

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

Board Order No.: 2020-SDAB-008

File No.: 05328023; PRDP20200038

Appeal by: Jeff Jiang

Hearing Date: 2020 June 3

Decision Date: 2020 June 18

Board Members: Daniel Henn, Chair
Tricia Fehr
Hazel George
Morrie M. Goetjen
Wendy Metzger

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 April 6, 2020. In this decision, the Development Authority refused a development permit application for a home-based business, type II, for a landscaping company, relaxation of the maximum permitted outside storage area and relaxation of the total number of employees at 254038 Range Road 284 (Block 14, Plan 1144 LK; SW-28-25-28-04) (the Lands).

[2] Upon notice being given, this appeal was heard electronically on June 3, 2020 in accordance with the Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

DECISION

[3] The appeal is denied and the decision of the Development Authority is upheld. A development permit shall not be issued.

BACKGROUND

[4] On January 9, 2020, Jeff Jiang (the Appellant) submitted a development permit application a home-based business, type II, for a landscaping company, relaxation of the maximum permitted outside storage area and relaxation of the total number of employees on the Lands.

[5] The Lands are located at 254038 Range Road 284 (Block 14, Plan 1144 LK; SW-28-25-28-04), 8.22 hectares (20.30 acres) in size, and owned by Jeff Jiang.

[6] The Lands' land use designation is Agricultural Holdings and is regulated in section 46 of the Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On April 6, 2020, the Development Authority refused a development permit application for a home-based business, type II, for a landscaping company, relaxation of the maximum permitted outside storage area and relaxation of the total number of employees. Under section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the Act), the original appeal deadline of the Development Authority's decision was April 27, 2020.

[8] On March 31, 2020, the Minister of Municipal Affairs issued Ministerial Order 22/20 which extended the appeal deadline under section 686 of the Act to October 1, 2020. This was in response to the COVID-19 pandemic.

[9] On April 17, 2020, the Minister of Municipal Affairs issued Ministerial Order 36/22 rescinding Ministerial Order 22/20 and restoring the appeal deadline under section 686 of the Act to 21 days after the decision of a Development Authority on a development permit application.

[10] Ministerial Order 36/22 included a provision extending any appeal period that fell between March 25, 2020 and April 17, 2020 by a further 21 days. Therefore the effective appeal period for the Development Authority decision considered in this Board decision ended on May 8, 2020.

[11] On May 8, 2020, Jeff Jiang submitted an appeal of the Development Authority's decision to refuse a development permit application for a home-based business, type II, for a landscaping company, relaxation of the maximum permitted outside storage area and relaxation of the total number of employees on the Lands. The notice of hearing was circulated to 11 adjacent landowners in accordance with the Act and Rocky View County Council policy C-327, *Circulation and Notification Standards*.

[12] Members of the general public were given notice on how to participate in the hearing in accordance with Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

SUMMARY OF EVIDENCE

[13] The Board heard verbal submissions from:

- (1) Jacqueline Targett, Development Officer for the Development Authority;
- (2) Sean Maclean, Planning Supervisor for the Development Authority; and
- (3) Jeff Jiang, the Appellant.

[14] The Board received no letters in support or opposition of the appeal.

[15] Appellant Exhibits 1 and 2 were emailed by the Appellant to the Clerk during the hearing and, with the Chair's permission, the Exhibits were distributed to the Board Members and the Development Authority. All parties were given sufficient time to review the material.

Development Authority's submissions

[16] This is the second time an application has been made for the landscaping business on the Lands. The previous application (PRDP20181968) was conditionally approved on November 20, 2018, with prior to issuance conditions intended to ensure the business was made compliant with *Land Use Bylaw* requirements. These conditions were never satisfied so the permit expired and the applicant was directed to re-apply.

