1. CALL TO ORDER

2. APPROVAL OF AGENDA

3. MINUTES APPROVAL

4. PUBLIC HEARING
   4.1 Appeal of Stop Order for Unauthorized Development E 1/2 SW 16-46-27-W4M, Rolland and Rosalie Begg, Roll # 2360.00

5. INFORMATION ITEMS

6. ADJOURN
Subdivision and Development Appeal Board Meeting

MINUTES

Thursday, July 11, 2019, 5:00 PM
Council Chambers
County Administration Building

Present
Chairperson, Laurie Johnson
Board Member, Rick Pries
Board Member, Chris Daniel
Board Member, Everett Matiko
Board Member, Tim Hoogland

Staff Present
SDAB Secretary, Rod Hawken
Recording Secretary, Erin Ballhorn
Municipal Intern, Naomi Finseth
Municipal Intern, Ben Cowan

1. CALL TO ORDER

Chairperson L. Johnson called the meeting to order at 5.15 p.m.

2. APPROVAL OF AGENDA

Resolution SDAB20190711.001
MOVED: by Board Member C. Daniel
that the Agenda for Thursday, July 11, 2019 be accepted as presented.

Carried Unanimously

3. MINUTES APPROVAL

Resolution SDAB20190711.002
MOVED: by Board Member T. Hoogland

to approve the minutes for the Subdivision and Development Appeal Board meeting held Thursday, April 18, 2019 with the following amendments:

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

The Board was of the opinion the appeal was submitted properly and acceptable.

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

No conflict of interest was noted.

REMOVAL OF:

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

No objections were presented.

Carried Unanimously

4. PUBLIC HEARING

Chairperson L. Johnson declared the Hearing open at 5:25 p.m. and a delegation consisting of Bonnie Kerby, Linda Wallace, Mike and Iris Doel, Elaine and Bernie Semotulik, Patti Fulton, Paul Robinson, Wayne Rodway, Brian and Adele Groves 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.

The Board was of the opinion the appeal was submitted properly and acceptable.

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

No conflict of interest was noted.

4.1 Appeal of Development Permit for Bed and Breakfast and Existing House with Attached Garage, SE 35-46-6-W5M, Plan 9922011, Lot 31, Gordon Dolynchuk

On May 4, 2005, the County issued Development Permit D05/75 for a Single Family House with Attached Garage. The permit was issued as a permitted use with no setback relaxations provided as the site plan indicated the structure would be 6.12 metres from the eastern most property line.

On June 17, 2009, a development permit application was submitted to the County for an addition to be built onto the already approved house with attached garage. The site plan that was provided indicated a 6.11 metre setback to the easternmost property line.

On July 24, 2009, Development Permit D09/210 was issued for the addition to the house approved by Permit D05/75 with no relaxation being granted.

On February 22, 2019, County Administration received a request for a Certificate of Compliance for the lands to be completed. As a part of the request real property reports were submitted to the County for review. As a part of the review it was found that the house was in fact located 5.90 metres away from the eastern property line versus the over six (6) metre setback that was shown on the 2005 and 2009 site plans.

On March 27, 2019, an email was sent from Administration to Mr. Dolynchuk discussing the possibility of him applying for a permit to grant the necessary 0.1 metre (1.67%) relaxation for the house and the possibility of incorporating the potential purchasers desire to operate a bed and breakfast business into one permit as both would be discretionary and require advertising.

On April 23, 2019, Mr. Dolynchuk submitted a development permit application to the County for the necessary setback relaxation as well as for the operation of a bed and breakfast business within the residence.

On May 17, 2019, Development Permit D19/072 was issued for the setback relaxation and the operation of the bed and breakfast business.

On June 18, 2019, a Letter of Appeal was received from Paul Robinson against Development Permit D19/072.

The letter reads as follows:

"This letter is being submitted by the adjacent and closely neighboring property owners in opposition to a proposed development of a Bed and Breakfast applied for by Gordon Dolynchuk at Greystones on the Lake, Buck Lake Alberta. The property location is SE 35-46-6-W5. Lot 31, Plan 9922011.

In the restrictive covenants of the Greystones on the Lake contained in subsection 1.7 it states: No Lot or building thereon shall be used for any trade of business. Please
find enclosed for your convenience a copy of the said restrictive covenants for Greystones on the Lake, Buck Lake, Alberta.

Due to the extreme size and height of the main structures on all of Mr. Dolychnuk’s developed properties the neighboring properties have already been substantially negatively impacted. In addition to the sizable structures the property the property setbacks have been infringed on and the County of Wetaskiwin bylaw of maintaining 40% of the natural vegetation on the property has not be complied with. Any and all sight or sound barriers between Mr. Dolychnuck’s properties and the neighboring ones have been required to be constructed by the way of fencing or maintained in the way of vegetation at the sole responsibility and expense of the neighboring property owners. Although the property mentioned above began construction in 2005 and the exterior front finish was completed several years ago the exterior side facing the adjacent property was not completed until May of 2019 leaving the neighbors on that side with a consistent view of unfinished deteriorating Styrofoam for approximately the past 14 years. In our opinion developments have diminished the property values for the neighbors in close proximately to them and we agree that opening up the structures to the public as a business will have even greater negative impact in regards to privacy, noise, traffic, security, impact on the lake, sewer disposal, and again have even more negative impact on neighboring property values.

We realize that it’s not possible for each of you in this decision making process to actually drive out to the above mentioned property in order to make the final decision. Although all of the developed properties currently listed for sale by Mr. Dolychnuk are and do look extremely impressive from the front also in the real estate listing they seem to be a natural fit for a Bed & Breakfast situation the look of them and the impact on the neighbors shows a much different view. Please see the attached photos of the properties taken from not only front views but rear and side views as well. We the following, kindly ask that you will consider our concerns when making your decision in regards to final approval for a Bed and Breakfast on the above mentioned property.

On June 19, 2019, a Letter of Appeal was received from Bonnie Kerby against Development Permit D19/072.

The letter reads as follows:

"The purpose of this letter is to object to the proposed development of a Bed and Breakfast at Greystones on the Lake located on Buck Lake. The applicant is Gordon Dolychnuk who currently has property on SE-35-46-6-W5 Lot 31, Plan 9922011. When originally purchased, this land was zoned as lakeshore residential. This parcel of land is located beside an emergency access road to the lake and must be kept clear at all times. The possibility of this road becoming congested due to patrons of the Bed and Breakfast is a concern for all residents of both Heighington Estates and Greystones Estates who are dependent on this roadway for emergency services such as fire. The residence is composed of 9 or more bedrooms and would create an increase in traffic on existing roadways. Also a concern to be noted is the increase of persons using various vehicles such as ATVs and overuse of the existing roadways which are not in adequate condition for the existing traffic currently. These subdivisions were not constructed for multi-family use at the time of zoning and were clearly allocated as single family dwellings.

The approval of the Bed and Breakfast could permanently change the numbers of foot traffic, create parking issues and potentially diminish the safety of the residents. Furthermore, this business could negatively impact the value of all the properties in the subdivision. Please note signatures below strongly support disapproval for the development of a Bed and Breakfast."

Administration recommends that the Board deny the appeal from Paul Robinson within SE 35-46-06-W5M, Plan 9922011, Lot 31 for the Bed and Breakfast Business and Existing House with Attached Garage, based on the following reasons:

- The restrictive covenant registered on the Title of the lands is not applicable to County planning decisions;
As per Section 9.2.1 and Section 10.7.4(h) in the discretion of the Development Officer, there will be no impact to adjacent properties or land uses due to the 0.1 metre (1.67%) relaxation and operation of the bed and breakfast business;

The County’s Dangerous and Nuisance Property Bylaw 2018/52 is not a planning document and there is an established and official process in place to deal with unsightly properties;

Over clearing of vegetation on private land and development of County environmental reserve land are not planning considerations applicable to application D19/072 and are matters for the County’s Bylaw Enforcement Department;

Use of Buck Lake itself is outside the jurisdiction of the County of Wetaskiwin.

Mr. Grant, Development Officer reviewed the Development Officer’s Report.

