

**ROCKY VIEW COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Board Order No.: 2020-SDAB-009

File No.: 03321005 PRDP20200124

Appeal by: Don Campbell (1275685 Alberta Ltd.)

Hearing Date: 2020 June 03

Decision Date: 2020 June 18

Board Members: Daniel Henn, Chair
Tricia Fehr
Hazel George
Morrie M. Goetjen
Wendy Metzger

DEVELOPMENT APPEAL DECISION

INTRODUCTION

[1] This is an appeal to the Rocky View County Subdivision and Development Appeal Board (the Board) from a decision of the Rocky View County Development Authority issued March 24, 2020. In this decision, the Development Authority approved a development permit application for general industry, type II, construction of a four-bay tenant warehouse and signage at NE-21-23-28-W04M (the Lands).

[2] Upon notice being given, this appeal was heard electronically on June 3, 2020 in accordance with the Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

DECISION

[3] The appeal is denied and the decision of the Development Authority is upheld.

BACKGROUND

[4] On January 23, 2020, 905748 Alberta Ltd (the Applicant) submitted a development permit application for general industry, type II, construction of a four-bay tenant warehouse and signage on the Lands.

[5] The Lands are located at NE-21-23-28-W04M, are ±16.19 hectares (± 40.00 acres) in size, and owned by 905748 Alberta Ltd.

[6] The Lands' land use designation is General Business District and is regulated in section 53 of Rocky View County *Land Use Bylaw C-4841-97* (the *Land Use Bylaw*).

[7] On March 24, 2020, the Development Authority approved a development permit application for general industry, type II, construction of a four-bay tenant warehouse and signage on the Lands. Under section 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the Act), the original appeal deadline of the Development Authority's decision was April 14, 2020.

[8] On March 31, 2020, the Minister of Municipal Affairs issued Ministerial Order 22/20 which extended the appeal deadline under section 686 of the Act to October 1, 2020. This was in response to the COVID-19 pandemic.

[9] On April 17, 2020, the Minister of Municipal Affairs issued Ministerial Order 36/22 rescinding Ministerial Order 22/20 and restoring the appeal deadline under section 686 of the Act to 21 days after the decision of a Development Authority on a development permit application.

[10] Ministerial Order 36/22 included a provision extending any appeal period that ended between March 25, 2020 and April 17, 2020 by a further 21 days. Therefore the effective appeal period for the Development Authority decision considered in this Board decision ended on May 8, 2020.

[11] On May 8, 2020, Don Campbell of 1275685 Alberta Ltd. (the Appellant) submitted an appeal of the Development Authority's decision to approve a development permit application for general industry, type II, construction of a four-bay tenant warehouse and signage on the Lands. The notice of hearing was circulated to 14 adjacent landowners in accordance with the Act and Rocky View County Council policy C-327, *Circulation and Notification Standards*.

[12] Members of the general public were given notice on how to participate in the hearing in accordance with Meeting Procedures (COVID-19 Suppression) Regulation, Alberta Regulation 50/2020.

[13] In written and verbal submissions before the Board, parties refer to Glenmore Trail and Highway 560 as interchangeable names. For the purposes of this decision, Glenmore Trail and Highway 560 are one and the same.

SUMMARY OF EVIDENCE

[14] The Board heard verbal submissions from:

- (1) Stefan Kunz, Planner for the Development Authority;
- (2) Don Campbell, the Appellant;
- (3) Steve Grande, consultant for the Appellant;

(4) Daniel Sekhon, for the Applicant; and

(5) Harry Sekhon, for the Applicant.

[15] The Board received no letters in support or opposition of the appeal.

[16] Appellant Exhibit 1, Applicant Exhibit 1, and Development Authority Exhibit 1 were submitted to the Clerk of the Board before the hearing date. The exhibits were electronically distributed to the Board Members, Development Authority, Appellant, and Applicant before the hearing for all parties to review.

[17] Appellant Exhibit 1 and Applicant Exhibit 1 were posted to the Rocky View County website for members of the public watching the hearing's livestream to access.

Development Authority's submissions

[18] The Lands are within the Calgary Intermunicipal Development Plan but do not fall under an area structure plan.

[19] There is significant development and building permit history on the Lands and most of the building uses are general industry type I and II.

