

**FOOTHILLS COUNTY  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
Development Appeal Board Decision**

**HEARING DATE:** JUNE 24, 2021

**BOARD ORDER:** D5/21

**LANDOWNER:** 1651993 ALBERTA LTD.

**APPLICANT:** TOWNSHIP PLANNING + DESIGN INC

**APPELLANTS:** C. AND D. HARVEY

**APPEAL AGAINST:** THE APPROVAL OF THE DEVELOPMENT PERMIT 21D 053 FOR AN INTENSIVE VEGETATION OPERATION AND AGRICULTURAL PROCESSING AND DISTRIBUTION

**SUBJECT PROPERTY:** PTN. NW 21-21-29 W4M (THE PROPERTY")

**BEFORE:** CHAIRMAN, G. BEACOM; BOARD MEMBERS, D. MILLER, G. WILKINSON, B. ROBSON, P. STIER; AND CLERK, F. FAIRWEATHER.

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**PRELIMINARY MATTER**

Prior to the commencement of the hearing, Agent for the Applicant K. Beunder brought a preliminary matter forward to the Board for consideration. The Agent submitted that Section 232(2) of the Municipal Government Act regulates petitions under Part 17 – Planning and Development and that a hearing before the SDAB would fall under this regulation. Further, Section 224 regulates what must be included within that petition. It was the Agents opinion that the petitions as submitted does not meet the requirements of Section 224 and should therefore be struck from the record. The Board considered the request and determined that Section 232(2) regulates petitions that are presented to a Council to petition for a new bylaw or a bylaw to amend or repeal an existing bylaw, and not petitions submitted to a tribunal. As such the Board found that the evidence should not be defined as a petition under the Act but rather as indication of support for the appeal by area residents.

**DECISION**

Having been satisfied that notice of this hearing was provided in accordance with the Municipal Government Act, R.S.A. 2000, Chapter M-26;

And upon having read the materials provided, and upon having heard the representations from the Appellants and the Development Authority for Foothills County with respect to the appeal filed by the Appellants in accordance with Section 685 of the Municipal Government Act against the approval of the development permit 21D 053 for an Intensive Vegetation Operation and Agricultural Processing and Distribution on Ptn. NW 21-21-29 W4M (The "Property");

The Subdivision and Development Appeal Board for Foothills County (the "Board") has decided to:

DENY the appeal and UPHOLD the Development Authority's decision to approve Development Permit 21D 053 for an Intensive Vegetation Operation and Agricultural Processing and Distribution on Ptn. NW 21-21-29 W4M.

The application is thereby APPROVED, subject to the following REVISED conditions:

### **APPROVAL DESCRIPTION**

This approval is for lot development and use in accordance with the plans accepted to be appropriate by the Development Authority; and includes the following development, in support of hemp production and processing under authorization of Federal Industrial Hemp Regulations (IHR):

- three polyhoop buildings of up to 3,000 sq. ft. in area each, and having a height of 12 to 14 ft.; for use as greenhouses for the production of seedlings for seasonal transplant, and seed production
- one storage building of up to 10,000 sq. ft. for the storage of bails, related equipment and farming equipment, and including a drying unit and the mulching of Industrial Hemp biomass produced on the subject property, within the building
- use of the existing 2,400 sq. ft. quonset building for the processing of Industrial Hemp biomass and seed produced on the subject property
- wholesale sales and distribution of product grown and produced on the subject property

### **PRE-RELEASE CONDITIONS:**

Pre-release conditions must be complied with before the Development Permit will be signed and issued. Failure to complete the pre-release condition(s) on or before October 12, 2021 will see this approval be deemed null and void, unless a time extension is issued under agreement between the Development Authority and the Applicant(s).

1. The applicant is required to submit a refundable compliance deposit in the amount of \$3,000 in order to ensure compliance with the applicable Building and Fire Codes for the proposed occupancy of the development. This security will be refunded at such time that written confirmation for occupancy of the structures is provided by the County's Safety Codes Officer and the Foothills Fire Department's Fire Inspector.

