

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
PARKLAND COUNTY**

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HEARING DATE: May 9, 2022  
FILE NO.: 21-D-496

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

**INTRODUCTION**

[1] The Development Authority of Parkland County (the "Development Authority") approved development permit 21-D-496 (the "Development Permit") for Travellers Hut (the "Applicant") for Signage – Free standing sign and Fascia signage located at Lot 2-3, Block 2, Plan 3682 AJ within SW-12-53-4-W5, municipally described as 5209 – 50 St, Wabamun, Parkland County (the "Lands").

[2] On April 11, 2022, Nick and Violet Stecyk, Danine Gosling and Wendy Slager (the "Appellants") filed an appeal of the Development Permit. The Appellants appealed the decision of the Development Authority in approving the Development Permit for fascia signage (the "Fascia Signs") and a free-standing pylon sign (the "Free-Standing Sign"). The Fascia Signs and the Free-Standing Sign are collectively referred to as the "Signage".

[3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on May 9, 2022 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] During the hearing, the Board received two additional photographs and one video from the Applicant and one additional photograph from the Appellants. 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, the Appellants and the Applicant, time to review them. There were no objections to the Board receiving these exhibits. In light of the fact that there were no objections, the Board has marked the photographs and video as exhibits as set out at the end of this decision.

[7] Almost at the end of the hearing, the Board asked the Applicant a question about the need for the lit signage. In response, the Applicant wanted to provide the Board with new information, which was the result of a Google search that he had conducted in response to the Board question. The Board indicated that it would allow the Applicant to provide oral submissions about the need for lit signage but would not accept new written information. The Board did not accept this late information because if it had done so, in order to provide procedural fairness to the others involved in the hearing, it would have had to provide them with an opportunity to review and respond to this new information. In order to provide procedural fairness, the Board permitted the Applicant to respond to Board questions, but did not permit new written documentation, particularly near the conclusion of the hearing.

### **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 allows the appeal in part and varies the development permit issued by the Development Authority. The Board denies the Development Permit for the Free-Standing Sign. The Board approves the Development Permit for the Fascia Signs. The Board grants the development permit with respect to the Fascia Signs subject to the following conditions:

- i. The Fascia Signs may only be lighted between the hours of 6:00 a.m. and 9:00 p.m.
- ii. The Fascia Signs shall conform to the stamped approved plans and shall not be moved, altered or enlarged except where authorized or directed through this permit approval.
- iii. 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.

- iv. The display or placement of Fascia Signs on the premises shall be in accordance with Subsection 5.7 as set out in the Land Use Bylaw 07-2010.
- v. The Fascia Signs shall be located completely within the boundary of the subject site and may not project over or onto a road right-of-way or easement.
- vi. The Fascia Signs shall be kept in a safe, clean and tidy condition, and may be required to be renovated or removed if not properly maintained.
- vii. No person shall attach anything to an existing permitted sign unless a new permit is issued for such addition.
- viii. Parkland County reserves the right to impound any sign that does not comply with the Land Use Bylaw.
- ix. Failure to comply with the conditions of this permit may result in the permit being cancelled and or revoked.

## **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 Lot 2-3, Block 2, Plan 3682 AJ within SW-12-53-4-W5, municipally described as 5209 - 50 St, Wabamun, Parkland County.

[13] 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.

[14] The LUB was never repealed by Parkland County Council; therefore, it is the governing land use regulation for the hamlet of Wabamun.

[15] The Lands are located within the C1 – Commercial District of the LUB. Upon review of the application the Development Authority determined the Use Class to be Buildings and uses accessory to discretionary uses (Signage). As defined in Section 1.5(1) of the LUB, Accessory Use means a use of a building or land which the Development Authority decides is subordinate or incidental to the principal use of the parcel on which it is located.

[16] A convenience store with gas station and a liquor store exist on site. The Signage pertains to both the convenience store with gas station and a liquor store, which are discretionary uses. Therefore, the Development Authority deemed the Accessory Use to be discretionary in accordance with Section 7.6(2) of the LUB.

[17] The Municipal Development Plan Bylaw No. 06-2010 (the "MDP") identifies this parcel for future residential use.

