1. **CALL TO ORDER**

Chairperson L. Johnson called the meeting to order at 5:15 p.m.

2. **APPROVAL OF AGENDA**

Resolution SDAB20190312.001

MOVED: by Board Member E. Matiko

that the Agenda for Tuesday, March 12, 2019 be accepted as presented.

Carried Unanimously

3. **MINUTES APPROVAL**

3.1 **January 21, 2019 Subdivision and Development Appeal Board Minutes**

The following amendments to be made:

- Page 1 reads which reads:
  Chairperson L. Johnson asked the Board if they had any conflict of Interest or objections to any of the members sitting on the Board.

  to be amended to read as:

  - Chairperson L. Johnson asked the Board if they felt the appeal was submitted properly and acceptable, and if they had any conflict of Interest or objections to any of the members sitting on the Board.
  - Page 5 will be amended from saying County of Leduc to read Leduc County.

Resolution SDAB20190312.002

MOVED: by Board Member C. Daniel

to approve the minutes for the Subdivision and Development Appeal Board meeting held Monday, January 21, 2019 as amended.

Carried

4. **5:15 P.M. PUBLIC HEARING**

Chairperson L. Johnson declared the Hearing open at 5:25 p.m. and a delegation consisting of Angie Setchell, Dave Setchell, Cheryl Wylie, James Wyllie, Angela Forth, Jaret Forth, Christina Livingstine, James Thompson, and Jarvis Grant, Development Officer entered the meeting.
Chairperson L. Johnson introduced the members of the Subdivision and Development Appeal Board and asked if there were any objections to any of the members sitting on the Board.

No objections were presented.

Rod Hawken, Secretary to the Subdivision and Development Appeal Board presented the Summary of Events.

Chairperson L. Johnson asked the Board if they felt the appeal was submitted properly and acceptable.

No objections were presented.

Chairperson L. Johnson asked the Board if they had any conflict of Interest.

No objections were presented.

Chairperson L. Johnson asked if anyone had any objections to any of the members sitting on the Board.

No objections were presented.

4.1 Refusal of Development Permit D19/004- FORTH, Jaret and Angela: Parkside Transport Ltd. NW 10-47-24-4M, P. 0420254, B. 3 L. 1

On February 21, 2006, Jaret and Angela Forth applied for a development permit for the residential use of Plan 0420254, Block 3, Lot 1. The proposal included a 30’ x 40’ garage and a new residence. On March 7, 2006, Development Permit 06/028 was issued for the applied for development.

On October 18, 2011, Mr. and Mrs. Forth submitted another development permit application for a 30’ x 40’ cold storage shed. On November 3, 2011, Development Permit D11/269 was approved subject to six (6) conditions. Condition Six of D11/269 states the following:

“The proposed cold storage shed shall not be used for any commercial or business purposes and shall be used for private residential purposes only.” This was reflected in the Forth’s application which did not indicate any desired business activity.

On December 4, 2018, the County of Wetaskiwin sent a Notice to Mr. and Mrs. Forth advising them that the County had become aware of a Commercial Trucking Business being operated from the Lands without an approved development permit. Further to this, the Notice went on to outline that the only provisions for commercial activity within the Country Residential District is to be home occupations or bed and breakfast businesses.

The property is zoned as Country Residential which has following listed as Permitted and Discretionary uses:

10.5.2 Permitted Uses

a) Dwelling, Detached
b) Dwelling, Modular – New
c) Buildings and uses accessory to the above
10.5.3 Discretionary Uses
   a) Dwelling, Moved-in
   b) Dwelling, Mobile – New
   c) Dwelling, Mobile – Used
   d) Dwelling, Modular – Used
   e) Dwelling, Secondary Suite
   f) Home Occupation
   g) Bed and Breakfast
   h) Public Utility
   i) Show Home
   j) Buildings and uses accessory to the above

As stated in Land Use Bylaw 2017/48 in regards to Home Occupation vs. other Businesses:

Business means an establishment for carrying on a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal, or other service for gain or profit. This includes home business.

Business Service means services which include but are not limited to printing; photographic processing; the provision of office maintenance; custodial services; office security; the sale, rental, repair or servicing of business equipment, furniture, supplies and machines, computers, cellular telephones, and fax machines.

Home Occupation means any occupation, trade, profession or craft carried on by an occupant of a dwelling as a use secondary to the residential use of the dwelling or a farm building but where there are only minimal business visits, product storage, or deliveries.