### **CONDITIONS OF APPROVAL:**

Please note that the following requirements must be completed within the identified twenty-four (24) month completion period for this Development Permit unless a time extension is issued under agreement between the Development Authority and the Applicant. Failure to complete the conditions of approval as per the identified dates will see the Development Permit deemed null and void.

1. The applicant shall construct the development in accordance with all conditions of approval and plans that have been acknowledged by the municipality to be appropriate;
2. All necessary building and safety code permits, and inspections shall be obtained from the County for the buildings to be used in conjunction with the approved development. Plans shall address the required articles including, but not limited to access route design, water for fire fighting, emergency lighting and exit lights, means of egress, travel distances, portable fire extinguishers, the posting of a fire safety plan, and washrooms (including barrier free requirements);
3. The applicant shall contact the Foothills Fire Department and obtain all necessary approvals and inspections prior to occupancy. Occupancy of the buildings/any portion thereof, shall not be granted until authorized by the Safety Codes Officer and Fire Inspector. It is the applicant's responsibility to provide proof of such to the Development Authority;

4. An Emergency Response Plan shall be submitted for review and acceptance by the County's Director of Emergency Management;
5. Addressing for the site shall be updated to the satisfaction of the County's GIS/Mapping Services department;
6. The applicant shall obtain a roadside development permit from Alberta Transportation. Proof of such is to be submitted to the Development Authority;
7. The applicant shall be responsible for payment of any professional costs including legal fees that may be incurred by the County with respect to the implementation of this permit.

**ADVISORY REQUIREMENTS:**

The following requirements are provided by Foothills County to inform the applicant and landowner(s) of their necessity. It is the responsibility and liability of the applicant(s) and landowner(s) to ensure adherence with these requirements.

1. The development shall be maintained in accordance with all conditions of approval and plans as accepted by the County to be appropriate. Addition to, or revisions to the development and use approved herein may occur only upon obtaining appropriate approvals.  
*This decision provides approval ONLY for activities authorized by license issued under the IHR, and/or those exempted from Federal licensing and regulation. Activities not included under IHR licensing or exemption, shall not proceed except under benefit of appropriate independent approvals from the County;*
2. Development is required to illustrate compliance with the requirements of the applicable Building, Plumbing, Electrical, and Fire Codes at all times;
3. The applicant shall maintain an annual business license with Foothills County;
4. It is the responsibility of the applicant to ensure that the natural drainage on the property is maintained. Alteration to natural drainage may proceed only under the authorization of an approved Development Permit for Lot Grading and Alberta Environment if required;
5. Containers for garbage or recycling materials that are located outdoors shall be weatherproof and animal proof and must be fully screened from adjacent lands. Waste materials shall be disposed of in compliance with local requirements and those regulations and guidelines as put forth by the provincial authorities having jurisdiction;
6. Buildings and structure use in conjunction with these operations shall not exceed a height of 10.67m (35 ft.);
7. All loading areas and laneways must be kept free of all debris, materials and/or equipment. It is the applicant's responsibility to ensure that access for fire department apparatus is provided for at all times;
8. All installation(s) of exterior lighting shall adhere to the guidelines and technical specifications as outlined within the Foothills Dark Sky Bylaw;
9. Signage has not been considered under this approval. Any installation of signage shall proceed only under the approval of an independent application for Development Permit;
10. The issuance of a Development Permit from the County does not relieve the applicant of the responsibility of complying with all other relevant municipal bylaws and requirements, nor excuse violation of any provincial or federal regulation or act which may affect use of the land. This includes, but is not limited to:
  - The cultivation and processing of Industrial Hemp at this location may occur only at such time that appropriate authorization has been provided by the Federal authority having jurisdiction.

- All required licensing and approvals shall be obtained from Alberta Environment and Parks, including, but not limited to: licensing for water use, and approval for any activities that encroach within the setback area to the recurring stream that exists on site;
11. It is the applicant's responsibility to provide notification to the Development Authority upon completion of the development.
  12. Water monitoring is to take place as per Alberta Environment Guidelines.