[18] The Lands are not subject to an approved Area Structure Plan.

[19] The Lands are not within an environmentally significant area as identified by the Environment Conservation Master Plan (the "ECMP"). The ECMP was created in 2014 when Wabamun was its own distinct municipal jurisdiction.

[20] The application was received on November 5, 2021, by Parkland County's Planning and Development Services Department for "channel letters on both buildings in accordance with rendering and pylon sign". On November 25, 2021, the Development Authority deemed the application complete. The following items were submitted in support of the application:

- a. application form;
- b. Certificate of Title;
- c. site plan; and
- d. elevations / renderings of signage (including dimensions).

[21] In the opinion of the Development Authority, the proposed development on the Lands meets the applicable Land Use Bylaw Requirements. In reviewing the application, the Development Authority took into consideration the following from the LUB Section 5.7 - Sign Regulations:

- a. **FREE STANDING SIGN**
  - i. The Free-Standing Sign was evaluated based on Sections 5.7.1 and 5.7.3 of the LUB.
  - ii. As set out in regulation 5.7.3(c), the height of the sign shall not exceed 9.0m. The proposed sign is 5.02m.
  - iii. As set out in regulation 5.7.3(d), the face of the sign shall not exceed 86.11 ft<sup>2</sup>. The proposed sign face is approximately 52 ft<sup>2</sup>.
  - iv. As set out in regulation 5.7.3(e), the sign must not project within 0.6m of a property line. The Applicant confirmed that the sign will not be located within the setback distance. This regulation is a listed condition of the development permit.
  - v. As set out in regulation 5.7.3(e), the sign shall not project within 2.0m of overhead utility lines. The sign will be over 3.0m from overhead lines.
  - vi. As set out in regulation 5.7.3(g), the free-standing sign is proposed to be vertically erect.
  - viii. The sign will be illuminated with a static RGB display (in accordance with the discussion with Applicant's sign provider on March 8, 2022).

- b. FASCIA SIGN #1 – LIQUOR STORE
  - i. The location of the 36" x 135" fascia sign proposed to be affixed above the entrance to the liquor store was approved under development permit 20-D-424; however, the artwork was not submitted at that time.
- c. FASCIA SIGN #2 – CONVENIENCE STORE, LIQUOR, GAS, DIESEL
  - i. The fascia sign was evaluated based on Section 5.7.1 and 5.7.5 of the LUB.
  - ii. The proposed dimensions are 83" x 14".
  - iii. As set out in regulation 5.7.5(a), Fascia signs are limited to only the name and nature of the occupants of the development. The proposed artwork is limited to the nature of the business (i.e., convenience store, sale of liquor and gasoline).
  - iv. As set out in regulation 5.7.5(b), the Fascia Sign shall project no more than 0.3m (0.98') from the face of the building to which it is attached. The sign projects only 3" from the exterior wall.
- d. FASCIA SIGN #3 – LIQUOR
  - i. The fascia sign was evaluated based on Section 5.7.1 and 5.7.5 of the LUB.
  - ii. As set out in regulation 5.7.5(a), Fascia signs are limited to only the name and nature of the occupants of the development. The proposed artwork is limited to the nature of the business (i.e., sale of liquor).
  - iii. As set out in regulation 5.7.5(b), the Fascia Sign shall project no more than 0.3m (0.98') from the face of the building to which it is attached. The sign projects only 3" from the exterior wall.

[22] The proposed Signage is directly adjacent to the US – Urban Service district. The R1 – Residential District is located to the northwest of the Lands.

[23] In the opinion of the Development Authority, the Fascia Signs and Free-Standing Sign should be approved because the proposed Signage meets the regulations as listed in Section 5.7 of the Land Use Bylaw. The Signage is considered an Accessory Use, allowable within Section 7.6(2) of the Land Use Bylaw. The signage for a commercial building is considered by the Development Authority to be an appropriate use in a commercial district.

