

**JOINT SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
DECISION**

Hearing Date: March 13, 2024  
Development Application 020020-24-D0003  
Applicants: Kristin Rose and Brent Picard (Ammomento)  
Appellant 1: Strathcona County  
Appellants 2: Richard Lee on his own behalf and on behalf of residents  
Location: Plan 752 0508, Lot 7  
in NW 32-50-20 W4M (the "Site")  
Proposed Development: Discretionary Use - General Commercial Use - 12'x 36'  
pole shed within a 23m x 22m outdoor handgun/pistol  
shooting range with 10m in height berm and minimum 8'  
in height perimeter fence

**A. INTRODUCTION**

1. The Beaver County Development Authority issued a development permit approving a Discretionary Use – General Commercial Use – 12' x 36' pole shed within a 23m x 22m outdoor handgun/pistol shooting range with 10m in height berm and minimum 8' in height perimeter fence. The Appellants appealed the approval of the development permit.

**B. PROCEDURAL MATTERS**

2. There were no objections to the Board members and no objections regarding the hearing process.

**C. SUMMARY OF HEARING**

3. Development Authority – Jessica Post, Development Officer, and Alifeyah Gulamhusein, Legal Counsel, made the presentation for the Development Authority. The Development Authority provided the Board with a written submission, which is on file. The Development Authority's presentation is summarized as follows:

- (a) The General Commercial use in the Country Residential zone is a discretionary use, and the Development Authority may determine similar uses pursuant to section 2.2.5 of the Land Use Bylaw.
- (b) The Development Authority considered whether the development would be a Recreation Use, but determined that the prime reason of the development was not to take advantage of natural physical features. The Development Authority determined that the development most fit within a General Commercial Use, as it involved a business.
- (c) The MDP and IDP speak to encouraging commercial develop generally and in Country Residential Zones, and the development promotes commercial development.
- (d) Strathcona County does not own any lands near the Site.
- (e) The development is compatible with surrounding uses. There are 3 gun ranges within 21km of the Site, and there is no evidence the development will cause material interference with neighbouring lands.
- (f) The Development Authority made no errors with respect to the process applied for the development application and issuance of the development permit.
- (g) With respect to the written submissions of the Appellants, Richard Lee et. al, the Development Authority opined:
  - (i) Proliferation is a business competition issue, and is not a planning concern.
  - (ii) The features of the Site and the conditions placed on the development permit mitigate or eliminate concerns about safety and stray bullets.
  - (iii) Access to the Site would be by way of RR 205, and Beaver County does not have concerns regarding access to the Site and traffic.

- (iv) The Development Authority consulted with Beaver County's tax assessor regarding property value. The tax assessor stated that there was no strong evidence that property values would be affected.
  - (v) The Development Authority consulted with and notified adjacent landowners in accordance with the Land Use Bylaw, and the Development Authority, in fact, went above and beyond in consulting and providing notice.
- (h) In response to questions from the Board:

- (i) The Board asked how the development's primary use was primarily residential, as described in the Land Use Bylaw for Country Residential.

The Development Authority stated that the primary use of the Site is that the Applicants live there, and the development is in character for the rural area. The development is a minor development, and is not negatively impacting the Site.

- (ii) The Board asked how the development complied with MDP section 2.4(a) concerning Country Residential development being restricted in an area likely to be subjected to high levels of noise.

The Development Authority responded by saying that there will be noise, but it will be mitigated by the hours and days of use, along with the other conditions on the development permit.

- (iii) The Board asked where the noise and environmental impact information in the decision came from.

The Development Authority based its opinion on the Applicant's documents.

- (iv) The Board asked how the tax assessor evaluated the impact on property values for the neighbouring lands to the Site.

The Development Authority stated that this was not within the purview of the Development Authority.

- (v) The Board asked why the Development Authority determined that the most appropriate use was General Commercial.

The Development Authority responded that the development almost fit within Recreation Use, but the primary purpose is not to take advantage of the natural physical features of the Site. The development fit within a General Commercial Use as there would be

a business operating there. Although a private business, the Development Authority believes that section 5.5 of the MDP applies. The Development Authority tried to find the best fit for the development, and is empowered to determine similar uses per the Land Use Bylaw.

(vi) The Board asked how development permit condition 8, to replace trees that fall, would be implemented.

↳ The Development Authority advised that this is not Beaver County's responsibility to monitor, but the owner's, and did not provide further information.

(vii) The Board asked if the Emergency Response Plan provided by the Applicant was sufficient.

The Development Authority answered yes, it was sufficient. The Development Authority did not provide any further information on this point.

(viii) The Board asked about the development application stating that there would be "zero waste" and asked about spent ammunition casings and paper targets.

The Development Authority was unable to answer this question.

(ix) The Development Authority then provided revised conditions to the development permit for the Board's consideration. The revised conditions are on the Board's file.