**Notes:**

1. ***Contravention of any of the above conditions and/or requirements will result in this permit being considered null and void.***
2. ***Notification of this decision will be advertised in two issues of the Western Wheel and circulated to area landowners (according to County Records at this time) within the subject ¼ section. Development Permit Notices can also be viewed on the County's website, [www.foothillscountyab.ca](http://www.foothillscountyab.ca).***
3. ***This Development Permit shall thereafter be null and void if the development or use is abandoned for a period of six months.***
4. ***The conditions and requirements of this Development Permit must be met and adhered to at all times. Fines and/or Enforcement action may occur if operating outside of the Development Permit.***

**INTRODUCTION**

- [1] The subject property is an 85.34 +/- acre Agricultural District parcel located on the south side of Highway #552, just east of the overpass at Highway #2.
- [2] The application requests approval for the construction and use of three green houses to be used for the growing of Industrial Hemp nursery stock and seed.
- [3] The application also requests one 10,000 sq. ft. storage, drying and processing building, and the use of an existing 2,400 sq. ft. quonset for the processing of Industrial Hemp proposed to be grown on the subject property.
- [4] On May 12, 2021, the Development Authority approved Development Permit 21D 053 for an Intensive Vegetation Operation and Agricultural Processing and Distribution on Ptn. NW 21-21-29 W4M.
- [5] An appeal was received from the Appellants, Calvin and Dianne Harvey on May 31, 2021 against the approval of Development Permit 21D 053.

**ISSUES****1. Intensive Vegetation Operation and Agricultural Processing and Distribution**

1. The Development Authority submitted that the application requests approval for the construction and use of three greenhouses to be used for the production of seedling for seasonal transplant and seed production, as well as: one 10,000 sq. ft. storage, drying and processing building for the storage of bails, related equipment and farming equipment including a drying unit and the mulching of industrial hemp biomass produced on the property; and the use of an existing 2,400 sq. ft. quonset, for the processing of Industrial Hemp biomass and seed. Wholesale sales and distribution of the product grown on the subject property is proposed.

2. The Development Authority submitted that "Agricultural General" within the Land use Bylaw 60/2014 means 'systems of tillage and animal husbandry which involve methods used on large areas of land for the raising of crops or rearing of livestock either separately or in conjunction with one another in unified operations and included building and other structures incidental to the agricultural operation'.
3. The Development Authority submitted that Section 4.2.1 of the Land Use Bylaw 60/2014 allows for Agricultural General uses in a District which lists Agricultural, General as a permitted use and Agricultural, General is a permitted use under the Agricultural District.
4. The Development Authority submitted that Industrial Hemp licensing has been available to Canadian producers since 1988 and that licensing and authorizations are issued by the Federal Government of Canada. A development permit from Foothills County is not required for the raising of this crop on large areas of land. Water use approvals for irrigation of crops is under the jurisdiction of Alberta Environment.
5. The Development Authority submitted that 'Intensive Vegetation Operation' within the Land Use Bylaw 60/2014 means 'a system of tillage for the concentrated raising of specialty crops for retail or wholesale distribution, including but not limited to tree farms, greenhouses, plant nurseries, sod farms, berry farms, u-pick operations, and similar uses. This definition does not include cannabis production'. For this application, intensive vegetation includes plant nurseries and green houses.
6. The Development Authority submitted that 'Agricultural Processing and Distribution' within the Land Use Bylaw 60/2014 means 'the use of land or a building for the upgrading of a product, for distribution or for sale that was originally produced in an agricultural operation but does not include an abattoir or cannabis production'.
7. The Development Authority submitted that the conditions and advisory requirements in the decision were included to outline the parameters of what can be done under subsequent development permits. Revisions or additions to the development are required to occur only under future independent development permits.
8. The Development Authority submitted that under the conditions and advisory requirements the applicant was advised of the obligation to comply with the requirements of all other involved authorities such as building and safety codes requirements, fire code requirements and water use and environmental set back requirements.
9. The Appellant submitted that he has significant concerns about the Intensive Vegetation Operation and Agricultural Processing and Distribution. These concerns include water consumption, commercial nature of the operation and expansion plans, security and fire safety issues as well as noise and traffic issues.
10. The Applicant's Agent submitted that the application is compliant with the Foothills County Land Use Bylaw 60/2014 and is consistent with the South Saskatchewan Regional Plan and the MDP.
11. The Applicant's Agent stated the approval description of the Development Permit and submitted that the development permit application was made for the 10,000 sq. ft. storage building and noted a development permit was not required for the industrial hemp field. The landowner holds an industrial hemp license and was able to proceed with the application under Agricultural General Use of the Land Use Bylaw 60/2014. The development permit application was made for the 10,000 sq. ft. storage building as the use of the building changes under the building code with the inclusion of a processing component and employee presence. A different standard of construction and safety codes are required.
12. The Applicant's Agent submitted that the application is in line with the Intensive Vegetation Operation definition found within the Land Use Bylaw 60/2014 and that the Development

