

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

Board Order No.: 2019-SDAB-026

File No.: 06208009; PRDP20190626

Appeal by: Catherine Agar (West Kathryn Developments Ltd.)

Appeal Against: Development Authority of Rocky View County

Hearing Date(s): 2019 May 15  
2019 June 5

Decision Date: 2019 June 20

Board Members: D. Kochan, Chair  
H. George  
I. Galbraith  
D. Henn  
W. Metzger

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**DEVELOPMENT APPEAL DECISION**

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**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 April 2, 2019. In this decision, the Development Authority conditionally approved a development permit for a General Industry, Type III (existing), tenancy and signage for an explosives storage company at 274125 Township Road 262 (the Lands).

[2] Upon notice being given, this appeal was heard on May 15, 2019 and June 5, 2019 in Council Chambers of Rocky View County's County Hall, located at 262075 Rocky View Point, Rocky View County, Alberta.

**DECISION**

[3] The appeal is denied and the decision of the Development Authority is upheld. A development permit shall be issued subject to the following conditions:

**Description:**

1. That General Industry, Type III (existing), tenancy and signage for an explosives storage company may take place on the subject site in accordance with the submitted application and includes:
  - (a) Storage of explosives materials within designated Silos;
  - (b) Construction/placement of one accessory building (tent), approximately 111.48 sq. m (1,200 sq. ft.) in area;
  - (c) Three accessory buildings [sea containers], 37.82 sq. m (407.09 sq. ft.) in area, for storage;
  - (d) One Berms [existing onsite];
  - (e) Minor Regrading (if required) + placement of clean topsoil (existing onsite);
  - (f) Signage (identification, site wayfinding and security as required).

**Permanent:**

2. That the existing earth berm shall remain and be maintained on the subject property at all times.
3. That the existing earth berm shall be covered with 6.00 inches of topsoil and seeded to natural prairie grasses at all times.
4. That no additional topsoil or fill may be placed on the subject property, unless a separate Development Permit application is approved.
5. That all signage on-site shall be kept in a safe, clean, and tidy condition. At no point, shall any signage be flashing or animated.
6. That all on-site lighting shall be dark sky, and all private lighting, including site security lighting and parking area lighting, shall be designed to conserve energy, reduce glare, and reduce uplight. All development shall demonstrate lighting design that reduces the extent of spill-over glare, and eliminates glare as viewed from nearby residential properties.
7. That there shall be a minimum of five (5) parking stalls maintained on site at all times.
8. That the existing 1.82 m (6.00 ft.) high barbwire perimeter fence or a fence of a higher standard, shall be maintained onsite at all times. The perimeter fence shall enclose the storage area and include a lockable gate at the entrance.
9. That all garbage and waste shall be stored in weather and animal proof containers and shall be completely screened from view from adjacent properties and the public thoroughfares.

10. That it is the Applicant/Owner's responsibility to obtain and display a distinct municipal address in accordance with the County Municipal Addressing Bylaw (Bylaw C-7562-2016), for the subject principal use on the subject site, to facilitate accurate emergency response.

*Note: The Municipal Address is 274125 TWP RD 262*

11. That the Applicant/Owner shall request a site inspection, to be completed by County Fire Services, within 30 days of permit issuance or site occupancy (whichever occurs first) to discuss site operations.
  - (a) The Applicant/Owner shall implement any recommendations arising from the Site Inspection, to the satisfaction of the County Fire Services.
12. That any plan, technical submission, agreement, or other matter submitted and approved as part of the Development Permit application or submitted in response to a Prior to Issuance or Occupancy condition, shall be implemented and adhered to in perpetuity.
  - (a) That the Applicant/Owner shall adhere to the approved Site Security, Fire Safety Plan, and ERAP, as approved by the County.
    - (i) If any recommendations or changes are required or arise by the County, the Applicant/Owner shall adhere and implement those recommendations in keeping with safe Fire Safety Practices as per the Alberta Fire Code.