The Board questioned if the County enforces restrictive covenants, the lots listed on the restrictive covenant and whose jurisdiction the waters of Buck Lake fall within.

Mr. Grant verified the County does not enforce restrictive covenants registered by developers and they must be determined and enforced privately through the court system. Also, the County’s jurisdiction is limited to land parcels and lakes.

The Board verified a 0.1 metre relaxation is not an issue for Administration.

Mr. Grant confirmed the 0.1 metre relaxation was not an issue.

The Board reviewed the Lakeshore Residential District, including site coverage, environmental protection and height restrictions.

Mr. Grant reviewed the changes to the Land Use Bylaw from 1995/54 to 2017/48 including the addition of a height restriction in the current Bylaw.

The Board questioned the height of Mr. Dolynchuk’s building.

Mr. Grant stated the building height is 54 feet as provided by the developer.

The Board questioned if the development would have been in compliance as of the 2005 application.

Mr. Grant verified that the 2005 application was in compliance at that time.

The Board questioned if more than 50% of the natural vegetation has been cleared.

Mr. Grant stated comparison of historical aerial photos would be required for accurate verification if 50% of natural vegetation has been cleared.

The Board questioned if there is sufficient parking.

Mr. Grant stated there is sufficient parking in front of the garage.

The applicant was called upon to provide comment, but was not in attendance.

A Letter of Appeal was received from Wayne Rodway against Development Permit D19/072.

The letter reads as follows:

“1 — How is it that the County of Wetaskiwin # 10 can blatantly disrespect and ignore the Land Titles Registered: Restrictive Covenant # 992 081 476, dated the 6th of April, 1999 and approve a Development Permit for a Bed and Breakfast Business. By the terms of this Development Permit’s own admission, Item 4, Pg.2/5, reads: This issuance of This Development Permit does not SUPERSEDE or suggest violation of any caveat, easement, restrictive covenant or other encumbrances shown on the back of the Certificate of Title. - Attachment

2 — The referenced Restrictive Covenant sets out sum (10) Specific Restrictions referenced as (1.1 through to 1.10) governing the general character of each lot by restricting the use, occupation and improvements of the lots. Paragraph two of the Restrictive Covenant go on to say that the burden of the restrictive Covenants be annexed to and bind each of the lots as servient lands and bind every owner and all subsequent owners thereof from time to time.”
3 — Covenant Restriction # 1.7 reads as follows: No lot or building thereon shall be used for any Trade or business. Attachment

OUR CONCERNS and OBJECTIONS: of this specific Development Permit — D19/072

1 If this Development permit for a "Bed and Breakfast Business", which clearly Contravenes Restrictive Covenant # 1.7. If allowed to stand it would open the flood gate for all land owners to apply for and receive permission to establish similar types of businesses to help subsidize the high cost of property taxes and limited services such as looking after one's own sewage removal and garbage disposal.

2 Item # 8, states that the number of employees for the Bed & Breakfast be limited to the landowner(s) of the property.

Q— If one is to sell this property to another, is this development permit D19/072 transferable in perpetuity.

Item # 14, Maximum of three (3) rooms occupied at any given time.

Q— Given that there will be seven (7) bedrooms when fully developed, how is the County going to monitor and enforce the permitted occupancy of - only three (3) bedroom?

Item # 15, Guest rooms shall not be occupied by same tenant for more than seven (7) consecutive days.

Q— Again how is the County going to monitor and enforce the seven (7) consecutive day rule? What is preventing a different member of a family or group being recorded as the registered guest? Or one could arrange to book a room every Friday through Sunday or Monday for the entire summer months of May through to October and beyond.

Q— What limitations are there in place to prevent regular rotating tenants from erecting individual boat lifts and docks lake side, creating additional infringement on the protected environmental lake front?

Item # 9, Pg. 2/5, - This permit is issued and valid for a period of one (1) year from date of issue bring May17, 2019. If development has not commenced or carried out with due diligence, this permit is null and void.

Q— What constitutes due diligence? Mr. Dolynchuk has been working on this (3) storey above grade dwelling contrary the County's own Land Use Bylaw No.2017/48,Pg.58, for some (15) fifteen years.

Is it our collective understanding that this dwelling has to be 100% complete (all drywall, painting, flooring, kitchen cabinets, final heating & electrical) and the required final Occupancy Certificate within the stipulated one year time frame ( Dev. Permit - Item 9, pg.2/5, will nullify and void this Development Permit D19/072.

How the permitted development of the two (3) story homes undertaken by Mr. Dolynchuk were allowed to proceed without taking into account the impact on adjoining properties is beyond comprehension and supports why other Urban Municipalities have adopted builder Design Control guidelines.

In this instance, The Negative Impact as to Shadowing on Adjacent Properties was obviously not taken into account by the County Development Officer. The adjoining residence to the East are unable to enjoy the evening sunset and the residence to the West are unable to enjoy morning sunrise, as a direct result of the permitted height oversight.

Given that Mr. Dolynchuk has this property as well as all other property's listed for sale with Moores Realty, It is our belief that after being under construction for past (15) years, Mr. Dolynchuk has no intention of completing nor residing at this property; which comprises of 8,691 square feet, (7) seven bedrooms and (9) bathrooms when complete.

It is therefore our belief Mr. Dolynchuk has only applied for this Bed & Breakfast Business Development Permit and Certification for the sole purpose of marketing, promoting and enhancing the commercial value of this property.

It is therefore our collective belief that this Development Permit # D19/072 should be rescinded as it does not comply with the registered Land Titles Restrictive Covenant # 992 081 476, dated the 6th day of April, 1999.
In closing, the said Development Permit D19/072 should not be allowed to supersede the registered Restrictive Covenants that all lot owners are governed to uphold."

Mr. Wayne Rodway spoke on behalf of the appellant Mr. Paul Robinson and addressed the Board:

- Reviewed the Restrictive Covenant registered on title and believes that a permit cannot supersede the restrictive covenant;
- And questioned if the Bed & Breakfast permit requires a new permit annually.

Mr. Grant stated the permit does not expire and will stay with the property provided the new owners operate within the same conditions.

Mr. Rodway questioned if each renter can erect a boat launch.

The Board advised this Board only has jurisdiction on the lot in question, not the lake or the Environmental reserve.

Mr. Rodway addressed the board as follows:

- Questioned how the County will enforce and monitor the conditions of the permit;
- Different concerning scenarios including boat launches and increased unknown traffic;
- The residence is currently incomplete;
- The County disrespecting and ignoring Restrictive Covenant #992 081 476 dated April 6, 1999;
- The applicant does not intend to operate the business and does not reside there;
- The property is currently listed on MLS;
- And concerned the number of bedrooms rented will exceed the three as listed in the permit conditions.

The Board stated the exterior appears to be complete in the photos provided.

Mr. Rodway confirmed the exterior is approximately 95% complete and the siding was recently installed and the structure is three stories above grade with a walk out basement.

The Board questioned if the Environmental Reserve in front of the property is accessible.

Mr. Rodway stated the Environmental Reserve is accessible.

Ms. Bonnie Kerby, an adjacent landowner in Heighington Estates, addressed the Board:

- The access to the lake next to the property should not be used as parking;
- Security and safety are dependent of the closeness of the community;
- How will the County ensure Bed & Breakfast residents follow the rules and who will enforce the issues;
- The Restrictive Covenant is registered on all properties and believes prior to approving the County must meet the terms of the Restrictive Covenants;
- And the Queens Bench enforces Restrictive Covenants.

The Board questioned if the Restrictive Covenant has a definition of the word business and if there any other Bed & Breakfasts within the subdivision.

Ms. Kerby stated the definition states only business and there are no other Bed & Breakfasts in the subdivision.

Mr. Doug Carson, an adjacent landowner, addressed the Board:

- Safety concerns introducing new people to the community throughout the different seasons;
- Concerns of fire safety;
• Concerns that the building safety codes have changed since the original permit approval;
• There was not a complete set of drawings included for review;
• And details of the structure, including size and number of bedrooms.

Ms. Patti Fulton, an adjacent landowner, addressed the Board:
• Building height is a concern;
• Increased use will increase noise;
• There are no barriers provided by Mr. Dolynchuk between properties;
• And Mr. Dolynchuk has colonized the road right of way and planted trees along the road allowance.

