



AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE
NISKU, ALBERTA

Thursday, October 21, 2021

1. **Order and Roll Call – 9:00 a.m.**
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
 - * September 16, 2021 Intermunicipal Subdivision and Development Appeal Board Meeting
 - * September 24, 2021 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing - D09-2021**
 - * a) **9:00 a.m.**

Apellant(s)	Colistro Chronopoulos LLP
Applicant's / Landowner's name	The Canadian Historical Arms Society
Leduc County Municipal Roll #	3935000
Legal description of subject property	SW 4-51-3-W5 and NW 4-51-3-W5
Municipal address	3356 Township Road 510, Leduc County
Nature of Stop Order	Unauthorized Development - using the west area without County approval
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 FRIDAY, OCTOBER 21, 2021 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:01 a.m., Thursday, October 21, 2021 by Chair Mary-Ann McDonald with Board Members Larry Wanchuk, Pat Rudiger, and Vic Moran present.

Present as well were the following:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Charlene Haverland, Manager - Development Services
- Colin Richards, Supervisor - Development Services
- Ralph Colistro, Chronopoulos LLP
- Lloyd Rosenke, Adjacent Landowner
- Kelsey L. Becker Brookes, Reynolds Mirth Richards & Farmer LLP
- 4 Other Individuals

Agenda Adoption

67-21 Board Member Wanchuk -- that the agenda for the October 21, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes - September 16, 2021 and September 24, 2021

68-21 Board Member Rudiger -- that the September 16, 2021 (re: D21-032) Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

69-21 Board Member Moran -- that the September 24, 2021 (re: Adjournment) Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Staff Member Karen Mercer

Karen Mercer, Planner, Development Services entered the council chamber at 9:02 a.m.

Appeal by Colistro Chronopoulos LLP, on behalf of The Canadian Historical Arms Society, relating to the Stop Order issued on the unauthorized development using the west area without County approval, located at SW 4-51-3-W5 and NW 4-51-3-W5 (3356 Township Road 510).

Chair McDonald called the hearing to order at 9:02 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 Colistro Chronopoulos LLP, on behalf of The Canadian Historical Arms Society, Stop Order by the development authority for unauthorized



development - using the west area without County approval, located at SW 4-51-3-W5 and NW 4-51-3-W5 (3356 Township Road 510).

The reasons for appeal are:

- 1) The Stop Order is improperly issued.
- 2) The Canadian Historical Arms Society has valid development permits to conduct its operations from the above noted property.
- 3) The municipality has not proven a contravention of the terms and conditions of the existing development permits or established a contravention of the *Municipal Government Act* or Land Use Bylaw.
- 4) Further, or in the alternative, the remedies demanded by the development officer are improper and exceed their authority.
- 5) Such further and other reasons that may be raised during the hearing.

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

- 1) Notice of Adjourned Hearing dated September 24, 2021.
- 2) Letter from Ralph R. Colistro, Colistro Chronopoulos LLP dated September 20, 2021.
- 3) Notice of Hearing dated September 10, 2021.
- 4) Notice of Appeal dated September 1, 2021.
- 5) Stop Order dated August 31, 2021.
- 6) Development Authority's report.
- 7) Aerial photos dated September 19, 2021.
- 8) Development History Report.
- 9) Conditions of Approval of Development Permit No. D87-8 dated March 20, 1987.
- 10) Notice of Decision, Development Permit D13-354 dated April 25, 2014.
- 11) Notice of Decision, Development Permit D15-321 dated October 22, 2015
- 12) Notice of Decision, Development Permit D15-322 dated October 22, 2015.
- 13) Letter to Adjacent Landowners, re: Development Permit D18-106 dated June 12, 2018.
- 14) Letter to the Canadian Historical Arms Society re: Development Permit D18-106 dated June 11, 2018.
- 15) Letter dated January 23, 2019 re: Development Permit D18-230
- 16) Notice of Appeal Decision re: Development Permit D18-230 dated March 19, 2019.

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

Chair McDonald asked if any board members felt a need to step down from this hearing within the boundaries of conflict of interest, and there was no one.

