority.
- Should the Board consider approving this application, the Development Authority recommends that conditions be assigned such as hours of operation, dust suppression, limiting number of vehicles attending as well as a date in the future to re-evaluate the business.

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

In response to questions by Board members, Charlene Haverland advised of the following:

- Notification are sent to adjacent landowners as identified on the assessment roll of the County and to anyone who may be affected by the proposed development.
- The original application was for a petting zoo but in further conversation, it was evident that there were a number of other uses that should be included in the application.
- The business was operational prior to the application being submitted. It was through the enforcement process that this came to the County's attention and the applicant was encouraged to come in and apply for a permit.
- Once notified, the applicant came in immediately and completed the application.

Chair McDonald called upon the appellant/applicant Angela Pauls to speak to the appeal.

Angela Pauls provided the following:

- 1) Am a little frustrated.
- 2) Have not seen letters of concerns prior to them being included in the appeal package. There is so much in the letters that is not true.
- 3) The neighbor has fired a gun and there was RCMP involvement.
- 4) When filling out the development permit, did not know what my business type would fall under. Had someone at the County help with application.
- 5) Want to keep the business family friendly.
- 6) Didn't know what to put for operational hours and probably over-exaggerated them.



- 7) Have been keeping a log of business. Over the last 90 days, on average operate between 10:00 a.m. and 4:00 p.m. and only five days per week. And on average, approximately 19 vehicles per week, not 70.
- 8) No longer allow people to park anywhere else than on property.
- 9) Talked to neighbor Josh and gave him my cell number so he can call or text anytime if there is a problem.
- 10) Dust control was a problem so have since paid for dust suppression.
- 11) Property is set back and treed in and you can't hear a lot of what's happening.
- 12) People who are visiting the farm say how quiet it is.
- 13) Never knew neighbors had issues until their letters were included in the hearing package.
- 14) When completing the application form, struggled with what type of business this would be - agricultural, or educational or something else.
- 15) Purchased our own camper. Don't allow other units on property.
- 16) We did want to host an event for the community but haven't.
- 17) Any loud music is just my own music and no one else's.
- 18) As soon as we found out we needed a development permit, we applied right away.
- 19) Lost our home and everything in December 2018 due to a fire. This was a place to heal and start over. Daughter drew logo for "Pigtopia".
- 20) Realized that people were suffering from pandemic and wanted to help them through it. People have brought food and donations. Followed Covid rules. Have insurance. Every time the rules changed with Covid, we changed with them.
- 21) Opened up farm to give people a fun outdoor space to visit.
- 22) Originally thought this would be a two week project and then it grew from there.
- 23) Summer camps for kids would be nice but not running any right now.
- 24) Do host birthday parties and volunteers help out.
- 25) Operate adoption program. People come from city to visit their own pig that they adopted.

In response to questions by Board members, Angela Pauls advised of the following:

- Will be taking reservations for visitors. Will ensure there are no more than 12 people and/or 4 vehicles maximum at any one time.
- Paid for dust suppression in front of own property and down a little ways. Did offer to split the cost of more dust suppression with neighbors but there were no takers.
- Business will operate mostly during the summer months, however, would like to do some special events perhaps in October and December. People like to come see the lights at Christmas.
- Do not currently charge an admission to visitors but do encourage donations.
- Carry \$2 million liability insurance for tours and people coming onto property.



- Visitors who are part of the adoption program must also book appointments to come to the farm.
- Currently have 54 pigs on the farm as well as goats, miniature horses, dogs and cats.

Chair McDonald called upon anyone in attendance to speak in support of the appeal (in favour of the proposed development).

- 1) Michelle Power, member of the adoptive pig program, spoke in support of the appeal for the following reasons:
  - Met Angela through Pigtopia.
  - Went to Pigtopia for son's birthday to pet the pigs.
  - Had been isolated for so long. Felt safe there and the kids learned about pigs.
  - Every time we go there we learn something new. Have visited site quite a bit.
  - Then we decided to be a part of the cuddle club and we adopted a pig.
  - We book ahead to go visit our pig.
  - One of my children is special needs and is very emotional.
  - Angela has rules and there are processes in place.
  - Very quiet there except one time when neighbor was shooting a gun when we were there.
  - Can't see any of the neighbors when you're on the property.
  - Live in Edmonton and come out to Leduc area because of all the other community opportunities.

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

Chair McDonald called upon administrative staff to provide final comments.

Charlene Haverland provided the following closing comments:

- When rendering a decision, the Development Authority considers the surrounding land uses under the Land Use Bylaw, and it was the opinion of the Development Authority that this proposed development is not compatible with surrounding uses.
- Request that the Board upholds the decision of the Development Authority. However, if the Board considers approval of this application, it is recommended that conditions be applied. For examples, hours of operation, seasonal operation, number of parking spaces, no camping, as well as time limit to re-evaluate the business in the future.

Chair McDonald asked Board members if they had any further questions for the technical staff or the applicant / appellant.

In response to a question from a Board member, Angela Paul provided the following information:

- When they first started the business they were charging \$42.50 per family but when the application was refused, they quit charging a fee. They do accept donations.



- If application approved, would like to start charging a fee again for the tours as they will need to pay for staff to conduct the tours.

In response to questions from Board members, Charlene Haverland indicated there have been no citations issued in relation to this business.

Chair McDonald then called upon Angela Pauls to make final comments.

