



Notice of Appeal  
Subdivision and Development Appeal Board

Beaver County, 5120 – 50 Street, Box 140, Ryley AB T0B 4A0

Phone 780-663-3730 Fax 780-663-3602

Email: [admin@beaver.ab.ca](mailto:admin@beaver.ab.ca)

**Site and appellant information** (fill out completely)

<b>Site information</b>		Date Received Stamp	
Legal land description of site ('lot/block/plan' and/or 'quarter-section-township-range')		<b>RECEIVED</b>  <b>SEP 11 2023</b>  <b>BEAVER COUNTY</b>	
Development permit number or subdivision application number			
Appellant information			
Name of appellant			
Mailing Address			
Town/Village	Province	Postal code	Daytime phone number
Beaver County	AB		
Evening phone number	Fax number	Email address	
			@gmail.com
Preferred Time of Appeal Hearing	Dates within the next 30 days that are not suitable for hearing date:		
<input checked="" type="checkbox"/> Day Time <input type="checkbox"/> Evening			

**Appeal against** (Check one box only)

Development permit	Subdivision application
<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> Approval
<input type="checkbox"/> Conditions of approval	<input type="checkbox"/> Conditions of approval
<input type="checkbox"/> Refusal	<input type="checkbox"/> Refusal

**Reasons for appeal**

Sections 678 and 686 of the *Municipal Government Act* require that the written Notice of Appeal must contain specific reasons for the appeal.

<b>The appeal is herein launched for the following reasons:</b> (Attach a separate page if required)
<p>- We are appealing the approval of the Bed &amp; Breakfast development permit</p> <p>Our appeal is based on the following:</p> <ul style="list-style-type: none"><li>- noise concerns in conditions 8/9/10/11 as per bylaw 09-957</li><li>- vast increase in guests/staff to 300 with traffic increase to 200.</li></ul>
<b>Collection and use of personal information</b> Personal information is being collected under the authority of the <i>Municipal Government Act</i> (MGA) and the <i>Freedom of Information and Protection of Privacy Act</i> (FOIP) and is managed in accordance with the provisions of FOIP. This information will be used to process your request for a hearing before the Subdivision and Development Appeal Board. Your information will form part of a file available to the public. If you have any questions about the collection of your personal information, contact Margaret Jones, Assistant CAO, Beaver County at 780-663-3730.

<b>Signature of appellant</b>	Date YYYY MM DD 2023 09 10
<b>Once use only</b>	Hearing date YYYY MM DD
Appeal fee paid <input type="checkbox"/> yes <input type="checkbox"/> no	

## Notice of Appeal Subdivision and Development Appeal Board

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### Instructions for filing an appeal

Notice of appeal to the Beaver County Subdivision and Development Appeal Board (SDAB) must be filed in accordance with the Municipal Government Act and Land Use Bylaw 98-801.

The notice of appeal form must:

- in the case of a decision made on a development application, be received by the SDAB within 14 days of the date of issuance of the decision from the Development Officer
- in the case of a decision made on a subdivision application, be received by the SDAB within 19 days of the date of decision from the Subdivision Authority
- state specific reasons for the appeal
- be signed by the appellant
- be accompanied by the required fee of \$200 payable to Beaver County.

Deliver to: Beaver County Service Centre  
5120 – 50 Street  
Ryley, Alberta  
Business hours are 8:30 a.m. to 4:30 p.m. Monday to Friday

Fax or email to: Fax the completed appeal form to 780-663-3602, or email it to [admin@beaver.ab.ca](mailto:admin@beaver.ab.ca) . You must mail or deliver your appeal fee; the Notice of Appeal is not valid until the appeal fee is received.

Mail to: Beaver County  
PO Box 140  
Ryley, AB T0B 4A0

You are cautioned that if you mail the appeal, it must be received on or before the final date for appeal.

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### For further information

You may contact the Subdivision and Development Appeal Board Secretary, Margaret Jones, for any questions you may have about appeal deadlines, fee payment options and information regarding the appeal process. The Board Secretary may also advise individuals on how to prepare for and present an appeal, Board procedures and planning issues.

