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Appeal File Number:	024-STU-006
Application Number:	305305-24-D0085
Appeal Against:	Development Authority of Sturgeon County
Appellant:	Michael Dickie, ProNorth Industrial Park
Date and Location of Hearing:	June 4, 2024 Council Chambers and Through Electronic Communications
Date of Decision:	June 17, 2024
SDAB Members:	Julius Buski (Chair), Lee Danchuk, Don Rigney, Lili Terry and Kristin Toms

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### NOTICE OF DECISION

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**IN THE MATTER OF** an appeal by Michael Dickie, ProNorth Industrial Park against the Development Authority's conditional approval of an application to operate a Landscaping Supply and Commercial Service at Plan 8322821; Lot 2, 100-54408 Range Road 260 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the "SDAB" or "Board") on an appeal filed with the SDAB pursuant to sections 685 and 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the "MGA" or "Act").
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County's Land Use Bylaw 1385/17 (LUB), and Sturgeon County's Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and form part of the record:
1. The Notice of Appeal;
  2. A copy of the development permit application with attachments;
  3. The Development Authority's written decision;
  4. Planning & Development Services Report; and
  5. Appellant's written submission

### PRELIMINARY MATTERS

- [4] The Appellant was not in attendance at the hearing. The Board received a written submission from the Appellant indicating that he may not attend the hearing, and if not, to proceed in his

absence. Therefore, the Board proceeded in the Appellant's absence.

### **PROCEDURAL MATTERS**

- [5] The appeal was filed on time and in accordance with section 686 of the MGA.
- [6] There were no objections to the proposed hearing process as outlined by the Chair.
- [7] There were no objections to the composition of the Board hearing the appeal.
- [8] The Board is satisfied that it has jurisdiction to deal with this matter.

### **ISSUE**

- [9] The Appellant raised the following grounds of appeal:
  - Condition #1 – Prohibition of nuisance should more specifically address fugitive dust. This condition should be worded to substitute “unreasonable or untoward” for “offensive or excessive” with respect to dust generation and a requirement should be added that the business diligently take reasonable mitigation measures to minimize the dust nuisance beyond the property boundary.
  - Condition #2 – Public appearance of exterior storage of landscaping materials should be more strictly regulated as the site is representative of ProNorth Park generally. This condition should be worded to specify a defined means of screening for the parcel road frontage and to include an ongoing requirement for screening maintenance.
  - A new condition should be considered – no roadside parking for employees or customers along Range Road 260.

### **RECOMMENDATION OF THE DEVELOPMENT AUTHORITY**

- [10] Yvonne Bilodeau, representative of the Development Authority, provided a presentation which outlined the Development Authority's refusal of Development Permit 305305-24-D0085. In summary:
  1. The property is located in the I3 Medium Industrial Unserviced District and is a 2.6-hectare (6.47-acre) parcel developed with a metal clad shop, a fabric covered shelter, an office trailer, and a relocatable office trailer. It is fenced on the perimeter (chain link) with a security gate and fully hard surfaced with gravel.
  2. A compliance certificate was issued for the property on April 30, 2024 wherein all structures as mentioned above have the proper permits and is in compliance with the Land Use Bylaw. The property was rezoned in 2010 from Airport to Business Industrial.
  3. The intent of the I3 district is to provide for low and medium intensity industrial uses on parcels with limited servicing located within a planned industrial park. Any nuisance factor should be limited beyond the boundaries of the parcel. The Development Authority considers Rockland Landscaping Supplies Ltd.'s (Rockland's) activities to be of low intensity use that would likely not create an adverse environmental impact or nuisance beyond its immediate site.
  4. Sturgeon County Land Use Bylaw section 15.3.2 lists *General Industrial* as a discretionary use in the I3 District. *General Industrial* means an industrial activity which does not create an adverse environmental impact or nuisance beyond its immediate site, is

compatible with other industrial and commercial uses in a concentrated setting, and involves the storage, manufacturing, distribution, wholesaling, testing, repairing, processing or salvaging of goods and materials. Rockland is compatible with other uses in the park, which in most cases are more intense and fit within medium intensity type uses.

5. Rockland is currently located at 25422 Villeneuve Road in the City of St. Albert and is directly adjacent to highly populated residential areas. They reported no complaints at their current location.
6. With most of the proposed site undeveloped, there is ample room for parking for both employee and customer vehicles.

### **SUMMARY OF APPELLANT'S POSITION**

[11] The Appellant, Michael Dickie, ProNorth Industrial Park, did not attend the hearing but submitted in writing that:

1. Condition #1 does not adequately address the problem of fugitive dust potentially generated by mass storage and repeated machine handling of dust prone materials such as sand, gravel, and wood. It does not specify a workable measurement for condition compliance instead merely indicating that the threshold is what the Development Authority may consider "offensive" or "excessive". Alternative wording such as "unreasonable" or "untoward" would effectively lower the bar for non-compliance and promote an early discussion by the Development Authority with the Applicant. Further, this condition fails to provide any requirement for dust hazard mitigation. The Appellant suggests Condition #1 be worded to substitute "unreasonable or untoward" for "offensive or excessive" with respect to dust generation and adding a requirement that the business take reasonable mitigation measures to minimize dust nuisance.
2. Condition #2 makes no reference to a specific screening technique and puts the developing uniformity of the Park's perimeter screening at unnecessary risk of compromise. While the wording does not exclude the Development Authority from specifying the same screening method as stipulated in earlier subdivision approvals, it takes little effort to modify the present Condition #2 to eliminate the risk of non-uniform perimeter screening and illustrates to the Park landowners that the Development Authority is exercising good planning and community image enhancement.
3. Condition #7 only references technical requirements for on-site vehicle parking and does not address vehicle parking sufficiency matters. Good community planning reasonably calls for the Condition to also include a requirement that on-site parking be sufficient for both employee and customer parking and that vehicle parking on public roadways is not to be permitted.