A handwritten signature in dark ink, appearing to be 'MCD', is located in the bottom right corner of the page.

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.

Charlene Haverland, Manager - Development Services, provided a presentation relating to the Stop Order issued by the Development Authority on August 31, 2021.

- This is an appeal against a decision of Leduc County Development Authority, whereby a Stop Order was issued to The Canadian Historical Arms Society on the grounds that the Gun range is not operating within the limits set by its previous development permit approvals and an Intermunicipal Subdivision and Development Appeal Board Hearing Order.
- The subject properties are located north of Township Road 510 and approximately 800m west of Range Road 33, comprising 2 quarter sections, both of which are under the ownership of The Canadian Historical Arms Society.
- The historical development approved site plans to not delineate where in proximity the berms and targets are located within the subject lands in relation to boundary property lines. Each of the 3 existing shooting areas include a covered shooting structure. There are a number of small accessory buildings existing on the southern boundary of the parcel to support the shooting range.
- The NW 4-51-3-W5 parcel to the north is undeveloped and is primarily covered with a mature forest.
- In accordance with Section 6.16.4, Leduc County Land Use Bylaw No. 7-08, the Development Authority shall have regard for the environmental significance of the area to be cleared. Additionally, Part 6.5.12 directs that the removal of natural vegetation and alterations to the natural drainage of lands within or adjacent to an environmentally sensitive area shall be discouraged. The removal of these trees, in an area of high ecological value, is not warranted or supported.
- The appellant is appealing the issuance of the Stop Order as they consider that a Stop Order is unjustified on the premises.
- The appellant has appealed the Stop Order on the grounds outlined in the Notice of Appeal.
- 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 the Subdivision and Development Appeal Board March 8, 2019.
- Application D18-230 proposed the construction of an additional long-range shooting area in the southwestern portion of the SW 4-51-3-W5 parcel, consisting of 11 shooting targets, with 4 of the proposed targets being situated up to a distance of 350m into the NW 4-51-3-W5. To allow for the creation of the targets in the NW 4-51-3-W5, the removal of approximately 5.3 hectares (13 acres) of mature forest was proposed. The application also proposed the construction of 3 additional short-range shooting areas in the southern part of SW 4-51-3-W5. The removal of clay from the tree-clearing area was proposed in order to create the berms required for the proposed shooting areas and target backstops.
- On January 23, 2019, Leduc County Development Authority refused the permit application. During the permit review process, it was revealed that the proponents have already cleared a large portion of the treed area in the North Westerly portion of the subject lands and even extended the tree clearing onto the adjacent quarter section, which is owned by the Arms Society. On March 19, 2019, the Subdivision and Development Appeal Board upheld the decision of the Development Authority. The January 23, 2019 Notice of Decision of refusal by the Development Authority requires that the applicant remedy the tree clearing infraction in order to return the affected area to a predevelopment state. To date there has been no remediation completed and they continue to use the cleared area.
- It was brought to the County's attention that the Gun Range operated by the Canadian Historical Arms Society have started using the North Westerly area of the subject parcel for the Gun Range shooting activities. This area has no approval for carrying out gun range shooting activities. A site inspection with County staff was arranged and met the proponents on site on June 24, 2021; it was determined no contraventions.
- Once the letter of compliance was received the County was notified the Gun Range had replaced the targets and were once again using the unapproved area for target shooting.
- The County continued to receive complaints that the Gun Range was operating outside the approved areas. Therefore, County staff conducted two separate site inspections observing from the roadway that the western area and northwest area was indeed being utilized for target shooting.
- The Canadian Historic Arms Society website indicates the length of their ranges, including up to 900m. There has been no development approvals for a 900m range target. A quarter section represents 800m in length. Any shooting outside of the NW 4-51-3-W5 and into the SW corner is a contravention of the Land Use Bylaw.
- It is the opinion of the Leduc County Development Authority that at present, the Gun Range is not operating within the limits set by its previous development permit approval conditions, and the current shooting activities in the North Westerly area of the subject lands (SW) and into the northern adjacent property of the NW 4-51-3-W5 are outside the approved areas for the Gun Range.
- In order to bring the subject lands in compliance with Leduc County Land Use Bylaw 7-08, the Gun Range were advised to take the following steps:
 1. Immediately cease all shooting activities within the Gun Range Facility upon receipt of this order.
 2. Submit a Real Property Report (RPR) by a qualified Surveyor on or before Friday, September 30, 2021.

