

**NOTICE OF DECISION  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
CITY OF SPRUCE GROVE**

Pursuant to Part 4 of the City of Spruce Grove Land Use Bylaw C-824-12 (the "Land Use Bylaw"), as amended, and Part 17, Division 10 of the *Municipal Government Act*, RSA 2000, cM-26, as amended.

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**DATE OF DECISION:** December 18, 2020

**IN THE MATTER OF:** An appeal by Michael Monaghan against a conditional approval of Development Permit No. PL20200000440 to locate a home occupation offering the retail sales of baked goods at 51 Kensington Close (Plan 142-0028, Block 4, Lot 20).

**DATE OF HEARING:** December 16, 2020

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**SUMMARY OF THE HEARING:**

[1] Notice of the appeal was given to all interested parties in accordance with the Land Use Bylaw and the requirements of the *Municipal Government Act* and a hearing was opened virtually via Zoom on December 16, 2020.

[2] The following members of the Subdivision and Development Appeal Board were in attendance throughout the hearing:

- Nancy Domijan, Chair
- Stephen Nielsen
- John Haunholter
- Wayne Rothe

[3] Lindsay O'Mara served as Clerk to the Board for the hearing. No persons present voiced any objections to the Clerk assigned to this hearing.

[4] No persons present voiced any objections to the members of the Board hearing the appeal and the process of the hearing as outlined by the Chair.

[5] The Board was made aware of one preliminary matter prior to hearing the appeal:

The Clerk advised that a written submission was received from the applicant after the deadline of December 9, 2020 for including written submissions in the agenda package had passed. The written submission was received by the Clerk on

December 14, 2020 and disseminated to the Board, respondent and appellant on the same date. The Clerk marked the written submission as Exhibit 11 under the Exhibit Listing.

- [6] The appellant indicated that he did not receive the email sent on December 14, 2020 attaching the applicant's written submission. The Clerk re-sent the email to the appellant and the Chair recessed the hearing for ten minutes to provide the appellant an opportunity to review the applicant's written submission. The appellant confirmed that the ten minute recess was enough time to review the applicant's written submission.
- [7] The Board received and considered written submissions from each of the following:
- Development Officer's Report
  - Development Officer's PowerPoint presentation
  - Appellant's Written Submission
  - Applicant's Written Submission
- [8] The following persons were in attendance at the hearing of the appeal and made oral submissions which were considered by the Board:
- Tanya Ouellette, Development Officer
  - Karen Majeau, Senior Development Officer
  - Michael Monaghan, Appellant
  - Nicholas Edwards, Applicant
- [9] When asked, no persons who provided evidence at the hearing expressed that they had an unfair hearing.

## **SUMMARY OF EVIDENCE**

[10]

<b>Exhibit</b>	<b>Description</b>
1.	Timelines
2.	Development Permit Application
3.	Development Officer's Decision
4.	Notice of Appeal
5.	Notice of Hearing
6.	Adjacent Property Owner List (Confidential)
7.	Site Plan Showing Adjacent Property Owners
8.	Key Plans of Subject Location (Maps)

Exhibit	Description
9.	Development Officer's Report
10.	Appellant Submission
11.	Applicant Submission
12.	Development Officer Powerpoint

[11] Oral testimony from Tanya Oullette, Development Officer, including:

- Content of Development Officer's report and PowerPoint presentation
- Answers to questions from the Board including:
  - One of the conditions of the Development Permit is that the maximum attendance to the premises is one customer at any one time.
  - The City does not complete follow-ups or checks to determine if the conditions of a Development Permit are being adhered to. If a complaint is received, the City will complete an investigation and if non-compliance is determined then the Development Permit may be canceled.
  - Commercial parking regulations as outlined in the Land Use Bylaw do not apply to a Home Occupation use.
  - The term "retail" is used as meaning the display of goods, including only displaying goods online.
  - The parking regulations within the Land Use Bylaw prescribe a minimum of two parking stalls per dwelling for the type of dwelling the Home Occupation use will take place in. One parking stall may be in tandem.

[12] Oral Testimony from the appellant, Michael Monaghan including:

- Content of the Appellant's Written Submission
- Answers to questions from the Board including:
  - The area is comprised of duplexes, with front facing garages.
  - The appellant's dwelling is located across and one dwelling over from the applicant's dwelling; approximately 20 feet away.
  - The Home Occupation use will result in many people coming and going, increasing foot traffic in the area and parking on the street.
  - The overview of how the applicant will conduct their business as outlined in the applicant's written submission does not alleviate the appellant's concerns regarding increased foot traffic and parking in the area.

[13] Oral Testimony from the applicant, Nicholas Edwards including:

- Content of the Applicant's Written Submission
- Answers to questions from the Board including:
  - There will be no signage at the dwelling; this is one of the conditions of the Development Permit.
  - A Food Service Permit is not required because baked goods that do not need to be refrigerated are considered low risk goods. The home bakery will only be producing low risk baked goods.

- Customers will be scheduled in 30 minute time slots and they will limit customers to one at a time.
- It is too hard to estimate the percentage of delivery vs. pick-up of goods, however it is assumed most people would choose delivery as it is more convenient for them.
- The volume of product will be relatively low, so it is anticipated that deliveries will happen on weekends.
- They do not anticipate more than 20 orders per week in the first year. If orders exceed capacity, they will turn orders away.
- If orders far exceed capacity, they will consider moving their business to a commercial space.
- They do not have a commercial oven or any other commercial kitchen equipment.
- For example, they do not anticipate they could bake more than 3 loaves of bread within 30 minutes.

## RELEVANT LEGISLATION

[14] The Board considered the following sections of the Land Use Bylaw in its decision:

- Land Use Bylaw Section 7 – Definitions
- Land Use Bylaw Section 70 – Home Occupations
- Land Use Bylaw Section 85 – Number of Parking Stalls Required
- Land Use Bylaw Section 115 – R1 – Mixed Low to Medium Density Residential District

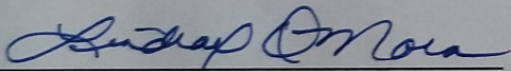
## DECISION

[15] Having considered all relevant planning evidence presented at the hearing, the arguments made and the circumstances and merits of the application and the appeal, and having regard for the relevant provisions of *Municipal Government Act*, any applicable statutory plans, the Subdivision and Development Regulation and the Land Use Bylaw, this appeal is denied and Development Permit No. PL20200000440 is hereby approved.

## REASONS:

- [16]
1. The proposed use as a home occupation offering the retail sales of baked goods is a discretionary use. In considering a discretionary use, the Board is tasked with determining whether the proposed use is reasonably compatible with neighbouring uses or can be made reasonably compatible with neighbouring uses by the imposition of conditions.
  2. The Board is satisfied the Development Officer's conditions as outlined in the Development Permit will adequately address the potential impacts raised by the Appellant and are fair, reasonable and enforceable.
  3. The Board is satisfied the foot traffic and parking concerns raised by the Appellant are satisfied by the Development Permit, as supplemented by the Development Officer's conditions, as a result of the evidence received regarding the number of parking spaces on the lot (one of which will be open during the work day), the expected number of deliveries vs. pick-ups, and the limited window of time for pick-ups.

Dated at the City of Spruce Grove in the Province of Alberta, December 18, 2020



Lindsay O'Mara, Clerk, on behalf of  
Nancy Domijan, Chair

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

#### NOTICE:

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the *Municipal Government Act*. An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to a decision of the Subdivision and Development Appeal Board. An application for leave to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed.