

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
PARKLAND COUNTY**

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HEARING DATE: June 8, 2020
FILE NO.: 19-D-306

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

[1] The Development Authority of Parkland County (the "Development Authority") approved a development permit (19-D-306) for Shoreline Developments Inc. (the "Applicant") for a Recreation Vehicle Storage (602 stalls for RV Storage), located at 8, 27119 Township Road 532A, and legally described as Lot 8, Plan 608RS, SW-14-53-27-W4 (the "Lands").

[2] Crossway Records Inc., through its agent Jonathan Bauer, (the "Appellant") owns Parkland RV Storage, which is kitty-corner to the Applicant located at 6-27120 Township Road 532A. The Appellant appealed the development permit on May 12, 2020.

[3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on June 8, 2020 via teleconference in accordance with Meeting Procedures (COVID-19 Suppression) Regulation, AR 50/2020.

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] The Board marked the exhibits as set out at the end of this decision. There were no further documents submitted by anyone at the hearing.

C. Miscellaneous

[6] The appeal was filed in time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the "MGA").

[7] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections to the proposed hearing process. There were no preliminary matters raised at the beginning of the hearing.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

[8] The Board DENIES the appeal and upholds the Development Authority's decision to approve development permit 19-D-306. The development permit for the Recreational Vehicle Storage (602 stalls for RV Storage) is granted as approved by the Development Authority. For ease of reference, the conditions imposed on the development permit are set out below.

In accordance with Section 16.14.1 of Land Use Bylaw 2017-18, this Development Permit is not valid unless and until:

Any conditions, except those of a continuing nature, have been fulfilled; and

No notice of appeal had been served on the Subdivision and Development Appeal Board in accordance with Section 686(1) of the Municipal Government Act.

1. Prior to the commencement of operation, the Applicant shall provide the following:

- A revised site plan addressing approach location, to the satisfaction of the Development Authority in consultation with Engineering Services.
- A Development Agreement in accordance with Section 650 of the Municipal Government Act to address the required construction of off-site improvements to Sheckter Crescent. The Development Agreement will address the upgrade and paving of Sheckter Crescent, to the satisfaction of the Development Authority in consultation with Engineering Services.
- A revised grading plan and storm water pond details, to the satisfaction of Engineering Services.
- A security in the amount of 100% of the cost estimate of the landscaping, as outlined in the approved plan. The security shall be in the form of an irrevocable letter of credit. This security shall be held to ensure that the landscaping is provided, installed and maintained in accordance with Parkland County's Land Use Bylaw 2017-18.
- A security deposit in the amount of \$5,000.00 (\$2,500.00 each) for the upgrade of the two approaches. The approaches must be constructed to comply with Parkland County's Engineering Design Standard, to the satisfaction of the Development Authority in consultation with Engineering Services.

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 as per Parkland County's Land Use Bylaw 2017-18.
5. 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.
6. All development shall be landscaped in a manner to prevent any surface run-off onto adjacent properties.
7. 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.
8. 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.
9. Property to be securely gated and locked when not in use.
10. There shall be no on-site sales, maintenance or repair of recreational vehicles (motor homes, travel trailers, tent trailers, boats, etc.).
11. This permit approval is for RV units only and at no time is the storage of commercial vehicles permitted.
12. The Applicant shall preserve all existing stands of trees and shrubbery outside the development area for environmental and sound attenuation purposes.
13. The Applicant shall keep the area subject to the development permit in a clean and tidy condition free from rubbish and non-aggregate debris, including and required screening or buffering to the satisfaction of the Development Authority, at all times.
14. Failure to comply with the conditions of this permit may result in the permit being cancelled and or revoked.

PERMIT NOTES:

1. The applicant is responsible to obtain a Roadside Development Permit from Alberta Transportation.
2. The Applicant is responsible to obtain building, plumbing, electrical, gas and private sewage permits which may be required. Permits must be obtained from Parkland County.

3. The Applicant is responsible to ensure compliance with the Alberta Fire Code.
4. The Applicant is responsible for ensuring that all property approaches are designed and constructed in accordance with Parkland County's Engineering Design Standards. For more information on approach requirements, contact Land Development Engineering at 780-968-8443.
5. The Applicant is responsible to obtain any Provincial approval which may be required.

SUMMARY OF HEARING

[9] 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

[10] The Lands are located within the AGR – Agricultural Restricted District of Parkland County (“AGR District”). The Lands are municipally described as 8, 27119 Township Road 532A, and legally described as Lot 8, Plan 608RS, SW-14-53-27-W4.

[11] The Development Authority received a development permit application for a Recreational Vehicle Storage (602 stalls for RV Storage) on August 6, 2019. The Development Authority approved the development permit on April 21, 2020 (the “Proposed Development”).

