

MINUTES OF THE PARKLAND COUNTY SUBDIVISION & DEVELOPMENT APPEAL BOARD  
(THE "BOARD") HELD IN COUNCIL CHAMBERS AT THE COUNTY OFFICE ON DECEMBER 11,  
2017

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**CALL TO ORDER**

Chairperson, J. McCuaig, called the meeting to order at 4:00 p.m.

**PRESENT**

Members: D. Smith, J. McCuaig, J. Philpott, S. Whitehouse

Clerk: B. Williams, Legislative Officer

Counsel for the Board: A. Simmonds

Recording Secretary: L. Tyerman

**ADOPTION OF AGENDA**

Moved by D. Smith that the December 11, 2017 Agenda be adopted, as presented.

Carried

**ELECTION OF CHAIRPERSON**

D. Smith moved that J. McCuaig be elected Chairperson for the December 11, 2017 meeting.

Carried

**NEW BUSINESS**

**4:00 p.m. Appointment**

An appeal of Development Permit 17-D-578 to level off hill on south side of shop for grading purposes located at SE-5-53-1-W5M, Municipal Address: 53014 Rge Rd 14.

The Chairperson opened the Hearing at 4:02 p.m.

The Chairperson introduced the Clerk, B. Williams. The Clerk introduced the Appeal into the record. The Clerk suggested that due to time constraints and upcoming office closures, the Board open the Appeal of Development Permit 17-D-578 at this meeting, and adjourn it to a future date.

The Chairperson acknowledged that the Appellant, Applicant and Development Authority were not in attendance at the meeting. All affected parties had been advised of, and had agreed to, the adjournment prior to the meeting.

The Board discussed potential adjournment dates, and scheduled the appeal hearing to reconvene on February 5, 2018 at 4:10 p.m., with a submissions deadline of January 30, 2018.

S. Whitehouse moved that the Appeal matter of Development Permit 17-D-578, be adjourned to February 5, 2018 at 4:10 p.m.

Carried

The Chairperson adjourned the hearing at 4:09 p.m.

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## **NEW BUSINESS**

### **4:10 p.m. Appointment**

Reconvene an appeal of a Stop Order (G&E Vending Ltd.) on the lands described as Plan 7720277, Block 3, Lots 1 and 2, SW-4-53-26-4, Municipal Address: 144 - 10305 David Road.

The Chairperson opened the hearing at 4:10 p.m.

The Chairperson acknowledged that Kevin Haldane, of Ogilvie LLP. joined the meeting via teleconference as Legal Counsel for the Appellant. There were no affected parties or Development Authority staff in attendance.

The Chairperson introduced the members of the Board.

The Chairperson introduced B. Williams, Clerk to the Board. The Chairperson advised that it is the Board's practice to have the Clerk participate in private discussions with the Board and asked Mr. Haldane if there were any objections. There were none. The Clerk introduced the Appeal into the record.

The Clerk told the Board that a request for postponement had been received from the Appellant on December 4, 2017. The Clerk added that the Development Authority had indicated that they had no opposition to the postponement request.

**Recess**

The Chairperson called a recess at 4:14 p.m.

The Chairperson reconvened the meeting at 4:15 p.m., with all Board Members present.

The Chairperson advised legal counsel for the Appellant that the Board would adjourn the hearing to February 12, 2018 at 4:10 p.m. Mr. Haldane agreed to this adjournment schedule.

J. McCuaig moved that the appeal hearing of a Stop Order issued to G&E Vending Ltd. be adjourned to February 12, 2018 at 4:10 p.m.

**Carried**

The Chairperson adjourned the hearing at 4:17 p.m.

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**Recess**

The Chairperson called a recess at 4:17 p.m.

The Chairperson called the meeting to order at 5:15 p.m. with all Board Members present.

## **NEW BUSINESS**

### **5:15 p.m. Appointment**

An appeal of approved Development Permit No. 17-D-594 for a Landscaping Business located at Lot 1, Plan 8020743, NW-6-52-26-W4, Municipal Address 52029 Range Road 270.

The Chairperson opened the Hearing at 5:16 p.m.

The Chairperson asked if anyone affected by the appeal had any objections to the Board members hearing the appeal; there were none.

### **Present Administration Staff**

F. Long, Development Planner

C. Thomas, Manager, Development Planning

The Chairperson introduced B. Williams, Clerk to the Board. The Chairperson advised that it is the Board's practice to have the Clerk participate in private discussions with the Board and asked those present if there were any objections; there were none. The Clerk introduced the Appeal into the record.

The Chairperson asked if any affected party present intend to provide written materials not provided to the Clerk in advance of the hearing. There were none.

The Chairperson asked if any affected party present intend to request a postponement of the hearing; no requests for postponement were brought forward.

