



AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Thursday, September 16, 2021

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
- August 12, 2021 Intermunicipal Subdivision and Development Appeal Board meeting
4. **Subdivision and Development Appeal Hearing - D08-2021**
* a) **9:00 a.m.**

Apellant	Mohammad Zia Haque
Applicant	Muhammad Saeed (RCD Consulting)
Landowner's name	Mohammad Zia Haque; Dorothy L. Carlso-Haque
Leduc County Municipal Roll #	696000
Legal description of subject property	Lot 1, Plan 9323321, Pt. NW-25-50-23-W4 (50465 Hwy 21)
Nature of development application	Recreation Vehicle Storage (4.35 ac); Office (1800 sq. ft. and Market Garden (11.15 ac)
Development Permit application #	D21-032

5. **Next Meeting Date** - Friday, September 24, 2021
6. **Adjournment**

Legend

* Items Attached To Agenda

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, SEPTEMBER 16, 2021 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 9:00 a.m., Thursday, September 16, 2021 by Chair Mary-Ann McDonald, and Board Members Larry Wanchuk, Pat Rudiger, Rick Hart and Rod Giles present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Supervisor - Development Services
- Ata Muhammad, Planner 1 - Development Services
- Mohammad Zia Haque, Appellant (landowner)
- Muhammad Saeed (RCD Consulting), Applicant
- Dorothy Haque, Landowner
- Momin Saeed
- Loretta and Jeff Martin, adjacent landowners
- Gus Janke, representing adjacent landowners

Agenda Adoption

58-21 Board Member Giles -- that the agenda for the September 16, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes - August 12, 2021

59-21 Board Member Hart -- that the August 12, 2021 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Appeal by Mohammad Zia Haque, on behalf of Muhammad Saeed, RCD Consulting - refusal by the development authority of Development Permit Application D21-032 for a recreation vehicle storage (4.35 ac); office (1800 sq.ft.) and market garden (11.15 ac) located at Lot 1, Plan 9323321, Pt. NW 25-50-23-W4, (50465 Hwy 21).

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 Mohammad Zia Haque, on behalf of Muhammad Saeed, RCD Consulting - refusal by the development authority of Development Permit Application D21-032 for a recreation vehicle storage (4.35 ac); office (1800 sq.ft.) and market garden (11.15 ac) located at Lot 1, Plan 9323321, Pt. NW 25-50-23-W4, (50465 Hwy 21).

The reasons for appeal are that the development authority made an error in their decision as follows:



- 1) Contrary to the decision, the development is conforming to the current Land Use Bylaw. The use applied for a market garden which is regarded as an Agricultural/Horticulture Use in the Land Use Bylaw as per Section 3.2(b) of the Land Use Bylaw 7-08 is a Permitted Use which does not require a permit (as per December 2020 letter from County Planner Greg McGovern).
- 2) Recreation vehicle storage is listed as Discretionary Use in Section 9.2.3 - subject to Alberta Transportation approval. We have submitted our application and are still waiting for their response.
- 3) The site meets the requirements of the distance as required by the Alberta Transportation as per Section 6.13.2.
- 4) Section 6.5.12 is not applicable for the reason that we are not removing any natural vegetation and not altering the natural drainage of the land within or adjacent to an environmentally sensitive area. Therefore no approval is required from Alberta Environment.
- 5) Section 6.14.7 grading will not interfere with the natural flow of surface water on the adjacent land. This can be dealt with the conditional approval to submit a grading plan by the professional engineer.
- 6) Section 7.231 will be complied with as well as with 7.23.1(d) in terms of outdoor storage area as stated in Section 7.23.1(d) of the Bylaw.

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

- 1) Notice of ISDAB hearing package dated August 23, 2021.
- 2) Notice of appeal received by Mohammad Zia Haque, on behalf of Muhammad T. Saeed, RCD Consulting, on August 19, 2021 including:
 - copy of December 15, 2020 letter from County Planner 1 Greg McGovern;
 - August 16, 2021 letter from EnMatix, Engineering Ltd. to the Subdivision and Development Authority submitting that the proposed location of the RV storage and market garden does not affect any wetland or other important natural resources; and advising a separate proposal was sent to Alberta Transportation for approval of the road side development.
- 3) Notice of decision (refusal) by Development Authority including refused site plan dated July 30, 2021.
- 4) Development Permit Application D21-032 with business information questionnaire
- 5) Key Plan.
- 6) Applicant Authorization
- 7) Development Authority's report.
- 8) September 9, 2021 letter from Janke, 50427 Hwy 21, providing comments relating to the proposed development.

