

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
PARKLAND COUNTY**

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HEARING DATE: November 22, 2021
FILE NO.: 21-D-403

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

[1] The Development Authority of Parkland County (the "Development Authority") approved a development permit for a Liquor Store located at Lots 13, 14 and 15, Block 1, Plan 3682AJ, Wabamun, SW 12-53-4-W5, municipally described as 5129 – 50 Street, Wabamun, Parkland County (the "Lands"). The Applicant was Preetinder Sran (the "Applicant").

[2] On October 12, 2021, Graham Semeniuk of Biamonte LLP filed an appeal of the development permit on behalf of Harkaran Boparai (the "Appellant").

[3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on November 22, 2021 via video conference in accordance with the *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] At the beginning of the hearing the Chair confirmed that everyone in attendance had the hearing package prepared for the hearing. There was no objection to any of the exhibits which had been submitted in accordance with the Board's hearing submission dates. The Board marked those exhibits received prior to the hearing as set out at the end of this decision.

[6] The Appellant indicated that he wished to submit 9 photographs and a video. These materials were circulated to those in attendance and the Board provided an opportunity for those in attendance at the hearing, including the Development Authority and the Applicant, time to review them. Following their review of the materials, the Applicant objected to the admission

of the photos and video on the basis that he had not provided consent to the Appellant to enter his property and that the Appellant had trespassed on his property to take the photographs and video. In response, the Appellant indicated that the photos were taken primarily from the property line. The intrusion was as minimal as possible to show the information. The trespass is not relevant to the question of their admissibility. Further, if the Appellant was not able to read the notice posted to the door without going into the property line, then by extension, the notice was not conspicuous. The Development Authority had no objections to the admissibility of the additional photographs and the video.

[7] Following consideration of the submissions, the Board advised that it would accept the additional photographs and the video and that the Board's reasons would be included within the written reasons, which follow. The Board considered the information within the photographs and video and determined that the information was relevant to the issues raised in the appeal. The Board noted that the Applicant's objection was on the basis of an alleged trespass. The Board does not have any jurisdiction to make determinations of trespass. However, the Board notes that some of the photographs show the notice posted in the front door of the building. Given the obligation set out in condition 1 of the Development Permit for the Applicant to conspicuously post the Development Permit, and the Applicant posted it within the building, the Board is not prepared to reject evidence in relation to the posting. Therefore, the Board has marked these additional documents as exhibits as set out at the end of this decision.

C. Miscellaneous

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

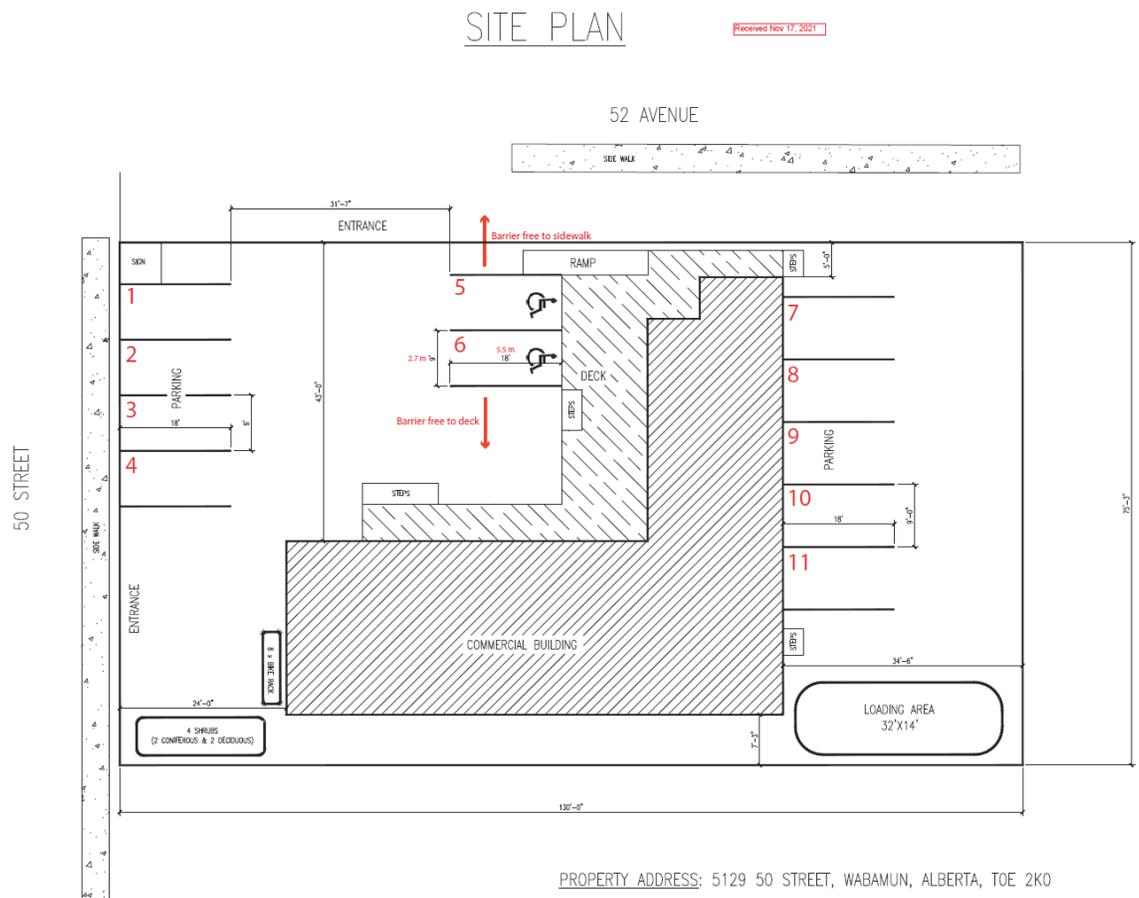
[9] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections to the proposed hearing process. There were no preliminary matters raised at the beginning of the hearing.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