[20] The development permit application meets the requirements of the *Land Use Bylaw* and County servicing standards and any outstanding technical matters are addressed in the proposed conditions of approval.

[21] The proposed conditions of approval require that if the total traffic generated by the proposed development is greater than 50 trips/hour, then the Applicant must submit a completed traffic impact assessment (TIA) in accordance with County servicing standards.

[22] A Traffic Impact Memo was conducted by the Applicant in 2014 and the Development Authority is satisfied that the proposed condition of approval 2 will ensure the 2014 Traffic Impact Memo still applies.

[23] The Applicant must confirm with the County how many trips per hour will be generated once the Applicant knows the tenant that will be in the proposed development. The use is for a warehouse, not retail, and therefore will not generate a great deal of traffic from public visitors.

[24] Norman Place is a public road that is built to County standards. Access to the Lands is through an undedicated approach off of Range Road 283.

[25] The Applicant has paid the required Transportation Offsite Levy and offsite cost recovery for the impact to the Glenmore Trail and Range Road 283 intersection (the Intersection) was provided as part of a separate development permit application in 2014.

[26] The Development Authority is satisfied that the proposed conditions of approval will ensure County road standards are met.

Steve Grande submissions – representing the Appellant

[27] Steve Grande represented the Appellant when the Appellant applied for redesignation of the property just west of the Lands. As a result, Steve Grande is very familiar with the area.

[28] The Appellant hired a traffic engineer who conducted a 2017 TIA, submitted as Appellant Exhibit 1, that concluded that there are significant operational and security issues at the Intersection. The TIA stated that the Intersection needed to be improved before the Appellant could proceed with development.

[29] The Appellant does not agree with the decision to approve the proposed development based on a 2014 Traffic Impact Memo that concluded that a TIA would only have to be done if more than 50 trips/hour were generated.

[30] Significant development has been put in place in the area since 2014, including:

- (1) two new developments have gone on Norman Place since 2015;
- (2) two new trucking companies are now along Range Road 283 since 2015; and
- (3) in 2018 the City of Chestermere finished the last stretch of pavement between Chestermere and Glenmore Trail which significantly increased the traffic at the Intersection.

[31] Steve Grande lives in Chestermere and knows that the Intersection is not safe. The speed limit along Glenmore Trail is 100 km/hr and numerous fatalities have happened at the Intersection over the last several years. Steve Grande and colleagues have had numerous serious near misses at the Intersection.

[32] Appellant Exhibit 1 states that the Intersection should experience a maximum 6,000 vehicles/day as established by the Province. Data from Alberta Transportation show that last year the west bound lane of Glenmore Trail has a count of 8,830 vehicles/day and in the summer the count goes up to 9,380 vehicles/day.

[33] The Appellant fully supports the proposed business and that the Applicant should not be fully responsible for paying to upgrade the Intersection.

[34] It is stated in the Applicant's exhibit that the proposed development will only generate 10 trips/day which is not a concern to the Appellant. The proposed conditions of approval, however, allow up to 50 trips/hour without requiring a TIA which is very concerning to the Appellant.

[35] Steve Grande and the Appellant would like to go on the record that the Province and County need to address a broken Intersection before more developments are put in place.

[36] The appeal is based on the Appellant's concern that the proposed development could add up to 50 trips/hour to the area without a TIA having to be completed. Steve Grande understands it is too onerous to ask that no more development be permitted in the area until the Intersection is upgraded.

Daniel Sekhon submissions – representing the Applicant

[37] Daniel Sekhon is the manager and site engineer for the Applicant.

[38] The Applicant has been on the Lands since 1981 and has been a part of the area's development since then. The first building on the Lands was built in 1995.

[39] The Applicant's style of buildings is geared towards manufacture/repair/assembly with overhead cranes that require a lot of space but does not generate a lot of traffic. The proposed development is not like a distribution warehouse which generates a lot of traffic.

[40] The Applicant is the landlord on the Lands and uses 20 percent of the warehouse area, generating fewer than 10 trips per day. There is only one user on site with a retail aspect and that user generates on average less than one customer per day.

[41] The Applicant has developed the Lands in a non-traditional way as they have been on site for so long and generally like to build and develop more slowly. A tenant that would cause a lot of traffic has never shown interest in the Lands due to the style of building.