Telephone: 780-663-3730

We are appealing the approval of permit #020020-23-D0050 Bed and Breakfast

Our appeal is based on several factors, the main ones being conditions #8/9/10/11 of the approval of Aug 29<sup>th</sup>.

We wish to bring the following items to the County and the Councilors attention.

Item #8 States "The Owner Shall Ensure"

All persons who occupy the site, shall not make or cause unusual or unnecessary noise which will disturb or is likely to disturb adjacent landowners during the hosting of events beyond the boundaries of the property between the hours of 11pm/7am.

We have explained how we have tried to address this over the last 4 years in Attachment A

The interactions with the County, The RCMP and with Mr Lafayette around this have been unsuccessful.

Our additional objections are with the following:

Item #3 of the approved permit conditions

- Increasing the amount of people from 200 to 300 people in attendance daily.

Increasing the amount of people that can be on the Obsidian property would increase the noise issues coming from the property that have not been conditionally met, at any given time night or day.

- The DJ and staff that does the serving, the catering, the bar tending is hired by the individuals throwing the party, and are not Obsidian staff. They do not have any responsibility for monitoring the party goes.

Item #15 adhering to the existing Development agreement

- 1) stated June to October M-Thur noon to 8 pm /Fri - Sunday 8-10 pm why does this need to be changed to all year round and longer hours when this condition was not adhered to from the original plan?
- 6) stated 10-50 on weekdays, 50-100 weekends. This also has not been adhered to.
- 3-4 events per year has turned into every weekend and some week days. I have included the Calendars I could from 2023, and the ones available from 2024 already.

Item #16) Waste Management as per the Google picture.

- This is where the garbage from the activities is stored on the far north portion of the Obsidian Ridge site. This is not in waste disposal bins but in garbage bags tossed into the area.
- Has the county seen this, is it up to health and safety codes?

What is the Fire and Emergency plan for the current facility, what would change given the new approval?

Item #20 of the 2023 permit approval

- The new house was to be built where the at the time existing home was. This change has resulted in Mr Lafayette building on the portion of land between Obsidian and our property. With

this change in house building we have not been advised of any proposals because he has now become his own neighbor. Obsidian has not moved, our property has not moved, and given the circumstances this does not move the business nor our properties proximity.

- The business was to be secondary to the Residence
- The Greenhouse was removed and never happened
- The Equestrian was part of the original plan and was never a part of the business, never existed. This was a part of bringing nature to the people. This couldn't happen with the music, the parties, the fireworks etc, as the animals could not co exist with this current venue.
- What was originally approved has not been what happened. Structures go up and are in use prior to receiving permits. As per page 1 of the development permit the dining hall is in the incorrect location.
- Geo domes in place and have been in use, however being applied for in the current permit.

In closing we would like the County and Councilors to understand we have tried several different ways to deal with this situation.

- We first reached out to the county with noise complaints and were advised to call RCMP
- We called the RCMP 3 times, and after that, we were asked if we wanted a car sent out, or did we want them to just call Kelly as they were very familiar with him.
- Third we had Kelly over to our home, explained what our concerns were. These concerns were met with "I have a plan for a sound barrier wall:, as well as Kelly saying he could buy us an air conditioner so I would have my windows closed at night, or he would send us to a hotel, so the noise wouldn't bother us. These parties are every weekend, why would we want to leave our property?
- I have tried texting Kelly when it get loud later into the night preventing sleep, or waking us up.
- The texts have been included as attachment 2. The result of these texts is Mr Lafayette advising me to let him know when its loud and he will address it, however he goes to sleep and didn't respond until the next day. Our understanding is the responsibility lay with Mr Lafayette to ensure the noise is controlled, and not out of the boundary of his property. The responsibility is not for us to live with it and advise him when the noise gets to bad. Where is his ownership of the noise situation?

Our question to the County and Council is:

Why is Mr Lafayette making a living from his entertainment venue and making a profit from his land, more important than us being able to enjoy the land that we have lived on for over 30 years?

This is costing us \$200 to defend our right to use of our land and our home. To not to have to reach out to Mr Lafayette and ask to have a noise free sleep. This is where we live.

#### Attachment 1

What actions we have taken from the start in 2019.

