



County of Stettler No. 6

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Open Letter to affected parties (lessees, contractors, owners and occupants of nearby lands).

Re: Breach of Land Use Bylaw and Development Permit issued to all at NE 20-40-20 (the “Lands”) relating to Paradise Shores RV Development at Buffalo Lake

The County of Stettler No. 6 (the “Municipality”) has issued a Stop Order to 2066052 Alberta Ltd. (the “Owner”) relating to the Development at the Lands abutting Buffalo Lake.

Q: What authority does the Owner have to develop the Lands?

Recreational Vehicle Park and/or Campground (“RV Park”) – the SDAB heard lengthy submissions from various affected parties and issued its decision (posted on Municipality’s website at www.StettlerCounty.ca/ParadiseShores). The SDAB decision made several changes to the development approval for the RV Park. It reduced the number of approved RV stalls from 370 stalls (as approved by the Municipality’s Municipal Planning Commission) to 168 stalls. It also imposed several additional requirements, including for expert/technical reports.

The Owner has submitted a new development permit application (see discussion below).

Q: What are some of the key time frames relating to the development at the Lands?

- November 2, 2018: SDAB releases decision allowing 168 lots subject to conditions
- November 30, 2018: Owner files application for permission to appeal with the Court of Appeal of Alberta
- January 23, 2019: Hearing at the Court of Appeal for permission application – Judge Reserves Decision
- March 28, 2019: Owner submits a new development permit application
- April 12, 2019: Municipality’s development authority deems new permit incomplete (delivered April 15)
- April 18, 2019: Municipality issues notice of inspection to the Owner (with amendments issued April 24, 2019), and requires the Owner to provide various documents, including traffic impact assessment, geotechnical report, approvals from AEP (for water, sewage, and stormwater systems); leases and lessees’ contact information.
- May 2, 2019: Municipality conducts an inspection of the property, various breaches apparent. The Owner provides no required documentation.
- May 9, 2019: The Owner files appeal to the SDAB in relation to the Municipality’s determination that the new development permit application is incomplete.

Q: What requirements/conditions did the SDAB place on the Owner?

The SDAB reduced the number of approved RV stalls to 168. The SDAB imposed several conditions, including requirements for expert/technical reports. Some of the conditions and their status are as follows (paraphrased):

Condition #1 – The total number of RV stalls shall not exceed 168;

Status: the RV stalls on the Lands exceed 168 and are approximately 315.

Condition #3 – prior to overnight accommodation, the Owner shall provide the Municipality a revised Traffic Impact Assessment (“TIA”) based on 168 RV stalls and the site’s publicly accessible amenities.

Status: The Owner has not provided a revised TIA to the Municipality.

Conditions # 4 and 38 - prior to overnight accommodation, the Owner shall provide to the Municipality a geotechnical assessment by a qualified member of APEGA, and all recommendations in the report pertaining to appropriate factor of safety and setback from the crest and toe of each slope shall be complied with. The development shall be undertaken, completed and maintained in accordance with the Municipality’s Land Use Bylaw No. 1443-10, which includes (s. 58.18) a minimum building setback of 30 m (100 ft) from the crest or bottom of an escarpment sole where the grade exceeds 15%. Lesser setbacks may be considered if a geotechnical report is submitted.

Status: The Owner has not provided a geotechnical report to the Municipality. At least 38 trailers, one permanent structure (240m²) and a staircase are within 30 m of slopes greater than 15%

Conditions #5 and #6 - prior to overnight accommodation, the Owner shall provide to the Municipality a revised site plan or plans with details including all site improvements, slopes, natural features, stalls (location, size, layout), common buildings, the Recreation Facilities-Outdoor use; vehicle access and circulation, emergency vehicle access and main vehicle access; pedestrian circulation routes, wetlands and water bodies, development setbacks from slopes based on geotechnical, and location of all storm water management ponds etc. approved by Alberta Environment and Parks.

Status: The Owner has not submitted the revised Site Plan to the Municipality for consideration or approval. Moreover, one of the necessary components (geotechnical report) has not been provided either.

Conditions # 9 and #10 - prior to overnight accommodation, the Owner shall provide to the Municipality a landscaping plan for review and approval by the Municipality’s Chief Administrative Officer containing various detailed information.

Status: The Owner has not submitted the landscaping plan to the Municipality for consideration or approval.

Condition #12 – all development shall comply with setbacks, including a 40 m setback from the west boundary.

Status: There is an unauthorized permanent structure (a building of approximately 240m²) within the 40 m setback from the west boundary.

Conditions # 5, 18, 19, 20, 22 and 23 – the on-site vehicle circulation system shall be designed and constructed (as referenced in the site plan to be approved by the Municipality), including to an all-weather standard. Prior to overnight accommodation, the Owner shall provide to the Municipality for approval an onsite vehicle circulation system and two accesses, including an emergency vehicle access from Bayview Street.

