

Wheatland County

Request for Decision

Municipal Planning Commission

October 13, 2020

Report prepared by: Suzanne Hayes



DP 2020-102

File Number:	DP 2020-102	Division:	3
Proposal:	Natural Resource Extraction/Processing (Variance Request to Rear and Side Yard Setbacks, Exemption Request for Berming)		
Location:	Approximately 1600 m (1 mile) east of Speargrass Community		
Legal Description:	NE-4-22-25-4		
Title Area:	63.14 Hectares (156.01 Acres)		
Existing Land Use:	Agriculture		
Proposed Parcels:	N/A		

Report

A Development Permit was issued in 1979 for both the NW and the NE-4-22-25-4. Since the development had not expanded to the NE quarter within the 2 year time limit prescribed by the Land Use Bylaw of the day, a new permit was required for the expansion to the NE quarter. Prior to applying for a new development permit the property needed to be redesignated to the Natural Resource Extraction District (NRE). The redesignation was approved on August 18, 2020.

The current application is for an area totalling 58.2 ha (143.96 acres) with a phasing plan illustrating excavation to be completed in nine phases, reclaiming each phase with overburden and topsoil prior to opening a new phase. The proposal is that the reserves will be excavated over a 25 year span with an estimated 6.5 MT of minable sand to be extracted (subject to market demands). Site activities will include soil salvage, excavation, hauling of sand, and reclamation activities. As the proposed pit is larger than 5.0 ha (12.5 acres), the applicant has submitted a *Code of Practice* registration with the province.

The applicant has requested a variance for a reduction to the rear yard (south) and side yard (west) setback from 10.05 m (33.0 ft) to a reduced distance of 3.0 m (9.84 ft). A variance request has also been made for a reduction of the setback to the undeveloped road allowance running adjacent to the east side of the parcel from 22.86 m (75.0 ft) to a reduced distance of 10.05 m (33.0 ft). The applicants proposed minimum setback is consistent with the recommendation set out in the province's *Guide to the Code of Practice for Pits* for a 3.0 m (9.84 ft) undisturbed buffer zone from all property lines.

Nine mining blocks are proposed for the site with an average size of 6.25 ha (15.44 ac). A scale, parking area, and access road to mining block A will be developed with the topsoil, subsoil, and overburden to be temporarily stockpiled. Upon the opening of mining block B, all topsoil, subsoil, and overburden will be placed into mining block A. This progressive mining technique, allows the maximum disturbance on the site at any time to be limited to approximately 10.0 ha. (24.7 ac). Once depleted the land will be reclaimed back to an agricultural use.

Surrounding land uses are agricultural except for a potential development on an adjacent parcel located in the southwest corner of this parcel. The applicant has amended the mining sequence to begin in the southwest corner in order to distance the proximity to the potential development as quickly as possible (proposing 2 years to complete the first 5 ha (13 ac) phase). Also, the applicant states that since the site will be for extraction only by utilizing the progressive mining technique, the visual impact to adjacent parcels will be minimal.

The Natural Resource Extraction district states that no dwellings of any type shall be approved within 198.12 (650.0 ft) of the property lines of a parcel that is designated NRE. Any future developments proposed for adjacent parcels will be subject to this setback.

The Land Use Bylaw requires that a berm be constructed to screen gravel pit sites from public roadways and adjacent parcels, however the applicant is requesting an exemption to this provision on all property boundaries. Due to a Western Irrigation District (WID) canal and a natural gas pipeline located on the north portion of the parcel requiring a setback of 84.0 m (276.0 ft) from Twp. Rd. 221. The applicant proposes that the creation of a berm beyond the W.I.D. and gas pipeline setback would sterilize a significant portion of the reserves. The applicant reports that there is minimal overburden available on the site (~1.0 m) and the berming would require additional area to be opened up in order to obtain the volume of materials required to create the berms. After consideration of the request, staff are proposing a landscaping condition which will require berming on certain areas of the site, in conjunction with some fast growing hedge plantings as a buffer from adjacent land uses.

Hours of operation for stripping, extraction and reclamation activities are proposed to be from 6:00 am to 6:00 pm Monday through Friday, and 7:00 am to 5:00 pm on Saturdays. Typical hauling hours will be from 7:00 am to 5:00 pm Monday through Friday and occasionally on Saturdays. There will be no pit activity or hauling on Sundays or statutory holidays. During the redesignation process there was discussion about possibly changing the operating hours to be an hour later both on weekdays and weekends. The applicant had informed Council that the hours would be strictly enforced and there would be no activity including the warm-up of trucks prior to the proposed hours. However, due to proximity to the Speargrass Community, staff have proposed a Development Permit condition which will require the hours of operation to begin at 7:00 am on weekdays and at 8:00 am on Saturdays.

