

The meeting of the Subdivision and Development Appeal Board was called to order by Chairperson Busaan at 9:30 a.m. on January 31, 2019 in the Council Chambers of the Lacombe County Administration Office.

Present

Present: Members: John Busaan, Garth Yeomans, Linda McLevin and Eric Jerrard; Subdivision and Development Appeal Board Secretary Michael Minchin; Manager of Planning Services Dale Freitag; Jr. Planner/Development Officer Florian Goetz and Recording Secretary Allison Noonan.

Peter DeWit, Lidy DeWit, Dick Dalhuisen, Sharon Dalhuisen, Martin Van de Pol and Wim Floryn were also present.

**SDAB 14/19
Agenda**

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

Carried Unanimously.

Hearing Open

Chairperson Busaan opened the hearing with respect to an appeal by neighboring landowners Peter and Lidy DeWit regarding the decision of the Development Authority to approve the expansion of a trucking and vehicle repair business on NW 19-40-27-W4M, west of the City of Lacombe on property owned by Royal Hill Farm Ltd. No one present voiced any concerns with the board members present hearing the appeal.

**SDAB 15/19
Notification**

Moved by Mr. Yeomans 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.

Florian Goetz addressed the Board and confirmed that the subject property is legally described as NW 19-40-27-W4M and is owned by Royal Hill Farms Ltd. and the applicants, Dick and Sharon Dalhuisen, reside on the property. This parcel is zoned Agricultural "A" District under the County's Land Use Bylaw. Mr. Goetz advised that the County's Land Use Bylaw (LUB) defines Home Based Business, Major as "a secondary use of a principal dwelling, its accessory buildings, or combination thereof, by at least one resident of the dwelling to conduct a business or activity or occupation. It includes client visits and in the Agricultural District allows for not more than two (2) non-resident employees or non-resident business partners to work on-site in the business".

Mr. Goetz explained that on March 16, 2017, the County's Planning and Development Department forwarded a letter to the landowner of NW 19-40-27-W4M advising that a development permit would be required to operate a business from the property. Mr. Goetz advised that the applicants applied for and obtained approval, with conditions, on DPA 141/17 on April 25, 2017 for a "Home Based Business, Major" to operate a trucking business and vehicle and farm equipment repair business. Mr. Goetz explained that on August 9, 2018, the County received a complaint from Mr. and Mrs. DeWit indicating that the business appeared to be operating outside of the conditions of the approval obtained on DPA 141/17. County staff conducted a site visit and determined that the business was not operating in compliance with the development permit approval; subsequently, a non-compliance letter was forwarded to Mr. Dalhuisen advising that a new application and approval would be required for any change or expansion to the business as approved.

Mr. Goetz confirmed that on September 28, 2018, Mr. Dalhuisen submitted a new development permit application to expand the existing business. Mr. Dalhuisen proposed an addition to the number of off-site employees, an increase in the number of tractor-trailer and tractor-trucks associated with the business, an addition of an employee parking spot, specifying the hours of operation for the repair shop, adding outdoor storage, and a change to the location of short-term and long-term parking.

Mr. Goetz confirmed that the DA considered the proposed expansion consistent with the definition of Home Based Business, Major in the County's LUB, DPA No. 154/18 was approved on December 17, 2018, subject to the following conditions:

1. term of the development permit is three (3) years
2. this approval is subject to an annual review by the development officer. Failure

- to comply with one or more conditions of the development permit may result in the permit being suspended or revoked, as determined by the County in its sole discretion
3. business activities shall adhere to the description of the business provided with the development application. A further development application is required for any changes to the business, including but not limited to new buildings, additions or new storage areas
 4. all storage and parking for the business shall be located in accordance with Schedule A (attached). This includes trucks, trailers, and any other vehicles and equipment associated with the business
 5. prior to the issuance of a development permit, the applicant must enter into a landscaping agreement and provide security equal to the value of the estimated cost of the proposed landscaping returnable upon the completion of the landscaping satisfactory to the County. All terms and conditions of the landscaping agreement shall be met to the satisfaction of the County
 6. business operations in the shop associated with the business shall adhere to the hours of 8:00am to 6:00pm, Monday to Friday
 7. no more than two (2) non-resident on-site employees may work in the business
 8. maintenance and/or repairs to vehicles and equipment shall be carried out within the shop associated with the business
 9. business to be registered with the Alberta Motor Vehicle Industry Council (AMVIC). The County will require a copy of this registration. For more information, please contact AMVIC at 1-877-979-8100
 10. the owner/operator shall ensure that the business does not cause any nuisance to surrounding property owners due to noise, dust, excessive traffic or anything else of a dangerous or objectionable nature, as determined by the County in its sole discretion
 11. if it is determined by the County in its sole discretion that traffic generated by the business causes dust/road stabilization issues, the owner/operator may, at their sole cost, be required to provide dust control and/or road stabilization on Range Road 28-0 to the County's satisfaction
 12. no signage is permitted without prior approval from the County