### **Submission of the Development Authority**

Ms. Long, Development Planner for Parkland County, presented the administrative report into the record and provided the Board with the following details:

The Development Permit is for a Home Based Business Level 3, located in the eastern portion of the County. The closest major intersection is Highway 60. The site is located within a 19.7 acre parcel, and is not within 150 metres of a multi-parcel residential subdivision. The landscaping business will employ up to 4 staff. The site will be used mainly for storage of materials such as paving stones. The storage area will be fenced with 6 foot high solid wood fencing. There will be no client visits to the site. The equipment for the business includes 4 pick-up trucks, 1 flatbed truck, and 1 small skid steer. The storage yard will be used for materials such as paving stones. All equipment and materials will be stored in a 50 x 50 metre fenced yard with a 3 metre setback from the adjacent property line the north and a 12 metre setback from the road.

The Applicant also requested the approval of a second approach for the property. The Development Permit indicates that the Applicant must apply for a new approach and that any new approach must comply with Parkland County's Engineering Design Standards.

"Home Based Business Level 3" is a discretionary use in the Agricultural General District (AGG). Section 20.3 of the Parkland County Land Use Bylaw 2017-18 (the "Land Use Bylaw") permits a

business, such as contracting services or parking of commercial vehicles, that includes the resident who permanently resides on the property and up to four non-resident employees. In the Development Authority's opinion, a small, family-run landscaping business falls within the definition of Home Based Business Level 3.

Ms. Long submitted that the Development Permit is reasonably compatible with the surrounding uses for the following reasons:

- Ms. Long submitted that the area of proposed outdoor storage and parking is appropriate because the outdoor storage, parking and traffic will only be located in the 50 x 50 metre fenced area.
- There will be solid fencing surrounding the 50 x 50 metre fenced area.
- The business is located within a small area of a large 19.7 acre parcel.
- The business will be staffed by a reasonable amount of employees (up to 4).
- The Applicant and any employees will access the Development from the Range Road, which is a County road, not a private internal subdivision road.
- There will be no client visits to the site.
- There will be no assembly or fabrication on the site.
- The site is not within 150 metres of a multi-parcel residential subdivision.
- The application is consistent with the Municipal Development Plan ("MDP") and the County's LUB.
- The hours of operation are restricted.

When questioned by the Board, Ms. Long advised that the setback for the Development is measured from the site property line from the east side of the ditch.

When questioned by the Board, Ms. Long said that Range Road 270 is a paved municipal road. Ms. Long explained that there are no hills or obstructions on the road and provided the Board with the "Click Report" elevation map for the site on the projectors. The map did not show any significant elevation changes on Range Road 270. Ms. Long agreed to provide paper copies of the map displayed on the projectors during a break in the hearing.

When questioned by the Board, Ms. Long advised that any expansion to the landscaping business would require the approval of the Development Authority. The Development Authority noted that the LUB only permits a maximum of four employees for a Home-Based Business Level 3, so an application to increase the number of employees would not be approved.

When questioned by the Board, Ms. Long confirmed that there is an easement registered on the title to the site and that it appears to cross a part of the fenced area. Ms. Long advised that it is the Applicant's responsibility to ensure that the Development and the use of the site comply with the easement.

#### **Submission of the Appellant**

The Appellant, Susan Morris advised that she resides at the property adjacent to the site. Ms. Morris said that she suffers from anxiety, and is having difficulty coping with this business

being next to her home. She does not feel that she will be comfortable in her home with a business next door. Ms. Morris does not wish to live next door to a storage yard filled with cinder blocks. She feels it could become a junk yard. Ms. Morris explained that the Applicant has already removed many trees, and has left rotten trees which will fall down. The removal of the trees has left an open space that will make the storage yard visible from the road, which will be unsightly and cause property value loss. Ms. Morris has heard from another neighbour that the Applicant plans to open a full scale storage facility. Ms. Morris has not met the Applicant, but feels that he is planning to turn the quiet neighbourhood into an industrial area. Ms. Morris questioned who would monitor the business and ensure that they will not have more employees than is allowable. Ms. Morris feels that the trucks will cause potholes in the roadways.

When questioned by the Board, Ms. Morris answered that she resides directly to the south of the site.

#### **Submissions in Support of the Appeal**

David Arcand, who lives approximately 1.5 miles north of the proposed site spoke in support of the Appeal. Mr. Arcand told the Board that he tried to start a business 6 months ago, and was denied due to the zoning in the area. The business was to be for automotive repairs, he understands that the Applicant will be doing automotive repairs on the site. Mr. Arcand recently subdivided his land and was told he has to remove an entrance to his property, but the Applicant will be allowed to have an additional entrance. The proposed business will be located directly across the road from the area's community hall. Mr. Arcand is concerned that the Applicant will cut paving stones on site. The airport and increased businesses in the area are causing issues with traffic.

When questioned by the Board, C. Thomas, Manager, Development Planning, explained that under the County's updated LUB, the Development Authority is not required to advertise approved Discretionary Permits in the newspaper. A business of this size would require that the Development Authority send a notification letter to any landowner within 100 metres of the proposed development.

