



NOTICE OF DECISION OF THE INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD

This is to notify you that an appeal against the Development Permit No: 044-2024-05 regarding the following:

Development Permit No: DP-044-2024-05

Land Description: Lot 4, Block 1, Plan 4806U

Proposal: Approval of development permit for new liquor store business

Appellant: Melanie & Harrison Park

was heard by the INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD on August 12, 2024, and the decision of the INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD regarding the appeal is as follows and for the following reasons:

Background Facts

The Development Officer for the Town of Bruderheim issued a Development 044-2024-05 permitting the use of the subject lands for the operation of a liquor store business. The Appellant believes this was an improper exercise of the discretion afforded the Development Officer.

Participants

The Board heard from the following parties:

Melanie & Harrison Park
Phyllis Forsyth
Pat Lee

Issue

Has the Development Officer for the Town of Bruderheim made an appropriate exercise of her discretion in the Issuance of this Development Permit





Affected Party's Position

Mrs. Lee on behalf of the Alliance Community Church argued the location of the proposed liquor store was too near the Community Church, The Bylaw requires that such a use be beyond a reasonable distance from public parks schools and churches. They believe this location would be too near to their church to comply with the bylaw.

Development Officer's Position

The Officer stated that the Land Use Bylaw permitted the establishment of a liquor store within the said lands as a discretionary use. The only discretionary direction given in the bylaws that this type of business should not be within "reasonable proximity" to public schools, parks and churches. A reasonable distance is not defined within the bylaw but in this instance was over 200 metres from such public facility. Further this proposed facility is in the same location as the prior licensed liquor store in Town.

The Development Officer stated that the fact this developer commenced renovations prior to issuance is not a factor here. Renovations do not require a Development Permit, so any renovations done were at the developers risk as of the future issuance of a permit. Consideration for a permit can only be made when a permit has been applied for and her exercise of discretion for the issuance were made then. Commercial factors are not in the bylaw and are not a factor in her exercise of discretion. The Appellant's concern about commercial factors would more properly be advanced to the Town during the public hearing phase for any amendments to the Land Use Bylaw.

The Officer noted regarding the Affected party's concerns, that the Church when established, had taken over the closed Alberta Treasury Branch in the commercial sector of Town and that this proposed use is for the same type of operation as it's prior use as liquor store.

Decision

The Appeal is denied.

Reasons

The Board accepted the position of the Development Officer that the proposed use of the said lands is permitted as a discretionary use in this location.

The Board also noted that the Land Use Bylaw did not include commercial concerns as a relevant consideration in the exercise of discretion by the Development Authority in the issuance of a permit within this land use area.

The Board found that the location of this type of business did not conflict with the setback considerations from public parks schools and churches and is a reestablishment of a use for this property as before. Further, that the Developer may have commenced renovations prior to the issuance of this permit is not a disqualifying factor in its issuance, the Development Officer has considered appropriate factors for the issuance of the Permit and the consequently this appeal must be denied.



Lamont County

August 22, 2024

David Thomas

DATE

**David Thomas – Chair
Intermunicipal Subdivision & Development Appeal Board**

NOTE:

A decision of the Intermunicipal Subdivision & Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon question of jurisdiction or law pursuant to the Municipal Government Act. An application for leave to appeal to the Court of Appeal shall be made:

- a) to a judge of the Court of Appeal.
- b) within 30 days after the issue of the order, decision, permit, or approval sought to be appealed.

ISDAB Panel; David Thomas	Chairman
Kevin DeMonnin	Board Member
Barry Stewart	Board Member
Darlene Onushko	ISDAB Clerk

