



# AGENDA

## INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Wednesday, July 7, 2021

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
  - \* June 17, 2021 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing - D03-021**
  - \* a) 9:00 a.m.

Apellant / Applicant	Nasir Mahmood
Landowner's name	Zarqa Nasir
Leduc County Municipal Roll #	1441010
Legal description of subject property	Lot 1, Block 1, Plan 0724983, Pt. NW-18-50-25-W4
Municipal address	50277 Rge Rd 260
Nature of development application	Recreation, outdoor use - campground for events with playground, mini golf and event area
Development permit application #	D21-051

5. **Next Meeting Date** at the call of the Chair
6. **Adjournment**

**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON WEDNESDAY, JULY 7, 2021 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.**

---

**Order and Roll Call**

The meeting was called to order at 9:01 a.m., Wednesday, July 7, 2021 by Chair Mary-Ann McDonald, and Board Members Pat Rudiger, Ron Patrick, Rick Hart and Kevin Maine present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead Development
- Nasir Mahmood, Appellant/Applicant
- Gregory Fedor, registered speaker

There were four other individuals in attendance.

**Agenda Adoption**

**30-21** Board Member Hart -- that the agenda for the July 7, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – June 17, 2021**

**31-21** Board Member Rudiger -- that the June 17, 2021 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Nasir Mahmood - refusal by the development authority of Development Permit Application D21-051 relating to a recreation, outdoor use - campground for events with playground, mini golf and event area located at Lot 1, Block 1, Plan 0724983, Pt. NW 18-50-25-W4 (50277 Rge Rd 260).**

---

Chair McDonald called the hearing to order at 9:02 a.m. and provided introductory remarks.

Chair McDonald then called upon the Board secretary to introduce the subject of this appeal.

Joyce Gavan, Clerk, advised of the appeal by Nasir Mahmood for refusal by the development authority of Development Permit Application D21-051 to Nasir Mahmood of a recreation, outdoor use - campground for events with playground, mini golf and event area located at Lot 1, Block 1, Plan 0724983, Pt. NW 18-50-25-W4 (50277 Rge Rd 260).

The reasons for appeal are as follows:

1. There is a shooting club on Range 254. Want to know why I cannot make a recreation place for my own Leduc County.
2. It will be small fun place for the county.
3. I will explain to the Board everything.



Clerk Joyce Gavan advised the following information is attached for the Board:

- 1) Notice of ISDAB hearing package dated June 21, 2021
- 2) Notice of appeal received by Nasir Mahmood on June 16, 2021
- 3) Notice of decision (refusal) by Development Authority including site plan dated May 31, 2021
- 4) Development Permit Application D21-051 by Nasir Mahmood
- 5) Business information questionnaire
- 6) Key Plan
- 7) Development Authority's submission
- 8) Submissions from adjacent landowners:
  - i) Gregory Fedor (registered speaker)
  - ii) Todd Goshko
  - iii) Alexander Koper
  - iv) Maria Weleschuk
  - v) Maureen Kashuba
  - vi) Glenn Thomas
  - vii) Tim Goshko
  - viii) Kyril & William Holden

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald asked if any Board member felt a need step down from this hearing within the boundaries of conflict of interest, and there was no one.

Chair McDonald asked if anyone had any objection to any of the members of the Intermunicipal Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald called upon the Development Authority to provide background information.

Team Lead Development Services Colin Richards provided a PowerPoint presentation relating to Development Permit D21-051, highlighting the following:

- The subject property is a 2.5 acre parcel located on Range Road 260, approximately 3 km east of the Edmonton airport. The parcel falls within the Agricultural District of the Land Use Bylaw, where the purpose of parcels such as this is to provide for residential development on acreage lots within the agricultural community. Uses on parcels such as this should have a low impact on adjacent lands.
- The site is undeveloped and surrounded by agricultural lands. A church and cemetery are located immediately to the north. This parcel was created in 2007 through a subdivision and since that time there have not been any development permits submitted for the property.
- On May 31<sup>st</sup>, the development authority refused application D21-051 for the proposed parcel be used as an outdoor recreation use for activities that include a children's campground, playground, mini golf, party events and mini bazaars. Operational hours were proposed at 6

days per week Monday to Saturday, with Sundays being closed to the public. Physical, built development would include frame and fabric structures, sea cans for storage and washrooms.