[10] The Board denies the appeal and grants the Development Permit on the conditions set out below and imposes the same Permit Notes from the Development Permit as contained in the Developer Permit issued by the Development Officer on September 20, 2021. The conditions are modified slightly from what was contained in the Development Permit.

1. Prior to commencement of operation, the Applicant shall consolidate Lots 13, 14, and 15 into one parcel and provide proof of consolidation to Parkland County.
2. Prior to the commencement of operation, the Applicant must provide Parkland County with a copy of the Alberta Gaming Liquor and Cannabis Commission Liquor License.
3. 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. See the below plan.

4. 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.
5. The site shall be kept in a neat and orderly manner.
6. All development shall be landscaped in a manner to prevent any surface run-off onto adjacent properties.
7. There shall be adequate on-site parking for clients and employees. The parking shall be as set out in the attached plan. (see below)
8. 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 any Provincial approval which may be required.

2. 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.
3. It is the Applicant's responsibility to contact Alberta One-Call at 1-800-242-3447 before any ground disturbance.
4. 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.
5. The Applicant is responsible to ensure compliance with the Alberta Fire Code.

SUMMARY OF HEARING

[11] 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

[12] The Lands are located at Lots 13, 14 and 15, Block 1, Plan 3682AJ, Wabamun, SW 12-53-4-W5, municipally described as 5129 – 50 Street, Wabamun, Parkland County (the "Lands"). The Lands are subject to the Village of Wabamun's Municipal Development Plan (Bylaw 06-2010) and Land Use Bylaw (Bylaw 07-2010- the "LUB") as those bylaws still apply to the Lands following the dissolution of the Village into the County.

[13] The Development Authority received the application on August 26, 2021, deemed the application complete on September 3, 2021 and approved the application on September 20, 2021. The development permit was issued subject to 9 conditions of which the notable ones were the posting of the development permit for a period of 21 days, the obligation to obtain a license from the Alberta Gaming, Liquor and Cannabis Commission (the "Commission") and the obligation to consolidate the three lots.

[14] In relation to the Municipal Development Plan, the Lands are identified as Vehicle - Oriented Commercial. There is no area structure plan which applies to the Lands.

[15] The Lands are located within the Commercial District. In accordance with Section 7.6.2, Private Liquor Store is not a listed use in the use class table, however, the Land Use Bylaw states that the Development Authority may approve "other uses which, in the opinion of the Development Authority, are similar to the above mentioned permitted and discretionary uses".