[12] The Development Authority determined that Recreational Vehicle Storage (602 stalls for RV Storage) is a discretionary use within the AGR District as outlined in Section 4.4.2(c) of the County's Land Use Bylaw 2017-18 (the “LUB”).

[13] Recreational Vehicle Storage is defined in the LUB as follows:

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.

[14] The Proposed Development is for a 602 unit storage yard for recreational vehicles, boats, and trailers.

[15] Section 12.14 of the LUB provides that:

12.14 Recreational Vehicle Storage

1. The following provisions shall apply to Recreational Vehicle Storage where allowed for in this Bylaw:

- a) a minimum Setback of 6.0 m shall be required from any Property Line;
- b) storage shall be as required under the Alberta Fire Code pertaining to water for fire suppression, fencing and access, etc.;
- c) vehicle entrances and exits, as well as internal vehicle routes shall be designed in a manner that provides a safe and clearly defined circulation pattern;
- d) all on-site roadways, parking, loading and storage areas shall have a durable hard surface of asphalt, gravel or similar material and the same shall be drained, developed to the satisfaction of the Development officer and the Parkland County Engineering Department;
- e) where on-site parking or storage is illuminated, all lighting shall be positioned in such a manner that lighting falling onto abutting properties is minimized;
- f) any developed portion of the site must be graded, contoured and seeded and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto public roadway or other neighbouring property;
- g) there shall be no storage of hazardous materials or goods on site;
- h) no day use or over-night accommodation shall be allowed on site;
- i) the storage of Recreational Vehicles shall not include storage for the salvage of, or for derelict Recreational Vehicles;
- j) the Recreational Vehicle compound shall be fenced with a minimum 1.83 m high chain link fence around the periphery of the storage area;
- k) any proposed sanitation dump shall be in accordance with the Alberta Safety Code;
- l) landscaping, if required by the Development Authority, shall be as follows:
 - i) on sites smaller than 1.0 ha a minimum of 10%, or as otherwise required by the Development Authority, of the site shall be landscaped. On sites larger than 1.0 ha, a minimum of 60%, or as otherwise required by the Development Authority, of the required front and side yard Setbacks of the site shall be landscaped;
 - ii) one tree for every 40.0 m² of landscaped area, to a minimum of four trees, at a proportion of approximately 1:1 deciduous and coniferous trees, provided that where new tree plantings are otherwise required, existing trees that comply with the Minimum Tree Sizes can be used;

- iii) one shrub for every 60.0 m² of landscaped area shall be provided to a minimum of six shrubs, at a proportion of approximately 2:1 of deciduous and coniferous shrubs;
- iv) deciduous trees shall be a minimum of 63.0 mm caliper measured 450.0 mm from ground level. Coniferous trees shall be 2.5 m in height.

[16] The Development Authority confirmed that the Proposed Development meets the above regulations for Recreational Vehicle Storage use. The development permit contemplates that the development site has a setback of 6.0 m from all property lines and the yard will be graveled and fenced. Fire Services had no concerns with the Proposed Development, and the proposed approach locations, site grading, and drainage plans met Engineering Design Standards. The Development Authority imposed a condition that the Proposed Development must also comply with the County's Dark Sky Outdoor Lighting Policy. The development permit did not permit hazardous materials or goods on site, day use or over-night accommodations, nor salvage of Recreational vehicles.

[17] The Development Authority confirmed that the submitted landscape plan for the Proposed Development met the County's landscaping requirements.

[18] The Development Authority had regard for section 12.14 of the LUB when making the decision to approve the development permit application including the merits of the application, the definition of the Use as expressed in the LUB, and the spirit and intent of the defined use.

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

- a. The Traffic Impact Assessment (TIA) was thoroughly reviewed by the County Engineering Department. While staff have come and gone from the department, they were not involved in reviewing this application. It was the professional opinion of the Engineering Department that no upgrades were required for the intersection in question;
- b. The Development Authority relies on what is brought to them for an application and if the information provided is based on 2016 data, that is what the Development Authority would rely on; and
- c. The Development Authority cannot confirm the recent traffic count provided. She noted that there were many discussions regarding future development, and traffic and the professional review of the assessment was completed.

Crossway Records Inc, by its agent, Jonathan Bauer, Appellant

[20] The Appellant's submissions included the written submissions, photos, and letters of opposition to the Proposed Development as well as oral submissions by Jonathan Bauer. Parkland RV Storage is located adjacent and across Township Road 532A from the Proposed Development.

[21] Mr. Bauer argued that the Proposed Development is a major safety concern because it will increase traffic flow in the area. He stated that the major safety risk comes from the large concentration of long, slow-moving vehicles with limited driver sight lines without conditions for intersection improvements at Range Road 272 and Township Road 532A. In the past, transportation safety has not been a concern for Parkland RV Storage, however, the Proposed Development would add 602 additional large RV vehicles (40-60 ft on average) to the roadways causing a large concentration of RV vehicles. Parkland RV Storage has over 540 customers and those customers combined with the Proposed Development's customers would compound traffic flow through the closest major intersections. Specifically, for his customers, safety would be jeopardized when turning south from Township Road 532A onto Range Road 272 (Century Road).

