

**ROCKY VIEW COUNTY  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2021-SDAB-012

File No.: 03330006; PRDP20211477

Appeal by: 946992 Alberta LTD (Robert Mudd)

Hearing Date: 2021 July 29

Decision Date: 2021 August 13

Board Members: Crystal Kissel, Chair  
Wendy Metzger  
Ian Galbraith  
Hazel George  
Morrie M. Goetjen

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**DEVELOPMENT APPEAL DECISION**

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**INTRODUCTION**

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued June 23, 2021. In this decision, the Development Authority approved a development permit application for Industrial (Light), construction of four (4) multi-bay commercial buildings, tenancy, and signage, and relaxation of the minimum tree/shrub requirement at 101 81 Prairie Place Block 13, Plan 1820 AM; SW-30-23-28-W04M (the Lands).

[2] Upon notice being given this appeal was heard electronically on July 29, 2021 in accordance with the Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

**DECISION**

[3] The appeal is denied and the Development Authority's June 23, 2021 decision on PRDP20211477 is upheld.

**BACKGROUND**

[4] On April 7, 2021, Lee Snowden (the Applicant) submitted a development permit application for Industrial (Light), construction of four (4) multi-bay commercial buildings, tenancy, and signage, and relaxation of the minimum tree/shrub requirement on the Lands.

[5] The Lands are 2.02 hectares (5.00 acres) in size and owned by Sheila and Robert Mudd (the Owners).

[6] The Lands' land use designation is Commercial, Local Rural District (C-LRDs h18) which is regulated in sections 409-414 under Land Use Bylaw C-8000-2020 (the *Land Use Bylaw*).

[7] On June 23, 2021, the Development Authority conditionally approved a development permit application for the proposed development on the Lands.

[8] On July 15, 2021, Robert Mudd (the Appellant) submitted an appeal of the Development Authority's decision to conditionally approve the proposed development on the Lands.

[9] The appeal was received on time in accordance with section 686(1)(b) of the *Municipal Government Act* RSA 2000, c M-26 (MGA).

[10] A notice of hearing was circulated to the Appellant, Applicant, Development Authority, and adjacent landowners in accordance with the MGA and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

### **SUMMARY OF EVIDENCE**

[11] The Board heard verbal submissions from:

- (1) Sandra Khouri, Development Officer for the Development Authority;
- (2) Steve Altena, Engineer for the Development Authority; and
- (3) Robert Mudd, the Appellant.

[12] The written documents submitted as exhibits and considered by the Board are listed in the exhibit list at the end of this decision.

#### *Development Authority's submissions*

[13] The Development Authority read from its report, which was provided in the agenda.

[14] The Development Authority pointed out that the Stormwater levy is for all areas of Janet and is to support Co-operative Stormwater Management Initiative (CSMI); the off-site levy bylaw does not allow for phasing of the levy fee.

[15] The Development Authority stated that the *Land Use Bylaw* outlines the types of trees that are required as well as the landscaping requirements in front of the development.

[16] The Development Authority stated that the Transportation Impact Assessment (TIA), that is required as part of the conditions of the proposed development permit; that if there are no material changes needed there will be no changes necessary.

*Rob Mudd submissions – the Appellant*

[17] The Appellant has owned the lands for 15 years, during that time the lands have contained a single-family house, a warehouse supply yard and a landscaping company that does both commercial and retail sales.

[18] The Appellant stated that the proposed development would contain 33 microbays that were less than 1300 square feet per bay.

[19] The Appellant stated that the microbays could be used by a variety of things such as small companies, plumbers, electricians, storage such as classic cars.

[20] The Appellant stated that the west side of the lands contained a natural gas right of way and they are not able to plant trees there.

[21] The Appellant stated that the vegetation as it stands in his designer's opinion, that any more trees or shrubs would make it difficult for the vegetation to thrive.

[22] The Appellant stated that they take pride in maintaining the berms to avoid noxious weeds and that more vegetation would make it difficult to maintain properly.

[23] The Appellant stated that the traffic impact assessment that is required by the County on the proposed use compared to the existing use, is not necessary due to the fact that the road is already paved up to and including the approach and meets County standards, and that traffic will be the same or less.

[24] The Appellant would like to have the traffic impact assessment relaxed.

[25] The Appellant states that with the times we are going through right now the \$30,000 Stormwater Levy is a lot. Not asking for relaxation just a consideration of phasing it or to have it happen at a later date.

[26] The Appellant received an email on July 14, 2021 from Sandra Khouri proposing the solution of allowing the appellant to pay the levy for a ¼ to ½ the site during the prior to release phase, then the remainder prior to occupancy/inspection for remaining buildings.

[27] The Appellant asked that due to COVID and the large front end cost that the Stormwater Levy be paid at the beginning of building 3, which would be half way through the project.

*Rob Mudd's rebuttal submissions – the Appellant*

[28] This is a small micobay application and will not generate the traffic that is implied by administration. The Appellant does not anticipate any more then 100 to 150 traffic movements per day.

[29] Bison Transport and Canadian Freightways are located in the vicinity and generate more traffic. The appellant wonders why they are responsible for 84<sup>th</sup> Street or Wrangler Road and Prairie Place when a small amount of traffic is generated in comparison to the giant trucking companies in the area.

[30] The Appellant is feeling jaded by receiving an email from Sandra Khouri saying that they were going to allow the Appellant to phase in the Stormwater Levy, but received an email at the last minute saying that is not the case.

[31] The Appellant stated that the neighbor to the south has had their Stormwater Levy held until phase 2 and the Off Site Transportation Levy was also held. The Appellant knows this is possible and is not sure why they cannot do it.

[32] Currie Place is a small roadway that has three tenants and it runs north/south. The Appellant is the first land owner that you come to from Wrangler Road and they have paved from Wrangler Road to their approach to County standards. The two tenants to the north are running on a gravel road.

[33] It is the Appellant's understanding that the County is aware of the paving that happened two years ago.

## **FINDINGS & REASONS FOR DECISION**

[34] The Board finds that the construction of four (4) multi-bay commercial buildings, tenancy, and signage, and relaxation of the minimum tree/shrub requirement is a discretionary use in the Industrial, Light District (I-LHT) in accordance with section 437 of the *Land Use Bylaw*.

[35] The Board finds it has the authority to make a decision on the matter pursuant to section 687 of the *Municipal Government Act*.

[36] The Board reviewed all evidence and arguments, written and verbal, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the proposed development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[37] The Board finds that they do not have jurisdiction to alter the payment terms of the Stormwater Levy.

[38] The Board finds that the Transportation Impact Assessment is essential to know that the proper access and road maintenance is there prior to opening business.

[39] The Board finds that trees and shrubs are required to enhance the property and lessen the effect of the industrial nature of the property.

[40] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

## CONCLUSION

[41] For the reasons set out above, the appeal is denied and the Development Authority's June 23, 2021 decision on development permit application PRDP20211477 is upheld.

Dated at Rocky View County, in the Province of Alberta on August 13, 2021.



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Crystal Kissel, Chair  
Subdivision and Development Appeal Board

**EXHIBIT LIST**

Documents presented at the hearing and considered by the Board

- | <b>NO.</b> | <b>ITEM</b>                            |
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| 1.         | Development Authority Report (31pages) |
| 2.         | Appellant Exhibit (3 pages)            |