[42] The Applicant has provided a receipt to show that the required cost recovery for road improvements has been paid. The Applicant was happy to pay it and will likely have to pay more as a part of future development permits.

[43] The Applicant has provided evidence that Alberta Transportation has issued a permit confirming that the proposed development does not require any upgrades to the Intersection.

[44] The Applicant does not have access to Norman Place.

[45] The 2014 Traffic Impact Memo was a part of an approved development and building permit for three new buildings which the Applicant decided not to move forward with. The Applicant will provide updated traffic counts as required by proposed condition of approval 2. The proposed development will not generate 50 trips/hour.

[46] Vehicles are going very fast through the Intersection and there is a lot of commuter traffic from Chestermere and Langdon. Daniel Sekhon can see how the intersection could be dangerous as vehicles wait to turn with 100 km/hr traffic and was happy with the 2018/2019 widening of the intersection. Alberta Transportation will only consider twinning or putting in a traffic light if there is a significant increase in traffic.

[47] Daniel Sekhon is not a traffic engineer and does not have expertise on the dangerousness of the Intersection and relies on the Province and County to make those decisions. In Daniel Sekhon's personal experience, the Intersection is just like all of the other turn-off intersections from Highway 560.

Harry Sekhon submissions – representing the Applicant

[48] The Applicant has been on the property since 1981 and was the first industrial developer in the area.

[49] The Applicant has been working with the County to develop the area since 1981 and a great deal of the improvements in the area have been at the cost of the Applicant. The Applicant has always done what the County required.

[50] The Applicant has not had any objections to any of the other developments put in on Norman Place road.

[51] The Applicant's developments only cause traffic in the morning when people are arriving and in the evening when people are leaving. The proposed development will generate very little traffic.

[52] The Applicant will do what the County requires.

Don Campbell rebuttal – the Appellant

[53] Don Campbell feels the Intersection is a failed intersection that has only gotten worse with time and is not aware of any upgrades that have been made to the Intersection since the 2017 TIA was conducted.

[54] The Intersection is extremely dangerous and is up to 50 per cent over the maximum recommended levels. The intent is not to put the entire burden of the upgrade on the Applicant but to express the concerns with the increase in usage of the Intersection which was accounted for in the 2017 TIA.

[55] Don Campbell feels he was given fair opportunity to present evidence to the Board.

FINDINGS & REASONS FOR DECISION

[56] The Board finds that general industry, type II, construction of a four-bay tenant warehouse and signage are discretionary uses in the General Business District in accordance with section 53 of the *Land Use Bylaw*.

[57] The Board finds it has the authority to make a decision on this matter pursuant to section 687(3)(d) of the *Municipal Government Act*.

[58] The Board reviewed all evidence and arguments, written and oral, submitted by the parties and focused on the most relevant evidence and arguments in outlining its reasons. The Board also considered the context of the development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[59] The Board heard the Appellant's concerns about the negative impact increased traffic generated by the proposed development will have on the intersection of Highway 560 (Glenmore Trail) and Range Road 283 and reviewed the Appellant's 2017 Traffic Impact Assessment. In turn, the Applicant supplied the Board with an Alberta Transportation permit approving the proposed development and its potential impact on provincial Highway 560. Alberta Transportation's issuance of a permit satisfies the Board that existing road infrastructure can absorb the traffic generated by the proposed development.

[60] The Board is satisfied that the Applicant has paid for the upgrade of Range Road 283 as required by County policy and that potential impact of the traffic generated by the proposed development is captured by condition of approval 2 in the Development Authority's March 24, 2020 decision.

CONCLUSION

[61] For the reasons set out above, the appeal is denied and the decision of the Development Authority is upheld.

Dated at Rocky View County, in the Province of Alberta on June 18, 2020.



Daniel Henn, Chair
Subdivision and Development Appeal Board

EXHIBIT LIST

Documents presented at the hearing and considered by the Board

NO.	ITEM
1.	Development Authority's Report to the Board (53 pages)
2.	Appellant Exhibit 1 (84 pages)
3.	Applicant Exhibit 1 (15 pages)
4.	Development Authority Exhibit 1 (11 pages)