

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
PARKLAND COUNTY**

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HEARING DATE: January 30, 2023  
FILE NO.: 22-D-388

**Notice of Decision of Subdivision and Development Appeal Board**

**INTRODUCTION**

[1] The Development Authority of Parkland County (the "Development Authority") issued a development permit for a Recreation Vehicle Storage (RV/Boat/Trailer/Storage Facility) for 980 Units for property located at 53203 Range Road 274, legally described as SW-16-53-27-W4 ("the Lands"). The applicant for the development permit was Jonathan Bauer as principal for Crossway Records Inc.

[2] On January 3, 2023, Corey Jespersen (the "Appellant") filed an appeal of the development permit.

[3] The Subdivision and Development Appeal Board (the "Board") held the appeal hearing on January 30, 2023, in person.

**PRELIMINARY MATTERS**

**A. Board Members**

[4] At the outset of the appeal the Chair requested confirmation from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. None of the persons in attendance had any objection to the members of the Board hearing the appeal.

**B. Exhibits**

[5] At the beginning of the hearing the Chair asked if everyone in attendance had the hearing package prepared for the hearing.

[6] In response to a Board question about whether any of the parties had any more information they wished to submit, the Applicant advised that he wished to submit his speaking notes. Following distribution of the document, none of the parties in attendance had any objection to the document and the Board marked the Applicant's speaking notes as exhibit 9.

### **C. Miscellaneous**

[7] There was no request for an adjournment of the hearing.

[8] There were no objections to the proposed hearing process.

### **DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

[9] The Board denies the appeal. The Board varies the Development Permit by modifying the conditions. The Development Permit is subject to the following conditions and Permit Notes:

1. The proposed development shall conform to the stamped approved plans and shall not be moved, altered or enlarged except where authorized or directed through this permit approval.
2. The site shall be kept in a neat and orderly manner.
3. In accordance with Parkland County Policy all commercial and industrial outdoor lighting installations and outdoor luminary replacements requiring an electrical permit shall be Dark Sky compliant.
4. The display or placement of signage on the premises shall be in accordance with Subsection 15.3 in accordance with Parkland County's Land Use Bylaw 2017-18.
5. The area of the approved development shall be landscaped in a manner to prevent any surface run-off onto adjacent properties.
6. Storage shall be contained to the area as shown on the site plan submitted. This area shall be fenced with a minimum 6' chain link.
7. The applicant is responsible to ensure the property is securely gated and locked when not in use.
8. This permit approval is for RV units only and at no time is the storage of commercial vehicles permitted.
9. There shall be no on-site sales, maintenance or repair of recreational vehicles (motor homes, travel trailers, tent trailers, boats, etc.)
10. With the exception of trees required to be removed as set out in the traffic impact assessment, the applicant shall preserve all existing stands of trees and shrubbery outside the development area, for environmental and sound attenuation purposes.
11. The applicant must submit a Property Access Approach Application to LDE@parklandcounty.com for the proposed approach improvements to TWP RD 532A.

The application must include turning movements to support the 12m width recommended in the August 20, 2022 Traffic Impact Brief.

12. Both onsite and offsite drainage shall not have a negative impact or direct drainage flow onto adjacent properties, as per Parkland County Engineering Design Standards.
13. All Erosion and Sediment Control (ESC) measures shall be in place prior to any site material disturbance and properly maintained during the life of the project. All measures shall be placed within the titled property.
14. A Final Grading Certificate (Lot Grading Certificate) authenticated by a Professional Engineer or Alberta Land Surveyor shall be submitted for review and acceptance by Parkland County at the completion of work.
15. No development shall occur within the Atim Creek / Big Lake Floodplain Overlay or the riparian setbacks determined through the application of the Riparian Setback Matrix Model.
16. Any proposed changes shall first be submitted for review by the Development Authority. Any changes considered substantial or inconsistent with this approval, as determined by the Development Authority, may require separate development permit approval.
17. Failure to comply with the conditions of this permit may result in the permit being cancelled and or revoked.
18. Soil erosion and control measures should be implemented during construction activities to minimize any potential for soil sediments migrating off the subject property. Revegetate exposed soil areas as soon as practicable. All seed mixes must be certified weed free as per Canadian Standards.
19. The applicant is responsible to obtain a Haul Agreement from Parkland County Public Works at 780-968-8448.
20. The applicant is responsible to obtain any Provincial approval which may be required. All improvements relating to or impacting overland drainage must be compliant with Alberta Environment and Protected Areas (AEPA) Regulations, Acts, and Guidelines. The applicant must provide a copy of AEPA Water Act approval for any discharge from the stormwater pond into the wetland area north of the site.
21. All fill material should be tested and free of deleterious material. All fill shall be free of contamination as defined in Table 1 of the Alberta Tier 1 Soil and Groundwater Remediation Guidelines. All fill shall be compacted to the geotechnical requirements and specifications of the Developers' Engineer. Quality control shall be the responsibility of the Developer.

## PERMIT NOTES

1. Implement weed control measures as outlined in the approved weed control plan to address noxious or prohibited noxious weeds if they are present on the subject property. Weed management for this site should follow the guidelines for weed management on industrial sites.
2. Where feasible, minimize use of herbicide application in berm areas adjacent to Atim Creek.
3. The applicant is responsible to ensure compliance with the Alberta Wildlife Act and the Migratory Birds Convention Act. The applicant should minimize the amount of undisturbed area required for vegetation clearing. Clearing activities should be timed to occur outside of the timing window for nesting/breeding birds (generally April 14 to August 28) as per the Migratory Birds Convention Act.
4. If vegetation clearing is required during this period, a nest sweep should be completed by a qualified biologist within seven days of construction for all areas to be cleared to confirm that no active nests or breeding birds are present.
5. It is the applicant's responsibility to contact Alberta Utility Safety Partners (formerly Alberta One-Call) at 1-800-242-3447 or [www.clickbeforeyoudig.com](http://www.clickbeforeyoudig.com) before any ground disturbance.
6. The applicant is responsible to ensure compliance with the National Fire Code (Alberta Edition).