[17] The proposed development permit application was evaluated in accordance with the *Land Use Bylaw* and it was determined that:

- (1) Due to the scale and intensity of the business operations, the proposed use is not in keeping with the purpose and intent of the Agricultural Holdings District;
- (2) The proposed business varies the external appearance and residential character of the Lands;
- (3) The development is not secondary to the residential use of the Lands;
- (4) The business was in operation prior to the application for development permit. As such, the site inspection assessed the amount of storage required for the proposed business as it currently operates. The amount of outdoor storage permitted for a home-based business is 400.00 sq. m. The amount of outdoor storage required for the proposed business is calculated at 19,140.00 sq. m which is over 4,000% the permitted amount;
- (5) The requested number of non-resident employees exceeds the maximum number permitted. The permitted number of non-resident employees is two and the requested number of non-resident employees is four;
- (6) The continued operation of the business may unduly interfere with the amenities of the neighbourhood and materially interferes with and affects the use, enjoyment, and value of neighbouring parcels of land; and
- (7) That the intensity of the proposed development is greater than that of a home-based business and therefore does not meet the definition of a home-based business. The proposed development would appear most consistent with a contractor, general use, which is not a permitted or discretionary use in the Agricultural Holdings District.

[18] The Development Authority was unable to provide any analysis of the reasons for appeal as they were not provided by the Appellant in the notice of appeal.

[19] The pictures submitted by the Appellant at the hearing show the rear of the Lands at the far east and do not show the area where the outdoor storage currently exists.

Jeff Jiang submissions – the Appellant

[20] Jeff Jiang agrees with the Development Authority's submissions that the proposed development is too large for the Lands. Due to the current economic situation, Jeff Jiang no longer wishes to do all the stripping and grading on the Lands. The business operates in Calgary and there are plans to downsize the operation.

[21] There are about 1,500 spruce trees on the Lands that will be put in baskets and sold over the next several years. The submitted pictures show the trees which are approximately 6-15 feet tall.

[22] The current tree farm business is called Green Alberta Tree Farm and has been registered in Alberta since 2004. There are similar home-based businesses operating in the area, one of them is a tree farm business.

[23] There is an employee living on the Lands and the Appellant does require more employees on the Lands.

[24] The top soil that was removed is at the back of the Lands and the intent is to put it back.

[25] Jeff Jiang is no longer requesting any outdoor storage.

[26] Jeff Jiang had no comments on the Development Authority's comments on the submitted pictures.

[27] Jeff Jiang indicated that he had a fair opportunity to present his evidence to the Board.

FINDINGS & REASONS FOR DECISION

[28] The Board finds that a home-based business, type II is a discretionary use in an Agricultural Holdings District in accordance with section 46 of the *Land Use Bylaw*.

[29] 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*.

[30] 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 development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[31] The Board finds that the scale and intensity of the proposed development is not in keeping with the purpose and intent of the Agricultural Holdings District, as outlined in section 46 of the *Land Use Bylaw*.

[32] The Board finds that the proposed development exceeds the regulations for a home-based business, type II, as outlined in section 21.3 of the *Lands Use Bylaw*. The proposed development is not secondary to the residential purpose of the Lands and exceeds the number of non-resident employees by 100% and the permitted amount of outdoor storage by over 4,000%.

[33] The Board is satisfied that the continued operation of the business on the Lands may unduly interfere with the amenities of the neighbourhood and materially interferes with and affects the use, enjoyment, and value of neighbouring parcels of land.

[34] The Board heard from the Appellant at the hearing a request to vary from the original development permit application to consider an approval of a tree farm without any outdoor storage. The Board finds that insufficient evidence was provided for the Board to properly evaluate the Appellant's amended proposal.

CONCLUSION

[35] For the reasons set out above, the appeal is denied and the decision of the Development Authority is upheld. A development permit shall not be issued.

Dated at Rocky View County, in the Province of Alberta on June 18, 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 (47 pages)
2.	Appellant Exhibit 1 – Letter to the Board (1 page)
3.	Appellant Exhibit 2 – Pictures of the Lands (4 emails)