

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
PARKLAND COUNTY**

Legislative Services, Parkland County Centre  
53109A HWY 779  
Parkland County, AB T7Z 1R1  
Telephone: (780) 968-8471  
Email: [sdab@parklandcounty.com](mailto:sdab@parklandcounty.com)

HEARING DATE: January 17, 2022  
FILE NO.: 21-D-488

**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 private riding arena for Quillcorp 2016 Inc. (the "Applicant") on behalf of Excella Equine Park Inc., located at Lot NW-22-52-1-W5, and municipally described as 1221 Twp Rd 524 (the "Lands").

[2] Lee Tinney (the "Appellant") appealed the development permit.

[3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on January 17, 2022 via video conference in accordance with the *Meeting Procedures (COVID-19 Suppression) Regulation, AR 50/2020*.

**PRELIMINARY MATTERS**

**A. Board Members**

[4] 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 outset of the hearing the Chair noted that Mr. Lee Tinney had submitted one photograph to the Board that was not included in the hearing package. Copies of this photograph was provided by email to all of the parties in attendance at the hearing. There were no objections to the photo being added to the hearing package.

[6] The Chair then confirmed that everyone in attendance had the full hearing package prepared for the hearing. There were no objections to any of the exhibits. The Board marked the exhibits received as set out at the end of this decision.

## **C. Miscellaneous**

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

[8] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections to the proposed hearing process.

[9] At the outset of the hearing, Barbara Williams, Clerk for the SDAB noted that the permit number in the notice letters provided to the parties contained a typographical error with the permit number; however, the rest of the notice letter contained the correct references. The parties did not raise any concerns with the typographical error.

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

[10] The Board dismissed the appeal and allowed the development permit on the same conditions as set out in the development permit issued December 6, 2021.

### **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 Development Authority received an application for a barn with a riding arena component on October 27, 2021.

[13] The Lands are located at NW-22-52-1-W5 and are located in a Country Residential district.

[14] The Development Authority determined the use to be a "Riding Arena". Riding Arena is defined in the Parkland County Land Use Bylaw (the "LUB") as "a building or an area of land used for the purpose of training, exercising handling and care of horses". Riding Arena is a discretionary use in the Country Residential district. The Applicant specified that the riding arena would be for private use only.

[15] The LUB does not specify a minimum or maximum size for riding arenas. The Development Authority has discretion to determine requirements for minimum setbacks for discretionary uses in the Country Residential district.

[16] The Lands are adjacent to the Meadows of Rosenthal subdivision. The parcels of land adjacent to the Lands are districted Country Residential, Agricultural General District, and Agricultural Restricted District.

[17] There are no restrictive covenants on the Lands which require specific design requirements.

[18] The Development Authority approved the application and issued a permit on December 6, 2021. In reaching its decision, the Development Authority considered that Riding Arena is an allowable use in Country Residential; the riding arena will be limited to private use; the building size is appropriate in relation to the Lands; the setback distances provided are sufficient for the proposed development; and the development is compatible with neighbouring land uses and is not anticipated to create any off-site nuisance factors.

[19] There is no specific requirement in the LUB for the handling of manure. However, the Community Standards Bylaw does address waste, and the management of waste.

[20] Parkland County's engineering department would become involved with any future application to change the approach to the Lands. The engineering department would make a decision on how to best approach the site based on access and traffic patterns at that time.

### **Appellant Lee Tinney**

[21] Mr. Lee Tinney lives at lot 9 in the Meadows of Rosenthal subdivision. He indicated that he was making submissions on behalf of the nine families that live in the subdivision.

[22] The Meadows of Rosenthal was intended to be a subdivision completed in three phases. The existing homes form phase 1. He did not receive any notification from the County regarding a change to that plan. Consideration should have been given to all existing residents prior to issuing the development permit.

[23] Construction of the project began before the development permit and other building permits were approved by the County.