First we reached out to the County about the noise, beginning from his first event a 4/20 marijuana party that went far into the night, and far beyond the boundaries of his property. We were advised to call the RCMP

Secondly we called the RCMP 3 times, and the last time, were asked if we really wanted a car to go out or for them to call Kelly as they were familiar with him.

Thirdly we met with Kelly at our property, he advised he was hiring a sound engineer to come and look at building a sound barrier wall. This did not happen as he was advised it wouldn't work

We have reached out to Kelly by text several times as explained in attachment 2

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## Attachment 2

### Most recent texts with Kelly

Mid August I texted at approx 12:30 am on a Saturday night to advise the party was extremely loud. We were advised that Kelly and his wife were out, and he would handle it when he got back, a few minutes later he texted back that a drunk had gotten ahold of the mic, and they had fixed it. A few minutes later I had to advise Kelly that lasted for 5 minutes and he said he would handle it when he got home.

Aug 20<sup>th</sup>

I texted again advising that the music and the DJ was loud enough that it sounded like it was coming from our yard. He again advised he wasn't home and thought the sound system might need some adjustments.

Sept 2<sup>nd</sup> at 12:45 I texted again because the noise was very loud. He responded the next day, saying he hadn't seen my message as he was sleeping, because he works on his construction project early in the morning. I let him know my alarm also goes off at 6 am for work.

Again the response was to let him know about these times and he would handle it. At this time I also let Kelly know that the Sunday previous we were trying to sit in the yard and visit with family, and the noise from the wedding going on was interruptive of us enjoying our yard.

Sept 6<sup>th</sup> I texted Kelly asking him if he knew that the party the night before lasted until after 3 am.

He responded with the DJ went home at 12 am, so the campers staying over night must have had their own sound system and continued to party.

With the same instruction to reach out to him to advise him if its loud.

Mon

Tue

Wed

Thu

Fri

Sat

Sun

16

15

14

13

12

6p Booked

12p Booked

10a Booked

10a Booked

17

18

19

20

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22

23

10a Booked

4p Booked

9a Booked

9a Booked

10a Booked

6p Booked

6p Booked

8p Booked

24

25

26

27

28

29

30

10a Booked

4p Booked

10a Booked

10a Booked

10a Booked

10a Booked

6p Booked

8p Booked

31

6p Booked

12p Booked

10a Booked

9a Booked



today

today

month  
list

month  
list

month  
list

Mon	Tue	Wed	Thu	Fri	Sat	Sun
		1 ● 6p Booked	2 ● 12p Booked 3p Booked	3	4 ● 10a Booked	5 ● 9a Booked
7 ● 11a Booked 12p Booked	8	9 10a Booked	10 11	11 ● 10a Booked	12	13 ● 10a Booked
14	15	16 ● 2p Booked ● 4p Booked ● 6p Booked	17 ● 10a Booked	18 2p Booked	19 ● 10a Booked	20
21 12p Booked	22 ● 6p Booked	23 10a Booked	24 ● 10a Booked	25 ● 9a Booked	26 ● 9:30a Booked	27
28	29 ● 4p Booked ● 6p Booked	30 8a Booked	31 ● 10a Booked			● 8:30a Booked



[illegible]

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today

May 2024

month

list

Mon

Tue

Wed

Thu

Fri

Sat

Sun

1

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28

29

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31

Obsidian Team Kickoff

10a Booked

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today

# June 2024

month list

Mon	Tue	Wed	Thu	Fri	Sat	Sun
						1
						2
3	4	5	6	7	10a Booked	8
						9
10	11	10a Booked	12	13	14	15
					10a Booked	16
17	18		19	20	21	22
					10a Booked	23
24	25		26	27	28	29
12p Booked						10a Booked
					10a Booked	30



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today

August 2024

month

list

Mon	Tue	Wed	Thu	Fri	Sat	Sun
			1	2	3	4
				10a Booked	10a Booked	10a Booked
5	6	7	10a Booked	9	10	11
				10a Booked	10a Booked	
12	13	14	15	16	17	18
				10a Booked	10a Booked	
19	20	21	22	23	24	25
	10a Booked			10a Booked	12p Booked	
26	27	28	29	30	31	
12p Booked				10a Booked	10a Booked	10a Booked
		5:30p Booked		10a Booked		10a Booked