permit has the appropriate checks and balances to ensure Foothills County and its residents are protected.

13. The Applicant's Agent submitted that this first-year of hemp has been planted on a 14 +/- acre portion of the subject property along the east side but in the future, it will be planted on either the north or south sides of the property. There will be a maximum 20 acres of hemp planted annually on the subject property in order to address water concerns.
14. The Landowner submitted that this season there are 12-14 acres of hemp crop planted, and next year there will be up to 20 acres planted for the season.

## **2. Water Consumption**

15. The Appellant submitted his concerns regarding the volume of water that is proposed to be drawn from the wells and stream, the inconsistencies in water usage figures in the supplied documents, and additional non-irrigation water requirements not included within the application.
16. The Appellant submitted that the only water usage figure noted in the development permit application states 30 gallons per minute for drip irrigation for the Hemp crop. He stated that water usage and impact on surrounding wells is a long-standing issue in this area. He noted that 20 years ago he submitted a Development Permit application to the County for a small commercial greenhouse and along with that an application to Alberta Environment to divert up to 46 cubic metres of water per day based on his well's tested capacity. The Appellant stated various neighbours submitted letters against his application noting it would cause strain on the water supply in the area. The Appellant noted that they abandoned their application due to the concerns of the neighbours.
17. The Appellant stated that the applicant's current application for water usage of 30 gallons per minute is more than 4 times what his well was tested at. The Appellant stated that based on water shortages in the area, this application should be declined.
18. The Appellant stated that 30 gallons per minute is conservative and noted that Hemp crop requires substantial rainfall, more than twice the amount typically received in the area. He stated that if dry weather continues, irrigation could be required from May to September equalling almost 6.5 million gallons drawn from the applicant's well at 30 gallons per minute for 5 months.
19. The Appellant stated that there are inconsistencies in water usage figures. The ground water supply document from the Hydrogeologist is inconsistent with the figure provided within the development permit application. The Appellant noted that his calculations from this document state that the long-term safe yield of water from this well equals 15.7 imperial gallons per minute which is approximately half of the 30 gallons per minute proposed by the applicant. He stated that according to the document, 37,621 cubic metres of water is to be drawn annually, and the applicant proposes to draw this amount from the well and stream within the two months of July and August.
20. The Appellant submitted that he has concerns that water will be drawn from the well and the unnamed stream. The unnamed stream produces up to 10 gallons per minute and the applicant was granted a temporary license to draw over 5 times the amount of water the spring can produce. The Appellant noted the two water licenses granted to the applicant are temporary for a one-year period, but irreparable harm could be done to the unnamed stream and aquifer.
21. The Appellant submitted that the applicant has not provided information on how much water will be needed and sourced for the greenhouse and hoop house operations, transplanting with the waterwheel, water required for hygiene and equipment washing and other operational needs and the hemp oil extraction facility.