[24] The location of the barn will result in reduced enjoyment and value of neighbouring properties. The barn is being built on a hill overlooking the subdivision and the foundation of the barn is at the same level as the roofs of the homes in the subdivision. The barn should be moved somewhere less obvious where it cannot be seen from homes in the subdivision.

[25] The smell of manure, and the flies that the manure will attract will decrease enjoyment of neighbouring properties. While the prevailing winds are from the northwest, there are also winds from the east and southeast which will blow the smell from the development into the subdivision.

[26] There is a lack of clarity around the proposed project. While the Applicant has indicated that the riding arena is for personal use, her website and signs on the property suggest a commercial component. Mr. Tinney suspects the Applicant wants to convert the development into a business in the future.

[27] The development may impact the safety of the neighbourhood, and there will be increased noise caused by traffic. It is unclear whether access to the Lands will be changed in

the future. Mr. Tinney does not want any traffic for the riding arena coming through the subdivision.

[28] Mr. Tinney asked what type of lights would be used in the development. He was specifically concerned with any light pollution that could affect the night sky.

[29] With respect to noise, Mr. Tinney inquired how much noise the neighbours could expect, and at what time of day they could expect it.

### **In Support of the Appellant - Jamie Langan**

[30] Ms. Jamie Langan spoke in support of the appeal. She lives at lot 13 in the Meadows of Rosenthal subdivision. She noted that her property was approximately 250 metres from the riding arena, and downhill from it. She also noted that she will be able to see the barn from her front yard, deck, and some of her backyard.

[31] Ms. Langan's family selected the lot they live on because it backs onto municipal reserve lands, and the neighbouring lands are agricultural. Had she known about the barn, she would not have purchased the lot. She questioned whether a barn was permissible given covenants on the Lands.

[32] Ms. Langan suggested that the barn would be more appropriate if it was located closer to agriculture land.

[33] Ms. Langan echoed the concerns of Mr. Tinney with respect to the description of the development on the Applicant's website. She noted that the evidence on the website appeared to contradict the assertion that the development permit application was for a personal use riding arena.

[34] Ms. Langan asked if the Lands were sold to another owner, whether a corporate body could insist on using the Lands for a commercial purpose.

### **Applicant – Quillcorp 2016 Inc.**

[35] Mr. Yvon Brochu spoke on behalf of the Applicant, Quillcorp 2016 Inc. He indicated that he is the president of the corporation.

[36] With respect to the Appellant's concerns that they were not aware of the horse barn, Mr. Brochu argued that their concerns lay with the previous owners of the lands, not with his client.

[37] There is no application for subdivision before the County or the Board at this time. While there may be an application for subdivision or change of use in the future, Quillcorp 2016 Inc. communicated this to the County and specified that the current application is for a personal use riding arena only. With respect to the sign on the property and the website, his client has the right to place a sign to gauge interest in a future project, before committing substantial financial resources to the project.

[38] His client wishes to be a good neighbour and provide landscaping to buffer the project from the subdivision at the appropriate time.

[39] With respect to concerns with smell, the prevailing winds in the area are from the northwest, and that the development is directly east from the subdivision. The odour from the barn will be minimal, but in the event that there is a smell it will be blown away from existing homes.

[40] Mr. Brochu has been involved in the marketing of rural land for over 50 years, and in his opinion a development would be favorable to the community and increase the property values in the area.

[41] The development permit requires that any exterior lighting must be "dark sky compliant", and therefore the impact on the night sky will be minimized.

[42] The noise from a private use horse facility will be substantially less than if the lands were subdivided and developed as was originally planned.

### **In support of the Applicant – Lisa Levasseur**

[43] Lisa Levasseur spoke in favor of the Applicant. She provided further detail regarding the application and responded to questions from the parties and the Board.

[44] Ms. Levasseur is evaluating two options for dealing with manure. It will either be hauled away, or disposed of on site with a bio-mass system that burns the manure at a high temperature. The system would produce heat for the facility and would not produce an odour or sound. There is a similar bio-mass system operating in Stony Plain already. Ms. Levasseur indicated that it is not practical to store the manure outside at the riding arena.