[22] Mr. Bauer stated that the area is already saturated with RV Storage development sites.

[23] In his past dealings with Alberta Transportation, a development that is in close proximity to other residential, commercial, or RV storage businesses that generate traffic of more than 10 households trigger upgrades to nearby intersections.

[24] The Appellant stated that the TIA report prepared by MR Engineering Ltd. was flawed. He hired an independent Engineer, Mr. Paulichuk, to conduct a third-party analysis of this TIA. Mr. Paulichuk concluded that the TIA was not accurate and did not represent the current or future state of the major intersection. The Appellant noted that the third-party review of the TIA concluded that the TIA showed unrealistic background traffic data, no actual traffic counts, non-comparable trip generation, outdated traffic counts, unrealistic growth rates, and ignored new developments in the area.

[25] Mr. Bauer stated that because the County Engineering office is understaffed and very backed up in reviewing submissions, the judgment of that office cannot be relied upon. The County Engineering office has undergone significant leadership change and restructuring. Because of the lack of leadership and change in staff, there is a lack of planning and oversight given to the County for long term sustainability. They also do not have time to determine whether any TIA report is accurate. He is concerned that important details have 'slipped through the cracks'.

[26] The Appellant noted that water and drainage are also a major concern in the area and that the Proposed Development will worsen that issue. He made mention of the picture at page 105 of 418 of the agenda package, when describing that the Lands bottleneck at one end. Because of the flow of the drainage in the ditch along the Lands, it has come overtop the berm in past years. He has been told by the County that if he wanted the drainage issue fixed, it would be at his own expense.

[27] The Appellant explained that he was not conducting this appeal based on business competition. He has many customers on the waitlist and the area is not lacking customers.

[28] The Appellant drew attention to his statement in his written submission that he 'hired an independent Engineer with whom [he] had no previous working or personal relationship'. He explained that in the past he has never hired Mr. Paulichuk and Mr. Paulichuk is not a friend;

however, he did have some contact with him when seeking his own permit for Parkland RV Storage.

[29] Lastly, the Appellant drew the Board's attention to aerial photos and pictures of the Appellant's property to emphasize his concerns regarding traffic and water. He stated that the Proposed Development will 'turn a sponge into a brick' and there is no place for the water to go except off-site. He also stated that the County engineers are not traffic impact assessment professionals, they merely review the assessments.

[30] The Appellant noted that Nancy Blair also has concerns for the development because her entrance location is directly across from the Proposed Development. However, Ms. Blair could not speak at the hearing because Mr. Blair had recently passed away. He mentioned the comments made by Mr. Lloy in Mr. Lloy's letter to the SDAB found at pages 90 of 418 to 91 of 418.

[31] Range Road 272 is a crucial road to the intersection and the intersection is important in the area. He pointed to the Transportation Master Plan noted at page 84 of 418. The Board should consider his comments as the first piece of input for the Transportation Master Plan. He is asking that that the Board reject the Proposed Development because no conditions were placed onto the permit regarding the intersection improvement.

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

- a. If he had to estimate the number of his customers coming from Edmonton and St. Albert, he estimates approximately 50% or more but he has not looked at the numbers in detail. Some customers come to his business location and stock up while others take the RV back to their homes before going to camp;
- b. The majority would turn right out of his business because to head left, it is unsafe, as the road his business facility to Highway 44 has no shoulders and there is little room to pass oncoming traffic;
- c. He was not required to do a traffic impact assessment or traffic count for his own development application for Parkland RV Storage;
- d. On page 75 of 418 of the agenda package, the largest yellow square marks the Rolling Meadows subdivision; and
- e. He has no way to verify traffic count currently.

Those Speaking In favour of Appeal

Mr. Paulichuk

[33] Mr. Paulichuk spoke to the Board regarding his review of the TIA and drew specific attention to parts of his report found at page 45 of 418 of the agenda package. First, he questioned how the traffic from the County was converted to the Annual Average Daily Traffic volume (AADT) yearly average. He suggested that the assumptions made could be incorrect.

[34] He explained that the turning distribution at the intersection of Range Road 272 and Township Road 532A is not realistic and it is his professional opinion that the number of left turns at this intersection is much higher than stated in the TIA. However, it would not be an accurate measurement of what occurs in that intersection if an assessment was completed today due to COVID-19 and the resulting changes to everyday traffic.

