



SUBDIVISION AND DEVELOPMENT APPEAL BOARD TOWN OF STONY PLAIN

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HEARING DATE: January 27, 2022
DEVELOPMENT PERMIT: 2021- D0249

INTRODUCTION

The Development Authority of the Town of Stony Plain conditionally approved a development permit application made by John Dugas (the “Applicant”) for a Major Home Occupation – Dog Obedience training/behaviour consulting/service dog training/guardian dog training. In doing so, the Development Authority granted the following variances:

1. Relaxation to allow the home occupation to occupy 100m² of the total gross floor area (20%), which exceeds the maximum occupiable area of 40m².
2. Relaxation to allow portions of the major home occupation to be conducted outside.

The subject lands are located at 6 Rosenthal Way, Plan 922 3016, Lot 11 in the Town of Stony Plain, which is in the FD-Future Development District under Land Use Bylaw 2642/LUO/21. The proposed use is a discretionary use in the FD-Future Development District. Marcel Fontaine (the “Appellant”), who is a neighbouring property owner, appealed the issuance of the conditionally approved development permit on January 3, 2022. The Subdivision and Development Appeal Board (the “SDAB”) heard the appeal on January 27, 2022.

PRELIMINARY MATTERS

A. Board Members

At the start of the hearing, the Chair of the SDAB asked if anyone in attendance had any objections or concerns related to the agenda or hearing process. He also asked whether anyone would like to request a postponement of the hearing. No one came forward.

The Chair of the SDAB asked if anyone had an objection to the panel hearing the appeal. The Appellant and the Applicant both affirmed they had no objections.

B. Exhibits

The SDAB marked the exhibits as set out at the end of this decision letter.

C. Miscellaneous

The appeal was filed in time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c. M-26.

At the end of the hearing the Chair of the SDAB asked the Appellant and the Applicant if they felt they had an adequate opportunity to present their information. The Appellant and the Applicant affirmed that they had.

The Chair of the SDAB closed the Public Hearing for Development Permit 2021 - D0249 and advised that the SDAB has 15 days to make a decision. The Decision will be prepared in the form of a letter on behalf of the SDAB by the SDAB Clerk.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

The SDAB denies the appeal and upholds Development Permit 2021 – D0249 with the following variances:

1. Variance to allow the home occupation to occupy 100m² of the total gross floor area, which exceeds the maximum occupiable area of 40m², and
2. Variance to allow portions of the major home occupation to be conducted outside,

subject to the following additional condition:

Within one year from the date of the issuance of this Decision, the Applicant shall install a fence around the entire perimeter of the property. The perimeter fence shall be suitable to prevent the dogs in care from escaping from the property, and to prevent residential dogs from entering the property.

The SDAB further upheld the intent of the other conditions imposed by the Development Officer but directed that the conditions be modified for clarity as set out below:

1. Approval includes the provision of dog training and consulting services, as well as building custom dog crates, which will occupy a maximum of 100m² of the total gross floor area of the buildings on the site.
2. This approval is for a temporary period of two years from the date of issuance of this Decision, after which time re-application will be required to continue the operation of the business from the property.
3. The business will be allowed to have dogs reside on property for training purposes as follows:
 - (a) A maximum of 10 dogs may reside at the property for training purposes (“training dogs in residence”) at any one time;

