

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
PARKLAND COUNTY**

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HEARING DATE: August 13, 2018  
FILE NO.: 2018-D-153

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

**INTRODUCTION**

[1] The Development Authority of Parkland County (the "County") approved a development permit application for a Cannabis production facility at NE-19-53-5-W5, and municipally described as 53324 Range Road 55 (the "Site") applied for by Lueck Mercer Industries Corp (the "Applicant").

[2] Steve, David and Betty Bobryk and James and Dawn Negrey appealed the issuance of Development Permit 18-D-153 (the "Development Permit").

**PRELIMINARY MATTERS**

**A. Board Members**

[3] At the start of the hearing on August 13, 2018, the Board asked if anyone had an objection to the panel hearing the appeal. There were no objections raised regarding the panel hearing the appeal.

**B. Exhibits**

[4] The Board marked the exhibits as set out at the end of this decision.

[5] At the beginning of the hearing, James and Dawn Negrey indicated they wished to introduce documents not previously submitted to the board: medical evidence regarding Mr. Negrey's post-traumatic stress disorder. The representatives of the Applicant were provided a brief recess to review the document. Once the hearing reconvened, there was no objection to the document being submitted, nor did anyone request a further adjournment as a result of the submission of the document. The Board marked the new document as Exhibit 6, as indicated at the end of this decision. Due to the personal and sensitive nature of this document, the Board has sealed Exhibit 6.

### **C. Miscellaneous**

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

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

### **D. Preliminary Matters**

[8] Other than as set out above in paragraph [5][3], there were no preliminary matters raised at the beginning of the hearing.

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

[9] The Board denies the appeal. The Development Permit 18-D-153 is issued subject to the conditions set out below. The Notes found below the conditions in the original Development Permit 18-D-53 remain as set out in the Development Permit.

1. 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.
2. Prior to the issuance of the building permit, the applicant shall provide the following:
  - A security deposit in the amount of 100% of the cost estimate of the landscaping, as outlined in the approved landscaping plan. The security shall be in the form of cash or an irrevocable letter of credit.
  - Revised engineering drawings to comply with Parkland County's Engineering Design Standards, to the satisfaction of the Development Authority in consultation with Land Development Engineering.
3. The proposed development shall not unduly offend neighbouring or adjacent properties by generating nuisance such as noise, odour, dust, fumes, exhaust, vibration, heat, glare or refuse matter considered offensive or excessive by the Development Authority above and beyond what would be reasonably expected of agriculturally districted parcels.
4. The applicant shall preserve all existing stands of trees and shrubbery outside the development area for environmental, sound attenuation and screening purposes.
5. As per Parkland County Policy all outdoor lighting installations and outdoor luminary replacements for a facility requiring an electrical permit shall be Dark Sky compliant.
6. All development shall be landscaped in a manner to prevent any surface run-off onto adjacent properties.

7. The applicant shall remove all garbage and waste at its own expense and keep the site in a neat and orderly manner.
8. 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.
9. Failure to comply with the conditions of this permit may result in the permit being cancelled and/or revoked.
10. The Applicant must comply with all other federal, provincial and municipal legislation, bylaws, land title instruments, safety codes regulations, and any caveats, covenants, or easement that might affect this property, including but not limited to any requirements of Health Canada, including Access to Cannabis for Medical Purposes Regulations (SOR/2016-230).
11. The Applicant must truck in the water required to fill the fire suppression tanks (58,000 gallons).

## **SUMMARY OF HEARING**

[10] The following is a brief summary of the oral evidence heard by the Board. The Board has also reviewed all written submissions filed with the Board.

### **Development Authority**

[11] The Site is located within the Agricultural General (AGG) District. The use of a Cannabis production facility is discretionary in accordance with section 4.1.2(c) of Land Use Bylaw 2017-18, as it was amended in March, 2018. The Development Authority deemed the application complete on April 26, 2018 and issued the Development Permit subject to conditions on June 25, 2018. The Application proposes to construct a new 22,000 sq. ft. warehouse-type facility for cannabis growth and packaging purposes.

[12] The Development Authority advised that the proposed development generally complies with the relevant statutory documents as defined in the Act.

[13] The proposed hours of operation are Monday to Friday, 7:00 am to 7:00 pm. All cannabis production and processing activities will be limited to inside of the facility, which will be securely fenced and gated. The facility will not be open to public visits. There will be shipping and receiving trucks for delivery purposes. There will be between 8-12 employees working at the facility.