[16] Section 2.6.2(g) states that "Where any use is proposed which is not specifically shown in any land use district but is, in the opinion of the Development Authority similar in character, intent, and purpose of other uses of land and buildings provided by the Bylaw in the land use district which such use is proposed, the Development Authority may, if requested by the applicant, rule that the proposed use is a discretionary use in the land use district in which such

use is proposed.” The Development Authority determined that Private Liquor Store is a use that is similar in character, intent, and purpose to other uses in the Commercial District (i.e. Retail Cannabis Sales) and can therefore be considered on the subject lands.

[17] The Development Authority determined the Use Class to be a use considered similar to the listed permitted and discretionary uses in the district and that the Private Liquor Store is a discretionary use on the Lands as outlined in Section 7.6.2 of Land Use Bylaw 07-2010.

[18] The Development Authority assessed the development to be a Private Liquor Store as defined in Section 1.5.1 of the LUB. Section 5.6 of the LUB requires that a private liquor store of this size have 7 off-street parking space, one off-street loading space, and 6 bicycle parking spots. The existing freestanding sign does not meet the required 0.6 m setback from property lines. However, the sign was previously approved in development permit 93-9 in May 1993. Section 5.7.6 of the LUB states that the regulations laid out in the LUB “shall not be applied to signs legally in existence at the date of the adoption of this Bylaw”.

[19] Section 6.7 of the LUB requires that Private Liquor Store facilities have a minimum retail and storage space of 600 square feet. The C1 District requires the minimum floor area of a commercial building be no less than 1,000 square feet. The proposed facility meets the requirement (1,248 square feet). The application was evaluated using Sections 5.6, 5.7, 6.7, and 7.6 of the LUB.

[20] The Development Authority considered the following in support of the development permit application:

- a. Application Form
- b. Land Title
- c. Site Plan
- d. Floor Plan
- e. Alberta Land Surveyors Real Property Report
- f. Photos of Existing Structure
- g. Photos of Existing Signage.

[21] In relation to the proposed land use, the Development Authority considered that the proposed development met the definition of Private Liquor Store. Private Liquor Store is considered to be a use similar in character, intent, and purpose to other uses in the Commercial District (i.e. Retail Cannabis Sales). The submitted site plan met all required development setbacks, size and height regulations laid out in Section 7.6 of the LUB. The use is considered Discretionary under Sections 2.6.2(g) and 7.6.2. of the LUB.

[22] In regard to the applicable parking and design guidelines, the site plan met the required seven off-street parking spaces, one off-street loading space, six bicycle parking spaces outlined in Section 5.6. of the LUB. Section 6.7 of the LUB requires minimum retail and storage space of 600 square feet for Private Liquor Stores. Section 7.6.4 requires a minimum floor area of 93 square meters (1,000 square feet). The floor plan meets the minimum floor area of 93 square meters.

[23] In relation to internal referrals, on September 3, 2021 the application was referred to Fire Services for review. The comments received noted that building permits would be required for any internal demolition and renovation work. Electrical permits will be required and no extension cords are permitted for permanent power.

[24] The Development Authority was of the view that the Private Liquor Store is compatible with adjacent lands because the Private Liquor Store was determined to be a Discretionary Use in the District. The existing structure met all required setback, size, and height regulations and the site plan satisfied all parking requirements.

[25] In response to questions from the Board, the Development Authority advised as follows:

- a. In relation to parking for handicapped patrons, the LUB has no regulations specifically for this type of parking. The requirements are set out in the Alberta Building Code, under the Safety Codes Act.
- b. The convenience store was approved as a permitted use under a separate development permit and is not part of the current development permit application. The parking can be shared for the 2 uses. Section 5.6.2 of the LUB allows shared parking at the discretion of the Development Authority, which determined that shared parking was appropriate in this circumstance.
- c. There are no minimum separation distances in the LUB for Private Liquor Stores.
- d. There is no requirement in the LUB for a real property report. However, there is no expiration on a real property report if there have been no major changes. It is not a requirement of a development permit application.
- e. Notice of the development permit was mailed to properties within 30 meters of the Lands. Notice in the local paper is not required, but is discretionary at the Development Authority's discretion. The Appellant is located outside of the 30 meter notification distance.
- f. There is an existing building on the Lands, and site drainage is not an issue.
- g. The Development Authority felt that there may be shared visits between the liquor store and the convenience store and determined that additional parking beyond the 7 required for the liquor store were not required. However, there were 11 parking stalls on the approved plan.
- h. The application was referred to fire services and comments were received.