Mr. Robert Doel stated a firetruck cannot turn around on the access road to the lake. The residents of the subdivision had fought hard to have the road installed for emergency access.

The Board asked if the residence has property access from the range road.
Ms. Fulton verified the property does have access from the range road.
The Board reviewed pictures submitted by the appellants.

Mr. Grant, Development Officer, provided closing comments:
• The following issues are outside of the scope of the Subdivision and Appeal Boards jurisdiction:
  o Addressed County road development;
  o Lake use and jurisdiction;
  o Dog control;
  o Noise complaints;
  o Enforcement;
• Reviewed the Development Officer's report and the recommendation that the appeal be denied.

The Board questioned if a final inspection was held on the property.
Mr. Grant stated final inspections are not common practice due to a lack of County resources.
The Board questioned if the building is habitable.
Mr. Grant was unsure, however, Building Codes must be met to obtain occupancy.
The Board questioned if Safety Codes has additional requirements for a Bed & Breakfast.
Mr. Grant stated a development permit must be issued first and safety codes must then be contacted. If operation begins prior to Safety Codes approval, enforcement actions can be taken to ensure compliance.
The Board questioned if there was a timeline to complete the project.
Mr. Grant stated the applicant has one year to commence with no restrictions on completion.
Mr. Rodway questioned how a Bed & Breakfast permit may be approved prior to structure completion and if decks are build at a later date, how will encroachment be address.
The Board stated a permit would require a separate application.
Ms. Kerby stated a Bed and Breakfast permit is premature as the residence is not complete.

Ms. Fulton stated there are pictures on the realtors listing showing no interior development, which was reviewed by the Board.

Chairperson L. Johnson questioned the appellants if they felt they had a fair hearing.

The appellants stated that they felt they had a fair hearing.

Chairperson L. Johnson stated that with Provincial Legislation, the Board is required to issue a decision within 15 days from the date of today's hearing. No decision is binding on the Board until it issues a written decision.

The Decision of the Subdivision and Development Appeal Board is final and binding on all person's subject only to an appeal upon question of law or upon a question of jurisdiction pursuant to Section 688 of the Municipal Government Act, Chapter M-26.

Chairperson L. Johnson declared the hearing closed at 6:33 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:

- Relaxation of residence 0.1 metre towards Range Road 60;
- The following are enforced by other avenues:
  - Encroachment of the the environmental reserve;
  - Unsightly premises;
  - Restrictive Covenants;
- Privacy of the neighbours;
- Safety Code approvals;
- And increased Traffic.

Reasons:

- The Board was of the opinion that a relaxation of 0.1 metre toward Range Road 61 can be approved as it would not negatively impact the road allowance of adjacent landowners.
- In accordance with the County No. 10 Land Use Bylaw 2017/48, Bed and Breakfast means an accessory use of a dwelling to provide commercial accommodation in guest-rooms and where breakfast may be provided to registered guests in a common room.
- The Board was of the opinion that the Bed and Breakfast cannot be approved on this lot because the current structure does not meet the definition of a dwelling. In accordance with the County of Wetaskiwin No. 10 Land Use Bylaw 2017/48, Dwelling is defined as a building containing one or more habitable rooms in which the primary use is habitation and is self-contained for that use within facilities containing bathroom(s), and may include a washroom, a kitchen, and sleeping areas for a single household for year-round residential accommodation. The structure is currently not habitable.
- The Board was also of the opinion that a Bed and Breakfast would negatively affect neighbouring parcels. In accordance with the Municipal Government Act Section 387 (3) In determining an appeal, the subdivision and development and appeal board (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, (i) in its opinion, (A) unduly interfere with the amenities of the neighbourhood, or (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.
The Board was of the opinion that a Bed and Breakfast would materially interfere with or affect the enjoyment of neighbouring properties.

Resolution SDAB20190711.003
MOVED: by Board Member T. Hoogland

That the Board give partial approval for the appeal from Paul Robinson. The Board upholds the appeal for the Bed and Breakfast.

The Board only grants approval of Development Permit D19/072 for the Existing House with Attached Garage within SE 35-46-06-W5M, Plan 9922011 with the following conditions:

1. Location and use of proposed development shall be as specified by documents submitted by applicant.
2. The required front yard setback of 6 metres (20 feet) as per Land Use By-law 2017/48, has been relaxed to the proposed distance of 5.9 metres (19.36 feet) as it appears on the submitted plot plan.

Carried Unanimously

Reason's for the Board's Decision:

- The Board was of the opinion that a relaxation of 0.1 metre toward Range Road 61 can be approved as it would not negatively impact the road allowance of adjacent landowners.
- In accordance with the County No. 10 Land Use Bylaw 2017/48, Bed and Breakfast means an accessory use of a dwelling to provide commercial accommodation in guest-rooms and where breakfast may be provided to registered guests in a common room.
- The Board was of the opinion that the Bed and Breakfast cannot be approved on this lot because the current structure does not meet the definition of a dwelling. In accordance with the County of Wetaskiwin No. 10 Land Use Bylaw 2017/48, Dwelling is defined as a building containing one or more habitable rooms in which the primary use is habitation and is self-contained for that use within facilities containing bathroom(s), and may include a washroom, a kitchen, and sleeping areas for a single household for year-round residential accommodation. The structure is currently not habitable.
- The Board was also of the opinion that a Bed and Breakfast would negatively affect neighbouring parcels. In accordance with the Municipal Government Act Section 387 (3) In determining an appeal, the subdivision and development and appeal board (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, (i) in its opinion, (A) unduly interfere with the amenities of the neighbourhood, or (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.
- The Board was of the opinion that a Bed and Breakfast would materially interfere with or affect the enjoyment of neighbouring properties.

6. **ADJOURN**

MOVED: by Board Member R. Pries

that the meeting adjourn at 7:23 p.m.

Carried Unanimously
CHAIRPERSON

SECRETARY
Background

On July 24, 2017, a Notice of Inspection was sent to Rolland and Rosalie Begg outlining that the County had received a complaint regarding an unauthorized dwelling on the lands and that the County would be inspecting the lands. During the inspection it was found that an unauthorized dwelling had been developed in the loft of an existing barn.

After the inspection a letter was received from Mr. and Mrs. Begg outlining the rational for the development of the dwelling within the barn. It was outlined that the Beggs liked the security and help for property maintenance that is provided by having the extra dwelling within the barn.

On September 22, 2017, County Administration issued a letter to Mr. and Mrs. Begg following up on a meeting that had taken place between County staff and themselves. Within the letter it outlines that various options were analyzed but that the only way to achieve compliance was by rendering the dwelling within the barn uninhabitable. A deadline of June 29, 2018 was provided to the Beggs for the decommissioning of the dwelling.

On November 2, 2018, a Notice of Inspection was issued to Mr. and Mrs. Begg to confirm if the June 29, 2018 deadline had been complied with. The inspection was to take place on November 19, 2018.

On November 19, 2018, an inspection of the lands occurred and it was confirmed that the habitable dwelling was still present within the barn.

On November 30, 2018, in an email to the Beggs’ daughter, Ms. Karen Pezderic, Administration granted an extension until June 30, 2019 for the removal of the dwelling from within the barn.

On June 5, 2019, the County received a letter from Mr. and Mrs. Begg requesting an appeal regarding their dwelling within the barn. The Beggs were advised that no formal decision had been made yet that would enable an appeal.

On June 26, 2019, the County issued a Stop Order to Mr. and Mrs. Begg for the unauthorized third dwelling on the approximate 78.56 acre lands.
On July 15, 2019, the County received a Letter of Appeal from Mr. and Mrs. Begg.

The Stop Order issued reads as follows:

Dear Mr. and Mrs. Begg,

Re: E1/2 SW 16-46-27-W4M, approximately 78.56 acres, "the Lands" — Unauthorized Development

In my capacity of Development Officer I am hereby issuing a Stop Order pursuant to Section 645 of the Municipal Government Act with respect to the aforementioned lands. The Municipality’s Land Use Bylaw states:

Unless exempted from requiring a development permit by this Bylaw or by federal or provincial legislation, any use or development of land, buildings or signs in the County requires a valid development permit."