**Advisory:**

13. That it is recommended that the Applicant/Owner install a truck wash facility, as per Federal requirements.
14. That the business and associated development area shall adhere to the Weed Control Act [Statutes of Alberta, 2008 Chapter W-5.1], at all times.
15. That all other Federal, Provincial or Municipal approvals, permits and compliances are the sole responsibility of the Applicant/Owner.
16. That if the development authorized by this Development Permit is not commenced with reasonable diligence within twelve (12) months from the date of issue, and completed within twenty-four (24) months of the issue, the permit is deemed to be null and void, unless an extension to this permit shall first have been granted by the Development Officer.

**BACKGROUND**

[4] On February 28, 2019, Trevor Geddes (the Applicant) submitted a development permit application for an explosives storage site.

[5] The Lands are located at NE-08-26-27-W4M, located approximately 0.81 kilometres (1/2 mile) east of Range Road 275 and on the south side of Highway. 566. The Lands are approximately 93.28 acres (Ranch and Farm) and 8.25 acres (General Business) in area and are owned by the Hutterian Brethren.

[6] The Lands' land use designation is Ranch and Farm District and Limited Business District, which are regulated by sections 43 and 54 of the Rocky View County, *Land Use Bylaw C-4841-97* [the *Land Use Bylaw*].

[7] On April 2, 2019, the Development Authority conditionally approved a development permit on the following grounds:

**Description**

1. That General Industry, Type III (existing), tenancy and signage for an explosives storage company may take place on the subject site in accordance with the submitted application and includes:
  - (a) Construction/placement of one accessory building (tent), approximately 111.48 sq. m (1,200 sq. ft.) in area;
  - (b) Three accessory buildings [sea containers], 37.82 sq. m (407.09 sq. ft.) in area, for storage;
  - (c) One Berms [existing onsite]
  - (d) Minor Regrading (if required) + placement of clean topsoil (*existing onsite*)
  - (e) Signage (identification, site wayfinding and security as required)

**Permanent**

2. That the existing earth berm shall remain and be maintained on the subject property at all times.
3. That the existing earth berm shall be covered with 6.00 inches of topsoil and seeded to natural prairie grasses at all times.
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8. That the existing 1.82 m (6.00 ft.) high barbwire perimeter fence or a fence of a higher standard, shall be maintained onsite at all times. The perimeter fence shall enclose the storage area and include a lockable gate at the entrance.
9. That all garbage and waste shall be stored in weather and animal proof containers and shall be completely screened from view from adjacent properties and the public thoroughfares.
10. That it is the Applicant/Owner's responsibility to obtain and display a distinct municipal address in accordance with the County Municipal Addressing Bylaw (Bylaw C-7562-2016), for the subject principal use on the subject site, to facilitate accurate emergency response.

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11. That the Applicant/Owner shall request a site inspection, to be completed by County Fire Services, within 30 days of permit issuance or site occupancy (whichever occurs first) to discuss site operations
  - (a) The Applicant/Owner shall implement any recommendations arising from the Site Inspection, to the satisfaction of the County Fire Services.
12. That any plan, technical submission, agreement, or other matter submitted and approved as part of the Development Permit application or submitted in response to a Prior to Issuance or Occupancy condition, shall be implemented and adhered to in perpetuity.
  - (a) That the Applicant/Owner shall adhere to the approved Site Security, Fire Safety Plan, and Emergency Response Assistant Plan, as approved by the County.
13. If any recommendations or changes are required or arise by the County, the Applicant/Owner shall adhere and implement those recommendations in keeping with safe Fire Safety Practices as per the Alberta Fire Code.

**Advisory**

14. That it is recommended that the Applicant/Owner install a truck wash facility, as per Federal requirements.
15. That all other Federal, Provincial or Municipal approvals, permits and compliances are the sole responsibility of the Applicant/Owner.
16. That if the development authorized by this Development Permit is not commenced with reasonable diligence within twelve (12) months from the date of issue, and completed within twenty-four (24) months of the issue, the permit is deemed to be null and void, unless an extension to this permit shall first have been granted by the Development Officer.

[8] On April 23, 2019, the Appellant appealed the Development Authority's decision. The Notice of Hearing was circulated to 15 adjacent landowners in accordance with the *Municipal Government Act*, RSA 2000, c M-26 and Rocky View County Council Policy C-327, *Circulation and Notification Standards*.

