

**MINUTES OF THE PARKLAND COUNTY SUBDIVISION & DEVELOPMENT APPEAL BOARD  
(THE "BOARD") MEETING HELD IN COUNCIL CHAMBERS AT THE COUNTY OFFICE ON  
AUGUST 13, 2018**

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**CALL TO ORDER**

Chairperson, D. Smith, called the meeting to order at 2:00 p.m.

**PRESENT**

Members: J. McCuaig, K. Linder, J. Philpott, D. Smith, L. Niblock

Clerk: C. Beveridge

Counsel for the Board: G. Stewart-Palmer

Recording Secretary: L. Tyerman

**ADOPTION OF MINUTES**

- I. Moved by J. McCuaig that the May 14, 2018 meeting minutes be adopted, as presented;  
**Carried**
  
- II. Moved by L. Niblock that the June 11, 2018 meeting minutes be adopted, as presented;  
**Carried**

**ADOPTION OF AGENDA**

Moved by K. Linder that the August 13, 2018 agenda be adopted, as presented.

**Carried**

**NEW BUSINESS**

**2:00 p.m. Appointment**

An Appeal of approved Discretionary Development Permit No. 18-D-153 for a Cannabis Production Facility (2044 sq.m. (22,000 sq. ft.) located at NE-19-53-5-W5, Municipal Address 53324 RGE RD 55.

**Appellant:** Steve, David and Betty Bobryk

**Appellant:** James and Dawn Negrey

The Chairperson opened the Hearing at 2:03 p.m.

**Present Administration Staff**

Feinan Long, Development Planner

The Chairperson asked if anyone affected by the appeal had any objection to the Board Members present. There were no objections.

The Chairperson introduced C. Beveridge, Clerk to the Board. The Chairperson advised that it is the Board's practice to have the Clerk participate in private discussions with the Board and asked those present if there were any objections; there were none. The Clerk introduced the Appeal into the record.

The Chairperson asked if anyone in attendance had any additional materials they would like to submit before commencement of the hearing. There were none.

The Chairperson explained the order of proceedings for the hearing, and asked those in attendance if they had any concerns with the process outlined. There were no concerns expressed.

#### **Submission of the Development Authority**

F. Long, Development Planner, read the Development Authority's Administrative Report into the Record and provided the following:

- The subject land is a vacant 60 acre parcel. The structure on the development will be a warehouse type building.
- The facility will be fenced and gated, with a shipping and loading area located north of the facility, with a parking area for employees along the northern side close to the fence.
- There are existing trees between the property and Range Road 55. The Applicant plans to plant additional trees to provide visual abatement.
- There will be no public visits to the site.
- The facility will have 8-12 employees, work hours are Monday to Friday, 7 a.m. to 7 p.m.
- The development is in keeping with Section 20.3 of Parkland County's Land Use Bylaw, and meets the definition of a Cannabis Production Facility Use.
- The development is reasonably compatible with the surrounding properties, as it is located in a relatively rural area of the County. The nearest residential subdivision is 1 kilometer away.
- The development will require further approvals and licensing through Health Canada, which has very strict regulations.
- Potential nuisance to neighbours is relatively low, as compared to other uses that are allowed in the Agricultural General (AGG) district such as greenhouses and gravel pits.
- The County's Land Use Bylaw does not have any specific regulations related to Cannabis Production Facilities regarding minimum setback requirements.
- The Application is generally consistent with relevant statutory documents,

In closing, Ms. Long stated that there was insufficient planning reason to deny the use.

In response to Board questions, Ms. Long advised that the setback from the back of the building to the property line is 53 metres.

#### **Submission of the Appellant, Steve Bobryk, David and Betty Bobryk**

Steve Bobryk spoke on behalf of himself and David and Betty Bobryk. Mr. Bobryk provided the Board with his family's reasons for appealing the development. He stated the following:

- The development will be placed directly in front of his home. When he built his home in this location it was to enjoy peace and quiet. Now there will be a big building in front of his house.
- Property value could decrease as a result of the development.
- Water levels in the area could be impacted.
- Emissions and odour are of a concern.
- There are many concerns with regard to security.
- Aesthetics in the area could be affected.
- Increased activity in the neighbourhood is undesirable.
- Enforcement of conditions are of interest, especially related to odour and emissions.

In response to Board questions, Mr. Bobryk said that he had briefly spoken to the Applicant on the day the he appealed the development.