## SUMMARY OF HEARING

[10] The following is a brief summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

### Development Authority

[11] The subject Lands are legally described as SW-16-53-27-W4 and its municipal address is 53203 Range Road 274. The Lands are located within the AGR – Agriculture Restricted District of the Parkland County Land Use Bylaw No. 2017-18 (the "LUB"), and a portion of the lands are in the ABO – Atim Creek/Big Lake Floodplain Overlay as defined in the LUB.

[12] On September 7, 2022, the Development Authority received an application for a 980-unit RV/Boat/Trailer Storage Facility on the Lands. The Development Authority determined the Use Class to be Recreational Vehicle Storage, which is defined in the LUB as:

Recreational Vehicle Storage – means development of a yard for the outdoor storage of more than five Recreational Vehicles or Recreational Equipment or combination thereof.

This use does not include the sale, service, restoration, inspection and/or mechanical repair of the recreational units.

[13] The LUB categorizes Recreational Vehicle Storage as a discretionary use in the Agriculture Restricted District.

[14] In reviewing the application, the Development Authority considered the following:

- a. the proposed land use;
- b. the relevant planning documents; and
- c. compatibility with adjacent uses.

[15] With respect to proposed land use, Recreational Vehicle Storage is a discretionary use within the AGR – Agriculture Restricted District. The proposed development meets the requirements for Recreational Vehicle Storage as outlined in Section 12.14 of the LUB.

[16] A portion of the parcel is located within the ABO – Atim Creek/Big Lake Floodplain Overlay. The purpose of the Atim Creek/Big Lake Floodplain Overlay is to provide for the safe and efficient use of lands within the defined floodplain area through the regulation of future land use. Recreational Vehicle Storage is not a permitted or discretionary use within the Atim Creek/Big Lake Floodplain Overlay. However, all development was restricted to lands outside of the identified boundaries of the Atim Creek/Big Lake Floodplain Overlay.

[17] With respect to relevant planning documents, the Development Authority considered the Municipal Development Plan 2017-14 (the “MDP”) and the Atim Creek Area Structure Plan (the “ASP”).

[18] The Lands are in the Rural Area and immediately adjacent to the Metropolitan Area as identified in the MDP Development Concept. The Lands have low-capacity soil and are located along Highway 16.

[19] The Lands are within a High Priority Landscape. The Applicant submitted a Desktop Biophysical Assessment to support development within a High Priority Landscape as identified in the MDP. The results of the Desktop Biophysical Assessment indicate that the proposed development is anticipated to have a low to moderate impact on the environment. No development will occur within the Atim Creek/Big Lake Floodplain Overlay or the riparian setbacks determined through the application of the Riparian Setback Matrix Model, and erosion and sediment control measures shall be in place throughout the life of the project.

[20] The lands are considered agricultural lands and are located within the Fringe Area as identified in the ASP. Section 7.3.5 of the ASP provides that the County may approve a commercial use if the proposed commercial use is compatible with land uses in the vicinity and if the subject parcel is designated with a land use district which accommodates the commercial land use. Section 7.9.6 of the ASP provides that, when approving a development for a non-agricultural use, the County will seek to minimize the parcel size and area to be developed for non-agricultural use.

[21] With respect to compatibility with adjacent uses, the Development Authority is of the opinion that the proposed development is compatible with surrounding adjacent land uses. The adjacent lands are primarily used for agricultural purposes, the proposed development will have a 10-foot berm surrounding the development for visible screening and noise attenuation, and the Lands are in close proximity to a major highway. The use of the Lands is compatible due to the proposed screening measures, and there is no undue interference on adjacent surrounding parcels.

[22] On December 9, 2022, the Development Authority approved Development Permit 22-D-388. Under Section 16.9 of the LUB, the Development Authority may issue a Development Permit with or without conditions for a discretionary use if the application conforms to the LUB. For this application, the proposed use is a use that can be considered on the Lands, and the items submitted in support of the application met the listed regulations for Recreational Vehicle Storage under Section 12.14 of the LUB.

[23] In response to Board questions, the Development Authority stated:

- a. the Development Authority primarily based its compatibility assessment on the location of the parcel in relation to Highway 16 and the City of Spruce Grove and the fact that there would be no employees coming or going from the Lands;
- b. the Applicant had to reconfigure its site plan in order to accommodate the Atim Creek/Big Lake Floodplain Overlay and the riparian setbacks under the Riparian Setback Matrix Model;
- c. "maintenance" was not a defined term under the ASP or LUB, but it meant that there could only be storage of RV units on the Lands and no work, winterization or fixing up of RVs;
- d. the Development Authority used section 7.3.5 of the ASP to justify granting the Development Permit in the Fringe Area as the proposed site is separated from other commercial uses. Further, the Development Authority took sections 7.9.1 and 7.9.6 of the ASP into consideration by minimizing the parcel area to be developed for the non-agricultural use;
- e. the Development Authority reviewed the entire ASP in making its decision and was not limited to one section. The Development Authority identified section 6.4.1, but took the whole document into consideration, including the part regarding non-agricultural uses in section 7.3.5; and
- f. the Development Authority's consultation with the City of Spruce Grove was sufficient. The Development Authority notified the City of Spruce Grove about the Development Permit decision, and there was no response from the City of Spruce Grove.

### **Appellant – Corey Jespersen**

[24] Mr. Corey Jespersen, the Appellant, made a presentation. The Appellant stated that his family farms the area immediately west of the proposed development.

[25] The Appellant stated that he believes the Development Authority missed key elements in its consideration of the Development Permit and that it must abide by the ASP.

