

WHEATLAND COUNTY
SUBDIVISION & DEVELOPMENT APPEAL BOARD
Notice of Decision

Hearing Held At: Wheatland County Office – Council Chambers

Members Present: T. Tower
K. Williams
J. Anderson
E. Deeg

Appellant: Abhideep Toor

Basis of Appeal: An appeal received on April 29, 2022, against the Development Authority's decision to APPROVE development permit DP2022-001 for a commercial cannabis store located at 414 Main Street – Plan 249B; Block 3; Lot 7 located in the Hamlet of Gleichen.

Finding the Facts:

1. Parcel is located in the SE-13-22-23-W4M - Plan 249B; Block 3; Lot 7
2. Parcel is currently zoned Hamlet Commercial.
3. The Development Authority issued the Development Permit for a commercial cannabis store located at 414 Main Street – Plan 249B; Block 3; Lot 7, on April 12, 2022.
4. The permit was issued with a condition stating it was valid for a two (2) year term.
5. Appellant filed the Notice of Appeal with the Subdivision and Development Appeal Board on April 29, 2022.

Decision:

Based on the facts presented at the hearing, the decision of the Subdivision and Development Appeal Board is to deny the Appeal and uphold the decision of the Municipal Planning Commission regarding DP2022-001, allowing a commercial cannabis store located in Plan 1312179; Block 3; Lot 2 - Gleichen. In the best interest of the Municipality and Residents of Gleichen, the approval is subject to the following conditions being met and adhered too:

1. This Development Permit is issued solely for the purpose of a Retail Cannabis Store – Defined as a Cannabis Store.
2. No variances have been granted.
3. Development shall proceed according to Hamlet Commercial (HC) District requirements and the applicant must comply with all applicable provisions of the Wheatland County Land Use Bylaw.

4. No permanent development shall occur on or over any utility right of way or easement.
5. Development to remain consistent with submitted application, Letter of Intent, and all approved plans and procedures which form the application and have been deemed to be appropriate.
6. Any future modifications or development on or to the lands will require the appropriate development permits in accordance with the Wheatland County land use Bylaw.
7. No disposal of business related trash or any other item or substance at the County Waste transfer sites.
8. At no time shall Cannabis or any related product be consumed within the Cannabis Store.
9. Prior to commencing operations of the Cannabis Store, the Provincial License from Alberta Gaming, Liquor, and Cannabis (AGLC) must be provided to the Development Officer.
10. Prior to commencing operations of the Cannabis Store, documentation to be provided to the Development Officer confirming a Building Permit for a change of use has been issued and all requirements have been complied with. Contact Wheatland County Safety Codes for further information.
11. Prior to commencing operations of the Cannabis Store, documentation to be provided to the Development Officer confirming a Fire Inspection has been completed and complied with and Occupancy Load Permit has been issued. Contact Wheatland County Fire Services for further information.
12. Prior to commencing operations of the Cannabis Store, A Crime Prevention Through Environmental Design (CPTED) audit must be completed. Contact Wheatland County Protective Services for further information.
13. This permit has been issued for a two (2) year term expiring on April 12, 2024.

Reasons For
Decision:

The Subdivision and Development Appeal Board is denying the appeal and upholding the issuance of DP2022-001 based on the policy analysis submitted at MPC and as follows:

Gaming, Liquor and Cannabis Regulation

- (1) The board may not issue a cannabis store licence in respect of any premises located
- (a) in a municipality, unless a development permit has been issued under the Municipal Government Act for the proposed use of the premises as described in the application for the cannabis licence,
- (3) For the purposes of sections 640(7), 642(5) and 687(3) of the Municipal Government Act, a premises described in a cannabis licence may not have any part of an exterior wall that is located within 100 metres of
- (a) a provincial health care facility or a boundary of the parcel of land on which the facility is located,
 - (b) a building containing a school or a boundary of a parcel of land on which the building is located, or
 - (c) a boundary of a parcel of land that is designated as school reserve or municipal and school reserve under the Municipal Government Act.

Municipal Government Act (MGA)

640 (7) A land use bylaw must be consistent with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises.

642 (5) Despite subsections (1) and (2), a development authority must not issue a development permit if the proposed development does not comply with the applicable requirements of regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises.

687 (3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

(a) repealed 2020 c39 s10 (52);

(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 clauses (a.4) and (d), must comply with any land use bylaw in effect;

(a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

(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 RSA 2000 Section 688 Chapter M-26 MUNICIPAL GOVERNMENT ACT 449

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

Municipal Development Plan (MDP)

3.7.1 Commercial and Industrial Development Objectives

- 1) Allow the expansion and diversification of the County's commercial and industrial tax base.
- 4) Provide opportunities for commercial development, particularly retail, in close proximity to Hamlets and rural residential communities.

3.7.2. Commercial and Industrial Development Policies

- 1) Retail development should be located in Hamlets (urban areas).
- 5) The County shall take the cumulative development effect into consideration for all commercial and industrial development applications.
- 6) The County shall encourage urban-oriented commercial and industrial development applications to locate inside or adjacent to urban areas, to make more efficient use of existing services.
- 7) The County shall consider the broader area context and the impact upon it when considering a commercial or industrial development application for approval.

Land Use Bylaw

Definition:

Cannabis Store means a retail store that is licensed by the Province of Alberta for the sale of Cannabis for consumption off the premises and may include the ancillary retail sale of Cannabis Accessories.


8.4 Cannabis Store

8.4.1 In addition to all other applicable General Regulations listed in the Bylaw, the following provisions shall apply to Cannabis Stores.

- (a) Cannabis shall not be consumed in a cannabis Store;
- (b) Cannabis store must comply with Provincial Minimum setbacks;
- (c) Prior to operation of the cannabis Store, the provincial license must be provided to the County.

9.15 Hamlet Commercial District (HC)

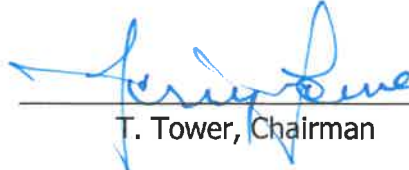
The purpose and intent of this is to accommodate a diversity of retail, service and commercial activities that benefit the local community.

Permitted	Discretionary
Accessory Building / Structure	Artisan Studio
Commercial Storage	Cannabis Store 
Community Building and Facility	Child Care Facility
Community Recreational Facility	Contractor Service
Convenience Store	Cultural Facilities
Essential Public Service	Drinking & Eating Establishment
Financial Institution	Farmers Market
Fitness Centre	Funeral Home
Office	Food and Beverage Production
Outdoor Café	Greenhouse, Public
Restaurant	Hotel
Retail Establishment	Kennel
Solar Panel, Ground Mount ²	Laundromat / Dry Cleaning
Solar Panel, Structure Mount ²	Liquor Sales
Spa and Wellness Centre	Mechanical Repair Shop
Signs not requiring a Development Permit ⁴	Motel
Stripping and Grading ²	Pawn Shop
WECS (micro) ²	School, Post-Secondary
WECS Category 1 ²	Shipping Container
	Service Station
	Signs requiring a Development Permit ⁴
	Tower
	Veterinary Clinic

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 permission to appeal to be filed and served within 30 days of this decision.

Dated at Wheatland County Municipal Office, in the Province of Alberta this the 31 day of May, 2022 and signed by the Chair of the Subdivision and Development Appeal Board who agrees that the content of this document adequately reflects the appeal hearing and decision of the Board.



 T. Tower, Chairman