

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
PARKLAND COUNTY**

Legislative Services  
Parkland County Centre  
53109A HWY 779  
Parkland County, AB T7Z 1R1  
Telephone: (780) 968-3234  
Fax: (780) 968-8413

DATES: December 16, 2019  
FILE NO.: 17-D-233

**Notice of Decision of Subdivision and Development Appeal Board**

**INTRODUCTION**

[1] On November 25, 2019, the Development Authority of Parkland County (the “County”) granted a development permit to Entwistle Concrete Products Ltd. (the “Applicant”) for “Gravel Extraction – Renewal” on NE 9-53-7-W5 municipally described as 53120 Range Road 73 (the “Site”) (this Development Permit will be referred to as the “2019 Development Permit”). The Appellant Mark Cacka appealed the approval of the 2019 Development Permit. The 2019 Development Permit number is listed as No. 17-D-233, which is the same number as the development permit issued in 2017. In 2017, the Development Authority issued a development permit No. 17-D-33 (the “2017 Development Permit”), which was appealed to the Board in 2017. The Board heard the appeal and granted the 2017 Development Permit on certain conditions. Many of the conditions were as set out by the Development Authority. However, in 2017, the Board varied the conditions and the conditions imposed by the Board in the 2017 appeal are as set out at pages 6/52 to 9/52. The 2017 Development Permit was a time limited permit for two years. The 2017 Development Permit expired and the Applicant applied for a new development permit.

**PRELIMINARY MATTERS**

**A. Board Members**

[2] At the outset of the appeal, the Chair requested confirmation from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. None of the persons in attendance had any objection to the members of the Board hearing the appeal.

**B. Additional Materials**

[3] The Board marked the exhibits as set out on the list at the end of this decision. The Appellant, Mr. Cacka, submitted a map at the hearing which had not been provided before the hearing. There was no objection to the Board receiving this map, and the Board marked the map

as Exhibit 5 (see the list of exhibits at the end of this decision). All references are to the marked exhibits, collective referred to as the “Materials”.

### **C. Miscellaneous**

[4] The appeal was filed on time, in accordance with Section 686 of the Municipal Government Act, R.S.A. 2000, c.M-26 (the “Act”).

[5] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections to the proposed hearing process.

### **D. Preliminary or Jurisdictional Matters**

[6] There were no preliminary or jurisdictional matters on December 16, 2019.

## **DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

[7] The Board allows the Appeal and grants the Development Permit subject to the conditions set out below. The Board affirms all Permit Notes on the Development Permit (see page 28/52 of the Materials).

### **Code of Practice Required**

1. This approval is CONTINGENT on the Applicant obtaining Code of Practice for Pits approval from Alberta Environment and Parks and providing Parkland County with a copy of that approval. The Applicant shall provide the County with a copy of the 5 year Report submitted to the Province.
2. Pursuant to Section 12.12 (1)(b) of the Land Use Bylaw, this approval shall be subject to the gravel pit being greater than 5.1 hectares (12.5 acres).

### **Existing Stands of Trees and Shrubs to be maintained**

3. The Applicant shall preserve all existing stands of trees and shrubbery outside the development area for environmental and sound attenuation purposes.

### **Hours for Hauling**

4. The removal of sand or gravel or both from the pit location (hauling) shall take place only within the hours specified by the Development Authority:

6:00 A.M. to 6:00 P.M. Monday to Friday

8:00 A.M. to 4:00 P.M. Saturday

No hauling on Sunday

### **Hours of Operation**

5. The hours of operation for the pit, including extraction, reclamation and the processing (crushing) of materials shall be specified as specified below:

6:00 A.M. to 10:00 P.M. Monday to Friday

8:00 A.M. to 4:00 P.M. Saturday  
No operations on Sunday

### **Dust and Noise**

6. The Applicant shall:
- a. Prevent noise from becoming an annoyance to neighbouring landowners at the request of and to the satisfaction of the Development Authority.  
Required prevention may include, but not be limited to:
    - locating stockpiles to act as sound barriers and
    - using methods of minimizing or reducing noise created by machinery and equipment.