[26] The Appellant believes that allowing recreational vehicle storage on agricultural lands was a mistake by the Development Authority. He believes an argument for recreational vehicle storage can be made for unproductive lands, and this was the intent of allowing a “discretionary use” of Recreational Vehicle Storage on agricultural lands. Otherwise, there would be a complete destruction of farmland for commercial development. He argued that there is no economic benefit if farmland is destroyed and there is little to no economic benefit if commercial development pushes up land values of agricultural land and creates tax inequalities.

[27] The Appellant raised section 3.2.1 of the ASP (Municipal Development Plan) as supporting his position. The Appellant noted that the Fringe Area is restricted to agricultural uses unless otherwise provided for in an amendment to the ASP or through another more site-specific area structure plan.

[28] The Appellant also noted that the Fringe Area is a half-mile-wide strip of land that is important to the County and to the City of Spruce Grove, and the development process requires extensive participation by the City of Spruce Grove. The Appellant doubts that there was extensive participation by the City of Spruce Grove in issuing the Development Permit.

[29] The Appellant cited section 3.3 of the ASP (Adjacent Municipalities) and especially the goal of the City of Spruce Grove MDP to “foster cooperation where mutual interests are at stake”, “to encourage the protection of rural vistas outside the City’s boundaries” and “to discourage incompatible land uses in the fringe areas”. The Appellant noted that the proposed development does not conserve vistas and does not discourage incompatible uses. Rather, it creates the perception that productive agricultural lands are suitable for non-agricultural uses.

[30] The Appellant referenced section 4.9 of the ASP (Major Planning Issues). The Appellant noted that major planning issues identified include “marginal agricultural lands interpreted as having high potential for non-agricultural development”. He summarized that concern as developmental pressure on productive agricultural land for non-agricultural uses, and he believes the Development Authority has intensified that planning issue through its decisions, and the Development Permit makes it worse.

[31] The Appellant also noted the major planning issue of “increasing land values”, which makes farms less competitive. He believes that development approvals exacerbate this issue by driving land values up, more than is sustainable for agricultural use.

[32] The Appellant cited section 5.2 of the ASP (Key County Planning Strategies), and especially the MDP – Agriculture Strategy (to “encourage the enhancement of the viability of the agricultural industry through the conservation of productive farmlands and the diversification of the agricultural industry”). The Appellant stated that it was important to allow farmers to add value, and the conversion to commercial use was not compatible with agricultural uses and the ASP.

[33] The Appellant noted section 6.4 of the ASP (Fringe Area), and especially that “the lands in the Fringe Area are for agriculture, preferably extensive in nature, dairy operations or horticulture”. The Appellant noted that recreational vehicle storage is not agriculture – there is no value to the agricultural community and the need to protect productive agricultural lands.

[34] The Appellant requested that the Board familiarize themselves with the Regional Agriculture Master Plan ("RAMP") as municipalities around Parkland County have identified the same issues that the Appellant raised. The Appellant concluded that, if agriculture is a priority to the County, its decisions need to reflect that.

[35] In response to Board questions, the Appellant stated:

- a. "productive agricultural land" is land that consistently produces and allows for a multitude of crops;
- b. the Lands were relisted for \$100,000/acre. The Appellant has 300 acres so there is no reason the Appellant should consider farming and investing in his lands if the perceived land values are so high;
- c. the Appellant was unsure of the soil classification of the Lands, but any crop in the County can be grown on the Lands;
- d. the Appellant clarified that he actually owns the two quarter sections east of the Lands;
- e. the proposed development will not directly impact agricultural production; however, if the Appellant were told that he could not spread manure or cultivate the soil, that may conflict with his operations. He advised that he could farm around it, but smaller pieces of land are less suitable for his use;
- f. the Appellant's lands are used for farming canola, wheat, barley, oat, corn for silage for the dairy farm and feed, seed potatoes for export and onions. These crops are suited to the sandy soil, and he can maintain production due to the access to water; and
- g. the Appellant's lands adjacent to the Lands are used for farming winter wheat, corn, oats and soybeans as the Appellant is trying to experiment with more lucrative crops than grain, which requires large tracts of land in order to be profitable. The Appellant stated that he could not compete with so many recreational vehicle storage facilities, which has forced him to grow higher value items because he cannot move. He believes that there are so many recreational vehicle storage facilities in the area because the taxes are significantly less than in Edmonton.

[36] The Appellant concluded his presentation by stating that discretionary uses are going to fall between agricultural uses and non-agricultural uses, but the Board should consider what the best use is for the Lands. He noted that he does produce sod, but he uses crop rotation and that sod is part of that rotation, but he also has alfalfa, corn, potatoes and other crops. He stated that there is lots of land suitable for commercial development, but the Lands are productive agricultural lands and have provided his family with generations of revenue and value. The idea that all agricultural lands will be converted to non-agricultural uses will only happen if it is allowed to happen. On the other hand, his having to move farther out for agricultural land is unsustainable. The County has said that agricultural land is valuable, so it should start protecting that land.



## **Those speaking in favour of the Appeal**

### **Jason Vance**

[37] Mr. Jason Vance spoke in favour of the Appeal. He lives to the northwest of the proposed development, and he is opposed to another recreational vehicle storage development using discretionary permits. Mr. Vance stated that there are seven recreational vehicle storage yards already along the highway, and he drives by two every day on Range Road 272. He believes both of those recreational vehicle storage yards are derelict junkyards, but they do have capacity for more recreational vehicles.

[38] Mr. Vance expressed his concern that the Development Permit will ensure that the Lands could not be used for agriculture again, and that the Lands will only satisfy this one use in the future. Mr. Vance argued that it provides no benefit to the County and offers no long-term jobs.

[39] Mr. Vance believes that the proposed development has more visibility than others in the area, even with the berm, which will change the landscape and put pressure on agricultural land.

### **Randy Jespersen**

[40] Mr. Randy Jespersen spoke in favour of the Appeal. He lives to the east of the proposed development. He did not have any new issues to raise but agreed with the Appellant's and Mr. Vance's presentations.

