

**THE MUNICIPAL DISTRICT OF WILLOW CREEK NO. 26
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

**NOTICE OF DECISION
OF THE CHINOOK INTERMUNICIPAL
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING NO. DA 091-25**

BOARD PANEL MEMBERS:

**Evert Van Essen (Chair) Howard Paulsen Evert Gordon Dave Mitchell
Vandenberg Wolstenholme**

In the matter of an Appeal of the Decision of the Development Authority of the Municipal District of Willow Creek No. 26, whereby a development permit application (DA 091-25) made by Willow Creek Brewery to request to ‘allow to remain’ a moved on previously owned 32’ x 36’ residence to be used as the Surveillance/Manager Suite and change location, construct a 12’ x 33’ x 2’ high deck on the front side, and request to change location of the 30.48m x 5.72m gravel parking area to be used for staff and public, on a parcel of land designated Rural Recreational (RR), legally known as a portion of the NE 23-12-28-W4M in the Municipal District of Willow Creek No. 26, was refused by the Municipal District of Willow Creek No. 26 Municipal Planning Commission. And in the matter of the appeal in accordance with Section 686 of the Municipal Government Act by:

APPELLANT: Willow Creek Brewery (Adham Jaber)

And in the matter of an Appeal held under the authority of Sections 627 and 629 of the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended (MGA).

**THE PUBLIC PORTION OF THE HEARING WAS DOCUMENTED
AS A RECORD OF PROCEEDINGS**

And upon hearing the evidence from and submissions made by the person(s) shown on Appendix B attached hereto, and upon considering the documents shown on a list attached to Appendix A, as being the documents produced and marked as exhibits at the Hearing, and having regard to the South Saskatchewan Regional Plan, the MGA, the Municipal District of Willow Creek Land Use Bylaw 2025 and amendments thereto, the Board has rendered a Decision.

The Decision and reasons for the Decision of the Subdivision and Development Appeal Board (the Board) after a Hearing duly convened in accordance with Sections 685 and 686 of the MGA on October 28, 2025, at 10:00 A.M. are as follows:

DECISION:

The Board has decided the appeal be **UPHELD** and the decision of the Development Authority is **OVERTURNED**. Development Permit Application No. DA 091-25 is **APPROVED with conditions**. Pursuant to section 687(2) of the MGA, written reasons for the decision have been furnished in this decision.

Signed: 
Chair of the Subdivision and Development Appeal Board

Date: November 10, 2025

FACTS:

Upon having heard what was alleged by the Applicant/Appellant and **upon having heard** what was alleged by the Development Authority and **upon hearing** others listed in Appendix B of this Decision and **upon having read** Exhibits noted in Appendix A of this Decision, the Board finds the facts to be as follows:

1. The Appellant (Willow Creek Brewery, Adham Jaber) submitted a Development Permit (DA 091-25) on July 7, 2025, to 'allow to remain' a moved on previously owned residence to be used as the Surveillance/Manager Suite and change location, construction of a deck on the front side as well as changing the location of the gravel parking area on land legally know as a portion of NE 23-12-28-W4M (the Subject Parcel).
2. The Subject Parcel is approximately 16.58 acres in size and is located approximately 8 km west of the Town of Claresholm adjacent to the Willow Creek water body, intersected by Township Road 124 (TWP RD 124). The surrounding land uses are primarily ranch land and rural residential properties.
3. Under the new MD of Willow Creek No. 26 Land Use Bylaw adopted on September 24, 2025, (LUB 2025) Schedule 2, Land Use District Regulations, the subject parcel is currently designated as Rural Recreational - RR.
4. The northern portion of the Subject Parcel, north of the municipal roadway (TWP RD 124), is the site of a former water maintenance facility of the Town of Claresholm and contains the abandoned treatment building approved with a development permit in 2022 (DP 017-22) to be converted into a Micro-Brewery Bistro use as part of a recreational use/campground development. The titled portion south of the municipal roadway was undeveloped pastureland that has been undergoing development for accommodating the RV campground sites. Access is direct from both sides to municipal road TWP RD 124.
5. Under the new (current) Land Use Bylaw 2025, in Schedule 6, section 40, a Surveillance/Security Suite is described as "a dwelling unit or sleeping unit developed in conjunction with a principal use, so the dwelling is a supplementary use to the principal use and is used solely to accommodate a person or persons, whose function is to provide surveillance, maintenance and/or security for a development."
6. As background on the development, in January of 2022, A. Jaber submitted a Development Permit application (DP 017-22) for the development of a Micro-Brewery Bistro and RV Campground on the Subject Parcel. At the time of the 2022 submission of DP 017-22, the Subject Parcel was designated as Rural Commercial - RC in the Municipal District of Willow Creek No. 26 Land Use Bylaw No. 1826 (LUB No. 1826) which has since been rescinded. Mr. Jaber appealed a deemed refusal of the development as no decision on the development permit was made by the Development Authority within the prescribed 40-day period required under the MGA. DA 017-22 went to the Subdivision and Development Appeal Board (SDAB) for a decision and on April 19, 2022, the Board approved DP 017-22 for a Micro-Brewery Bistro and RV Campground subject to conditions which included the approval of a Master Plan for the Subject Parcel. The Master Plan included, amongst various development items, a Manager's Suite and parking lot sited at illustrated locations, and there was also information on the proposed type and size of Manager's Suite.
7. On May 27, 2025, a building permit was applied for by Mr. Jaber to Superior Safety Codes Inc. for a Ready to Move (RTM) building and on June 4, 2025, building permit #353SSC-25-B0016 was started for the RTM building by Superior Safety Codes Inc. an accredited agency contracted by the municipality to administer the Safety Codes Act.

8. On June 23, 2025 the RTM building was moved by Mr. Jaber on the Subject Parcel and sited in the northeast portion, just south of an undeveloped road allowance.
9. On June 23, 2025, Chisholm, Manager of Planning and Development for the MD of Willow Creek contacted Mr. Jaber and advised that construction (erection of the RTM) was noticed on the north-side of the property and questioned what this was as there was nothing outlined in this location on the Master Plan. Mr. Jaber responded on June 24th, 2025, stating it was the construction of the Surveillance Suit/ Manager's suite and supplied the Building Permit number. Ms. Chisholm replied on June 25th, 2025, informing Mr. Jaber that this location was not in compliance with DP 017-22 approval conditions and the Master Plan and that all construction needed to stop as there was no development permit issued for the suite location the construction was being done on. The applicant was advised to apply for a development permit to the MD of Willow Creek No. 26.
10. On June 26th, 2025, Mr. Jaber applied for a development permit via email. On July 4th, 2025, the MD of Willow Creek No. 26 informed Mr. Jaber the submitted application was incomplete and Mr. Jaber was given a list of what was needed to proceed with the application to be complete.
11. On July 4th, 2025, the MD of Willow Creek No. 26 issued a Stop Order on the Subject Parcel and Superior Safety Codes Inc. was contacted the same day to request the Building Permit Number 353SSC-25B0016 be put on hold pending the outcome of the development process.
12. Mr. Jaber re-submitted the permit application July 7th, 2025, and was notified July 8th, 2025, by Superior Safety Codes Inc. that the permit had been suspended.
13. Further correspondence occurred between the Ms. Chisholm and Mr. Jaber and on July 25th, 2025, a time extension was given until August 12th, 2025, for all additional information to be submitted. On August 7th, 2025, the DA 091-25 permit application was deemed complete for processing by the MD of Willow Creek No. 26.
14. The DA 091-25 application was circulated to adjacent landowners on August 21, 2025, and DA 091-25 was presented to the MD of Willow Creek No. 26 Municipal Planning Commission at the September 10, 2025, meeting. The Municipal Planning Commission reviewed the application in consideration of Land Use Bylaw No. 1826 (LUB No. 1826) which was the bylaw in place at the time of decision, and the previously approved DP 017-22. The Municipal Planning Commission refused the application with reasons, and the Notice of Decision was emailed to the applicant and mailed to the adjacent landowners on September 11, 2025.
15. The Municipal Planning Commission gave the following reasons for the permit refusal:
 - a. The size and scope of the proposed building is sufficiently larger than what was approved within Development Permit DP 017-22. As the purpose of the building was for a surveillance/manager suite, the Municipal Planning Commission is of the opinion that the 1152 sq. ft. moved in dwelling with attached deck is properly characterized as a stand-alone dwelling unit which is a prohibited use in Rural Commercial.
 - b. The original location for the surveillance/manager suite was suitable and appropriate as it was optimal and practically located near entrances for both north and south properties.
 - c. The Municipal Planning Commission was not provided with sufficient information to conclude that the original location interferes with the ability to access the Environment Canada Stream Gauge Station located adjacent to Willow Creek as the setback from the road would allow access to the station.