Noise mitigation measures will include ensuring all equipment and trucks are properly maintained, strobe lights rather than back-up beepers during hours of darkness, engine retarder brakes will be prohibited within the pit and along the haul route.

Dust control on internal roads and within the pit will be mitigated by using water/and or other dust control agents. Loads will be tarped and loose sand removed from hitches, bumpers, sideboards, and tail gates. During windy conditions, pit operations will be temporarily suspended until the dust can be controlled. Long-term stockpiles of reclamation material will be seeded to grass mix.

The pit will be an extraction only site so all material will be hauled to the Lafarge Carseland pit located approximately 5 km to the south in Vulcan County. The haul route proposed is to exit the property and head west on Twp. Rd. 221, turning south on Hwy 817 and then south again on Hwy 24. Expected traffic volumes are 40 trucks per day (80 trips total) for 7 months of the year.

Recommendation from Administration

THAT Municipal Planning Commission approve DP 2020-102 for Natural Resource Extraction with variances to side and rear setbacks and an exemption to the berming requirements subject to the following conditions:

1. This Development Permit is issued solely for the purpose of Natural Resource Extraction/Processing for sand extraction/reclamation activities – Defined as Natural Resource Extraction/Processing.

2. Development shall proceed according to Natural Resource Extraction/Processing (NRE) District requirements and the applicant must comply with all applicable provisions of the Wheatland County Land Use Bylaw with the exception of those variances and exemptions specifically listed within this permit.
3. A variance has been granted allowing a reduction to the rear yard (south) and side yard (west) setback from 10.05 m (33.0 ft) to a reduced distance of 3.0 m (9.84 ft).
4. A variance has been granted allowing a reduction of the setback to the undeveloped road allowance running adjacent to the east side of the parcel from 22.86 m (75.0 ft) to a reduced distance of 10.05 m (33.0 ft).
5. This Development Permit addresses variance requests to the setbacks prescribed in the Land Use Bylaw and does not address setbacks of any other agency.
6. No permanent development shall occur on or over any utility right of way or easement.
7. Applicant to abide by all provisions of the Community Aggregate Payment (CAP) Levy Bylaw.
8. Development to remain consistent with submitted application, Letter of Intent and all approved plans and procedures which form the application and have been deemed to be appropriate.
9. Hours of operation to be 7:00 am to 6:00 pm Monday through Friday, 8:00 am to 5:00 pm on Saturdays.
10. Prior to operations, applicant to provide the County with a copy of the Code of Practice Registration issued by the province.
11. Prior to operations, applicant to enter into a Road Use Agreement with Wheatland County allowing the County to implement the requirement to apply dust control along Twp. Rd. 221 as required.
12. Dust control measures for internal roads and within the pit to be in accordance with the procedure outlined in section 7.2 of the Letter of Intent provided by the applicant in support of this application.
13. Prior to operations, a new approach east of the existing approach to be approved and constructed to County standards.
14. Prior to commencement of operations, design and construction of landscaping features including, at minimum, the work and landscaping described in an approved 'Landscaping Plan' for construction of berming (within the 3 m varied setback area on the southwest portion of the parcel) to the reasonable satisfaction of Wheatland County. Plans to include installation of an appropriate hedge to be installed on top of the berming along the southwest portion of the development to the satisfaction of the County and in accordance with the following:
 - a) A guaranteed security must be provided to ensure that landscaping is provided and maintained for one (1) year. The security shall be in the form of an irrevocable letter of credit or cash having the value equivalent to 125% of the established landscape costs.
 - b) The projected costs of the landscaping shall be calculated by the owner/applicant and shall be based on information provided in the approved landscape plan. If in the reasonable opinion of the development authority, these projected cost are inadequate, the Development Authority may establish a higher landscaping cost for the purposes of determining the value of the landscaping security.
 - c) Where the owner does not complete the required landscaping, or if the owner fails to maintain the landscaping, in the health/condition to the satisfaction of the development authority for the specified periods of time, the County shall reserve the right to complete the work to the satisfaction of the development authority.

- d) Where the cash or proceeds from the letter of credit are insufficient for the County to complete the required work, should it decide to do so, then the owner shall pay such deficiency to the County immediately upon being invoiced.
- e) Upon receipt of a written request from the owner/applicant, an inspection of the finished landscaping may be scheduled by the Development Officer. Landscaping inspections shall comply with the following:
 - i. Inspections shall be conducted only during the normal growing season, approximately April 15th through October 15th;
 - ii. The Development Officer shall perform the landscaping inspection within thirty (30) days of receipt of the inspection request subject to i above; and
 - iii. Upon approval of the landscaping by the Development Officer, the security shall be fully released.