- (b) Outdoor kenneling or crating of dogs is not allowed;
 - (c) Dogs are to be kept indoors, except during:
 - (i) Supervised exercise and training activities, and
 - (ii) Outdoor bathroom breaks;
 - (d) Outdoor exercise and training activities will be conducted between the hours of 8:00 am and 6:00 p.m.
4. In addition to the training dogs in residence, the Applicant may have personal pets in compliance with the Responsible Pet Ownership Bylaw, which allows for a maximum of two dogs per residential dwelling.
5. In addition to the training dogs in residence, the business will be allowed to conduct individual training sessions with dogs not residing at the property as follows:
- (a) A maximum of two dogs belonging to the same client will allowed per session;
 - (b) A client may include a maximum of two people from the same household responsible for the dogs;
 - (c) A maximum of one individual training session per day, Monday to Friday between 8:00 am to 8:00 pm;
 - (d) A maximum of three individual training sessions on Saturday between 10:00 am and 5:00 pm; and
 - (e) No individual training sessions or client visits for any purpose on Sunday and statutory holidays.
6. The Applicant shall ensure that no excessive barking shall occur on the property at any time.
7. The following services shall not be allowed on the property:
- (a) Group training services (other than for group training of training dogs in residence);
 - (b) Boarding/Kenneling services (dog sitting);
 - (c) Breeding services;
 - (d) Grooming services; and
 - (e) Sales of dogs and puppies.
8. Custom Dog Crate operation of the business must be conducted entirely indoors.

9. One parking space, in addition to the two parking spaces required for a residential dwelling, must be provided on site in accordance with the Land Use Bylaw 2642/LUO/21 Part 4 Parking Regulations, including but not limited to, Table 4.1.1.a.
10. The required additional parking space must be made available for client parking during business hours.
11. The business shall not intensify without a further development permit application review and approval. Business intensification includes, but is not limited to, increasing the number of dogs allowed on the property, adding, or expanding services, and expanding the hours of operation on the property.
12. The Home Occupation must be incidental and subordinate to the principal residential use of the dwelling and must not change the external appearance or character of the dwelling or the residential character of the property.
13. The proposed home occupation must not be a source of noise, vibration, smoke, dust, odour, heat or glare that is unsuitable for a residential use.
14. There must be no outside storage of materials, commodities, or finished products.
15. No commodity other than the product or service of the approved home occupation may be sold on the premises.
16. Except for the resident(s) of the property, no employee may undertake any work at the dwelling or park a vehicle on the lot where the home occupation is located.
17. A maximum of one business related vehicle and a maximum one business related utility trailer with a maximum length of 6.0 m (including the hitch) parked on the lot at one time.
18. A major home occupation may not operate where there is a Secondary Suite or Family Day Home.
19. A maximum of one sign for the home occupation is permitted to be displayed as per Land Use Bylaw 2642/LUO/21 Table 5.2.0.b. and Section 5.4.7. The maximum area of the sign shall be 0.30 m² and must not encompass more than 50% of the window in which it is located.

The Notes set out in the Development Permit apply to this Decision.

SUMMARY OF HEARING

The following is a summary of the oral and written evidence submitted to the SDAB. At the beginning of the hearing, the SDAB Members affirmed that they had reviewed all the written submissions filed in advance of the hearing, not visited the site, not been in contact with anyone affected by this appeal and were not aware of any reason that they should be excused.

Development Authority Presentation

Summary:

The Development Authority provided the SDAB with a written submission which is contained in the agenda. The Development Authority conditionally approved Development Permit 2021 - D0249 for a Major Home Occupation on December 13, 2021. The conditional approval of Development Permit 2021-D0249 includes:

1. The provision of dog training and consulting services, including:
 - (a) Service dog training
 - (b) Obedience training
 - (c) Guardian dog training
 - (d) Dog behaviour consulting
2. Construction of custom dog crates;
3. A variance to the maximum area allowed to be occupied by a home occupation from 40 m² to 100 m²; and,
4. A variance to allow training and exercise activities to be conducted outside of the principal building.

The Development Authority summarized the background relating to the proposed development and the reasons for approval as follows:

1. Land Use District and Use Class:

The Development Authority determined that the proposed use fit within Major Home Occupation. The subject property is located within Land Use Bylaw 2642/LUO/21 FD – Future Development District.

Home Occupation Major is a Discretionary Use within Land Use Bylaw 2642/LUO/21 Section 2.17.0. FD – Future Development District.