Appellant Harkaran Boparai represented by Graham Semeniuk of Biamonte LLP

[26] Mr. Semeniuk provided the majority of the submissions on behalf of the Appellant. The Appellant appealed the development permit arguing that there were 4 main considerations in favour of overturning the development permit:

- a. The development permit was not conspicuously posted as required by condition 1;
- b. The parking required under condition 8 was not satisfied;
- c. The referrals to an external agency was insufficient; and
- d. The proximity to other liquor stores.

[27] In relation to Condition 1 (conspicuous posting), the photographs show that the text is small. It is on an 8.5 inch piece of paper with small text. The text is not legible from the

property line and there is no attention drawn to it. The Appellant argued this did not meet the condition.

[28] If the notice is not visible from the property line, it is not conspicuous.

[29] In relation to parking, the Appellant argued that section 5.6 of the LUB requires that 11 parking spaces are required for both the convenience store and the liquor store. The Appellant argued that the site plan does not account for the concrete area in the south-west area of the lot, and that there is insufficient room on the western edge of the property to accommodate the 4 parking stalls designated in the parking plan. The Appellant referred to photographs 8 and 9 which show that the distance from the road to the end of the sign is 14 feet 6 inches. Removing the 5 foot sidewalk leaves 9 feet 6 inches. The property is 75 feet wide, and given the distance from the rear of the property, the building and the parking lot, there is only 34 feet 3 inches for the parking spaces 1 through 4. The Appellant argued that there was not enough room for the spots. Further, there were no disabled parking spots, so the site plan should be rejected. The parking was insufficient because there will be 5 employees and some of those may park in the spots on the Lands.

[30] The Appellant affirmed his concern about the insufficiency of the parking spots and the absence of accessible parking.

[31] The third ground was that the Development Authority ought to have referred the application to the Alberta Gaming, Liquor and Cannabis Commission before issuing its decision. There is authority under section 2.6.2.c. to do so. Further, the Commission requires there to be a physical distance between the liquor store and the convenience store, so the Applicant will not be entitled to get a liquor license on the basis of the floor plan. The application should have been referred to the Fire Department because the building is old and the Development Authority ought to have referred the application to the Fire Department to ensure the building meets the minimum safety requirements.

[32] The Appellant also raised a concern about storm drainage. The Development Authority can take drainage into account by reason of section 2.4.1.c.x of the LUB and photographs 3 and 4 show the elevation of the Lands.

[33] The Appellant argued that the real property report was not recent.

[34] Finally, the Appellant argued that having 2 liquor stores close to each other in Wabumun would affect the character of the neighbourhood and the Development Authority ought to have exercised its discretion to refuse the appeal.

[35] The Appellant noted that the primary access from Highway 16 to the lake is along 50th Street and it backs up in the summer as people try to access the lake.

[36] The Appellant noted that business competition is not the ground of appeal, and is not referenced in the appeal materials. The Appellant noted that the Nelsons have a relationship

with the Applicant, as they sold him the property in 2021 and the Nelson's appealed the Appellant's application for a liquor store a number of years ago.

[37] In response to Board questions, the Appellant indicated that he was affected because he resides in Wabumun and is concerned about development in the Town. In response to later questions, the Appellant advised that he operates a business of a similar nature, but is not within the 30 meter notification distance.

Applicant – Preetinder Sran with his Agent Nick Pryce of V3

[38] Mr. Pryce provided the majority of the submissions on behalf of the Applicant. The Applicant noted that he had not been provided with any directions in regard to the requirements for the posting of the development permit. The Applicant believed that placing a copy of the development permit inside the door was enough. In relation to the parking, the Applicant provided an overview of the site plan shown at page 73 of the Agenda which reflects the current site. There are 4 parking spots, which refutes the submissions of the Appellant regarding those 4 spots. The electrical does not inhibit parking on the Lands. The LUB does not have any regulations regarding accessible parking. The Building Permit will set out the requirements for the accessible parking. The Lands can accommodate accessible parking as shown on the plan at page 73, at parking spots 5 and 6.