[24] In response to questions from the Board, the Development Authority advised that:

- a. The historic Wabamun statutory plans apply to the proposed development. Although the MDP designates the Lands as future residential use, the LUB designates the lands as C1 – Commercial District. The MDP has not yet been amended to be in line with the LUB. While there is still a discrepancy between

the MDP and the Wabamun LUB, the MDP is conceptual in nature and therefore the LUB governs.

- b. The dimensions of Fascia Sign #1 are 36" x 135", and not 36' x 135".

### **Appellant – Violet Stecyk**

[25] The Appellant Violet Stecyk advised the Board that the Appellants live within the R1 – Residential District across the road from the Lands. She submitted that as a result of the lights from the Signage, her home is flooded with light in the evenings. The Appellants seek by their appeal to minimize the light that is shining into her and her neighbours' properties and to return to their previous quality of life. Ms. Stecyk would prefer not to have the Signage but if there were Signage, she would like the light from the Signage to be minimized.

[26] Ms. Stecyk informed the Board that there is a seniors' residence across the street from the Applicant's business located within the US – Urban Service District that is affected by the lights.

[27] Ms. Stecyk submitted that the photograph shown on page 36 of the Agenda package that the Appellants submitted during the hearing demonstrates the brightness of the Fascia Sign. The light from this Fascia Sign is too bright and shines all night and into the Gosling and the Stecyk residences, which makes it difficult for her to read or sleep. The Appellants have worked with Brian Blatz, a County Peace Officer, to come to the agreement that the convenience store sign shown on page 59 of the Agenda package would be turned off at 9:00 p.m., and they hope for a similar restriction with respect to this Fascia Sign.

[28] Mr. Blatz had spoken to Mr. Boparai about the lights. However, the Applicant only fixed two lights. Once those lights were fixed, the Applicant only turned off at 9:00 p.m. the lights that had not been fixed.

[29] Ms. Stecyk stated that, although the Free-Standing Sign will be a static sign, the sign will flash and shine red light into the Stecyk residence and the Gosling residence. As seen from the photographs on pages 54-55 of the Agenda package, the red static light from the gas station shines into the rooms of the Appellants' residences. These photographs demonstrate how the red static light from the Free-Standing Sign will shine into the rooms of the Appellants' residences as the two types of lights are the same. The Appellants do not want any lights on the Free-Standing Sign at all.

[30] Ms. Stecyk submitted that there is no need for lighted Signage as people leave the area before dark. From the video that Mr. Boparai submitted, one can clearly see the buildings without lights.

[31] In response to Mr. Boparai's statements that the Appellants did not complain about the existing lighting in 2018 or 2019, Ms. Stecyk claimed that the Appellants were not allowed to make statements then.

[32] In response to Mr. Boparai's statement that the Applicant requires lights for security reasons, Ms. Stecyk stated that undesirables in the area were due to the liquor store itself.

[33] In response to Mr. Boparai's statement that the Applicant requires lights to stay competitive, Ms. Stecyk stated that the Applicant's Signage is too much for its type of business, and that the lighting would only be appropriate if Mr. Boparai had many more competitors in the area.

[34] Ms. Stecyk submitted that the Applicant did not clearly post the Development Permit. The Applicant had posted the Development Permit behind a sign labelled "Gas" as shown on page 50 of the Agenda package. If someone did not walk onto the Lands, they would not have seen it.

### **Appellant – Nick Stecyk**

[35] The Appellant Nick Stecyk stressed that Sections 5.7(1)(f)-(g) of the LUB were key to this appeal.

[36] Mr. Stecyk submitted that the existing lighting demonstrates what will happen with additional lighting. In response to Mr. Boparai's claims that the lumens of the Signage are low, Mr. Stecyk stated that, with how many lights there are, the total amount of lumens is problematic.

[37] Mr. Stecyk stated that because it is a small community, dominant lights and signs should not be allowed. Lights and signs are already easily spotted.

[38] Mr. Stecyk compared the Signage to the lights at the fire hall, which Mr. Stecyk believes serves their purpose. Mr. Stecyk gave the opinion that the Applicant's lights are not designed for their application. Mr. Stecyk indicated that he had many years of experience in electrical work, and he did not think that the Applicant had correctly calculated the lumens.

[39] Mr. Stecyk stated that he wants to return to the quality of life that the Appellants had before the lighted Signage.

