

SUBDIVISION AND DEVELOPMENT APPEAL BOARD (the "Board")

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING DECISION

Hearing: July 3, 2014 with the hearing reconvened on August 14, 2014

Development Permit No. 06-2014

File: 2014SDAB01

Decision

Having been satisfied that notice of this hearing was provided in accordance with the **Municipal Government Act**, R.S.A. 2000, Chapter M-26; upon having read the materials provided; and upon having heard the representations from the Appellants, the Development Authority, and others who felt that they were affected by the development with respect to the appeal filed by the Appellants from the decision of the Development Authority, dated June 5, 2014, to approve Development Permit 06-2014 for Sand and Gravel Extraction and Crushing operation on 551 acres more or less in the S ½ 10-61-7-W5 and W ½ 3-61-7-W5. For the reasons outlined below, the Board denies the appeal and confirms issuance of Development Permit No. 06-2014 with revisions to the text of Conditions 2 and 12 for the purpose of clarifying the meaning of those conditions. Conditions of approval of Development Permit 06-2014 will now read as follows:

1. County of Barrhead sending notification of the development to adjoining landowners as required in Land Use By-Law No. 5-2010.
2. The Developer being required to enter into and comply with a development agreement with the County of Barrhead No. 11 that shall include such matters as reclamation, control of on-site noise, dust, weeds, storage of top soil, designation of haul routes to reduce the impacts of noise and dust, maintenance of roads and the construction of roads to the County's specifications and satisfaction. The approved haul route shall be essentially as depicted on the map comparing proposed haul routes (Exhibit 13) as Final Route in green. Variations from this route shall be at the discretion of the County of Barrhead No. 11.
3. The developer being required to enter into and comply with a development agreement with Lac Ste. Anne County that may include such matters as the designation of haul routes to reduce noise, dust, maintenance of roads and the construction of roads to Lac Ste. Anne County specifications and satisfaction.
4. A buffer zone of 50 meters from east property line shall be maintained. This area is not to be disturbed.
5. The developer shall prevent noise from becoming an annoyance to neighboring landowners at the request of and to the satisfaction of the Development Authority. Required prevention may include, but not limited to, locating stockpiles to act as sound barriers and using methods of minimizing and reducing noise created by machinery and equipment.

Noise levels during operations must be in accordance with Alberta Energy Regulator (AER)[1] Directive 038 (2007) on Noise Control,

L(eq) Night of 40 dBA and an L(eq) Day of 50dBA.

The developer shall be responsible for ongoing monitoring of noise levels at the site and the developer shall provide the results of this data to the County of Barrhead when requested by the County of Barrhead.

6. The developer being required to enter into a Road Use Agreement, which may include security for potential road damages, with the County.
7. The developer being required to satisfy the County of Barrhead Aggregate Payment Levy Bylaw.
8. The operator must provide the County with proof of a minimum of \$2,000,000.00 in liability insurance coverage.
9. Posting of adequate road signage to a standard that satisfies the County of Barrhead.
10. Any Alberta Transportation requirements for highway intersection studies or improvements are the sole responsibility of the developer.
11. Hours of Pit Operation and Crushing:
 - a) Pit to be open twenty four hours per day seven days per week
 - b) Crushing to occur:
 - i. Average eight months per year
 - ii. Ten days on and Four days off
 - iii. Two twelve hour shift.
12. Hours for Hauling – the removal of sand/or gravel from the pit location (hauling):
 - a) Limited to eleven months annually
 - b) Limited to five days per week
 - c) Limited to twelve hours per day
 - d) No hauling on statutory holidays
 - e) Maximum speed for hauling vehicles 80 kilometers per hour on local roads or on License of Occupation roads
 - f) All hauling trucks to be secured
 - g) Number of trucks to average 31 trucks with 3 trips per day
 - h) 'Jake Brakes' on truck units be utilized only at times for safety or emergency reasons

Any extension to these hours of operation and hauling may be approved for a temporary period at the discretion of the Development Authority of the County of Barrhead No. 11.

13. All gravel trucks to be identified with signage as per the Alberta Sand and Gravel Truck registry for gravel trucks The signage shall be consistent with the decals as per the Alberta Sand and Gravel Truck Registry and will include the truck number on all three sides of the truck/trailer unit.
14. The developer shall maintain local roads during hauling operations.

15. This Development Approval being granted for a time limit of five (5) years, and may be renewed at the discretion of the Development Authority.
16. Failure to comply to the conditions of the Development Approval may result in the permit being suspended or revoked.

Background:

The Subdivision and Development Appeal Board (the “Board”) heard an appeal filed by Kim and Shane Allen of the decision by the Development Authority for the County of Barrhead No. 11 to grant conditional approval of Development Permit No. 06-2014 which proposes a Sand and Gravel Extraction and Crushing Operation upon lands described as the S ½ 10-61-7-W5M and W ½ 3-61-7-W5M.

