

AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Friday, September 16, 2022

1. **Order and Roll Call – 10:30 a.m.**
2. **Agenda Adoption**
3. **Subdivision and Development Appeal Hearing SDAB 06-2022**

* a) **10:30 a.m.**

Appellant's name	Denys Prudius
Applicant/Landowner name	Denys and Vikwria Prudius
Leduc County Municipal Roll #	1020090
Legal description of subject property	Lot 1, Block 2, Plan 2626MC, Pt. NW 4-50-24-W4
Municipal address	1020 50047 Range Road 244, Valley View subdivision, Leduc County
Nature of Stop Order	Unauthorized Development - outdoor storage and automotive body repair
Development permit application #	n/a

4. **Next meeting date** - at the call of the Chair
5. **Adjournment**


Legend

* Items Attached To Agenda

** To be provided

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, SEPTEMBER 16, 2022 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 10:30 a.m., Friday, September 16, 2022 by Chair Mary-Ann McDonald with Board Members Larry Wanchuk and Dalpreet Viridi present.

Present as well were the following:

- Joyce Gavan, Clerk
- Miranda Anderson, Recording Secretary
- Ata Muhammad, Planner - Development Services
- Charlene Haverland, Manager - Development Services
- Denys Prudius, Appellant, Applicant/Landowner
- Zofia Prudius, Appellant's daughter

Agenda Adoption

01-22 Board Member Wanchuk -- that the agenda for the September 16, 2022 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Appeal by Denys Prudius - Stop Order issued for unauthorized development of outdoor storage and automotive body repair, located at Lot 1, Block 2, Plan 2626MC, Pt. NW 4-50-24-W4 (1020 50047 Range Road 244, Valley View Subdivision, Leduc County)

Chair McDonald called the hearing to order at 10:30 a.m., and provided introductory remarks. Chair McDonald then called upon the Clerk to introduce the subject of this appeal.

Joyce Gavan, Clerk, advised of the appeal by Denys Prudius relating to a stop order issued by the Development Authority for unauthorized development of outdoor storage and automotive body repair, located at Lot 1, Block 2, Plan 2626MC, Pt. NW 4-50-24-W4 (1020 50047 Range Road 244, Valley View Subdivision, Leduc County).

The reasons for appeal are:

- 1) I need to get a permit for tent, storage for land equipment.
- 2) I would like to get permits for my automotive service.
- 3) My question is, what should I do to get a permit to start my business? Maybe talk to the neighbours and collect signs? Or build a fence? Point me in the right direction. Please help me.

In addition, the Clerk noted that there were comments from the Appellant written onto the Stop Order that was included in his appeal package, and which is included in the agenda package, that the Appellant will speak to.

The Clerk advised the following information is attached for the Board:

- 1) Notice of Appeal Hearing dated August 30, 2022
- 2) Appeal received August 26, 2022 from Denys Prudius



- 3) Stop Order issued by the Development Authority on August 18, 2022
- 4) Development Authority's report, including:
 - a. Notice of ISDAB Hearing
 - i. Notice of Stop Order Appeal Hearing
 - ii. Appellant's Grounds of Appeal
 - iii. Stop Order dated August 18, 2022
 - b. RC- Country Residential District Regulations
 - c. D22-044 Home Based Business Type 2 Notice of Decision, April 19, 2022
 - d. Refused Site Plan
 - e. Application and Business Information Sheet
 - f. August 8, 2022 Site Visit Photographs
- 5) Submission from the Appellant (Exhibit A)

The Board confirmed they have jurisdiction to hear this appeal and that the appeal was submitted properly and is acceptable.

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 anyone in the audience if they had any objection to any of the members of the Intermunicipal Subdivision and Development Appeal Board hearing this appeal, and there was no objection.

Chair McDonald explained the purpose of the hearing, the order of presentations 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 (Exhibit B) relating to the issuance of a Stop Order by the Development Authority on August 18, 2022. In addition to the information shared in Exhibit B, Ms. Haverland highlighted the following:

1. Planning and Development is bringing forward an appeal for a Stop Order. The subject property is within the Leduc County Land Use Bylaw No. 7-08 district - Country Residential in the Valley View Subdivision, located 3.5 km Southeast of Nisku, Alberta.
2. The subject property is approximately 3.43 acres in size, and is located in the centre of the Valley View country residential subdivision.
3. On August 18, 2022, the Development Authority issued a Stop Order. The contraventions in play were operating an unauthorized automotive body repair and painting business within the multi-lot country residential subdivision; outdoor storage of accident and damaged vehicles, and an unauthorized fabric structure was onsite.
4. Ms. Haverland discussed the implications and background as outlined in her presentation (Exhibit B).