[45] With respect to landscaping, Ms. Levasseur indicated that her intention is to create a berm and plant trees between the riding arena and the subdivision. The trees will be primarily evergreens to obstruct the line of sight between her property and the subdivision year-round. The trees will be "medium-sized".

[46] Ms. Levasseur currently owns 8 horses. These horses would spend the majority of their time on the Lands. The horses are in her personal name. Feed will be trucked in once a year. Shavings for the stall will be trucked in approximately every three months.

[47] There is a possibility that a dog and some cats may live at the riding arena in the future. Down the road there will likely also be employees who work at the barn.

### **FINDINGS OF FACT**

[48] The Lands are located at NW-22-52-1-W5, and municipally described as 1221 Twp Rd 524, Parkland County.

[49] The Lands are located within the CR - Country Residential District of the LUB.

[50] The use of the Lands is a Riding Arena.

[51] Riding Arena is a discretionary use in the CR - Country Residential District.

[52] The Appellant is an affected person.

[53] Jamie Langan is an affected person.

[54] The Applicant is an affected person.

[55] Lisa Levasseur is an affected person.

## **REASONS**

### **Jurisdiction**

[56] 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 parties.

*687(3) In determining an appeal, the subdivision and development appeal board*

*...*

- (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**

[57] The first question the Board must determine is whether those individuals who appeared and spoke before the Board are affected persons. The Board notes that no party raised any objection with any other party's participation.

[58] The Appellant, and Ms. Langan both live within the Meadows of Rosenthal subdivision. Based on their proximity to the proposed development, the Board finds that the Appellant and Ms. Langan are affected persons.

[59] As the persons whose development permit is under appeal, the Applicant is also affected by this appeal. Lisa Levasseur is also affected as she ultimately owns the Lands.

## **Statutory Plans**

[60] The only evidence before the Board on the applicable Municipal Development Plan Bylaw 2017-14 (the "MDP") is the information from the Development Authority. The Lands are in the Rural Agricultural Area – General, as set out in section 4.1 of the MDP. The Rural Agricultural Area – General supports a range of agricultural operations, rural subdivisions, farmsteads, rural businesses, parks, environmental areas and other uses and amenities. The Board heard no evidence that suggests that the proposed development is not in compliance with the MDP.

## **Land Use District**

[61] The Lands are zoned as CR - Country Residential.

## **Nature of The Use**

[62] The Development Authority determined that the proposed use for the Lands was Riding Arena. The Board agrees. The LUB defines a riding arena as "a building or an area of land used for the purposes of training, exercising, handling, and care of horses." There was no argument before the Board that the proposed development was anything other than a riding arena. A riding arena is a discretionary use in the CR - County Residential District, as set out in section 5.3.2.e of the LUB.

[63] In their submissions, the Appellant and Ms. Langan raised concerns with whether the riding arena is actually intended for private use. They noted signs posted on the Lands and a website suggest the Applicant may have other intentions for the Lands.

[64] The Board's role is to consider the appeal of the development permit that is before it. In this case, the development permit under appeal is for a private riding arena. There is no evidence before the Board that the Applicant has applied for any other use, or applied to subdivide the Lands at this time. The Board notes that prior to the Development Authority approving the development permit, the Applicant confirmed by email that the riding arena would be used for the personal needs of the owner. This information is reflected in the conditions of the development permit itself: "The riding arena is approved for personal use only and at no time shall be used in connection with any business or occupation or for accommodation purposes."

[65] In light of its role, the Board declines to comment or speculate on potential future development permit applications. This appeal before the Board is limited to the development permit that was issued on December 6, 2021.

[66] Similarly, the Appellant raised concerns that construction on the development had started before the appropriate permits were in place. The Board's statutory task is to consider the appeal of the development permit before it; the Board is not tasked with the policing of construction taking place on the Lands. Accordingly, the Board declines to comment on these issues, and that evidence did not influence the Board's reasons.