22. The Appellant submitted a concern that diverting water from the unnamed stream affects residents downstream including the schools and the sports rink in the area.
23. The Appellant also shared a concern regarding the PH balance stating that chemicals will need to be used to treat the hard water and inquired about how much water will be required, as this has not been indicated by the applicant. The Appellant stated the applicant has not included what type or amounts of fertilizer and micro-nutrients will be used for the Hemp crop or how run off into the stream or ground water contamination will be prevented.
24. The Applicant's Agent refuted comments that stated hemp is not grown in Alberta due to negative environmental impacts and unsuitability and provided evidence on the benefits of planting hemp in Alberta. The Applicant's Agent noted that the same fertilizer used for canola would be used in similar amounts for hemp. Pesticides and weed control chemicals are not used for hemp.
25. The Applicant's Agent submitted that organic and biodegradable waste can be turned back into soil and non-organic waste will be disposed of appropriately.
26. The Applicant's Agent submitted that a setback of 30m has been retained from the bed and shore of the drainage course.
27. The Applicant's Agent reiterated that the entire site will not be planted, and water will only be used during the growing season being July and August. Water usage is subject to a commercial water well license which is currently in progress. At this time, water is being hauled in for this year's crop.
28. The Applicant's Agent submitted that the availability of water will be reviewed by Alberta Environment as part of the licensing application as they have jurisdiction over this matter. It was noted that with the licensing process, advertising will be involved to see if nearby residents submit concerns.
29. The Applicant's Agent submitted that the landowner could commit to installing an observation well to measure water levels in the aquifer and if water levels decline in the well beyond a certain level, then the landowner would respond in the appropriate way. Alberta Environment and Parks has been in contact with the landowner and has visited the property and completed several inspections. The landowner keeps a daily log as to how much water would be used which is submitted on a monthly basis as part of the licensing requirements.
30. The Applicant's Agent submitted that two reports have been prepared and a water well drilled in accordance with Alberta Environment and Park requirements.
31. The Applicant's Agent submitted that the intent is to pump 10 gallons per minute, for 12 hours per day, for two months per year for this operation.
32. The Applicant's Agent provided an explanation on A Layer-Cake Hydro Stratigraphic Model table as well as a Mean Static Water Level table and noted there is no evidence to suggest a decline in the water table since the 1970's. The applicant's agent added that the feasibility assessment was completed to determine if ground water was available for use. It was found by the engineer on the project that the capacity of the aquifer was suitable for use.
33. The Applicant's Agent referred to the Hydrogeologist report provided in the evidence package. She provided information on the aquifer, ground water use (noting that ground water use in the area is moderate), long term safe yield of the well (noting the well is capable of providing the annual water required for the operation) and the recommendation to install an observation well.

34. The Applicant's Agent provided evidence and a cross-section graph of the wells, including the well the applicant has drilled to a commercial standard. The Applicant's Agent also provided a pumping well schematic graph
35. The Applicant's Agent submitted drip tape irrigation will be used to conserve water and plastic will be utilized to cover the base of the plant to keep the water from evaporating. This reduces water consumption by 30%.
36. The Applicant's Agent submitted that the application overstated the water usage in the application and the well water would only be needed for 3 months of the year at 5-7 gallons per minute instead of 30 gallons per minute per year as stated in the application.
37. The Applicant's Agent submitted that the water is being hauled in for the seedlings in the green house and that water is stored onsite as the PH in the well is not optimal for the seedlings. The water wheel transplanter would be used for 1 day per year to transplant seedlings and would utilize the hauled in water for the same reasoning.
38. The Applicant's Agent submitted that there is no water being used in the farming operation from the drainage course/stream. Although the landowner has a temporary permit issued to use both the well and the stream, the stream has not been used and there are no plans to use any water from the stream. The landowner plans to use the water from the underground aquifer which he is also permitted to use under the temporary permit.
39. The Applicant's Agent submitted that only crops grown on the site will be processed on the site and the facility will be serviced via a commercial water well and conventional septic field. The Applicant's Agent noted that there has been no well water used to date on the property.
40. The Landowner submitted information reiterating well testing and water licensing information and reviewed landowner concerns.
41. The Landowner submitted that he has heard the neighbours concerns and stated that he is a responsible farmer who does not want to deprive neighbouring landowners of their water supply.
42. Member of the gallery C. Hick stated that her greatest concern is the water usage for the operation.
43. Member of the gallery D. Callum stated one of his greatest concerns is the use of the unnamed water source.
44. Member of the gallery E. Walter stated that she is opposed to the development permit application. E. Walter noted she has contacted her lawyer, her division Councillor and Alberta Water Rights to lodge a complaint against the temporary permits being issued, as they are unclear of their intentions for water use in their permit, the water use is not sustainable and will cause financial hardship to businesses that already exist in that area. E. Walter noted that the water license should be permanent before proceeding with the operation and that this application is industrial/commercial in nature and the operation should take place within the industrial district.
45. Member of the gallery L. Woods stated that she signed the petition, and her greatest concerns are water usage as well as the effects of fertilizer usage on the soil and ground water. She stated that the applicant is to be trucking water to the property for the operation, and she has not seen a truck deliver water to the property. She also stated a concern regarding the poly bags blowing onto neighbouring properties.
46. Member of the gallery A. Bobick stated he is concerned about the unnamed water source drying out as well as the effect of the operation on his own water well.
47. Member of the gallery J. and B. Baker stated they are concerned about the water discrepancies provided and have fire concerns.