- The appellant has appealed the decision on the grounds that a small recreation facility should be allowed within Leduc County and the appellant noted that the reasons to support this will be explained to the board during the appeal.
- In accordance with the reasons for refusal, a frame and fabric structure is not permitted on a property unless it is accessory to a principal building. The subject lands are vacant with no buildings that can be classified as principal buildings. Photos illustrate frame and fabrics that will be seen upon the property if approved along with the sea can that appears to have already been placed on the lands.
- The Land Use Bylaw does exempt frame and fabric structures for agricultural use from this requirement, however, the use proposed is not considered agricultural and therefore frame and fabric structures are not considered appropriate.
- As discussed in the notice of decision, the design and appearance of the development was reviewed in accordance with the Land Use Bylaw, considering the quality and durability of finishing materials, aesthetic compatibility with surrounding development, visual impacts on roadways and other public areas, site security, public safety, and any other factors deemed to be relevant.
- The Development Authority found the proposed development to be incompatible with surrounding lands in terms of function, form and scale, particularly as the purpose of the lot being subdivided in such a way originally was for country residential use.
- Furthermore, a religious assembly building with a cemetery is located immediately adjacent to the north of the proposed development. Objectors associated with that parcel felt this type of use may impact the peacefulness of the cemetery, its quietness and its established character.
- With respect to the campground element of the proposal, the Land Use Bylaw directs that the development authority have regard for the suitability of the site based on its physical attributes, accessibility, surrounding land uses and environmental sensitivity.
- The Development Authority considered these elements and as the property includes no natural landscaping to enhance the development or help mitigate aesthetics and visual impacts, it was deemed that a campground element would also not be suitable for a parcel like this within this locality.
- With regard to the referral of the application, the proposal resulted in eight letters of concern being received from adjacent landowners. The key reasons cited for the objections were: the number of vehicles coming and going; garbage within the area; incompatibility with surrounding lands; fear of increased vandalism to the church; facility looks like it's gearing up for 200+ people rather than small numbers suggested in the application; the facility appears to be more of a special events venue than a children's play area; the tents appear to be old and unappealing; the sea can which is already situated on the property does not appear to have the necessary approvals.
- It is the opinion of the County that the subject parcel is best suited for a country residential use containing a dwelling, and this sentiment was reflected within the objections received from adjacent landowners.



- Although the outdoor recreation use type, which is discretionary in the Agricultural District could encompass a development like this, the Development Authority is of the opinion that a recreation use is not compatible with surrounding properties in this location, and that a multi-use recreational development such as this would be better suited in areas such as lakeshore communities or around denser residential communities.
- Based on this, and for the reasons outlined in the notice of decision, application D21-051 was refused and that decision should be upheld based on the provisions of the Land Use Bylaw and concerns of the local community.

Chair McDonald asked if there were any questions by the Board members of Development Authority staff.

In response to questions by Board members, Colin Richards advised of the following:

- There is no knowledge of the water situation on the property; If this development is approved, the applicant would be advised about all safety codes requirements.
- Recreation is a discretionary use within the Agricultural district.
- The surrounding properties are being farmed.
- Surrounding lands have been split into 80 acres; the nearest residences are located approximately 800 metres and 675 metres from the subject property.
- Discretionary use is described as, *“the use of land or a building provided for in the Bylaw for which a development permit may be issued, with or without conditions, by the Development Authority upon application having been received by the County”*.

Chair McDonald called upon the appellant/applicant Nasir Mahmood to speak to the proposed development.

Nasir Mahmood provided the following:

- 1) Want to develop recreation area for the community.
- 2) Currently there is no recreation in this area.
- 3) There are no big parties planned.
- 4) Tents have been ordered from China. They are good quality.
- 5) This will be a fun place to come. It will be like a farmers market. People can come for free. Just a place where anybody can come and have a barbecue or just sit and visit.
- 6) For the most part, the area will be used for 2-3 months during the summer.

In response to questions by Board members, Nasir Mahmood advised of the following:

- Will likely only be used 3 days per week, between the hours of 2:00 - 8:00 p.m.
- The recreation area will be open to anybody. There will be someone on site at all times to monitor activity. If anything bad happens, it will be shut down.
- The fence is also from China and provides protection from the wind. The sea can was brought in for storage.

- Playground equipment consists of bouncy houses.
- The recreation development is intended for celebrations not for religious ceremonies. Estimate 70 people maximum at one time.
- The diagram submitted with the application could have been better.

Chair McDonald called upon registered speaker, Gregory Fedor, to speak to the appeal (against the proposed development and in favour of the refusal by the development authority).