[35] The growth rate in the TIA is reported at 1.0% to project future growth of traffic in the area and was determined by reviewing population growth within Parkland County. Alberta Transportation growth rates over the last 20 to 30 years average near 2.0 to 2.5% per year, non-compounded. It is Mr. Paulichuk's opinion that 2.0 to 2.5% is a more accurate growth rate for the area.

[36] The TIA uses the trip generation for an ITE Land Use for a Mini Warehouse, which is a traffic count taken from the United States. In his experience, often a trip generation for one type of development in one area is not accurate and current to apply to a different development in a different area. Mr. Paulichuk suggested in his review that the TIA uses a much lower trip generation rate than he would use. He also provided a trip generation rate using Parkland RV Storage with a recent gate count. In the month of May 2020, the number of vehicle tops averaged 128 trips per day. He further noted that the peak hour trip generation rate is low and that from data from Parkland RV Storage, the peak hour trip generation rates are more than 10% of the daily trip generation rates.

[37] Mr. Paulichuk noted the Synchro Analysis (delay time calculation software) used in the TIA to determine the need for improvements to the intersection at Range Road 272 and Township Road 532A, but determined that no improvements were necessary. In contrast, Alberta Transportation intersection analysis warrants the addition of significant turning lanes. He also noted that the Synchro Analysis as presented, did not represent a realistic project of the future at the intersection.

[38] With regard to the interchange ramp proximity to Township Road 532A, the ramp is too short for the meeting of traffic that is attempting to move left to right.

[39] Mr. Paulichuk noted that the local intersection on the rural road is also a concern. The approach located off Sheckter Crescent and Township Road 532A does not comply with County Design Standards.

[40] He concluded by emphasizing that the TIA lacked current and accurate existing traffic data, reasonable turning movement distribution, adequate growth rates and appropriate trip generation.

[41] In response to questions from the Board, Mr. Paulichuk stated the following:

- a. He cannot answer if the intersection is currently safe. He does not have the traffic count and would need a better understanding of the morning and afternoon rush hour to make an accurate assessment of the current state of the intersection. However, COVID-19 prevents him from conducting an accurate assessment as of now. There is a lack of data to answer the question;

b. After some thought, he concluded that the intersection would be unsafe in the future on existing traffic volumes. When the numbers are run through an Alberta Transportation analysis, there should be a turning lane. As the intersection is right now, it is dangerous without added traffic; and

c. There is a difference in his opinion between his report for the Appellant and his comments for the Proposed Development because he had used information from several years ago but it was brought to his attention that that information was outdated and that the numbers regarding trips had increased. Now, things have changed and locations are different and so that would account for his change of information from 2018 to now.

Erin Prockiw

[42] Erin Prockiw lives in Rolling Meadows Subdivision at Lot 21. Rolling Meadows is located east of the Proposed Development on the north side of Township Road 532.

[43] She is concerned that there is added traffic congestion in the area currently due to many new developments. She takes her daughter to school on the rural road. At rush hour when the Yellowhead Highway is backed up, traffic is dangerous. She is worried for her safety travelling that route should traffic increase further.

[44] Drainage in the area is also an issue which she has addressed with the County though nothing has been resolved. They attempted to add gravel to the road; however, water is increasing in the area of the subdivision.

[45] In response to a question from the Board, Ms. Prockiw confirmed that she is located approximately 1 mile northeast from the Proposed Development.

Darcy Martin on behalf of Roy Sterling and Residents of Rolling Meadows Subdivision

[46] Mr. Martin also resides in Rolling Meadows Subdivision. He reiterated Ms. Prockiw's concerns regarding traffic and drainage in the area. Specifically, because of surface run off coming from Parkland RV Storage, the ditches are full of water and the land is saturated. Many of the residents of Rolling Meadows Subdivision have flooded basements because of the spring melt. There is a high-water table in the area which compounds the situation. All of the runoff coming from Spruce Grove funnels into Atim Creek. That water must go by the Proposed Development, the Parkland RV Storage, and then travels straight through their subdivision. The ditches are in need of repair and are outdated. There is historical data of how the subdivision has battled water for decades and any new development in the area worsens the situation.

[47] The Proposed Development is adjacent to their subdivision and the residents of Rolling Meadows Subdivision are directly affected by the application.

[48] Mr. Martin reiterated that the Appellant is also concerned about the amount of water and drainage problems in the area and how it is eroding the side of his lot. The trees by

Parkland RV Storage are not adequate and the culverts are not adequate to handle the amount of water. He also noted that is not only high ground water issues, but also 'perch' water.

[49] Regarding the traffic concerns, Mr. Martin acknowledged that traffic and the major intersection are concerning; however, the drainage is the more important of the two issues and needs to be alleviated.