[14] The area is not located within 304.8 meters (1000 feet) of any multi parcel residential subdivision.

[15] The Development Authority considered section 20.3 of Land Use Bylaw 2017-18. "Cannabis Production Facility " is defined as:

"CANNABIS PRODUCTION FACILITY means a development, or any part thereof that involves the productions, cultivation, and growth of Cannabis and Cannabis products. This includes one or more of the following: making, testing, manufacturing, assembling or altering the chemical and physical properties of finished and semi-finished goods and products. This use class does preclude the storage, and transporting of products and materials related to Cannabis production."

[16] The Development Authority determined that the proposed use is a discretionary use. In determining its compatibility, the Development Authority consider potential land use implications of the proposed development including nuisance to adjacent properties created by excessive noise, traffic, parking, dust and other nuisance factors that may be generated. The Development Authority stated that the proposed use was appropriate and reasonably compatible based on its consideration. The development is not located in the vicinity of any multi parcel residential subdivision, but is located in a relatively sparsely populated area. The facility will not be open to the public. There will be delivery truck traffic, and 8-12 employees working on site. The Development Authority considered this to be a relatively small scale operation. There are existing tree stands along Range Road 55 between the proposed facility and the road, which will be left in place for visual screening purposes. The Applicant also proposes to plant 10 coniferous trees on the southern boundary to visually screen the purposed facility from adjacent land of the south. The Development Authority concluded that the proposed development is reasonably comparable to other allowed uses typically found in the AGG district, such as commercial greenhouse.

[17] The Development Authority advised the Applicant undertook public engagement by a way of mail notifications and face to face visits and provided a summary to the Development Authority.

[18] The County's Land Use Bylaw 2017-18 does not specify use specific regulations for Cannabis Production Facilities.

[19] The Applicant is subject to federal and provincial legislation in the production of cannabis product. Health Canada regulates cannabis productions facilities, including physical security measures, processing practices and security clearances.

[20] The Development Authority has approved the proposal production facility subject to conditions. The entire list of conditions is found in the agenda package at pages 29-30 of 229.

[21] In response to questions from the Board, the Development Authority advised that the distance between the south side of the proposed building and the property line is 53 metres. Though there is no specific setback for Cannabis Production Facilities, this setback meets the general standards.

[22] The Development Authority further advised in response to questions from the Board that the proposed development was required to comply with the County's Dark Sky policy. The requirement that an industrial building be Dark Sky compliant is a standard condition for development approvals. The Dark Sky policy requires that the outdoor lighting on a building

not become a nuisance, for example extremely bright lighting or lighting that is directed at other property.

[23] In response to questions from the Board, the Development Authority clarified they had received and provided acknowledgement of receipt of Dawn and James Negrey's letter of objection from their counsel dated May 9, 2018. It did not find the submissions in the letter relevant to the approval of the Development Permit.

**Appellant – Mr. Steve Bobryk, Mr. David Bobryk and Ms. Betty Bobryk**

[24] Mr. Steve Bobryk, Mr. David Bobryk and Ms. Betty Bobryk (the "Bobryks") own and live in the 80 acre parcel directly across the road from the proposed Cannabis Production Facility.

[25] Mr. Steve Bobryk, speaking for the Bobryks, stated that they had lived on their property for 22 years and had built their residence for the peace and quiet of the area. They are concerned that the proposed Cannabis Production Facility will interfere with their use of their property through security systems on the property increased, traffic on the road and increased activity around the Applicant's building. He was uncertain what controls would be in place to ensure the conditions in the Development Permit regarding odour and emissions were enforced.

[26] The Bobryks are concerned about the esthetics of the building. They have only seen a blueprint but not a full design. Their residence is opposite the building and they will be faced with it on a daily basis.

[27] They are also concerned about the impact of the proposed Cannabis Production Facility's water use on their well. They expressed concern that the Cannabis Production Facility's daily use of water may cause their well to run dry.

[28] In response to Board questions, Mr. Steve Bobryk stated that he had discussed the proposed Cannabis Production Facility with the Applicant after filing his appeal, but that they had only discussed emissions and filters for the building.

