



RECEIVED
SEP 14 2023
TOWN OF VERMILION

LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Town of Vermilion v County of Vermilion River (Development Authority), 2023
ABLPRT 504
Date: 2023-09-12
File No. D23/VERM/CO-035
Decision No. LPRT2023/MG0504
Municipality: County Vermilion River

In the matter of an appeal from a decision of County of Vermilion River Development Authority (DA) respecting the proposed development of NW 27-50-6 W4M Lot 1, Block 1, Plan 002 0461 under Part 17 of the *Municipal Government Act*, Chapter M-26 RSA 2000, (*Act*).

BETWEEN:

Town of Vermilion

Appellant

- and -

County of Vermilion River (Development Authority)

Respondent Authority

BEFORE: H. Kim, Presiding Officer
D. Thomas, Member
P. Yackulic, Member
(Panel)

K. Lau, Case Manager

DECISION

APPEARANCES

See Appendix A

This is an appeal to the Land and Property Rights Tribunal (LPRT or Tribunal). The hearing was held via videoconference, on September 7, 2023, after notifying interested parties.

OVERVIEW

[1] This preliminary hearing was to set disclosure dates for submissions and hearing dates for the merit hearing. The DA for the County of Vermilion River (County) approved a Development Permit (DP) for the construction of a fertilizer blending system consisting of 10 steel storage bins and an operations room. The Town of Vermilion (Town) appealed the DP as they are concerned the development will impede the future development of the Vermilion Airport.

[2] The Town (Appellant), County (DA), and Applicant (Cargill) discussed potential dates prior to the hearing to dates, and ultimately reached an agreement after some further discussion at this preliminary hearing. The agreed-to dates are acceptable to the LPRT and all parties; this decision confirms the oral instructions already provided.

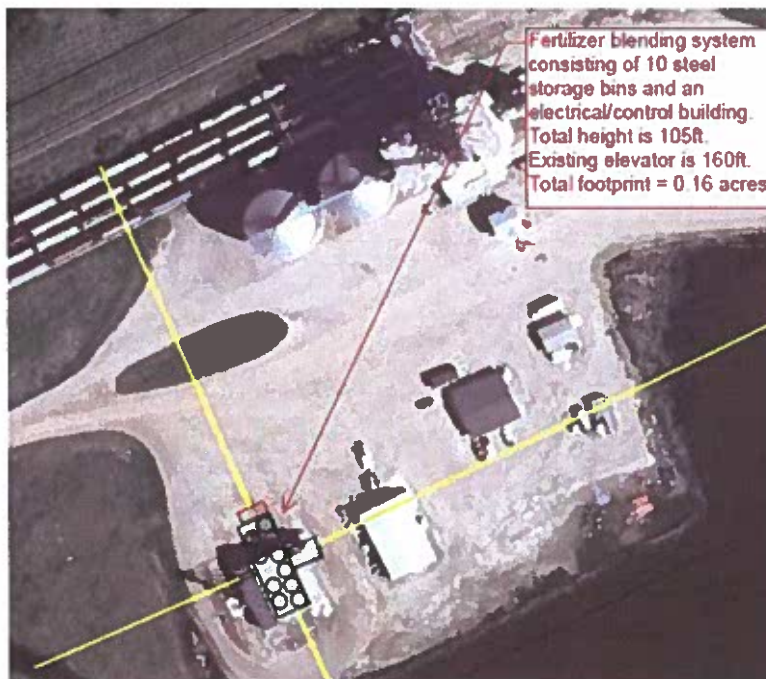
REASONS APPEAL HEARD BY LPRT INSTEAD OF SDAB

[3] The appeal was filed with the LPRT instead of the local subdivision and development appeal board (SDAB) because s. 685(2.1)(a) of the *Act* and s. 27 of the *Matters Related to Subdivision and Development Appeal Regulation* AR 84/2022 direct development appeals to the LPRT when the land that is the subject of the application is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator (AER), Alberta Energy and Utilities Board, Alberta Utilities Commission or the Minister of Environment and Protected Areas (AEP) and the Minister of Forestry and Parks (AFP).

[4] In this case, the relevant land is the subject of two licences granted by the AER.

PROPOSAL

[5] To construct a fertilizer blending system consisting of 10 steel storage bins and an operations room.



PRELIMINARY MATTER

[6] This appeal was scheduled to deal with the preliminary matter of scheduling the merit hearing and disclosure dates. Prior to the hearing the parties were unable to agree on dates that met all parties' schedules. However, during the hearing the parties agreed to the dates reflected in the decision below.

[7] Based on the technical nature of the appeal and the number of parties involved, the parties agreed two days will be required for a hearing. Further, while the agreed-to disclosure dates are the latest dates the submissions are due, they will be provided earlier if they become available.

DECISION

[8] The LPRT accepts the agreement of the parties and confirms the following dates:

September 28, 2023 – The Town is to provide geodetic data for the location of the current runway as soon as possible, but not later than this date.

October 18, 2023 – The Town's submissions due, including the location for the proposed runway as soon as possible, but not later than this date.

November 14, 2023 – Response submissions from Applicant, County and any other affected persons due as soon as possible, but not later than this date.

November 21, 2023 – Rebuttal submissions by the Town due as soon as possible, but not later than this date.

November 28 & 29, 2023 – Hearing

[9] All submissions are due at noon on the dates above. Submissions are to be sent electronically to the other parties and to LPRT at LPRT.appeals@gov.ab.ca and copied to kellie.lau@gov.ab.ca.

REASONS

[10] The LPRT accepts the agreement of the parties for the dates for disclosure and the hearing. These dates ensure all parties can attend with their legal counsel. All counsel stated they are available on the dates above, and will have sufficient time to prepare submissions. The LPRT recognizes the importance of procedural fairness as well as the relatively short timeframes ordinarily contemplated for development matters under the *Act*. The agreed-to schedule is a timely process that still allows the parties a fair opportunity to prepare for and attend the hearing.

[11] This panel is not seized with this matter, meaning the LPRT may schedule a different panel to hear the merits of these proceedings.

Dated at the City of Edmonton in the Province of Alberta this 12th day of September, 2023.

LAND AND PROPERTY RIGHTS TRIBUNAL



H. Kim, Member

APPENDIX A

PARTIES WHO ATTENDED, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING

<u>NAME</u>	<u>CAPACITY</u>
J. Agrios	Appellant, Town of Vermilion, Legal Counsel, Kennedy Agrios Oshry Law
B. Marback	Appellant, Town of Vermilion, Kennedy Agrios Oshry Law
B. McPhee	Appellant, Town of Vermilion
K. Fiske-Nielson	Development Authority, County of Vermilion River, Legal Counsel Brownlee LLP
R. Garnett	Development Authority, County of Vermilion River
N. Hassan	Development Authority, County of Vermilion River
B. Anderson	Applicant, Cargill Ltd., Legal Counsel, Dentons Canada LLP
C. Hinton	Applicant, Cargill Ltd.
S. Oluyemi	Applicant, Cargill Ltd.
C. Skjaveland	Alberta Transportation and Economic Corridors Representative