4. Appellant 1 (Strathcona County) – Monica Tran, Legal Counsel, made the presentation for Strathcona County. She provided the Board with a written submission, which is on file. Her presentation is summarized as follows:

(a) The primary use of the Country Residential zone is that a development be residential in nature. The proposed use is not residential in nature.

(b) The surrounding uses of land are primarily agricultural and the development is not in character with surrounding uses.

(c) The noise from the development will affect residents of neighbouring lands including Strathcona County's residents. Strathcona County has an interest in ensuring its residents will not be negatively affected by the development.

- (d) With respect to the noise assessment conducted by the Applicants, Strathcona County noted that measuring the volume of gunshots is difficult due to the short impulse of the sound. The Applicant did not use RCMP recommended practices to measure the sound impact, and did not consider all factors relating to the noise impact of the development.
  - (e) Strathcona County noted that the noise of gunshots can have deleterious health impacts on people and animals over time, and concluded that the noise renders the development incompatible with neighbouring uses.
  - (f) The Board did not have questions for Strathcona County.
5. Appellants 2 (Richard Lee on his own behalf and on behalf of area residents) – Rick Schnieder and Richard Lee made a presentation on their own behalf and on behalf of a number of families that reside in the vicinity of the Site, who oppose the proposed development. They provided the Board with written submissions, which are on file. Their presentation is summarized as follows:
- (a) They expressed confusion and concerns regarding the Development Authority's position. In their view, it appeared that the Development Authority County was advocating for the Applicant and the affirmation of the development permit.
  - (b) The development is not compatible with the surrounding uses of land, and does not conform with section 2 of the MDP.
  - (c) The residents are concerned that the development will negatively affect their quality of life. The people in the area live there because they enjoy peace and quiet, and the development would significantly affect that.
  - (d) There are many concerns about the noise that the development will cause. Many residents already hear gunshots from the Sherwood Park Fish and Game Association gun range, which is significantly farther away than the

Site. The noise plan provided by the Applicants is insufficient to address the residents' concerns, and must be conducted more thoroughly.

- (e) A local realtor has stated that close proximity to a gun range would reduce property values.
- (f) The Board did not have questions.

6. Affected parties in support of the appeal - The Board heard the following concerns from area residents in support of the appeal:

- (a) Blane Zuke – The noise study conducted was inadequate and a full simulated noise study is required, ideally a 10 year study. The development is in an agricultural green belt and will impact property values;
- (b) Peter Kershaw – Mr. Kershaw questioned how the Applicants would build a fence and plant trees on a 10m berm, and expressed concerns about the accumulation of lead due to the development.
- (c) Daphne Wakeling - There is no oversight of the development by Beaver County, and no budget for oversight.
- (d) Peter Fraser – Mr. Fraser's house is 70m from the Site. Mr. Fraser works as a baker and wakes up at 2:45am and has to sleep in the afternoon. Mr. Fraser believes that the development will severely affect his quality of life.
- (e) Robert McCole – Mr. McCole stated that no one wants to live by a gun range.
- (f) Patty Albert – Ms. Albert had concerns about the impact of the noise on neighbours, animals, livestock, and wildlife. The sound of gunshots is unsettling and uncomfortable.

7. Affected party in opposition to the appeal – Dave Abel was opposed the appeal. He supports the proposed development as the Sherwood Park Fish and Game Association, of which he is a member, has full membership.
8. Applicants – The landowner, Hubert Giese, and the Applicant, Kirstin Rose, made a presentation on behalf of the Applicants. Their presentation is summarized as follows:
  - (a) The residents are misunderstanding the development. The development will be very small, with only 1 to 5 customers per week. The provides Cerakote coatings to firearms for customers, and the Applicants are required to test fire the coated firearms before returning them to the owner.
  - (b) The Site is at the bottom of a hollow with 10m hills and is in the middle of the forest. The physical features, fencing, and shed roof slope will prevent stray bullets from exiting the Site.
  - (c) The maximum number of people permitted on Site by the development permit would be for infrequent events. No such events are planned at this time.
  - (d) Gun ranges are highly regulated by the RCMP and the Chief Firearms Officer of Alberta. This will ensure that the development is safe.
  - (e) With respect to environmental concerns, most bullets are not lead, and casings and paper targets will be disposed of through residential waste collection. The bullets that will be used at the range will be predominantly full metal jacket.
  - (f) Concerns about the impact of the development on wildlife are unfounded. There is still a large amount of wildlife that frequents the Site.
  - (g) Traffic concerns are overstated, as the access road in question is already a busy road and between 400-500 cars travel over it, each day. There will not be traffic issues.

- (h) They conducted noise testing at the edge of the Site. The natural features of the Site will mitigate noise concerns.
- (i) With respect to the Emergency Response Plan, the development will be very small scale. If someone is hurt, then they would take them to the hospital or call an ambulance. They are also registering with STARS.
- (j) In response to questions from the Board:
  - (i) The Board asked how the Applicants supported their position that the range layout wipes out sound.  
  