[39] In regard to the liquor license from the Commission, it is a standard approach for a development permit to be conditional upon other approvals. The Applicant understands that if it cannot obtain a permit from the Commission, then the development cannot proceed.

[40] The development is in alignment with the MDP. In regard to the Appellant's submissions regarding the separation distances in the Edmonton or Calgary land use bylaws, the Applicant advised that there are no requirements found in the LUB and the requirements from other jurisdictions are irrelevant to the determination of this appeal.

[41] The Applicant stated that notice of the development permit was posted for the required timeframe. In regard to the size of the posting, there are no guidelines in the LUB. In the absence of guidelines, the Applicant put it in the doorway so that if someone came to the building, they would see it. The Applicant increased the font size so it would be readable.

Those speaking in favour of the Applicant

[42] Danielle and Wilson Nelson own property directly south of the Applicants. They spoke in support of the applicant. The Lands were unkept and vacant for the last 3 years before the Applicant bought them. The development will increase the property value for the Nelsons. They saw the notice in the glass. They are happy with the proposed development.

FINDINGS OF FACT

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

[44] The Lands are located at Lots 13, 14 and 15, Block 1, Plan 3682AJ, Wabamun, SW 12-53-4-W5, municipally described as 5129 – 50 Street, Wabamun, Parkland County.

[45] The Lands are located within the Commercial District under the LUB.

[46] The development as approved by the Board complies with the applicable MDP.

[47] The development is a Private Liquor Store and is a discretionary use in the Commercial District. The Private Liquor Store is similar to the permitted and discretionary uses in the Commercial District, namely it is similar to the Retail Cannabis Sales.

[48] The Private Liquor Store is compatible with neighbouring uses.

[49] The Appellant, Harkaran Boparai, is an affected person.

[50] The Applicant, Preetinder Sran, is an affected person.

[51] Danielle and Wilson Nelson are affected persons.

REASONS

Jurisdiction

[52] 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 those who provided evidence: the Development Authority, the Appellant, the Applicant and those speaking in favour of 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

[53] 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. The Appellant has property in relative proximity to the Lands. The Nelsons have property adjacent to the proposed development. Due to their proximity to the proposed development, the Board finds the Appellant and the Nelsons to be affected.

[54] Because the Applicant's development permit is under appeal, the Applicant is also affected by this appeal.

Issues to be decided

[55] The Board must determine:

- a. Is the proposed development in compliance with the applicable statutory plans?
- b. What is the use?
- c. Is the use discretionary?
- d. If so, is the use compatible with surrounding uses?
- e. Does the proposed development comply with the LUB regulations or should a variance be authorized?

Compliance with Statutory Plans

[56] The only information before the Board in regard to the applicable MDP is the information from the Development Authority which indicates that the Village of Wabumun MDP applies because the Village dissolved into the County and the former MDP still applies to the Lands. The evidence of the Development Authority, which was not controverted, was that Lands are identified as Vehicle -Oriented Commercial in the MDP. The Board notes that a significant amount of the evidence before it related to the parking, which supports that the development is vehicle oriented. In the absence of any contrary evidence, and noting the vehicle-oriented nature of the development, the Board finds the development complies with the MDP.

[57] There is no area structure plan which applies to the Lands, and therefore there is no further discussion required on this point.

[58] Having addressed the question of the proposed development's compliance with the statutory plan, the Board must continue its analysis. Compliance with the statutory plans is required, but does not address the entirety of the issues before the Board. The Board now turns to the nature of the use and the questions which flow from the Board's determination of use.

What is the Use?

[59] The Board notes that the Development Authority outlined that the LUB provides that it is able to approve "other uses which, in the opinion of the Development Authority, are similar to the above mentioned permitted and discretionary uses". The Development Authority considered the use of Private Liquor Store to be similar to the Retail Cannabis Sales.

[60] The Board notes that no-one contested this determination made by the Development Authority. The Board has examined the reasoning provided by the Development Authority. The Board is of the view that Private Liquor Store is similar to Retail Cannabis Sales because both are commercial uses. Both are sold in a retail environment. Both require permits to be issued by the Commission. In light of these similarities, the Board finds as a fact that they are similar uses.