### **Appellant – Wendy Slager**

[40] The Appellant Wendy Slager submitted that the Applicant's businesses are on a main road and very well lit up. There is a lot of advertising on the businesses. Therefore, the business is easy to see and hard to miss.

[41] Ms. Slager submitted that the light from the Free-Standing Sign will affect her residence. On page 56 of the Agenda package, she indicated that it is evident how the RGB light reflects on walls and how the red light shines into Ms. Slager's residence. Ms. Slager would accept the Signage if they are not lit up, but she takes issue with the lighting because of the seniors' residence across the street from the Applicant's business. Ms. Slager stated that the Free-Standing Sign will be clearly visible without lighting.

### **Affected Person – Harpreet Sandhu**

[42] Harpreet Sandhu owns a business next to the Applicant's convenience store. He spoke in support of the Appellants. Mr. Sandhu advised that the lights from the convenience store may force him to put more lighted signs on his own business to remain competitive, although Mr. Sandhu is trying to minimize lights for the residents and especially the seniors' residence. Mr. Sandhu expressed the opinion that, if the Board does not listen to the Appellants' concerns, the Signage will drive the residents and, therefore, business away.

[43] Mr. Sandhu submitted that, although Mr. Boparai is trying to minimize the amount of light emitted from each sign, he is not minimizing the quantity of lights overall. Mr. Sandhu stated that there has to be limits on the number of lights considering the existing signage on Mr. Boparai's property.

[44] In response to questions from the Board, Mr. Sandhu advised that his business is currently under construction; however, his business has had signs up for 2 to 3 months. He is currently considering whether he needs more signs for his business because there are so many signs on the convenience store and the convenience store is always lit.

### **Applicant – Travellers Hut by its agent Harkaran Boparai**

[45] Mr. Boparai, on behalf of the Applicant, submitted that the Signage is compliant with the LUB.

[46] The objections regarding the lights are not relevant to the Development Permit. The Board should not consider the Appellants' submissions. Mr. Boparai submitted that on June 18, 2014, Council changed the zoning of the area from a residential zone to a commercial zone due to a commercial need. Mr. Boparai argued that if the Appellants have any objection to the Applicant's business, they should have posed those objections in 2014. Council correctly followed the process to change the zoning in 2014.

[47] Mr. Boparai argued that the Development Permit concerns the Signage, and therefore the lights inside the Appellants' residences are not relevant to the appeal. Regardless, his position was that the photographs of the lights shown in the home do not correspond to what the lights will look like once he replaces the current lights. The video that Mr. Boparai submitted as evidence during the hearing shows how bright the lights will be, and he assured the Board that the lights would not affect the Appellants.

[48] The Applicant runs a 24-hour fuel station, which means that it has to keep lights on for 24 hours a day. If the Appellants had an issue with the gas station lights, they should have appealed that development permit in December of 2019.

[49] Mr. Boparai stated that there are many break-ins in the area. The lights allow the cameras to catch any break-ins.

[50] Mr. Boparai informed the Board that he is working to replace the lights in the Fascia Signs. His electrician was supposed to have changed some of the lights on May 8, 2022. However, because of the weather, the working conditions were unsafe. Therefore, the

electrician did not change the lights. Mr. Boparai will have his electrician change some of the lights in the coming weeks.

[51] The Fascia Signs will have channel letters that do not project light. In response to Mr. Sandhu's concerns about:

- a. the number of lights, his position was that the number of lights in place are not the issue. The issue is the amount of lumens that the lights emit.
- b. the amount of signage that he requires, Mr. Boparai stated that Mr. Sandhu is in competition with the Applicant's business, and Mr. Sandhu is merely trying to minimize competition. Mr. Sandhu's business is not yet open, but his sign had been on all night the previous day and had projected more light than the Signage that the Applicant is proposing even though Mr. Sandhu's business is not yet open. Mr. Boparai argued that there is no objection yet to Mr. Sandhu's signage but once he opens, there may be objections then.

[52] In response to Mr. Stecyk's comment that the fire hall lights are appropriate for their purpose, Mr. Boparai submitted that the fire hall is not an appropriate comparison because the fire hall does not need protection from vagrants.