Minor Business means a business operated from but subordinate to an agricultural operation or residential use.

9.16 Home Occupation

9.16.1 A home occupation shall not change the character or have any exterior evidence on the dwelling or farm building that it is carried out from.

9.16.2 A home occupation shall not employ more than one paid employee other than the resident and the resident’s family.

On January 14, 2019, the Forth’s submitted a completed development permit application for the operation of Parkside Transport Ltd. from the Lands. Within the application and supplementary emails it was outlined that a portion of both existing accessory buildings are utilized for the trucking business, that April to October is their busiest season, the truck and trailer leaves by 8am and is usually home by supper and that the truck and trailer does not come back loaded.

On January 17, 2019, a completed Alberta Transportation Roadside Development Application was sent to Alberta Transportation for review. On January 22, 2019, Alberta Transportation sent an email to the Forth’s which outlined that given the fact
that the necessary zoning was not in place for the County to grant an approval that Alberta Transportation would be holding their application in abeyance until the appropriate zoning was put in place. It should be noted that if the Lands had a proposed zoning change brought forward, Alberta Transportation would be on the County’s referral list to provide further comments.

On January 23, 2019, the County issued a Notice of Refusal of Development Permit for Development Permit Application D19/004 for the proposed operation of the existing business of Parkside Transport Ltd.

"NOTICE OF REFUSAL OF DEVELOPMENT PERMIT

You are hereby notified that your application for a development permit with regard to the following:

Parkside Transport Ltd.
NW-10-47-24-W4
Lot 1, Block 3, Plan 0420254
FORTH, JARET & ANGELA

has been REFUSED for the following reason:

The existing business is classified as a minor business and is not listed within the Country

_Residential District._

10.5.2 Permitted Uses
a) Dwelling, Detached
b) Dwelling, Modular- New
c) Buildings and uses accessory to the above

10.5.3 Discretionary Uses
a) Dwelling, Moved-In
b) Dwelling, Mobile- New
c) Dwelling, Mobile- Used
d) Dwelling, Modular- Used
e) Dwelling, Secondary Suite
f) Home Occupation
g) Bed and Breakfast
h) Public Utility
i) Show Home
j) Buildings and uses accessory to the above

Section 1.5.1 States Except as otherwise permitted in this Bylaw, development and subdivision in each district shall be in accordance with the uses listed in the district for the site on which it is proposed and the regulations and the guidelines of this Bylaw.
As seen in Section 9.5 of the Land Use By-law 2017/48, the County of Wetaskiwin is required by Alberta Transportation to submit a Roadside Development Permit Application for development near a Provincial Highway for proposed development, including change in use of existing development or access, within 300 metres of the provincial highway right-of-way boundary or within 800 metres of the centre point of an intersection of the provincial highway with another public road.

After reviewing the application, Alberta Transportation is holding the Roadside Development Permit Application for Development near a Provincial Highway in abeyance until the appropriate zoning is obtained to accommodate the type of land use required to operate a business.

You are further notified that you may appeal this decision to the Development Appeal Board in accordance with the provisions of Section Four of this Bylaw. Such an appeal shall be made in writing and shall be delivered either personally or by mail so as to reach the Secretary of the Subdivision Appeal Board not later than twenty-one (21) days following the date of decision of this notice. The notice of appeal shall contain a statement of the grounds of appeal as well as $150.00 for appeal fee.

DATE OF DECISION: January 23, 2019
Appeal Deadline February 13 2019”

On February 13, 2019, a Letter of Appeal was received from Jaret and Angela Forth, which read as follows:

"Please consider this correspondence a request for appeal to the refusal of the development permit D19/004.
We are appealing for the following reasons:

• Business has been wrongly interpreted
• No outside employees
• No customer visits
• No products Bought or sold
• No service conducted on the property mobile off location service only
• Business is secondary to the residential dwelling
• Office not open to the public(paperwork purposes only)

Please let us know when we are able to have the hearing. If hearings are only held Monday-Thursday we are not able to attend hearings on Wednesdays the following dates Feb 20, 27 of 2019, March 6, 13, 20, or 27 of 2019, April 3,10,17,24 of 2019.

Sincerely,
Jaret and Angela Forth”

On February 21, 2019, Administration contacted Alberta Transportation for further comments with respect to the Parkside Transport Ltd. Application. Alberta Transportation replied with the following comments:
"Hi Jarvis,

Alberta Transportation would offer no objections to the proposed business "Parkside Transport" as indirect access to the highway is provided from the local road system and traffic to/from the lot is not expected to increase.