[29] In closing, Mr. Steve Bobryk raised questions regarding the fire suppression tanks and how the lines to the fire suppression tanks would be charged.

**Appellant – Ms. Dawn Negrey and Mr. James Negrey**

[30] Ms. Dawn Negrey and Mr. James Negrey (the "Negreys") live on a 10 acre parcel immediately south of the proposed Cannabis Production Facility.

[31] Ms. Emily Lueck provided the Negreys with the Applicant's proposal letter. She met with the Negreys in February 2018, which was the first disclosure to the Negreys of the use of the proposed development as a Cannabis Production Facility.

[32] There was discussion between Ms. Lueck and the Negreys regarding her purchase of the Negreys' property, but they were unable to come to an agreement regarding price.

[33] Following discussions with the Development Officer, Ms. Negrey spoke with her Councillor and retained legal counsel who provided a letter of objection to the Development Authority on May 9, 2018. Ms. Negrey stated that the letter of objection was not acknowledged by the Development Authority and not responded to by the Development Authority.

[34] They have three main concerns with the proposed development:

- The proposed development will be a nuisance and cause harm due to the nature of the development as a Cannabis Production Facility which will cause an increased risk of crime in the area and infringe on their privacy and security;
- The proposed development will be a nuisance by depleting their water source from their well; and
- The proposed development will be a nuisance and cause harm by decreasing the value of their property.

#### Impact on the Negrey's Security and Privacy

[35] The Negrey's are concerned that the proposed development will impact their security and privacy. Specifically, the proposed development will aggravate Mr. Negrey's existing PTSD and damage the safe haven they have created for themselves on their property. Mr. Negrey suffers from PTSD as a result of his previous work. They tendered medical evidence evidencing Mr. Negrey's PTSD. This is Exhibit 6 and as detailed above, due to the personal and sensitive nature of the material, the Board has sealed this Exhibit.

[36] To avoid triggering Mr. Negrey's PTSD, they have installed a home alarm system, driveway sensors, gate and no trespassing signs. Ms. Negrey referenced the 77 pages of security requirements and the 29 page report on security provided by the Applicant. She questioned why the reports would be so extensive if security was not a real risk. The Negrey's stated that the security features required for the proposed development would be triggering for Mr. Negrey's PTSD.

[37] In response to questions from the Board regarding which parts of the proposed development would aggravate Mr. Negrey's PTSD, Ms. Negrey detailed that the proposed development would increase Mr. Negrey's hyper-vigilance. She stated that though the numerous security features (barbed wire, lighting etc.) to protect the development from third parties, these features would not protect any of the neighbors from those third parties. Further, she raised security concerns from the Applicant's plan to grow hemp in fields, which looks like cannabis.

[38] In response to questions from the Board regarding statistics on intrusion of facilities in operation, Ms. Negrey noted the Hyde Report submitted by the Applicant included statistics but stated that this report was not specific to Parkland County and that even the natural curiosity of people will cause them to stop and look at the facility – impacting the safe haven the Negrey's have created.

### Impact on the Negrey's Water Source

[39] The Negrey's have a high producing well on their property which previously tested as producing 32 gallons per minute. This well was sufficient to sustain 10 individuals living on their parcel and 60 head of cattle. Ms. Negrey understands that the Applicant has drilled one well which has tested as producing only 14 gallons per minute. Ms. Negrey is concerned that the water requirements of the proposed development would impact the water table and decrease the water flow available to the Negrey's from their well or possibly render it dry.

### Impact on the Property Value of the Negrey's Property

[40] Ms. Negrey stated that purchasers for rural property are looking to purchase property for the peace and quiet. She stated that in the area, there was a non-commercial atmosphere and the proposed development would change the nature of the area.

[41] Ms. Negrey stated that despite their letter being submitted before the decision on the development permit application, the objections remain relevant to the appeal.

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

## **Those Speaking in Favour of the Appeal**

### **Mr. Richard Zulak**

[43] Mr. Richard Zulak owns a 156 acre parcel adjacent to the Negrey's parcel. He expressed concerns regarding the odours from the proposed development. In his experience working with the pulp and paper industry, odours are hard to control. He stated that enforcement is not good enough. Further, he had consulted with a number of realtors who stated that the proposed development would impact neighboring property values. He believes that the Applicant should purchase all the neighboring properties if they want to proceed with the proposed development or that Parkland County should compensate neighboring parcels for a decrease in property value.