### **Graham Jespersen**

[41] Mr. Graham Jespersen spoke in favour of the Appeal. He is an adjacent landowner of a parcel northwest of the proposed development, and he further owns nine other quarter sections in the productive agricultural area. Although he shares the same surname as the Appellant, he is not associated with the Appellant.

[42] Mr. Graham Jespersen submitted that recreational vehicle storage yards directly impact agricultural operations because they create more flooding and runoff issues and more traffic. With the increase in traffic, people come onto the agricultural lands and take pictures and pick flowers. Although there is no direct impact on farming production, it does affect his ability to farm.

[43] Mr. Graham Jespersen was concerned that there was no consultation in respect of the impact to his operations as a result of the proposed development.

[44] Mr. Graham Jespersen stated that, if his nine quarter sections were worth as much as the Lands, perhaps he should sell his land and move away.

### **Nancy Goebel**

[45] Ms. Nancy Goebel submitted an email to the Board. She attended the appeal by Zoom but did not speak. Ms. Goebel lives adjacent to the Lands.

[46] Ms. Goebel objects to the proposed development on the basis that:

- a. the Lands are prime farmland and a 980-unit RV storage facility adjacent to the highway makes any future residential development less desirable;
- b. there are many developments of this type in the immediate region and in view from the highway already;
- c. once farmland is converted to a commercial development, it cannot be farmland again; and
- d. Permit Notes #2 and #3 of the Development Permit should be mandatory conditions.

[47] Ms. Goebel submits that farmland should be protected so that farmers and the agri-food sector can continue to provide essential products and services.

### **Applicant – Jonathan Bauer**

[48] Mr. Jonathan Bauer, the Applicant and one of the principals of the owner, Crossway Records Inc., made a presentation.

[49] The Applicant introduced his family as part of the community and noted that he is a fourth-generation Bauer in Parkland County. His grandfather homesteaded on the quarter section where the hearing was located and raised first-class No. 1 seed barley. His sister is and his parents were teachers in Parkland County.

[50] The Applicant stated that his family had a dream of developing a recreational vehicle storage facility, and this became Parkland RV Storage in the fall of 2018. His goal has been to have a clean, quiet and customer-focused business, and he has since achieved this goal. The Applicant informed the Board that Alberta has the highest per-capita rate of recreational vehicle owners and users, which is why there is a demand for recreational vehicle storage facilities.

[51] The Applicant noted that it was a ten-month process to attain the Development Permit due to the reviews and approvals required. His family has invested over \$30,000 into the Development Permit application alone to meet the required environmental assessments, traffic impact assessments and engineering reviews. He advised that he aims to meet all the conditions of approval under the Development Permit.

[52] The Applicant noted that section 4.4.2 of the LUB states that Recreational Vehicle Storage is an appropriate use in the AGR – Agricultural Restricted District as it is listed as a discretionary use. He noted that there are many use options for the Agricultural Restricted District, and that the Development Permit was carefully done with consideration for these uses. He further notes that the proposed development is restricted to lands outside of the Atim Creek/Big Lake Floodplain Overlay.

[53] The Applicant referenced section 5.2 of the ASP (Key County Planning Strategies) as saying that the ASP “provides for a variety of farming activities as a transition use until lands are developed for residential or other non-agricultural uses.” Recreational Vehicle Storage is a non-

agricultural discretionary use allowed under the LUB, and the ASP does not say that all agricultural land “must” be agricultural – all land is agricultural land until it is used for something else.

[54] The Applicant noted that section 7.3.5 of the ASP states that the County may approve a commercial land use in the Fringe Area if:

- a. the proposed site is suited for the proposed commercial use;
- b. the proposed site is separated from other commercial uses to avoid the creation of a commercial node;
- c. the proposed commercial use is compatible with land uses in the vicinity;
- d. the subject parcel is designated with a land use district which accommodates the commercial land use; and
- e. the proposed development is consistent with the provisions of the ASP.

[55] In consideration of the Development Appeal, the Development Authority went through and confirmed that the proposed development met these five requirements. Further, this is not the first time the Development Authority has had to review whether Recreational Vehicle Storage is a compatible and appropriate use in the Fringe Area, as demonstrated by the map of other Recreational Vehicle Storage developments on page 284/289 of the Agenda Package.

[56] The Applicant believes Recreational Vehicle Storage is an acceptable long-term transitional use that does not preclude the possible future use of the Lands for residential or other commercial uses. The City of Spruce Grove agrees as the proposed development was referred to them twice and they provided no comments.

[57] The Applicant also argued that the Lands are not prime agricultural lands as determined by the “Prime Agriculture Areas” map in the MDP and by the RAMP in its “Prime Agricultural Lands as Determined by LESA Model” map.

[58] Further, RAMP supports the proposed development. In the Message from the RAMP Chair, the RAMP Chair stated that the purpose of RAMP is to “[secure] these [prime] lands to ensure a local food source for future generations.” As shown by the “Prime Agricultural Lands as Determined by LESA Model” map, the Lands are not prime land to be secured. The Lands has been used for the last ten years by the Appellant for commercial sod production, which is considered a commercial use by Alberta Environment – growing sod on the land has not been providing a local food source to the community.

[59] Further, commercial sod production requires the significant use of fertilizers and herbicides, so there is no concern if the Applicant uses the same herbicides in lower quantities to control weeds. Noxious weeds are required to be controlled everywhere in the county no matter the use of the land. However, because the Applicant does not intend to use the Lands to grow commercial sod, the environment and the Atim Creek area will have a healthier ecosystem without extra chemicals added to the lands. The Applicant will use best practices, following all guidelines set by County Engineering and Alberta Environment.

[60] The Lands fall within the area designated as “Agriculture Co-Exists with Other Land Uses” by RAMP, which further acknowledges that “not agricultural lands in the Region can be conserved

for agriculture, and some agricultural lands may need to be fragmented and converted to other land uses.” The Applicant noted that the Lands are already fragmented.