16. On September 29, 2025, the municipality received a Notice of Appeal from A. Jaber's Legal Counsel on DA 091-25, appealing the refusal of the application. The appellant's Legal Counsel cited the following reasons for the appeal:
 - a. The MD of Willow Creek No. 26 already approved the revised Surveillance Suite in accordance with Condition 3 of the Original Development Permit;
 - b. While the proposed Surveillance Suite is larger than initially contemplated within the Original Development Permit, its use and function remains the same;
 - c. While the proposed Surveillance Suite was previously used as a residential house, it is not and will not be a residential use, and a condition can be added;
 - d. The proposed new location is a minor change as compared to the Master Plan, and remains ideally located with respect to the North and South Blocks and is in compliance with setback requirements;
 - e. The original location of the Surveillance Suite blocked access to Environment Canada Stream Gauge Station; and
 - f. Such further and other grounds of appeal as may be relied on upon review of the record.
17. The original location of the Manager's Suite/ Surveillance Suite on the 2022 Master Plan was slightly closer to the future Micro-Brewery Bistro and the north portion entrance of the Subject Parcel to TWP RD 124. The location was also situated physically closer to TWP RD 124 which is a developed municipal public roadway.
18. Land Use Bylaw No. 1826 (LUB No. 1826) was rescinded by the Council for the MD of Willow Creek No. 26 and replaced with LUB 2025 on September 24, 2025, which occurred after the Municipal Planning Commission meeting of the same date. The use 'Campground, commercial' is prescribed as a discretionary use in Rural Recreational (RR) land use district, and in Schedule 6, section 11, subsection 11.6 allows for one on-site security suite in conjunction with campground uses.
19. The required development setbacks changed between former LUB No. 1826 and the recently adopted new LUB 2025. The former bylaw had a 20 foot setback specified and the current LUB 2025 has an increased setback to 75 feet from the right-of-way of any developed or undeveloped roadway. The RTM building to be used as the Surveillance/Security Suite was sited approximately 21 feet from the north property line to the undeveloped roadway in consideration of LUB No, 1826 being in force at the time.
20. The 2022 Master Plan approved with DP 017-22 included a parking area on the north side of the Subject Land, east of the Micro-Brewery Bistro building, and north-east of the entrance to the north portion. The appellant submitted a surveyed site plan (Exhibit N53) to illustrate the location of the RTM building moved onto the parcel with setbacks and how the parking area can be sited in relation to this, with the survey conducted July 18, 2025, and updated September 25, 2025.
21. The RTM building proposed as the Surveillance/Security Suite was built in 1953 and is 32' x 36' (1,152 sq. ft.) in size. Mr. Jaber proposed to reside the building and add a deck (12' x 33') and stairs for access on the south side. The RTM building was placed on screw piles on the Subject Parcel.
22. LUB 2025, in Schedule 6, section 40, subsection 40.3 states the minimum and maximum floor area of any detached Surveillance/Security Suite shall be 48.8 m² (525 ft²) and 102 m² (1,100 ft²) respectively.