Jeff Shewchuk

[50] Mr. Shewchuk echoed the comments made by Mr. Martin on behalf of the Rolling Meadows Subdivision. Mr. Shewchuk also lives in the subdivision and recently had to dig up his septic tank because the pipe broke underground. However, he is unable to dig it up because the water in the area is so extensive. In the past, he has had to call the County's emergency line for the residential road because it was impassible due to the amount of water spilling on to it.

[51] Mr. Shewchuk indicated that he is the second house from the culvert in the subdivision at Lot 22 and that Darcy Martin and Erin Prockiw are his neighbours on either side.

Holly Lillie

[52] Ms. Lillie agreed with the comments by all residents in Rolling Meadows Subdivision. She is alarmed by the side effects of new development including increased traffic.

Shoreline Developments Inc., by their agents Teagan and Norman Renz, the Applicant

[53] The Applicant is Shoreline Developments Inc., by their agents Mr. Teagan Renz and Mr. Norman Renz. Mr. Teagan Renz ("Mr. Renz") spoke for the Applicant. The Applicant purchased the Lands for the Proposed Development in May 2019 and has had numerous meetings and discussions with the County since then. The Applicant has carried out public consultation meeting with adjacent property owners and has verified that the Proposed Development either meets or exceeds provincial and county requirements.

[54] Regarding the concerns over drainage, Mr. Renz noted that currently there is uncontrolled water flow on the Lands. If the Proposed Development were to proceed, the plans include an engineered storm water management facility that would control the water and only release at appropriate times. This drainage plan will ensure that the water does not drain onto neighbouring properties. Mr. Renz noted that on page 101 of 418 Bolson Engineering and Environmental Services provided a letter regarding the stormwater release design and downstream impacts. The engineer has checked all down-stream culverts. It is Bolson's expert opinion that the design will help with the current problems of water and drainage in the area and provide relief to those properties downstream.

[55] Mr. Renz drew attention to pages 104 of 418 and 105 of 418 of the agenda package which provide pictures of Parkland RV Storage when he discussed the proposed water drainage.

[56] Regarding traffic impact, MR Engineering, who is a qualified engineering company, has concluded that the infrastructure in the area can accommodate increased traffic. With regard to Mr. Bauer's comments regarding the County, Mr. Renz stated that the County has oversight and agrees with the Development Authority. They were required to amend their site plan on several occasions as directed by the Development Authority, which highlighted the Development Authority's ability to review submissions critically and sufficiently.

[57] Mr. Renz pointed to pages 317-318 of 418, 321 of 418 and 323 of 418 in the agenda package. He questioned Mr. Paulichuk's evidence noting that Mr. Paulichuk had said before: "*I cannot see any issues with this amount of added traffic to your shared approach or Township Road 532 presently*", contradicting what he has now told the Board. Further, Mr. Paulichuk did not contact MR Engineering.

[58] Mr. Renz stated that the review of the TIA by Mr. Paulichuk contains unresearched conclusions. Mr. Paulichuk greatly overestimated the trip numbers in his review and the numbers do not match up between previous assessments and the current assessment (see page 378 of 418). The County's experts, including two engineers, separately stated the traffic is not dangerous. One engineer suggested there is a *potential* for it to be dangerous but could not make that conclusion without more data.

[59] Mr. Renz spoke with adjacent landowners who did not have concerns. Nancy Blair did ask him to put up a stop sign at the approach to the road, which he will do.

[60] Mr. Renz has discussed the Proposed Development with a nearby church development and that property owner was pleased to have Mr. Renz do the geotechnical report.

[61] Mr. Norman Renz reiterated that the Applicants are concerned regarding Mr. Paulichuk's apparent inconsistencies in his evidence. Today the intersection with 6000 cars using 2016 highway counts is dangerous but with the same numbers two years ago it was not dangerous.

[62] In response to questions from the Board, the Mr. Renz stated:

- a. The sewer pipeline does run along the road but the water will drain into the trees eventually like all other surface water;
- b. He does not foresee any re-contouring of the Land except for the berms around the development to be sure that the water does not drain east, west, or south and, instead, follows its natural path; and
- c. There are no trees currently on the Lands and so he has no plans to remove trees.

[63] In response to a question from the Appellant, Mr. Renz stated that the water will dump into the trees like all other run off and will continue down stream; however, the drainage off the Lands at the Proposed Development will be controlled to reduce the chance of flooding downstream.

FINDINGS OF FACT

- [64] The lands are located at 8, 27119 Township Road 532A, and legally described as Lot 8, Plan 608RS, SW-14-53-27-W4.
- [65] The Lands are located within the AGR – Agricultural Restricted District.
- [66] The Use of the Proposed Development is a Recreational Vehicle Storage.
- [67] The Recreational Vehicle Storage use is a discretionary use in the AGR District.
- [68] The Appellant, Crossway Records Inc., is an affected person.
- [69] Those speaking in favour of the appeal: Erin Prockiwi, Roy Sterling and Darcy Martin, Jeff Shewchuk, and Holly Lillie, are all affected persons.
- [70] The Applicant, Shoreline Developments Inc. is an affected person.
- [71] The Proposed Development is compatible with neighbouring uses.