2. Relevant Planning Documents – Uniquely Stony Plain Municipal Development Plan 2020:

The subject property is in the area identified as a Residential Area and an Area of Stability within the Municipal Development Plan.

Direction 3.1.a. The Town will support expansion and diversification of the economic base by allocating sufficient land for commercial and other employment land uses, including home-based businesses.

Direction 6.1.s. The Town will allow a range of uses to ensure a complete and balanced community to meet growth challenges in a sustainable manner and promote diverse residential development and associated home-based businesses.

3. Area Structure Plan:

Not applicable to this area.

4. Relevant Background Information:

The subject lands are located at 6 Rosenthal Way (Plan 922 3016 Lot 11) in the Rosenthal Estates subdivision.

Rosenthal Estates is a residential subdivision located on the west side of Stony Plain, bordered by 79 Avenue to the south and Range Road 12 to the west. The lots within Rosenthal Estates are 10 + acres.

The properties adjacent to Rosenthal Estates to the north and east are within the FD - Future Development District and are largely agricultural. The parcels adjacent to Rosenthal Estates to the west and south are within Parkland County and are also agricultural. The applicant contacted the Town in early November 2021 to discuss the possibility of operating a business training medical service dogs from this location. The Development Authority advised the applicant to submit the required development permit application and home occupation questionnaire, as well as a detailed description of the proposed business.

The Town received a development permit application on November 9, 2021, for the proposed home-based business at 6 Rosenthal Way. The application included a completed home occupation questionnaire and a business plan for Holdfast K9 Business.

5. Review of the Development Permit:

Upon review of Development Permit application 2021 - D0249, the Development Authority found:

- The property is within the Land Use Bylaw 2642/LUO/21 Section 2.17.0. FD - Future Development District.
- The principal use of the property is residential.
- The property is 11.7 acres in area, with a single detached dwelling and attached garage, detached garage, and other smaller accessory buildings. Portions of the property are fenced.
- Due to the nature of the business and the potential impacts on adjacent landowners, the Development Authority determined that the proposed business would be classified as a Major Home Occupation, which is a discretionary use within the FD District.
- The property can accommodate the additional parking stall required for a Major Home Occupation.
- The applicant's primary service is the training of medical service dogs, whereby the dogs remain in their care 3- 12 months. Other services provided are obedience training (on and off site), home guardian dog training, board and train, and custom dog crates.
- The maximum number of client dogs proposed to be on site at any one time is 10, plus two of their own.
- Dogs will be kept indoors and crated in the home or garage and will not be left unattended or unsupervised.
- Training and exercise will take place outside, 1-2 hours per day.
- Barking will be strictly controlled and monitored.

- Yard is fenced with 5 ft chain link fence and electric gate.
- Dog waste will be cleaned daily.

The home occupation requires two variances:

- (a) The Land Use Bylaw Section 3.20.1.3. regulates the maximum gross floor area allowed to be occupied by a home occupation to 25% of the gross floor area of all the buildings on the site, to a maximum of 40m². The total area proposed to be occupied by the home occupation is 100 m², which is approximately 20% of the gross floor area of the buildings on the site.
- (b) Land Use Bylaw Section 3.20.1.4. requires a home occupation to be conducted entirely within the principal building or accessory building. The proposed home occupation involves some business-related activities to be conducted outdoors.

6. Rationale for Decision:

- (a) Home occupations are supported within the Town's Municipal Development Plan.
- (b) The Land Use Bylaw FD District allows Major Home Occupations as a discretionary use.
- (c) The property is located on a residential acreage, on 11 acres, with immediate access to 79 Avenue.
- (d) The property has ample parking for visiting clients.
- (e) Traffic impact will be minimal given the limitations provided within the conditions of approval. As well, the primary business activity of training service dogs requires dogs to remain in the applicant's care for several months and does not involve regular client visits.
- (f) The training of medical services dogs is the primary business activity, the other training services are minimal. Medical service dogs are obedient, not aggressive and do not vocalize or bark.
- (g) The fenced training, agility, exercise area is located on the southeast corner of the property, away from the adjacent dwellings.
- (h) Dogs are not kenneled outdoors.
- (i) The business plan indicates:
 - i. Dogs will be kept indoors and crated in the home or garage when not open and in evenings.
 - ii. Training and exercise will take place outside, 1-2 hours per day.
 - iii. Dogs will not be left unattended or unsupervised.