Noise that exceeds the level as specified in the Community Standards Bylaw is an indication that noise may be an annoyance.
  - b. Ensure compliance with the *Environmental Protection & Enhancement Act* regarding dust and air quality.
  - c. Be responsible for ongoing monitoring of noise levels at the site.
  - d. Provide the results of the data from the ongoing monitoring of noise levels referenced at condition 6c. at the site for the previous month to Community and Protective Services by the 15<sup>th</sup> day of each month.

### **Dark Sky Compliance**

7. In accordance with Parkland County Policy, all commercial and industrial outdoor lighting installations and outdoor luminary replacements requiring an electrical permit shall be Dark Sky compliant.

### **Security**

8. The Applicant is responsible to ensure the property is securely gated and locked when not in use.

### **Trucks and Haulers**

9. The Applicant shall ensure that all trucks or haulers associated with this development are registered with the Alberta Sand and Gravel Association Central Truck Registry Program and have their ASGA number on the truck visible to the public.
10. The applicant shall enter into an Industrial Haul Agreement with Parkland County Public Works Department, prior to commencing hauling operations from the pit, and provide such security as required by Parkland County.

## **Trees**

11. The applicant shall plant two rows of trees along Township Road 532 approximately between the points marked in Appendix "C".
  - a. The two rows of trees shall be located between the berm and Township Road 532.
  - b. Each row of tree shall have 116 trees, which shall be planted relatively equidistant from one another (approximately 3 meters apart).
  - c. Each tree shall be between 4 to 5 feet tall when planted.

## **Other Conditions**

12. The applicant shall keep the subject area to the development permit in a clean and tidy condition free from rubbish and non-aggregate debris, including and required screening or buffering to the satisfaction of the Development Authority, at all times.
13. The applicant shall begin construction of the berm during the first phase of operation, and begin at the north east corner of the property moving west.
14. The applicant shall locate appropriate safety and traffic signage on and about the subject lands and road accesses.
15. This development permit does not allow for the production of asphalt concrete pavement.
16. No new aggregate extraction or expansion of an existing operation shall be located within 20 m of any public road. Buffering/screening measures may occur within this setback.
17. The proposed development shall conform to the submitted plans and shall not be moved, altered or enlarged except where authorized or directed through this permit approval.
18. Any proposed changes shall first be submitted for review by the Development Authority. Any changes considered substantial or inconsistent with this approval, as determined by the Development Authority, may require separate development permit approval.
19. Failure to comply with the conditions of this permit may result in the permit being cancelled, suspended or modified.

## **SUMMARY OF HEARING**

[8] The following is a brief summary of the oral evidence heard by the Board. The Board has also reviewed all written submissions filed with the Board.

## **Development Authority**

[9] The Board first heard from the Development Authority.

[10] The Development Authority indicated that the Site is zoned as Agricultural General (AGG) District. The 2017 Development Permit for Natural Resource Extraction/Processing was originally approved in June 2017 and was subject to an appeal to the Board.

[11] The 2017 Development Permit was approved by the Board with additional and modified conditions on September 25, 2017. The additional conditions related to the timing and direction of the construction of the berm, the planting of trees on the berm and the testing of the private water well. The modified condition dealt with the hours of operation.

[12] As the 2017 Development Permit was time limited for 2 years, the Applicant submitted an application for a “renewal” development permit on September 11, 2019. The 2019 application was reviewed for compliance with the County’s Land Use Bylaw 2017-18 (the “LUB”). The Development Authority approved the 2019 Development Permit with conditions (see pages 27/52 to 28/52 of the Materials). The Development Authority stated that the proposed development meets the requirements in section 12.12 of the LUB (see Appendix “D”).

[13] The Development Authority:

- a) did not carry forward the previously modified condition for hours of operation because the hours of operation are outlined in section 12.12 of the LUB. Standard hours of operation are maintained by all pits in the County. Having standard hours ensures a consistent and efficient approach to enforcement for all operators in the area;
- b) did not carry forward the previously added condition regarding the timing and direction of the construction of the berm because during progressive reclamation, the Applicant will not remove the entirety of the topsoil or overburden at one time. The topsoil or overburden will be continually stockpiled and used to reclaim as the mining blocks are depleted;
- c) did not carry forward the previously added condition for additional tree plantings on the berm because the berms are not permanent in nature and are not compacted to support the growth of larger vegetation; and
- d) did not carry forward the previously added condition for private well testing because private well activities are regulated by the Province, and the Development Authority does not have the authority to require an Applicant to enter privately held lands not under the Applicant’s ownership.