[53] With respect to the posting of the permit, Mr. Boparai advised that the permit was posted the same day that it was issued. In a previous SDAB hearing, for development permit 21-D-403 on March 12, 2021, the same issue was raised. The development permit was alleged to be posted incorrectly because it could not be seen from the sidewalk. In December 2021, that Board held that there were no guidelines in the LUB regarding posting of the development permit and that the development permit was posted close to the sidewalk.

[54] In response to questions from the Board, Mr. Boparai advised that:

- a. The Applicant's business is a retail business, and signs are the main thing driving people to the businesses. Even though signs are expensive, the Applicant is required to put up signs to stay competitive.
- b. One of the photographs that Mr. Boparai submitted during the hearing shows the sign at the convenience store turned off, and two signs turned on. The electrician will change the lights in these latter two signs.
- c. There will be RGB lights on the Free-Standing Sign. The business' promotions will be displayed using the RGB lights.
- d. Referring to page 33 of the Agenda package, Fascia Signs #1 and #3 have been installed, and Fascia Sign #2 and the Free-Standing Sign are not yet installed.
- e. The Applicant requires the Signage to be lit at all times, especially in winter when there is not much daylight. This is important because although the convenience store and liquor store do not operate 24 hours a day now, they may become 24-hour stores in the future.

- f. The Signage attracts people to the business. Without the Signage, the Applicant's sales would be low, and it will be hard for the business to survive. It is a small-town liquor store, and many commuters will not drive to the business if they cannot see it. If the Signage is lit properly, it will be visible to commuters. The Applicant needs to show its presence, especially because of Mr. Sandhu's business. It is important for retail businesses to communicate to their customers in a few seconds. Big businesses with brand names, such as McDonald's and Tim Hortons, still need signage and advertisements. Signs are important to communicating a business' message.

## **FINDINGS OF FACT**

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

[56] The Lands are located at Lot 2-3, Block 2, Plan 3682 AJ within SW-12-53-4-W5, municipally described as 5209 - 50 St, Wabamun, Parkland County, AB.

[57] The Lands are located within the C-1 Commercial District under the LUB.

[58] The principal use of the Lands is a convenience store and a liquor store.

[59] The proposed development consists of 3 Fascia Signs and 1 Free-Standing Sign.

[60] Signage is a use accessory to the principal use of the Lands.

[61] Buildings and Uses Accessory to Discretionary Uses is a discretionary use on the Lands as outlined in Section 7.2 of the LUB.

[62] The proposed development is an Accessory Use to the commercial use and is a discretionary use in the C-1 District.

[63] The Appellants Nick and Violet Stecyk, Wendy Slager and Danine Gosling are affected persons.

[64] Harpreet Sandhu is an affected person.

[65] The Applicant, Travellers Hut, is an affected person.

## **REASONS**

### **Jurisdiction**

[66] 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 Appellants, the Applicant, those speaking in favour of the Applicant and those speaking in favour of the Appellants.

- 687(3)** *In determining an appeal, the subdivision and development appeal board*
- (a) repealed 2020 c39 s10(52);*
  - (a.1) must comply with any applicable land use policies;*
  - (a.2) subject to section 638, must comply with any applicable statutory plans;*
  - (a.3) subject to 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**

[67] 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.

[68] The Appellants live within 100 meters of the proposed development. Due to their proximity to the proposed development, the Board finds as a fact that they are affected.

[69] Harpreet Sandhu owns a business in close proximity to the proposed development. Due to Mr. Sandhu's business' proximity, the Board finds as a fact that he is affected by the proposed development.

[70] As the Applicant's Development Permit is under appeal, the Applicant is also affected by this Appeal.

## **Issues to be Decided**

[71] The Board must determine:

- a. Is the proposed development in compliance with the applicable statutory plans?
- b. What is the use and does it require a development permit?
- c. Is the use discretionary?
- d. If so, is the use compatible with surrounding uses?

### **Compliance with Statutory Plans**

[72] The Board acknowledges that in determining the Appeal, the Board must comply with any applicable statutory plans, such as the MDP.