- iv. Barking will be strictly controlled and monitored.
 - v. Yard is fenced with 5 ft chain link fence and electric gate.
 - vi. Dog waste will be cleaned daily.
- (j) Conditions of approval can be constructed to limit the number of dogs on site, number of client visits, hours of operation, types of services that are allowed, etc. to minimize the impacts to adjacent residents.
 - (k) A change in intensity or services provided is subject to further development permit review and approval.
 - (l) Land Use Bylaw Section 1.2.3.3. allows the Development Authority to impose, as a condition of Development Permit, a specified time limit on the duration of Development Permit approval.

7. Conclusion:

The decision of the Development Authority was made based on the information provided in the Holdfast K9 business plan and home occupation questionnaire submitted by the applicant on November 9, 2021, as well as their willingness to compromise and be amenable to development permit conditions intended to mitigate impacts to adjacent residents. The applicant has taken considerable care to address the concerns of the adjacent residents within their business plan.

The conditions of approval were carefully constructed to address the potential impacts to adjacent residents. As well, the conditions of approval and the provision of an expiry date provide clear limitations and expectations to the applicant.

Non-compliance with the Land Use Bylaw regulations and conditions of a development permit approval are enforceable under the Land Use Bylaw Section 1.4.0. and can result in suspension or revocation of a development permit, penalties, and issuance of an Order under the Municipal Government Act. A history of complaints and non-compliance during the two-year period that the development permit is active will impact a future application for the home occupation to continue.

Response to Questions from the Board:

In response to questions from the Board, the Development Authority explained that she felt the Applicant would be better suited to answer questions specific to the training of the service dogs. She also clarified that the calculation of the total gross area of 100m² (20%) was made by the submission of the Applicant. The Development Authority gave a verbal description of the fence that is currently in place at 6 Rosenthal Way as the map in the agenda package was not clear. The Applicant provided a full color map for further clarity to the SDAB (Exhibit 6).

The Appellant's Presentation:

Marcel Fontaine, homeowner of 24 Rosenthal Way, was in attendance but declined to make an initial submission.

The Appellant addressed the SDAB to make closing comments. He stated that he had filed the appeal as he was unable to access information regarding the proposed development. He advised that he now has received the clarity he was seeking, and he no longer objected to the development permit. He did raise a concern about the residential dogs approaching the property at 6 Rosenthal Way as it is not fenced to keep dogs from exiting or entering.

Response to Questions from the Board:

The SDAB commented that dog owners are responsible to keep their dogs monitored. The Chair permitted the Applicant to advise that his service dogs would be redirected from the areas away from residential dogs in order to limit any interaction.

The Applicant's Presentation:

The Applicant, John Dugas, advised that:

1. He is interested in purchasing 6 Rosenthal Way subject to issuance of the development permit.
2. The calculations of square footage included the house and garage. In any event, the square footage provided to the Development Authority will not be extended to require any more area than 100m².
3. The dogs are very closely monitored and are not encouraged to bark throughout their training.
4. He has not walked the perimeter of the property yet. There is a mixture of fencing. He is prepared to install additional fencing as required by the SDAB.
5. He works with Courageous Companions as a service dog trainer.
6. Most of his business is training service dogs.
7. The service and guardian dogs are not left unattended. These are very expensive dogs.
8. He only trains one or two guardian dogs per year.
9. He is looking to train 4/dogs per year for tracking/working dogs.
10. He has completed a 4-year master dog program and a working dog practicum. He plans to take 2 years to receive a Master Dog Certification.
11. This is a retirement job and a passion after leaving the Army.