### **SUMMARY OF EVIDENCE**

[9] The Board heard verbal submissions from:

1. Jacqueline Targett, Municipal Planner, for the Development Authority;
2. Sean MacLean, Planning and Development Supervisor, for the Development Authority;
3. Catherine Agar, Westcreek Developments Ltd., for the Appellants;
4. Trevor Geddes, Location Manager, Austin Powder, for the Applicants; and
5. Stuart McCallum, Safety and Compliance Manager, Austin Powder, for the Applicants.

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

#### *Development Authority's Submissions*

##### May 15, 2019

[11] Land use is split between Ranch and Farm and Limited Business Development, which is approximately 8.25 acres in size.

[12] The site was re-zoned by Rocky View Council in 2001 for a similar purpose.

[13] There was a development permit issued in 2002 and the site was occupied from March 2002 until December 2011.

[14] A new tenancy development permit is needed as the Lands were not used for a period of more than two years, as per *Land Use Bylaw* s.20.11.

[15] The Business note on the Application is General Industry Type III.

[16] The Business is an explosives supplier for various industries such as seismic, construction, and mining.

[17] The site will also contain emulsion storage and ammonium nitrate storage.

[18] The site will include a bulk truck that is used for delivery. This truck will be stored in an accessory building that will be approximately 1200 square feet in size.

[19] Included in the application were an updated Fire Safety Plan, Site Security Plan and Emergency Response Assistance Plan.

[20] Due to the nature of the business, federal approval was also required.

[21] There is a Radio tower adjacent to the property. Radio tower approval is federally regulated. The tower's owner was not circulated.

[22] The Development Authority looked at immediate properties and the area, as well as previous correspondence; Rocky View School was not circulated for this application. They were involved with re-designation process in 2002 and 2003 and their concerns from that time were considered with this application. They were not re-circulated to as they are outside of the circulation area required by the County's circulation policy.

[23] This proposal is of the same nature as previous development permit issued. No incidents were recorded during the time the development permit was active.

[24] It will be verified with the Hamlet of Kathryn Conceptual Scheme to ensure there are no setbacks that would affect the development, as the conceptual scheme runs to the border of this development.

[25] Ember Resources was included in the circulation area as there are pipelines running on the south side of the property, there is a distance separation between the development and the pipelines, but they were circulated as they are on title.

[26] Fire Services lists this development as a high hazard site and additional measures should be put into place. However, this statement does not apply purely to this development; they would like to do a site inspection to identify any issues and solutions. This is captured in condition 11 of the conditional approval.

[27] Alberta Transportation noted that no additional permits were needed from them due to the proximity of the development from the highway.

[28] Any concerns from CN Rail were resolved.

[29] The National Research Council of Canada (NRC) approval is not concurrent with the development permit approval.

[30] In the original approval, only one parking stall was required as there was no principal building on site. In this application it only triggered one stall but pulled forward the condition to have five spaces available to keep it consistent with the previous approval. The Development Authority assumes it was for employees.

[31] A condition for NRC licensing is not recommended for the development permit. The NRC licensing is a separate process from the development permit process. The Development Authority tries not to give away their authority away on these approvals.

[32] The condition for perimeter fencing is to ensure the existing fence remains in place and is repaired when any damage occurs.

[33] There is no current Area Structure Plan for the area.

[34] There are utility lines adjacent to the property, if those lines are not run onto the property they will be using generators to power the site.

[35] The NRC requires a wash facility on site for the truck, this wash facility is a federal requirement. There are no guiding policies in county policies on this. Road Operations was consulted and they advised there be no condition as this is covered in the federal approval.

[36] The distance was measured from the proposed storage facility itself, not the property line, to the nearest residence.

[37] The northern storage site of the ammonium nitrate does not require the same setbacks regulations as the emulsion storage.

[38] If a residential development is created and the development can no longer meet the federal setback requirements, the business is required to leave the site.

#### June 5, 2019

[39] At the request of the Board, the Rockyview School Division was circulated May 15, 2019. On May 22, 2019, they provided an official response and had no objections or concerns to the proposed site.

[40] The Fire Safety and Site Safety plans were provided after the last hearing. They contain confidential and proprietary information and therefore they were not provided in the agenda.