Mon	Tue	Wed	Thu	Fri	Sat	Sun
12a Booked					10a Booked	1
2	3	5:30p Booked	4	5	6	7
				10a Booked	10a Booked	8
9	10	11	12		13	14
				10a Booked	10a Booked	15
16	17	18	19		20	21
				10a Booked	10a Booked	22
23	24	25	26		27	28
				10a Booked	10a Booked	29
30						
					10a Booked	

**BEAVER COUNTY****BYLAW NO. 09-957****A BYLAW OF BEAVER COUNTY, IN THE PROVINCE OF ALBERTA,  
TO PROHIBIT ACTIVITIES CREATING NOISE AND TO  
PROHIBIT EXCESSIVE NOISE**

**WHEREAS**, the *Municipal Government Act* being Chapter M-26, RSA 2000 and amendments thereto, provides authority to pass bylaws to regulate the safety, health and welfare of people and the protection of people and property; and with relation to the enforcement of those bylaws, create offences, set fees and impose fines;

**AND WHEREAS**, Section 7 of the *Municipal Government Act* provides that the Council of a Municipality may pass bylaws for the purpose of prohibiting, eliminating or abating noise, and establishing permissible noise levels for all or varying periods of the day, in all or a designated part or location of Beaver County respecting the following matters:

- (a) The enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the following:
  - (i) The creation of offences;
  - (ii) For each offence, imposing a fine not exceeding \$10,000 or imprisonment for not more than one year, or both;
  - (iii) Providing for imprisonment for not more than one year for non-payment of a fine or penalty;
  - (iv) Providing that a person who contravenes a bylaw may pay an amount established by the bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
  - (v) Providing for inspections to determine if bylaws are being complied with;
  - (vi) Remedying contraventions of bylaws;

**NOW THEREFORE**, The Council of Beaver County, in the Province of Alberta, duly assembled, enacts as follows:

**1. TITLE**

This bylaw may be cited as "the Noise Control Bylaw".

**2. DEFINITIONS**

- (1) "**COUNTY**"- means Beaver County;
- (2) "**COURT**"- means the Provincial Court of Alberta;
- (3) "**PEACE OFFICER**"- means a Member of the Royal Canadian Mounted Police or a Beaver County Peace Officer or Bylaw Enforcement Officer. Any reference to gender will mean either a male or female officer.
- (4) "**PERSON**"- means and/or includes a corporation and the heirs, executors, administrators or other legal representatives of a person, and owner/occupier or person apparently in charge.



- (5) **"SUMMONS"**- means a ticket issued pursuant to Part II of the *Provincial Offenses Procedures Act*, S.A. 2000, c. P-34, as amended and Regulations thereunder.
- (6) **"VIOLATION TICKET"**- means a form prescribed by the County and will be used by the County pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended.

### 3. REGULATIONS

#### GENERAL PROHIBITION

- (1) Except to the extent it is allowed by this bylaw, no person shall make, continue, cause to be made or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever, from within the identified designated areas of Appendix "A" attached to and forming part of this Bylaw, which unreasonably either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the identified designated areas of Appendix "A" attached to and forming part of this Bylaw. There should be a marked departure from the norm, which would offend a reasonable person given all of the circumstances.
- (2) Where an activity which is not specifically prohibited or restricted by a provision of any legislation or regulation or regulations of Canada or of the Province of Alberta or by any provision of this bylaw involves creating or making a sound which;
  - (i) Creates or produces or may create or produce a disturbance or annoyance to other people or a danger to the comfort, repose, health, peace or safety of others, a person or persons engaging in such an activity shall do so in such a manner as to create as little of such sound as practicable under the circumstances.
- (3)
  - (i) Unless written permission from the County Chief Administrative Officer or designate is obtained, no person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any mechanical tools or equipment capable of creating a sound which may be heard in any designated area beyond the boundaries of the site on which the activity is being carried on between the hours of 11:01 o'clock p.m. and 7:00 o'clock a.m.
  - (ii) A person who occupies a premise, shall not make or cause to be made or allow another person within or upon the premises to make any unusual or unnecessary noise which will disturb or is likely to disturb any person in his neighborhood, whether of his own volition or because of a social gathering on his premises between the hours of 12:01 o'clock a.m., and 7:00 o'clock a.m.
  - (iii) No person shall permit the engine of a motor vehicle making a loud noise to run for a period of time in excess of thirty (30) minutes between the hours of 11:01 o'clock p.m. and 7:00 o'clock a.m.
- (4) The County Chief Administrative Officer or designate may grant written permission to any person for the use of loudspeakers, public address systems, or other devices for the amplification of sound or musical instruments or devices or the like with conditions such that the noise created will not unduly interfere with the health, peace and safety of others.