[73] With respect to the MDP, the Development Authority indicated that the lands are located within an area for future residential use. The Development Authority noted that the MDP is conceptual and does not contain mandatory provisions. The Appellants and the Applicant made no submissions regarding the MDP. In light of the absence of any objection, the Board finds that the proposed development is compliant with the MDP. The Board finds that the use of these lands and the proposed development is not contrary to the terms of the MDP because the MDP is merely conceptual.

[74] There is no area structure plan which applies to the Lands.

### **What is the Use and does it require a development permit?**

[75] Having addressed the question of the proposed development's compliance with the statutory plans, the Board must continue its analysis. Compliance with 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.

[76] The Board notes that the Development Authority determined that the principal use of the parcel was a convenience store with gas station and a liquor store, which is a discretionary use under Section 7.6(2) of the LUB. All parties before the Board agreed that the principal use of the parcel was for a convenience store with gas station and a liquor store and that the use was a discretionary use within the C-1 Commercial District and the Board finds so as a fact.

[77] The Development Authority determined that the use of the Lands described in the Development Permit is buildings and uses accessory to discretionary uses (signage). There was no argument before the Board that the proposed development was anything other than signage. The Board has examined the definition of "Accessory Use" within the LUB and finds that signage is subordinate or incidental to the principal use of the Lands, the convenience store with gas station and liquor store, and therefore an accessory use.

[78] Section 5.7 of the LUB provides that signs may not require a development permit, if the signs qualify for an exemption. In this case, there was no evidence presented to the Board that an exemption under the LUB applied. As a result, a development permit is required.

### **Is the Use Discretionary?**

[79] The Board notes that Section 7.6(2) of the LUB provides that buildings and uses accessory to discretionary uses is a discretionary use within the C-1 Commercial District. The Board concludes the use is signage, which is a use accessory to a discretionary use within the C-1 Commercial District.

### **Is the Use Compatible with Neighboring Uses?**

[80] Having concluded that the use is discretionary in a C-1 Commercial District, the Board must consider whether the use is compatible with neighboring uses.<sup>1</sup> In determining compatibility, the Board has reviewed the arguments raised by the Appellant:

- a. The bright lights from the Signage will interfere with the Appellants' quality of life; and
- b. The development permit was not conspicuously posted as required by condition 1.

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

#### *Lighting from the Signage*

[82] The Board first notes that the test of compatibility indicates that the question is compatibility with neighbouring uses, and not just the uses of the Applicant's parcel. The Appellants live in proximity to the Applicant's business and therefore the use must be compatible with the uses of the R1 – Residential District where the Appellants' land is situated, and the US – Urban Services District directly adjacent to the proposed development. In light of the test for compatibility, the Board does not accept the Applicant's argument that the Appellants' concerns are not germane to the appeal.

[83] In considering the compatibility of the uses, the Board has considered the Applicant's argument that there are many break-ins in the area. The Board notes that the Applicant did not provide any evidence in support of these submissions. The Applicant provided no evidence of break ins that it had suffered personally at the existing convenience store or liquor store, nor any evidence supporting the assertion that there were a significant number of break ins within Wabumun as a whole. In light of this lack of evidence, the Board is not persuaded that the Signage is required to be lighted in order to provide security.

[84] The Applicant also argued that the Signage is required to draw business. However, the Applicant provided no evidence in support of its position, and only attempted to provided the results of a Google search when the Board asked specific questions to the Applicant. On the

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<sup>1</sup> *Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261 at para 14.

evidence provided, the Board is not convinced that the Signage is required to draw in business after normal business hours. The Applicant argued that it required the signs to be illuminated 24 hours a day because at some time in the future, the convenience store and liquor store might operate 24 hours a day. The Board is not convinced that there is a need for 24 hour lighting when the business does not operate 24 hours a day at this time.

[85] By contrast, the Appellants argued that the lighting from the Signage will cause a further disruption on their quality of life. They provided oral evidence of the impact that the light has on their quality of life. As part of the evidence that they provided to the Board, they included multiple photographs showing the existing lighting from the gas station. The Appellants described how the existing lights disrupt their sleeping and reading habits and their concern for the seniors' residence across from the Applicant's business. The Appellants argued that if the Signage is approved, there will be an increased negative impact on their quality of life.