[14] In response to Board questions, the Development Authority confirmed that even though the 2019 Development Permit says “renew”, the 2017 Development Permit expired, so the Applicant had to apply for a new development permit. The Development Authority confirmed

that the hours of operation referenced in the LUB are 24 hours a day, but operations are not permitted from 6 p.m. Saturdays to 6 a.m. Mondays.

[15] The Development Authority confirmed the correct municipal address is 53120 Range Road 73.

### **Appellant Mark Cacka**

[16] The Board next heard from the Appellant, Mark Cacka, who owns land immediately north of the Site.

[17] Mr. Cacka was surprised by the 2019 Development Permit. He did not understand that the Applicants had to “re-apply” for a development permit, because the 2019 Development Permit stated that it was a “renewal”. For that reason, he believed that all of the conditions imposed by the Board in 2017 would have been applied to the 2019 Development Permit.

[18] Mr. Cacka requested three things:

- a) A return of his appeal fee, as he was not asking for anything more than what the Board had granted in 2017;
- b) That the hours of operation be the same as set out in the Board’s 2017 decision; and
- c) That the Applicant plant trees on the north side of the Site facing the Cacka residence. He provided Exhibit 5 to show where he was requesting the trees. There was no need for trees on the east side of the property which had willows and spruce. He was asking for trees on the north side of the Site, along the approximately 350 metre length identified, which was less than 50% of what had been asked for in the 2017 request. He understood that trees could not be placed on top of the berm, but wanted them along Township Road 531. He suggested that the Board should provide specifics, including the spacing of the trees (he suggested 3 metres apart) and the size (he suggested a minimum of 4 to 5 feet trees).

[19] Mr. Cacka stated that these conditions would mitigate the impact of the development on his family, their quality of life and the value of their home.

[20] In response to Board questions, Mr. Cacka stated his well has gotten better over time. There has been no development on the Site as of yet.

### **Applicant Entwistle Concrete as represented by Dan and Cindy McCracken**

[21] The Board heard from Dan and Cindy McCracken, who spoke on behalf of the Applicant Entwistle Concrete Products Ltd.

[22] The Applicant advised that when it applied two years ago, they understood the conditions which were imposed would remain as part of the approval. The Applicant had no objections to the requests made in 2017 and intended to follow the requirements. The 2017 Development Permit was for a two year period, and they have not yet started development as they have not yet received Alberta Environment approval. Therefore, there are no berms, etc.

[23] The Applicant indicated that it had no objections to honouring the conditions which Mr. Cacka has requested.

[24] In response to Board questions, the Applicant advised that trucks will exit from the northwest portion of the Site and proceed west to Highway 22. The trucks will not haul in front of Mr. Cacka's property. The trees will block Mr. Cacka's view of the pit. The Applicant had no problem with planting trees, even though there are more trees proposed than the McCrackens had initially agreed to with the Cackas.

[25] When the Board asked whether the Applicant had a concern working to the restricted hours, the Applicant advised that it wanted to stick with the County rules, but since it had agreed to the restricted hours, it would have to "stick with it".

[26] The Applicant also indicated that it did not understand that the 2019 Development Permit would be treated as a new application. They did not have a problem agreeing to the conditions that were placed on the 2017 Development Permit by the Board.

## **FINDINGS OF FACT**

[27] The Site is located at NE 9-53-7-W5.

[28] The Site is zoned Agricultural General (AGG) District in Parkland County Land Use Bylaw 2017-18, as amended.

[29] The Use is a discretionary use within the District.

[30] The proposed use complies with the County Municipal Development Plan Bylaw 2017-14. There is no Area Structure Plan for the Site.

[31] The proposed use is compatible with the surrounding properties.

[32] The Appellant is an affected person.