The response was that the Applicants had measured sound levels at the edge of the Site and had videos of the testing, but only the numbers were provided to the Development Authority.
  - (ii) The Board asked if the Applicants would continue firing long guns.  
  
The Applicants would continue firing long guns, but possibly less.
  - (iii) The Board asked how the Applicants would address complaints.  
  
Kristen Picard advised that she would be responsible for handling complaints about the development. She stated that the response would depend on the request. She further commented that their permit application was very broad, maybe should have been something other than commercial, and the days of activity could potentially be mitigated by reducing to as little as 1 day per week.

**D. DECISION**

- 9. The Board allows the appeal and revokes the development permit.

**E. REASONS FOR DECISION**

- 10. The Site is located in the Country Residential (CR) District.
- 11. The development permit is for a General Commercial Use, which is a discretionary use in the CR District. There was some discussion as to whether the proposed development fit better under Recreation Use. The Board notes that Recreation Use is also a discretionary use in the CR District. Therefore, regardless of whether



the proposed use is classified as a Commercial Use or Recreation Use, it is a discretionary use.

12. The test for discretionary use is whether the proposed development is appropriate for the Site. In particular, the Board must consider whether the proposed development is compatible with the surrounding area and whether any impacts could be mitigated through the imposition of conditions.
13. As a starting point, in evaluating the proposed development, the Board noted that there was inconsistency with respect to the nature and scope of the proposed development as described in the development permit application completed by the Applicants and in the development permit itself when compared with how the Applicants described the proposed development at the hearing. In determining the nature and scope of the proposed development, the Board relied on the description of the proposed development set out in the development permit application and the development permit.
14. The Board referred to the general purpose of the CR District, namely that development should be primarily residential. The Board is of the view, that on the face of it, the shooting range, as applied for and approved is not primarily residential but rather is commercial and recreational. The Board notes that the surrounding land uses are primarily residential and agricultural. There was no evidence provided of any other commercial or recreational uses in the immediate area of the Site. Therefore, on the face of it, the introduction of a commercial/recreational use into this primarily residential/agricultural area is not compatible.
15. The Board considered whether the impacts of the proposed development could be mitigated either through the general operation of the development or the imposition of conditions. The Board was not satisfied, based on the information provided, that the impacts could be mitigated. In particular:

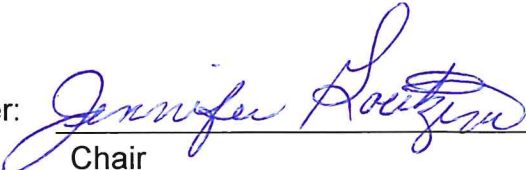
- (a) Noise - Concerns with respect to noise were raised. The Applicants provided their own evidence regarding noise but did not provide any independent expert evidence with respect to noise levels or the impacts of noise. In the absence of any independent expert evidence, the Board is not satisfied that the noise impacts associated with the proposed development were adequately addressed.
- (b) Environmental Impacts/Waste - Limited information was made available regarding the environmental impacts associated with the proposed development, and in particular waste disposal. In the absence of independent expert evidence to address any environmental impacts and a formal plan to address waste disposal, the Board is not satisfied that the environmental impacts have been adequately addressed.
- (c) Emergency Response - The Board was not satisfied with the adequacy of the emergency response plan. In the absence of information arising from consultation with the relevant County departments or other independent third parties with suitable qualifications as to the emergency response plan, the Board was unable to conclude that the Applicants have appropriately addressed emergency response.
- (d) Access - The plans provided did not adequately address access. In particular, no information from the County or an independent expert was provided with respect to traffic counts on access roads and adequacy and safety of the proposed access.
- (e) Fencing - While the Development Authority imposed a condition regarding fencing, no information was provided as type of fencing. In the absence of this information, the Board could not determine whether the fencing was adequate.
- (f) Buffer - The Development Authority imposed a condition regarding replacement of trees. The Board finds this condition to be impractical as

replacement of the types of trees in the area would simply not be feasible. Again, the Board requires more detailed information from the Applicants as to its plan to maintain the natural buffer. This information was not provided.

- (g) Property Values - The Board does not find information from the County Assessor compelling evidence of the impact on property values. The impact of a development on the assessed value is not necessarily the same as the impact of a development on the property value. There was evidence from a realtor that the proposed development would negatively impact the value of surrounding properties. The Board accepts that the proposed development as applied for and approved would negatively impact the value of surrounding properties.

16. In summary, the Board found that the information regarding the proposed development based on the application and development permit was inconsistent with the representations from the Applicants at the hearing. As well, the Board found that the supporting information was lacking in detail and that there was an absence of independent expert and third-party information on which the Board could properly determine whether impacts of the proposed development would be appropriately mitigated. In light of the foregoing, the Board allows the appeal and revokes the development permit.

Dated this 25 day of March, 2024.

Per:   
Chair  
Joint Subdivision and Development  
Appeal Board

### **IMPORTANT INFORMATION**

This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c. M-26.