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

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



Chair McDonald 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.

Ata Muhammad provided a PowerPoint presentation relating to Development Permit D21-032, highlighting the following:

- The subject land is 125 acres in size and is zoned AG/CR TR - Agricultural/Country Residential Transitional District.
- The subject property is located along Highway 21 on the east side of Leduc County and approximately 1.6 km south of Township Road 510. The parcel has direct access from Highway 21. The Hamlet of Looma is located in the northwest of the subject parcel, approximately 400 meters.
- The total area of the subject land is 50.58 ha (125.04 ac). The land is dissected by the CN Rail line. The land contains several wetlands, treed areas, a dwelling, accessory buildings and outdoor storage.
- There is an existing dwelling on this property. Graphics depict the locations of the proposed RV storage area, proposed Market Garden area and existing wetlands.
- The proposed development was refused on July 30, 2021 as it is not in conformance with the current Land Use Bylaw. Specifically,

6.5.12 Removal of natural vegetation and alterations to the natural drainage of lands within or adjacent to an environmentally sensitive area shall be discouraged.

Alberta Environment approval is required to disturb a wetland for the market garden.

6.13.2 Development within 300m of a provincial highway or 800m of an intersection with a provincial highway may require approval from the Province.

Alberta Transportation approval is required to access a provincial highway and ensure a Traffic Impact Assessment is not required for the proposed development.

6.14.7 Site grading shall not be permitted to impede or interfere with the natural flow of surface water on adjacent lands or public ditches.

7.23.1(a) No person shall store goods, products, materials or equipment outside of a building unless the storage is subject of an approved development permit.

7.23.1(d) Outdoor storage areas shall be located, developed and maintained in a neat and orderly manner to the satisfaction of the Development Authority.

- The Business information questionnaire indicates that the name of the business is Canada West Equipment & Wholesale Supplies Ltd. The questionnaire also includes the following information: that the business will operate seven days per week from 9:00 a.m. to 9:00 p.m.; there will be three employees; there will be five vehicles associated with the business that will visit the property on a weekly basis; they are applying for RV storage which may require gravel

for hard surfacing; as well as a list of equipment and machinery that will be used for the Market Garden.

- Received responses from two adjacent landowners. The landowner to the south submitted drainage concerns while the landowner across from the subject land submitted unsightly outdoor storage concerns.
- On February 17, 2021, the County received Development Permit application D21-032. The application proposed a Recreation Vehicle Storage (4.35 acres), Office (1800 ft²), and Market Garden (11.15 acres). After getting the necessary information, the application was referred to internal and external departments and adjacent landowners for comment. The County Agricultural Services submitted detailed comments on the application and raised many questions about the proposed development, such as; intended purpose of the market garden and its operational details. They also commented on developing a large area for outdoor storage while the proposal is to store only fifty (50) RVs. One neighbor, in his comments, indicated that the landowners are already storing all sorts of cars and industrial equipment, and it is their apprehension that if the site is approved for RV storage, it will turn into a very large outdoor storage facility. The other adjacent neighbor raised concerns of drainage and traffic safety due to the proximity of the business to Highway 21.
- On July 30, 2021, Leduc County Development Authority refused the application as it was not aligned with various regulations of Leduc County Land Use Bylaw 7-08. The refusal cited all those regulations of the Land Use Bylaw 7-08, which were considered in rendering the decision. On August 19, 2021, the appellant appealed the decision of the Development Authority and provided grounds for appeal.
- In his first ground of appeal reason, the appellant cited that the Market Garden Use is regarded as an Agricultural, Horticultural Use, which is listed as a permitted use and is exempt under Part 3.2 (b) from development permit requirements. It is the opinion of the Development Authority that this interpretation of the bylaw is not correct. The Market Garden land use is separately defined in the Land Use Bylaw 7-08 and listed as a "Discretionary Use." This use is quite different from normal agricultural, horticultural use. It entails a commercial operation where fruits and vegetables are cultivated in greenhouses or outdoor plots and sold on-site to the public.
- The subject lands contain many wetlands and treed areas that may have a variety of environmental significance. The RV Storage location identified on the site plan has treed area as per County Geographical Imagery of 2019.
- It is the opinion of the Development Authority that if approved, the proposed development would result in the loss of trees in this sensitive area. In addition, the area identified in the on-site plan for market garden has a large portion of wetland. The proposed development has not identified this wetland on the site plan. The Development Authority's opinion is that the Market Garden activities in the identified location might result in the permanent loss of a wetland. The proposed development may require Alberta Environment approval.
- The appellant indicated that they had submitted an application to Alberta Transportation for Road Side Development. However, it is the opinion of the Development Authority that the proposed location of the development is close to Highway 21 with heavy and fast-moving traffic, and there is a possibility that the proposed development may create safety issues for turning and oncoming traffic.