[61] The Applicant understood that this matter is difficult for the Appellant but argued that this should not preclude him from using his land. The Appellant is not restricted to this area, and the Lands are not the only lands that can be used for agriculture.

[62] The Applicant argued that the Lands are ideal for recreational vehicle storage because it has little to no impact on surrounding properties and the use and enjoyment of those lands. The proposed development is a significant distance from any neighbour, house or structure. The Applicant has gone further and added a 10-foot-high grass berm around the perimeter of the proposed development to further screen the proposed development from view, even though it would be very beneficial to him to be highway-fronting.

[63] The Applicant noted that numerous traffic impact assessments in the County and by Alberta Transportation confirms that recreational vehicle storage generates very low traffic numbers, but he went a step further to ensure the proposed development would impact traffic as little as possible by including a turnaround in the proposed development so no RV traffic would back up onto Township Road 532A.

[64] Finally, the Applicant noted that he sent a letter to adjacent landowners on March 16, 2022, asking for their feedback on the proposed development, but the Appellant did not respond. However, from the feedback the Applicant received, he decided to relocate the proposed development on the Lands.

[65] In response to Board questions, the Applicant stated:

- a. he and his wife own Crossway Records Inc., which owns the Lands;
- b. there is no need for an amendment to the ASP under section 6.4 of the ASP because the use of Recreational Vehicle Storage is permitted under the ASP and the LUB. Section 5.2 of the ASP contemplates that the ASP “provides for a variety of farming activities as a transition use until lands are developed for residential or other non-agricultural uses”;
- c. the berm will be created from topsoil from the Lands, which will be seeded and made into a grass berm. Currently, the Lands are sod and will remain sod as a grass berm;
- d. there will be a storm pond that follows Alberta Environment guidelines. Outflow will drain from the north corner of the storm pond, going through natural vegetation before reaching Atim Creek; and
- e. the Development Authority told him in the pre-application process and after approval that his letter to adjacent landowners had been sent to the City of Spruce Grove, but that there were no comments. Rachelle Trovato, a senior planner, also reviewed the ASP.

[66] The Applicant concluded by stating that the Development Permit should be upheld, because Recreational Vehicle Storage was an appropriate use in the Fringe Area. The Lands are not prime agricultural lands, and not all lands can be used for agriculture. Agricultural lands

coexist with non-agricultural uses. He ended by reading a letter of support from adjacent owners of his other business, Parkland RV Storage.

### **Those speaking in favour of the Applicant**

#### **Paul Hanlan**

[67] Mr. Paul Hanlan spoke in favour of the Applicant. He is the principal of SV Planning & Development, and he was previously a development manager for Spruce Grove and Parkland County. Mr. Hanlan noted that the work on the ASP and the Fringe Area was done in the early 2000s.

[68] Mr. Hanlan stated that out of Parkland County's 590,500 acres, a negligible amount is used for RV storage. He believes the County has done a great job balancing agricultural land protection with transition uses, but more importantly, there are no limits in the statutory plans regarding the amount of storage areas. It falls to the development staff to address what conditions should be imposed.

[69] Mr. Hanlan argued that whether the Appellant sells his land is not a planning matter, and that a price of \$100,000 for the Lands is speculative. Mr. Hanlan argued that the Board should not consider whether the Appellant will sell their land.

[70] Mr. Hanlan then provided a history of the Lands. He noted that the Lands are bisected by a creek, which naturally fragmented the Lands. When a road was later built, this further fragmented the Lands. Twenty years ago, a storm pond was added which again fragmented the Lands. Mr. Hanlan stated that the transition of the Lands to non-agricultural uses occurred ten years ago when the Lands became a sod farm. A sod farm is considered a commercial activity, not an agricultural activity.

[71] Mr. Hanlan also stated that he was told that anything less than 80 acres of land is fragmented and not suitable for agricultural production, although he admitted that he was not an agriculture expert.

[72] Mr. Hanlan noted that the Applicant agreed to all the conditions of approval of the Development Permit. In response to Mr. Graham Jespersen's concerns about flooding, Mr. Hanlan noted that that is why the conditions to the Development Permit exist, and he further noted that the County needs to ensure the satisfaction of the conditions on an ongoing basis. If there is an issue with respect to complying with conditions, that is an enforcement matter, and the County would follow up and investigate.

### **FINDINGS OF FACT**

[73] In addition to the specific facts set out under the Board's reasons, the Board finds the following as facts.

[74] The Lands are located at SW-16-53-27-W4, municipally described as 53203 Range Road 274, Parkland County.

[75] The appeal was filed on January 3, 2023.

[76] The Appellant is the affected person.

[77] Those speaking in support of the appeal and those speaking in opposition to the appeal are affected persons.

## **REASONS**

### **Affected Persons**

[78] The Board must determine whether those appearing and speaking before the Board are affected persons. The Board notes that there was no objection made to those making submissions to the Board; however, the Board wishes to review this issue for completeness.

[79] The Appellant is the immediately adjacent land owner. Due to his proximity to the proposed development, the Board finds that he is affected by the proposed development.

[80] The Applicant is the applicant for the development permit. Since it is the Applicant's permit under appeal, the Board finds that the Applicant is affected by the proposed development.

[81] All of those speaking in favour of the appeal live in close proximity to the proposed development. The evidence was that they live in relatively close proximity to the proposed development. Due to their proximity, the Board finds that they are affected by the proposed development.

[82] Mr. Hanlan is the principal of SV Planning and Development. He worked with Mr. Bauer on the application for the development permit. Since he assisted Mr. Bauer, the Board was prepared to consider his evidence as it is relevant to the questions.

[83] The Board notes that the Appellant referred to a letter from neighbours to his existing RV storage facility. The Board is of the view that the persons listed in the letter (page 287/289) are not affected by the proposed development. The Board placed little to no weight on this letter for that reason and because their comments are predominantly in relation to the Applicant. The Board is tasked with determining whether the permit for the proposed development should be issued and is not tasked with any evaluation of the Applicant himself.