Is the Use Discretionary?

[61] Having concluded that the two uses are similar, the Board notes that the LUB provides that the use is a discretionary use and the Board finds so as a fact.

Is the Use Compatible with Neighbouring Uses?

[62] Having concluded that the uses is discretionary, the Board must consider whether the use is compatible with neighbouring uses. In determining compatibility, the Board has reviewed the arguments raised by the Appellant:

- a. The development permit was not conspicuously posted as required by condition 1;
- b. The parking required under condition 8 was not satisfied;
- c. The referrals to an external agency was insufficient; and
- d. The proximity to other liquor stores.

[63] The Board will review each of them in turn.

[64] The Appellant argued that the development permit was not conspicuously posted and was not posted for a sufficient time. The Applicant advised that there are no guidelines and he increased the font size. The Applicant also advised that he did post the development permit for the appropriate time inside the doors of the building on the Lands.

[65] In considering this issue, the Board notes that the Appellant did not point the Board to any requirements in the LUB providing specific directions for the posting of the development permit. The Appellant's argument was that the posting was not sufficient.

[66] In considering this issue, the Board is of the view that the reason for the posting of the development permit was to bring the development permit to the attention of those in the area of the Lands to provide them with an opportunity to file an appeal. The Board concludes that this purpose must have been satisfied by the Applicant's posting on the basis that the Appellant was not within the 30 meter notification distances, but learned of the development permit and was able to file his appeal. Since the Appellant is not within the 30 meter notification distance and the Development Authority indicated that it did not post the development permit in the newspaper, the Board concludes that the only way that the Appellant could have learned about the development permit was by the posting. Thus, the posting did what it was to do: bring the permit to the attention of those with concerns so they could file their appeal. As a result, the Board finds that the Applicant's posting met condition 1.

[67] In relation to the timing of the posting, the Appellant argued that the Applicant did not post it for the full 21 days. This was refuted by the Applicant. The Board accepts the evidence of the Applicant, since he was in control of the Lands and the development permit was inside the building, thus unlikely to be lost or removed by passers-by.

[68] In relation to the parking, the Board notes that the requirements for parking are found in the LUB regulations and will be considered below when considering regulations. However, as a question of compatibility, the Board does accept that insufficient parking might be a factor affecting the compatibility of the development. However, in this case, as discussed below, the evidence is that the Lands are able to accommodate 11 parking, which is what is required if each use on the Lands must provide separate parking and if there is no "double usage" parking. Given the full number of parking spots, the Board does not accept that there is a deficiency in parking spots and as a result does not accept that parking for the development creates an incompatibility with neighbouring uses.

[69] The Appellant argued that the Development Authority ought to have referred the matter to the Commission for approval before approving the development permit. The Development Authority confirmed that the imposition of a condition requiring an applicant to obtain other approvals is common and that without the Commission's approval, the development cannot proceed. The Board notes that the Appellant did not provide any specific reasons why the imposition of the condition regarding Commission approval would result in incompatibility. The Board finds that the argument regarding the Commission does not result in an incompatibility. The condition is clear that the Applicant cannot operate without Commission approval. The Board finds there is no evidence to support the timing of that approval would lead to incompatibility. If the Applicant does not obtain his permit, he cannot operate. The Applicant must obtain development approval and he must also obtain Commission approval to operate.

[70] The Board notes that the Appellant argued that the application ought to have been referred to the Fire Department to ensure safety, but provided no evidence that the building is unsafe. The Development Authority advised that a referral had been made to the Fire Department. The Board accepts the evidence of the Development Authority that a referral has been made. In the absence of any evidence regarding the safety, the Board is not prepared to accept the argument of the Appellant that there is any incompatibility due to the referral to the Fire Department.

[71] The Appellant also argued that there were possible drainage issues, which necessitated a referral. However, the Appellant provided no evidence of what drainage issues there were, or how those potential issues could cause an incompatibility with any other use. In contrast, the Development Authority advised that there were no concerns about drainage because the building on the Lands has been there for some time. The Board accepts the evidence of the Development Authority on the basis that the Development Authority provided clear evidence about the absence of any previous issues regarding drainage and the Appellant provided a general comment, without any specifics for the Board to evaluate.