Please note that as the subject property is located within 300 metres (984.25 feet) of a provincial highway right of way (Highway 12), additional approvals may be required from Alberta Transportation. Please contact Alberta Transportation at 403-340-5204 for more information.

It is the responsibility of the applicant to ensure that the proposed development meets the requirements of the provincial Safety Codes Act and the associated Regulations. For more information on what permits may be required, contact one of the safety service agencies listed on the attached sheet.

Mr. Goetz confirmed that the tractor trucks and trailers are proposed to be stored between the Dalhuisen residence and the shop in order to mitigate the noise created by idling; furthermore, Mr. Goetz explained that Condition No. 6 of the Notice of Decision should mitigate the concerns raised regarding the use of the shop and the noise of the extraction fan. Mr. Goetz explained that the applicants are required to enter into a Development Agreement for Landscaping, and provide security to ensure that the landscaping is completed to County standards. Mr. Goetz argued that there is landscaping in place between the two properties; however, explained there is room to augment the existing landscaping to further abate any noise that may exist from idling trucks.

Mr. Goetz explained to the Board that the applicant is limited to storing/parking six tractor-trailer units on the property as per the development application submitted and approved; furthermore, "Schedule A – Storage and Parking Areas" approved on DPA 154/18 outlines the areas that permitted parking is allowed on the site. Finally, Mr. Goetz explained that farms and farming operations in the County are not required to obtain a development permit to operate, as they are agricultural operations; however, this business is not classified as an agricultural operation, but as a business that serves the farming community and therefore, must obtain a permit to operate in the County.

**SDAB 16/19
Submission**

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board accept as information the documents provided by Peter Lidy as Exhibit A.

Carried Unanimously.

Neighboring property owners, Peter and Lidy DeWit, argued that they have had several discussions with the County's Planning Department over the last year voicing their concerns with increased business activity at the site. Mr. DeWit

outlined their main concerns with the business to be:

- Truck noise, truck idling and exhaust fumes;
- Conditions of Permit No. 41/17 were never met;
- No consultation from applicants or County;
- No restrictions on hours of operation of the trucking business; and
- Noise of the exhaust fan on the south side of the shop.

Mr. DeWit confirmed that this was their first opportunity to comment on the business since the DA approved the expansion of the business. Mr. DeWit questioned the County's process on approving "discretionary use" applications in the County when there have been complaints against the business since the original approval and voiced his opinion that they should have been consulted prior to the approval. Dale Freitag explained that these types of applications are not generally pre-circulated to adjacent landowners as neither County policy or provincial legislation require applications of this nature to be pre-circulated; however, Mr. Freitag explained that all approvals for "discretionary use" applications in Lacombe County are subject to appeal by neighboring landowners within 21 days of the date of decision by either the Municipal Planning Commission or Development Authority.

Mr. DeWit explained that the business was not operating within the parameters of the approval granted in 2017 on DPA No. 41/17. Specifically, Mr. DeWit reported that on numerous occasions, all trucks and trailers were parked in front of the shop, the applicants were allowing up to six vehicles to park at the south property line and there was no adherence to the outlined operating hours of the shop. Mrs. DeWit advised her opinion that adequate landscaping between the two properties does not exist to abate the noise from the trucks entering and leaving the site at all hours of the night.

Mr. DeWit offered some requested revisions to the approval for the Board to consider. These revisions included:

- Implement a landscaped buffer zone (trees) where no trucks or trailers can be permitted to park;
- Park highway trucks and trailers on the north side of the existing shop;
- Reduce the number of trucks and trailers to four;
- Relocate the exhaust fan to the north side of the shop; and
- Implement specific hours for the trucking business from 7:00 a.m. to 7:00 p.m. from Monday to Saturday.