### **Jurisdiction and Issues to be decided**

[84] The Board's jurisdiction is found in section 687(3) of the MGA.

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

(a) repealed 2020 c39 s10(52);

(a.1) must comply with any applicable land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
  - (a.4) . . .
  - (b) . . .
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood, or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

[85] In its decision, the Board must determine:

- a. Does the proposed development comply with the applicable statutory plans?
- b. What is the nature of the use?
- c. Is the proposed development compatible with adjacent uses?

[86] In making this decision, the Board has examined the provisions of the MGA and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority and the Appellant, and the witnesses who spoke on behalf of the Appellant, as well as the Applicant and those who spoke in opposition to the appeal.

**Does the proposed development comply with the applicable statutory plans?**

[87] The first question the Board must address is whether the proposed development complies with the applicable statutory plans.

[88] The Appellant argued that the proposed development was inconsistent with 2 of the County's statutory plans. First, the Appellant referenced provisions of the County's Municipal Development Plan as shown in the ASP:

The Fringe Area is a strip of land, one-half mile wide, along the north side of Highway 16 of intermunicipal importance to both the County and the City of Spruce Grove. The Fringe Area is restricted to agricultural uses unless otherwise provided for in an amendment to this area structure plan or through another more site specific area structure plan. In either case, the process will require extensive participation by the City of Spruce Grove. (page 152/289)

#### City of Spruce Grove

The City of Spruce Grove borders the plan area for three miles along Highway 16. Within the City, the Municipal Development Plan designates future residential development and environmental management areas. The latter category includes the environmentally significant Atim Creek, the terrain immediately adjacent to the creek and some upland areas along the stream course. A portion of the residential lands includes open space for the existing golf course. The City of Spruce Grove MDP contains policies that promote intermunicipal co-operation and communication on development matters. The goal is to foster cooperation where mutual interests are at stake. Some of the objectives include the conservation of shared natural environmental assets, to encourage the protection of rural vistas outside the City's boundary, to discourage incompatible land uses in the fringe areas and to ensure continuity in transportation systems. (page 153/189)

#### **4.9 Major Planning Issues**

During the course of community consultation a number of land use and related planning issues were identified. The more significant are summarized below by general category.

##### Considerable development pressure

- proximity to cities and towns and accessibility via paved highways
- scenic rural amenities attractive for country residential development
- cost implications for the County regarding road upgrades and other infrastructure improvements
- for sites that have limitations for farming, but often similarly for development
- *marginal agricultural lands interpreted as having high potential for nonagricultural development*

...

##### Security of Agriculture

- increasing land value (inhibits farm expansion; promotes sale of land for non-farm uses)
- *fragmentation of agricultural land*
- *encroachment by non-farm uses on farm operations and lands*
- increasingly difficult for intensive livestock operations to expand and establish

... (pages 156-157/289)

(emphasis added)

Parkland County's Municipal Development Plan (Bylaw #38-98) emphasizes the following strategic community planning intent for the County as a whole:

*Parkland County intends to facilitate choices for rural residential living and beneficial economic development, including measures to promote the continued viability of agriculture, through the allocation of compatible land uses, the conservation of resources and the environment, and the effective provision of municipal services and infrastructure." (page 158/289)*



## 5.2 Key County Planning Strategies

MDP – Agriculture Strategy: To maintain the significance of agriculture to the economy and way of life of the County, and therefore encourage the enhancement of the viability of the agricultural industry through the conservation of productive farmlands and the diversification of the agricultural industry.

Structure Plan: provides for a variety of farming activities as a transition use until lands are developed for residential or other non-agricultural uses. (page 158/289)

[89] The Appellant argued that the above references to the County's MDP illustrated that the overall intention was for the Lands to remain in agricultural production. The Appellant argued that the proposed development, which was commercial in nature, was contrary to the preservation of agricultural lands.

[90] In response, the Applicant argued that s. 6.1 of the ASP (page 160/289) evidenced the County's desire to have agriculture be preserved until other uses were implemented.

## 6.1 Key Elements

The key elements of the Atim Creek North Area Structure Plan land use strategy are:

- (1) to provide for country residential expansion in a manner compatible with the infrastructure and water resources of the area;
- (2) *to provide for a variety of agricultural operations until the lands they occupy are developed for residential or other non-agricultural uses;*
- (3) to conserve sensitive environmental features;
- (4) to protect major transportation and utility infrastructure from encroachment. While the key element of the Plan is to provide for the expansion of country residential areas, the elements reflect the diversity of the area's topography, amenities and sensitive features *while providing for agriculture as a transition use.* (emphasis added)

[91] The Board notes that the Development Authority has referred to County Bylaw 2017-14 as the County's current MDP and at page 12/289 has referenced that the Lands are in a Rural Agricultural Area, and are in a high priority Landscape, but are not in a Prime Agricultural Area or a Prime Recreation or Tourist Area. The Appellant also referred to the fact that the MDP does not identify the Lands as Prime Agricultural Area.

[92] The Board finds as a fact that the references to the MDP found in the ASP are to a previous version of the County's MDP, and not the most current version, which is bylaw 2017-14. The Board did not place much weight on the references to an outdated MDP shown in the ASP. The Board notes that it must apply current bylaws. The Board examined the current MDP, section 4 to determine if the proposed development was inconsistent with the MDP.

[93] The Board notes that, as stated by the Applicant, the Lands are not within the Prime Agricultural Areas identified in Figure 9. In making this observation, the Board recognizes that the Lands, as well as the lands farmed by the Appellant, are productive agricultural lands. The Board accepts the uncontradicted evidence of the Appellant and those speaking in favour of the appeal that the Appellants have a long history of successful agricultural use of their lands, including using it for a variety of crops. The point to be made with this observation is that the County has established policies to minimize the conversion of high capability agricultural lands. Even so, the language of the current MDP is not mandatory. Section 4.1.2.c uses the word

“should” which the MDP defines as “SHOULD – a directive term that indicates a preferred outcome or course of action but one that is not mandatory”. (see page 05 of the MDP<sup>1</sup>). In the absence of mandatory language preventing the use of agricultural land for a non-agricultural use, the Board cannot find that the proposed development is contrary to the MDP.