5. On February 20, 2022, Planning and Development received the first complaint about the property. Planning staff contacted the applicant regarding a possible auto painting business. Vehicles were being towed and dropped off at the property. Staff visited the subject lands and noticed an unauthorized shed under construction and a vehicle sitting on a tow trailer.
6. Staff contacted the applicant regarding the business and asked him to apply for a development permit for the detailing business and a permit for the construction of an accessory building (shed).
7. On March 10, 2022, the Appellant applied for two development permits:
 - home based business
 - accessory building
8. The home based business did not comply with the land use regulations of the Country Residential district and the Development Authority was obligated to refuse the permit, but issued a permit (D22-058) for the accessory structure (leave as sited - accessory building, shed).
9. The development permit request for the home based business was circulated to adjacent landowners and eight submissions were received in opposition of the proposed automotive and repair home based business. This type of business is neither a permitted or a discretionary use in the Country Residential district.
10. Home based business Type 2 is permitted; however, automotive does not fall under this type.
11. The Development Authority refused Development Permit Application D22-044 on April 19, 2022 and the applicant did not appeal the decision.
12. The applicant did not cease operations and continued to conduct the business of an autobody repair shop.
13. The Development Authority visited the subject property again due to complaints. Ten accident vehicles were noted on the property, as well as someone on-site fixing a damaged car.
14. Staff met with the Appellant and advised that since the permit had been refused, he should not be operating the business. The Appellant noted that he had purchased the property for this purpose; however, this land use type is not allowed.
15. There was a fabric structure erected that was included in the Stop Order that was sent to the Landowner on August 18, 2022.
16. The Development Authority understands that he bought the property for this purpose and sympathizes with the Appellant, but unfortunately, his desired land use is not permitted in a multi-lot subdivision.
17. Planning and Development staff explained the process of planning and went through the requirements of a development permit with the Appellant, as well as discussed what is allowed in a country residential district. They noted that the appellant was unhappy with the decision of the Development Authority, and let him know of his right to appeal. He was asked to remove the faded fabric structure and was given a notice of appeal form.
18. The Development Authority asked the landowner to stop operating the business. The landowner has provided several documents proving that he owns the vehicles on site; however, the situation does not come down to vehicle ownership, but what the property is



being used for, and the Development Authority has concerns with the detailing, painting, and repairs happening onsite.

19. The Development Authority asks that no lenience be given due to continuous non-compliance onsite, and recommends that the ISDAB uphold the stop order.

Chair McDonald asked if there were any questions by the Board members of the Development Authority staff and there were none.

Chair McDonald called upon the Appellant to speak to the appeal of the Stop Order issued on August 18, 2022.

Denys Prudius, Appellant, provided the following:

1. In October 2021, he bought the property with the intention of starting his business. No one told him he would have to apply for his business.
2. After applying for his business, he was told there were complaints, but the previous owner lost the house and had the property in disrepair and he has made it better (added lighting, cleaned up the property). The appellant provided pictures to show how the property looks (Exhibit A).
3. He is asking about use for parking in the back for 10 vehicles, including his vehicle and his wife's vehicle.
4. Automotive shops have different rules. A mechanic shop just fixes tires, breaks, oil change, etc.; autobody shops repair body damage; painting shops paint the vehicles, and require accessories and filters; you can't mix autobody with paint, detailing, and mechanics. They can't be done together.
5. He is applying for a detailing shop business to work with body, not paint (he uses spray cans if needed, which you can do without a license). He has used spray cans but he doesn't do painting, and he does not do oil changes.
6. He has two customers and can give their information if needed. No customers are allowed on his property with vehicles.
7. He has his own trailer, own truck; has no mess, no dust, and has received no complaints to him from neighbours.
8. When he opened his business, he met Mr. Muhammad; he did not like that he tried to sell him on a workspace in Nisku and wants to know why he can't apply for a business. He is trying to make money for his family.
9. He has video records, and seven cameras on his property. More traffic comes to his neighbours than his property. He drives out of his house 2-3 times week and his wife drives to pick up their children from school. There is no excessive traffic, keeps his property clean, and is earning money for his family. He lost his business in Edmonton and can't rent a space.
10. Ten vehicles stay outside. If he needs to build a fence he will; let him know the rules.
11. He does not understand why he must apply for a permit for the tent. There is no garbage and he keeps his property nice and clean. He has receipts for the junk that he hauled off his property from the previous owner.