#### *Appellant's Submissions*

#### May 15, 2019

[41] Westcreek Developments Ltd. (Westcreek) manages lands for West Kathryn Developments. Westcreek currently does not have any development in Kathryn.

[42] The lands owned by Westcreek are less than 800 metres from the boundary of the application.

[43] The ammonium nitrate storage silo appears to be on the north of the Lands. This is potentially an explosive site and it is closer to the residences than the emulsion site.

[44] The location is not desirable to future land owners due to its proximity to an explosives storage site. Westcreek believes that they will have difficulty selling lots due to its proximity to the site.

[45] The current school is located approximately 2400 metres from the development. The future proposed school site will be located just north of the current school.

#### June 5, 2019

[46] No additional comments.



*Trevor Geddes and Stuart McCallum Submissions*

May 15, 2019

- [47] The facility is gated and locked; however, there is no 24-hour security at the site.
- [48] Ammonium will not sympathetically detonate at this distance. The hours of operation are Monday to Friday. It will be more so part-time in and out, with blasting maybe once a week at the mine located in Exshaw, Alberta. Nothing is produced on site; it is merely stored there and then brought to the mine.
- [49] The emulsion explosive is not like traditional dynamite. Emulsion is a 1.5D explosive and does not have a mass detonation hazard as dynamite does.
- [50] Emulsion is not considered a sensitive explosive. It is very hard to detonate, and not susceptible to fire under normal circumstances or detonation. There is an initiation system with a booster system that is used to set the explosive off.
- [51] Emulsion is a very stable and safe commodity in a storage situation. It has the consistency of mayonnaise, which is how they are able to pump it.
- [52] The emulsion explosive is the bigger risk of the two products on site, thereby triggering the setback requirements.
- [53] Ammonium nitrate does not trigger the same setback distance if they have room to keep it far enough. It is not an explosive asset, it is an oxidizer (5.1D or 5.1).
- [54] If approved, this triggers Environment Canada, who regulates the storage of ammonium nitrate. It is a very similar application process to applying for a development permit, all the residents in the area are notified. Residents are enrolled in a One-call system if there was a problem at a site.
- [55] The Fire Department and the fire safety plan never recommend anyone fight an explosive or ammonium nitrate fire. First responders would not be allowed into the property in case of a fire.
- [56] The site will not be storing initiation products or 1.5 D which is sensitive. There are locks on the gates and valves and disabling pumps. This is sufficient security, which is federally regulated.
- [57] Heel is the amount of explosives left on the bulk truck once the hoppers have been emptied. There is always residue left over in the hoses and pumps, traditionally an arbitrary 250kg value, it is a very small volume of explosives compared to the 30,000kg of emulsion.
- [58] There are federal guidelines to buried facilities, like pipelines.
- [59] For radio towers, there are two considerations. The Radio Frequency power potentially affecting explosives but this is specifically for initiation products such as detonators. There are issues surrounding the distance from the tower, unsure if they were aware of this but it will be reviewed during the federal application process.

[60] It is required to have a wash bay wherever bulk trucks are located, to remove the explosive component prior to maintenance. A method of removing contamination is necessary. Traditionally, in temporary or new facilities there would potentially be the tent to protect from the elements, but there is always a containment berm. This is a portable containment system, similar to a big wading pool, all contaminated contents would be removed and take to a mine.

[61] Federally, they have two years to create a permanent decontamination site. Hydroelectric needs to be brought in from the highway to service this permanent facility.

[62] It is difficult to find real estate to store explosives. The rationale for this site was that the site was suitable for it, the land owner was okay with the land use, and the Lands previously stored explosives.

[63] Austin Powder Ltd. has facilities all over the world, from Ontario to Vancouver Island. Some of these sites have adjacent residential properties.

[64] The more volatile components that are stored (1.1D and initiation and blasting products) are surveilled electronically or have mandatory daily site visits to ensure the site has not been tampered with.

[65] With the classification of this explosive, it is not a requirement by the federal government to be surveilled electronically or have daily site visits, due to it being a pumpable product and specialized equipment is necessary to remove it.

[66] Generators on the site for the lighting will be used only when personnel are on site. When the permanent wash bay is created, lighting would be made permanent.