## **REASONS**

[33] The Board notes that its jurisdiction is found in section 687(3) of the Municipal Government Act. In making this decision, the Board has examined the provisions of the County's LUB, and has noted the County's Municipal Development Plan as referenced in the Development Authority's Report. The Board has also considered the oral and written submissions made by the Appellants, the Development Authority, and the Applicants.

*687(3) In determining an appeal, the subdivision and development appeal board*

*(a) must act in accordance with any applicable ALSA regional plan;*

- (a.1) must comply with any applicable land use policies;*
- (a.2) subject to section 638, must comply with any applicable statutory plans;*
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;*
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;*
- (b) must have regard to but is not bound by the subdivision and development regulations;*
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;*
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,*
  - (i) the proposed development would not*
    - (A) unduly interfere with the amenities of the neighbourhood, or*
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,*
  - and*
  - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

### **Affected Persons**

[34] The Appellant, Mr. Cacka, lives immediately north of the Site and is affected by the proposed development due to his proximity to the proposed development.

[35] Although it may not be required to expressly address the status of the Applicant, in order to be clear, the Board finds the Applicant affected because its permit has been appealed.

### **Statutory Plans**

[36] The County's MDP, Policy 5.0.7(a) supports the responsible extraction of natural resources prior to surface development. Policy 5.0.7(h) requires that all natural resource extraction operations ensure compliance with municipal, provincial and federal regulations and permitting.

[37] Neither the Appellant or the Applicant argued that the proposed development did not comply with the County's MDP. Since this extraction will occur before surface development,

and since the Applicant is seeking provincial and municipal approvals, the Board finds that this application complies with the County's MDP.

[38] There is no area structure plan governing the Site.

### **Land Use**

[39] The property is zoned Agricultural General (AGG) District (see section 4.1 of the Land Use Bylaw).

### **Nature of Use**

[40] Within section 4.1, Natural Resource Extraction/Processing is a Discretionary use.

[41] The Appellant did not argue against the issuance of the permit, but only for the imposition of 2 conditions: one relating to the hours of operation, and the second about tree planting along the north property line of the Site.

### **Conditions**

[42] The Board has modified the conditions as set out in Paragraph [7] above to address the concerns which were raised by the Appellant.

[43] The Board noted that Mr. Cacka asked for only two changes to the conditions: one dealing with trees, and the second dealing with hours of operation.

#### *Trees*

[44] Mr. Cacka asked that the Board impose a condition that the Applicant plant trees along an approximately 350 metre portion of the north property line of the Site. He acknowledged that trees cannot be planted on a berm, but asked that trees be put along the north property line to limit the impact of the development on his family and their enjoyment of their residence. The Applicant had no objection to this condition.

[45] The Board noted that Mr. Cacka asked for certainty in terms of the conditions, and Mr. Cacka had proposed the number of trees and their separation. Since the Applicant had no objection, the Board is prepared to amend the conditions of approval to include this condition. The Board imposes a condition that the Applicant plant 2 rows of trees, 116 trees in each row, in the area identified in Appendix "C". The Board is of the view that the trees should minimize the sound and sight of the development and assist in addressing any concerns of compatibility. The Board also notes that setting out the expectations in the development permit provides clarity, should there be a change in control of the Applicant, or should the Applicant sell the Site.

[46] The Board wishes to point out that its decision in this matter (the ordering of trees) is based upon the particular facts before it, including that both the Appellant and the Applicant agree to this condition. The Board's condition here should not be taken as an indication that the planting of trees will be required for all natural resource extraction permits.

### *Hours of Operation*

[47] The Board notes that Mr. Cacka has asked for the Board to impose the same limitation on the hours of operation as found in the 2017 Development Permit. The Board noted that the Appellant stated that it had understood that it would be bound by the 2017 Development Permit conditions, and as well, by its agreement with Mr. Cacka. The Board has considered the Development Authority's comments regarding its rationale for not imposing the same condition regarding hours of operation, as found in the 2017 Development Permit. While the Board considered the operational ease for the Development Authority, the Board has also noted that in making its decision, the 2017 Board placed considerable weight on the evidence of impact on Mr. Cacka, and that the 2017 Board felt that the change in operating hours would mitigate the impacts of the development, such that this condition was important to assist in making the use compatible with neighbouring uses. This Board weighed the Development Authority's rationale against the rationale provided by the 2017 Board and the agreement of the Applicant to the condition regarding hours of operation.