3. The RPR should contain the following information:
 - a) All shooting areas, their dimensions, setbacks from property lines, berms, number of gun ranges and specific use of each gun range and associated infrastructure at the date of the requested survey.
 - b) All accessory buildings on the gun range.
 - c) Dimensions and size of the previous cleared areas in the North Westerly portion of the Gun Range and current state of the area.
 4. Submit complete details of the entire operations of the Gun Range that may include but are not limited to hours of operations, shooting areas, average daily traffic, total numbers of patrons and planned membership events, and any other information that may help in understanding about the existing gun range operation in relation to previous approvals and its impact on surrounding lands.
- Application D18-230 was refused by the Development Authority for 3 main reasons, relating to environmental impact, incompatibility with surrounding lands and landowner concerns.
 - Although the County acknowledges that the use of the site for a shooting facility has been established since 1987, the current activity represents an expansion of the facility to an unapproved defined area.
 - In 2019, the landowners cleared approximately 6 acres of trees from the north western area and into the adjacent property to the north SW 4-51-3-W5. As a result of this, the notice of decision of refusal by the Development Authority dated January 23, 2019 requires that the applicant remedy the tree clearing infraction in order to return the affected area to a predevelopment state. The applicants have not restored the tree cleared area and are continuing to shoot into the cleared area.
 - The Development Authority considers that the Stop Order was issued correctly in accordance with Section 645 of the Municipal Government Act. The Development Authority issued the order under 1(a) and (b) of Section 645, as no development permit has been obtained for the North Westerly area of the subject lands and the subject lands have not been restored.
 - The Development Authority issued the order under 2(a) and (c) of Section 645, advised that the use of the land shall cease in whole. Under legal advisement from County's legal counsel, the County allowed the proponents to continue activity under the existing approved development permits in the central and eastern area of the subject lands until such time the hearing may be heard.
 - The Development Authority advised a Real Property Report be submitted to the County to identify the existing berms and targets along with buildings on site. The request was made due to the number of site plans over the years with no clear indication of property lines and setback distances and to further identify how many berms are on site along with the exact size of the cleared north westerly area.
 - The Development Authority advised the cleared area was to be restored back to natural vegetation as per the Notice of Decision dated January 2019 and further upheld by the Intermunicipal and Subdivision Development Board.
 - The Stop Order was issued by mail, registered mail and email. The order was emailed on August 31, 2021 to Steve Emblin of the Canadian Historical Arms Society. The Canadian Historical Arms Society, legal representation called the County and left a voicemail with Mrs. Haverland at 9:03 a.m., September 1, 2021 regarding the Stop Order. An email was further

sent to Mrs. Haverland on September 1, 2021 by Colistro Chronopoulos LLP regarding the morning call. The early morning phone call on September 1, 2021 confirms that the Canadian Historical Arms Society received the Stop Order on August 31, 2021 and therefore the Stop Order was sent to the person on the same day the decision is made.

- County records indicated no permits issued by the Development Authority in relation to the western and north western area within the SW 4-51-3-W5 and southern western area of NW 4-51-3-W5 that is subject to this appeal.
- A site inspection from the County roadway was further conducted by staff on multiple occasions since June 24, 2021 observing from the roadway that the western area and northwest area being utilized for target shooting.
- The remedies demanded by the Development Authority are not unreasonable and would provide further clarity regarding the subject lands.

Colin Richards, Supervisor - Development Services, clarified that after the Stop Order was issued, the legal counsels agreed to only shut down part of the gun range operations.

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

In response to questions from Board members, Mrs. Haverland and Mr. Richards advised of the following:

- Restoration of the trees was not included in the Stop Order as it was deemed that the most important issue was to stop the shooting in the areas where it was not authorized.
- The Gun Range is aware that restoration of the trees still needs to be completed.

Chair McDonald called upon the appellant to speak to the Stop Order.