The Board heard from Alison Espetveidt, Counsel for the County of Barrhead No. 11; Rick Neumann, Development Officer for the County of Barrhead No. 11; Dan Fouts, Stony Valley Contracting Ltd.; Grant Potolicki, Green Plan Ltd.; Chantelle Kibourn, Green Plan Ltd.; Tim Keegan, Klohn Krippen Berger; Patrick Froment, ACI Acoustics; Richard C. Secord, Ackroyd LLP; Yuk-Sing Cheng, Ackroyd LLP; Walter McKall, Bishop & McKenzie LLP; Bryan Radke; Margaret Gentry-Burton; Shelly Koehler; Walter Schmidt; Delphi Stuber; Shane Allen; Kim Allen; and George Jamieson.

A number of documents were provided to the Board, as follows:

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| Exhibit 1 | Notice of Decision and Conditional Approval of Development Permit Application No. 06-2014. |
| Exhibit 2 | Location Map |
| Exhibit 3 | Letter of Appeal – Kim Allen, Shane Allen, and 1381567 Alberta Ltd. – Received June 5, 2014 |
| Exhibit 4 | Letter of Appeal – Michael and Delphi Stuber – Received June 9, 2014 |
| Exhibit 5 | Notice of Hearing – 2014SDAB01 – Hearing Date July 3, 2014 |
| Exhibit 6 | Notice indicating Adjournment of Hearing – 2014SDAB01 and date and time of the hearing is to be reconvened. |
| Exhibit 7 | Map of relevant portion of Barrhead County No. 11 indicating Pit Area, Haul Route, Appellants’ Residence, Developer’s Lands – Provided by the Development Authority. |
| Exhibit 8 | Sketch Plan Showing LOC within Sections 3,9,10,16,21,28,33,34 of Twp. 60 Rge 7 W5M – Purpose: Access to SML’s – Provided by the Development Authority. |

- Exhibit 9 Chart comparing conditions of the approval under Development Permit 06-2014 and the conditions proposed by the Appellants with accompanying comments by County of Barrhead Staff.
- Exhibit 10 County of Barrhead No. 11 Staff Report (Binder).
- Exhibit 11 Table of 34 Documents associated with the planning and regulatory approval stage of the Stony Valley Barrhead Aggregate Deposit project and copies of the listed documents provided by Green Plan Ltd.
- Exhibit 12 Table describing the topics each member of the Stony Valley Contracting Plan Team would address at the SDAB hearing c/w Resumes of the presenters.
- Exhibit 13 Map depicting proposed haul routes for the proposed development; indicating First Route (in Blue), Second Route (in Red), and Final Route (in Green).
- Exhibit 14 Paper copy of the PowerPoint presentation provided by the Stony Valley Contracting Plan Team.
- Exhibit 15 Submission of Shane Allen, Kim Allen, and 1381567 Alberta Ltd.
- Exhibit 16 Photographs of the Radke site and both the external and internal features of the dwelling.
- Exhibit 17 Photographs of the Velvet Corbett Gas Plant.
- Exhibit 18 CV of James G. Farquharson, CET, INCE.
- Exhibit 19 Noise Impact Assessment Review prepared by FDI Acoustics.
- Exhibit 20 Copy of the Decision of the Subdivision and Development Appeal Board for Mountain View County in the Appeal & Order No. 2013-002.
- Exhibit 21 Submission to the SDAB by Michael and Delphi Stuber.
- Exhibit 22 Outline of Submissions on Behalf of Stony Valley Contracting Ltd.

Reasons:

- 1. The Board understood that the use of a Sand and Gravel Extraction and Crushing Operation is a discretionary use in the Agricultural Land Use District in the Barrhead County No. 11 Land Use Bylaw No. 5-2010 and the County of Barrhead No. 11 Municipal Development Plan, Bylaw No. 4-2010, encourages these types of uses to be located in areas of least detrimental impact.**

2. The Board was advised that the location of the proposed development is in an area identified by the Province of Alberta as optimal for the extraction of aggregate resources.
3. The Board was made aware that the proposed development had received all necessary approvals from the Province of Alberta.
4. The Board was convinced that the Conditions of Approval of Development Permit Application 06-2014, with the changes set out by the Board in their decision in this hearing, adequately address concerns with respect to the haul route, environmental and agricultural impacts, noise, dust and air pollution, and human health concerns.
5. The Board was not in receipt of documentation, presentation, or argument that convinced them the proposed development was not appropriate for the Lands.
6. The Board concluded that the Development Authority for the County of Barrhead No. 11 correctly issued Development Permit 06-2014, with the added requirement, per Condition 2, to more narrowly define the final haul route and, per Condition 12(f), ensure that loads to be hauled upon the roadways are secured.

Closing:

This decision may 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 leave to be filed and served within 30 days of this decision.

Dated at the City of Spruce Grove, in the Province of Alberta this 28th day of August, 2014 and is signed by the Chairman and Secretary of the Subdivision and Development Appeal Board; where both agree that the content of this document adequately reflect the hearing, deliberations and decision of the Subdivision and Development Appeal Board.



Denis Meier, Chairman



Tony Sonnleitner, Secretary