[48] In light of the Applicant's agreement to honour the commitment about hours of operation, and the concerns expressed in the 2017 decision about the operations, the Board is persuaded that the hours of operation should be as set out in the 2017 Development Permit. While this may be slightly inconvenient for the Development Authority, the Board weighed more heavily the possible impact of the proposed development on the Appellant. The Board is of the view that the condition will assist in addressing any impacts from the proposed development on the Appellant and assist in addressing any concerns of compatibility.

[49] The Board notes that the Appellant has asked for only the above two changes, which were both agreed by the Applicant. Since no other changes were requested by the Appellant, the Board is making no other changes to the conditions imposed as part of the 2019 Development Permit.

[50] The Board wishes to note that Mr. McCracken, on behalf of the Appellant, stated his desire to be governed by the hours of operation as specified in section 12.12 of the LUB, but also confirmed his willingness to honour the commitment he and the Applicant had made to Mr. Cacka regarding hours of operation and the trees. The Board wishes to commend Mr. and Mrs. McCracken for their integrity. Their confirmation that they will honour their previous commitment speaks volumes about their character.

[51] The Board notes that if circumstances change, it is open for the Applicant to apply to vary the conditions imposed in the 2019 Development Permit.

[52] The Board agrees with the balance of the conditions as imposed by the Development Authority, and has affirmed them in this decision.

### **Other Matters**

[53] The Appellant asked the Board to refund the appeal fee that he had paid to file his appeal on the basis that the 2019 Development Permit was a "renewal" of the 2017 Development Permit, and the conditions imposed by the Development Authority should have been the same as those imposed by the Board in its 2017 decision.

[54] The Board understands the concerns raised by the Appellant and notes that the Applicant was also unclear about whether the 2019 application was a renewal or a new permit. The Board has reviewed the provisions of the LUB and notes that the only reference to “renew” is found in section 12.12. The Board notes that since the 2017 Development Permit was for a two year time limited period, the 2017 Development Permit has expired. Therefore, although section 12.12 references a “renewal”, the legal conclusion must be that the 2019 application was for a new permit.

[55] The Board noted that the Development Authority noted the confusion by both the Applicant and the Appellant and suggests that there will be a change to the wording in future to avoid this confusion.

[56] In relation to the Appellant’s request for the return of the appeal fee, the Board has reviewed the terms of the Subdivision and Development Appeal Board Bylaw 2015-15, as amended. All appellants are required to pay the appeal fee, which is set by the County in its Fees and Charges. The Board has no authority to override the Subdivision and Development Appeal Board Bylaw 2015-15, and therefore, cannot grant this aspect of the relief requested by the Appellant.

[57] For the above reasons, the appeal is granted in part.

Issued this 19<sup>th</sup> day of December, 2019 for the Parkland County Subdivision and Development Appeal Board



Barb Williams, Board Clerk on behalf of  
Larry Niblock, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

*This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, R.S.A. 2000, c.M-26. An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed.*

**APPENDIX “A”  
REPRESENTATIONS**

**PERSON APPEARING**

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1. Rachelle Trovato, Development Planner, Parkland County
2. Mark Cacka, Appellant
3. Dan and Cindy McCracken, representing Entwistle Concrete Products Ltd.

**APPENDIX “B”**

**DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

Exhibit	Description	Date	Pages
1.	Agenda Package Table of Contents and Agenda	December 12, 2019	n/a
2.	Notice of Appeal – Mark Cacka	November 25, 2019	3 - 22
3.	Submission of the Development Authority	December 9, 2019	23-50
4.	Submission of the Appellant Mark Cacka	December 9, 2019	51-52
5.	Map	December 16, 2019	n/a

APPENDIX "C"



## **APPENDIX “D”**

### **Section 12.12 County of Parkland Land Use Bylaw 2017-18**

#### 12.12 Natural Resource Extraction / Processing

1. Sand and/or gravel developments contained within the Natural Resource Extraction / Processing use shall not be within a Multi-Parcel Residential Subdivision.