Policy Analysis

CODE OF PRACTICE FOR GRAVEL PITS:

As the proposed pit is larger than 5.0 ha (12.5 acres), the applicant has submitted a *Code of Practice* registration with the province. A copy of the issued registration to be supplied to Wheatland County prior to operation of the pit.

MUNICIPAL DEVELOPMENT PLAN (MDP):

The proposal supports most of the strategies, objectives and policies, however the MDP discourages new natural resources extraction developments in close proximity to hamlets, waterbodies, environmentally significant areas, and natural areas. No guidance is provided to determine what 'close proximity' entails. The proposed gravel pit would be approximately 1km from the nearest house within the community of Speargrass.

INTERMUNICIPAL DEVELOPMENT PLAN (IDP):

The application falls within the IDP area shared with Vulcan County, they were circulated on the application as per IDP Policy and had no concerns.

LAND USE BYLAW (LUB) 2016-01:

Definition:

Natural Resource Extraction/Processing means development for the removal, extraction, excavation, stock piling, processing and transmission of raw materials off the subject property for ongoing commercial purposes. Resources and raw materials may include peat, sand, silt, shale, gravel, clay, marl, limestone, gypsum, other minerals precious or semi-precious, timber, and coal. Facilities and uses that would be typical include gravel pits (and associated crushing operations), sand pits, clay or peat extraction, stripping of topsoil, sawmills and related timber/wood process. See *Natural Resource Extraction / Processing District for more information*.

9. Natural Resource Extraction/Processing District (NRE)

Purpose and Intent

The purpose and intent of this district is to accommodate industrial uses related to non-renewable natural resource extraction and processing.

Permitted	Discretionary
Accessory Building / Structure	Dwelling, Employee
Agricultural Operation	Dwelling, Manufactured
Signs Not Requiring a Development Permit	Dwelling, Modular
	Dwelling, Moved On
	Dwelling, Single Detached
	Signs Requiring a Development Permit
	Stockpile
	Stripping and Grading
	Natural Resource Extraction / Processing

4.3 Variances

- 4.3.1 Upon receipt of an application for any development which a variance exceeds 10% of any numerical rules and regulations of this Bylaw, the Development Officer shall refer the application to the Municipal Planning Commission for a decision.
- 4.3.2 The Development Authority may approve a Development Permit even though the proposed development does not comply with this Bylaw or is a non-conforming building if, in the opinion of the Development Authority:
- a) The Proposed development would not:
 - i. Unduly interfere with the amenities of the neighborhood; or
 - ii. Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land; and
 - iii. The proposed development conforms with a similar use prescribed for that land or building in this Bylaw.

Considerations:

- The application has undergone the approval process as prescribed in the NRE section of the land use bylaw which includes submission and approval of various plans and reports.
- The variance request to the setbacks is in conformance with the prescribed setbacks outlined in the *Code of Practice* for pits.
- Approval has been recommended with a portion of the berming to be completed along with some shrubbery plantings, in order to allow some screening from the closest residents.

Technical Review

Access to the property is off Twp. Rd. 221 on the northwest portion of the property. The applicant is proposing to relocate the access approximately 120 m to the east to improve site lines. This will require crossing agreements with Persist Oil & Gas and the Western Irrigation District. The existing access will remain to be utilized by the landowner to access his property.

The haul route proposed is to exit the property and head west on Twp. Rd. 221, turning south on Hwy 817 and then south again on Hwy 24. Expected traffic volumes are 40 trucks per day (80 trips total) for 7 months of the year.

Circulation Comments

Part of the process for redesignation to the Natural Resource Extraction District includes community consultation. This was performed by the applicant on January 2, 2020 by means of a letter being sent out to surrounding landowners within 1600 m (1 mile) of the proposed pit location.

Two responses were received; one from the occupant on the adjacent parcel located in the southwest corner of the proposed pit and one from a resident of Speargrass. Concerns included; traffic, truck noise as trucks speed up and leave from the intersection, flooding, long hours of operation, working on Saturdays, danger of the intersection of the 3 roads, disturbance to the natural drainage.