Development as defined by the County’s Land Use Bylaw means:

"a) an excavation or stockpile and the creation of either of them;
b) a building or an addition to or replacement or repair of a building and the construction or placing of any of them in, on, over or under land;
c) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or d) a change in the intensity of use of land or a building or act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building."

Further, Part 17 of the Municipal Government Act and Section 5 of the Municipality’s Land Use Bylaw allow a Development Officer to issue a Stop Order where a development or use of land or buildings does not comply with the Municipal Government Act, the Land Use Bylaw, a development permit or subdivision approval

At present, the Lands do not comply with the County’s Land Use Bylaw given:

1. There is an unauthorized third dwelling located within an existing barn structure on the Lands that does not meet the requirements of Section 9.8 of the County’s Land Use Bylaw 2017/48. Section 9.8 states the following:

"9.8.1 No person is allowed to construct or locate or cause to be constructed or located more than one principal dwelling on a lot or parcel unless otherwise authorized by this Bylaw.

9.8.2 Notwithstanding Section 9.8.1, the Development Officer may issue a development permit to:
a) permit the construction or location of a secondary dwelling on a parcel with a minimum area of 32.3 hectares (80 acres) where the dwelling is a permitted or discretionary use for the district;

b) permit the placement of a second dwelling, being solely a mobile dwelling, on an agricultural parcel less than 32.3 hectares (80 acres) for the purpose of accommodating a person hired by the operator of an intensive agricultural operation, an intensive livestock operation or confined feeding operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

c) permit the placement of a second or third dwelling, being solely a mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating one or two persons (one per dwelling) hired by the operator of an intensive agricultural operation, intensive livestock operation or confined livestock operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

d) permit the placement of a third or fourth dwelling, being solely mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating persons hired by the operator of a confined feeding operation, with an NRCB registration/approval, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

e) in accordance with Sections 9.8.2 a), b) and c), permit the placement of a second dwelling, being solely a mobile dwelling, on a lot not designated as Lakeshore Residential District, Lakeshore Mixed Use District, Recreational Resort Holdings District, Mixed Recreational Residential District, Urban Residential District, or Country Residential District, in a Multi-Lot Residential Subdivision only, if the second mobile dwelling is a permitted or discretionary use and shall be used by a person(s) who require full-time care being provided by the primary resident of the parcel. Such person must provide detailed written reasons from a physician. The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

f) permit the construction or location of a building with two or more dwelling units where the building is a permitted or discretionary use for the district."

Accordingly, you are hereby ordered to stop the unauthorized development and use of the aforementioned lands and the buildings thereon and comply with the Land Use Bylaw by:
1. Decommissioning the dwelling located within the barn structure to the point of meeting the County's definition of an Uninhabitable Dwelling by November 1, 2019, An Uninhabitable Dwelling is defined by the County's Land Use Bylaw as:

"A building or structure that is no longer used as a dwelling and has had all cooking faculties, washroom and bathroom facilities, sleeping quarters removed or permanently disabled to the satisfaction of the Development Authority to enable the building to be utilized exclusively as an accessory building."

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of an appeal together with the applicable appeal fee ($150), must be received by the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of receipt of this letter. A letter is deemed to be received seven (7) days from the date of mailing.

Please be advised that the Municipality has the authority to put the costs and expenses for carrying out this Stop Order on the tax roll for the Lands (Municipal Government Acts. 553 (1(h.1)).

On July 15, 2019 payment was received to accompany the following letter received June 5, 2019 which reads as follows:

"Dear Sir,

We would like to appeal the rule that disallow our barn loft as living quarters and therefore a third residence on our property at E ½ SW ¼ 16-46-27 W4. The barn has been on the farm for 72 years and should be considered a historical building in our community. Rather than letting it deteriorate, collapse and become an eyesore as so many in the countryside, it has been salvaged and restored and used for a good purpose. As our original letter states, it has been used to accommodate first our son and now another couple who help us, keep us safe, prevent robberies and help provide us with care necessary for us to remain on this family farm.

We have had the farm for sale for a year but with the slower real estate economy this has not happened yet.

We are hopeful in our request to leave the arrangements as they are now as we would very much like to remain living here as long as possible considering our age and health. We are in our mid seventies and our neighbours in this close knit area are in their eighties. We depend on an appreciate the help and security of our young people and their dog living close to us.

Thank you for your consideration in this matter.

Yours truly,
A Subdivision and Development Appeal Board Hearing was scheduled for Monday, August 12, 2019 and a Notice of Appeal Hearing was sent to the Applicant/Appellant, adjacent landowners, Leduc County, and the Subdivision and Development Appeal Board and the Director of Planning and Economic Development on July 23, 2019.

**Recommendations**

Administration recommends that the Subdivision and Development Appeal Board deny the appeal as submitted by Rolland and Rosalie Begg and uphold the issued Stop Order for an unauthorized third dwelling E1/2 SW 16-46-27-W4M for the following reasons:

Out of all of the allowances provided by the Land Use Bylaw for an extra residence(s) to be placed on a parcel of land, Mr. and Mrs. Begg do not meet the necessary provisions to be approved under any of them.

- The parcel in question is under 80 acres in size;
- Already has two detached dwellings located on the property;
- It is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
- It is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
- It is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;
- It is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation.

**Recommended Resolution**

that the Subdivision and Development Appeal Board deny the appeal as submitted by Rolland and Rosalie Begg and uphold the issued Stop Order for an unauthorized third dwelling E1/2 SW 16-46-27-W4M for the following reasons:

Out of all of the allowances provided by the Land Use Bylaw for an extra residence(s) to be placed on a parcel of land, Mr. and Mrs. Begg do not meet the necessary provisions to be approved under any of them.

- The parcel in question is under 80 acres in size;
- Already has two detached dwellings located on the property;
- It is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
• It is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
• It is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;
• It is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation.
The purpose of this Subdivision and Development Appeal Board Hearing is to review the appeal from BEGG, J ROLLAND & ROSALIE M for an Unauthorized Development within E 1/2 SW 16-46-27-W4M.

On June 26, 2019, Administration issued a Stop Order for the Unauthorized Development within E 1/2 SW 16-46-27-W4M.

On July 15, 2019, The Secretary of the Subdivision and Development Appeal Board received a letter of appeal from Rolland and Rosalie Begg.

An Appeal Hearing was set for Monday, August 12, 2019 and the Notice of Appeal Hearing was sent to the Applicant/Appellant, Registered Owners, Adjacent Landowners and the Director of Planning and Economic Development on July 23, 2019.

On August 8, 2019, Administration sent the Board Members of the Subdivision and Development Appeal Board a copy of the Agenda Package which included the following:

**SUMMARY OF EVENTS:**

- Development Officer's Report
- Notice of Appeal Hearing
- Letter of Appeal & Receipt - July 12, 2019
- Stop Order - June 26, 2019
- Notice of Inspection - November 2, 2018
- Correspondence - September 2017
- Pictures
- Agricultural District (Land Use Bylaw 2017/48)

Other information that has been received and provided to the Board Members of the Subdivision and Development Appeal Board, prior to the hearing is as follows:

1. Relevant Facts
Relevant Facts for

BEGG, J ROLLAND & ROSALIE M
Unauthorized Development within E 1/2 SW 16-46-27-W4M
File No. 236000 D

RELEVANT FACTS FOR THE BOARD’S CONSIDERATION:

- On July 24, 2017, a Notice of Inspection was sent to Rolland and Rosalie Begg outlining that the County had received a complaint regarding an unauthorized dwelling on the lands and that the County would be inspecting the lands. During the inspection it was found that an unauthorized dwelling had been developed in the loft of an existing barn.
- After the inspection a letter was received from Mr. and Mrs. Begg outlining the rational for the development of the dwelling within the barn. It was outlined that the Beggs liked the security and help for property maintenance that is provided by having the extra dwelling within the barn.
- On September 22, 2017, County Administration issued a letter to Mr. and Mrs. Begg following up on a meeting that had taken place between County staff and themselves. Within the letter it outlines that various options were analyzed but that the only way to achieve compliance was by rendering the dwelling within the barn uninhabitable. A deadline of June 29, 2018 was provided to the Beggs for the decommissioning of the dwelling.
- On November 2, 2018, a Notice of Inspection was issued to Mr. and Mrs. Begg to confirm if the June 29, 2018 deadline had been complied with. The inspection was to take place on November 19, 2018.
- On November 19, 2018, an inspection of the lands occurred and it was confirmed that the habitable dwelling was still present within the barn.
- On November 30, 2018, in an email to the Beggs’ daughter, Ms. Karen Pezderic, Administration granted an extension until June 30, 2019 for the removal of the dwelling from within the barn.
- On June 5, 2019, the County received a letter from Mr. and Mrs. Begg requesting an appeal regarding their dwelling within the barn. The Beggs were advised that no formal decision had been made yet that would enable an appeal.
- On June 26, 2019, the County issued a Stop Order to Mr. and Mrs. Begg for the unauthorized third dwelling on the approximate 78.56 acre lands.
- On July 15, 2019, the County received a Letter of Appeal from Mr. and Mrs. Begg.