### Submission of the Appellant, James and Dawn Negrey

Dawn Negrey spoke on behalf of herself and her husband, James Negrey. Ms. Negrey explained that she and her husband were the original owners of the lands on which the development is to be located. The Applicant, Lueck Mercer Industries Corp., purchased the land from the Negreys in 2017. The Negreys now live on the adjacent 10 acre residential parcel. Ms. Negrey provided the following reasons for appealing the development:

- At one point there had been interest from Ms. Lueck in also purchasing the Negrey's 10 acre property. Ms. Lueck had an appraisal of the property done. The Negreys and Ms. Lueck could not agree on a sale price and the sale did not proceed.
- Ms. Negrey found attempts to view plans and documentation at the County office difficult.
- The Negreys commissioned a lawyer to prepare a letter which outlined their reasons for opposing the approval of the Development Permit. This letter was never acknowledged, and subsequently the permit was issued.
- The development will cause the following to Mr. Negrey:
  - Causing a nuisance by way of harm or suffering;
  - Stimuli from the site could potentially cause seizures, falls, flashbacks and hypervigilance;
  - The Cannabis Production Facility will likely resemble a prison atmosphere which could aggravate Mr. Negrey's Post Traumatic Stress Disorder (PTSD).
- The development will cause nuisance and harm due to loss of property value.
- Theft and crime is of concern.
- The water table could potentially be affected from the high demand of the facility.

Ms. Negrey provided the Board and the Applicant with a letter from Mr. Negrey's physician which provided medical evidence of Mr. Negrey's post-traumatic stress disorder. The Board reviewed, considered and accepted the 1 page document. The Applicant indicated that she did not take issue with the Board accepting the additional information.

Ms. Negrey concluded her submission by reiterating previously stated concerns related to property value, noise, personal safety and atmosphere. Ms. Negrey submitted that the Cannabis Production Facility would prevent potential buyers from purchasing their home.

### RECESS

The Chairperson recessed the meeting at 2:42 p.m., and reconvened the meeting at 2:54 p.m.

The Chairperson advised that the additional document submitted by the Appellant was reviewed by the Board and will be considered in making their decision. The Chairperson also advised that at the conclusion of the hearing, the document would be sealed to protect Mr. Negrey's privacy.

In response to Board Questions, F. Long answered that the Development Authority did receive the letter from the Appellants and had acknowledged receipt of the information. The Development Authority concluded that much of the material was related to Health Canada requirements and therefore was not considered.

In response to Board questions, Ms. Negrey gave the following responses:

- Hypervigilance causes Mr. Negrey to focus on intruders who may try to gain access through their yard.
- Ms. Lueck said there is potential that hemp will be grown in the nearby field, and Ms. Negrey worries that people are going to try to steal it by cutting through their yards.

- When the Negreys owned the entire 80 acre parcel they had one well. At that time they had 60 head of cattle and two households using the one well, and it produced a sufficient amount of water.
- Ms. Negrey said that she does not have any reference material related to crime statistics in and around cannabis production facilities.

#### In Support of the Appeals, Richard Zulay

- Mr. Zulay owns property to the south of the Negrey property. He said he is concerned about odours, and enforcement.
- Mr. Zulay believes that the Applicant should purchase all the neighbouring properties if they want to proceed with the proposed development or that Parkland County should compensate neighboring parcels for a decrease in property value.

#### Submission of the Applicant, Lueck Mercer Industries Corp

Ms. Lueck spoke on behalf of the Applicant. Ms. Lueck made the following statements:

- The Applicant started this process with looking at other counties and selected Parkland County because of the amount of water available in the County.
- The water source at the site produces 14 gallons per minute, and the Applicant will also be collecting rain water to supplement the water supply. Ms. Lueck stated that if the Negrey's well produced at such a significant rate, they should not be concerned about the proposed development's use of water depleting it.
- The Facility will only run from Monday to Friday during the daytime for the convenience of the area.
- There will no signage advertising the facility.
- The Applicant will not be pursuing any hemp fields.
- The Negreys had offered to sell their home to the Applicant. The Applicant paid for an appraisal to be done on the home and the appraisal came in much lower than the Negreys asking price. A sale agreement was not reached.
- The Applicant plans to plant additional trees to provide visual abatement to Mr. Bobryk.
- The Applicant has hired a security company which has experience working with other developments of this nature.
- The proposed development has been purposefully designed to not be an eyesore and to not attract attention. People driving by will not know what it is.
- There are fences and cameras to protect the facility. There are no windows into the proposed development.
- The Applicant took additional security measures and made the Mayor, Fire Department and RCMP aware of the proposed development. Ms. Lueck suggested that the RCMP may patrol the area more due to the proposed development.
- Health Canada has very stringent requirements related to Cannabis Production Facilities, including requirements to filter the odours and minimize the impact of odours to the adjacent landowners.
- Ms. Lueck doesn't see how she should be responsible to purchase the neighbouring properties, and disagrees that it will affect their property values.

