

**ROCKY VIEW COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2020-SDAB-002

File No.: 07607001; PRDP20193711

Appeal by: Hunt's Coulee Ranch Ltd.

Appeal Against: Development Authority of Rocky View County

Hearing Date: 2020 January 8

Decision Date: 2020 January 21

Board Members: Daniel Henn, Chair
Tricia Fehr
Ian Galbraith
Hazel George
Pam Whitnack

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued November 19, 2019. In this decision, the Development Authority approved a development permit for cannabis cultivation (existing building) at 25113 Township Road 272 (the Lands).

[2] Upon notice being given, this appeal was heard on January 8, 2020 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

DECISION

[3] The appeal is denied and the decision of the Development Authority is upheld.

BACKGROUND

[4] On October 11, 2019, Kristopher Lutz of 7 Leaf Inc. (the Applicant) submitted a development permit application for cannabis cultivation (existing building) on the Lands.

[5] The Lands are located at 25113 Township Road 272 (Lot 1 Block 1 Plan 0212619; NE-07-27-02-W5M), are 1.94 hectares (4.79 acres) in size, and owned by Paul and Theresa Keysell.

[6] The Lands' land use designation is Farmstead District and is regulated in section 47 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On November 19, 2019, the Development Authority approved a development permit application for cannabis cultivation (existing building) on the Lands.

[8] On December 10, 2019, Hunt's Coulee Ranch Ltd. appealed the Development Authority's decision to approve a development permit application for cannabis cultivation (existing building) on the Lands. The notice of hearing was circulated to five adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 and Rocky View County Council policy C-327, *Circulation and Notification Standards*.

SUMMARY OF EVIDENCE

[9] The Board heard verbal submissions from:

- (1) Sandra Khouri, Planner, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority;
- (3) Noor Mirza, Municipal Engineer, for the Development Authority;
- (4) Heather Rabin, representing the Appellant; and
- (5) Kristopher Lutz and Chase Culpan, the Applicants who spoke in opposition of the appeal.

[10] The Board received three letters in support of the appeal from:

- (1) Kimberly Bowen and Ian Bubis;
- (2) Greg and Linda Sanden; and
- (3) Jackie Sanden.

[11] The Board received no letters in opposition of the appeal.

Development Authority's Submissions

[12] There is a dwelling and existing accessory building (barn) on the Lands. The barn is approximately 135.00 square metres (1,453.07 square feet) in size and is the accessory building proposed to be used for the cannabis cultivation development.

[13] The development permit application was approved as it met all the Farmstead District and cannabis cultivation regulations as outlined in sections 8, 20.9, and 47 of the *Land Use Bylaw*.

[14] All cannabis cultivation operations are required to obtain licensing through Health Canada. Health Canada's jurisdiction includes production capacity, notification to local authorities, physical security, building materials, system ventilation and filtration, water supply, lighting, sanitation, waste handling, and record keeping.

[15] The smaller scale of the proposed cannabis cultivation development did not warrant a Traffic Impact Assessment under County servicing standards.

[16] Inspection photos from October 2019 show that the existing accessory building (barn) is screened with trees and cannot be seen from Township Board 272.

Heather Rabin Submissions – The Appellant

[17] Heather Rabin owns Hunt's Coulee Ranch Ltd. and is the Appellant. The Hunt's Coulee Ranch Ltd. property is located at 25245 Township Road 272 and is directly west of the Lands.

[18] The County's Strategic Plan prioritizes responsible and sustainable growth and maintaining the integrity of the landscape. The Development Authority's analysis of proposed cannabis cultivation developments focuses only on setback regulations and does not protect the land properly.

[19] The County's Strategic Plan also emphasizes a culture of customer service. The Development Authority did not consult adjacent landowners through the development permit application and approval process and the Development Authority did not answer the questions posed by Heather Rabin and her neighbours. Heather Rabin would like to see improved customer service at the County.

[20] Health Canada's rules do not protect the community and environment, that is the responsibility of the County.

[21] Heather Rabin met with Kristopher Lutz on January 5, 2019 who answered all of her questions, which was greatly appreciated.

[22] Heather Rabin believes the development is more industrial in nature and too big for the area.