23. The general position of the MD of Willow Creek is that the RTM building brought in and sited does not match the conditions of the previously issued DP 017-22 and the Master Plan, that condition #3 of DP 017-22 stipulates that if there are any changes, minor or major, it must be approved by the municipality and changes cannot just be arbitrarily made by the appellant. The MD is of the view that the public development process is important so affected neighbours have some certainty that what is approved will happen in that manner.
24. Mr. Jaber was of the opinion the location Surveillance/Security Suite needed to be changed as it was necessary due to the Environment Canada Stream Gauge Agency monitor station located at the west end of the property adjacent to the creek. Mr. Jaber had a concern with the south access going west to the monitor station and the security suite would interfere with that and he felt the revised layout was minor in nature. Additionally, Mr. Jaber was able to obtain the RTM to be used as the security suite which he believed met the intent of his development approval.
25. The applicant/appellant proposes that the Surveillance/Security Suite will only be occupied and used as a seasonal use during May to October each year, the same as the RV Campground use on the Subject Parcel.
26. The MGA, section 687(3)(a.1) states, *“In determining an appeal, the subdivision and development appeal board must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect.”*
27. The MGA, section 687(3)(c) states, *“In determining an appeal, the subdivision and development appeal board 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.”*
28. The MGA, section 687(3)(d) states, *“In determining an appeal, the subdivision and development appeal board 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*
 - (ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

HAVING REGARD to the findings of fact, and having regard to the South Saskatchewan Regional Plan, the MGA, the Land Use Bylaw 2025 and amendments thereto, the Board makes the decision to **UPHOLD** the appeal and **OVERTURN** the decision of the Development Authority. The Board **APPROVES DA 091-25** issued to Willow Creek Brewery (Adham Jaber) on the subject property to ‘allow to remain’ a moved on previously owned residence to be used as the Surveillance/Manager Suite and change location, construction of a deck on the front side as well as changing the location of the gravel parking area’, **subject to the following conditions:**

CONDITIONS:

1. Prior to proceeding with completing the approved development, the applicant/developer shall provide to the MD of Willow Creek No. 26 Manager of Planning and Development, an updated professionally prepared and legible Master Plan (update to the 2022 DP 017-22) to include the new Surveillance/Security Suite with deck location and the changed gravel parking lot area (as

illustrated in Exhibit N53), and which shall include all the DP 017-22 Master Plan features that have not been changed or addressed as a result of this approval.

