

The meeting of the Subdivision and Development Appeal Board was called to order by Chairperson Busaan at 9:00 a.m. on March 21, 2019 in the Council Chambers of the Lacombe County Administration Office.

Present

Present: Members: John Busaan, Garth Yeomans, Wade Martens and Eric Jerrard; Subdivision and Development Appeal Board Secretary Michael Kartusch; Manager of Planning Services Dale Freitag; Planner/Development Officer Cajun Paradis and Recording Secretary Allison Noonan.

Wayne McLachlan and Graham McLachlan were also present.

**SDAB 37/19
Agenda**

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

Carried Unanimously.

Hearing Open

Chairperson Busaan opened the hearing with respect to an appeal by Wayne McLachlan on behalf of Central City Asphalt Ltd. respecting Condition Nos. 10, 15 and 16 on the decision of the Municipal Planning Commission approval of Development Permit No. 15/19 for the renewal and expansion of a sand and gravel pit on Pt. NW and Pt. SW 22-39-27-W4M, south of Blackfalds on property owned by Keith and Darlene Murphy. No one present voiced any concerns with the board members present hearing the appeal.

**SDAB 38/19
Notification**

Moved by Mr. Jerrard 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.

Ms. Paradis confirmed that the operations at the site will include dry pit excavation, wet pit excavation, crushing and screening, and a temporary asphalt plant operation. Ms. Paradis explained that the Operator intends to excavate to a depth of 1.37 metres (4.5 feet) and the depth to groundwater in test holes was 3.5 metres (11.48 feet). Wet pit excavations will be completed by bailing the water within the site area, no off-site water diversion will occur. The life span of the pit is projected to be approximately 20 years. The estimated volume of material to be removed from the site is 200,000 tonnes. Ms. Paradis advised that the applicant indicated on his application that crushing operations 15 weeks per year, 24 hours per day, 7 days per week and has proposed asphalt plant operation 35 weeks per year, 24 hours per day, 7 days per week. The proposed hauling hours are 7:00 a.m. to 7:00 p.m. during the summer, and from 7:00 a.m. to 6:00 p.m. in the winter, with no operations on Sundays or holidays. The proposed facility is expected to generate no more than 100 truckloads per day. The applicants proposed haul route is through the pit on an internal access road, then directly onto Highway 597. The proposed land use after reclamation is agriculture with a 2.74 hectare (6.77 acre) water body.

Ms. Paradis advised that the application was pre-circulated to neighbouring property owners within one mile of the site prior to issuance of the County's conditional approval and no responses were received during the pre-circulation period. Ms. Paradis advised that the application was also pre-circulated to the County's Operations Department, Alberta Transportation, CP Railway, the Town of Blackfalds and Red Deer County for comment. The County's Operations Department had no concerns. The Town of Blackfalds had no objection to the application. Red Deer County had no concerns. CP Rail offered no comments. Alberta Transportation offered the following comments:

- A Roadside Development Permit from Alberta Transportation is required for the renewal.
- The location of the direct highway access is temporary, and the Department has plans to relocate the approach to the east in the future. Based on Alberta Transportation's current planning information, they do not know the exact location of the approach relocation, and they do not know the timing of the approach relocation. As plans for the approach relocation proceeds, Alberta Transportation will inform affected stakeholders including Lacombe County and adjacent landowners about our approach relocation plans.

Ms. Paradis advised the Board that the County's Municipal Planning Commission approved the sand and gravel pit on February 14, 2019, subject to the following conditions:

1. term of development permit to be for five (5) years
2. this approval shall be subject to annual review by the Development Officer. Failure to comply to the conditions of development permit may result in the permit being suspended or revoked
3. this approval is for dry pit excavation, wet pit excavation, crushing and screening, and temporary asphalt plant operation only. Further approval is required from the County for any additional activities
4. the pit size is to be no larger than 14.2 hectares (35.09 acres). The pit size includes all excavation areas where aggregate is being removed, areas where reclamation material has been salvaged and stockpiled, and areas determined to be infrastructure (e.g., access road, stockpiles, processing equipment, weigh scales)
5. prior to a development permit being issued, the operator shall submit a progressive reclamation plan to the County's satisfaction
6. prior to a development permit being issued, the operator to enter into a development agreement with the County respecting the operation. A caveat respecting the agreement shall be registered against the title of the property. All terms and conditions of the development agreement shall be met to the satisfaction of the County
7. applicant is required to direct all haul traffic through an internal pit road to Highway 597. No other route shall be used for haul traffic, unless permission is received in writing from the County
8. if Alberta Transportation directs that pit access is to be via a county road, the applicant shall, prior to a development permit being issued, enter into a sand/gravel haul agreement with the County
9. hours of gravel hauling for the gravel pit shall be Mondays to Saturdays, 7:00 a.m. to 7:00 p.m. from May 1st to October 31st, and 7:00 a.m. to 6:00 p.m. from November 1st to April 30th, with no hauling on Sundays or holidays
10. asphalt plant operation may occur 7:00 a.m. to 7:00 p.m., 7 days per week, maximum 35 weeks per year
11. crushing and screening may occur 24 hours per day, 7 days per week, maximum 15 weeks per year
12. if, in the opinion of the County, activities on this site causes noise, dust problems or other safety concerns, the County shall impose restricted hours of operation, as deemed necessary, at the sole discretion of the County
13. appropriate noise abatement measures will be required to reduce nuisance impact on adjacent residents, and the County reserves the right to further restrict the hours of operation at its sole discretion
14. applicant to ensure that there is ongoing communication with surrounding property owners and other residents that advises them of extended or non-typical operations, including the timing and duration of crushing activities and major hauls
15. the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of any asphalt plant operation, including details of the schedule of operation. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to further limit asphalt plant operations at the County's discretion
16. if extended hours of operation are required beyond those outlined in condition 9, 10 or 11, the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of the proposed extended hours of operations. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to further limit all operations at the County's discretion
17. applicant to ensure all gravel trucks used in the operation are registered with the provincial central truck registry. Written evidence of the same is to be provided to the County
18. a 3 metre (10 foot) wide buffer to be maintained for excavation from property lines with a minimum 3:1 slope ratio
19. cut and fill slopes to be no steeper than 4:1 for the final design when adjacent to a road, and 3:1 when adjacent to a property line
20. if any excavation adjacent to the road allowance is to occur over a period

longer than one (1) month, the operator is required to install guard rails or other barriers to the satisfaction of the County along the entire length of the excavated area

21. no new topsoil, overburden or granular material to be piled over 2 metres (6.56 feet) in height within 30.0 metres (98.42 feet) from a property line
22. applicant to satisfy all requirements of Alberta Environment and Parks for the gravel operation, crushing and screening activities, and temporary asphalt plant

It is important to note that since the property is located within ½ mile of Highway 597, approval is also required from Alberta Transportation pursuant to the Alberta Public Highways Development Act and the Highway Department Control Regulations. For more information, please contact the Department at (403) 340-5166.

Please note that Lacombe County has passed Bylaw 1261/17, which authorizes the collection of a community aggregate payment from all sand and gravel operations in the County. Attached is a copy of the Bylaw.

Ms. Paradis confirmed that in order to mitigate conflicts and avoid potential nuisances with neighbouring landowners, the County typically includes as a condition of approval on sand/gravel pit applications hours of operation for activities such as hauling, asphalt plant operation, or crushing and screening activities. The DA advised that in the previous two development permit approvals (Development Permit No. 103/08 and Development Permit No. 214/13) hours of operation and requirements for consulting neighbouring landowners were also applied.