In response to questions from Mr. Ralph Colistro, the following information was provided by the Development Authority:

- The inspection conducted on June 24 did involve entering the site.
- It was determined that some shooting activity was approved.
- The inspection conducted on July 27 was conducted from the roadway.
- During the inspection conducted on June 24 there were no targets observed. At the inspection conducted on July 27 there were clearly targets on site which are reflected in the photos.
- It was determined that those targets were removable and not considered permanent structures.
- During the July 27 inspection, there was shooting on the gun range but you could not tell which direction they were shooting.
- Councillor Scobie did attend the July 27 inspection as there had been further complaints after the June 24 inspection.
- The northwest boundary was clarified by maps projected on the overhead.

- The Development Authority is asking for a Real Property Report to get a clear indication of where everything is located on site, e.g., berms, structures, etc. The Real Property Report would assist in decision-making.
- The presentation does include approved site plans.

Mr. Ralph Colistro, Chronopoulos LLP, on behalf of appellants, provided the following:

- This appeal highlights the role of the Board and Stop Orders.
- Basic principle says you can't take away rights already provided.
- The Stop Order was not necessary. There are permits already in place.
- Remedies suggested by the County are excessive.
- The appellant does not have to prove their case.
- There is a series of development permits for this site which are included in the agenda package.
- Provided a spreadsheet of development approval history from March 2, 1987 to August 31, 2021.
- The client is entitled to rely on valid permits already in place.
- Site plans may not be to scale.
- The County could have requested more information when the application was received but they didn't.
- The most important permit is the one dated March 2, 1987.
- The County had an opportunity to limit activity when approval was issued but they didn't.
- The application in 2014 was for specific improvements to the property such as berms, shelters, etc.
- The application in 2015 was for more accessories. Berms were approved. There was nothing to do with shooting.
- Any reference to applications that were refused by the Board in 2019 or 2020 are not relevant to this appeal today.
- There have been comments today about tree removal. The Stop Order does not address tree removal, only unauthorized shooting activity.
- The permit issued in 1987 does not reflect any restrictions for number of people, membership, or activities. The County can't now ask for that information. The County is required to honor what has already been approved.
- In the letter from the County dated June 25, 2021 regarding the June 24, 2021 site inspection, it says that it was determined that the appellants were operating within previous approvals.
- At the site inspection conducted from the road on July 27, 2021 some unauthorized activities were identified. The County needs to identify exactly what they are doing wrong. There are no specific dimensions or area of property that the County can say has unauthorized activity. The 1987 permit does not document any specific area for shooting or no shooting. The appellant needs to know from the Stop Order what unauthorized activities they are conducting. That is unfair to the appellant.



- Regarding the site inspection conducted from the road, it is difficult to determine distances. The quarter section is 800 meters in length. This must mean that it is impossible to shoot at a 900 meter target and stay within the quarter section. However, if they were shooting diagonally, they may be within the allowable distance.
- If the County can't determine where specific areas are then they can't determine if they are authorized.
- The Stop Order is a sample of government over-reach. The County and I may disagree but clearly there is some shooting approved on this site. The objective is to ensure compliance. At the very most, the Stop Order should say only to shoot from approved locations.
- Items 2, 3 and 4 of the Stop Order are unnecessary and improper.
- A Real Property Report is unnecessary and would be an additional expense for the appellant. The County already approved the permits. The County could have asked for additional information at the time of application.
- If appellants are in contravention of the Land Use Bylaw, the County has to say what was approved in the past and be able to say what unauthorized shooting is going on and they haven't done that.
- Tree removal is not a part of this appeal and should not even be discussed.
- The appellant should not have to provide information on hours of operation. There are already conditions in place for this.
- It is improper of the County to seek information on total number of members, etc. This is private information.
- The number of patrons on site is not relevant. Just because someone is on site does not mean they are shooting.
- The County is unhappy with previous permits - that is not the appellants problem. The County has to deal with it - the appellants have done their part.
- There has been no misrepresentation by the appellant.
- If you accept the County's position for the appellant to apply for a new permit, you are effectively taking away the rights already granted to the appellant.
- With all this in mind, it is our submission that the Stop Order must be satisfied and the client be able to continue with its operations.