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- The business information sheet of the permit indicated that the outdoor storage area for RV Storage would be graveled. Since these areas have many low spots and the filling of those low spots may result in drainage issues for adjacent lands. The appellant indicated that a grading plan would be prepared by a professional engineer and submitted later. However, those sorts of plans are submitted at the time of application for proper review and not after the permit is being issued. The aerial imagery of the property shows that the property has a significant amount of outdoor storage on the lands, and allowing outdoor storage for RVs would take out more land from agricultural production, which is not aligned with the policies of the County Municipal Development Plan.
- In summary, the Development Authority is of the opinion that Market Garden is not a permitted use, and its proposed location on the parcel may result in the loss of wetlands. It may create significant traffic safety and drainage issues. It may require Alberta Transportation (AT) and Alberta Environment approval. In addition, the RV Storage is also a discretionary use, and issuing a Development Permit without Alberta Transportation's prior approval may cause traffic safety issues and take land away from agricultural production to non-agricultural use. Should Alberta Transportation require a Traffic Impact Assessment (TIA), an Alberta Transportation response should be rendered before any development approval for the RV storage is considered. As a result, the Development Authority requests the Intermunicipal Subdivision and Development Appeal Board to set aside the appeal and uphold the decision of the Development Authority.

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

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

- Direct access to subject property is from Highway 21.
- Wetlands, as illustrated on the aerial photos, need to be protected.
- Before any development can occur within a wetland, Alberta Environment and Parks approval is required under the Water Act. The County can issue a decision conditioning Environment approval prior to any development/use in a wetland.
- Development within an Environmentally Sensitive Area (ESA) does not technically require approval from Alberta Environment; that is more of a designation dealt with in house.
- The movement of soil/grading of lands for the RV Storage area could potentially impact drainage in an area that is prone to drainage issues. In order to further consider the RV storage, the proposal would need to be supported by an engineered grading plan that would be reviewed by our Engineering and Utilities department.
- CN Rail has requested three conditions should approval be considered:
 - A minimum 15 metre building setback from the railway right-of-way.
 - A chain link fence of minimum 1.83 metre height to be installed and maintained along the mutual property line with CN.
 - Any proposed alternations to the existing drainage pattern affecting railway property require prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.

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Chair McDonald called upon the appellant/applicant to speak to the proposed development.

Mr. Muhammad Saeed, RCD Consulting, distributed a document to Board Members, which included the following:

