

**Submission to PARKLAND COUNTY  
Regarding Proposed Bylaw 01-2012  
by PATRICIA HILLS LANDOWNERS SOCIETY**

On Dec. 12, 2011, we requested consideration of two revisions to Land Use Bylaw No. 20-2009.

Firstly, that Section 12.12 (1) be amended as per **Attachment 1** rather than as since proposed by Parkland County administration. Completely removing Section 12.12(1)(a) would eliminate the 304.8m buffer, allowing natural resource extraction and processing right up to the multi-parcel residential subdivision boundary.

Secondly, that Section 5.1(2) be revised to eliminate Natural Resource Extraction/Processing as a discretionary use in land zoned **CR-Country Residential District** (**Page 2 of Attachment 2**).

According to a report dated Jan. 25, 2012, by Karen Kormos, Interim Senior Development Officer, Parkland County has given approval to three gravel pits to extract within the 304.8m buffer directly adjacent to a multi-parcel subdivision and therefore, the administration does not support the proposed Land Use Bylaw amendment. It is our understanding that only at expiry of a development permit and upon application for renewal, would the new bylaws be applied. Parkland County's Land Use Bylaw should reflect the broader vision for residential, commercial and industrial lands and the rules of development. It should not be determined by three cases of "what's already happened".

The residents' of Patricia Hills journey started on Dec. 16, 2009, with a letter from Yellowhead Aggregates regarding the proposed amendment to their development permit, to allow extraction of gravel from within the buffer and then, reclamation of the land to agricultural status.

**A previous operator had already mined into the buffer zone by approximately 100 m without consequence. The landowners met and consensus was that we did not support Yellowhead Aggregates' proposal to mine within the 304.8 m setback.**

April 29, 2010            Adjacent landowners were notified that an amendment to Development Permit 92-D-101, to allow extraction and reclamation within the 305m buffer of the Patricia Hills subdivision had been conditionally approved.

May 11, 2010            The Patricia Hills Landowners Society notified Parkland County, Planning and Development Services of their intention to appeal their decision.

May 25, 2010            The Society was notified that the appeal would be heard on June 14, 2010 and to submit any written material on or before June 9, 2010.

June 4, 2010            The Society made a written request to postpone the hearing to allow a reasonable amount of time to obtain and review the information and prepare our appeal.

June 14, 2010            At the Appeal Hearing, The Society requested a postponement of 120 days. The request was denied and the Subdivision and Development Appeal Board subsequently denied the appeal and upheld the decision of the Development Authority.

July 13, 2010            Jennifer Klimek, The Society's lawyer, made a Notice of Motion for Leave to Appeal.

August 30, 2010            Memorandum on Behalf of Patricia Hills Landowners Society in Support of the Application for an Order Granting Leave to Appeal submitted to the Court of Appeal of Alberta by Jennifer Klimek.

Sept. 30, 2010            The Application for Leave to Appeal the decision of the Parkland County Subdivision and Development Appeal Board dated the 14<sup>th</sup> day, June 2010 was heard at the Court of Appeal of Alberta. The Honourable Madam Justice Myra Bielby granted The Society leave to appeal.

Oct. 6, 2010            Jennifer Klimek received notification from Reynolds, Mirth, Richards & Farmer LLP stating "Further to our attendance in the Court of Appeal on Sept. 30, 2010, as a result of which the Court granted leave to appeal, Parkland County, is prepared to voluntarily return the Sureway Appeal to the Parkland County Subdivision and Development Appeal Board...."

**May 9, 2011            The Society presented their appeal to the Subdivision and Development Appeal Board. The Board upheld the appeal and refused the amendment of Development Permit No. 92-D-101.**

Dec. 13, 2011            The Society presented their request to Parkland County Council for reimbursement of the legal costs (\$10,772.18) incurred in order to return to the Subdivision and Development Appeal Board to present our appeal. Although we felt that these costs were incurred due to an error on the County's part, the request was denied.