### EXEMPTIONS

- (5) Notwithstanding any other provisions of this bylaw, nothing in this bylaw shall prevent or prohibit the operation or carrying on of a commercial or industrial activity or the performance or carrying on thereof during the day or night or any part thereof in any area classed as a commercial or industrial district, in which;
  - (a) The use being carried on is permitted or discretionary use for which the required permission has been granted pursuant to such bylaw; or
  - (b) Is a legal non-conforming use as is defined in the Municipal Land Use Bylaw for the County in which the use is being carried on.
- (6) No provision of this bylaw shall apply to or be interpreted to prevent:
  - (i) The ringing of bells in churches, religious establishments and schools.
  - (ii) The sounding of a general or particular alarm or warning to announce a fire or other emergency or disaster.
  - (iii) Sounding of sirens on emergency response units.
  - (iv) The sounding of horns on motor vehicles and bicycles lawfully upon the streets, for the purpose of and to the extent necessary to give signals or warnings to persons and vehicles using the highways.
  - (v) Employees or agents of the County carrying out work authorized by the County.

### PROCEDURE & PROSECUTION

- (1) For the purposes of procedure and prosecution under this bylaw, the Council adopts the provisions of Part XXVII of the *Criminal Code*, respecting summary conviction, the *Canada and Alberta Interpretation Act*, the *Municipal Government Act* of the *Revised Statutes of Alberta* and the *Provincial Offences Procedure Act* of the *Revised Statutes of Alberta*, and amendments thereto.
- (2) The conviction of a person under the provisions of this bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this bylaw, or conditions, order, or permits, issued in accordance with this bylaw.
- (3) A certificate or document signed by the County Chief Administrative Officer or designate stipulating any particular relative to this bylaw shall be admitted in evidence as prima facie proof of the facts stated in the certificate or document, without further proof of the signature or authority of the person signing the certificate.
- (4) A person who contravenes any provisions of this bylaw by doing something which is prohibited or by not doing something which is required is guilty of an offence and liable.
  - (i) For a first offence to a fine of Five Hundred Dollars (\$500.00).
  - (ii) For a second offence within one (1) year of the date of conviction for the first offence to a fine of One Thousand Dollars (\$1000.00).
  - (iii) For a third or subsequent offence within one (1) year of the date of conviction of the first offence, upon summary conviction to a fine of not less than Two Thousand, Five Hundred Dollars (\$2500.00) and not more than Ten Thousand Dollars (\$10,000.00) and in default of

payment, imprisonment for a term not exceeding six (6) months.

5. **SEVERABILITY PROVISION:**

Should any provision of this bylaw be invalid, then such invalid provision shall be severed and the remaining bylaw shall be maintained.

6. **COMING INTO FORCE**

This Bylaw shall come into effect upon third and final reading.

READ A FIRST TIME this 28<sup>th</sup> day of October, 2009 AD.

NON-STATUTORY PUBLIC HEARING HELD this 2<sup>nd</sup> day of December, 2009 AD.

AMENDED this 3rd day of February, 2010 AD.

