



NOTICE OF DECISION

FILE NO. **SDAB 2024-002**

APPLICATION No.: **2023-DP-00324**

DEVELOPMENT: **New Digital Billboard Sign**

LAND USE
DESIGNATION: **DC - PR – Direct Control Parks and Recreation
District**

LEGAL DESCRIPTION: **Lot 9MR, Plan 822 1088**

CIVIC ADDRESS: **110 Eymundson Road, Fort McMurray, Alberta**

IN THE MATTER OF AN APPEAL filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board (“the Board”) pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“the *Municipal Government Act*”), the Appeal Hearing was held on Thursday, June 6, 2024 in the Jubilee Centre, Council Chamber, 9909 Franklin Avenue, Fort McMurray, Alberta.

BETWEEN:

Chris Watson (“the Appellant”)

-and-

The Regional Municipality of Wood Buffalo (“the Respondent”)

BEFORE:

D. Cleaver (Chair)

K. Carruthers

N. Mahgoub

T. Morris

T. Tupper

Administration:

H. Fredeen, Clerk for the Subdivision and Development Appeal Board

A. Hawkins, Clerk for the Subdivision and Development Appeal Board

PRELIMINARY MATTERS

[1] No preliminary matters were raised.

MERIT HEARING

[2] Following the introduction of the Board, the Chair confirmed with the parties in attendance that there were no objections to the constitution of the Board.

Summary of Hearing*Submission of the Municipality*

[3] Development Officer, Brett Williamson referred to the Subject Property Map located on page 1 of the hearing package and indicated that the Digital Billboard Sign development is a discretionary use in the Direct Control Parks and Recreation District as per section 156.6 of Land Use Bylaw No. 99/059 “Land Use Bylaw” which states:

Signs that require a development permit shall be deemed to be discretionary use at the Development Officer level in all land use districts unless otherwise stated in Part 7B (Note: The Development Officer has been granted the authority by Regional Council to approve signs in DC-Direct Control Districts).

[4] The Development Officer provided a background of the development as follows:

- i. In August 2023 the Municipality became aware of a development at 110 Eymundson Road without proper development permits. The digital sign face on the existing freestanding sign was replaced with a new digital sign face with a new sign configuration. The replacement was beyond the scope of routine maintenance, and it was determined that a development permit was required.
- ii. On August 30, 2023, a Stop Order was issued for the digital sign for work completed without a valid development permit. The Stop Order required the facility operator to apply for a development permit or remove the sign.
- iii. On September 14, 2023, the facility operator applied for a development permit.

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- iv. The application was circulated for planning review on October 18, 2023, and then circulated to internal and external stakeholders for comment as part of the standard two-week circulation period.
 - v. The Engineering and Safety Codes branches refused the application as additional information was required including additional engineering stamps on the submitted plans to ensure that the existing signage uprights and foundation could support the new signage.
 - vi. Multiple rounds of circulation took place until both Engineering and Safety Codes were satisfied with the submitted plans.
 - vii. Following approval of the engineering plans, the development permit was issued.
 - viii. The permit was advertised from April 18, 2024, to May 9, 2024, and letters were sent to adjacent property owners within a 100 m radius of the Subject Property.

[5] The Development Officer listed the Appellant's concerns as follows:

- i. Signage illumination including illumination at all hours of the day;
- ii. The sign is a traffic hazard;
- iii. Proximity to residential uses; and
- iv. The sign was built before a development permit was issued.

[6] The Development Officer submitted that Council approved the districting of the Subject Property as a Direct Control Parks and Recreation District on September 12, 2023. The previous digital sign was approved in 2013 as a Digital Freestanding Sign. The redistricting was brought forward to Council to facilitate the development of the Digital Billboard Sign converting the existing Digital Freestanding Sign to a Digital Billboard to allow third party advertising within the urban service area.

[7] The Development Authority was aware of illumination concerns which were brought forward by residents during public consultation which occurred during the bylaw amendment process.

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- [8] The submitted plans for the Digital Billboard Sign featured a new sign configuration where the sign faces are “V” shaped instead of parallel to each other to direct the sign advertising and illumination toward the road and reduce the impact on neighboring residential properties.
- [9] Two conditions were added to the development permit approval to mitigate the illumination concerns:
- i. *Condition 2 – Digital signs shall be located or constructed such that sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use, and shall not face a hospital to the satisfaction of the Development Officer.*
 - ii. *Condition 4 – Digital signs shall use automatic light level controls to adjust light levels at night, under cloudy and other darkened conditions to reduce light pollution, in accordance with the following:*
 - a) *Ambient light monitors shall automatically adjust the brightness level of the Copy Area based on ambient light conditions. Brightness levels shall not exceed 0.3 footcandles above ambient light conditions when measured from the Sign Face as its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise/Sunset calculator from the National Research Council of Canada*
 - b) *Brightness level of the Sign shall not exceed 400 nits when measured from the Sign Face at its maximum brightness, between sunset and sunrise, at those times determined by the Sunrise/Sunset calculator from the National Research Council of Canada;*
 - c) *Signs abutting or adjacent to natural areas or public parks shall be de-energized daily between 12:00 AM – 5:00 AM.; and*
 - d) *Signs abutting or adjacent to residential developments shall be de-energized daily between 12:00 AM – 5:00 AM.*
- [10] The Development Officer submitted that the new shape of the sign face and the above-mentioned conditions provide adequate restrictions to mitigate the illumination concerns.
- [11] Upon questioning from the Appellant, the Development Officer submitted the following:

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- i. De-energize means that the sign will be turned off between the hours of 12:00 a.m. and 5:00 a.m.
 - ii. Condition 4 a) considers light reflected off surrounding buildings or light reflected off of snow/ice.
 - iii. The Development Authority is aware that different colors carry different brightness. The Development Authority uses the brightest color to measure brightness.
 - iv. In terms of monitoring, the Development Authority will continue to monitor and will also rely on resident complaints to ensure compliance of the Digital Billboard Sign.