Strictly from a highways perspective we would be prepared to issue a permit if the County of Wetaskiwin, as the land use authority, feels the proposed land use is appropriate for this area.

Regards,

Carly Cowles"

Administration also requested a response from the County of Wetaskiwin’s Engineering Technologist regarding Geometric Road Design Analysis. Dallas Vikse, C.E.T had the following comments:

"Per your request, I have conducted a Geometric Analysis of County road 242075 TWP RD 472, a.k.a. Larchtree Drive. The limits of said analysis were to specifically review the first 200m of Larchtree Drive south of TWP RD 472. The purpose of the analysis was to determine if the characteristics of the roadway corridor would warrant an industrial/commercial type use (a.k.a. suitability/compatibility with tractor truck and trailer use). The following information & attached images may be used to support your pending recommendation.

Regarding Horizontal Alignment, the 200m portion of roadway south of TWP RD 472 is positioned in the centre of a 20.1m wide County road allowance (perpendicular north/south to the township road) with an average width of 8.0m. The road surface is gravelled according to standard County application rates and situated between grass-vegetated ditches.

Local industrial road standards stipulate that the road structure shall consist of 300mm subgrade prep with 250mm of aggregate finished with a 100mm asphaltic concrete surface. Local residential roads consist of substantially lower standards with 150mm subgrade prep with 100mm of surface gravels. Without taking core samples of the existing road structure, the County assumes that the road is built to a local residential standard. This standard is considerably reduced when compared to average township/range roads which are typically built to minimum 300mm subgrade prep with 100mm compacted surface aggregates.

Further to horizontal alignment, Right-of-Way requirements are such that a 30.0m width is required for rural industrial roadways, and minimum pavement widths shall be 12.0m for the same. Again, Larchtree Drive is an 8.0m gravelled surface within a 20.1m right-of-way while typical township/range roads are 7.3m wide in the same width of right-of-way.

The approach/access into Rural Address #2, 242075 appears to be constructed to a width of 10.0m at property line. Industrial standards range from 10.0 to 15.0 meters wide. The current geometrics regarding shoulder radii vary from 10.0m on the north and 1.5m on the south. County standards dictate 15.0m for a shoulder radius in order to accommodate for large truck turning moments. Again, pavement surfacing is a minimum for industrial-type lots rather
than gravel aggregate. Should this type of access be approved onto a typical grid road, gravel is acceptable.

Regarding Vertical Alignment, the roadway appears to have a gentle, steady grade away from the northern township road. There were not any vertical curves of any significance present at time of inspection due to snow cover.

It should be noted that the parcel in question has an area of nearly 6 acres. The County requires pavement of internal roads where the lots are 1 acre or less unless the development accesses a paved road. In this case, the development is a multi-lot residential subdivision. The attached Road Contribution Fee Policy #6615 would apply in this situation. Current guidelines would require the developer to pave internal roads and also pave a linking road (Section 2.c.). Concerning drainage requirements, industrial areas currently require 500mm minimum diameter culverts complete with rip-rap end treatment. These items could not be confirmed again due to snow-filled ditches. Being that this subdivision is some years old; the County could presume that the culverts are 400mm without rip-rap end treatments.

One option that may be entertained by the County would be for an industrial sized approach to be constructed directly off of grid road TWP RD 472 into #2, 242075. The County has future plans to reconstruct and pave TWP 472 adjacent to this location to a non-banned surface. This could be an alternative for the lot owner to access his property with larger trucks which are otherwise susceptible to road bans. An approach construction application would be required to be submitted and approved to pursue this option.

In conclusion, I would not support an industrial-type lot located within BlueBird Estates due to the current as-built infrastructure when compared to standard engineering principles, our current design guidelines and also County of Wetaskiwin council-approved policies. I trust the abovementioned information will be of value to you moving forward.

Please do not hesitate to contact me for any comments or concerns.

Best regards,

Dallas E. Vikse, C.E.T.
Engineering Technologist”

A Subdivision and Development Appeal Board Hearing was scheduled for Tuesday, March 12, 2019 and a Notice of Appeal Hearing was sent to the Applicant/Appellant, adjacent landowners, the Subdivision and Development Appeal Board Members, and the Director of Planning and Economic Development on February 15, 2019.