For **two years**, the residents of Patricia Hills spent hundreds of hours learning about the development permit process, land use bylaws and the effects of gravel extraction to the environment. We had meetings with each other, with Parkland County officials, with Yellowhead Aggregates, with councillors, with our hydrology expert and with our lawyer. We went to the Court Of Appeals to win the right to be heard. The hydrology report and the legal fees totaled **\$17,565.85**. This was for no benefit, only to maintain the status quo.

The current system of Development Permit application does not allow for any input from the adjacent landowners or interested parties. Once the Development Authority approves a permit, notification is made

and an appeal can be mounted. Given our experience, is it any wonder that residents of a multi-parcel residential subdivision would think twice about starting this process at all. It was only due to the existence of our well-established Society (incorporated in 1982) that we were able to make the attempt. What the Development Authority fails to take into consideration, is the woman with health issues trying to keep her environment chemical free, the child with asthma, the nurse who works night shifts and must sleep during the day, or the retired couple who's counting on their property investment for future income.

Residents of a multi-parcel residential subdivision usually rely on a well for their water supply. They live in the country for the peace and quiet and move to the country to escape the environmental hazards of city life. An adjacent gravel pit operation is monitored by the residents by complaints to the County about noise, dust, fumes and changes to their water supply. Maintaining a 304.8m buffer will surely help protect the residents from the environmental effects of gravel pit operation and reduce the possibility that our water wells will be affected.

I would like to point out three of Parkland County's Core Values:

- **Natural Environment:** Striving to retain the natural wonder that we see all around us every day
- **Safe Communities:** Ensuring that people continue to enjoy the quality of life that our County can provide
- **Managed Growth:** Ensuring that our residents and business benefit from economic development, but not at the expense of the quality of life we all enjoy

Amending the Land Use Bylaw to **not allow** Natural Resource Extraction and Processing within a multi-parcel residential subdivision or within 304.8m (1,000 ft.) of the boundary of a multi-parcel residential subdivision or a row housing development coincides with these core values.

On May 9, 2011, the Subdivision and Development Appeal Board upheld our appeal with one of the reasons being

"The Board is further of the opinion that based on the concerns voiced by the adjacent landowners and the opinions put forth by Dr. Chanasyk, the encroachment of mining activities within the 305m buffer zone could unduly interfere with and affect the use and enjoyment of the neighbouring residential parcels of land."

The last step of our journey is to ensure that we will not have to go through this process again if the adjacent lands are sold to another gravel pit operator and that all residents of Parkland County are protected as we wish to be. Please give this amendment your careful consideration.



## 12.12. Natural Resource Extraction / Processing

1. Notwithstanding the Permitted and Discretionary Uses prescribed within the various land use districts within this Bylaw, sand and/or gravel developments contained within the Natural Resource Extraction/Processing use provision shall be neither permitted nor discretionary if proposed in the following:
  - a) within a multi-parcel residential subdivision or within 304.8 m (1,000.0 ft) of the boundary of a multi-parcel residential subdivision or a row housing development. **Notwithstanding the aforementioned, extraction and reclamation only uses and activities (i.e. no washing, crushing, processing, etc.) may be permitted on a discretionary basis within 304.8 m (1,000.0 ft) of the boundary of a multi-parcel residential subdivision or a row housing development; and**
  - b) where the sand and/or gravel pit and associated activities have a disturbance area of less than 5.1 ha (12.5 ac) on a parcel. Therefore, all sand and/or gravel pits shall require municipal development permit approval, but reclamation issues, including performance security, shall be under the provincial jurisdiction of Alberta Environment.