2. There shall be no sand and/or gravel developments within 300.0 m of the boundary of a MultiParcel Residential Subdivision.

3. The Development Authority may consider a variance or a waiver Section 12.12.2 provided that:

- a) No crushing, processing, washing, or similar is occurring within the 300.0 m requirement;
- b) Extraction and reclamation activities within the 300.0 m requirement may only occur between 8:00 a.m. and 5:00 p.m. Monday to Friday;
- c) The applicant/owner provides appropriate measures, to the satisfaction of the Development Authority, to mitigate any nuisance or potential nuisance from the Pit Area; and
- d) The Development Authority is satisfied that extraction and reclamation activities occur expeditiously and in a manner that poses minimum affect to residents within the MultiParcel Residential Subdivision.

5. In considering whether to approve aggregate extraction as a Discretionary Use, the Development Authority may also consider the uniqueness of each application for a new or renewal aggregate extraction use, or an expansion to an existing aggregate extraction operation, and have additional due regard for the following:

- a) the purpose of this Bylaw and the general purpose of the district in which the development is located and the future use of the site as proposed in a reclamation plan;
- b) the provisions of the Municipal Development Plan and any relevant statutory plan;
- c) relevant guidelines prepared by Alberta Environment and their comments on applications made for provincial approval;
- d) the desirability to utilize the aggregate resource as a regional benefit;
- e) conservation of topsoil for agricultural use on this or another site;
- f) conservation of designated historical resources;
- g) conservation of trees and maintenance of habitat;
- h) conservation of environmentally significant and sensitive areas, including areas identified in the Environmental Conservation Plan;
- i) conservation of watercourses; and
- j) the safety and potential nuisance effect(s) on adjacent properties, including both operation and hauling activities.

#### 6. Hours of Operation

a) The hours of operation for the pit, including extraction, reclamation and the processing (crushing) of materials shall be specified by the Development Authority. The Development Authority shall have regard to, but not bound by, the following guidelines:

- i) No operation between 6:00 p.m. Saturday and 5:59 a.m. Monday.

7. Dust and Noise

a) The applicant shall

i) prevent noise from becoming an annoyance to neighbouring landowners at the request of and to the satisfaction of the Development Authority. Required prevention may include, but not be limited to, locating stockpiles to act as sound barriers and using methods of minimizing or reducing noise created by machinery and equipment.

Installation of noise monitors shall be required as a condition of a development permit. Noise that exceeds the level as specified in the Community Standards Bylaw is an indication that noise may be an annoyance; and

ii) ensure compliance with the Environmental Protection & Enhancement Act regarding dust and air quality.

8. The applicant(s) shall locate appropriate safety and traffic signage on and about the subject site and road accesses, to the satisfaction of the Development Authority.

9. An Industrial Haul Agreement, between Parkland County (Public Works Operations Department) and the land owner/developer of aggregate extraction incorporating, but not limited to, such things as haul routes, maintenance, dust control, security, signage, participation in the Alberta Sand and Gravel Association central truck registry numbering system, notification to local residents, and other related clauses is required as a condition of a development permit.

10. Hours for Hauling

a) The removal of sand and/or gravel from the pit location (hauling) shall take place only within the hours specified by the Development Authority. The Development Authority shall have regard to but is not bound by the following guidelines:

i) 6:00 a.m. to 6:00 p.m. Monday to Friday

ii) 8:00 a.m. to 4:00 p.m. Saturday

iii) No hauling on Sunday.

11. No new aggregate extraction or expansion of an existing operation shall be located within 20.0 m of any public road, unless otherwise approved by the Development Authority. The Development Authority may require certain buffering/screening measures occur within this Setback.

12. All stripping, excavation, and grading shall be in conformance with Subsection 11.8 of this Bylaw.

13. The applicant shall keep the area, subject to the development permit, in a clean and tidy condition free from rubbish and non-aggregate debris, including any required screening or buffering to the satisfaction of the Development Authority, at all times.