Mr. DeWit explained to the Board that their intention is not to shut down the trucking business; however, they want the County to enforce the rules and regulations in place to mitigate their concerns so the business does not cause a nuisance to them on a daily basis.

**SDAB 17/19
Submission**

Moved by Mr. Yeomans that the Subdivision and Development Appeal Board accept as information the documents provided by Dick Dalhuisen as Exhibit B and Exhibit C.

Carried Unanimously.

Dick Dalhuisen confirmed that they applied for and received approval for the construction of their residence and that initially the shop was built for private use and therefore did not require a development permit from the County. Mr. Dalhuisen confirmed that once additional trucks and trailers were purchased, and business activity commenced on site, they applied to the County for development approval. Mr. Dalhuisen advised that they received verbal confirmation from a County representative that they could utilize the south side of the shop for short-term parking of trucks and trailers. Mr. Dalhuisen explained that it would be impossible to park the vehicles on the north side of the existing shop as the DeWit's septic system currently pumps out onto their property in this location making it extremely wet.

Mr. Dalhuisen confirmed to the Board that the exhaust fan in the shop has been replaced with a new fan to reduce the noise emitted towards the DeWit's residence. Mr. Dalhuisen argued that some idling of the trucks is unavoidable; however, they will endeavour to reduce the idling to a minimum to mitigate the concerns of their neighbors. Mr. Dalhuisen reported that they own a milk truck that returns to the yard between 4:00 a.m. and 6:00 a.m., four times per week; however, this truck parks on the north side of the shop by the residence to alleviate the noise heard by the neighbors. Mr. Dalhuisen confirmed that they have not signed the Development Agreement for Landscaping to date as they are awaiting the outcome of the appeal hearing.

Mr. Dalhuisen argued that they service the agricultural community and

farming is a 24/7 industry and thus, limiting the operating hours on the trucking portion of the business would not be conducive to his business or his customers needs. While Mr. Dalhuisen agreed that idling of trucks can be intrusive, his goal is to operate a successful business that provides job opportunities and the opportunity to provide a necessary service to the farming community.

Martin Van de Pol addressed the Board and offered his support of the development. Mr. Van de Pol confirmed that farming has varied hours throughout the year and does not want to see the County enforcing hours of operation on agricultural business, which he feels this development is.

Wim Floryn addressed the Board and offered his support of the development. Mr. Floryn agreed that the trucking portion of the business should not be constricted to set hours of operation, as the farming industry works 24/7 and depends on businesses such as Mr. Dalhuisen's to accommodate the fluctuating hours of the industry.

SDAB 18/19
In-camera

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board meet in-camera.
Time: 11:00 a.m.

Carried Unanimously.

SDAB 19/19
Out-of-camera

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 11:11 a.m.

Carried Unanimously.

The DA confirmed that the business offers a service to the farming community and therefore, to impose and enforce hours of operation on the trucking portion of the business would be difficult. Dick Dalhuisen offered no closing comments. Peter DeWit agreed that a lot of information was presented to the Board and hopes for a positive outcome for all parties involved.

Chairperson Busaan provided opportunity for questioning throughout the hearing and inquired whether Peter and Lidy DeWit and Dick and Sharon Dalhuisen felt they had received a fair hearing. All affected parties yes they felt they received a fair hearing.

Hearing Closed

Chairperson Busaan determined that all parties wishing to be heard, had been heard and closed the hearing with respect to Development Permit No. 154/18.
Time: 11:15 a.m.

SDAB 20/19
In-camera

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board meet in-camera.
Time: 11:17 a.m.

Carried Unanimously.

SDAB 21/19
Out-of-camera

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 11:39 a.m.

Carried Unanimously.