AGENCY CIRCULATION	
Vulcan County	No Concerns.
Alberta Transportation	The property is greater than 800m from a provincial highway therefore no roadside development permit is required, however if improvements to the intersection of Hwy 817 and TWP RD 220A are required to accommodate pit traffic, a permit would be required and would be constructed at no cost to AT.
Western Irrigation District	WID has no objections to the variance relaxation regarding the County's setbacks, however the 30 meter setback from WID's works on the north and west side are still in effect.
Alberta Culture, Multiculturalism, and Status of Women	Issued an Approval on October 21, 2019 with the condition that a Historic Resources Impact Assessment will be carried out after the initiation of gravel pit operation as paleontological resources from gravel deposits are rarely observed prior to construction or extraction activities.
INTERNAL CIRCULATION	
Internal File Review	<p>Planning - The proposal to excavate without landscaping/berms is a somewhat worrisome. Especially where the first bit of excavation is to happen in the South West corner. I prefer to see landscaping that protects the view plane of the existing and proposed development in that parcel.</p> <p>Follow Up: A condition will be placed on the permit requiring berming within the 3 m (varied setback) on the south and west side in conjunction with a 15 ft hedge to catch dust, reduce noise, and provide some visual screening.</p> <p>During the redesignation application, there were concerns raised regarding the hours of operating. Without a noise study I can't confirm whether the noise of extraction will carry over to the Speargrass community and cause a nuisance. Potentially we could require them to keep noise levels down before 8 am.</p> <p>Follow Up: A condition has been proposed to reduce the hours to begin one hour later both on weekdays and Saturdays.</p> <p>No concerns with them requesting a setback variance other than what I noted above with regards to the South West corner.</p> <p>Follow Up: The variance request aligns with the Code of Practice for pits which recommends a 3 m setback to the property line. A landscaping plan</p>

	has been placed as a condition requiring landscaping/berming on the south west corner.
	Transportation & Agriculture – No objections to the variance request for the extraction setback as it meets the provincial Code of Practice extraction setback of 3 m from the property line.
	Community Services Coordinator – A smaller berm could be constructed within the 3 m setback area in specific locations. Combined with some plantings of fast growing shrubs which would need to be maintained for a minimum of one year, may be an option for screening from adjacent residents.
CIMA	<p>Phase 1 Environmental Site Assessment – No Concerns Identified</p> <p>Drainage Report – Currently the drainage flows southwest and southeast off the parcel. The conceptual rehabilitation proposes containing the runoff to the northeastern section of the proposed pit. Drainage must conform to the requirements under Alberta Environment’s Code of Practice for Pits. During periods of run-off or heavy rain surface water will be contained within the pit, no water will be released offsite.</p> <p>Traffic Impact Assessment - The submitted TIA analyzed the secondary Highway 817 and Township Road 221 intersection and the Highway 24 and secondary Highway 817 intersection and concluded the following:</p> <ul style="list-style-type: none"> • Highway 24 and Highway 817 Intersection <ul style="list-style-type: none"> ○ A signal is not needed ○ Partial Illumination may be warranted ○ An intersection upgrade is not required • Highway 817 and TWP 221 Intersection <ul style="list-style-type: none"> ○ A signal is not needed ○ Illumination is not warranted ○ An intersection upgrade is not required • There are no longer plans to construct a roundabout, the upgrade to this intersection will be a realignment of Highway 24. The County’s engineer reviewed the developer’s TIA and commented that the collision data was not considered in the illumination warrants. The engineer further explained that with the potential for the intersection upgrade, the installation of lighting may be a moot point, however they did explain that if it would be a while before the intersection upgrade, the County and AT may want to enter into discussions regarding the installation of lighting at the Hwy 24/817 intersection. The lighting requirements would be triggered by the background conditions, not the proposed development traffic, and so installation of lights at the Hwy 24/817 intersection is not likely something where costs could be attributed easily to the development.
NEIGHBOUR CIRCULATION	
To adjacent neighbors within 1 mile	No Comments Received at the time of this report.

Response Options

Option 1: THAT MPC accepts/approves the recommendation as proposed.

Option 2: THAT MPC does not accept/approve the recommendation as proposed.

Option 3: THAT MPC accepts/approves an alternate recommendation of MPC's choosing.

Follow-up Action / Communications

Notify applicant of the decision.

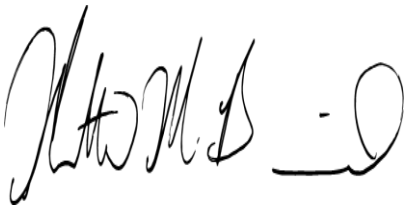
Report Approval Details

Document Title:	DP 2020-102.docx
Attachments:	- Appendices for DP 2020-102.docx
Final Approval Date:	Sep 30, 2020

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to read "Sherry Baers". The script is cursive and fluid.

Sherry Baers

A handwritten signature in black ink, appearing to read "Matthew Boscarol". The script is cursive and fluid.

Matthew Boscarol