12. He doesn't want to do wrong, he just wants to earn money, pay taxes, be legal.

Chair McDonald asked if there were any questions by the Board members of Denys Prudius, Appellant.

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

- The vehicles on property are his own vehicles.
- When he received the Stop Order, he stopped doing work for customers and only did work on his own vehicles.
- He is repairing vehicles step by step, and sends them to the Ukraine.
- There are seven vehicles on his property that he wants to fix and move out of the country. He wants to make a business and pay taxes. He does not sell vehicles because you must have an AMVIC license. He has people that have this license as he does not have one himself.
- He doesn't want to complain about neighbours, but everyone in the area has a minimum of two garages on their properties, and he has only one 14 x 14 garage on his property. He does work in the garage. It has a wash bay, no water goes outside, it is collected in a septic tank. There are no smells outside, and there is no dust. He does small repairs, changes parts. It's not industrial; refer to pictures to see his operation.
- This is a family business with dealer plates, no customers are coming onto the property.

Chair McDonald called upon administrative staff to provide final comments.

Ms. Haverland provided the following final comments:

- In summary, it's clear that the appellant does want to operate a business and there are development permits that are needed to operate a business.
- Ms. Haverland empathized that he purchased the property for that purpose, but it is up to the landowner to research what is allowed. Unfortunately, what he wants to do is not allowed in a country residential land use district.
- We are not here today to even consider whether to give him a permit; the question is whether to uphold the Stop Order.
- The Development Authority is of the opinion that the Stop Order should be upheld, as the landowner is still demonstrating non-compliance.
- The landowner did not appeal the development permit. He has every opportunity according to the law to apply for another development permit in a year, using the same process, keeping in mind that there still is not this land use type in the Country Residential district.
- The Development Authority asks that he cease operations onsite for the automotive business and that he apply for a permit for the fabric structure. This structure is something that the Development Authority could consider for the site.
- As for the business itself, the Development Authority understands the landowner's frustration, but it is not a permitted use and so they are asking the board to uphold the decision of the Development Authority.

Chair McDonald asked Board Members if they had any final questions of Administration and there were none.

Chair McDonald called upon the Appellant to provide final comments.

Mr. Prudius asked if he can still keep the vehicles on his property if he doesn't do work on them.

The Chair noted that the Board only has authority to consider whether to uphold the Stop Order and noted that he would have to go to Planning and Development to determine any other aspects of the business and for guidance on the bylaws. The Chair noted that if they chose to uphold the Stop Order, he would be responsible for complying with everything outlined in the Stop Order.

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

Chair McDonald asked the Appellant Denys Prudius if he felt he received a fair hearing, and he responded affirmative.

Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 11:09 a.m.

Denys Prudius, Sofia Prudius, and staff members Muhammad and Haverland

Denys Prudius, Sofia Prudius, and staff members Muhammad and Haverland exited the meeting at 11:10 a.m.

Recess

The hearing recessed at 11:10 a.m. and reconvened at 11:11 a.m. with the following people in attendance: Chair Mary-Ann McDonald and Board Members Larry Wanchuk and Dalpreet Viridi.

Present as well were the following:

- Joyce Gavan, Clerk
- Miranda Anderson, Recording Secretary

In-Camera

02-22 Board Member Wanchuk-- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 11:12 a.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

03-22 Board Member Viridi -- 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 11:15 a.m.