Gregory Fedor, landowner at 50316 - Rge Rd 255, spoke against the proposed development for the following reasons:

- Fourth generation to live in the area. Have lived here for 65 years. Property is east of proposed development.
- Do not live on property. Live in Edmonton. Use rural property for three seasons of the year.
- Not in favor of proposed development. Already have noise travelling across the field from the airport and the racetrack.
- It appears that the appellant has already started development without permits in place which leads us to ponder his adherence to future approvals.
- The fabric frame buildings and fences are not attractive and do not blend in with the surrounding area (as reflected in the photos provided in the agenda package).
- Support the initial decision to refuse this application. Hopes the Board will uphold the decision and leave the subject land as a residential rural setting.
- This is a peaceful place in the county. There is a 100 year old historical church next door and two historical cemeteries nearby. Would like to maintain tranquility.

In response to questions by Board members, Mr. Fedor advised of the following:

- Do not live on rural property; the house is rented out to family members and farmland is rented out to neighbors.
- There is no water supply on subject land.
- The Holy Trinity Church is 100 years old and is a wood structure so there is a concern there with respect to fire.

Chair McDonald called upon anyone else in attendance to speak in support of the appeal (in favour of the proposed development), and there was no one.

Chair McDonald called upon anyone in attendance to speak against the appeal (in favour of the refusal by the development authority). The following individuals spoke against the appeal:

1. Andrew Chichak, resident within the adjacent area:
  - Rents property northeast of subject land.
  - Proposed development does not look good from our window; it is unkempt and there are weeds all over.
  - Want to keep this area as residential and keep it peaceful.





2. Alexander Koper, involved with Holy Trinity Church:

- After this application was circulated, a lot of church members were upset about the activities outlined in the proposal.
- Would like to recommend that this development be located somewhere else more appropriate for the activities being proposed.
- If the church sustains any vandalism, I would be the one who takes care of it.
- The church is not currently active. They have two masses per year. Church is mostly historical and a calm quiet place.
- Proposed development does not look good from our window; it unkempt, there's weeds all over.
- Want to keep this area as residential.

Chair McDonald called anyone else who wished to speak in support or against the appeal, and there was no one.

Chair McDonald asked the clerk to read/present any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

Chair McDonald called upon administrative staff to provide final comments.

Team Lead Development Services Colin Richards provided the following closing comments:

- The County acknowledges that this application is for discretionary use and looks to the surrounding/adjacent community for feedback.
- The County received eight letters of concern, all of which did not support this application.
- The subject land was subdivided for County Residential, which this proposal is not.
- The proposed development is more suitable for lakeside property, not a property like this where the area is dominated by agriculture.
- The County acknowledges the concerns of the adjacent landowners and also heard concerns for potential traffic issues at the intersection of Highway 19 and Range Road 260.
- There is no waterline on Range Road 260.

Chair McDonald then called upon Nasir Mahmood to make final comments.

Nasir Mahmood provided the following closing comments:

- Do not see much activity at the church.
- Do not understand why this process takes so long or why adjacent landowners are allowed to respond twice to the same application.

Chair McDonald and Mr. Richards explained the development application process to Mr. Mahmood.

Nasir Mahmood continued with his closing comments:



- Understand that the neighbors are not happy with the proposed development and will accept whatever the Board decides.

At the request of Chair McDonald, Mr. Richards advised Mr. Mahmood that he can resubmit the same application after six months. However, if Mr. Mahmood would like to present a different application / scenario to the County and adjacent landowners, then the County can accept it earlier than six months.

Chair McDonald asked appellant Nasir Mahmood if he felt he received a fair hearing, and Mr. Mahmood responded affirmatively.

### **Conclusion of Public Hearing**

Chair McDonald declared the hearing concluded at 9:59 a.m.

### **In-Camera**

**32-21** Board Member Patrick -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 10:03 a.m.

### **Revert to Intermunicipal Subdivision and Development Appeal Board Meeting**

**33-21** Board Member Rudiger -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 10:13 a.m.

**Appeal by Nasir Mahmood - refusal by the development authority of Development Permit Application D21-051 relating to a recreation, outdoor use - campground for events with playground, mini golf and event area located at Lot 1, Block 1, Plan 0724983, Pt. NW 18-50-25-W4 (50277 Rge Rd 260).**

**34-21** Board Member Maine -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Nasir Mahmood and upholds the refusal by the Development Authority for a recreation, outdoor use - campground for events with playground, mini golf and event area located at Lot 1, Block 1, Plan 0724983, Pt. NW 18-50-25-W4 (50277 Rge Rd 260).