Response to Questions from the Board:

In response to the questions from the SDAB, the Applicant advised that:

1. He will not be creating a dog run.

2. He plans to use the 2 acres that is currently chain link fenced to allow the dogs to run freely.
3. He will take the dogs to run the perimeter of the property 2 times, twice per day, which takes approximately 15-20 minutes.
4. Short commands are used. When exercising the dogs, some louder voice commands may be used, as they are run with a quad or side by side.
5. It is unlikely that the Applicant will have 10 dogs in training residing at the property at any one time.
6. The Applicant has 2 dogs of his own.
7. The house has a flex room which used to be an attached garage. This area is intended to be the training room.
8. The dogs are very well trained and not noticeable.
9. When the dogs are in the home, they are being trained.
10. Much of the formal training is done in the city, for example, at stores.

Speaking in Favour of the Applicant:

1. Dr. Laurie Gabouri, a resident in Rosenthal Estates, advised that she was initially concerned about the proposed development but after further reviewing the application and speaking with the Applicant, she supports the proposed development.
2. Shirley Jew, a representative from Courageous Companions, spoke in favor of the Applicant's development permit and advised that she would be available to assist the Applicant with his dogs, if needed.

EVIDENCE

Evidence presented to the SDAB and related to the SDAB hearing can be found in the SDAB Agenda Package dated January 27, 2022, and through the Town of Stony Plain's YouTube Channel. All evidence is retained as per the Town's retention schedule.

FINDING OF FACT

1. The property is zone as FD – Future Development District.
2. The principal use of the property is residential.
3. The proposed use is a Major Home Occupation, which is a discretionary use in the FD – Future Development District.
4. The property is approximately 11.7 acres.

5. The property is located on 79 Avenue.

REASON FOR DECISION

The SDAB is of the opinion that:

1. Given the size of the property, the number of dogs is reasonable.
2. Dogs are not kenneled outdoors.
3. The dogs will largely be inside and will be supervised when outside so barking should not be a problem.
4. The property is on 79 Avenue so there should not be any impact to traffic in the subdivision.
5. The dogs will be remaining on the property for long time periods. Training of non-resident dogs is limited. Therefore, the proposed development itself will generate very little traffic.
6. The smell of dog waste would not be a factor given the size of the property.
7. Voice commands and the side-by-side/quad noise will not be in excess of what is typical in the area.
8. There was no evidence presented to show a devaluation of the surrounding properties.
9. There is no objection from neighbors.
10. Overall, given the size and location of the property, together with the conditions imposed, the proposed development is suitable, and the impacts will be consistent with other properties in the neighbourhood.
11. The two year approval will allow neighbours to assess and address impacts. The Applicant advised that he did not object to any of the conditions.

For the foregoing reasons, the SDAB has approved the development with conditions.

This decision was issued on this 27th day of January 2022 for the Town of Stony Plain Subdivision and Development Appeal Board.



Justin Laurie, Chair
Subdivision and Development Appeal Board

**APPENDIX A:
REPRESENTATIONS**

PERSONS APPEARING

1. Catherine Kozyra, Development Authority
2. Marcel Fontaine, Appellant
3. John Dugas, Applicant
4. Laurie Gabouri
5. Shirley Jew

**APPENDIX B:
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB**

| | Description | Date | Pages |
|----|--|-------------------|---------|
| 1. | Notification Letter of Conditional Approval of Development Permit 2021-D0249 | December 13, 2021 | 67 |
| 2. | Notice of Appeal | January 3, 2021 | 73 & 74 |
| 3. | SDAB Agenda Package | January 24, 2022 | 1 - 83 |
| 4. | Submission by the Development Authority | January 20, 2022 | 17 - 65 |
| 5. | Notice of Subdivision & Development Appeal Board Hearing | January 11, 2022 | 78 |
| 6. | Colour map showing fencing provided by Appellant | undated | |