48. Member of the gallery R. King stated his greatest concern is water supply and the related impacts.
49. Member of the gallery D. Crawford stated his greatest concern is water supply stating the past two years he has noticed the water table dropping.
50. Member of the gallery M. Luedtke stated she is opposed to the application and has concerns of water diminishing, noise and chemicals seeping into the ground and water.

### **3. Commercial Nature of the Operation and Expansion**

51. The Appellant submitted that the method to process Hemp fibre and extract Hemp oil is a commercial process and would be best operated in a commercial district such as Aldersyde and furthermore is concerned that the applicant has plans for future expansion as non-comital terms are used within the application.
52. The Appellant submitted a concern that excessive amounts of water will be used and referred to Section 2.0 of the Ground Water Supply Evaluation Report stating that future expansion of the Hemp operation is planned and that water use calculations are not available but the maximum water supply that can be obtained from the well will be utilized.
53. The Applicant's Agent submitted that the terminology used such as "anticipated" or "contemplated" is used when the applicant is proposing something and was not intended to be taken as non-comital
54. The Applicant's Agent submitted that under condition #3 of the development permit, the applicant will seek the building permit and meet the required Building and Safety Codes.

### **4. Security and Fire Safety**

55. The Appellant submitted concerns that the applicant does not have safety measures in place to stop trespassers and crime and inquired whether County Bylaw Officers and RCMP are made aware of the Hemp operation in the event there is increased crime due to the operation.
56. The Appellant submitted concerns regarding the amount of water in the unnamed stream and noted that the fire department may need to utilize water from the stream in the event of a fire.
57. The Applicant's Agent submitted that the building is secure with keypad lock codes, cameras, no windows, controlled entry and exit with security approved and Health Canada trained employees.
58. The Applicant's Agent submitted that one residence will be demolished while the other residence will continue to be a rental and will be lived in which aids with security.
59. The Applicant's Agent submitted that the Municipal Fire Station near Artesia is close by and there would be a quick response time in the event of a fire.

### **5. Noise and Traffic**

60. The Appellant submitted concerns that the applicant would need more than 10 vehicle trips per day for employees, contractors, product shipments, deliveries, waste removal and commercial customer visits. The Appellant inquired whether the vehicle trips would be monitored and enforced by Foothills County Bylaw Officers.

61. The Appellant submitted commercial trucks, forklifts and other equipment with backup warnings will increase dust, noise and traffic.
62. The Applicant's Agent submitted that there will be 5-10 employees for the operation from June to September, and during peak season there will be 10 vehicle trips per day. Only employee and specific individuals will be permitted on the subject property and no customer visits permitted. The Applicant's Agent noted that access to the subject property is directly from Highway 552 and no residences will be passed before entering the property.
63. The Applicant's Agent submitted that no more noise will occur at this operation than from any other small farm as this is a small operation.
64. Member of the gallery D. Callum stated one of his greatest concerns is the increase of traffic on 32<sup>nd</sup> Street.