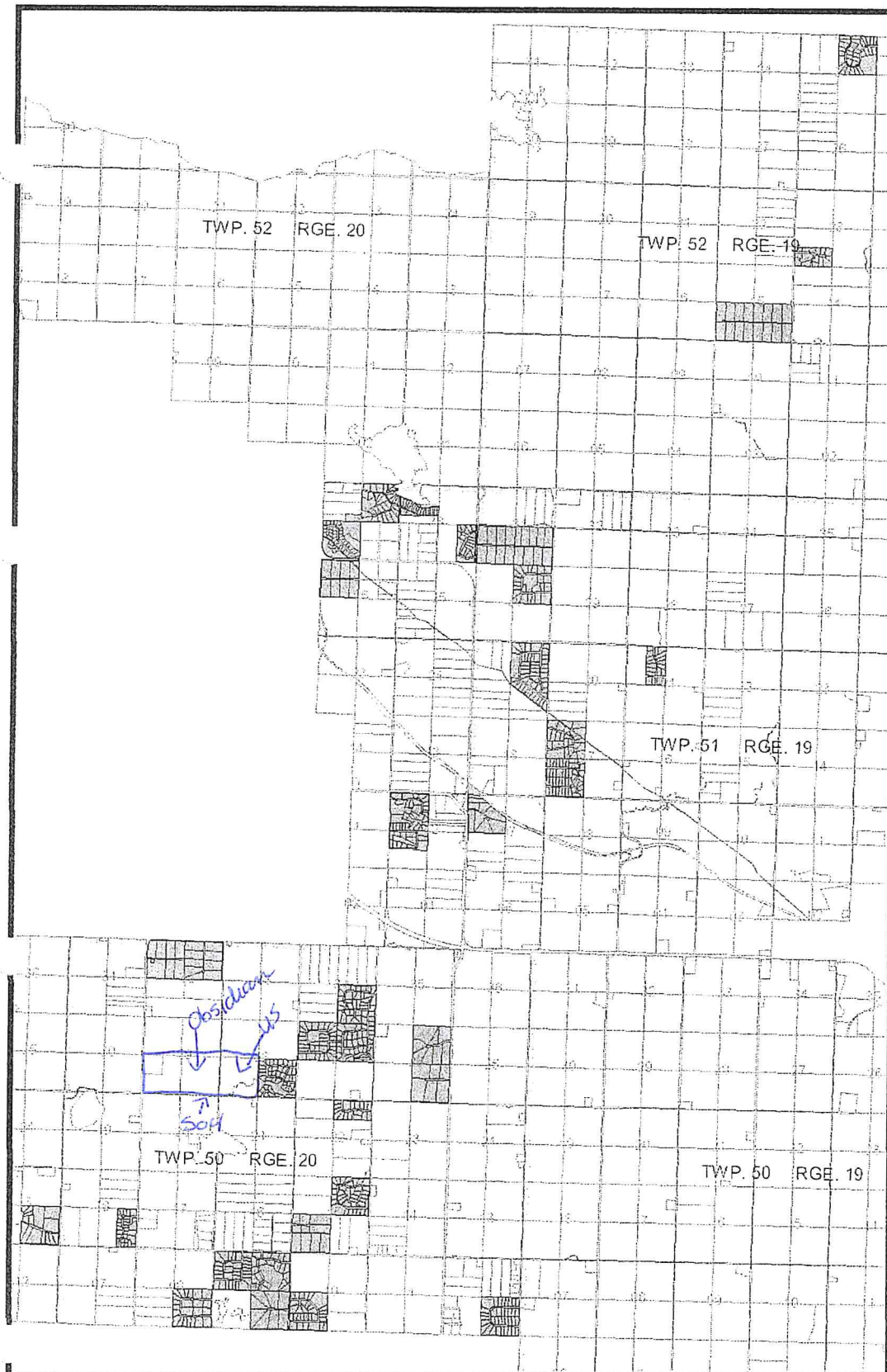
NON-STATUTORY PUBLIC HEARING HELD this 3<sup>rd</sup> day of February, 2010 AD.

READ A SECOND TIME, AS AMENDED this 3rd day of February, 2010 AD.

READ A THIRD TIME, AS AMENDED this 3rd day of February, 2010 AD.

  
\_\_\_\_\_  
REEVE

CHIEF ADMINISTRATIVE  
OFFICER



## LEGEND

DESIGNATED AREA: Noise Bylaw No. 09-957

LAND PARCEL

Scale: 1:100,000

Printed: 2010/01/26