Ms. Paradis advised that the County's current standard conditions of approval relating to hours of operation are as follows:

- *hours of gravel hauling for the gravel pit shall be Mondays to Saturdays, 7:00 a.m. to 7:00 p.m. from May 1st to October 31st, and 7:00 a.m. to 6:00 p.m. from November 1st to April 30th, with no hauling on Sundays or holidays. Please note that crushing is excluded from these hours of operation*
- *hours of operation for the temporary asphalt plant shall be Mondays to Saturdays, 7:00 a.m. to 7:00 p.m. from May 1st to October 31st, with no asphalt plant operation on Sundays or holidays*
- *if, in the opinion of the County, activities on this site causes noise, dust problems or other safety concerns, the County shall impose restricted hours of operation, as deemed necessary, at the sole discretion of the County*
- *appropriate noise abatement measures will be required to reduce nuisance impact on adjacent residents, and the County reserves the right to further restrict the hours of operation at its sole discretion*
- *applicant to ensure that there is ongoing communication with surrounding property owners and other residents that advises them of extended or non-typical operations, including the timing and duration of crushing activities and major hauls*
- *the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of any asphalt plant operation, including details of the schedule of operation. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to further limit asphalt plant operations at the County's discretion*
- *if extended hours of operation are required beyond those outlined in condition # or #, the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of the proposed extended hours of operations. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to further limit all operations at the County's discretion*

Ms. Paradis explained that it is a standard requirement for operators to enter into a Development Agreement and/or a Sand and Gravel Haul Agreement, in order to mitigate issues and nuisances with neighbouring landowners. The Development Agreement and/or a Sand and Gravel Haul Agreement would reflect the same operating hours as the conditions of approval. Ms. Paradis further explained that approved Condition No. 15 and Condition No. 16 are the new

standard conditions applied to asphalt plants in the County. Ms. Paradis confirmed that the County was previously more restrictive in asphalt plant operations in the past and confirmed that these newly worded conditions allow the County to be more lenient when dealing with any complaints that come in regarding asphalt plant operations.

**SDAB 39/19
Submission**

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board accept as information the documents provided by Wayne McLachlan as Exhibit A.

Carried Unanimously.

Wayne McLachlan, president of Central City Asphalt Ltd. (CCAL), addressed the Board, advised that they have been operating their business in Lacombe County for over 30 years, and advised that they are members of the Alberta Roadbuilders and Heavy Construction Association, the Alberta Sand and Gravel Association, the Canadian Technical Asphalt Association, the National Asphalt Pavement Association and numerous other non-industry associations. Mr. McLachlan argued that the County has never received a complaint against the CCAL operation out of the Blackfalds Murphy Pit since it began operation in 1987. Mr. McLachlan argued that they comply with Alberta Environment Code of Practice for Asphalt Plants and since Alberta Environment and Parks is the governing body for their industry, sees no need as to why they are required to advise local residents of operating outside of their approval from the County for occasional afterhours work.

Mr. McLachlan explained that over the last 10 years, there has been a shift in the industry to work at night, during off-peak hours, on the major roadways in the area. Mr. McLachlan argued that the restrictions placed on them by Lacombe County would have a major impact to their operation and impose considerable risk to their company. Mr. McLachlan argued that the tendering period to obtain these contracts is short, usually two to three weeks, and advised that being required to send notification to, and asking permission of local residents serves no purpose as they are abiding by the Code of Practice set out by Alberta Environment and Parks.

Mr. McLachlan argued that CCAL operates a state of the art asphalt plant and the negative experience that was reported to the County regarding another asphalt plant should not have any bearing on the approval for, or conditions imposed on the Blackfalds Murphy Pit. Mr. McLachlan argued that he was not in favour of the recommendations presented to the County's MPC by the Planning staff; however, indicated that he understood these recommendations to be County policy. Mr. McLachlan also argued that he felt he did not have the opportunity to properly address his concerns at the MPC meeting held on April 14, 2019.

Mr. McLachlan explained to the Board that CCAL is requesting to amend Condition No. 10 to read "*asphalt plant operation may occur 7:00 a.m. to 7:00 p.m. seven days per week, max. 35 weeks per year, including occasional extended hours and night work*" and to delete Condition No. 15 and Condition No. 16, so CCAL can continue to operate from this site as they have since 1987 with no issues. Mr. McLachlan confirmed that CCAL has worked, on occasion, outside of the approved hours over the last 10 years with no issue or complaint. Mr. McLachlan argued that the conditions imposed are unfair and unnecessary, as they add tremendous risk to their operation and limit their ability to compete for nighttime and afterhours contract work.