RELEVANT LEGISLATION FOR THE BOARD’S CONSIDERATION:

4. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 683 through to and including
SPECIFIC CONCERNS REGARDING THE PROPOSED DEVELOPMENT:

The Applicants/Appellants stop order reversed and the ability to apply for a third residence within the property for the following reasons:

- Help to provide care necessary for residence to remain on property;
- Provide Security to property.

PLANNING MERITS FOR THE BOARD'S CONSIDERATION:

When evaluating a development appeal, board members shall ask themselves the following:

1. How does this proposal contribute to the orderly, economic, and beneficial development, use of land or pattern or human settlement?
2. Does the proposal maintain or improve the quality of the human environment?
3. How does the proposal impact the individual rights and the public interest? Which is more important in this case and why?
4. Does the proposed development conform with the use prescribed for the land or building in the land use bylaw?
5. Have all concerns raised regarding the proposed development been adequately addressed?
APPEAL OF STOP ORDER FOR UNAUTHORIZED THIRD RESIDENCE
E1/2 SW 16-46-27-W4M

TO: The County of Wetaskiwin No. 10
Subdivision & Development Appeal Board

FROM: Jarvis Grant
Development Officer

Appellants: Rolland and Rosalie Begg

BACKGROUND/CONTEXT:

The property subject to the Stop Order is an approximate 78.56 acre parcel, districted as Agricultural (AG) and is located on the north side of Highway 13 between Range Road 274 and Range Road 273 approximately ¾ of a mile west of the Hamlet of Falun. Currently existing on the property are two stick built houses, an unoccupied mobile home and the barn loft residence. West Central Planning Agency was contacted for the subdivision history of the property and they indicated that their records go back to 1961 and that the only record they had was for a proposed consolidation in 2013 with adjoining land to the north. The County’s Tax Assessment Department records show that the residences were built in 1948 and 1982 for the houses with the mobile home being 1961. It should be noted that these dates are approximate.
On July 24, 2017, a Notice of Inspection was sent to Rolland and Rosalie Begg outlining that the County had received a complaint regarding an unauthorized dwelling on the lands and that the County would be inspecting the lands. During the inspection it was found that an unauthorized dwelling had been developed in the loft of an existing barn.

After the inspection a letter was received from Mr. and Mrs. Begg outlining the rational for the development of the dwelling within the barn. It was outlined that the Beggs liked the security and help for property maintenance that is provided by having the extra dwelling within the barn.

On September 22, 2017, County Administration issued a letter to Mr. and Mrs. Begg following up on a meeting that had taken place between County staff and themselves. Within the letter it outlines that various options were analyzed but that the only way to achieve compliance was by rendering the dwelling within the barn uninhabitable. A deadline of June 29, 2018 was provided to the Beggs for the decommissioning of the dwelling.

On November 2, 2018, a Notice of Inspection was issued to Mr. and Mrs. Begg to confirm if the June 29, 2018 deadline had been complied with. The inspection was to take place on November 19, 2018.

On November 19, 2018, an inspection of the lands occurred and it was confirmed that the habitable dwelling was still present within the barn.
On November 30, 2018, in an email to the Beggs’ daughter, Ms. Karen Pezderic, Administration granted an extension until June 30, 2019 for the removal of the dwelling from within the barn.

On June 5, 2019, the County received a letter from Mr. and Mrs. Begg requesting an appeal regarding their dwelling within the barn. The Beggs were advised that no formal decision had been made yet that would enable an appeal.

On June 26, 2019, the County issued a Stop Order to Mr. and Mrs. Begg for the unauthorized third dwelling on the approximate 78.56 acre lands.

On July 15, 2019, the County received a Letter of Appeal from Mr. and Mrs. Begg.

**DISCUSSION**

For the reasons explained in detail below, the Development Authority recommends that this appeal be denied.

**Reason 1: Does not comply with Section 9.8 of the County’s Land Use Bylaw**

Section 9.8.1 of the County’s Land Use Bylaw states that, “No person is allowed to construct or locate or cause to be constructed or located more than one principal dwelling on a lot or parcel unless otherwise authorized by the Bylaw.” Further to that statement, the Land Use Bylaw does provide for specific circumstances in which additional residences can be added to a parcel. These are:

- A secondary dwelling on a parcel with a minimum area of 80 acres;

- The placement of a second dwelling, being solely a mobile dwelling, on an agricultural parcel less than 80 acres for the purpose of accommodating a person hired by the operator of an intensive agricultural operation, an intensive livestock operation or confined feeding operation, for a minimum period of six consecutive months;

- The placement of a second or third dwelling, being solely a mobile dwelling, on an agricultural parcel with a minimum area of 80 acres for the purpose of accommodating one or two persons (one per dwelling) hired by the operator of an intensive agricultural operation, intensive livestock operation or confined livestock operation, for a minimum period of six consecutive months;

- The placement of a third or fourth dwelling, being solely mobile dwelling, on an agricultural parcel with a minimum area of 80 acres for the purpose of accommodating persons hired by the operator of a confined feeding operation, with an NRCB registration/approval, for a minimum period of six consecutive months;
- The placement of a second dwelling, being solely a mobile dwelling, if the second mobile dwelling is a permitted or discretionary use and shall be used by a person(s) who require full-time care being provided by the primary resident of the parcel. Such person must provide detailed written reasons from a physician;

- Permit the construction or location of a building with two or more dwelling units where the building is a permitted or discretionary use for the district.

Out of all of the allowances provided by the Land Use Bylaw for an extra residence(s) to be placed on a parcel of land, Mr. and Mrs. Begg do not meet the necessary provisions to be approved under any of them.

- The parcel in question is under 80 acres in size;
- Already has two detached dwellings located on the property;
- It is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
- It is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
- It is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;
- It is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation.

SUMMARY:
In summation, the Development Authority’s recommendation to the SDAB is supportive of the refusal of the appeal:

1. Administration recommends that the Subdivision and Development Appeal Board deny the appeal as submitted by Rolland and Rosalie Begg and uphold the issued Stop Order for an unauthorized third dwelling E1/2 SW 16-46-27-W4M for the following reasons:

Out of all of the allowances provided by the Land Use Bylaw for an extra residence(s) to be placed on a parcel of land, Mr. and Mrs. Begg do not meet the necessary provisions to be approved under any of them.

  o The parcel in question is under 80 acres in size;
  o Already has two detached dwellings located on the property;
  o It is not a mobile home utilized for direct medical attention (of which there is already a second house on the property that could be utilized for such);
  o It is not a mobile home on land under 80 acres in size utilized by a full-time farm hand for an intensive livestock operation (it is also to be limited to the second dwelling on the property, this would be the third);
It is not a mobile home on land over 80 acres in size utilized by full-time farm hands for an intensive livestock operation;

It is not a mobile home on land 80 acres in size or larger utilized by full-time farm hands for a confined feeding operation.