In response to Board questions, Ms. Lueck said that she does not know if the Negrey's well is located on the same aquifer, but she would be open to testing the wells and aquifer.

In response to Board questions, Ms. Lueck stated that the Applicant has looked into moving the

location of the proposed development on the parcel. Moving the proposed development would be more intrusive to the Negreys as it would put it in the sightline of their main residence. The present location of the proposed facility has the Negrey's second home between the proposed development and the Negrey's main residence. There are no windows on the north side of the second home, which is the side facing the proposed development. Moving the proposed development to the west would require the Applicant to clear trees and would place the proposed development in a low spot, potentially causing drainage issues. Ms. Lueck showed a map found on page 38 of the agenda package, the map depicts where the facility will be located in comparison with the Negrey residence.

In response to Board questions, Ms. Lueck explained that the facility will have video surveillance.

In response to Board questions, Ms. Lueck indicated that they do not have to have someone at the facility all the time. If required there will be one staff member present at the facility on weekends.

In response to Board questions, Ms. Lueck said that all security lighting will comply with the County's Dark Sky Lighting Policy. Lights will not be a nuisance to the neighbours. The facility will also have motion detector lights.

In response to Board questions, Ms. Lueck stated that the facility would contain 11,000 full grown plants and each plant would require 1 litre of water every two days. She clarified with her architect and submitted that the daily estimated water use for the proposed development is 7,000 litres per day. As the well on the site could provide over 20,000 gallons per day, the proposed development would be utilizing less than half what the well could produce per day. Ms. Lueck said that the proposed development requires 58,000 gallons stored onsite for fire suppression. The Applicant intends to fill the tanks for fire suppression over a period of time, using well water and rain water.

#### **Against the appeal – Chad Bowie**

Mr. Bowie stated that he is counsel for the Applicant. Mr. Bowie submitted the following:

- Mr. Hyde, who provided the security report for the Applicant, is the foremost authority on security for these types of facilities having worked on 118 licensed producer applications under the Access to Cannabis for Medical Regulations (ACMPR) and applications for 12 of the 36 commercial Cannabis Production Facilities in Canada.
- Mr. Bowie noted that Mr. Hyde's report states that since July 2013, there has not been a reported incident of external crime against a similar Cannabis Production Facility. The security requirements for a Cannabis production facility are stringent, as outlined in the letter from Cannabis Compliance Limited included in the Applicant's submissions which details the requirements a building must meet in order to be licensed to produce medicinal cannabis.
- Mr. Bowie said that the ACMPR requires a filter system installed to prevent the escape of odours, this is enforced by Health Canada.
- Traffic will be minimal due to the low number of employees and low frequency of deliveries.

In response to Board questions, Mr. Bowie said that he would need to respond by writing regarding the initial fill up of the fire suppression tanks.

#### **RECESS**

The Chairperson recessed the meeting at 3:44 p.m., and reconvened the meeting at 3:56 p.m.

In response to Board questions, Ms. Lueck said that the only changes to the plans included in the agenda package will be to the number of cameras and lights for security purposes. The lights and video cameras will be scaled down somewhat.

In response to Board questions, Ms. Long stated that any industrial building that has outdoor lighting must be dark sky compliant. Ms. Lueck said the the Applicant will comply with the County's dark sky policies.

In response to Board questions, Ms. Lueck answered that the fire suppression tanks will be filled up very slowly so as not cause impact to anyone else's water. Initially they would be filled through the well and rain collection. Ms. Lueck stated that if required the tanks could be filled with trucks.

**Closing Remarks of the Appellant, Steve Bobryk, David and Betty Bobryk**

Mr. Bobryk questioned the use of fire suppression tanks and how the lines to the fire suppression tanks would be charged.

**Closing remarks of the Appellant, James and Dawn Negrey**

In closing, Ms. Negrey stated that the extent of the security required for the proposed Cannabis Production Facility concerned her. She believes the security would keep the proposed Cannabis Production Facility secure but would provide no protection for her family and neighbours. Further, she is concerned that the RCMP may not be able to respond quickly to any incident. The proposed use was industrial not agricultural and the proposed development should be located in an industrial area. Ms. Negrey said that having a Cannabis Production Facility in the area will impact the community.

**RECESS**

The Chairperson recessed the meeting at 4:09 p.m., and reconvened the meeting at 4:17 p.m.

The Chairperson asked those in attendance if they had any concerns with the hearing process, there were no concerns.

The Chairperson asked the Board if it was satisfied with the amount of information it had received at the meeting, the Board agreed that it had.

**ADJOURNMENT**

The Chairperson adjourned the meeting at 4:17 p.m.



Chairperson