Appeal by Denys Prudius - Stop Order issued for unauthorized development of outdoor storage and automotive body repair, located at Lot 1, Block 2, Plan 2626MC, Pt. NW 4-50-24-W4 (1020 50047 Range Road 244, Valley View Subdivision, Leduc County)

04-22 Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board disallow the appeal by Denys Prudius to set aside the Stop Order and upholds the issuance of the Stop Order by the Development Authority dated August 18, 2022; and further that the Intermunicipal Subdivision and Development Appeal Board amends the Stop Order as follows:

- #3. Remove the outdoor storage of all broken and damaged vehicles from the site on or before October 31, 2022.
- #4. Remove the unauthorized frame and fabric structure from the lands or alternatively apply for a development permit on or before October 31, 2022.

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 Denys Prudius, appellant/landowner, on the day it was made, and further, the Stop Order stated the sections of the *Leduc County Land Use bylaw* being contravened; therefore was issued properly.
2. The subject property is zoned Country Residential (RC) District within the Valley View subdivision and the purpose of this district is to provide for residential development on larger acreage lots within multi-lot residential subdivisions on lands deemed relatively less viable for larger agricultural operations. Automotive and Equipment body repair is not listed as a permitted or discretionary use in this land use district.
3. On February 16, 2022 the development authority was advised that a possible auto painting business may be operating on the subject lands. Upon a site visit, staff noted a shed was being constructed and a vehicle was sitting on a tow-truck trailer. The appellant indicated he was not operating an auto body repair business but acknowledged he was operating a car detailing business.
4. On March 10, 2022 the appellant submitted Development Permit Application D22-044 for a Home Based Business Type 2 along with a Business Information Sheet. There were eight (8) letters of opposition received on the proposed development. The application was refused on April 19, 2022 and the appellant did not submit an appeal on the refusal.
5. In August 2022 staff conducted another site visit and subsequently met with the applicant explaining the process of planning, such as requirements of a development permit, country residential district type of uses and the stop order procedure and process.
6. A stop order was issued on August 18, 2022 being the subject of appeal.
7. The appellant submitted the following information:
 - Copies of salvage invoices for seven (7) vehicles sold to Denys Prudius along with copies of site photos.
 - The subject property was purchased in 2021 with the intent to operate a home based business; was not told by the County at the time of purchase a permit was required.
 - The previous owner left the home and property in poor condition; lots of clean-up was required.
 - The appellant was not aware he had to apply for a business until the development authority visited the site as a result of complaints of an auto painting business on the subject lands.

- An application was submitted to allow for the continuation of detailing operations. Automotive includes mechanical, body shop, painting and detailing.
- The vehicles on the subject lands are owned by himself and want to fix them up and move them out; am trying to make a little money for family expenses.

In consideration of the above, the Board concludes that the appellant does want to comply with the requirements of the Leduc County Land Use Bylaw, however does not understand what is allowed and the purpose of the district.

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.

Leduc County Land Use Bylaw No. 7-08

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

4.1 General Provisions

- 4.1.1 No person shall commence any development or take any action that is contrary to the provisions of the Bylaw or to any permit or order issued under it.
- 4.1.2 A Development Authority may enforce the provisions of the Bylaw, and any permit or order issued under it.
- 4.1.3 After serving reasonable notice, a designated officer may enter a property in order to verify that a contravention exists or that an action required under Section 4.2 of this Bylaw has been completed.
- 4.1.4 If a person fails to comply with an order issued under Section 4.2 of the bylaw, a designated officer may take whatever lawful action is necessary to ensure compliance.

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.

7.19 Home Based Business Type 3

- 7.19.4 A Home Based Business Type 3 shall not be permitted in a multi-lot residential subdivision (4 or more contiguous parcels for residential purpose(s) or within 400 m (1,312 ft) of an existing multi-lot residential subdivision.

7.23 Outdoor Storage

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 or deemed by the Development Authority to be an integral part of another use that has been approved or does not require a development permit.

Conclusion

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 automotive body repairs and detailing business from the subject lands.
2. Immediately stop bringing broken and damaged vehicles to the subject lands for repairs and storage.
3. Remove the outdoor storage of all broken and damaged vehicles from the site on or before October 31, 2022.
4. Remove the unauthorized frame and fabric structure from the lands or alternatively apply for a development permit on or before October 31, 2022.
5. Arrange a site inspection for the County Planning and Development staff once the outdoor body repair activities cease and the outdoor storage of broken vehicles is removed from the site within the stipulated time.

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(1) 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.

Carried

Next Meeting

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

Adjournment

05-22 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 11:16 a.m.


Chair


Clerk