2. Prior to proceeding with the completion of the approved development, the applicant/landowner shall provide security in the amount of \$7,500.00 in the form of cash or an irrevocable letter of credit to the Municipal District of Willow Creek No. 26, to be held in trust with no interest, until the development permit has been completed, including the stipulated conditions, to the satisfaction of the Development Authority.
3. The applicant/developer shall obtain and comply with all necessary permits under the Alberta Safety Codes Act (including building, electrical, gas, plumbing and private sewage) as required. Permits shall be obtained from the accredited agencies on behalf of the municipality: Superior Safety Codes Inc., or Park Enterprises Ltd. or The Inspections Group Inc. Final Inspection and Occupancy of the building must be obtained prior to any occupancy.
4. The applicant/developer shall comply with Municipal Land Use Bylaw 2025, not limited to, Schedule 2 Rural Recreational district and Schedule 4 Land Suitability and Servicing Requirements, Schedule 5 Standards of Development including Section 15 Off Street Parking and Loading Area Requirements for Non-Agricultural Uses, and Schedule 6 Use Specific Standards of Development, with the exception that the RTM dwelling (building) is granted a variance for the size and is allowed to be setback as sited at 21 feet from the north property line as approved.
5. The RTM dwelling (building) is to only have one functional bedroom to be used for occupancy as a Surveillance/Security Suite only and the building is not to be used as a residential dwelling. The use is considered as part of the Campground and Micro-Brewery Bistro development and is not for permanent residential use.
6. The Surveillance/Security (manager) Suite is to be seasonal (occupied no more than 6 months a year) and not for year-round occupation, and there shall be no occupancy of the Surveillance/Security (manager) Suite from November 1st to April 30th in a calendar year
7. The applicant/developer shall complete the exterior finish of the building with complete siding and skirting of the approved development within 12 months of this decision.
8. The applicant/developer shall manage runoff and address any drainage issues that may occur. Any drainage in excess of pre-post development state of conditions must be contained and managed onsite.
9. There shall be no additional development within 20 ft. (6.10m) of adjacent property lines and 75 ft. (22.9m) of the municipal road allowance boundary, including trees and board/plank/chain link fences, unless a development permit is obtained that specifically varies the required setback to allow the development.
10. Any changes, minor or major, to the development and Master Plan (to be updated to align with this approval) and/or any development to occur that is different than what is approved, or to the conditions of approval, or not in the location as depicted in the Master Plan, MUST be submitted to the MD of Willow Creek No. 26 municipal office and brought to the attention of the Manager of Planning and Development, prior to commencement. The applicant/appellant or any future

developer shall not proceed until the MD of Willow Creek Development Authority has authorized as such or any required Development Authority approval is granted.

11. All other aspects of the Master Plan approved for DP 017-22 shall remain in effect and are to be included on the updated Master Plan.

NOTATIONS (on the approval)

With exception to the development and uses amended and approved with this DP 091-25 approval and the corresponding revisions required to the Master Plan, DP 017-22 and its conditions remain in effect.

REASONS:

THAT the Board encompasses the findings of fact within these reasons and, as a result, has **UPHELD the appeal and Approves DA 091-25 subject to conditions**, based on the following reasons:

1. The Board finds that the MD of Willow Creek Land Use Bylaw 2025 is applicable to the appeal and the development matter. The Board has determined the land is designated as Rural Recreational – RR and a Campground is a discretionary use within this land use district with one Surveillance/Security Suite being a permissible associated use. Thus, the Board has the authority to make a determination on the matter of appeal and approve the development for the subject property.
2. The Board reviewed the definition and standards provided in LUB 2025 Schedule 6, section 40 for a Surveillance/Security Suite and the Board finds the Ready to Move (RTM) building as sited on the subject property can be considered a Surveillance/Security Suite use, especially in respect of it being subject to the outlined restrictions and requirements imposed by the Board as conditions of the approval. Additionally, the Board grants a variance to the LUB 2025 maximum floor area for a detached Surveillance/Security Suite being 102 m² (1,100 ft²), as the Board finds the 107 m² (1,152 sq. ft.) size to be nominal and will not unduly or materially impact anyone.
3. In review of the information provided on the land parcel and site conditions, the Board can see merit in the location as sited as it offers a good view of the overall campground and micro-brewery development operating on both sides of the municipal road. The Board finds the previous location on the Master Plan for the Manager's Suite is a smaller, more restricted area and very close to the south developed municipal roadway. Where the building is currently sited, it is setback much further from the south developed road which is open for public travel. Being closer to the undeveloped road on the north side, rather than the main road, is seen as being a more suitable location. Additionally, the location on the higher elevation of the land should also help ensure the building is not impacted by drainage or flooding issues. For these reasons, the Board grants a variance to the LUB 2025 minimum setback to the north property line to the undeveloped roadway. The Board recognizes the land use bylaw was recently changed with the adoption of LUB 2025 and increased the required setback which the building as sited can no longer meet. The Board has determined the waiver granted for the setback relaxation will not unduly or materially interfere with or affect the neighbouring parcels of land. As referenced, the property line on the north side is to an undeveloped road allowance and not to private property.