## **Those speaking in Opposition to the Appeal**

### **Ms. Emily Lueck**

[44] Ms. Emily Lueck represents the Applicant in this Appeal.

### Impact on the Water Source in the Area

[45] In determining where to locate the proposed development, the Applicant undertook a review of water sources available in nearby counties. It selected Parkland County due to the amount of water available in the county. The water source at the proposed development site produces 14 gallons per minute which is more than sufficient to supply the proposed development. The Applicant intends to collect all of the rainwater to supplement their water supplies.

[46] Ms. Lueck stated that if the Negrey's well produced at such a significant rate, they should not be concerned about the proposed development's use of water depleting it.

[47] In response to questions from the Board, Ms. Lueck stated that she did not know if the proposed development's well and the Negrey's well were located on the same aquifer. She would be willing to test neighboring properties' wells to ensure the proposed Cannabis Production Facility does not interfere with well integrity.

[48] In response to questions from the panel regarding the water requirements of the proposed development, Ms. Lueck stated that the facility would contain 11,000 full grown plants and each plant would require 1 litre of water every two days. She clarified with her architect and submitted in her closing that the daily estimated water use for the proposed development is 7,000 litres per day. As the well on the Site could provide over 20,000 gallons per day, the proposed development would be utilizing less than half what the well could produce per day.

[49] She further responded to questions from the Board regarding the volume of water in for fire suppression required to be stored onsite. She stated the proposed development requires 58,000 gallons stored onsite for fire suppression. She intends to fill the tanks for fire suppression over a period of time, using well water and rain water. If directed by the Board, the Applicant would truck in water.

### Impact on Security

[50] The Applicant wanted to make sure they set up security for their facility correctly and are therefore working with the best consultants in the industry, Cannabis Compliance Limited which suggested they work with David Hyde, a Cannabis security expert. He has worked with the Applicant continuously and the designs are done to his specifications.

[51] Ms. Lueck stated that the proposed development had been purposely designed to not be an eyesore and to not attract attention. People driving by will not know what it is. There is no sign identifying that it is a Cannabis Production Facility. There are fences and cameras to protect the facility. There are no windows into the proposed development.

[52] Ms. Lueck stated she had discussed hemp production in the industry in general terms with Ms. Negrey but made no statements regarding the production of hemp on the proposed development site. The Applicant has no plans to grow hemp on the proposed development site.

[53] The Applicant took additional security measures and made the Mayor, Fire Department and RCMP aware of the proposed development. Ms. Lueck suggested that the RCMP may patrol the area more due to the proposed development.

[54] In response to questions from the Board regarding any issues with other similar facilities, Ms. Lueck stated that due to the stringent requirements of Health Canada, medical cannabis facilities are not being targeted. She stated there have been no incidents since 2013. Further, she noted that there is video surveillance of the proposed development.

#### Impact on Neighbor's Use and Enjoyment of their Property

[55] Ms. Lueck stated the proposed development is not like other Cannabis Production Facilities – it will only run from Monday to Friday during the daytime for the convenience of the area. There will not be traffic in and out of the proposed development at night. During the day there will only be eight vehicles coming in from the highway and parking at the proposed development, which is not a significant amount of traffic. If there is a need for staff to be in on the weekend, there will just be one person.

[56] There are currently spruce trees on the property to shield the proposed development from view and the Applicant has proposed planting further spruce trees to ensure it isn't visible.

[57] Ms. Lueck further detailed the stringent Health Canada requirements for Cannabis Production Facilities. This includes requirements to filter the odours and minimize the impact of odours to the adjacent landowners.

[58] The Applicant wanted to put the proposed development in a quiet area instead of an industrial area as this was a horticultural facility.

[59] Ms. Lueck disputed that neighboring parcels would decrease in value due to the proposed development any more so than any other agricultural building would impact neighboring lands. Chicken barns or other agricultural buildings would cause far greater issues with odour and traffic relative to the proposed Cannabis Production Facility.

[60] In response to questions from the Board to determine if the setbacks of the proposed development could be adjusted, Ms. Lueck stated that the Applicant has looked into moving the location of the proposed development on the parcel. However, moving the proposed development would be more intrusive to the Negrey's as it would put it in the sightline of their main residence. The present location of the proposed facility has the Negrey's second home between the proposed development and the Negrey's main residence. There are no windows on the north side of the second home, which is the side facing the proposed development. Moving the proposed development to the west would require the Applicant to clear trees and would place the proposed development in a low spot, potentially causing drainage issues.