### **Findings of Fact**

1. The subject property is on a 2.5 acre parcel within an Agricultural district in accordance with the Leduc County Land Use Bylaw 7-08. The site is undeveloped and surrounded by agriculture land and activity. The purpose of these subdivisions is to provide for residential development on larger acreage lots within the agricultural community with the uses having a low impact on adjacent lands.
2. The proposed development is a discretionary use with consideration of the compatibility of proposed development on surrounding lands.





3. There were eight (8) letters of opposition received by adjacent/neighbouring property owners expressing concerns with noise, traffic, parking and the aesthetics (sea-can, yellow fabric fencing) on the subject property.
4. The frame and fabric structure (tent) proposed is not permitted without a principal residence on site.
5. The Board was not presented with evidence to support the proposed development; the applicant indicated lights would be installed however, the hours of operation would be during daylight hours.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08

The subject property is districted Agriculture (AG). The purpose of these subdivisions is to provide for residential development on larger acreage lots within the agricultural community. Such uses should have a low impact on adjacent lands.

In accordance with Part 3.5.2 of the bylaw, when processing an application for a discretionary use, the development authority shall consider compatibility of the proposed development with surrounding lands in terms of function, form and scale.

In accordance with Section 6.4.2 of the bylaw, the development authority when reviewing the design and appearance of a development shall consider the quality and durability of finishing materials, aesthetic compatibility with surrounding development, visual impacts on roadways and other public areas, site security, public safety and any other factors deemed relevant.

In accordance with 7.5.1, the development authority when considering an application for development of a campground whether consisting of campsites or recreational lots, the development authority shall have regard for the suitability of the site based on its physical attributes, accessibility, surrounding land uses and environmental sensitivity.

In accordance with 7.14.3, a frame and fabric structure shall be exempt from the requirement of a development permit in agricultural districts for the sole purpose of an agricultural use that is exempted under 3.2.1(b), providing that it meets all other relevant provisions of the Land Use Bylaw.

In accordance with 7.14.4, the development authority shall consider a frame and fabric structure permitted under 7.14.1 shall only be allowed as an accessory building to an approved principal building on the site, and shall be reviewed in accordance with the accessory building regulations of the appropriate district.

Part 11 - Definitions

RECREATION, OUTDOOR means a facility where patrons participate in sports and other outdoor recreational activities and it may include on-site restaurants and commercial retail services. Typical uses include golf courses, driving ranges, ski hills, tennis courts, swimming pools, waterslides, sports fields, equestrian trails, boating facilities and recreational trails.



**Reasons for Refusal**

In consideration of the above the Intermunicipal Subdivision and Development Appeal Board refuses Development Permit Application D21-051 as it is not in conformance with the Leduc County Land Use Bylaw 7-08 as follows:

1. Section 3.5.2(a) - the proposed development is not compatible with the surrounding lands in terms of function, form and scale.

*The subject site is undeveloped and surrounded by agricultural land and activity. The purpose of country residential use is to provide for residential development on larger acreage lots within the agricultural community with the uses having a low impact on adjacent lands.*

2. Section 6.4.2 - the design and appearance of the proposed development including the quality and durability of finishing materials, aesthetic compatibility with surrounding development, visual impacts on roadways and other public areas, site security, public safety and any other factors deemed to be relevant.

*There were eight (8) objections received against the proposed development expressing concerns with compatibility including noise, traffic, parking and the aesthetics (sea-can, yellow fabric fencing) on the subject property.*

3. Section 7.5.1 - consideration of a campground whether consisting of campsites or recreational lots in regard for the suitability of the site based on its physical attributes, accessibility, surrounding land uses and environmental sensitivity.

*There are no shelterbelts or landscaping to enhance the proposed development to help mitigate aesthetics and visual impacts in addition to debris.*

4. Section 7.14.3 - a frame and fabric structure shall be exempt from the requirement of a development permit in agricultural districts for the sole purpose of an agricultural use that is exempted under 3.2.1(b) providing it meets all other relevant provisions of the Land Use Bylaw.

5. Section 7.14.4 - a frame and fabric structure permitted under 7.14.1 shall only be allowed as an accessory building to an approved principal building on the site, and shall be reviewed in accordance with the accessory building regulations of the appropriate district.

*A frame and fabric structure is not permitted without a principal building on site. The subject lands are vacant with no services nor building on site and with no principal building approved for development.*

Carried

**Next Meeting**

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held on Friday, July 16, 2021 at 9:00 a.m.

**Adjournment**

**35-21** Board Member Patrick -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried



The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:15 a.m.

  
Chair

  
Clerk