### **Is the riding arena compatible with neighbouring uses?**

[67] Having concluded that the riding arena use is discretionary in a CR - Country Residential district, the Board must assess the compatibility of the riding arena with adjacent uses.

[68] In its submissions, the Development Authority stated that it considered the compatibility of the development and found that a riding arena was compatible because riding arena is an allowable use in a CR - Country Residential district; the riding arena is for private use only; the building size is appropriate in relation to the property; the setbacks are sufficient for the proposed development; and the development is compatible with neighbouring land uses and is not anticipated to create any off-site nuisance factors.

[69] The Appellant and Ms. Langan raised a number of concerns that the Board takes to be concerns with the compatibility of the development, including smell, location and setback of the barn, traffic and access to the Lands, light, and noise associated with the development. The Board considered these concerns to determine whether they effect the proposed development's compatibility with the neighbouring uses.

### ***Smell***

[70] The Appellant stated that he was concerned about the smell of horse manure.

[71] When considering the impact of the development on the neighbouring parcels, the Board considered the scope of the development. The evidence before the Board was that Ms. Levasseur currently owns 8 horses. Based on the size of the barn, there is room for additional horses to be housed on the Lands. The Lands are comprised of approximately 100 acres.

[72] In the Board's view, the smell generated by the manure of 8 horses on a parcel of this size does not rise to the level of making the development incompatible with neighbouring uses. This would hold true even if the development were at full capacity for horses. In the Board's view, a parcel of this size can sustain the number of horses proposed to be housed by the development without creating a smell that poses a real nuisance to neighbouring parcels, such that the development would be incompatible.

[73] The Board also notes that in addition to the Meadows of Rosenthal subdivision, lands adjacent to the development are zoned as AGG - Agricultural General District, and AGR -

Agricultural Restricted District. Parkland County supports agricultural activity, and the odd whiff of horse manure can be expected in an agricultural area and CR - Country Residential zone.

[74] The Appellant and Applicant each argued that the prevailing winds supported their respective positions with respect to potential smell. While the Board considered the evidence with respect to wind, this evidence did not sway the Board one way or the other in reaching its conclusion.

#### ***Location of the development and setback***

[75] Mr. Tinney argued that the location of the barn was problematic, as it sits on top of a hill overlooking the subdivision. In her submissions, Ms. Langan argued that the barn should have been located somewhere else on the parcel, closer to agricultural lands. She also suggested that there may be some runoff from the barn. Neither party provided specific detail on where the barn should have been placed.

[76] The evidence of the Development Authority was that the building size is appropriate in relation to the titled property, and that the setback distances were deemed by the Development Authority to be sufficient for the proposed development. Ms. Levasseur's evidence was that she intends to build a berm between the barn and the Meadows of Rosenthal subdivision. In addition, she intends to plant medium sized evergreen trees to obstruct the view. She noted that construction of the berm would continue after the spring thaw.

[77] In light of the evidence before it, the Board is satisfied that the location and size of the riding arena are compatible with the neighbouring uses. In reaching this conclusion, the Board gave significant weight to the evidence of the Development Authority that the location of the development, size and setback are appropriate for the size of the lot. The Board agrees with the development authority that a development of the size proposed is not out of place on a parcel that is nearly 100 acres.

[78] With respect to the setback, the Board is satisfied that the Development Authority has the expertise necessary to determine the appropriate placement of the riding arena. Accordingly, the Board gave greater weight to the evidence of the Development Authority. The Board notes that the LUB does not prescribe sizes or setbacks for riding arenas. The Board also notes that the riding arena is setback over 65m from the nearest parcel in the Meadows of Rosenthal subdivision. In the Board's view, this setback, in conjunction with the berm and trees that Ms. Levasseur indicated she intends to plant, will mitigate the concerns raised by the Appellant. With these mitigations in place, the Board is satisfied that the location of the proposed development is compatible with neighbouring uses.

[79] While it was suggested during the hearing that there may be issues with runoff arising from the location of the barn on top of the hill, there was no evidence before the Board to substantiate that concern.