**SDAB 40/19
In-camera**

***Moved by Mr. Jerrard that the Subdivision and Development Appeal Board meet in-camera.
Time: 10:21 a.m.***

Carried Unanimously.

**SDAB 41/19
Out-of-camera**

***Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 10:30 a.m.***

Carried Unanimously.

Ms. Paradis confirmed that the County understands that the gravel industry is evolving and recognizes that night work is required to improve infrastructure while ensuring that the public is not inconvenienced by road closures during peak traffic

time. The DA confirmed that standard conditions are imposed on all sand and gravel pits operating in the County in order to mitigate and negate nuisances to neighboring landowners; therefore, feels that community consultation is imperative.

Ms. Paradis confirmed that the County has not received any complaints regarding CCAL operating outside of the approved hours of operation and further confirmed that enforcement action against the business would only be started should the County receive a legitimate complaint. Ms. Paradis advised that a condition outlining hours of operation for asphalt plants has always existed; however, the new standard condition specifically mentions "asphalt plant" in the condition to avoid confusion. Ms. Paradis confirmed that it is the County's intention to work with gravel pit operators to ensure success of the industry; however, the County also is required to balance landowner concerns to ensure that the gravel pit does not unduly affect the neighboring landowners.

Mr. McLachlan summarized that CCAL is seeking permission to operate as they have been since 1987 and feels that the conditions imposed by the County's MPC are unfair and unnecessary. Mr. McLachlan reiterated that the County has not received any complaints from neighboring landowners in over 30 years and maintains that CCAL has the support of their closest neighbors and are a responsible operator.

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. 15/19. Mr. McLachlan agreed that he had received a fair hearing and determined the hearing closed.
Time: 10:43 a.m.

**SDAB 42/19
In-camera**

**Moved by Mr. Martens that the Subdivision and Development Appeal Board meet in-camera.
Time: 10:48 a.m.**

Carried Unanimously.

**SDAB 43/19
Out-of-camera**

**Moved by Mr. Jerrard that the Subdivision and Development Appeal Board come out of camera.
Time: 11:00 a.m.**

Carried Unanimously.

**SDAB 44/19
DPA 15/19
Central City Asphalt
Pt. W ½ 22-39-27-4**

Moved by Mr. Martens that the Subdivision and Development Appeal Board grant the appeal and in doing so uphold the approval of the Municipal Planning Commission to approve Development Permit No. 15/19 submitted by Wayne McLachlan on behalf of Central City Asphalt Ltd. for the renewal and expansion of the existing sand and gravel pit on Pt. W ½ 22-39-27-W4M, south of Blackfalds on property owned by Keith and Darlene Murphy, subject to the following conditions, as amended:

- 1. term of development permit to be for five (5) years**
- 2. this approval shall be subject to annual review by the Development Officer. Failure to comply to the conditions of development permit may result in the permit being suspended or revoked**
- 3. this approval is for dry pit excavation, wet pit excavation, crushing and screening, and temporary asphalt plant operation only. Further approval is required from the County for any additional activities**
- 4. the pit size is to be no larger than 14.2 hectares (35.09 acres). The pit size includes all excavation areas where aggregate is being removed, areas where reclamation material has been salvaged and stockpiled, and areas determined to be infrastructure (e.g., access road, stockpiles, processing equipment, weigh scales)**
- 5. prior to a development permit being issued, the operator shall submit a progressive reclamation plan to the County's satisfaction**
- 6. prior to a development permit being issued, the operator to enter into a development agreement with the County respecting the operation. A caveat respecting the agreement shall be registered against the title of the property. All terms and conditions of the development agreement shall be met to the satisfaction of the County**
- 7. applicant is required to direct all haul traffic through an internal pit road to Highway 597. No other route shall be used for haul traffic, unless permission is received in writing from the County**
- 8. if Alberta Transportation directs that pit access is to be via a county road, the applicant shall, prior to a development permit being issued, enter into**

