

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

Board Order No.: 2021-SDAB-014  
File No.: 03305080; PDP20212643  
Appeal by: Umbsaar; Donald and Maryanne  
Hearing Date: August 19, 2021  
Decision Date: September 2, 2021  
Board Members: Crystal Kissel, Chair  
Wendy Metzger  
Tricia Fehr  
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 July 29, 2021. In that decision, the Development Authority refused a development permit application for agriculture (Intensive) and single-lot regrading (placement of topsoil), for a market garden for the production of fruits and vegetables at 11 Shortbridge Place Lot 1, Block 4, Plan 0914213, SE-05-23-28-W4M (the Lands).

[2] Upon notice being given this appeal was heard electronically on August 19, 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 July 28, 2021 decision on 03305080; PDP20212643 is upheld.

## **BACKGROUND**

[4] On June 18, 2021, Donald and Maryanne Umbsaar submitted a development permit application for Agriculture (Intensive) and single-lot regrading (placement of topsoil), for a market garden for the production of fruits and vegetables.

[5] The Lands are approximately 2.02 hectares (4.99 acres) in size and are owned by Donald and Maryanne Umbsaar.

[6] The Lands' land use designation is Residential, Rural District (R-RUR) under Land Use Bylaw C-8000-2020 (the *Land Use Bylaw*).

[7] On July 29, 2021, the Development Authority issued a refusal for an application for agriculture (Intensive) and single-lot regrading (placement of topsoil), for a market garden for the production of fruits and vegetables.

[8] On August 6, 2021, Donald and Maryanne Umbsaar (the Appellants) filed an appeal of the Development Authority's decision to refuse an application for agriculture (Intensive) and single-lot regrading (placement of topsoil), for a market garden for the production of fruits and vegetables.

[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) Evan Neilsen, Development Assistant for the Development Authority;
- (2) Bianca Duncan, Municipal Engineer for the Development Authority; and
- (3) Donald Umbsaar, 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 their PowerPoint, provided as an exhibit.

[14] The Development Authority stated they had provided two additional conditions, for the Board's consideration, in regards to the letter in opposition from Sheila Buckley.

[15] The Development Authority stated there is no residence on site and it is the Appellants' intention to use the Lands for an Agricultural, Intensive use with the growing of crops and placement of top soil.

[16] The Development Authority stated they had been unable to locate evidence that there was ever a stormwater pond was on the Lands.

[17] Alberta Environment and Parks holds jurisdiction of any wetlands on the property.

[18] The Development Authority stated the use of the Lands will be Agriculture, Intensive and is permitted use under the R-RUR district.

[19] A development permit would be required for the operation of any future business on the Lands; however, that is not part of this proposal.

*Donald Umbsaar submissions – the Appellant*

[20] The Appellants' recently became the owners of the property.

[21] The Appellant would like to establish a small fruit farm. Their plan is to plant fruit trees and shrubs. The addition of fill will be optional and only if needed, with a total of thirty-eight cubic meters to a maximum thickness of ten centimeters on a space that is under one acre.

[22] The Appellant stated that, if viable, in the future they will apply for all necessary business permits to be able to sell the fruit. They may sell to a single buyer, at a local farmers market, make the fruit into jam, wine, or host a u-pick operation. At this point they are not building a website and setting a price list, they are at early stages and they will establish viability first.

[23] The Appellant stated there is not currently a residence on the property but their ambition is to build a home and live on the property. If there is a business, a residence would be necessary to be present and manage the business.

[24] The Appellant stated this is stage one and the planting of trees and shrubs is the first stage of their plans.

[25] The Appellant stated that the one issue that arose is the question of whether this fits into the neighbourhood. The Appellant identified surrounding properties that contain similar developments and stated he knew of no adverse affects on neighbouring properties from those. The area is Rural, Residential and there are small acreages with houses and farms throughout.

[26] The Appellant stated the letter of concern from Sheila Buckley is unreasonable, as the development will not affect the neighbouring property with run-off, because the flooding would not get there. The stormwater pond was never verified by the County. The Appellant was told from a neighbour who has lived in the area for twenty-five years that there was never a stormwater pond on the Lands.

[27] The Appellant stated he spoke with the neighbours and they all voiced verbal approval for the project.

[28] The Appellant explained the lay of the land and the proposed phase one garden is not in the low area or catchment area and the proposed phase two garden drains along a gentle dip to the east.

[29] The Appellant stated they will provide water to the trees and shrubs from the well located on the Lands.

[30] The Appellant stated that they hope once the trees and shrubs are mature, it will be a dry land farming and self-sustained.

[31] The Appellant stated they will have to look at bringing water onto the property to get started.

[32] The Appellant stated they will remove any equipment necessary for the phase one garden daily, as they will rent or contract out the jobs.

[33] The Appellant believes this appeal should be granted to allow for increasing local food supply, reducing carbon footprint and carbon sequestration.

[34] The Appellant stated that when they till the land they will decide if they need to apply for a development permit to bring in additional top soil.

[35] The Appellant stated that they hope to plant the trees in the fall and start picking fruit within three to five years.

*Donald Umbhaar rebuttal submissions – The Appellant*

[36] The Appellant stated the letter in opposition from Sheila Buckley mentions rectifying the adverse effects of water on adjacent lands, however, that is not part of the proposal right now.

[37] The Appellant stated that the suggestion of recreating a stormwater pond on the Lands should not be added as that is unrelated to the development they are proposing.

**FINDINGS & REASONS FOR DECISION**

[38] The Board finds that Agriculture (Intensive) and single-lot regrading (placement of topsoil) is discretionary in Residential, Rural District (R-RUR), in accordance with section 316 of the *Land Use Bylaw*.

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

[40] 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.

[41] The Board finds there is insufficient area in this parcel for the scope of the proposed development.

[42] The Board heard no compelling evidence to allow this proposed development to go forward with the start up of an intensive agriculture pursuit or the importation of any fill, levelling and / or grading in a Residential-Rural District

[43] Given the above findings and pursuant to section 687 of the Municipal Government Act, the Board finds that the proposed development would 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 does not conform to the use prescribed for the Lands in the *Land Use Bylaw*.

## **CONCLUSION**

[44] For the reasons set out above, the appeal is denied and the Development Authority's July 28, 2021 decision on development permit application 03305080; PDP20212643 is upheld.

Dated at Rocky View County, in the Province of Alberta on September 2, 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>                                  |
|------------|--|
| 1.         | Development Authority Report (37 pages)      |
| 2.         | Development Authority presentation (6 pages) |
| 3.         | Appellant Presentation (7 pages)             |
| 4.         | Letter of Opposition (1 page)                |