### ***Traffic and Access***

[80] The Appellant raised concerns with increased traffic in the subdivision due to the development. He indicated that this could cause a safety concern, as children play in the subdivision.

[81] The evidence before the Board is that the Lands are currently accessible off Highway 628 (also known as Township Road 524). The Board understands that access to the Meadows of Rosenthal subdivision is off Range Road 13, and that the subdivision road ends in a dead end. The Board further understands that the Applicant does not currently access the Lands through the subdivision. In light of this configuration, there is no evidence before the Board to support an argument that the development poses a safety concern. There will be no increase in traffic within the subdivision as a result of the proposed development. There is no evidence before the Board of a proposed change or reconfiguration in access to the Lands.

[82] With respect to traffic outside the subdivision, the Board finds that the change in traffic as a result of the development is compatible with the neighbouring uses. The Board accepts the uncontested evidence of Ms. Levasseur that there will be approximately 5 deliveries a year to the Lands, one for food and four for wood shavings. In the Board's view, these deliveries will only minimally impact on the traffic in the area. The Board again notes that these additional vehicles will not be travelling through the subdivision. In the Board's view, 5 deliveries per year is not a significant increase in the amount of traffic in an area with agricultural zones all around, and does not create a nuisance such that the proposed development is incompatible with neighbouring uses.

### ***Light Pollution and Dark Sky***

[83] During the course of the hearing, the Appellant asked for clarification on the types of lights that would be included in the development. He raised concerns with the ability to view the night sky following the development.

[84] The evidence before the Board is that the development permit requires that the outdoor lighting for the development will be Dark Sky compliant, in accordance with Parkland County Policy. The Applicant indicated that he was aware of the policy, and confirmed that all outdoor lighting would be Dark Sky compliant. In light of this evidence, the Board is satisfied that the Appellant's concern has been addressed, and that the lighting is compatible with neighbouring uses.

### ***Noise***

[85] The Appellant also asked for clarification on the amount and types of noise that the neighbouring parcels could expect from the development.

[86] The Board accepts the evidence of Ms. Levasseur that if the bio-mass system is implemented, there will be no additional noise from the facility. The Board also adopts the same reasons above with respect to traffic, so far as they apply to noise concerns: there will not be additional traffic in the subdivision, and the amount of additional traffic in the general area will be minimal. In light of the fact that there will not be significant noise generated by

the development, or by traffic to service the development, the Board finds that the noise that will be generated by the development does not create an incompatibility with neighbouring uses.

### **Conclusion**

[87] Having considered the evidence and argument before it, the Board is satisfied that the riding arena development is compatible with neighbouring uses. For these reasons, the Board dismisses the appeal and allows the development permit on the same conditions as placed upon the development permit by the Development Authority.

[88] Issued this 31<sup>st</sup> day of January, 2022 for the Parkland County Subdivision and Development Appeal Board.



---

Barb Williams, Clerk of the SDAB, on behalf of B. Bundt, 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**

**PERSONS APPEARING**

1. Seghan MacDonald, Development Authority
2. Lee Tinney, Appellant
3. Jamie Langan, in support of the Appellant
4. Yvon Brochu for Quillcorp 2016 Inc., Applicant
5. Lisa Levasseur, in support of the Applicant

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

January 17, 2022 Agenda Package			
Exhibit	Description	Date	Pages
1.	Agenda Coversheet	January 13, 2022	1
2.	Table of Contents	January 13, 2022	2
3.	Notice of Appeal – Lee Tinney	December 23, 2021	8-9
4.	Submission of the Development Authority	January 11, 2022	10-65
5.	Submission of the Appellant	January 11, 2022	66-96
6.	Submission of the Applicant	January 11, 2022	97-105
7.	Submission in Support of the Appeal – Trenton Snook	December 27, 2021	106
8.	Submission in Support of the Appeal – Bisi Aluko	December 27, 2021	107
9.	Submission in Support of the Appeal – Jamie Langan	January 11, 2022	108-119
10.	Additional Submission of the Appellant – Received at Hearing	January 17, 2022	n/a