[23] Heather Rabin respects the Applicant's pursuit to be organic but understands that most cannabis cultivation applicants will use a lot of chemicals that harm the land. The County's reviews of cannabis cultivation applications should do more to protect the environment and land.

Kristopher Lutz and Chase Culpan Submissions – The Applicants

[24] Kristopher Lutz and Chase Culpan are business partners, owners of 7 Leaf Inc, and the Applicants for the proposed cannabis cultivation development.

[25] Kristopher Lutz and Chase Culpan met with the Appellant earlier in January 2020 to talk about the proposed cannabis cultivation development and to answer any questions.

[26] The proposed cannabis cultivation development's objective is to create a vegan micro-cultivation with a small footprint that is healthy for both people and the environment. 216 cannabis plants are proposed for the development.

[27] Water for the proposed cannabis cultivation development will come from one of the two wells on the Lands. An average of 150 gallons of water a day will be used for the proposed cannabis cultivation development.

[28] The proposed cannabis cultivation development will be free of toxic substances and waste will go through the septic field unless otherwise required by the provincial or federal governments.

[29] The proposed cannabis cultivation development will follow all sanitization, security, and ventilation requirements mandated by Health Canada. There will be no odour.

[30] The proposed cannabis cultivation development will generate no more noise or light than a dwelling.

[31] The existing accessory building (barn) will be renovated as a part of the proposed cannabis cultivation development. The intent is to eventually expand the existing accessory building (barn) to about 2,500 square feet, the maximum accessory building size allowed in the Farmstead District.

[32] The Culpan family will live on the dwelling on the Lands. Members of the Culpan and Lutz families will be the primary employees of the proposed cannabis cultivation development. A maximum of six employees will be working on the Lands.

[33] Kristopher Lutz and Chase Culpan will follow all municipal, provincial, and federal rules for the proposed cannabis cultivation development.

[34] The proposed cannabis cultivation development is not currently permitted to have signage.

[35] The proposed cannabis cultivation development's packaging and transportation processes have not yet been established but will comply with Health Canada's regulations.

Heather Rabin Rebuttal

[36] The October 2019 inspection photos submitted by the Development Authority do not accurately reflect the view of the Lands from Township Road 272. The existing accessory building (barn) can be seen from further down Township Road 272.

Development Authority's Final Comments

[37] The Development Authority had no final comments.

Kristopher Lutz Final Comments – The Applicant

[38] There is a plan in place to plant trees around the entire perimeter of the existing accessory building (barn) to reduce its visibility from adjacent properties.

Heather Rabin Final Comments – The Appellant

[39] Heather Rabin felt she had fair opportunity to present her evidence to the Board.

FINDINGS & REASONS FOR DECISION

[40] The Board finds that cannabis cultivation is a discretionary use in the Farmstead District in accordance with section 47 of the *Land Use Bylaw*.

[41] The Board finds it has the authority to make a decision on this matter pursuant to section 687(3)(d) of the *Municipal Government Act*.

[42] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the proposed cannabis cultivation development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[43] The Board is satisfied that the proposed cannabis cultivation (existing building) development meets the Farmstead District and cannabis cultivation regulations outlined in sections 8, 20.9, and 47 of the *Land Use Bylaw*.

[44] The Board is satisfied that the existing accessory building (barn) where the cannabis cultivation will occur is well-screened and not adjacent to any residential dwellings on neighbouring properties. The Board is satisfied that the proposed cannabis cultivation development is small and fits the nature of the area.

[45] The Board is satisfied that matters such as security, odour, water supply, lighting, and waste are under provincial or federal authority and are outside the jurisdiction of the Board.

[46] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed cannabis cultivation development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed cannabis cultivation development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

CONCLUSION

[47] For the reasons set out above, the appeal is denied and the decision of the Development Authority is upheld.

Dated at Rocky View County, in the Province of Alberta on January 21, 2020.



Daniel Henn, Chair
Subdivision and Development Appeal Board

EXHIBIT LIST

Documents presented at the hearing and considered by the Board

NO.	ITEM
1.	Development Authority's Report to the Board (35 pages)
2.	PowerPoint presentation submitted by the Development Authority (9 pages)
3.	Letter of support submitted by Kimberly Bowen and Ian Bubis (1 page)
4.	Letter of support submitted by Greg and Linda Sanden (1 page)
5.	Letter of support submitted by Jackie Sanden (1 page)