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

In response to questions from Board members, Mr. Colistro advised of the following:

- The County has to prove there is a contravention based on the permit issued in March 1987.
- Tree removal is not the subject of this appeal and should be dealt with separately.
- The Stop Order is for unauthorized shooting not unauthorized placement of targets.

In response to a question from a Board member, Mrs. Haverland pointed out on an aerial photo the approved and unapproved shooting locations.

Chair McDonald asked if there was anyone who wished to speak in support of the appeal and there was no one.

Chair McDonald asked if there was anyone who wished to speak against the appeal.

Mr. Lloyd Rosenke, adjacent landowner who lives at 51060 RR33, spoke against the appeal, providing the following information:

- All necessary permits shall be obtained by the developer.
- The December 1, 1998 Shooting Clubs and Shooting Range Regulations indicate that applications must be accompanied by a survey report that shows geographical locations of shooting areas as well as land use on any portion of the land. If this is true, the appellant should be able to provide that survey to the County right now. According to the regulations, they should also have safety rules, evidence of liability, etc.
- According to these regulations, they have to update their survey certificate every five years so they should have submitted four by now.
- If they are not in compliance with the Firearms Act, they are in contravention of 1 and 2 of this development agreement.
- The County reserved the right to revoke this permit if noncompliance; on that point, this permit is no longer valid.
- If you go on their website, they show range #1 is 100-800 meters. On their permit history, I don't see a permit for an 800 meter rifle range. A few years ago, the Chief Firearms Office shut down their rifle range because they had an 800 meter target with no permit. Again, on their website it says that range #3 is a 50 meter pistol range. I don't see a permit for this. Range #5 is for a shotgun range. Do not see a permit for this. They have an archery range. No permit for this.
- No overnight camping is allowed. Have proof (four times) where there have been 9-13 trailers parked on this property this past summer (photographs were shown).
- Neighbors have padlocks on their gates as they are afraid.
- We know there is illegal stuff going on. They're shooting handguns.
- There's a green shack for throwing out clay pigeons. They have no permit for the shack but they use it.
- 1987 permit is not for the whole quarter, only part of it.
- There isn't a resident in the Genesee area that is content with what is going on at that Club.
- Who's doing something about this? It's your turn to do something about it.

Chair McDonald asked Board members if they had any questions for Mr. Rosenke.

Mr. Rosenke responded with the following information:

- Purchased property in 1998. Didn't know the gun range was there. There wasn't much activity at that time. In the last 10 years, Burnco built up the road and once there was good access, the Club grew.
- Firearms Act applies to all gun ranges. None are grandfathered. This was confirmed by legal counsel Kelsey L. Becker Brookes.



Chair McDonald called upon administrative staff to provide final comments.

Mr. Richards provided the following comments:

- We cannot prove where shooting can or cannot occur on this property.
- Counsel did not deny that shooting is occurring.
- What we know is that shooting cannot occur on the parcel to the north. Can demonstrate the intent to shoot in this area by placement of targets sited during the inspection conducted on July 27, 2021.

Mrs. Haverland provided the following closing comments:

- The Board should note on page 3 of the Stop Order, it mentions the 2019 tree removal. "During the permit review process, it was revealed that the proponents have already cleared a large portion of the treed area in the North Westerly portion of the subject lands and even extended the tree clearing onto the adjacent quarter section, which is owned by the Arms Society."
- In the prior Notice of Decision of 2019, Planning and Development specified in that decision that the lands be remediated back to its pre-development state. This was part of the Notice of Decision.
- The Development Authority is of the opinion the Stop Order was issued properly and the Intermunicipal Subdivision and Appeal Board should uphold the Stop Order.
- The County is requesting a Real Property Report be submitted to Leduc County identifying all berms, targets and buildings on the subject lands and the applicants apply for a new development permit application which would supersede the previous approvals and allow for clear concise information and approval for the Gun Range to continue their sporting activity.
- A new development permit application does not cause hardship to the landowner nor will it replace any previous approvals should the Notice of Decision for the new development permit not be approved.
- It is the County's position that the previous approvals do not define the exact areas for shooting targets with no property lines and setback distances labelled on the approved site plans, therefore there is misrepresentation as to where the property boundary lines are in relation to all of the berms, targets and structures on the property.
- In accordance with the above, and the information contained within the Stop Order dated August 31, 2021, the Development Authority considers that the issuance of the Stop Order was correctly issued and appropriately administered in response to the Land Use Bylaw infractions observed on the property. The Stop Order was issued in accordance with the guidance of the Municipal Government Act and regulation of the Land Use Bylaw.
- In 2019 an application to expand the overall shooting range was refused by the County and that decision was subsequently upheld by the appeal board. It is believed that the expansion refused through that application is what the gun range has proceeded to develop regardless and has resulted in the current stop order being issued.
- The 2019 application proposed to expand the gun range into the western portion of the property and additionally, to expand the range beyond the northern boundary of the property