REASONS

Jurisdiction

[72] The Board notes that its jurisdiction is found in section 687(3) of the MGA. In making this decision, the Board has examined the provisions of the LUB and has considered the oral and written submissions made by and on behalf of the Development Authority, the Appellant, those speaking in favor of the appeal, and the Applicant.

- 687(3)** *In determining an appeal, the subdivision and development appeal board*
- (a) must act in accordance with any applicable ALSA regional plan;*
 - (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 clause (a.4) and (d), must comply with any land use bylaw in effect;*
 - (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;*
 - (b) must have regard to but is not bound by the subdivision and development regulations;*
 - (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.*

Affected Persons

[73] The first question the Board must determine is 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, for completeness, the Board will address this issue in its reasons.

[74] The Appellant owns a business near the Proposed Development. The Board finds that due to his proximity to the Lands, the Appellant is affected by the appeal.

[75] As the person whose development permit is under appeal, the Applicant is affected by this appeal.

[76] The Board heard from a number of people speaking in favor of the appeal. All of those speaking to the appeal live in the Rolling Meadows Subdivision which is east of the Proposed Development and is located on Range Road 271 on Township Road 532A. Due to their proximity to the proposed development and the potential impact of the drainage on their properties, the Board finds the following to be affected persons: Erin Prockiw, Roy Sterling and Darcy Martin, Jeff Shewchuk, and Holly Lillie.

Statutory Plans

[77] The Board heard submissions from the Development Authority regarding the Proposed Development's compliance with the Municipal Development Plan Bylaw No. 2017-14 (the "MDP"). The Development Authority advised that the Proposed Development complies with section 5.0 Economic Competitiveness Employment, which supports economic and employment opportunities throughout the County where supported by adequate infrastructure and transportation networks. The Lands are identified within the Rural Area of the MDP and are immediately adjacent Metropolitan Area as identified MDP Development Concept. The Board heard no evidence contradicting these submissions and finds that the Proposed Development complies within the MDP.

[78] The Lands are within the plan area of the Atim Creek Area Structure Plan ("ASP") and are identified as being within the "Fringe Area". The Development Authority submitted that the ASP supports the approval of commercial land uses in the area if the proposed commercial use is compatible with the land uses in the vicinity and if the subject parcel is designated with a land use district which accommodates the commercial land use (ASP Section 7.3.5). The Board heard no evidence contradicting these submissions and finds that the Proposed Development is in compliance with the ASP.

Land Use District

[79] The Site is zoned as AGR – Agricultural Restricted District (LUB Section 4.4).

What is the Use?

[80] The Applicant applied for a development permit for a Recreational Vehicle Storage use. None of the speakers contested the classification of the use. Looking at the definition of Recreational Vehicle Storage, the Board notes that this use is the development of a yard for outdoor storage for more than five recreational vehicles or recreational equipment. The Applicant has applied for over 600 vehicles to be stored at the Site. The Board finds that the Proposed Development falls squarely within the definition of Recreational Vehicle Storage.

Nature of the Use

[81] A Recreational Vehicle Storage is a discretionary use in the AGR – Agricultural Restricted District, as set out in Section 4.4 of the LUB.

[82] As the proposed development is a discretionary use, the Board must assess the compatibility of the use applied for with the neighbouring uses as referenced in *Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261.

[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.

[83] The Appellant raised the following concerns:

- a. The concerns about drainage from the Lands; and
- b. Concerns about road and traffic safety arising from its concerns about the Traffic Impact Assessment submitted by the Applicant as part of the Applicant's Development Permit Application.

[84] The Board will examine each of the concerns below.

Drainage Concerns

[85] The Appellant indicated that it has concerns about the drainage along the borders of its property. Its overall concern was that the County ditch does not meet County standards. Mr. Bauer is worried that there is a significant amount of water which is sent through the County ditch and that his property receives a significant amount of this drainage. He is concerned that when there is future development on the Lands, that his property may receive water from that development and flood his property. This concern was echoed by the residents from Rolling Meadows Subdivision. They stated that their concern was that there was a high-water table in the area generally. Their concern was that the Proposed Development would cause there to be an increase in water coming through the County's ditches that would affect their properties.

[86] The Applicant submitted a report by Bolson Engineering and Environmental Services dated May 13, 2020 (see page 101 of 418). This report was provided to confirm the storm water discharge design of the proposed Recreational Vehicle Storage, and to identify downstream impacts due to the Proposed Development.