When questioned by the Board, Ms. Long replied that the Engineering Design Standards states that any property larger than 10 acres can have a second approach. There is a standard distance allowed between approaches under the Engineering Design Standards. The Application for a second approach is currently pending with the Engineering Department of Parkland County.

When questioned by the Board, Ms. Long replied that the application does not currently allow for automotive repairs on the site.

When questioned by the Board, Ms. Long stated that the Development Authority did not take into consideration the location of the nearby airport.

When questioned by the Board, Ms. Long answered that the only structure in the Development is a 3 x 3 metre shed, which does not require development approval. No buildings or structures have been approved in the Development Permit.

When questioned by the Board, Ms. Long said that a condition could be added to the Development Permit to ensure that the Applicant maintains the fence surrounding the storage yard in good condition.

When questioned by the Board, Ms. Long indicated that the Applicant had cleared trees prior to the application for a Development Permit. Landscaping was considered as visual abatement for the neighbours but it was determined that the 6 foot tall solid wood fence would act as a barrier and visual screen.

### Submissions in Opposition to the Appeal

There were none.

### Submission of the Applicant

Raphael Janisz, the Applicant told the Board that he does not understand the source of the Appellant and Mr. Arcand's concerns. Mr. Janisz gave the Board some history on the business and explained the following:

- For the time being it is just Mr. Janisz and his father who are employees.
- The storage area shown on the plans is an approximation. Some of this area will be used to drive their trailer around.
- On a typical day Mr. Janisz loads his vehicle and heads to their storage yard in Edmonton.
- Most of the work the company does is installing paving stones and retaining walls.
- He was told he did not need a development permit to clear trees on his land.

When questioned by the Board, Ms. Long confirmed that the easement owner is Co-op Gas.

When questioned by the Board, Mr. Janisz said that the materials that will be stored on the site are leftovers from completed jobs and not stockpiles of new materials. The majority of the materials from their Edmonton yard will be recycled, not moved to the Site. He does not anticipate that he will use more than half of the 30 metre x 30 metre storage area in the Development.

When questioned by the Board, Mr. Janisz explained that the reason for applying for the second approach is simply for convenience, so that he does not have to drive past his home to and from the yard. He stated that the current approach is also uneven.

When questioned by the Board, Mr. Janisz confirmed that he only intends to use the Development for storage and that they are not equipped to do any manufacturing, stone cutting, or repair work. He also confirmed that, other than keeping a spare jerry can with fuel, they will not be storing any fuel on the Site.

When questioned by the Board, Mr. Janisz advised that he lives on the site with his girlfriend. He doesn't anticipate that there would be more than one other person visiting the site at a time. He confirmed that he typically leaves the site around 8:00 a.m. and returns at the end of the day. It would be unusual for him to return to the site during the work day.

When questioned by the Board, Mr. Thomas answered that the type and scale of clearing done on the site would not have required a permit.

When questioned by the Board, Mr. Thomas said that the Development Authority relies on the information provided in the application. Enforcement is brought in when there is a case where the use has expanded what is allowed for the permit.

When questioned by the Board, Mr. Janisz indicated that he does not intend to be noisy or disrupt the neighbourhood. He said that he would his neighbours to speak to him about concerns they may have that are related to the Development.

#### Closing Remarks of the Applicant

Mr. Janisz said that he hopes he has alleviated some of the neighbours concerns in relation to the development. He feels that he is similar to a farmer in that he just wants his tools located on his property, the only difference being that he travels to and from work in Edmonton.

#### **Recess**

The Chairperson called a recess at 6:11 p.m.

The Chairperson called the meeting back to order at 6:22 p.m. with all Board Members present.

The Development Authority provided the Board and affected parties with copies of the following documents, marked as exhibits for the Board's record:

- Exhibit 6. Screen Shot of Click Report elevation map showing location of site;
- Exhibit 7. Printout of Click Report elevation map showing location of site.

No one present at the hearing opposed to the documents being added as exhibits for the record.

#### Closing Remarks of the Appellant

Ms. Morris said that she has great concerns regarding compliance, and consequences for non-compliance. She does not feel that the oversight of this operation will be a priority for the County as the County lacks the resources to police it. Ms. Morris said that she worries the intention of the Development is to replace the Applicants current storage yard located in Edmonton. Ms. Morris stated that she did not appreciate Mr. Janisz attitude when he said that there would only be one truck on the road. Ms. Morris explained that she worries there will be more vehicles on the road when the busy season for landscaping hits. Ms. Morris indicated that she has concerns that the operation will become larger and the Applicant will build multiple small sheds which do not require permits to house his materials and equipment. Ms. Morris feels that the Development is going to affect the value of her property. In closing Ms.

Morris said that she does not want to live next to a business, she asked that the Board please deny the permit.

The Chairperson asked those in attendance if they felt they had received a fair hearing. Those present agreed they had received a fair hearing.

The Chairperson asked if the Board was satisfied with the amount of information received at the hearing; the Board members agreed they were satisfied with the amount of information received.

**ADJOURNMENT**

The Chairperson closed the hearing at 6:29 p.m.

  
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Chairperson