and into the parcel to the north. In order to achieve this approximately 5.3 hectares (13 acres) of mature forest would need to have been cleared.

- As you can see from the pictures presented, approximately 6 acres of this forest, which is within a defined environmentally significant area that explicitly discourages the removal of natural vegetation was unlawfully removed by the gun range prior to a decision been rendered on that application.
- The refusal of that application and subsequent refusal by the appeal board required that within 30 days the gun range contact the County to discuss available options to return this area to a pre-development state. This was required by April 19, 2019 and did not occur, meaning the decision of the Appeal Board was not complied with, which in itself, is worthy of a Stop Order against the property.
- We can confirm that as of the last site inspection in 2021, no effort has been made to restore this 6 acres of illegally removed forest.
- This area, is part of the area that the gun range has now seemingly expanded shooting activities into and relates directly to the current stop order subject to appeal today.
- The Stop Order was issued following complaints that the gun range was developing in accordance with a historical permit for expansion that had been refused by the County with that decision ultimately being upheld by the appeal board.
- The Stop Order required the Gun Range to undertake a number of actions, these being:
 - To cease all shooting activities at the gun range. This was subsequently amended through written agreement between lawyers to only relate to the area being used that did not have approval to do so.
 - To submit a Real Property Report of the property to the County for review
 - To submit an operational plan of the gun range to the County.
- As a result of this, and in order to uphold the integrity of the enforcement directives contained within the Municipal Government Act and Land Use Bylaw, the issuance of the Stop Order should be upheld.

Mr. Richards added the following information:

- Condition #14 on the March 1987 approval states that the County reserves the right to remove this permit upon failure to comply with any of the above mentioned conditions.
- Every permit that is issued indicates that there is no further development without approval.
- Failure to comply with conditions, renders the permit null and void.
- Tree clearing is considered development according to the Land Use Bylaw.

Recess

The hearing recessed at 10:59 a.m. and reconvened at 11:09 a.m. with the following people in attendance: Chair Mary-Ann McDonald and Board Members Larry Wanchuk, Pat Rudiger, and Vic Moran.

Present as well were the following:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary

- Charlene Haverland, Manager - Development Services
- Colin Richards, Supervisor - Development Services
- Ralph Colistro, Chronopoulos LLP
- Kelsey L. Becker Brookes, Reynolds Mirth Richards & Farmer LLP
- 4 Other Individuals

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

In response to a question from a Board member, Mr. Richards indicated that existing permits are deemed to not be in compliance.

Chair McDonald called upon the appellant to make final comments:

Mr. Colistro provided the following closing comments:

- A little concerned about the course of appeal. The Stop Order is for unauthorized shooting, not for tree removal.
- The County provided documents which are non-specific.
- We can agree that the northwest parcel does not have a permit for shooting.
- The County has the burden of proof for unlawful shooting activity.
- Based on the 1987 permit, there is approval for shooting at this time.
- There are no specifics about intensity; the original use is still the same.
- There is reference to compliance with firearms legislation. In order to operate, they have to be compliant. However, firearms legislation is outside of this Board.
- The adjacent landowner has concerns which need to be dealt with outside of this Stop Order.
- Photographs show generic area.
- Historically, what happens on this site has been consistent.
- Permits were approved.
- Reference to the permit that was refused in 2019 is a distraction from this appeal.
- There's nothing here today appropriate to say you can't do any shooting at all because they observed shooting somewhere on the property.
- Regarding the tree removal - the SDAB is not an enforcement board, so this means nothing to these proceedings. Should not form part of this analysis.
- Certainly no requirement in law that permit needs to be applied for when a permit is already in place.