REMOVE



2. The Development Authority shall require as a condition of development permit approval for a new or renewal aggregate extraction use, or an expansion to an existing aggregate extraction operation, that the applicant(s) acquire all necessary provincial permits and approvals pertinent to the proposed development. Further, the applicant(s) shall be required to supply a copy of any such provincial permit or approval to the County for its records.
3. In considering whether to approve aggregate extraction as a Discretionary Use, as described in Subsection 16.5 of this Bylaw, the Development Authority may also consider the uniqueness of each application for a new or renewal aggregate extraction use, or an expansion to an existing aggregate extraction operation, and have additional due regard for the following:
  - a) the purpose of this Bylaw and the general purpose of the district in which the development is located and the future use of the site as proposed in a reclamation plan;
  - b) the provisions of the Municipal Development Plan and any relevant statutory plan;
  - c) relevant guidelines prepared by Alberta Environment and their comments on applications made for provincial approval;
  - d) the desirability to utilize the aggregate resource as a regional benefit;
  - e) conservation of topsoil for agricultural use on this or another site;

## Section 5 RESIDENTIAL



### 5.1. CR - Country Residential District

#### 1. Purpose

To provide for traditional multi-parcel country residential subdivision/development identified in a statutory plan for that use and related uses, including minor agricultural pursuits. Subdivision and development may be serviced by private on-site systems.

#### 2. Uses

PERMITTED	DISCRETIONARY	NOTES
<b>Note:</b> Grey shading denotes Discretionary Uses subject to Development Authority (excluding Development Officer) Approval.		
	Animal Health Care Services	Not a Discretionary Use within a multi-parcel residential subdivision
	Aplary	Compliant with Section 12.2 Apiary and Aquaculture
Bed and Breakfast Home		Compliant with Section 12.3 Bed and Breakfast Home
	Boarding House	
	Cemetery	Not a Discretionary Use within a multi-parcel residential subdivision
	Community Recreation Services	
	Day Care Services	
Demolition		Compliant with Section 12.5 Demolition
	Dugouts	
	Dwelling, Duplex	Only on Pt. NW 35-53-27-W4M
Dwelling, Single Detached		Compliant with Section 11.4 Dwelling Units on a Parcel, and Section 11.6 Relocation of Any Buildings and Structures, and Section 12.11 Manufactured Home
	Educational Services	
Extensive Agricultural Development		
Extensive Livestock Development		
	Garden Suite	
	Government Services	Not a Discretionary Use within a multi-parcel residential subdivision
	Group Care Facility	

Bylaw No. 13-2009

Bylaw No. 17-2010

	Group Home, Limited	
	Group Home, Major	
Home Based Business Level 1		Compliant with Section 12.9 Home Based Business
	Home Based Business Level 2	Compliant with Section 12.9 Home Based Business
	Home Based Business Level 3	Compliant with Section 12.9 Home Based Business With the exception of an auto body business including auto body shop and steel fabrication shop on NE 12-51-27-W4M within 152.4 m (500 ft) of a multi-parcel residential subdivision
Home Day Care		
	Horticultural Use	
	Indoor Participant Recreation Services	Not a Discretionary Use within a multi-parcel residential subdivision
	Kennel	Compliant with Section 12.7 Kennel
	Manufactured Home, Single Wide	Compliant with Section 11.4 Dwelling Units on a Parcel, and Section 11.6 Relocation of Any Buildings and Structures, and Section 12.11 Manufactured Home
	Medical Treatment Services	Not a Discretionary Use within a multi-parcel residential subdivision
REMOVE	Natural Resource Extraction/Processing	
	Natural Science Exhibit	Not a Discretionary Use within a multi-parcel residential subdivision
	Outdoor Participant Recreation Services	Not a Discretionary Use within a multi-parcel residential subdivision
Park		
	Professional, Business, Financial and Office Support Services	Medical services agency only on Block 14, Plan 4134RS, Riverview Acres, Pt. NE 2-51-26-W4M
	Recreational Vehicle Storage	Not a Discretionary Use within a multi-parcel residential subdivision
	Religious Assembly	
	Riding Arena	
	Secondary Suite	Compliant with Section 12.13 Secondary Suite