

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

Board Order No.: 2020-SDAB-011
File No.: 04331006 PRDP20200703
Appeal by: Alnoor Velji
Hearing Date: 2020 July 15
Decision Date: 2020 July 29
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 May 26, 2020. In this decision, the Development Authority refused a development permit application for the renewal of a home-based business, type II, for a trucking company at 245148 84 St NE (Lot 1 Plan 9011064; NW-31-24-28-W4M) (the Lands).

[2] Upon notice being given, this appeal was heard on July 15, 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 allowed and the decision of the Development Authority is overturned. A development permit shall be issued subject to the following conditions:

Description:

1. A home-based business, type II, for a trucking company may operate on the Lands in accordance with the approved site plan and conditions #2 - #17.
 - i. The maximum number of non-resident employees is relaxed from **two to twelve employees at any time**;

- ii. The maximum number of business-related visits per day is relaxed from **eight to sixteen**; and
- iii. The maximum allowable outside storage area is relaxed from **400.00 sq. m (4,305.56 sq. ft.) to 3,400.00 sq. m (36,598.0 sq. ft.)**.

Permanent:

2. An employee in the home-based business is a person who attends the Lands more than once in a seven day period for business purposes.
3. The home-based business must not change the residential character and external appearance of the land and buildings.
4. The operation of the home-based business must be secondary to the residential use of the Lands.
5. The operation of the home-based business must not generate excessive or unacceptable increases in traffic within the neighbourhood or immediate area.
6. The home-based business must not generate noise, smoke, steam, odour, dust, fumes, exhaust, vibration, heat, glare, or refuse matter considered offensive or excessive by the Development Authority. The privacy of the adjacent residential dwellings must be preserved at all times and the home-based business use must not, in the opinion of the Development Authority, unduly offend or otherwise interfere with neighbouring or adjacent residents.
7. The home-based business is limited to the dwelling, accessory buildings, and the outside storage area.
8. All outside storage part of the home-based business must be contained within the existing storage area, meet the minimum setback requirements for buildings, remain screened, and not exceed **36,598.0 sq. ft. (3,400 sq. m.)** in size.
9. All vehicles, trailers, and equipment used in the home-based business must be kept within a building or storage area.
10. Garbage and debris accumulated from the home-based business must be contained in weather and animal proof containers and transported offsite to an approved site for disposal.
11. If the home-based business vehicles entering or leaving the Lands track any mud onto the municipal roadway, the roadway is to be cleaned immediately by the home-based business.
12. No signage, exterior display, or advertising of goods or services discernible from the outside of the building are permitted.
13. No off-site advertisement signage associated with the home-based business is permitted.

Advisory:

14. Any other government permits, approvals, or compliances are the sole responsibility of the Applicant.
15. This development permit shall be valid until **May 25, 2025**.

BACKGROUND

[4] On April 2, 2020, Alnoor Velji (the Appellant) submitted a development permit application for the renewal of a home-based business, type II, for a trucking company on the Lands.

[5] The Lands are 6.41 hectares (15.84 acres) in size and owned by Alnoor and Shellina Velji.

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

[7] On May 26, 2020 the Development Authority refused a development permit application for the renewal of a home-based business, type II, for a trucking company on the Lands.

[8] On June 15, 2020, Alnoor and Shellina Velji submitted an appeal of the Development Authority's decision to refuse a development permit application for the renewal of a home-based business, type II, for a trucking company (the proposed development) on the Lands. The notice of hearing was circulated to eight 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) Evan Neilsen, Development Assistant, for the Development Authority;
- (2) Sean MacLean, Supervisor Planning and Development, for the Development Authority; and
- (3) Alnoor Velji, the Appellant.

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

Development Authority's submissions

[11] The proposed development has operated on the Lands since 2006 and the original application was submitted as a result of a development compliance concern. Development permit approvals were issued by the Board in 2006, 2007, 2010, and 2015.

[12] The Board's 2015 approval included a variance of up to 3,400 square metres of outdoor storage (a 750% relaxation), 16 daily site visits (a 100% relaxation), and eight employees (a 300% relaxation). The proposed development includes the same variance request for number of visits and outdoor storage but requests up to 12 employees which is a 500% relaxation request.

[13] On May 26, 2020, the Municipal Planning Commission refused the proposed development stating that it:

- (1) exceeds the regulations for a home-based business, type II, as outlined in section 21.3 of the *Land Use Bylaw*;
- (2) is considered a general industry, type II, business that is better suited in a more commercial or industrial land use district; and
- (3) unduly interferes with the amenities of the neighbourhood and materially interferes with and affects the use, enjoyment, and value of neighbouring parcels of land.

[14] The provided photos show the fence that screens the outdoor storage area. It is up to the Board's discretion whether or not they are satisfied the fence screens the outdoor storage properly.

[15] There have been no enforcement complaints on the Lands since the original complaint in 2006.

[16] The property directly to the west of the Lands is in the city of Calgary, is industrial in nature, and is under a direct control bylaw.

[17] No comments from adjacent landowners were received as part of the application process.

[18] The Development Authority has no knowledge of any transportation upgrades that have occurred in the area as a result of the proposed development. The City of Calgary maintains 84th street.

[19] A conceptual scheme has been submitted to the County for the Lands and the quarter section directly south of the Lands. The conceptual scheme and subsequent redesignation application have not yet been considered by County Council.

Alnoor Velji submissions – the Appellant

[20] Alnoor Velji has been operating the business on the Lands since 2006, this application is his fourth or fifth renewal. The business has been operating the same since 2006, Alnoor Velji does not see any difference.

[21] The proposed development application is for 16 visits a day but because it is a seasonal business, the average daily visits throughout the year is eight visits a day. The trucks do not operate six months a year.

[22] Alnoor Velji and his neighbour have submitted a conceptual scheme for the section to the County have it redesignated to industrial or light industrial. This follows the previous approval of the Conrich Area Structure Plan. This neighbour has the only other residence on the section and supports the proposed development application.

[23] Screening has been completed on the Lands to hide the outdoor storage. The photos submitted by the Development Authority are taken from the Lands themselves and do not show

how the area is screened from 84th street. There are trees that were four to five feet tall when planted that are now six feet tall.

[24] Alnoor Velji lives on the Lands full-time.

FINDINGS & REASONS FOR DECISION

[25] The Board finds that a home-based business, type II, is a discretionary use in the Farmstead District in accordance with section 47 of the *Land Use Bylaw*.

[26] 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*.

[27] 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.

[28] The Board finds that the proposed development has been operating on the Lands without complaint since 2006 and heard no opposition from adjacent landowners as part of the appeal. The proposed development is a satisfactory distance from surrounding roads and the nearest residence and as such the Board is satisfied that the proposed development would not unduly interfere with amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

[29] The Board is satisfied that the Appellant lives full-time on the Lands which meets the requirement in the *Land Use Bylaw* that one or more residents must be involved with the home-based business.

[30] The Board is satisfied that the proposed development fits the more industrial nature of the area caused by the industrial development in the city of Calgary on the property directly west of the Lands. The Board is satisfied that the proposed development meets the residual long-term growth area policies outlined in section 7.0 of the City of Calgary/Rocky View County Intermunicipal Development Plan.

CONCLUSION

[31] For the reasons set out above, the appeal is allowed and the decision of the Development Authority is overturned. A development permit shall be issued in accordance with the conditions outlined in this decision.

Dated at Rocky View County, in the Province of Alberta on July 29, 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 (46 pages)
2.	Updated PowerPoint presentation submitted by the Development Authority (5 pages)