Chair McDonald asked if Board members had any questions for Mr. Colistro.

In response to questions from Board members, Mr. Colistro provided the following.

- It is up to the County to prove what infractions have occurred.
- The Westerly portion of land could comprise half the site or a small strip or 10 meters in the corner. The Stop Order is way too broad.

- Photographs are not clear.

Chair McDonald asked the appellant, Mr. Colistro if he felt he received a fair hearing, and he responded he had to refrain from that response until a written submission is received.

Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 11:24 a.m.

Mr. Colistro, staff members and four other individuals

Mr. Colistro, staff members Haverland, Richards and four individuals exited the meeting at 11:35 a.m.

In-Camera

70-21 Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 11:26 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

71-21 Board Member Wanchuk -- 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 12:22 p.m.

Appeal by Colistro Chronopoulos LLP, on behalf of The Canadian Historical Arms Society, relating to the Stop Order issued on the unauthorized development using the west area without County approval, located at SW 4-51-3-W5 and NW 4-51-3-W5 (3356 Township Road 510).

72-21 Board Member Moran -- that the Intermunicipal Subdivision and Development Appeal Board disallows the appeal by Ralph Colistro, Colistro Chronopoulos LLP, on behalf of the Canadian Historical Arms Society (CHAS) to set aside the Stop Order and upholds the issuance of a Stop Order; and

that the Intermunicipal Subdivision and Development Appeal Board allows the appeal by Ralph Colistro, Colistro Chronopoulos LLP, on behalf of the Canadian Historical Arms Society (CHAS) to the extent the Stop Order is amended as follows:

1. Prohibiting all shooting activities within the NW 4-51-3-W5 and within the SW 4-51-3-W5 except in the areas identified on the Contour Map which accompanied the application by the Canadian Historical Arms Society in 2018 as having an "existing backstop" (item 1 of the Stop Order); and
2. Deleting the requirement to submit a Real Property Report and details of the operations of the Gun Range (items 2, 3 and 4 of the Stop Order).

Findings of Fact

1. The Board is satisfied that the Stop Order complies with the technical requirements of s. 645 of the *Municipal Government Act* and was received by the Canadian Historical Arms Society on the day it was made, and therefore was issued properly.
2. The Board is satisfied that shooting is occurring within the NW 4-51-3-W5, as well as in the northwest portion of the SW 4-51-3-W5 and along the southwesterly side of the SW 4-51-3-W5 based on evidence presented by the development authority.
3. The Board accepted the evidence of the development authority that no shooting was occurring and no targets were present in this area during the pre-arranged inspection on June 24, 2021, but that targets were in place and visible on the hill within the NW 4-51-3-W5 during the inspection from the road on July 27, 2021. The Board is satisfied that the presence of targets means shooting is occurring in this area, which was corroborated by the continuance of complaints received by the County and the evidence provided by the neighbour, Lloyd Rosenke, both in the form of oral statements and photographs.
4. The Board recognizes that while the Development Permit issued in 1987 authorizes use as a Gun Range on the SW 4-51-3-W5, there is no Development Permit in place for the NW 4-51-3-W5.
5. The Board also recognizes that the Development Permit that was issued in 1987 only authorizes shooting in a “designated area” (condition 5), which is presumably less than the entire parcel or the condition would be without purpose, and that further expansions must be approved by the County (condition 7). While neither party identified the “designated area” on which shooting was permitted, subsequent development permit applications submitted by the Canadian Historical Arms Society for the infrastructure and structures necessary to safely allow shooting to occur (such as backstops) identified where shooting was to occur. This is also consistent with the Canadian Historical Arms Society social media posting stating that there are six ranges at Genesee.
6. The Contour Map which accompanied the application by the Canadian Historical Arms Society in 2018 demonstrates where shooting is occurring (with the required infrastructure and structures). The Board does not interpret the Development Permit that was issued in 1987 as permitting shooting without the infrastructure and structures necessary to safely allow shooting to occur. Therefore, shooting is only authorized within the SW 4-51-3-W5 in the areas identified on the Contour Map which accompanied the application by the Canadian Historical Arms Society in 2018 as having an “existing backstop”.
7. The Board did not receive any information from the Appellant identifying where shooting is occurring, despite the Canadian Historical Arms Society being in possession of that information. The Board concluded that the best information about where shooting is actually occurring on the lands is shown on the Contour Map which accompanied the application by the Canadian Historical Arms Society in 2018 (in the easterly half).
8. Shooting in other areas within the SW 4-51-3-W5 are conditional on the County approving the infrastructure and structures necessary to safely allow shooting to occur.
9. The Board acknowledged the presentation by the adjacent landowner, Lloyd Rosenke, expressing concerns with the ongoing shooting activities on the lands, the disturbance to the neighbourhood and compliance with the *Firearms Act* and associated regulations.
10. The Board acknowledges that Gun Range operations must comply with the federal *Firearms Act* and associated regulations. The Board concludes the requirement to submit a Real