**APPENDIX**

**Appendix 1 – Applicable Legislation**

**Municipal Government Act**

Development Appeals are governed by Sections 683 through to and including Section 687 of the MGA which also forms part of the County of Wetaskiwin No.10 Land Use Bylaw. In this regard, the Subdivision and Development Appeal Board of the County of Wetaskiwin No.10 has jurisdiction to hear and render a decision on the appeal.

627(1) A council must by bylaw

(a) establish a subdivision and development appeal board, or

(b) authorize the municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board, or both.

638.2(1) Every municipality must compile and keep updated a list of any policies that may be considered in making decisions under this Part

(a) that have been approved by council by resolution or bylaw, or

(b) that have been made by a body or person to whom powers, duties or functions are delegated under section 203 or 209,

and that do not form part of a bylaw made under this Part.

(2) The municipality must publish the following on the municipality’s website:

(a) the list of the policies referred to in subsection (1);

(b) the policies described in subsection (1);

(c) a summary of the policies described in subsection (1) and of how they relate to each other and how they relate to any statutory plans and bylaws passed in accordance with this Part;

(d) any documents incorporated by reference in any bylaws passed in accordance with this Part.

(3) A development authority, subdivision authority, subdivision and development appeal board, the Municipal Government Board or a court shall not have regard to any policy approved by a council or by a person or body referred to in subsection (1)(b) unless the policy is set out in the list prepared and maintained under subsection (1) and published in accordance with subsection (2).

(4) This section applies on and after January 1, 2019.
639 Every municipality must pass a land use bylaw.

640(1) A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality.

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with
   (a) this Part or a land use bylaw or regulations under this Part, or
   (b) a development permit or subdivision approval, the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
   (a) stop the development or use of the land or building in whole or in part as directed by the notice,
   (b) demolish, remove or replace the development, or
   (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.

(2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

684(1) The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.
If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.

685(1) If a development authority
   (a) fails or refuses to issue a development permit to a person,
   (b) issues a development permit subject to conditions, or
   (c) issues an order under section 645,
the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board
   (a) in the case of an appeal made by a person referred to in section 685(1)
       (i) with respect to an application for a development permit,
           (A) within 21 days after the date on which the decision is made under section 642, or
           (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or
       (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
   (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The subdivision and development appeal board must give at least 5 days’ notice in writing of the hearing
   (a) to the appellant,
   (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
   (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

(4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
   (a) the application for the development permit, the decision and the notice of appeal, or
(b) the order under section 645.

(4.1) Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

(5) In subsection (3), “owner” means the person shown as the owner of land on the assessment roll prepared under Part 9.

687(1) At a hearing under section 686, the subdivision and development appeal board must hear
(a) the appellant or any person acting on behalf of the appellant,
(b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,
(c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
(d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.

(2) The subdivision and development appeal board must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.

(3) In determining an appeal, the subdivision and development appeal board
(a) must act in accordance with any applicable ALSA regional plan;
   (a.1) must comply with any applicable land use policies;
   (a.2) subject to section 638, must comply with any applicable statutory plans;
   (a.3) subject to clause (d), must comply with any land use bylaw in effect;
(b) must have regard to but is not bound by the subdivision and development regulations;
(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
   (i) the proposed development would not
      (A) unduly interfere with the amenities of the neighbourhood, or
      (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and
   (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw

Land Use Bylaw 2017/48
Number of Dwellings on a Lot 9.8
No person is allowed to construct or locate or cause to be constructed or located more than 9.8.1one principal dwelling on a lot or parcel unless otherwise authorized by this Bylaw.
Notwithstanding Section 9.8.1, the Development Officer may issue a development permit to: 9.8.2
a) permit the construction or location of a secondary dwelling on a parcel with a minimum area of 32.3 hectares (80 acres) where the dwelling is a permitted or discretionary use for the district;  
b) permit the placement of a second dwelling, being solely a mobile dwelling, on an agricultural parcel less than 32.3 hectares (80 acres) for the purpose of accommodating a person hired by the operator of an intensive agricultural operation, an intensive livestock operation or confined feeding operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;  
c) permit the placement of a second or third dwelling, being solely a mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating one or two persons (one per dwelling) hired by the operator of an intensive agricultural operation, intensive livestock operation or confined livestock operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;  
d) permit the placement of a third or fourth dwelling, being solely mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating persons hired by the operator of a confined feeding operation, with an NRCB registration/approval, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;  
e) in accordance with Sections 9.8.2 a), b) and c), permit the placement of a second dwelling, being solely a mobile dwelling, on a lot not designated as Lakeshore Residential District, Lakeshore Mixed Use District, Recreational Resort Holdings District, Mixed Recreational Residential District, Urban Residential District, or Country Residential District, in a Multi-Lot Residential Subdivision only, if the second mobile dwelling is a permitted or discretionary use and shall be used by a person(s) who require full-time care being provided by the primary resident of the parcel. Such person must provide detailed written reasons from a physician. The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;  
f) permit the construction or location of a building with two or more dwelling units where the building is a permitted or discretionary use for the district.

10.1 Agricultural District (AG)  
10.1.1 Purpose  
The purpose of the Agricultural District (AG) is to maintain and preserve land for productive agricultural uses and to allow for limited subdivision and development for residential use compatible in the farming community.

10.1.2 Permitted Uses  
a) Agriculture, Extensive  
b) Dwelling, Detached
c) Dwelling, Mobile – New

d) Dwelling, Modular – New

e) Intensive Livestock Operation - situated at least 400.0 meters (1312 feet) away from any land
not districted as Agricultural or Severed Agricultural

f) Buildings and uses accessory to the above

10.1.3 Discretionary Uses

a) Dwelling, Communal

b) Dwellings, Moved-in

c) Dwelling, Mobile – Used

d) Dwelling, Modular – Used

e) Dwelling, Secondary Suite

f) Agricultural, Intensive

g) Intensive Livestock Operation - within 400.0 meters (1312 feet) of any land not classified as
Agricultural or Severed Agricultural under this Bylaw

h) Tree Farm

i) Bed and Breakfast

j) Home Occupation

k) Industry Work Camp

l) Kennel

m) Public Utility

n) Public or Quasi-Public Use

o) Resource Extraction Operation Type A

p) Resource Extraction Operation Type B

q) Resource Processing Operation

r) Recreational, Extensive

s) Abattoir

t) Greenhouse

u) Veterinary Clinic

v) Minor Business

w) Equestrian Center

x) Recreation Vehicle Use (greater than 80 acres, where no dwelling exists – maximum 3 year
permit. If the landowner wishes the use to continue, they must re-apply for the use prior to the
expiry of the permit).

y) Buildings and uses accessory to the above

10.1.4 Parcel size

The minimum size for a parcel intended to be used for extensive agriculture is 32.3 hectares (80 acres),
but this minimum size may be relaxed:

a) to allow a parcel to follow natural boundaries, or

b) to allow for existing or proposed subdivisions for public or quasi-public purposes, or

c) proportionally where the original quarter section title was less than 64.7 hectares (160 acres).
The minimum size for a parcel intended to be used for an intensive agricultural operation shall be at the discretion of the Subdivision Authority, who may consult with appropriate specialists from the Province or consult with the Director or Agricultural Services for the County.

10.1.5 Setbacks
a) Front yard: see Section 9.10.1
b) Side yard: 5.0 meters (16 feet)
c) Rear yard: 10.0 meters (33 feet)

10.1.6 Number of Lots
A quarter section may be subdivided to create one of the following:
   a) an existing farm yard site;
   b) a new yard site;
   c) two approximately equal parts;
   d) a natural or severed split.

Regulations for the creation of a yard site subdivision shall be as in the Rural Residential District, and after subdivision, the regulations for Rural Residential apply, even though the land retains its Agricultural zoning. Note: Small parcels of land on which the primary use is residential are deemed under this Bylaw to be a Rural Residential use and the standards of that district apply.

10.1.8 Rezoning Requirements
a) Any subdivisions creating in excess of two parcels per quarter section will require rezoning from Agricultural to another district.
b) Subdivisions for public purposes may be allowed without rezoning in addition to those allowed under Section 10.1.6.