[61] In response to the questions from the Board, Ms. Lueck confirmed that the proposed development would be built based on the design plans submitted and that the only change in the designs would be a decrease in the number of cameras required.

## **Mr. Chad Bowie**

[62] Mr. Chad Bowie is counsel for the Applicant. He addressed specific issues that had arisen during the course of the hearing.

[63] First, he addressed concerns regarding security. The Applicant has provided David Hyde's report who is an experienced security consultant for Cannabis Production Facilities and has worked on 118 licensed producer applications under the Access to Cannabis for Medical Purposes Regulations (SOR/2016-230) (the "ACMPR") and 12 of the 36 commercial Cannabis Production Facilities in Canada. Mr. Bowie noted that Mr. Hyde's report states that since July 2013, there has not been a reported incident of external crime against a similar Cannabis Production Facility. The security requirements for a Cannabis production facility are stringent, as outlined in the letter from Cannabis Compliance Limited included in the Applicant's submissions which details the requirements a building must meet in order to be licensed to produce medicinal cannabis.

[64] Second, Mr. Bowie addressed the issue raised of concerning odour. He agreed odour could be a significant nuisance. However, Mr. Bowie pointed to ACMPR, s. 61 which requires a filter system to prevent the escape of odours or pollen. This is enforced by Health Canada.

## **FINDINGS OF FACT**

[65] The Site is located at 53324 Range Road 55, legally described as NE-19-53-5-W5.

[66] The Site is zoned as Agricultural (AGG) District.

[67] The use of Cannabis Production Facility is discretionary in accordance with section 4.1 of Land Use Bylaw 2017-18.

[68] The Appellants Steve, David and Betty Bobryk, and James and Dawn Negrey are affected persons.

[69] Mr. Zulak, who spoke in favour of the appeal, is an affected person.

[70] The Applicant is an affected person.

[71] The proposed use falls within the definition of Cannabis Production Facility.

[72] The proposed use is compatible with neighbouring uses.

## **REASONS**

### **Jurisdiction**

[73] The Board notes that its jurisdiction is found in Section 687(3) of the *Municipal Government Act*. In making this decision, the Board has examined the provisions of the County's Land Use Bylaw 2017-18. The Board has also considered the oral and written

submissions made by the Development Authority, the Appellants, those speaking in favour of the appeal, and those speaking in opposition to the appeal.

**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 (d), must comply with any land use bylaw in effect;*

*(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.*

### **Receipt of Negreys' Written Materials**

The written submissions of the Applicant requests that the Board refuse to accept the written submissions of the Negreys on the basis that their written materials were submitted before the Development Authority made its decision. In response, Ms. Negrey advised that the letter responds to the development permit application, and is therefore applicable to the matter before the Board. The Board has reviewed the written submissions of the Negreys and has determined that they are relevant to the appeal and has considered them in its deliberation. Further, the Board notes that Ms. Negrey provided oral evidence at the hearing which provided similar, if not the same, information as contained in the written submissions. Since the Board has already heard those submissions, there is no prejudice to the Applicant by having the written submissions remain part of the record.

## **Affected Persons**

[74] 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 any of the speakers on the basis that they were not affected. However, the Board will address this issue in its reasons.

[75] The Appellants, Steve, David and Betty Bobryk, lives across the road from the proposed development Site. By reason of their proximity to the Site, they are affected persons.

[76] The Appellants, James and Dawn Negrey, live on the 10 acre parcel immediately adjacent to the Site. By virtue of their proximity to the Site, they are affected persons.

[77] Mr. Zulak is also adjacent to the Site, and due to his proximity, is affected by the proposed development.

[78] The Applicant, Lueck Mercer Industries Corp., is the applicant for the permit and as such is affected by the appeal.

## **Statutory Plans**

[79] The Development Authority advised that the proposed development is generally consistent with the County's statutory plans. The Board heard no further submissions and no contrary submissions on this point and therefore accepts the evidence of the Development Authority's evidence and finds that the proposed development complies with the County's statutory plans.

## **Land Use District**

[80] The Site is zoned as Agricultural General (AGG) District (Land Use Bylaw section 4.1).