### **DECISION**

[12] **The Board DENIES the appeal, UPHOLDS the decision of the Development Authority made on April 25, 2024, and APPROVES a development permit to operate a Landscaping Supply and Commercial Services – Rockland Landscaping Supplies Ltd., with the following conditions:**

1. The business shall not generate noise, smoke, dust, odour, fumes exhaust, vibration, heat, glare or refuse matter considered offensive or excessive by the Development Authority.

2. Exterior storage of goods and materials associated with an approved development permit shall be kept in a clean and orderly manner at all times and shall be screened from roads and adjacent residential uses to the satisfaction of the Development Authority.
3. Any exterior storage or display shall not interfere with pedestrian or vehicular circulation or occupy any required parking stalls.
4. Vacant, undeveloped or unused portions of a parcel shall be maintained in grass, landscaping materials or such other ground cover as deemed appropriate by the Development Authority.
5. Any outdoor lighting shall be located and arranged so that no direct rays of light are directed at any adjacent parcels and indirect rays of light do not adversely affect any adjacent parcel.
6. Signs advertising the business shall be subject to separate development permit approval.
7. All on-site parking facilities shall be so constructed that every on-site parking stall provided shall be hard surfaced if the access is from a road or lane which is hard surfaced; parking areas shall be paved or of a gravel mixture in accordance with the Sturgeon County's General Municipal Servicing Standards and as per Part 9 of the Land Use Bylaw.
8. Accessible parking stalls shall be designed in accordance with "Barrier-Free Design Guidelines" of the Safety Codes Act.
9. If the development authorized by a permit is not commenced within 12 months from the date of its issuance, or is not carried out with reasonable diligence, the development permit approval ceases and the development permit is deemed to be void, unless an extension to this period has been previously granted by the Development Authority.

### **REASONS FOR THE DECISION**

- [13] The subject property is in the I3 - Medium Industrial Unserviced District. The application is to operate a Landscaping Supply and Commercial Service.
- [14] Section 15.3.2 of Sturgeon County's Land Use Bylaw lists *General Industrial* as a discretionary use. *General Industrial* is defined as an industrial activity which does not create an adverse environmental impact or nuisance beyond its immediate site. The Board heard that the activities at Rockland Landscaping are considered low intensity, and the business is compatible with this use. Rockland is currently operating in the City of St. Albert and located adjacent to a highly populated residential area. The business has reported no complaints at their current location and should issues occur within Sturgeon County, the permit conditions allow for Administration to provide enforcement if required.
- [15] Condition #1 refers to the noise, smoke, dust, odour, fumes exhaust, vibration, heat, glare or refuse matter created by the business. The Board heard from the Development Authority that this is a standard condition placed on all permits for businesses and is in effect for the duration of the operation. The Board is satisfied with the current wording of the condition and finds that the replacement wording suggested as "unreasonable or untoward" does not

provide a higher standard or any additional specific measurables.

- [16] Condition #2 of the permit speaks to the exterior storage of goods and materials that shall be kept in a clean and orderly manner at all times and shall be screened from roads and adjacent residential uses to the satisfaction of the Development Authority. The Board understands that this is also a standard condition placed on all permits for businesses and is in effect for the duration of the operation. The Development Authority submitted that only two of the many parcels in ProNorth Industrial Park have screening on their fences with most parcels having a chain link fence. The Board finds this condition reasonable and consistent with other similar properties in the ProNorth Industrial Park.
- [17] The Board heard that the traffic activity from within the park is not relevant as this parcel is not accessed from within the park and should not be considered. The parcel is accessed by Range Road 260 and has ample parking spaces within the site to accommodate parking. Sturgeon County Regulation of Traffic Bylaw 1419/18 allows for parking on County roads if no obstruction is created. Should this become an issue, the Board heard from Administration that it has the discretion to take steps, such as installing no parking signage, to rectify the issue.
- [18] The Board finds that the development permit conditions provide sufficient discretion for Administration to enforce any complaints that may be received.
- [19] The Board finds that the proposed development would not materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and the proposed development conforms with the use prescribed for that land in the Land Use Bylaw, which is a Landscaping Supply and Commercial Service business.
- [20] For all of these reasons, the Board denies the appeal, upholds the decision of the Development Authority, and approves the development permit with the conditions noted above.

Dated at the Town of Morinville, in the Province of Alberta, this 17<sup>th</sup> day of June, 2024.



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Julius Buski, Chair

*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.*

**APPENDIX "A"**  
**List of Submissions**

- The Notice of Appeal
- A copy of the development permit application with attachments
- The Development Officer's written decision
- Planning & Development Services Report
- Appellant's written submissions