4.1.2.c The conversion of high capability agricultural lands to non-agricultural uses should be minimized to support continued agricultural production.

[94] The Board then turned to an examination of the ASP. The Appellant referenced the above sections, as well as s. 6.4 (below), in support of his argument that the use of the Lands for a non-agricultural purpose is contrary to the ASP. The Appellant and the Applicant agree that the lands are in the Fringe Area identified in the ASP. There was no evidence that there has been an amendment to the ASP, or a more specific ASP superseding the ASP.

**6.4 Fringe Area** The Fringe Area covers lands deemed to be of intermunicipal interest to the County and Spruce Grove. Unless otherwise specifically provided for by an amendment to this area structure plan or through a more site specific area structure plan that supercedes the provisions in the Atim Creek North Area Structure Plan, the lands in the Fringe Area are for agriculture, preferably extensive in nature, dairy operations or horticulture.

6.4.1 The use of land within the Fringe Area will be for agriculture, unless otherwise specifically provided for by an amendment to this area structure plan or through a more site specific area structure plan that supercedes the provisions in the Atim Creek North Area Structure Plan. (page 161/289)

[95] In response, the Applicant argued that s. 7.3.5 of the ASP authorized the use of the Lands for a commercial use.

7.3.5 In the Country Residential Core Area, Manufactured Home Community Area and Fringe Area, the County may approve a commercial land use if:

- (a) the proposed site is suited for the proposed commercial use;
- (b) the proposed site is separated from other commercial uses to avoid the creation of a commercial node;
- (c) the proposed commercial use is compatible with land uses in the vicinity;
- (d) the subject parcel is designated with a land use district which accommodates the commercial land use; and
- (e) the proposed development is consistent with the provisions of this Plan. (page 167-168/289)

[96] In examining the ASP, the Board noted that there were provisions dealing with the interpretation of the word “will”. In examining the interplay between section 6.4.1 and 7.3.5, the Board notes that s. 6.4.1 says the Lands “will be agricultural”. The Board does not find the use of the words “will be” as importing a mandatory intention. If a mandatory intention had been desired by Council, it could have used the words “must” or “shall” as it did in other sections, for example see 7.10.5 of the ASP (page 176-289).

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<sup>1</sup> <https://www.parklandcounty.com/en/county-office/resources/Documents/MDP/Bylaw-2017-14-Municipal-Development-Plan-high-resolution.pdf>.

[97] The Board must reconcile s. 6.4.1 and s. 7.3.5. The Board interprets s. 6.4.1 to be an expression of the County's intention to have agricultural use as the main use. However, the ASP itself provides an "override" to that intention. S. 7.3.5 provides that the County *may* approve a commercial land use in the Fringe Area, provided that the 5 elements of s. 7.3.5 are met. If all 5 elements are not met, then the Board could conclude that the "override" clause (s. 7.3.5) is not engaged and the proposed development is contrary to the ASP. However, if the 5 elements are met, then the Board can conclude that the proposed development is consistent with the ASP.

[98] The Board now turns to an examination of each of the 5 elements.

- a. Is the proposed site suited for the proposed commercial use?

The proposed use is "recreational vehicle storage". The Appellant and the Applicant appeared to agree that the proposed use was commercial in nature. In regard to whether the Lands are suited for the use, the Applicant argued that the lands are suited for commercial use:

- due to their proximity to the City of Spruce Grove and the absence of objection from the City;
- their identification as not being prime agricultural land;
- the location of other Recreational Vehicle Storage facilities in the area.

The Board did not receive any evidence that the Lands are unsuited for recreational vehicle storage. The Board accepts the argument of the Applicant regarding the suitability of the Lands for a commercial use and based on the above, finds as a fact that the Lands are suitable for the proposed commercial use.

- b. Is the proposed site separated from other commercial uses to avoid the creation of a commercial node?

The map at page 132/289 shows that the surrounding land uses appear to be agricultural in nature. There was no evidence before the Board that there were other commercial uses near the proposed development. Therefore, the Board finds as a fact that the proposed site is separated from other commercial uses to avoid the creation of a commercial node.

- c. Is the proposed commercial use compatible with land uses in the vicinity?

In relation to the word "vicinity", the Board notes that this word is not defined in the ASP. The Board finds that "vicinity" in the context of this issue is broader than just the immediately adjacent properties. To limit the examination of compatibility to just immediately adjacent uses would be very limiting. The Board is of the view that it should be looking a bit more broadly at this issue and not with such a limited scope of only the properties immediately adjacent to the Lands.

For the reasons set out in more depth at paragraphs [100] to [108] below, the Board finds that the Recreational Vehicle Storage use is compatible with the land uses in the vicinity.

- d. Is the subject parcel designated with a land use district which accommodates the commercial land use?

The evidence of the Development Authority is that the district is Agricultural Restricted District (AGR) (see page 111/289) and that the use of recreational vehicle storage is a discretionary use in the AGR district (see page 112/289). Since the use is discretionary in the district, the Board finds that the Lands are zoned to accommodate the commercial land use.

- e. Is the proposed development consistent with the provisions of the ASP?

As set out above, the Board finds that there is an express recognition in the ASP that the County can authorize a commercial use within the Fringe Area, provided that the conditions of s. 7.3.5 are met.

### **What is the nature of the use?**

[99] The Board must address the nature of the use. As set out above in paragraph [98]d, Recreational Vehicle Storage is a discretionary use in the AGR district.