10.1.9 Recreational Vehicles
Recreational Vehicles may be authorized as outlined in Section 3.12, Recreational Vehicles.

10.1.10 Sewage and Wastewater
Sewage and wastewater systems are required as outlined in Section 3.12(g), Recreational Vehicles.

10.1.11 Utility Hookups
Utility hookups are required as outlined in Section 3.12.1(h), Recreational Vehicles.

10.1.12 Enforcement
Offences and fines are outlined in Section 5, Contravention.
July 12, 2019

County of Wetaskiwin #10
Att. Jarvis Grant
Att. Rod Hawken

Dear Sirs:

Enclosed is a cheque for $150.00 and a letter of appeal pertaining to the use of the barn loft as a residence. We would really like to comply with the guidelines in our community and county and since a permit was not originally taken to make repairs and changes to the barn, is it possible to request an application now after the fact so that there is a legal paper trail for the county as well as compliance with us.

Please refer to the previous two letters that indicate our special needs and consideration for discretionary permission.

Thank you.

Yours truly,

T. Rolland Begg and Rosalie Lee Begg
# Official Receipt

**BEGG, ROLLAND & ROSALIE**  
R.R. #1  
WETASKIWIn AB T9A 1W8  

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<td>PD00502 SDAB Appeal Fees</td>
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</table>

**Payment Total:** 150.00

384 Cheque  

150.00
County of Wetaskiwin #10
Attention: Mr. Rod Jarvis

May 30, 2019

Dear Sir,

We would like to appeal the rule that disallows our barn loft as living quarters and therefore a third residence on our property at Eckman 4 16-46-27 W4. The barn has been on the farm for 72 years and should be considered a historical building in our community. Rather than letting it deteriorate, collapse and become an eyesore as so many in the countryside, it has been salvaged and restored and used for a good purpose. As our original letter states, it has been used to accommodate Sir to our son and another couple who help us. Keep us safe, prevent robberies and help provide us with care necessary for us to remain on this family farm.

We have had the farm for sale for a year but with the slower real estate economy this has not happened yet.

We are hopeful in our request to leave the arrangements as they are now as we would very much like to remain living here as
long as possible considering our age and health. We are in our mid seventies and our neighbours in this close knit area are in their eighties. We depend on and appreciate the help and security of our young people and their dog living close to us.

Thank you for your consideration in this matter.

Yours truly

Rolly & Rosalie Begg

June 6/19 - 3:45 p.m.
Spoke to Rolly and advised County would issue stop order immediately so he could officially appeal. Rolly understood and agreed.

Rod.
STOP ORDER

Date of Mailing: June 26, 2019

Rolland and Rosalie Begg
RR1
Wetaskiwin, Alberta
T9A 1W8

Dear Mr. and Mrs. Begg,

Re: E1/2 SW 16-46-27-W4M, approximately 78.56 acres, "the Lands" — Unauthorized Development

In my capacity of Development Officer I am hereby issuing a Stop Order pursuant to Section 645 of the Municipal Government Act with respect to the aforementioned lands. The Municipality’s Land Use Bylaw states:

"3.1.1 Unless exempted from requiring a development permit by this Bylaw or by federal or provincial legislation, any use or development of land, buildings or signs in the County requires a valid development permit."

Development as defined by the County’s Land Use Bylaw means:

"a) an excavation or stockpile and the creation of either of them; b) a building or an addition to or replacement or repair of a building and the construction or placing of any of them in, on, over or under land; c) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or d) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building."

Further, Part 17 of the Municipal Government Act and Section 5 of the Municipality’s Land Use Bylaw allow a Development Officer to issue a Stop Order where a development or use of land or buildings does not comply with the Municipal Government Act, the Land Use Bylaw, a development permit or subdivision approval.

At present, the Lands do not comply with the County’s Land Use Bylaw given:

1. There is an unauthorized third dwelling located within an existing barn structure on the Lands that does not meet the requirements of Section 9.8 of the County’s Land Use Bylaw 2017/48. Section 9.8 states the following:

"9.8.1 No person is allowed to construct or locate or cause to be constructed or located more than one principal dwelling on a lot or parcel unless otherwise authorized by this Bylaw."
9.8.2 Notwithstanding Section 9.8.1, the Development Officer may issue a development permit to:

a) permit the construction or location of a secondary dwelling on a parcel with a minimum area of 32.3 hectares (80 acres) where the dwelling is a permitted or discretionary use for the district;

b) permit the placement of a second dwelling, being solely a mobile dwelling, on an agricultural parcel less than 32.3 hectares (80 acres) for the purpose of accommodating a person hired by the operator of an intensive agricultural operation, an intensive livestock operation or confined feeding operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

c) permit the placement of a second or third dwelling, being solely a mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating one or two persons (one per dwelling) hired by the operator of an intensive agricultural operation, intensive livestock operation or confined livestock operation, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

d) permit the placement of a third or fourth dwelling, being solely mobile dwelling, on an agricultural parcel with a minimum area of 32.3 hectares (80 acres) for the purpose of accommodating persons hired by the operator of a confined feeding operation, with an NRCB registration/approval, for a minimum period of six consecutive months (183 consecutive days). The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

e) in accordance with Sections 9.8.2 a), b) and c), permit the placement of a second dwelling, being solely a mobile dwelling, on a lot not designated as Lakeshore Residential District, Lakeshore Mixed Use District, Recreational Resort Holdings District, Mixed Recreational Residential District, Urban Residential District, or Country Residential District, in a Multi-Lot Residential Subdivision only, if the second mobile dwelling is a permitted or discretionary use and shall be used by a person(s) who require full-time care being provided by the primary resident of the parcel. Such person must provide detailed written reasons from a physician. The mobile dwelling(s) shall be removed when it is no longer being used for the purpose stated herein or upon the expiry of any associated development permit authorizing said use;

f) permit the construction or location of a building with two or more dwelling units where the building is a permitted or discretionary use for the district.”

Accordingly, you are hereby ordered to stop the unauthorized development and use of the aforementioned lands and the buildings thereon and comply with the Land Use Bylaw by:
1. Decommissioning the dwelling located within the barn structure to the point of meeting the County's definition of an Uninhabitable Dwelling by **November 1, 2019**. An Uninhabitable Dwelling is defined by the County's Land Use Bylaw as:

"A building or structure that is no longer used as a dwelling and has had all cooking facilities, washroom and bathroom facilities, sleeping quarters removed or permanently disabled to the satisfaction of the Development Authority to enable the building to be utilized exclusively as an accessory building."

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of an appeal together with the applicable appeal fee ($150), must be received by the Secretary of the Subdivision and Development Appeal Board within twenty-one (21) days of receipt of this letter. A letter is deemed to be received seven (7) days from the date of mailing.

Please be advised that the Municipality has the authority to put the costs and expenses for carrying out this Stop Order on the tax roll for the Lands (Municipal Government Acts. 553 (1(h.1)).

Sincerely,

Jarvis Grant
Development Officer
County of Wetaskiwin No. 10
780-361-6222
jgrant@county10.ca

cc: Rod Hawken – Chief Administrative Officer
Ken Adair – Division 5 Councillor
November 2, 2018

Rolland and Rosalie Begg
RR1
Wetaskiwin, Alberta
T9A 1W8

Dear Mr. and Mrs. Begg:

RE: Notice of Property Inspection: E1/2 SW 16-46-27-W4M

Under authority of Section 542 of the Municipal Government Act, please be advised that an inspection will be performed on the aforementioned property between the hours of 8:30am – 4:30pm on November 19, 2018. Our Development Officer and By-law Enforcement Officer will be taking pictures to document whether or not all kitchen and sleeping facilities have been removed from the residential loft within the barn.

If you have any questions or concerns, please contact our Development Officer, Jarvis Grant, at 780-361-6222, or myself at 780-361-6223.

Regards,

Jeff Chipley,
Assistant Chief Administrative Officer

c: Ken Adair, Councillor Division 5

/jg
Our son fixed up the loft of a 70-year-old barn to help us with the work of taking care of the property that has been in our family for 3 generations, where I grew up. It was bought from my father 43 years ago.

