

The meeting of the Subdivision and Development Appeal Board was called to order by Vice Chairperson Yeomans at 9:30 a.m. on September 19, 2018 in the Council Chambers of the Lacombe County Administration Office.

Present

Present: Members: Garth Yeomans, Eric Jerrard, Linda McLevin and Wade Martens; Subdivision and Development Appeal Board Secretary Michael Kartusch; Manager of Planning Services Dale Freitag; Senior Planner Anita O'Driscoll; and Recording Secretary Allison Noonan.

John and Lori Hellofs were also present.

**SDAB 14/18
Agenda**

Moved by Mr. Jerrard that the agenda be approved as presented.

Carried Unanimously.

Hearing Open

Vice-Chairperson Yeomans opened the hearing with respect to an appeal by John and Lori Hellofs regarding the County's Compliance Order respecting the operation of a business with no residence on Pt. SW 16-41-26-W4M, north of the City of Lacombe. No one present voiced any concerns with the board members present hearing the appeal.

**SDAB 15/18
Notification**

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board accept as information the documents submitted by the Planning and Development Department identifying the parties notified of the Board's hearing of this appeal.

Carried Unanimously.

Anita O'Driscoll addressed the Board confirming that Lori Hellofs applied for and received development approval under Development Permit (DP) 134/15 to operate the secondary lumber remanufacturing and pallet manufacturing business, known as Central Alberta Pallet Supply on the site. However, the existing residence that was located on the site was removed within the first year of the approval. Subsequently, the Development Authority gave conditional approval for the expansion to the business subject to two specific conditions regarding a residence. Firstly, the applicant provide the County with security in the amount of \$50,000 to ensure the proposed replacement single detached dwelling is constructed; and secondly the proposed replacement single detached dwelling shall be constructed and occupied by at least one employee of the business by no later than October 2, 2017.

Ms. O'Driscoll confirmed that the dwelling has never been constructed and the business continues to operate. Furthermore, Ms. O'Driscoll advised that the development permit for the business has expired. The applicant has made a development permit application to renew the business that will be brought before the Municipal Planning Commission at the October 11, 2018 meeting. Ms. O'Driscoll confirmed that the applicants do not intend to place a habitable residence on the site and have requested a further three month extension to do so if the development permit application is approved.

Ms. O'Driscoll confirmed that the business is considered a "minor business or trade", which is a discretionary use under the Agricultural "A" District of the County's Land Use Bylaw requiring the approval of the Municipal Planning Commission. A minor business is defined in the Land Use Bylaw as being a small light industrial or service-orientated activity employing not more than six (6) non-resident full time persons. Ms. O'Driscoll outlined that Policy ECON 5.4.4 of the County's Municipal Development Plan (MDP) states that 'no business shall be approved on land within the Agricultural District unless there is an existing habitable residence on the same property located no more than 100 metres (328 feet) from the proposed business site. A condition of development approval shall require a habitable residence to be maintained for as long as the business operated at the site.

Ms. O'Driscoll confirmed that the Compliance Order was issued as there was no habitable dwelling located on the site that the business operates from; therefore, the business is an unauthorized development. It is a requirement of the County's MDP that a habitable dwelling be located no more than 100 metres (328 feet) from the site of a proposed business. The timeframe which the appellant had been given to locate a dwelling on the site has lapsed and the business in question is still operating therefore the Compliance Order was issued. Additionally, the

development permit approving the operation of the business expired on September 2, 2018 therefore the operation of the business at this site is an unauthorized development under the County's Land Use Bylaw.

The appellants, John and Lori Hellofs, explained that the softwood lumber industry business has suffered greatly during the economic downturn in the last couple of years and they do not foresee a positive future for this business. Mrs. Hellofs further explained that they have received offers to purchase the business and property; however, none of these offers have come to fruition. Mrs. Hellofs confirmed that the residence on the property was removed after development permit approval because it was uninhabitable due to water damage and a potential mould issue. Furthermore, Mrs. Hellofs agreed that they have not been compliant with the County's condition to place a replacement dwelling on the property to date due to unforeseen personal circumstances. Mrs. Hellofs explained that she is requesting a further three-month extension on the condition to place a residence on the property if the business and property does not sell within this timeframe.

Ms. O'Driscoll confirmed that neighboring landowner, Elaine Huston, forwarded a letter to the County voicing her concerns with regard to the development. Ms. Huston outlined concerns regarding the compatibility of the business given the lands are zoned Agricultural "A" and feels the lands should be protected for agricultural use only.

Rick Williams contacted the County to indicate his support of the business and further commented that he has no issue with the business operating without a habitable residence on site.

SDAB 16/18
In-camera

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board meet in-camera.
Time: 9:49 a.m.

Carried Unanimously.

SDAB 17/18
Out-of-camera

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 9:58 a.m.

Carried Unanimously.

Mr. Freitag addressed the Board and confirmed that while the County has empathy for the appellants regarding the economic downturn and personal struggles; the DA has an obligation to enforce Policy ECON 5.4.4 of the County's MDP which states that a habitable residence must be located on the property during the operation of a business in the Agricultural "A" District of the County's LUB. Furthermore, the DA also confirmed that the County does not have issue with the business per se, it is the lack of compliance with the policy outlined in the County's MDP.

Mr. and Mrs. Hellofs agreed that they are in contravention of Policy ECON 5.4.4 and their request is a further three-month extension of the County's Compliance Order in order for them to either place a residence on the property or sell the land and the business.

Vice-Chairperson Yeomans provided opportunity for questioning throughout the hearing and inquired whether Mr. and Mrs. Hellofs felt they had received a fair hearing. Mr. and Mrs. Hellofs advised yes they felt they received a fair hearing.

Hearing Closed

Vice-Chairperson Yeomans determined that all parties wishing to be heard had been heard and closed the hearing with respect to the Compliance Order issued by the County.
Time: 10:12 a.m.

SDAB 18/18
In-camera

Moved by Mr. Martens that the Subdivision and Development Appeal Board meet in-camera.
Time: 10:13 a.m.

Carried Unanimously.

**SDAB 19/18
Out-of-camera**

***Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 10:14 a.m.***

Carried Unanimously.

**SDAB 20/18
Compliance Order
John & Lori Hellofs
Pt. SW 16-41-26-W4M**

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board deny the appeal and in doing so uphold the Compliance Order issued by the County.

Carried Unanimously.

REASONS:

1. Based on the evidence presented, the Board agreed that the Compliance Order had been issued properly in accordance with the Municipal Government Act and the County's Land Use Bylaw.
2. The Board is of the view that operation of this business without a habitable residence on site is in direct contravention of Policy ECON 5.4.4 of the County's Municipal Development Plan.

**SDAB 21/18
Minutes**

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board approve the minutes of the March 6, 2018 meeting.

Carried Unanimously.

**SDAB 22/18
Adjourn**

***Moved by Mr. Martens that the Subdivision and Development Appeal Board meeting adjourn.
Time: 10:20 a.m.***

Carried Unanimously.

Chairperson

Secretary