[12] Upon questioning from the Board, the Development Officer submitted the following:

- i. The Digital Billboard Sign is currently in operation.
- ii. Engagement for the Digital Billboard Sign took place during the amendment application to redistrict the Subject Property from Parks and Recreation to Direct Control Parks and Recreation with the intent to facilitate the Digital Billboard Sign. Letters of concern from residents were received during the amendment process; however, the concerns were with the protection of Helen Pacholko Park and not the proposed Digital Billboard Sign. There was also a Public Hearing held in which no submissions were received in opposition to the land use amendment.
- iii. Letters were also sent to adjacent property owners once the development permit application for the New Digital Billboard Sign was approved.
- iv. Condition 2 “shall not project” means “shine light onto” to the satisfaction of the Development Authority. The Development Authority is looking to see that adequate mitigation measures are used to reduce impact to residential properties.
- v. The configuration of the Digital Freestanding Sign approved in 2013 was angled towards residential properties, whereas the angle of the New Digital Billboard Sign is angled to Thickwood Boulevard which is the intent of the

advertising.

- vi. Two unofficial site visits have been conducted to ensure that the Digital Billboard Sign is compliant with the conditions of the Development Permit. Additionally, ongoing monitoring of the Subject Property will take place. The Development Authority is also undertaking a compliance campaign with the implementation of the new signage regulations.
- vii. The Applicant will need to ensure that there are measures in place to change the illumination of the sign.
- viii. When approving the Digital Billboard Sign, the Development Authority considered the angle of the sign which shifted the advertising from the direction of residential properties to Thickwood Boulevard as well as the ability to change brightness levels.
- ix. Site visits were conducted prior to approving the Development Permit Application to ensure that the sign did not interfere with current traffic measures and the driver's decision point at the intersection.

Submission of the Appellant

- [13] The Appellant questioned who made the decision about de-energizing the sign at 12:00 a.m. Could it be de-energized at 11:00 p.m. to accommodate shift workers?
- [14] In response, the Development Officer submitted that the Development Authority made the decision on the time frame based on a similar regulation that exists in the Land Use Bylaw which speaks to digital and illuminated signage next to parks.
- [15] The Appellant questioned if the residents on Duncan Boulevard would be affected by the illumination based on the new direction of the signage. The Development Officer submitted that this was taken into consideration. Measurements were taken from the Digital Billboard Sign to the residential properties located on Duncan Boulevard, with the distance being approximately 136 m. The new signage regulation requires that signage must be 100 m from residential developments.
- [16] In response to questioning from the Board, the Appellant submitted that the illumination of the signage has been de-energized during the times specified as

per the conditions outlined in the Development Permit.

[17] Upon conclusion, the Chair asked the parties present if they felt that the hearing was conducted in a fair manner. No issues were brought to the Board's attention.

Findings Of Fact

[18] The Board makes the following findings of fact:

- a. The Subject Property is located in the DC-PR – Direct Control Parks and Recreation District.
- b. The Digital Billboard Sign is a discretionary use.
- c. The Digital Billboard Sign is in operation.

Decision

[19] **It is the decision of the Subdivision and Development Appeal Board to DENY the Appeal. The application for a New Digital Billboard Sign is APPROVED. All conditions found in the Development Permit are upheld and form part of this development approval pursuant to section 27 of Land Use Bylaw 99/059.**

Reasons for The Decision

[20] The Board notes that its jurisdiction is found within Section 687(3) of the *Municipal Government Act, RSA 2000, c.M-26* (the "MGA"). In making this decision, the Board has examined the provisions of the Land Use Bylaw and has considered the oral and written submissions by and on behalf of the Respondent and the Appellant.

[21] The Board finds that the Appellant is an affected person due to the proximity of the Appellant's residential property to the Digital Billboard Sign development.

[22] The Board considered the Appellant's concerns regarding the illumination of the Digital Billboard Sign onto his property at all hours of the day, the Board is satisfied that the Development Permit Conditions, specifically Conditions 2 and 4 will mitigate any concerns with illumination onto neighbouring residential properties. In addition, the Board was further swayed by the Appellant's submission that the Facility Operator has been compliant with de-energizing the Digital Billboard Sign

during the required time periods.

- [23] Consideration was given to the Appellant's submission that the Digital Billboard Sign is a blinding traffic hazard; however, the Board is satisfied that the Conditions outlined in the Development Permit are being met and supported by the Municipality's site visits confirming that the sign did not interfere with current traffic measures or the driver decision point at the intersection.
- [24] The Board encourages the Appellant to continue monitoring the Digital Billboard Sign and report any infractions to the Municipality's PULSE line (780-743-7000), to ensure compliance.
- [25] For these reasons the Board denies the appeal and grants Development Permit No. 2023-DP-00324.
- [26] The decision of the Subdivision and Development Appeal Board is final and binding on all parties, subject only to appeal to the Court of Appeal under Section 688 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta this
18 day of June, 2024.

CHAIR:

FOIP section 17(1)

Dean Cleaver

APPENDIX "A"

DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

EXHIBIT NO.	ITEM	DATE FILED
1.	Notice of Appeal (1 page)	2024-05-08
2.	Development Permit No. 2023-DP-00324 (19 pages)	2024-05-09
3.	Planner's Report (53 pages)	2024-05-30

APPENDIX "B"

REPRESENTATIONS

Person Appearing	Capacity
Brett Williamson	Development Officer
Shailesh Makwana	Supervisor, Development Permitting
Chris Watson	Appellant