We are in our seventies and still want to remain on our home but do need some physical help. I have a number of health issues and we both have arthritis. When our son bought his own farm we got a young couple to live in the barn to replace his help and also for security. We have had some issues in the past with theft which were reported to the RCMP. Our neighbors on either side are all in their 80s and we all feel safer with younger people living next to us.

Also we live in Nicaragua from Nov to April and need people to watch our home and animals on the property. Someone reliable has to be living here to help prevent theft and vandalism.
September 22, 2017

Rolland and Rosalie Begg
RR1
Wetaskiwin, Alberta
T9A 1W8

Dear Mr. and Mrs. Begg,

Re: E1/2 SW 16-46-27-W4M, “the Lands”, Number of Dwellings

I just wanted to thank you for taking the time to come into the County office to talk about your property. During our meeting there were various potential options analyzed to try to bring both your property into compliance with the County’s Land Use By-law and as well to accommodate your wishes. Unfortunately, at the conclusion of the meeting it seemed as if the only option was to render the dwelling unit within the barn loft uninhabitable.

As a part of our discussion of this, you requested a timeline that would be practical and fair to the current tenants of the loft as well as to be able to work around the fact that you would be gone from November 2017 until April 2018. Taking this request into consideration, a deadline of June 29, 2018 has been set for the removal of all kitchen and sleeping facilities from the residential loft within the barn.

Moving forward if you have any questions or concerns feel free to contact either myself at the information provided below or David Blades at 780-361-6235.

Sincerely,

Jarvis Grant
Development Officer
County of Wetaskiwin No. 10
780-361-6222
jgrant@county.wetaskiwin.ab.ca
July 24, 2017

Rolland & Rosalie Begg  
RR 1  
Wetaskiwin, Alberta  
T9A 1W8

Mr. & Mrs. Begg:

**RE: Notice of Property Inspection: SW-16-46-27-W4M, 273054A HWY 13:**

As there have been complaints regarding the above noted property having an unauthorized dwelling our Bylaw Enforcement Officer will be attending the lands and taking pictures in order to follow up on this complaint. Under authority of section 542 of the Municipal Government Act, please be advised that an inspection will be performed on August 8th 2017 at 11:00 am.

If you have any questions or concerns, please contact one of our Bylaw Enforcement Officers, Cayli Mocarski or Kimberley, at 780-352-3321, extension 289, or myself at 780-361-6225.

Kind Regards,

Rod Hawken  
Assistant CAO  
County of Wetaskiwin No. 10  
780-361-6225  
rhawken@county.wetaskiwin.ab.ca
Cadastre

Roll Number 236000
Rural Legal SW-16-46-27-4
Urban Legal
Parcel Area 78.56
Area Type Acres
Address 273054A HWY 13
Non Standard Description E 1/2 SW
Description
Zoning AG
Subdivision
Provincial Linc Number 10186670

Owners

OWNER 1: BEGG, I ROLLAND & ROSALIE
Roll Number 236000
Name BEGG, I ROLLAND & ROSALIE
Owner Type Registered Owner (Primary or Single Owner)
Ownership (%) 100%
Address1 RR 1
Address2
Address3
City WETASKIWIN
Province AB
Country CANADA
Postal Code T9A 1W8
Phone1
Phone2
Phone3
Fax1
Email1

780-352-4822
10.1 **Agricultural District (AG)**

10.1.1 **Purpose**

The purpose of the Agricultural District (AG) is to maintain and preserve land for productive agricultural uses and to allow for limited subdivision and development for residential use compatible in the farming community.

10.1.2 **Permitted Uses**

a) Agriculture, Extensive

b) Dwelling, Detached

c) Dwelling, Mobile – New

d) Dwelling, Modular – New

e) Intensive Livestock Operation - situated at least 400.0 meters (1312 feet) away from any land not districted as Agricultural or Severed Agricultural

f) Buildings and uses accessory to the above

10.1.3 **Discretionary Uses**

a) Dwelling, Communal

b) Dwellings, Moved-in

c) Dwelling, Mobile – Used

d) Dwelling, Modular – Used

e) Dwelling, Secondary Suite

f) Agricultural, Intensive

g) Intensive Livestock Operation - within 400.0 meters (1312 feet) of any land not classified as Agricultural or Severed Agricultural under this Bylaw

h) Tree Farm

i) Bed and Breakfast

j) Home Occupation

k) Industry Work Camp

l) Kennel

m) Public Utility

n) Public or Quasi-Public Use

o) Resource Extraction Operation Type A

p) Resource Extraction Operation Type B

q) Resource Processing Operation

r) Recreational, Extensive

s) Abattoir
t) Greenhouse
u) Veterinary Clinic
v) Minor Business
w) Equestrian Center
x) Recreation Vehicle Use (greater than 80 acres, where no dwelling exists – maximum 3 year permit. If the landowner wishes the use to continue, they must re-apply for the use prior to the expiry of the permit).
y) Buildings and uses accessory to the above

10.1.4 Parcel size

The minimum size for a parcel intended to be used for extensive agriculture is 32.3 hectares (80 acres), but this minimum size may be relaxed:

a) to allow a parcel to follow natural boundaries, or
b) to allow for existing or proposed subdivisions for public or quasi-public purposes, or
c) proportionally where the original quarter section title was less than 64.7 hectares (160 acres).

The minimum size for a parcel intended to be used for an intensive agricultural operation shall be at the discretion of the Subdivision Authority, who may consult with appropriate specialists from the Province or consult with the Director or Agricultural Services for the County.

10.1.5 Setbacks

a) Front yard: see Section 9.10.1
b) Side yard: 5.0 meters (16 feet)
c) Rear yard: 10.0 meters (33 feet)

10.1.6 Number of Lots

A quarter section may be subdivided to create one of the following:

a) an existing farm yard site;
b) a new yard site;
c) two approximately equal parts;
d) a natural or severed split.

10.1.7 Regulations for the creation of a yard site subdivision shall be as in the Rural Residential district, and after subdivision, the regulations for Rural Residential apply, even though the land retains its Agricultural zoning. Note: Small parcels of land on which the primary use is residential are deemed under this Bylaw to be a Rural Residential use and the standards of that district apply.
10.1.8 Rezoning Requirements
   a) Any subdivisions creating in excess of two parcels per quarter section will require rezoning from Agricultural to another district.
   b) Subdivisions for public purposes may be allowed without rezoning in addition to those allowed under Section 10.1.6.

10.1.9 Recreational Vehicles
   Recreational Vehicles may be authorized as outlined in Section 3.12, Recreational Vehicles.

10.1.10 Sewage and Wastewater
   Sewage and wastewater systems are required as outlined in Section 3.12(g), Recreational Vehicles.

10.1.11 Utility Hookups
   Utility hookups are required as outlined in Section 3.12.1(h), Recreational Vehicles.

10.1.12 Enforcement
   Offences and fines are outlined in Section 5, Contravention.
NOTICE OF APPEAL HEARING

This is to notify you that an appeal has been made to the SUBDIVISION AND DEVELOPMENT APPEAL BOARD regarding a Stop Order described as follows:

BEGG, J ROLLAND & ROSALIE M

Unauthorized Development within E 1/2 SW 16-46-27-W4M

SW-16-46-27-W4M

PLACE OF HEARING: County Council Chambers

County of Wetaskiwin Administration Office. Approximately 1.6 kilometres west of Wetaskiwin on Highway 13 on south side of the Highway.

DATE OF HEARING: Monday, August 12, 2019

TIME OF HEARING: 5:15 p.m.

Any persons affected by the proposed development have the right to present a written brief prior to the hearing and to be present and be heard at the hearing. Persons requesting to be heard at the meeting, but are unable to attend the meeting, shall submit written briefs to the Secretary of the Subdivision and Development Appeal Board no later than 5:00 p.m., Monday, August 12, 2019.

Date: July 23, 2019

ROD HAWKEN
SECRETARY
Subdivision & Development Appeal Board

NOTE: This notice does not require your attendance; however, if you wish to speak at the hearing, this is your opportunity. Information pertaining to this hearing can be obtained by contacting the Planning and Economic Development Department at the County of Wetaskiwin Administration Office.