**6. Additional Concerns**

65. The Appellant submitted a concern regarding hemp seed cross contaminating neighbouring land which may introduce a potentially invasive weed.
66. The Applicant's Agent submitted that Conditions 3 and 4 of the development permit address the Appellants concerns as well as advisory conditions 4 and 10.
67. The Applicant's Agent submitted that no public consultation was completed in advance of the application because she did not anticipate there being an issue with this agricultural application. The Applicant's Agent noted there will be opportunity under the advertising period for the commercial water license for statements of concern to be submitted.
68. Member of the gallery R. McKellar stated that he objects to the list of names he submitted being struck from the record. R. McKellar stated that he rejects the temporary water permits as an acceptable alternative to the permitting process required under the Water Act. R. McKellar referred to number 10 of the approval of the development permit and requested this permit be denied until such time that a commercial water license is issued.
69. Member of the gallery D. James stated he is in support of the appeal and this application will have a drastic and dire effect on the entire community.
70. Members of the gallery K. and G. Hurd stated they have submitted written documents of concern and have signed R. McKellar's document in support.

**REASONS FOR DECISION**

The Board considered the information presented by the Development Authority, the Applicant's Agent, the Landowner, the Appellants and the Gallery. The Board is denying the appeal and upholding the Development Authority's decision to approve Development Permit 21D 053 for an Intensive Vegetation Operation and Agricultural Processing and Distribution on PTN. NW 21-21-29 W4M for the following reasons:

The Board determined that the application is to allow for three polyhoop buildings for use as greenhouses for the production of seedlings for seasonal transplant and seed production, one storage building of up to 10,000 sq. ft. for storage of bails, related equipment and farming equipment, and including a drying unit and the mulching of Industrial Hemp biomass produced on

the subject property, within the building, the use of the existing 2,400 sq. ft. quonset building for the processing of Industrial Hemp biomass and seed produced on the subject property, and wholesale sales and distribution of product grown and produced on the subject property. Upon review of the County's Land Use Bylaw, the Board found that the application as presented falls within the definition of 'Intensive Vegetation Operation' and 'Agricultural Processing and Distribution', both of which are discretionary uses under the Agricultural District land use rules.

The approval includes conditions to ensure that building and safety code permits and associated inspections are obtained, and that approvals are provided by the Foothills Fire Department prior to occupancy of the building. The traffic proposed to be generated by the operation falls within the acceptable threshold for an agricultural operation. Should there be excessive noise produced by the operation, complaints may be filed with Foothills County's Protective Services department for further investigation.

The approval of Hemp production and processing are authorized under Federal Industrial Hemp Regulations (IHR) and as such, the Board does not hold jurisdiction to approve or deny use of the subject parcel for this purpose. Appropriate security measures are to be put in place as part of this approval.

The use of water related to the commercial operation is regulated by Alberta Environment and Parks. Licensing for this purpose would be at the discretion of this provincial body and is outside of the Board's jurisdiction to consider.

**CLOSING**

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in Section 688 of the Municipal Government Act, R.S.A. 2000 Chapter M-26 which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the Town of High River, in the Province of Alberta this 24<sup>th</sup> day of June 2021 and signed by the Chairman of the Subdivision and Development Appeal Board who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Subdivision and Development Appeal Board.



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Mr. Gar Beacom, Chairman

**RELEVANT LEGISLATION**

**FOOTHILLS COUNTY LAND USE BYLAW 60/2014**

Definitions:

AGRICULTURAL GENERAL means systems of tillage and animal husbandry which involve methods used on large areas of land for the raising of crops or the rearing of livestock (provided that the density of the operation does not exceed 1 animal unit per 3 acres of land) either separately or in conjunction with one another in unified operations and includes buildings and other structures incidental to the agricultural operation.

INTENSIVE VEGETATION OPERATION means a system of tillage for the concentrated raising of specialty crops for retail or wholesale distribution, including but not limited to tree farms, greenhouses, plant nurseries, sod farms, berry farms, u-pick operations, and similar uses. This definition does not include cannabis production.

AGRICULTURAL PROCESSING AND DISTRIBUTION means the use of land or a building for the upgrading of a product, for distribution or for sale that was originally produced in an agricultural operation but does not include an abattoir or cannabis production.