[72] The Appellant argued that the proximity of the two liquor stores is a problem, relying upon the separation distances between liquor stores in Edmonton and Calgary. The Board confirmed that the LUB contains no separation distances for Private Liquor Stores and the Board finds so as a fact. In the absence of a LUB requirement for separation distances, the Board has to weigh what evidence was put forward to support an argument of incompatibility due to proximity. The Board notes that the only argument advanced was that there ought to be more distance between them and there was a reference that in summer, the street has traffic backed up due to vehicles trying to access the lake. The Board notes that this evidence does not relate to cars stopping at the liquor stores but was specifically about cars going to the Lake (presumably to the boat launch). Thus, there was no evidence that the use of Private Liquor Store would cause or contribute to the traffic on the street and no evidence about two liquor stores creating excessive traffic. Further, there was no hard evidence about the number of vehicles or traffic expected to be generated by the development or generated by the Appellant's liquor store. In the absence of such evidence, the Board finds that there is insufficient evidence to convince it that the proximity between the 2 stores causes incompatibility.

Does the Use Comply with LUB Regulations?

[73] As set out above in the discussion of compatibility, the question about the Applicant's compliance with the parking requirements is a discussion about the compliance with the parking regulation in the LUB.

[74] The evidence of the Appellant was that the parking requirements should be calculated for both the convenience store and the Private Liquor Store. If this is done, then 11 parking spots are required. The evidence of the Development Authority was that the LUB permitted it to relax the number of parking spots if it determined that the parking could serve both uses. The Applicant argued that even if 11 spots were required, there were 11 parking spots on the Lands (see page 73 of the Agenda package) and that two of them would satisfy the accessible parking requirements, even though accessible parking is not regulated by the LUB, but is regulated by the Safety Codes Act.

[75] The Board has reviewed page 73 of the Agenda package, which sets out the site plan approved by the Development Authority, but with the parking stalls numbered. The Board finds as a fact that there are 11 parking spots on the Lands. Even without any consideration of whether the parking spots could be used for both uses (Private Liquor Store and convenience store), the Board need not make this determination because the number of parking spots required for each use is satisfied based on the evidence of the site plan.

[76] The Appellant argued that the Lands could not accommodate accessible parking. The Board notes that the site plan at page 73 seems to accommodate parking spots which would meet the dimensions required for accessible parking. Even though the LUB does not contain requirements for accessible parking, the Board has amended the condition dealing with parking so that the plan identifying the parking spots is the approved plan. In this way the parking cannot be changed without a new application being submitted by the Applicant and approved by the Development Authority.

[77] The Board removed what was listed as condition 1 in the Development Authority's decision because that condition dealt with posting of the decision to permit an appeal to this Board. Since the Appellant filed his appeal and the Board has heard the hearing and made its determination, the Board is of the view that the reason for the condition has been satisfied, and there is no need to keep this condition.

Conclusion

[78] For the above reasons, the Board denies the appeal, and upholds the Development Permit but on the modified conditions as set out above.

[79] Issued this 3rd day of December 2021 for the Parkland County Subdivision and Development Appeal Board.



Barb 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

1. S. MacDonald, Development Authority
2. Harkaran Boparai, Appellant
3. Graham Semeniuk, Biamonte LLP
4. Nick Pryce, V3
5. Preetinder Sran, Applicant
6. Danielle and Wilson Nelson

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

November 22, 2021 Agenda Package			
Exhibit	Description	Date	Pages
1.	Agenda Coversheet	November 18, 2021	1
2.	Table of Contents	November 18, 2021	2
3.	Notice of Appeal – Harkaran Boparai, Agent: Graham Semeniuk - Biamonte LLP	October 12, 2021	9-11
4.	Submission of the Development Authority	November 16, 2021	12-60
5.	Submission of the Appellant – Harkaran Boparai, Agent: Graham Semeniuk - Biamonte LLP	November 16, 2021	61-65
6.	Submission of the Applicant – Preetinder Sran	November 17, 2021	65-76
7.	9 photographs submitted by the Appellant, Harkaran Boparai	November 22, 2021	n/a
8.	1 video submitted by the Appellant, Harkaran Boparai	November 22, 2021	n/a