SDAB 22/19
DPA 154/18
Dick Dalhuisen
NW 19-40-27-W4M

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board deny the appeal and in doing so uphold the approval of the Development Authority to approve Development Permit No. 154/18 submitted by Dick Dalhuisen for permission to expand the trucking and vehicle repair business on NW 19-40-27-W4M, west of the City of Lacombe on property owned by Royal Hill Farm Ltd., subject to the following conditions as amended:

- 1. term of the development permit is three (3) years**
- 2. this approval is subject to an annual review by the development officer. Failure to comply with one or more conditions of the development permit may result in the permit being suspended or revoked, as determined by**

- the County in its sole discretion*
3. *business activities shall adhere to the description of the business provided with the development application. A further development application is required for any changes to the business, including but not limited to new buildings, additions or new storage areas*
 4. *all storage and parking for the business shall be located in accordance with Schedule A (attached). This includes trucks, trailers, and any other vehicles and equipment associated with the business*
 5. *prior to the issuance of a development permit, the applicant must enter into a landscaping agreement and provide security equal to the value of the estimated cost of the proposed landscaping returnable upon the completion of the landscaping satisfactory to the County. All terms and conditions of the landscaping agreement shall be met to the satisfaction of the County.*
 6. *owner/operator to submit a landscaping plan providing additional landscaping of coniferous trees on the south property boundary to ensure adequate screening to abate noise concerns raised by neighboring property owners, to the satisfaction of the County.*
 7. *business operations in the shop associated with the business shall adhere to the hours of 8:00am to 6:00pm, Monday to Friday*
 8. *no more than two (2) non-resident on-site employees may work in the business*
 9. *maintenance and/or repairs to vehicles and equipment shall be carried out within the shop associated with the business*
 10. *business to be registered with the Alberta Motor Vehicle Industry Council (AMVIC). The County will require a copy of this registration. For more information, please contact AMVIC at 1-877-979-8100*
 11. *the owner/operator shall ensure that the business does not cause any nuisance to surrounding property owners due to noise, dust, excessive traffic or anything else of a dangerous or objectionable nature, as determined by the County in its sole discretion*
 12. *if it is determined by the County in its sole discretion that traffic generated by the business causes dust/road stabilization issues, the owner/operator may, at their sole cost, be required to provide dust control and/or road stabilization on Range Road 28-0 to the County's satisfaction*
 13. *no signage is permitted without prior approval from the County*

Please note that as the subject property is located within 300 metres (984.25 feet) of a provincial highway right of way (Highway 12), additional approvals may be required from Alberta Transportation. Please contact Alberta Transportation at 403-340-5204 for more information.

It is the responsibility of the applicant to ensure that the proposed development meets the requirements of the provincial Safety Codes Act and the associated Regulations. For more information on what permits may be required, contact one of the safety service agencies listed on the attached sheet.

Where the conditions of the development approval require the undertaking of further actions before a Development Permit is issued, such actions must be completed, to the satisfaction of the County, within one year after the date of issue of this Notice of Decision. Failure to do so will result in the approval being withdrawn, unless the County has agreed in writing to a longer period to complete these actions. Any request for an extension of the one-year time limit shall be made in writing and must state the reasons for requesting an extension

Carried Unanimously.

REASONS:

1. The Board agrees that the trucking operations approval falls within the discretionary uses in the Agricultural District and the proposed development is an appropriate use for this land use district as it serves the farming community. In line with the demands of farming operations, the Board agrees there should be no restriction on hours of operation for the trucking portion of the business.
2. To address the Appellant's concerns regarding noise from idling trucks, the Board has determined that the addition of Condition 6 of the development approval will assist in mitigating concerns regarding noise through the use of additional landscaping. Furthermore, the remaining conditions will impose limits on the size of operations of the trucking operations and help mitigate further

concerns from the neighboring landowners.

3. The Board acknowledged that any expansion or change to the business as outlined in the Development Permit Application would warrant a new application approval from the Development Authority.
4. The Board is of the view that the three-year approval and annual review of the permit will ensure that the business does not unduly interfere with the amenities of the neighborhood or interfere with or affect the use, enjoyment or value of neighboring parcels of land.

**SDAB 23/19
Minutes**

Moved by Mrs. McLevin that the Subdivision and Development Appeal Board approve the minutes of the January 22, 2019 meeting.

Carried Unanimously.

**SDAB 24/19
Adjourn**

***Moved by Mr. Jerrard that the Subdivision and Development Appeal Board meeting adjourn.
Time: 11:46 a.m.***

Carried Unanimously.

Chairperson

Secretary