**SECTION 4.2 – NO DEVELOPMENT PERMIT REQUIRED**

4.2.1. - A Development Permit is not required with respect to the following developments and/or uses but such developments and/or uses shall otherwise comply with the provisions of this Bylaw and must be carried out or performed in accordance with all other applicable legislation, regulations and bylaws

**SECTION 12.1 – AGRICULTURAL DISTRICT**

12.1.5. – Included Under Discretionary Uses:

- Agricultural processing and distribution
- Intensive vegetation operation

**MUNICIPAL GOVERNMENT ACT, R.S.A. 2000, CHAPTER M-26**

**Hearing and Decision**

**687(3)** In determining an appeal, the subdivision and development appeal board

- (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;

**APPENDIX “A”**

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

	<u>NAME</u>	<u>CAPACITY</u>
1.	Brenda Bartnik	Foothills County - Development Officer
2.	1651993 Alberta Ltd. / Scott Lower	Landowner
3.	Township Planning + Design Inc/ Kristi Beunder	Applicant’s Agent
4.	Ken Hugo	Hydrogeologist
5.	Calvin Harvey	Appellant
6.	Donovan Martin	Gallery
7.	Arden Birney	Gallery
8.	Carla Hick	Gallery
9.	Kim and Geoff Hurd	Gallery
10.	Darren James	Gallery
11.	Gayle and Richard White	Gallery
12.	Marketa Luedtke	Gallery
13.	Travis Sharpe	Gallery
14.	Cara Holditch	Gallery
15.	Edward Perry	Gallery
16.	Dylan Callum	Gallery
17.	Ryan and Elisa McKellar	Gallery
18.	Sara Hemphill	Gallery
19.	Erika Walter	Gallery
20.	Laura Woods	Gallery
21.	Allen Balfour	Gallery
22.	Aaron Bobick	Gallery
23.	Brandi and Jamie Baker	Gallery
24.	Chad Luedtke	Gallery
25.	Nick Baldwin	Gallery
26.	Rick King	Gallery
27.	Dennis Crawford	Gallery

**APPENDIX “B”**

I. DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

<b>NO.</b>	<b>ITEM</b>
1.	Development Permit 21D 053 (May 12, 2021 Decision)
2.	Notice of Appeal submitted by Calvin and Diane Harvey (May 31, 2021)
3.	Written Submission – Dianne Harvey – ‘Water for Fire Fighting’
4.	Written Submission – Calvin Harvey – ‘Water, Water, Everywhere but not a Drop to Drink’
5.	Written Submission – RoseMarie James (1) – Written Letter of Opposition
6.	Written Submission – RoseMarie James (2) – Written Letter of Opposition
7.	Written Submission – Gayle and Richard White - Concern Email
8.	Written Submission – Travis Sharpe – Emailed Concern
9.	Written Submission – Aaron Bobick – Emailed Concern
10.	Written Submission – Allen Balfour – Written Letter of Opposition

11. Written Submission – Cara Holditch – Emailed Concern
12. Written Submission – Gayle White – Written Letter of Opposition
13. Written Submission – Dennis Crawford – Emailed Concern
14. Written Submission – Laura Woods – Names of those who support the appeal from change.org ‘Stop the Hemp Farm in DeWinton’
15. Written Submission – Ryan and Elisa McKellar – Written Letter of Opposition and Names of those who Support the Appeal
16. Written Submission – Marica and Curtiss Law – Written Letter of Opposition
17. Written Submission – Sylvia Duffill – Emailed Concern
18. Written Submission Kim and Geoff Hurd – Written Letter of Opposition
19. Exhibit Package – Submitted by the Applicant’s Agent Kristi Beunder – Trace Report and GRIT Report
20. Written Submission – Brent Ellenton – Written Letter of Opposition

**APPENDIX “C”**

EXHIBITS MADE AVAILABLE AT THE HEARING

**NO. ITEM**

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1. Power Point Presentation by the Development Authority, Brenda Bartnik
2. Verbal Presentation by the Appellant, Calvin Harvey
3. Power Point Presentation by the Applicant’s Agent, Township Planning + Design Inc. Kristi Beunder