- The Development Authority made an error in their decision.
- The Development Authority state that the proposed development is not in conformance with the current Bylaw 7-08, especially 6.5.12 removal of natural vegetation and alteration of natural drainage of the lands, within or adjacent to an environmentally sensitive area should be discouraged.
- We respectfully submit that we are not in breach of Sec.6.5.12 of County Bylaw 07-8, as we are not removing any natural vegetation nor altering the natural drainage of the lands within or adjacent to an environmentally sensitive area. We are far away from this sensitive area and do not conflict with nor encroach on the vegetation area and there is no removal of trees.
- Our Professional Engineer visited the site and checked the area to be used for Market Garden and RV Storage aspect. Market Garden falls under the Horticultural use as defined in the definition. We are not having a fully independent operation; it is an accessory to the Agricultural/Horticulture use.
 - Furthermore, no approval is needed from Alberta Environment for the reason that we are neither close to nor interfering with, and not encroaching onto the sensitive lands.
 - Moreover we are not selling a product and no customer is coming to the site to buy any goods. We will sell directly to the wholesale distributor and will deliver to them.
- Sec.6.13.2 of the Bylaw 07-8 may require approval from Alberta Transportation; we have applied for their approval and are waiting for their response.
- Sec. 6;14.7 states that site grading shall not be permitted to impede or interfere with the natural flow of surface water on the adjacent lands or public ditches. In light of that, we are not doing any site grading nor impeding nor interfering with the natural flow of surface water on adjacent lands or public ditches.
- Sec.7.23.1 (a) of the Bylaw 07-8 states no person shall store goods, products, materials or equipment outside of a building unless the storage is subject to an approved development permit, we will comply with this.
- Sec.7.23.1 (d) of the Bylaw 07-08, we will meet / will comply with this section in terms of storage areas location and will be developed and maintained in a neat and orderly manner to the satisfaction of the Development Authority.
- In the light of above mentioned we request that the development to be considered for approval for the reasons that:
 - The uses applied for within the AG-CR District are the prescribed uses (Permitted/Discretionary) of County Bylaw 07-8 and do not pose any threat neither to the adjacent properties nor to the Environment.
 - The Market Garden is listed under the Horticulture use and is a permitted use and also is on a very small scale, at just 11.15 acres. No customer will be coming to the site and we will deliver the product directly to the retailer.



- Recreational Vehicle Storage is 4.35 acres and limited to 50 vehicles. We will not be removing any existing vegetation.
- The proposed uses will help the owner to achieve their financial strength and stability in their livelihood and will also result in additional tax revenue for the County.
- We request the Honorable members of Subdivision and Development Board to approve this development with or without conditions.

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

In response to questions from Board members, Dorothy L. Carlson-Haque, landowner provided the following:

- Feeling despair in my heart.
- We put money into this property in 2014.
- Was born and raised on a farm and was excited to return to this lifestyle.
- Started with sheep but because of the uneven terrain, the babies would get lost and then sometimes we were unable to locate them.
- Tried to find someone to bale the land but no one would do it as they were afraid of damaging their equipment on the uneven terrain.
- Thought they would bring dirt in for good quality planting and that was refused by the County.
- Had to purchase bales but that was not economically sound so they had to sell off their animals.
- Trying to put together a plan where the farm will provide income; We are hoping that RV storage and Market Garden would make the farm prosperous.
- Have seen others who have had success in these areas, so were hoping to do the same.
- Our hands are tied. We need to make property financially successful. We need someone to help us.

Chair McDonald asked if there were any questions by the Board members for the landowner.

In response to questions from Board members, Dorothy Carlson-Haque advised of the following:

- The produce from the Market Garden will be sold and taken off the property to farmers markets and wholesalers. People will not be coming to the farm to purchase the produce.
- Would like to grow produce in constructed structures so they don't have to crawl around on the ground.

In response to a question by a Board member, Mr. Saeed advised that his client wanted everything to be above board so that's why they thought they should make application for a Market Garden. His client has a house and they live there and they do not want to compromise that.

Chair McDonald asked Board members if they had any further questions for Administrative staff, the appellant or landowners.



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

- Growing fruits and vegetables would not require a development permit if they are not selling the produce on the property, however, they would still need to abide by the Land Use Bylaw. The structures they are proposing to grow the produce in would be exempt as well.
- Issuing a Development Permit without Alberta Transportation's prior approval may cause traffic safety issues. If Alberta Transportation provides their approval, our Engineer and Utilities department would need to review the application to ensure a grading plan is in place to avoid flooding/drainage issues.

In response to questions by Board Members, Mr. Saeed provided the following:

- On the business questionnaire, it was documented that the business would run 7 days per week, 9:00 a.m. to 9:00 p.m. These hours were selected to accommodate people wanting to drop off and pick up their RV's.
- In order to have a level RV storage area, they would like to bring in some gravel to fill the potholes. Have their own equipment / tractors to do this project.

Chair McDonald called upon Loretta and Jeff Martin to make their presentation indicating their non-support of the appeal.