Status: The Owner has not submitted the onsite vehicle circulation system to the Municipality for consideration or approval. The emergency vehicle access required from Bayview Street has not been provided. The Municipality has received no information that the on-site vehicle circulation system has been properly designed and constructed.

Conditions # 29, 30 and 33 - prior to overnight accommodation, the Owner shall provide to the Municipality approval by AEP for a private storm water management system; the system shall be constructed and maintained and be operable in accordance with AEP approval.

Status: The Owner has not submitted the AEP approval for the storm water management system to the Municipality. As far as the Municipality is aware, there is no AEP approval for this storm water management system.

Conditions # 31 and 33 - prior to overnight accommodation, the Owner shall provide to the Municipality approval by AEP for a private communal potable water storage and distribution system (the “water system”); the water system shall be constructed and maintained and be operable in accordance with AEP approval.

Status: The Owner has not submitted the AEP approval for the water system to the Municipality. As far as the Municipality is aware, there is no AEP approval for this water system.

Conditions # 32 and 33 - prior to overnight accommodation, the Owner shall provide to the Municipality approval by AEP for a private communal wastewater collection system (the “sewage system”); the sewage system shall be constructed and maintained in accordance with AEP approval.

Status: The Owner has not submitted the AEP approval for the water system to the Municipality. As far as the Municipality is aware, there is no AEP approval for this sewage system.

Condition # 36 - prior to overnight accommodation, the Owner shall provide to the Municipality and shall abide by the requirements of all Safety Codes Act approvals and permits (including building, electrical, gas, plumbing).

Status: The Owner has not submitted any *Safety Codes Act* permits to the Municipality.

Conditions #37, 39 and 40– The Owner shall enter into a deferred services agreement, a road use agreement and a development agreement with the Municipality; none of these agreements have been entered into.

Status: It is not practical for the Municipality to prepare either a road use agreement or a development agreement until it receives the revised TIA. The Municipality will prepare a deferred services agreement if and when it prepares the other two agreements.

Q: In the Notice of Inspection, what documents did the Municipality require the Owner to provide?

A notice of inspection was provided April 18, 2019, and amended April 24, 2019. The notice (as amended) required that the Owner provide the following documentation:

- The traffic impact assessment (or any available draft) as required by condition 3 of the SDAB Decision;
- The geotechnical assessment (or any available draft) as required by condition 4 of the SDAB Decision;
- The site plan or set of plans (or any available drafts) as required by condition 5 of the SDAB Decision;
- The landscaping plan (or any available draft) as required by condition 8 of the SDAB Decision;
- Copies of Alberta Environment and Parks approvals for the storm water management system as required by condition 29 of the SDAB Decision;
- Copies of Alberta Environment and Parks approvals for the potable water storage and distribution system as required by condition 31 of the SDAB Decision;
- Copies of Alberta Environment and Parks approvals for the communal wastewater collection system as required by condition 32 of the SDAB Decision; and
- Copies of all *Safety Codes Act* permits as required by condition 36 of the SDAB Decision.
- Copies of all leases and contact information for the lessees.

To date, none of the required documentation has been provided by the Owner to the Municipality. Much of this documentation was required under the SDAB Decision prior to overnight accommodation.

Q: What are the main concerns that the Municipality has in issuing the Stop Order?

The primary concerns are for public safety and environmental protection:

1. **Utility systems** – no approvals as issued by AEP have been provided to the Municipality in relation to the storm water system, water system and sewage system.
2. **Geotechnical Report** – no geotechnical report has been provided to or approved by the Municipality. There are unauthorized structures and development within the 30 m setback prescribed by the Land Use Bylaw (which may only be varied if there is an appropriate geotechnical report).
3. **Emergency Access** – no revised site plan has been submitted to or approved by the Municipality, including the design and construction details relating to the on-site vehicle circulation system and two accesses. The Emergency Access to the parcel has not been properly constructed. This poses concerns for access by emergency services personnel and vehicles (such as a fire truck). Likewise as no information has been provided in relation to the standard of both construction and width of internal road network, this poses concerns relating to access for emergency vehicles.
4. **Stormwater management and landscaping** – no plans have been submitted to the Municipality for approval. The revised site plan (not submitted) was to incorporate reference to wetlands and areas to be retained in their natural state, and all storm water management ponds and facilities that have been approved by Alberta Environment and Parks. Given the proximity to Buffalo Lake, there are concerns relating to run off into the lake, and interference with wetlands and areas to be retained in their natural state.
5. **TIA, Road Use Agreement and Development Agreement** – given the revised Traffic Impact Assessment has not been submitted it is not possible for the Municipality to prepare either a road use agreement or development agreement.
6. **Safety Codes** – no safety codes permits have been provided (building, electrical, gas, plumbing).