Administration recommended that the Subdivision and Development Appeal Board refuse the appeal by Jaret and Angela Forth for Parkside Transport Ltd. Located within NW-10-47-24-W4 Lot 1, Block 3, Plan 0420254. The recommendation is made for the following reasons:

- The existing proposed development is classified as a Minor Business which is not a prescribed use allowed within the Country Residential District;
- The consideration of Parkside Transport Ltd. as a Home Occupation would not provide a consistent application or interpretation of the County’s Land Use Bylaw; and
• The internal subdivision road was designed and constructed with the intent of residential traffic, not tractor-truck and trailer combinations.

Jarvis Grant, Development Officer went over his Development Officer’s report where he highlighted the following topics:

• Went over previous home based business approvals within the County
• Mentioned that when we get these applications Administration tries to stay consistent of applying the definitions of Home Occupation vs. Minor Business.
• Possible damage to County Infrastructure.

The Board questioned if the internal subdivision and Township Road 472 were gravelled. Jarvis Grant, Development Officer replied that yes both roads were gravelled.

The Board questioned if the office is permitted within the residence? Mr. Grant replied that yes the office under his interpretation of the Bylaw falls under the Home Occupation definition, but the truck and trailer that come on to the property do not.

Jaret and Angela Forth, the Appellants addressed the Board with the following points:

• Stated that they have lived on the property for 13 years and the property is 5.3 acres in size.
• There is no business done on the property, just an empty Truck and Trailer are brought there.
• There are no outside employees, no customers and no sales done on the property.
• Mentioned that in 2008 an Autobody Business was approved within the Bluebird Estates Subdivision.
• Mentioned that in a Subdivision to the North of Bluebird Estates there has been a trucking company running
• Stated that the truck and trailer are always emptied prior to entering their property, so there would be no road damage.
• There Business is mostly seasonal and running from April to October.
• Stated that 90% of the activity done on the property is home based.
• There is no signage on the property for people to know they are running a business.

The Board questioned Mr. and Mrs. Forth why they feel the business is wrongly interpreted. Mrs. Forth replied that they feel they are more of a home occupation, and within the Bylaw definition it does not state you can’t bring a work vehicle home.

The Board questioned if they are only bringing the Truck and Trailer to park on the property. Mrs. Forth stated that yes it is only there to park, the existing accessory buildings contain personal stuff not any business related products.

The Board questioned if the 50% road ban is year round, and what would the empty weight for the truck and trailer, are the axles over at any point. Mr. Forth stated that yes there is a road ban, but no the axles would be well under the weight limit.

The Board questioned how many vehicles and what kind it is that is used for the Business. Mr. and Mrs. Forth replied that it is a Semi, and low boy trailer, that has 12 tires on the trailer.
The Board questioned where is the semi parked when it comes on to the property. Mr. and Mrs. Forth replied that the semi is parked in an existing building, which makes it not visible at any time.

The Board questioned the approval date for the second accessory building, and how long has the business been operating. Mr. and Mrs. Forth replied that the accessory building was in 2001, and they have been running the Business since 2006.

The Board questioned, if this business is not allowed could they park the Semi and Trailer somewhere else. Mr. and Mrs. Forth replied no, because of the economy and they are a single income family it would be too expensive.

Angie Setchell, an adjacent landowner to state there is only one truck on the property and Mr. Grant may have used trucks as plural by accident in his presentation.

Dave Setchell, an adjacent landowner, stated that you never see the truck on the property, there is no dust, and the Forth's are very considerate of their neighbours.

The Board questioned the location of the Angle and Dave Setchell property to the Forth's.

James Thompson an adjacent land owner commented on the following:

- Stated that he farms half a mile east of the Forth's.
- Mentioned that Mr. Forth hauls grain for Mr. Thompson.
- Stated that when roads in the subdivision were built, he helped worked on them and they were clay based.
- Mentioned that he cannot see any damage made to the road.
- Mentioned that there are lots of home based businesses and wants to support local business. He would hate to see the tax payers put out by the County by not allowing them to run business.
- Stated that other people could be sent home with a loaded work truck that could weigh more than Mr. Forth's Semi and Trailer.

The Board questioned Mr. Thompson who owns the grain trailer. Mr. Thompson stated it is Mr. Forth's grain trailer that is kept on his property.

Jim Wyllie, an adjacent landowner, stated that Mr. Forth always has empty truck and there is no degradation of the road, also that you hear him, but he is just in and out. Mr. Wyllie stated that he does not have a problem with the business.

Christine Livingstone, a direct adjacent landowner, stated that the Forth's are very friendly neighbours, and that the Forth's kids playing outside are usually louder than the truck.