[87] The Bolson Report stated that once the Proposed Development has been completed, the on-site water would be managed and would drain to a proposed storm pond in the northwest corner of the Lands. From that stormwater pond, water would be released at a controlled rate along the south ditch along Township Road 532A. The Bolson Report states that the controlled release rate from the development site, once developed, was designed to ensure that downstream drainage would be capable of handling the storm water release and should provide relief as the previously uncontrolled discharge would be controlled and managed. The Report also states that the downstream culverts are of sufficient size and capacity to handle the controlled release and having more managed storm water in the area would mitigate impacts on the downstream system. The Board also notes that at pages 99 of 418, the Applicant has submitted an email from Shannon Cholach, a Senior Water Administration Technologists of Alberta Environment and Parks indicating that based upon the Bolson Report, a Water Act Approval Application was not required.

[88] The Board acknowledges that the Appellant as well as the residents of the Rolling Meadows Subdivision have concerns about stormwater drainage. However, the Board notes that they have provided anecdotal concerns while the Applicant has provided a report prepared by an Engineer. The Board prefers the evidence prepared by Bolson Engineering. The Report has been prepared by a professional engineer and has been signed and sealed by him. Mr. Trent Thompson, the Engineer who prepared the report, has given his opinion that the controlled release should ensure that the on-site storm water will be discharged at a rate that the ditches can accept. Moreover, he has given his opinion that the controlled discharge should reduce the amount of uncontrolled discharge. The Board infers from this that Mr. Thompson is indicating that by controlling the rate of discharge, there will be a decreased risk in significant volumes of water in the ditch during rain or run off events.

[89] The Board is persuaded that having a stormwater pond on the Proposed Development, along with a controlled discharge, should assist in having the water released into the ditch at a rate where the existing infrastructure can accept it.

[90] The Board heard Mr. Bauer's statements that if the Proposed Development proceeds there will be a hard surface, thereby causing the surface water to flow away and will not be absorbed (his comment was that it is currently a sponge and will soon be a brick). However, the Bolson Report has been prepared by a professional engineer. The Board is of the view that Mr. Thompson would understand the difference in the type of surface material of the Proposed Development Site, and would be able to calculate the volume of water flows in light of this understanding. The Appellant and the Affected Persons who spoke provided no evidence to suggest that the Bolson Report did not properly take into account the relevant factors in his calculations.

[91] When faced with the anecdotal statements of the residents of the Rolling Meadows Subdivision and the Appellant as compared to the engineering report prepared by the professional Engineer, the Board prefers the evidence of the professional Engineer.

[92] The Board is persuaded that having a timed release of storm water would be an improvement to the currently uncontrolled release of storm water from the Lands.

[93] In light of the Board's findings, the Board finds that the Proposed Development does not raise issues in compatibility as a result of the drainage of storm water.

Traffic Safety

[94] The Appellant raised concerns about the safety of the Proposed Development based upon his critique of the TIA prepared on behalf of the Applicant. In this regard, his engineer, Mr. Paulichuk, raised several concerns and questions about the assumptions which formed the basis of the MR Engineering Report found at pages 107-272 of 418 of the agenda report.

[95] The concerns raised by Mr. Paulichuk¹ on behalf of the Appellant included questions about the assumptions and underlying data used in the MR Engineering Ltd. Traffic Impact Assessment.

[96] A number of the Affected Persons in the Rolling Meadows Subdivision also commented upon concerns about traffic and how busy the area is.

[97] The Applicant indicated that it had the TIA report prepared at the request of the County to address traffic concerns and that the report had been scrutinized and accepted.

[98] The Board heard from the Development Authority that the TIA had been scrutinized by County staff.

[99] The Board noted that the Appellant questioned whether there had been a thorough vetting of the TIA on the basis that County staff had undergone some turnover and that it was reviewed by external consultants. The Board does not find any credence to the argument that the report had not been thoroughly vetted. There was no evidence before the Board to suggest that those persons in charge of the review of the report had not done their job or had somehow abdicated their responsibilities in favour of a third-party review. In the absence of any evidence to support this assertion, the Board rejects it categorically.

[100] The question before the Board is whether it should accept the evidence contained in the MR Engineering report or whether it should prefer the evidence provided by the Appellant in the Third-Party Traffic Impact Assessment Review (Mr. Paulichuk's report).

[101] The Board has examined carefully both of the reports. While the Board acknowledges that there are some questions that had been raised by the Third-Party TIA Review, the Board prefers the evidence contained in the MR Engineering Traffic Impact Assessment for the following reasons.