Jeff Martin, resident at 50466 Hwy 21, provided the following concerns:

- Are neighbors directly across Highway 21 to the west of the subject land.
- Have lived on property for 30+ years.
- Know what area is like.
- Have four main points:
 - Notice that over the years, the yard has filled with derelict vehicles and industrial equipment not related to farming. Reminds me of an auto wreckers. Almost looks like a storage and auto repair operation. We think if this application gets approved, it would only exacerbate the problem.
 - Our land is subject to spring flooding. The subject property and ours share a creek and it feeds into Lake #7. The proposed RV storage is close to that lake and we believe there is serious risk of flooding. Will the people who use the RV storage be aware of the risk of flooding.
 - Runoff from the subject property flows into the creek and onto our property. We have environmentally sensitive areas on our property where there are lots of birds. (Distributed a list of birds, mammals and amphibians that have been sited in this area.) Concerned that RV's may leak chemicals which will end up in the creek and affect the wetlands.
 - Also concerned with the products/chemicals that the applicants may use to grow their produce. Will the people who use these products be licensed to use these products.
- In summary, if development approved, would hate to see property used for storing mechanical industrial equipment or become a large repair facility. The land is very low where they are proposing to site the RV storage. RV storage would be better on higher ground away from the



environmentally sensitive areas. And then there is the concern about the products/chemicals that will be used for the Market Garden.

Chair McDonald asked if there were any questions by the Board of Jeff Martin.

In response to a question from a Board Member, Mr. Martin advised that the water runs under the highway and onto his property.

Chair McDonald asked if there was anyone else who wished to speak in support or against the appeal.

Mr. Gus Janke, on behalf of his parents who live south of the subject property, in non-support of the appeal, provided the following:

- Also concerned with any potential loss of fluids from recreation vehicles that could get into the watershed.
- There are two areas that are environmentally sensitive.
- There is confusion about the Market Garden and where the access road would be. However, if the landowner is growing the product and selling it off-site, that would alleviate the access concern.
- If the RV storage area is approved, would like to suggest that the Development Authority conduct an inspection once per year to ensure compliance.
- Also concerned with the traffic volume on Highway 21.
- Waterways and environmentally sensitive areas need to be protected.
- Also concerned about the effects on drainage should the landowners start moving soil on their land.
- The Martin's have worked very hard to maintain and protect the land on their end.

Chair McDonald asked Board members if they had any questions for Mr. Janke, and there were none.

Chair McDonald asked if anyone had any further questions or comments.

Dorothy Carlson-Hague advised that her daughter is a licensed certified sprayer.

Mohammad Zia Hague, Landowner provided the following information:

- Unfortunately the outside storage has become an issue. It is our own equipment from a previous business. Some of it requires repair and some of it we are trying to sell.
- Willing to apply for a permit for this outside storage if necessary.

Mr. Richards provided the following information:

- The Development Authority will not typically issue approval prior to provincial approval where a Roadside Development Permit is required by Alberta Transportation when access is required directly onto a provincial highway.

- The Development Authority refused this application for this very reason as the RV Storage will generate traffic access from Highway 21.
- The Development Authority would also have our Engineering and Utilities department review the grading plan prior to considering the RV Storage area.

Chair McDonald called upon administrative staff to provide final comments.

Mr. Muhammad provided the following closing comments:

- Traffic safety is an issue due to access from Highway 21.
- Leduc County has no jurisdiction regarding the wetland areas. Approval would be required from Alberta Environment.
- Concerns were raised by adjacent landowners about the current outdoor storage, however, this outdoor storage is not part of the proposed development application.
- There is no issue with the Market Garden if the landowners are just growing produce and not selling it on their property.
- As mentioned by Mr. Richards, drainage is an issue and the Development Authority would require our Engineering and Utilities department to review this.

Chair McDonald then called upon the Appellant and/or Landowners to make final comments.

Mr. Saeed provided the following closing comments:

- When an application has been accepted to make decision, either make a decision or postpone it until all the information is available.
- The adjacent landowner mentioned the slough and all the birds that have been identified in that area. Do not understand or feel how this development would affect that.
- Heard concerns about the low ground level and how this development could affect that. The landowners will make the best of it.
- Do not feel that adding an RV Storage area will significantly add to the number of vehicles already travelling on Highway 21.
- Landowners will be careful with the fertilizers that they will use on the produce. The government is very careful about this and they don't want their business getting shut down.
- We should look at this in a very positive way and find a solution to the problem.
- Do not feel this development will have a negative effect on neighboring property.
- Flooding is a natural phenomenon.

Chair McDonald asked the Appellant Mr. Muhammad Saeed and the landowners, Mr. Mohammad Zia Haque and Mrs. Dorothy Carlson-Haque, if they felt they received a fair hearing, and they responded affirmatively.

Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 10:43 a.m.

Recess

The meeting recessed at 10:44 a.m. and reconvened 10:53 a.m. with the following in attendance:

- Chair Mary-Ann McDonald
- Board Member Larry Wanchuk
- Board Member Pat Rudiger
- Board Member Rick Hart
- Board Member Rod Giles
- Joyce Gavan, Clerk
- Lynn White, Recording Secretary

In-Camera

60-21 Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 10:53 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

61-21 Board Member Giles -- 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 11:06 a.m.

Appeal by Mohammad Zia Haque, on behalf of Muhammad Saeed, RCD Consulting - refusal by the development authority of Development Permit Application D21-032 for a recreation vehicle storage (4.35 ac); office (1800 sq.ft.) and market garden (11.15 ac) located at Lot 1, Plan 9323321, Pt. NW 25-50-23-W4, (50465 Hwy 21).

62-21 Board Member Rudiger -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Mohammad Zia Haque, on behalf of Muhammad Saeed, RCD Consulting, and upholds the refusal of Development Permit Application D21-032 for a recreation vehicle storage (4.35 ac); office (1800 sq.ft.) and market garden (11.15 ac) located at Lot 1, Plan 9323321, Pt. NW 25-50-23-W4, (50465 Hwy 21).

Findings of Fact

1. The proposed development is for:
 - recreation vehicle (RV) storage limited to 50 vehicles (4.35 ac) ;
 - office (1800 sq.ft.); and
 - market garden (11.15 ac).
2. The reasons for refusal indicated the proposed development is not in conformance with sections of the Leduc County Land Use Bylaw No. 7-08 that includes environmental considerations, public roadways, grading and outdoor storage.
3. The subject lands contain several wetlands and treed areas that may have a variety of environmental significance. The Development Authority indicated Alberta Environment approval may be required to disturb a wetland for the market garden.

4. The referral comments received from Leduc County agricultural services and engineering had clarifying questions relating to the proposed development uses and expressed the development permit application process did not provide enough information to make an informed decisions.
5. The subject parcel has a direct access from Highway 21 and would require approval from Alberta Transportation. The appellant/applicant indicated that an application was submitted to Alberta Transportation for roadside development and are awaiting a response whether they are approved.
6. The appellant/applicant's submitted the RV storage area would be graveled to fill in the pot holes with no removal of any natural vegetation or alteration of the natural drainage of the lands. Alberta Environment has not provided a response and there was no elevation plan provided.
7. The photos submitted showed a significant amount of outdoor storage on the lands. The appellant/ applicant's indicated they wish to make the property successful and despite attempts to farm were unsuccessful. Their plan is to set up an RV storage, market garden to assist in making their property prosperous.
8. The definition of Market Garden means a facility where plants such as flowers, herbs, fruits and vegetables are cultivated in a greenhouse or outdoor garden plots and sold on-site to the general public. The appellant/applicant's submitted they would not be selling any products on-site and no customers will visit the site to buy any goods; the goods would be sold directly to a wholesale distributor and be delivered to them.
9. Upon clarification from the development authority and the appellant/applicant's, it was agreed the proposed "market garden" falls under the Agriculture, Horticultural definition meaning a growing operation that, due to its nature may require smaller tracts of land and includes buildings and structures incidental to farming. A development permit is not required for agriculture, horticultural use.
10. The Board did not receive any submissions from the appellant/applicant's or the development authority relating to the proposed Office use.
11. There were two submissions from area residents opposed to the proposed development for the following reasons:
 - i. disturbance to the natural habitat (wetland birds) within the environmentally sensitive area;
 - ii. the yard is already filled with derelict cars and trucks and industrial type equipment not related to farming; the proposed development would exasperate the visual appearance of property;
 - iii. the land contains water bodies that is subject to spring flooding; the water drains into a small lake (slough) and continues under Highway 21 into Irvine Creek; the proposed location of the RV storage would be under serious risk of spring flooding and may cause leakage into the wetlands;
 - iv. the market garden involves the use of specialized chemicals and potential leakage into the watershed area;
 - v. extra traffic as a result of the proposed developments may pose a detriment to Highway 21 given the access is directly onto the highway.