- a sand/gravel haul agreement with the County*
9. *hours of gravel hauling for the gravel pit shall be Mondays to Saturdays, 7:00 a.m. to 7:00 p.m. from May 1st to October 31st, and 7:00 a.m. to 6:00 p.m. from November 1st to April 30th, with no hauling on Sundays or holidays*
 10. *asphalt plant operation may occur 24 hours per day, 7 days per week, maximum 35 weeks per year*
 11. *crushing and screening may occur 24 hours per day, 7 days per week, maximum 15 weeks per year*
 12. *if, in the opinion of the County, activities on this site causes noise, dust problems or other safety concerns, the County shall impose restricted hours of operation, as deemed necessary, at the sole discretion of the County*
 13. *appropriate noise abatement measures will be required to reduce nuisance impact on adjacent residents, and the County reserves the right to further restrict the hours of operation at its sole discretion*
 14. *applicant to ensure that there is ongoing communication with surrounding property owners and other residents that advises them of extended or non-typical operations, including the timing and duration of crushing activities and major hauls*
 15. *if extended hours of operation are required beyond those outlined in condition 9, 10 or 11, the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of the proposed extended hours of operations. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to further limit all operations at the County's discretion*
 16. *applicant to ensure all gravel trucks used in the operation are registered with the provincial central truck registry. Written evidence of the same is to be provided to the County*
 17. *a 3 metre (10 foot) wide buffer to be maintained for excavation from property lines with a minimum 3:1 slope ratio*
 18. *cut and fill slopes to be no steeper than 4:1 for the final design when adjacent to a road, and 3:1 when adjacent to a property line*
 19. *if any excavation adjacent to the road allowance is to occur over a period longer than one (1) month, the operator is required to install guard rails or other barriers to the satisfaction of the County along the entire length of the excavated area*
 20. *no new topsoil, overburden or granular material to be piled over 2 metres (6.56 feet) in height within 30.0 metres (98.42 feet) from a property line*
 21. *applicant to satisfy all requirements of Alberta Environment and Parks for the gravel operation, crushing and screening activities, and temporary asphalt plant*

It is important to note that since the property is located within ½ mile of Highway 597, approval is also required from Alberta Transportation pursuant to the Alberta Public Highways Development Act and the Highway Department Control Regulations. For more information, please contact the Department at (403) 340-5166.

Please note that Lacombe County has passed Bylaw 1261/17 which authorizes the collection of a community aggregate payment from all sand and gravel operations in the County. Attached is a copy of the Bylaw.

Carried Unanimously.

REASONS:

1. The Board acknowledged that this business has been in operation since 1987 and, as the County has not received any complaints from neighboring property owners, feels that allowing 24-hour asphalt plant operation will not unduly interfere with the amenities of the neighborhood or interfere with or affect the use, enjoyment or value of neighboring parcels of land.
2. The Board is of the view that Condition No. 12 of the Municipal Planning Commission's approval will allow the County to monitor and enforce, if necessary, any concerns raised by neighbors regarding noise, dust problems or other safety concerns the County deems inappropriate by imposing restricted hours on hauling or asphalt plant operation on site.
3. The Board agrees that the Operator should be required to notify surrounding property owners and other residents if extended hours of operation are required beyond those that are outlined in Condition Nos. 9, 10 or 11, in order to address any concerns with the extended hours of operation.

**SDAB 45/19
Minutes**

Moved by Mr. Jerrard that the Subdivision and Development Appeal Board approve the minutes of the February 26, 2019 meeting.

Carried Unanimously.

**SDAB 46/19
Adjourn**

***Moved by Mr. Yeomans that the Subdivision and Development Appeal Board meeting adjourn.
Time: 11:15 a.m.***

Carried Unanimously.

Chairperson