[86] In considering this evidence, the Board is aware that the only issue before it is the Signage and the Board is not making a decision about the lighting for the gas station. However, in determining whether the lighting from the Signage will make the Signage incompatible with neighbouring uses, the Board find that the photos and the videos showing the lighting compelling evidence of the impact of the lighting. In assessing the impact of the lighting, the Board notes that the Applicant has already installed Fascia Signs 1 and 3, and thus the light from those signs is included in the impact described by the Appellants. Although the Applicant argued that the impact is from only the lights in the gas station, based on the evidence, the Board rejects this assertion. The light from the two already installed Fascia Signs are part of the light emanating from the Lands. There is no evidence before the Board regarding what portion of the light is coming from which lighting. However, since the Applicant is the owner of the lights (and thus has or could obtain such evidence) and has provided some evidence about the lights, the Board is of the opinion that the Applicant could have provided better evidence, including evidence about the number of lumens from each of the signs and how far the light would be emitted. In the absence of that evidence from the Applicant, the Board has considered the evidence (photographs and video) provided to it and concludes that there would be an impact from the lighting on the Signage on neighbouring properties, including that of the Appellants. Based on the evidence before the Board, from both the Appellants' oral evidence as well as the photographs that they provided, the Board concludes as a determination of fact that the Fascia Signs are incompatible with neighbouring uses.

[87] The Board notes that the Freestanding Sign has not yet been installed. In considering whether the Freestanding Sign would be compatible, the Board noted that the proposed sign is 5.02m, with a proposed sign face of approximately 52 ft<sup>2</sup>. The Applicant has indicated that there will be a static, RGB display, which will be red. From the photographs provided by the Appellants, the Board notes that the interior of the Appellant's properties glowed red. The Board finds that having the Freestanding Sign in the proposed location, with its size and height and proposed colour would cause a further impact on the Appellants of further light being cast into their properties. Based on the evidence before the Board, from both the Appellants' oral evidence as well as the photographs that they provided, the Board concludes as a determination of fact that the Freestanding Sign is incompatible with neighbouring uses.

[88] In weighing the impact of the Signage on the Appellants against the Applicant's stated business needs, the Board determined the evidence of the negative impact as persuasive as it

revealed a significant impact from lighting, particularly since the nights during the winter are long.

[89] Having concluded that the Signage is incompatible with neighbouring uses, the Board has considered whether the imposition of any conditions could address the incompatibility arising from the light coming from the Signage.

[90] The Board notes that in relation to the Free Standing Sign, that sign is to be located in the northwest corner of the Lands, which is in the corner of the Lands facing the Stecyk Appellants' property. The Board notes that the height and size are fairly significant. The Board heard evidence of the impact from the Free Standing Sign, but did not hear any evidence about what kind of conditions could be imposed on the sign to lessen the negative impact from the lighting.

[91] Having regard for the existing red light from the gas station, the Board finds that the intrusiveness of the red light emitted from the Free-Standing Sign into the Appellants' homes outweighs the benefit derived from the Free-Standing Sign in promoting the Applicant's business and providing security to the Applicant's premises. This intrusiveness cannot be remedied by a time limit upon the Free-Standing Sign. The Applicant did not indicate that it would be prepared to accept a sign without lights, and there was no evidence before the Board as to whether such a Free-Standing Sign could be installed. Without any evidence the Board has no evidence to support the imposition of conditions.

[92] In the absence of such information, the Board has concluded as a fact that the Free-Standing Sign is incompatible and that there are no conditions that it could impose to make it compatible. The Board therefore denies the development permit with respect to the Free-Standing Sign.