### **Is the proposed development compatible with the adjacent uses?**

[100] Having concluded that the use (Recreational Vehicle Storage) is a discretionary use, the Board must assess the compatibility of the proposed development with adjacent uses. This analysis of compatibility is also required for the Board's evaluation of s. 7.3.5.c of the ASP. The following analysis applies to the

[14] The object and purpose of a discretionary use is to allow the development authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses.<sup>2</sup>

[101] The first point to be addressed is that the above quote references "adjacent uses", while the ASP references uses in the "vicinity". The Board is of the view that the word "adjacent" set out in the above quote is meant to refer not just to uses immediately adjacent to a proposed development since there may be impacts of a development which extend beyond the immediate neighbours. In considering the impact of a proposed development, the Board is of the view that it can consider the impact in the vicinity. This provides the Board with the latitude to consider the immediately adjacent lands, and other lands which might or might not be impacted by the proposed development.

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<sup>2</sup> Rosedale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board), 2009 ABCA 261.

[102] The evidence before the Board is that there are 6 other Recreational Vehicle Storage facilities (see page 284/289). The Board heard no evidence about the impact that adding a 7<sup>th</sup> Recreational Vehicle Storage facility might have on the adjacent uses of lands (i.e., the additional density of an additional facility), nor did the Board hear any evidence of any negative impact that those existing 6 facilities have on their adjacent or neighbouring uses.

[103] The Appellant did not provide specific impacts of the proposed development on his lands, arguing about the preservation of agricultural lands and the impact of fragmentation of land on agriculture. The Board acknowledges the concerns raised by the Appellant and supported by those speaking in favour of the appeal. However, it is the County which makes the policy choices in its statutory plans to preserve agricultural land, prevent premature fragmentation of agricultural lands and to prevent certain kinds of development in specific areas.

[104] The Appellant did not indicate how having a recreational vehicle storage would negatively affect his ability to farm his land (located to the east of the Lands). However, those speaking in favour of the appeal did list some considerations suggesting possible incompatibility. The Board will address those concerns.

[105] The first concern identified was one of traffic impact arising from users of the proposed development coming to and from the Lands. The evidence before the Board was that the Applicant has provided a Traffic Impact Assessment (this TIA starts at page 68/289). The TIA does not identify any significant concerns regarding the proposed development. The Board prefers the more specific evidence contained in the TIA over the more general statements made by those speaking in support of the appeal. Further, the Board notes that the Applicant has indicated that he will be providing a turn around so that RV traffic would not back up onto Township Road 532A, with an aim to impact traffic as little as possible. Since the turn around area is identified at page 22/89 and is part of the approved plan, the Applicant will need to construct it and it should assist in alleviating any traffic impacts. The Board finds that there is insufficient evidence to establish that any traffic impacts would cause an incompatibility of the proposed use with the neighbouring uses.

[106] Those speaking in favour of the appeal mentioned concerns regarding run off from the proposed development. The Board accepts that this is a valid consideration in considering compatibility. However, the statements of those speaking in favour of the appeal was quite general. The Board has weighted those statements against the specific conditions and information contained in the package. At page 24/289, there are details of the storm pond and specific requirements to address storm water drainage. The Applicant provided a Stormwater Management Report prepared by an engineer (starting at page 50/289) which concludes that the storm pond should be sufficient to deal with storm water drainage. The Board prefers the specific evidence contained in the Stormwater Management Report to the generalized concerns expressed by those speaking in favour of the appeal and finds as a fact that the handling of storm water from the Lands arising from the proposed development will not cause any incompatibility with neighbouring uses.

[107] Those speaking in favour of the appeal also suggested that there may be some visual impacts from the proposed development. The Applicant advised that he would add a 10-foot-high grass berm around the perimeter of the proposed development to further screen the

proposed development from view. Further, the Board examined the photos submitted by the Applicant (see Exhibit 9). Those photographs show the view to the neighbouring residences. The Board finds that the distances, as well as the existence of the berm will minimize any visual impact from the proposed development.

[108] Those speaking in favour of the appeal also suggested that some of the people who use the proposed development may trespass onto their property, stating that he had had people come to his lands and pick his flowers. The Board notes that the concerns pre-existed the proposed development and cannot be tied specifically to the proposed development. The Board does not accept that this concern would result in the incompatibility of the proposed development with neighbouring uses.

[109] The Board noted that the Appellant commented specifically on the value of the Lands, and the tax inequalities between rates paid within the County and that paid within Edmonton (but without mentioning specifics or providing details of taxation rates). The Board placed no weight on these comments. The Board acknowledges that the Lands may have a significant purchase price and that there may be a tax rate differential. However, these factors are not related to whether there is compatibility of the proposed use of Recreational Vehicle Sales on the Lands, and the uses of neighbouring properties.

## **Conclusion**

[110] For the above reasons, the Board dismisses the appeal and issues the development permit subject to the conditions set out at paragraph [9], above.

[111] Issued this 8<sup>th</sup> day of February, 2023 for the Parkland County Subdivision and Development Appeal Board.



B. Williams, Clerk of the SDAB, on behalf of D. Smith, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

*This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, RSA 2000, c M-26.*

## **APPENDIX "A"** REPRESENTATIONS

### **PERSON APPEARING**

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1. Karen Kormos, Manager, Development Planning & Safety Codes
2. Corey Jespersen, Appellant
3. Jason Vance
4. Randy Jespersen
5. Graham Jespersen
6. Jonathan Bauer, Applicant
7. Paul Hanlan, SV Planning & Development

**APPENDIX "B"**  
**DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

January 30, 2023 Agenda Package			
Exhibit	Description	Date	Pages
1.	Agenda Coversheet	January 26, 2023	1
2.	Table of Contents	January 26, 2023	2
3.	Notice of Appeal	January 3, 2023	8
4.	Hearing Notification	January 12, 2023	9-10
5.	Submission of the Development Authority	January 24, 2023	11-141
6.	Submission of the Appellant	January 23, 2023	142-265
7.	Submission in Support of the Appeal	January 17, 2023	266-268
8.	Submission of the Applicant	January 24, 2023	269-289