[67] There is no well on site. Wash trucks and vacuum trucks will be brought in to wash the bulk truck. Water will be plumbed into the site when the wash bay is created.

[68] Encroachment is always a risk without a long-term lease.

[69] It is a federal requirement to keep the grassed mowed to a certain height. This is checked annually by the federal regulators. Constant mowing ensures a low fire risk.

[70] An Environmental Assessment pursuant to E2 Regulations will be completed for the ammonium nitrate this includes a notification system to all residents within a mile of the facility.

[71] There is a quarry between Banff and Exshaw. The products are hauled out there, holes are drilled, the product poured down the hole, and the high-density explosives are loaded.

[72] The Applicants have tried to get closer to the mines for storage. However, with the nature of the business it is harder to find land to use. They were previously on the LaFarge site, however, they no longer work with them.

[73] A Mobile Processing Unit (MPU) is able to load several non-sensitive explosives at one time, due to separate tanks on the vehicle. There is an increase to the sensitivity through the chemical process on site.

[74] On average there is approximately 250kg left in the truck in hoses that cannot be pumped out. Vehicles must be fully decontaminated in a wash bay to remove all residue.

[75] Ammonium nitrate is a pelleted granular fertilizer.

[76] The 690 metre setback is a federal setback, it is applied to the centre of the structure outwards.

[77] The level of contaminants in the wash bay determines who monitors the site for contaminates. The Explosive Regulatory Division monitors the site every six months. All designs must be approved, reviewed and inspected by the Explosives Regulatory Division.

[78] The explosives regulations changed quite dramatically in 2013 and 2014. Fire and safety plans are more stringent now than previously.

[79] There is currently a 6-foot chain-link fence surrounding the perimeter of the site, however barbed or razor wire will be added to the top of the fence for added security.

*Appellant's Rebuttal*

May 15, 2019

[80] The distance to the closest residence is 740 metres. If the development moves forward, the proposed area is still outside the minimum distance of the facility.

[81] There are safety concerns for residents and businesses that are put in around the site, in case of an emergency or explosion on site.

June 5, 2019

[82] None.

*Development Authority's Rebuttal*

May 15, 2019

[83] The Hamlet of Kathryn Conceptual Scheme was adopted in 2007, there was no minimum setback restrictions stipulated in the document. There was no applicable policy to guide from that document.

[84] If the development was to be built up in the Conceptual Scheme area, the county would need to look at fire and emergency services facility in the area to provide service.

[85] The type of pipeline is natural gas. This pipeline is currently in operation. The company was circulated to and did not respond.

June 5, 2019

[86] None.

## FINDINGS & REASONS FOR DECISION

[87] The explosives storage site is a discretionary use in the Ranch and Farm District and Limited Business District, in accordance with section 43 and 54 of the *Land Use Bylaw*.

[88] 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*.

[89] 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 proposed development, sound planning considerations, the merits of the application, and all applicable legislation, plans, and policies.

[90] The Board acknowledges the representations made by all parties to this appeal on matters concerning the proximity to the school and residential parcels, and the potential overall impact of the facility to the community. However, the Board finds that the comments from the Rockyview School Division as outlined above is determinative in its reasoning for denying the appeal.

[91] The Board notes that the Rocky View County Fire Department is a part of the Emergency Management Plan for the site.

[92] The Board acknowledges that there are no Enforcement issues with the existing lease.

[93] Given the above findings and pursuant to section 687 of the *Municipal Government Act*, the Board finds that the proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Board also finds the proposed development conforms to the use prescribed for the Lands in the *Land Use Bylaw*.

## CONCLUSION

[94] For the reasons set out above, the appeal is not allowed and the decision of the Development Authority is upheld. A development permit shall be issued subject to the above-noted conditions.

Dated at Rocky View County, in the Province of Alberta on June 20, 2019.

  
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Don Kochan, Chair  
Subdivision and Development Appeal Board

**EXHIBIT LIST**

DOCUMENTS PRESENTED AT THE HEARING AND CONSIDERED BY THE BOARD

<b>NO.</b>	<b>ITEM</b>
1.	Development Authority's Report to the Board (31 pages)
2.	Appellants presentation to the Board (9 Slides)
3.	Applicant's presentation to the Board (11 Slides)