Mr. Grant made the following closing comments:

- Stated that it is good to hear that the adjacent landowners are in support of the business.
- Stated that Administratively based on the Bylaw, Administration must make consistent decisions based on planning merits, and the Bylaw must be applied in a black and white matter. Administration would consider this a Minor business, and it is not permitted use within the Country Residential District.
• Stated that Administration still recommends that the appeal be denied.

The Board questioned the maximum parcel size for Country Residential Lots. Mr. Grant stated it is stated under the district listing, and Council has the authority to approve larger parcel sizes during the rezoning and subdivision stage.

The Board questioned who made the complaint. Mr. Grant stated that it had went through the Bylaw department.

The Board questioned if there is anything in the Land Use Bylaw that states provision for work vehicles. Mr. Grant stated that there are no provisions listed within the Land Use Bylaw.

Mr. Setchell commented that there have been bigger trucks going in and out of the properties. He addressed the Board to which properties within the subdivision that have businesses running out of the property.

Mrs. Setchell stated that there is a landscaping company within the subdivision, and you can hear the equipment rattling on the trailer, and a previous landowner in the subdivision was a plumber and would drive his work truck in out of the property daily.

Mr. Forth stated that in 2008 an Autobody Business was approved by the County.

The Board stated to Mr. Forth that they are unable to look at previous approvals, and must look at the merits of this application they are being presented at the current Hearing.

The Board questioned Mr. Forth that the truck is 100% empty. Mr. Forth stated it is always empty, the trailer is parked outside between the two shops, and the truck is parked within the existing accessory buildings. If the trailer is loaded it is parked somewhere else.

Chairperson L. Johnson questioned Mr. and Mrs. Forth if they felt they had a fair hearing. They replied that they did feel they had a fair hearing.

Chairperson L. Johnson advised the applicants and the delegates in attendance that a written decision will be mailed within 15 days of this hearing.

Chairperson L. Johnson declared the hearing closed at 6:10 p.m. and the Board thanked the delegation for attending and they left the hearing.

The Board discussed the following to come to a Decision:

• The Board was of the opinion that the proposed use meets the definition of Home Occupation;
• The Board was of the opinion that the Home Occupation will not create a nuisance on neighbouring properties as the office work will be undertaken indoors, the highway tractor will be stored in an existing accessory building and trailers associated
with the business will be stored off-site.
- The board addressed the concern regarding road damage by not allowing any trailers associated with the Home Occupation on-site;
- While it is important to be consistent, the Board was of the opinion each appeal must be judged on its own merits.

**Resolution SDAB20190312.003**

MOVED: by Board Member T. Hoogland

The board uphold the appeal by Jaret and Angela Forth for Parkside Transport Ltd. Home occupation located within NW-10-47-24-W4 Lot 1, Block 3, Plan 0420254 be approve subject to the following conditions:

1. Location and use of proposed development shall be as specified by documents submitted by applicant.
2. The site shall be kept in a neat and orderly fashion.
3. The number of employees for the Parkside Transport Ltd. will be limited to the landowners of the property.
4. There will be no trailers associated with the Home Occupation to be parked or stored on site.
5. There will be a maximum one (1) Highway Tractor to be parked/stored on site in an existing accessory building.
6. Any traffic to and from the site shall abide by any road ban restrictions;

Reasons for the Board’s Decision:
- The Board was of the opinion that the proposed use meets the definition of Home Occupation;
- “The Board was of the opinion that the Home Occupation will not create a nuisance on neighbouring properties as the, the office work will be undertaken indoors, the tractor trailer will be stored in an existing accessory building and trailers associated with the business will be stored off-site.
- The board addressed the concern regarding road damage by not allowing any trailers associated with the Home Occupation on-site;
- “While it is important to be consistent, the Board was of the opinion each appeal must be judged on it’s own merits.

**Carried Unanimously**

**Resolution SDAB20190312.004**

MOVED: by Board Member C. Daniel

That the definition of Home Occupation and Minor Business be reviewed by the Land Use Bylaw Committee and they should consider addressing:
- Size of vehicles.
- Define registered and commercial vehicles
- Mention outdoor storage business items (including vehicles).

**Carried Unanimously**
5. **ADJOURN**

Resolution SDAB20190312.005

MOVED: by Board Member E. Matiko

that the meeting adjourn at 7:16 p.m.

_________________________
CHAIRPERSON

_________________________
SECRETARY