Angela Pauls provided the following closing comments:

- In the application, we documented that we would operate from 11:00 a.m. until 7:00 p.m. but we are actually operating from 10:00 a.m. to 4:00 p.m.. Offer a couples night once per week from 7:00 - 9:00 p.m.
- It's a nice way to meet other people.
- Do not work off the property.
- Have only lived here for about one and half years and it has been good.
- Now have flowers and a vegetable garden. The landowner has been teaching us how to do this.

Chair McDonald asked the appellant Angela Pauls if she felt she received a fair hearing, and Angela Pauls responded affirmatively.

### **Conclusion of Public Hearing**

Chair McDonald declared the hearing concluded at 11:20 a.m.

### **In-Camera**

**43-21** Board Member Laing -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 11:21 a.m.

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

**44-21** 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 11:53 a.m.

**Appeal by James and Angela Pauls - refusal by the development authority of Development Permit Application D21-107 relating to a Home Based Business Type 3 - Petting Zoo located at Lot 1, Block 1, Plan 1420960, Pt. NE 3-48-26-W4 (48052 Rge Rd 262).**

**45-21** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board allow the appeal by James and Angela Pauls and approves Development Permit Application D21-107 for a home based business Type 3 - petting zoo located at Lot 1, Block 1, Plan 1420960, Pt. NE 3-48-26-W4.



Findings of Fact

1. The subject property is districted Agricultural (AG) in accordance with the Leduc County Land Use Bylaw No. 7-08. The purpose of this district is to provide for agricultural operations while at the same time providing for limited residential and other uses having a secondary role to agriculture.
2. The proposed use is considered a discretionary use with consideration given to the compatibility of the proposed development with surrounding lands in terms of function, form and scale. The subject property is treed and not visible from the road.
3. The proposed development meets the definition of a Home Based Business Type 3 as a secondary use of an occupied principal dwelling, its accessory building and site. The outdoor activity proposed is a petting zoo with limited client visits and conditions imposed to mitigate concerns relating to traffic, hours of operation and use of roadway.
4. The Board heard from the appellant that when filling out the application for the proposed development it was not clear what to include and included more than what is intended for use. The appellant did reach out to the neighbours and did not receive any opposition; was surprised with accusations submitted in writing.
5. There were four letters of complaint submitted expressing concern with excessive traffic, using road for parking, noise, dust control, privacy issues, multiple businesses operating, and operating outside of proposed hours.
6. The appellant has provided dust control on a portion of Range Road 262 and shared the cost with the landowner across the road from the subject property. The appellant further advised there is a parking area on site to accommodate ten (10) vehicles with a maximum of 12 people per tour. Tours are accepted by appointment only.
7. There was no one in attendance to provide evidence in opposition. The Board heard one submission in support of the proposed development.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08

In accordance with Section 6.4.2 of the Leduc County Land Use bylaw, the design and appearance of a development shall be considered by the development authority around the aesthetic compatibility with surrounding development, visual impacts on roadways and other public areas, site security, public safety and any other factors deemed to be relevant.

*The proposed development is within a treed area located on a small agricultural lot (3.53 ac; 1.4 ha) containing an existing dwelling and several accessory buildings.*

In accordance with Section 3.4.5, the Board may approve an application for development, with or without conditions, if it is a discretionary use and if it complies with the Bylaw.

In accordance with Sections 7.19.1 and 7.19.4, a Home Based Business shall:

7.19.1(b) - not negatively affect neighbouring or adjacent residents by way of excessive lighting, operation at unreasonable times, traffic, noise, dust, or excessive on-street or off-street parking or any other factor considered relevant.

(e) - not use a County road for parking.

(b) - be limited to one home based business per parcel.

7.19.4(h) - limit client visits and vehicle traffic at the discretion of the Development Authority.

*The Board is satisfied from the evidence presented that the proposed development of a petting zoo will not negatively affect neighbouring or adjacent residents, subject to conditional approval.*

#### Approval conditions

In consideration of the above the Intermunicipal Subdivision and Development Appeal Board approves Development Permit Application D21-107, subject to the following conditions:

1. Approval is granted based on the information provided by the applicant for the approved development only (Home Based Business Type 3 - Petting Zoo) and no other development.
2. The approved development shall be located as shown on the attached approved site plan.
3. This permit is approved for a period of five (5) years. On or before five (5) years from the date of issuance of this development permit all activities shall be ceased unless a new development permit allowing for an extension of these activities is issued.
4. There shall be no overnight camping for business purposes.
5. No further development, expansion or change in use is permitted unless approved by Leduc County.
6. 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.
7. 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 and Engineering.
8. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
9. The approach 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/land owner must rectify any damage to the approach or County roadway.
10. The Outdoor Recreational Facility shall not impose any impact on adjacent and nearby properties, such as noise, smoke, steam, odor, dust, vibration, glare or traffic that is offensive or excessive in the opinion of the development authority.
11. Parking shall be provided in accordance with the Part 6.9 of the Leduc County Land Use Bylaw and as indicated on the attached approved site plan. Based on the submitted site plan, there shall be no more than 10 guest passenger vehicles on the site at any given time.
12. There shall be no parking of vehicles within a Leduc County road right-of-way.
13. Hours of operation shall be limited to Monday to Saturday between the hours of 10:00 am and 8:00 pm., by appointment only.
14. The seasonal operation shall be from May to October.
15. The approved Outdoor Recreational Facility shall not be allowed to operate until any

required safety code permit(s) have been issued.

16. Any signage related to this development requires the approval of Leduc County by a separate development permit application.
17. The applicant/landowner shall submit an Emergency Management Plan to the satisfaction of Leduc County Fire Services department.

Carried

**Adjournment**

**46-21** Board Member Laing -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 11:55 a.m.

  
Chair

  
Clerk