Q: When can the Lands open up for overnight accommodation?

That will depend on if and when the Owner completes the regulatory requirements both of the Municipality (through the SDAB's Decision) and other levels of government (such as the AEP approvals of the water system, sewage system and storm water system).

The Owner has not submitted any documentation to the Municipality, as required under both the Notice of Inspection. Information from officials in AEP (as of April 30, 2019) is that AEP had several months ago advised the Owner (or its engineer) to submit a new application for the required components (water, sewage and storm water) and AEP has not received sufficient/adequate information to consider the applications commenced.

Q: How do the Court of Appeal proceedings impact the SDAB approval of the RV Park?

The Court of Appeal proceedings do not act as a "stay" of the development approval. This means that the development approval issued by the SDAB continues to apply. The Court of Appeal proceedings do not suspend issuance of the development permit.

Q: What is involved in the Court of Appeal process?

The Court of Appeal process involves two steps, first there is an application for permission before one Judge. This Judge will determine if there is a reasonable argument that the SDAB may have made an error of law or jurisdiction (having regard to a test set out in the Municipal Government Act). If permission is granted, the matter is referred to 3 Judges to determine if the SDAB actually made an error of law or jurisdiction.

Because the development permit is for a discretionary use, if a Court of Appeal panel of 3 judges quashes a SDAB decision, they will not reweigh the planning merits of the appeal; they will quash the SDAB's decision and most likely send it back to the SDAB for a rehearing, with directions.

The permission application was heard January 23, 2019; the Judge has not issued his written reasons. If permission to appeal is granted, it will likely be several months before a hearing before 3 Judges is convened.

Q: Did the County take an active role in the Court of Appeal proceedings?

No, the Municipality did not participate as a party before the Court of Appeal. It is not uncommon for a municipality to take no position on a SDAB decision that is challenged before the Court of Appeal.

Q: I am a lessee of a RV site from the Owner at the Lands. What can I do on the Lands?

The Stop Order allows you to access the Lands, but only to remove your personal possessions (including your RV). You may not, at the present time, use the Lands either for overnight accommodation or day use. If and when the requirements of the Stop Order are met, RVs may then be taken back onto the Lands.

Note further that the Stop Order requires the RVs within the 30 m slope setback (RVs on sites: 22, 23, 25, 26, 38, 39, 41, 43, 46, 47, 48, 50, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 70, 71, 75, 76, 77, 78, 79, 82, 83, 84, 288, 290, 291, 292, and 313) must be removed from that area by May 21, 2019.

Q: What information did the Municipality gather at the Inspection?

You may wish to review the Site Inspection document attached to the Stop Order. The Municipality also gathered VIN numbers for the RVs that were on site at the time of the inspection. The purpose for gathering the VIN numbers is twofold. Firstly, the VIN numbers assist the Municipality in identifying the RVs that are on the site, or that may come and go from the site. Secondly, the VIN numbers will assist the Municipality in obtaining contact information respecting the owners of the RVs if required. Note that the Municipality has requested the Owner to provide copies of all leases and contact information for lessees and the Owner has, to date, failed or refused to do so.

Q: Did the Municipality alter or damage a directional sign for the development?

No. The Municipality received a complaint that a directional sign was “down” and obstructing the road (a sign placed to direct traffic to the Lands appropriately and not through the Summer Village of Rochon Sands). Municipal employees found the sign lying down, did not damage it, and returned it to the Lands so that the Owner could place it or a new sign at the appropriate location.

Q: What has the Developer applied for in the new development permit?

On March 28, 2019, the Owner submitted documents for an application of what the Owner characterized as a permitted use for “Recreation Facility-Outdoor”. Unfortunately, the Municipality was unable to process the application form as received as it was deemed incomplete, given that there was necessary supporting documents and information missing. The Municipality’s determination that the application form was deemed incomplete was dated April 12, 2019 and was delivered no later than April 17, 2019; it directed the Owner to provide additional information by April 26, 2019; no required information was submitted by the Owner to the Municipality by the deadline.

The Owner has filed an appeal before the SDAB relating to the Municipality’s letter dated April 12, 2019, and the SDAB hearing will be scheduled.

Q: Has the Municipality commenced a process relating to Land Use Bylaw amendments?

Yes, there are a number of amendments that Council will consider relating to the Land Use Bylaw, as referenced in proposed Bylaw 1611-19 (which can be located in the May 8 Council Package on the Municipality's website at www.StettlerCounty.ca/AgendaCenter). First reading was given on May 8, 2019, and a public hearing is currently scheduled for June 12, 2019 at 1:00pm. These amendments are summarized in the Bylaw Report on page 48 of the May 8 Council Package.