[102] Although a number of questions have been raised by the Third-Party Traffic Impact Assessment Review, it fails to provide its own independent analysis to provide the Board with definitive data about the number of vehicles, etc. The Third-Party Traffic Impact Assessment Review raises questions, but does not provide any specific answers to the Board as to what the levels of traffic are, what the turn numbers are, etc. Its purpose appears to be to question the

¹ Mr. Paulichuk's report is found at pages 45 of 418 to page 80 of 418, although the written portion of the report ends at page 48 of 418.

assertions and statements made within the MR Traffic Impact Assessment, but without providing any answers of its own. This leaves the Board in the situation of having a complete report with its analysis (albeit potentially with some weaknesses in its analysis) as compared to a report which merely challenges the assumptions but does not provide any data for the Board to analyze. In the face of a full report as compared to a report which merely challenges assumptions and assertions contained in the MR Report, the Board prefers the full report because it provides a complete analysis for the Board to examine.

[103] The Board noted the concerns raised by Mr. Paulichuk that there had not been an actual traffic count conducted by MR Engineering. However, the Board notes that at the time the appeal was filed, the Province was under a general Emergency Order arising from the COVID-19 pandemic which had the effect of restricting traffic. Even if MR Engineering had completed an onsite count of the amount of traffic in the area, this data would be skewed because of the reduction of traffic from the COVID-19 shutdown and therefore subject to challenge on the basis that it did not reflect the “pre-COVID” amounts of traffic. In this situation, the Applicant was faced with a difficult choice: conduct an actual traffic count and be challenged for having it not reflect the pre-COVID reality; or do a desktop review based upon historical data and be challenged on the basis that it was out-of-date. In this “no win” situation, the Board understands the choice made by the Applicant. The Board recognizes the concerns raised, but in the unusual circumstances (the global pandemic), the Board finds that the choice made by the Applicant was a reasonable one.

[104] The Board also finds the MR Report to be reliable on the basis that the evidence before the Board was that the County’s Development Authority and Engineering Department thoroughly vetted the MR Report.

[105] The Board noted the concern raised by the Applicant that Mr. Paulichuk had stated that the 2018 amount of traffic was safe in his support for the Appellant’s development permit application, but in his report against the Applicant’s development permit application has stated that the same level of traffic is unsafe. This question was put to Mr. Paulichuk, who responded about the state of traffic counts for this type of business. The Board noted that he did not expressly address the question raised, which did not provide the Board with a sufficiently clear reason for the two different conclusions.

[106] The Board also notes that the Appellant also operates a Recreational Vehicle Storage and that it has several hundred vehicles as part of its development. The Appellant also noted that there were other operators of recreational vehicle storage (aside from Crossway Records, Inc.) in the area. While the Board accepts that there will be an increase in traffic from the Proposed Development, the Board does not accept their assertions that the Proposed Development is going to be the cause of all troubles in the neighbourhood, while ignoring the pre-existence of the other Recreational Vehicle Storage operations in the area.

[107] The Board did hear evidence that Township Road 532A road was “narrow”. However, there was no evidence provided to the Board that Township 532A was any narrower than any other County road. The Board does not accept that having two recreational vehicles pass would be any more or less safe on this road than on any other County road.

[108] The Board acknowledges the concerns of the Appellant and those living within the Rolling Meadows Subdivision, but prefers the engineering report provided by the Applicant.

[109] As a result of the above reasons, the Board prefers the evidence contained within the MR Report and accepts the conclusions contained within the report.

[110] Having accepted the conclusions in the MR Report, the Board finds that the Proposed Development does not create incompatibility based upon traffic or safety.

[111] Given the location of the Proposed Development near other Recreational Vehicle Storage operation, the Board finds that having a Recreational Vehicle Storage near other Recreational Vehicle Storage developments is compatible.

[112] The Board has noted the conditions imposed by the Development Authority. The Board heard no evidence about the imposition of those conditions. Given the absence of any question about the conditions, the Board is of the view that the conditions are appropriate and confirms them in the approval.

[113] Issued this 22nd day of June, 2020 for the Parkland County Subdivision and Development Appeal Board.



B. Williams, Clerk of the SDAB, on behalf of J. 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

1. Rachelle Trovato, Development Planner
2. Karen Kormos, Supervisor, Development Planning
3. Jonathan Bauer, agent for Crossway Records Inc., Appellant
4. Darcy Paulichuk, Consulting Engineer for Crossway Records Inc.
5. Erin Prockiw, Affected Person
6. Darcy Martin, Affected Person
7. Roy Sterling, Affected Person
8. Jeff Shewchuk, Affected Person
9. Holly Lillie, Affected Person
10. Teagan Renz and Norman Renz, agents for the Applicant Shoreline Developments Inc.

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

Exhibit	Description	Date	Pages
1.	Agenda and Table of Contents	June 4, 2020	1-2
2.	Notice of Appeal – Crossway Records Inc.	May 12, 2020	7
3.	Submission of the Development Authority	June 1, 2020	8-40
4.	Submission of the Appellant – Crossway Records Inc.	June 2, 2020	41-91
5.	Submission of the Applicant – Shoreline Developments Inc.	June 2, 2020	92-418