In making the decision to approve the “as sited” development for a Surveillance/Security Suite the Board recognizes the parking lot configuration as outlined in the 2022 Master Plan will be slightly affected. However, the Board deems this to not be a major material aspect. The Board finds there is still sufficient space on the parcel in the same general area and on the east side of the Micro-brewery building which can be highlighted on an updated Master Plan to be submitted as a condition of approval.

4. The Board recognizes the concerns of the MD of Willow Creek in regard to the applicant/appellant not obtaining the MD’s approval prior to undertaking a change to the approved comprehensive site Master Plan, and also not obtaining a development permit approval for the RTM building prior to erecting it on the Subject Parcel. Whether intentional or not, the Board is of the opinion the appellant should have been proactive in contacting the MD municipal office and the Manager of Planning and Development to confirm what was required. The Board is of the opinion the 2022 approval (DP 017-22) granted by the Board subject to conditions was clear in the requirements on stipulating any change required approval by the MD of Willow Creek, which would be the municipal government entity and not third party contracted Safety Code officials who are a private entity. However, in light of the current development situation and land conditions, the Board has accepted the amended development proposal and approved the RTM building to be used as a Surveillance/Security Suite as sited, as it is determined to be a rationale and reasonable development for the property. Based on the information provided, and the oral and written submission made, the Board has determined the change to the development and the location as sited is determined to be suitable and is an improvement to the initial Manager’s Suite proposal of DP 017-22.

INFORMATIVE:

The Board has made its decision based on the individual merits of the case before it and in respect of land use and planning considerations. The Board would advise that going forward it is made very clear, that any changes to the development approval and Master Plan (to be updated to align with this approval) and/or any development to occur that is different than what is as depicted on the Master Plan, MUST be submitted to the MD of Willow Creek municipal office and brought to the attention of the Manager of Planning and Development, prior to commencement. The applicant/appellant or any future developer shall not proceed until the MD of Willow Creek Development Authority has authorized as such or any required Development Authority approval is granted.

APPENDIX A

Documentary Material Submitted to the Board:

EXHIBIT	ITEM
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- A. Notice of Hearing and Location Sketch Map
- B. List of Persons Notified
- C. Letter of Appeal
- D. Development Permit Application Notice of Decision
- E. MD of Willow Creek MPC Development Review Report for MPC
- F. Notice of September 10, 2025, Municipal Planning Commission Meeting
- G. Development Permit Application No. 091-25 & Associated Information
- H. MD of Willow Creek Site Inspection Photos
- I. Letters/comments from Affected Landowners
- J. Copy of DP017-22 Appeal Board Decision
- K. Copy of DP017-22 Site Master Plan
- L. Excerpt from MD of Willow Creek Land Use Bylaw No. 2025
- M. Chalmers - Application No. 091-25 Appeal - October 2025
- N. Submissions of the Appellants (00992155)
- O. Excerpts from MD of Willow Creek Land Use Bylaw No. 2025
- P. Submission of email correspondence with E. Evenson, Crown Land Investigations Unit
- Q. MPC Meeting Minutes from September 10, 2025
- R. Voicemail from neighbour

APPENDIX B

List of persons who gave oral evidence or made submissions at the hearing:

CAPACITY	NAME
Appellant:	Samantha E. Stokes – Legal Counsel from Rose LLP Adham Jaber – Appellant
Municipal Representatives:	Cindy Chisholm – Manager of Planning and Development Gavin Scott – Senior Planning Advisor Glen Alm - Municipal Planning Commission Deputy Chair Shauna Finlay – Legal Counsel from Reynolds Mirth Richards & Farmer Derrick Krizsan - CAO
Public Gallery:	John McKee – Adjacent Landowner

IMPORTANT:

**This Decision of the Subdivision and Development Appeal Board
is final and binding on all parties and persons, subject only to Appeal to the Provincial Court of Appeal.**