Property Report and details of the operations of the Gun Range (items 2, 3 and 4 of the Stop Order) exceeds the authority granted to the development authority in s. 645 of the *Municipal Government Act* as the requirement to provide this information is not required in order to bring the property into compliance. This information can be requested by the County as part of the information required by the development authority in order to consider an application for a development permit for the infrastructure and structures necessary to safely allow shooting to occur along the westerly edge of the SW 4-51-3-W5.

The Board considered the following legislation in making their decision:

Municipal Government Act - Section 645 Stop Order

- (1) If a development authority finds that a development, land use or use of a building is not in accordance with
 - (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval, the development authority may act under subsection (2).
- (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
 - (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 646 Enforcement of Stop Order

- (1) If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2) A municipality may register a caveat under the *Land Titles Act* in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Section 685 Grounds for Appeal

- (1) If a development authority

- (c) issues an order under section 645, the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Section 685 Grounds for Appeal

4.2 Stop Orders

- 4.2.1 If a development, land use, or *building* is found to contravene provisions of this *Bylaw* or conditions of a permit or order issued under this *Bylaw*, a Development Authority may serve the *landowner*, occupant or other person responsible with an order to:
 - a) stop the *development* or the use of the land or *building* in whole or in part as directed by the notice;
 - b) demolish, remove, or replace the *development*; or
 - c) carry out any other action required by the notice to ensure compliance with this *Bylaw* or the conditions of a permit or order issued under this *Bylaw*.
- 4.2.2 An order issued under this section *shall* specify a date for completing the required action.

4.3 Enforcement of Stop Orders

- 4.3.1 The *County* may register a caveat against the Certificate of Title for land that is the subject of an order under Section 4.2 of this *Bylaw*. The caveat shall be discharged upon achieving compliance with the order.
- 4.3.2 Costs to the *County* resulting from enforcement actions taken to achieve compliance with an order under Section 4.2 of this *Bylaw* may be added to the tax roll of lands subject to the order.

4.4 Offences and Penalties

- 4.4.1 A person who contravenes or fails to comply with provisions of this *Bylaw* and any decision, condition or order made under it, or who obstructs or hinders any person in the administration or enforcement of this *Bylaw*, is guilty of an offence under the *Act*.
- 4.4.2 A person who is guilty of an offence under the *Act* is liable to a fine and/or imprisonment.

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 all shooting activities within the NW 4-51-3-W5;
- (2) immediately cease all shooting activities within the SW 4-51-3-W5 except in the areas identified on the Contour Map which accompanied the application by the Canadian Historical Arms Society in 2018 as having an "existing backstop"; and
- (3) all shooting must be in conformance with the *Firearms Act* and its associated regulations.

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(1) of the Municipal Government Act.

Next Meeting

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held on Friday, October 29, 2021 at 9:00 a.m.

Adjournment

73-21 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 12:23 p.m.

Chair 

Clerk 