## **Nature of Use**

[81] The use is for a Cannabis Production Facility, which falls within the "Cannabis Production Facility" definition. No one contested the characterization of the use (i.e. argued that the use is not a "Cannabis Production Facility"). The Board finds that the proposed use is a Cannabis Production Facility, since it will be used to grow cannabis.

[82] The use of "Cannabis Production Facility" is a discretionary use in Parkland County Land Use Bylaw 2017-18. Therefore, as referenced in *Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261, the Board must assess the compatibility of the use applied for with the neighbouring uses.

[14] The object and purpose of a discretionary use is to allow the development authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses.

[83] In its submissions, the Development Authority stated that it considered the compatibility of the development and found that it was compatible. The Board will now turn its analysis to the concerns raised in the hearing to assess whether the proposed use is compatible with the neighbouring uses.

[84] The Appellants raised the following issues:

- traffic;
- crime;
- property values;
- odour;
- impact on neighbours' well water; and
- the general impact of the proposed use.

### **Traffic**

[85] The Board noted that those speaking in favour of the appeal noted that there would be an increase in traffic arising from the proposed development. However, the Board was not provided with any information (by either the Applicant or the appellants) as to the amount of traffic currently on Range Road 55. Had this information been provided, the Board would have had some information to determine the volume of traffic on the road prior to the impact of the proposed development. However, the uncontested evidence provided by the Applicant was that there would be only 8 – 12 employees and there would be relatively infrequent deliveries of product. Moreover, the evidence was that the Cannabis Production Facility would not operate on the weekends.

[86] Having considered the evidence provided, the Board finds that the proposed use will not cause a negative impact to the neighbouring properties based on traffic. The Board acknowledges that there will be approximately 16-24 trips on Range Road 55. However, given the hours of operation, it means that there will be 8-12 before 7:00 am and 8-12 after 7:00 pm if the employees work a 12 hour shift. This is not a significant number of trips at those 2 times of day. There was no evidence that the trips would impact on the hours that school buses might operate on the road. Further, the Board notes that the increased amount of traffic would likely not be different than if another agricultural use was approved for the Site.

### **Crime**

[87] All of those speaking in favour of the appeal were concerned with an increase in crime arising from the proposed Cannabis Production Facility and suggested that due to the location, the RCMP would not be able to promptly reply in the event of a crime. However, there was no evidence submitted by the Appellants in support of their argument that the use would increase the level of crime. The only evidence regarding the impact cannabis production on crime was the Hyde Report, which was submitted by the Applicant. That evidence is that since 2013, there has been no reported incidents of external crime against a similar Cannabis Production Facility. In addition, the Applicant provided the Health Canada security requirements for a Cannabis production facility, which are stringent.

[88] Further, the building will not have windows, nor will it have any advertising. In addition, there will be cameras and lighting, as required by ACMPR. The measures required under ACMPR should address some of the security concerns.

[89] Based on the evidence provided, the Board finds that the proposed use will not increase crime in the area, and that should there be any impact, the imposition of the conditions in paragraph [9]c condition 10 will address those concerns.

### **Property Value**

[90] Those speaking in favour of the appeal were concerned with the possible impact on their property values that would come from the location of the Cannabis Production Facility. However, they did not provide any evidence in support of their submissions. There was no appraisal evidence or evidence from a person qualified to provide an opinion about the impact on value. While the Board accepts the statements of concern from the Appellants, it is not persuaded by them in the absence of evidence from an appraiser or other valuator. Based on the lack of evidence, the Board cannot find that the proposed use will have a negative impact on property values.

### **Odour**

[91] Those speaking in favour of the appeal were also concerned about the possible odour which might escape in the production of cannabis. Mr. Bowie acknowledged that odour could be a significant nuisance, but advised that ACMPR, s. 61 requires a filter system to prevent the escape of odours or pollen, and is enforced by Health Canada.

[92] The Board was provided with the requirements from Health Canada (pages 99/229 - 177/229). Given the requirement for Health Canada approval, and Health Canada's ongoing monitoring of facilities producing cannabis, the Board finds that the possible nuisance component of odour can be addressed by the imposition of a condition that the Applicant comply with the requirements of all other levels of government, which the Board imposes as an additional condition. The Board notes that it was part of the Notes in the original permit. In order that it be clear that it is a condition of approval, the Board has moved it to a condition.