The Board considered the following legislation in making their decision:

1. Municipal Development Plan

In accordance with the Leduc County Municipal Development Plan (MDP), the subject property is located within the Rural County Agricultural Area D-Smallholding.

Section 4.3 of the MDP states that:

To minimize the loss of agricultural land by limiting the amount of land converted to a non-agricultural use.

Section 4.3.0.1 of the MDP states that:

Agricultural uses shall take precedence within the agricultural areas.

Section 4.3.0.2 of the MDP states that:

Area D - Smallholding to provide for agricultural activities on smaller tracts of land.

Section 4.3.0.3 of the MDP states that:

To conserve agricultural land, the amount of land converted to a non-agricultural use shall be minimized through consideration of location and site design.

Section 4.3.0.5 of the MDP Policy states that:

Soil, clay and sand fill shall be carefully managed in the agricultural areas in order to conserve soils and prevent:

- b. *contamination of soil with hydrocarbons, metals, solvents or any other contaminants;*
- d. *alterations to wetlands and existing drainage patterns; and*

Section 6.1.0.3 of the MDP Policy state that:

The County encourages the retention of trees and vegetation within and adjacent to Environmentally Significant Areas.

2. Land Use Bylaw No. 7-08

In accordance with Leduc County Land Use Bylaw 7-08, the subject property is districted AG/CR TR Agricultural/Country Residential Transitional District. The purpose of this district is; *to provide primarily for agricultural operations, while at the same time providing for limited residential and other uses having a secondary role to agriculture.*

In accordance with Part 9.2.3 of the district regulations, developments such as: Accessory Buildings greater than 85.0 m² (915 ft²), Market Garden and Recreational Vehicle Storage are all listed as Discretionary Uses.

In accordance with Part Eleven of Leduc County Land Use Bylaw 7-08 (Definitions):

AGRICULTURE, HORTICULTURAL means a growing operation that, due to its nature may require smaller tracts of land and includes buildings and structures incidental to farming. Without restricting the generality of the foregoing, this land use category may include a use such as a plant nursery, market garden, tree farm and specialty crop production but not a commercial greenhouse. This does not include cannabis or any cannabis related uses.

MARKET GARDEN means a facility where plants such as flowers, herbs, fruits and vegetables are cultivated in greenhouses or outdoor garden plots and sold on-site to the general public.

RECREATIONAL VEHICLE STORAGE means a facility used for the storage of recreational vehicles including but not limited to motor homes, travel trailers, fifth wheels, truck campers, tent trailers, or similar vehicles.

- 1) *In consideration of the legislation stated above, the Board concludes the proposed development is not in conformance with the provisions of Leduc County Land Use Bylaw 7-08.*
- 2) *Alberta Environment has not provided comment and/or approval with respect to the proposed development of the recreation vehicle storage, office and market garden in relation to disturbance of the wetlands on the subject lands.*
- 3) *Alberta Transportation approval is required for access off a provincial highway and to ensure a Traffic Impact Assessment is not required for the proposed development.*
- 4) *A site grading plan has not been provided to show that the natural flow of surface water will impede or interfere with water on adjacent lands or public ditches.*
- 5) *The applicant/appellant is encouraged to work with the development authority for the operation of an agriculture, horticultural operation for the use of a "market garden" that does not require a development permit.*

Reason for refusal

The Intermunicipal Subdivision and Development Appeal Board refuses Development Permit Application D21-032 as the proposed development does not conform with the current Leduc County Land Use Bylaw No. 7-08, specifically:

1. 6.5.12 - removal of natural vegetation and alterations to the natural drainage of lands within or adjacent to an environmentally sensitive area shall be discouraged.
2. 6.13.2 - development within 300 m of a provincial highway or 800 m of an intersection with a provincial highway may require approval from the Province.
3. 6.14.7 - site grading shall not be permitted to impede or interfere with the natural flow of surface water on adjacent lands or public ditches.
4. 7.23.1(a) - no person shall store goods, products, materials or equipment outside of a building unless the storage is subject of an approved development permit.
5. 7.23.1(d) - outdoor storage areas shall be located, developed and maintained in a neat and orderly

Carried

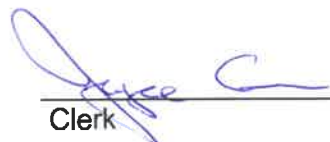
Adjournment

63-21 Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

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


Chair


Clerk