[93] In relation to the Fascia Signs, the Board heard from the Appellants that while they would be happiest if those signs would not be allowed, they would be prepared to accept a condition that the lights be off at 9:00 p.m., which would then limit their impact on the Appellants. The Applicant did not provide submissions in response to the suggestion of a time limit on the lighting, except to argue that it needed the signs on 24 hours a day on the possible future event of a 24 hour liquor and convenience store operation. The Board is persuaded on the evidence that since the current operations do not run 24 hours a day that limiting the timing of the lighting of the Fascia signs would limit the impact of the lighting on the Appellants, but at the same time give the Applicant advertising of the signs. The Board has determined that it will impose a condition on the Fascia Signs that the Applicant may only be allowed to keep the Fascia Signs lit between the hours of 6:00 a.m. and 9:00 p.m.

[94] By limiting the hours that the Applicant can keep the lights on each day, the Board is attempting to balance the interests of the Appellants in having a home free from distracting lights during sleeping hours while allowing the Applicant to further its business interests and attract business to the convenience store and the liquor store during business hours. The Board is of the opinion that requiring the Applicant to turn off the Fascia Signs at 9:00 p.m. each day will provide some assurance to the Appellants that they will not have the lights from these signs 24 hours a day, which should give them some assurance about the impact on their quality of life.

[95] Since the time limit is a condition of the Development Permit with respect to the Fascia Signs, if the applicant fails to keep the Fascia Signs off between 9:00 p.m. and 6:00 a.m., the Applicant would be in breach of the condition of its development permit approval and may face a stop order issued by Parkland County.

*Posting of the Development Permit*

[96] In relation to the argument that the development permit was not conspicuously posted, the Applicant advised that there are no guidelines with respect to the posting of the Development Permit and that he posted the Development Permit the same day that it was issued.

[97] In considering this issue, the Board notes that the Appellants did not point the Board to any requirements in the LUB providing specific directions for the posting of the Development Permit. The Appellants' argument was that the posting was not sufficient. However, the Board notes 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. As the Appellants filed an appeal, the Board concludes that this purpose has been satisfied and finds that the Applicant's posting met condition 1. By making this conclusion, the Board is only making a determination in the circumstances of this case and is not drawing any general conclusions about whether the posting of a development permit in a similar manner would be sufficient posting in any other matter.

*Comments about original condition 1 in Development Permit*

[98] The Board has removed the original condition 1 in the Development Authority's decision because it dealt with posting of the decision to permit an appeal to this Board. Since the Appellants filed their 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.

*Comments about Dark Sky Compliance*

[99] The Board did not hear any evidence in this hearing about the County's Dark Sky Outdoor Lighting, Policy C-ES06 and so did not take that into account in its decision making. However, the Board is aware that the County does have this policy and wished to encourage the Applicant to be mindful of the impact of dark sky compliance when considering future development.

**Conclusion**

[100] For the above reasons, the Board allows the appeal in part. The Board denies the development permit with respect to the Free-Standing Sign and upholds the development permit with respect to the Fascia Signs on the modified conditions set out above.

[101] Issued this 19<sup>th</sup> day of May, 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. Rachele Trovato, Development Authority
2. Nick and Violet Stecyk, Appellants
3. Wendy Slager, Appellant
4. Harkaran Boparai on behalf of Travellers Hut, Applicant
5. Harpreet Sandhu

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

May 9, 2022 Agenda Package			
Exhibit	Description	Date	Pages
1.	Agenda Coversheet	May 5, 2022	1
2.	Table of Contents	May 5, 2022	2
3.	Notice of Appeal – Nick & Violet Stecyk	April 11, 2022	5-7
4.	Submission of the Development Authority	May 4, 2022	8-43
5.	Submission of the Appellants – Nick & Violet Stecyk	May 3, 2022	44-56
6.	Submission in Support of the Appeal	April 24, 2022	57-59
7.	Submission of the Applicant – Travellers Hut - Harkaran Boparai	May 3, 2022	60-65
8.	Video Submission of the Applicant – Travellers Hut – Harkaran Boparai	May 4, 2022	66
9.	2 photographs submitted by the Appellant – Travellers Hut – Harkaran Boparai	May 9, 2022	N/A
10.	1 video submitted by the Applicant – Travellers Hut – Harkaran Boparai	May 9, 2022	N/A
11.	1 photograph submitted by the Appellants – Nick and Violet Stecyk	May 9, 2022	N/A