### **Impact on Well Water**

[93] The Appellants were concerned that the Applicant's use of well water would affect their own well water. The evidence was that the Negreys well produces 32 gallons per minute, while the Applicant's produces 14 gallons per minute. There was no evidence about the flow rate of the Bobryk's well. The evidence was that the cannabis plants will use 7,000 litres a day and that there will need to be 58,000 gallons for the tanks used for fire suppression. Ms. Lueck did not know if the well on the Site was into the same aquifer as the well on the Negrey's property. She indicated that the Applicant wishes to be a good neighbour, and does not wish to impact the neighbouring wells. Ms. Lueck indicated that while the plan is to fill the fire suppression tanks with rain water and on a trickle from the well, the Applicant would truck in water if required.

[94] The Board recognizes the potential impact that the loss of a producing well would have on the neighbouring properties. Although the Applicant does not wish to negatively impact the wells on the neighbouring parcel, the Board is concerned that the continuous use of the well, in addition to the use of well water to fill the fire suppression tanks may have a negative impact on the neighbouring wells, particularly since there is no evidence before the Board that the wells are in different aquifers.

[95] In order to address the potential impact of the proposed development, the Board imposes an additional condition. As set out in paragraph [9] condition 11, is that the Applicant must truck in the water required to fill the fire suppression tanks (58,000 gallons). Trucking in that volume of water means that should the wells be in the same aquifer, it will not be depleted by this volume of water. The Board is of the view that this is a reasonable condition to impose to prevent a potential impact to the neighbouring wells, particularly since the Applicant indicated it would be prepared to do so, if required as a condition of approval.

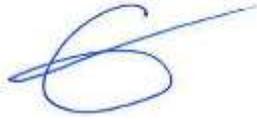
### **General impact of the development**

[96] There were other concerns raised in regard to the proposed development, including lighting, screening, and the possible impact of the use on Mr. Negrey's condition. In relation to lighting, the Board notes that the Development Authority has required the Applicant comply with the County's Dark Sky policy and the Board includes this condition in its decision. The Board finds that this condition should minimize the impact of the required lighting under ACMPR on the neighbouring properties.

[97] In regard to screening, the Board notes that other agricultural uses might also produce large buildings, and in this regard the Cannabis Production Facility is no different than a barn or green house producing geraniums. The Board notes that there are already a number of trees on the property, and that the Applicant has indicated it will plant more trees to screen the development. The Board finds these are sufficient steps to address the impact of the view of the building.

[98] The Board noted that the Negreys were concerned about the impact that the use would have on Mr. Negrey's medical condition. The Board asked what it was about the use that might have an impact. The purpose of the question was to determine if there was an element of development that might have an impact, and then try to address that element. The response was that fear of intrusion and the perimeter fence could impact Mr. Negrey's condition. The Board is of the view that these potential impacts are being addressed through the security controls, landscaping, and location of the building. The Board finds that the use is not intrusive, and is compatible with the neighbouring uses.

Issued this 23rd day of August, 2018 for the Parkland County Subdivision and Development Appeal Board



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Christine Beveridge, Clerk, on behalf of  
Dylan 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, R.S.A. 2000, c.M-26. This section requires an application for leave to be filed with the Court of Appeal of Alberta within 30 days of receipt of this decision.*

**APPENDIX "A"**  
**REPRESENTATIONS**

**PERSON APPEARING**

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1. Feinan Long, Development Planner
2. Steve Bobryk, Appellant
3. James and Dawn Negrey. Appellant
4. Robert Zulak
5. Emily Lueck, Lueck Mercer Industries, Applicant
6. Chad Bowie, counsel for the Applicant

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

Exhibit	Description	Date	Pages
1.	Agenda Package Table of Contents and Agenda	August 9, 2018	1-229
2.	Notice of Appeal – Bobryk	July 16, 2018	12
3.	Notice of Appeal – Negrey	July 16, 2018	14-21
4.	Submission of the Development Authority	August 7, 2018	23-67
5.	Submission of the Applicant – LueckMercer Industries Corp	August 7, 2018	68-229
6.	Submission of Appellant – Negrey - Letter regarding medical status of Mr. Negrey – Board Deemed Sealed - Confidential	August 13, 2018	n/a