



## REPORT TO THE MUNICIPAL PLANNING COMMISSION

June 13, 2019

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<b>Agenda Item</b>	
<b>Application No.</b>	73/19
<b>Proposed Development</b>	sand pit <i>*renewal of previous approval</i>
<b>Legal Description</b>	Pt. NW 21-40-23-W4M
<b>Titled Area</b>	Approx. 62.12 hectares (153.5 acres)
<b>Zoning</b>	Agricultural 'A' District
<b>Landowners</b>	Tanglefoot Farms Ltd.
<b>Applicant</b>	Mixcor Aggregates Inc.

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### BACKGROUND

In 2015, Mixcor Aggregates Inc. (hereinafter referred to as 'Mixcor') received Development Permit Approval (DPA 121/15) to disturb 4.86 hectares (12 acres) in the first phase of a sand pit operation on Pt. NW 21-40-23-W4M. The term of the approval granted was two (2) years. The initial 2015 application by Mixcor included excavation below the water table, however Mixcor amended their application to request **only dry pit excavation** due to adjacent landowner concerns.

In 2017, Mixcor received Development Permit Approval (DPA 90/17) to expand the previous approval to disturb a total of 15 hectares (37 acres) in the first and second phase of the sand pit operation, an increase of 10.11 hectares (25 acres). The only change to the application was the expansion to the area, there were no changes to the depth of excavation.

Currently Mixcor is requesting to renew Development Permit Approval 90/17. Mixcor is requesting as part of this renewal that the requirement to test the residential water well on W½ SW 28-40-23-W4M be ceased, as it is their long term plans to only continue to extract dry sand with no wet pit excavation. There are no proposed changes to the pit area or depth of excavation. The Mining Plan is contained within

Schedule A.

Mixcor has indicated the operations will include dry pit excavation and screening. The depth of excavation will be 2.74 metres (9 feet). The depth to groundwater was 3.66 metres (12 feet), and Mixcor has indicated they will stay above the groundwater table at all times. The life span of the pit is projected to be approximately 5-10 years.

Screening of sand will occur 24 hours/day, 7 days/week. Earthworks will take place for 12 hours/day from Monday to Saturday.

The truck traffic generated will be about 10-15 truck trips per day (approximately 30-45 loads). The haul route will be north on a portion of undeveloped road allowance (Range Road 23-4) from pit lands directly onto Highway 50. The hours of sand hauling all year round will be Mondays to Saturdays, 7 am to 6 pm. There will be no hauling on Sundays or statutory holidays. Mixcor is also continuing to work with the landowners of SW 29-40-23-W4M to ensure hauling operations avoid school bus pick-ups and drop-offs.

The proposed land use after reclamation is agricultural (pasture).

## **POLICY CONSIDERATIONS**

A sand pit is a discretionary use under the Agricultural 'A' District of the County's Land Use Bylaw requiring the approval of the MPC.

The operation must be registered with Alberta Environment and Parks as required and must follow the Code of Practice developed by the Department for the operation and reclamation of sand and gravel pits.

## **CIRCULATION RESPONSE**

Mixcor has advised property owners, within 1 mile of the sand pit site of the renewal, including the requested changes to conditions of approval. Two adjacent landowners submitted responses to Mixcor during the pre-circulation period.

Neighbouring landowners Brian and Sandra Gonda outlined concern regarding gravel trucks hauling during school bus times, as they live near the bridge curve. On Highway 50 and there is a limited line of sight due to the curve. In the past, Mixcor has avoided hauling during the school bus times and the Gonda's have been appreciative of being able to communicate schedule changes or concerns directly

with Mixcor, of which have been promptly addressed.

Neighbouring landowner Chris Sargent outlined concerns with his water well, and requested Mixcor continue testing the water well on W½ SW 28-40-23-W4M. Mr. Sargent also outlined he would like the monthly piezometer readings on the subject site (Pt. NW 21-40-23-W4M) currently being conducted by Mixcor to be done by Bills Water Well Services. Mr. Sargent feels that the piezometer readings should be done by a third party to prevent any conflict of interest and to ensure the readings are being completed on a timely and regular basis. Mr. Sargent outlined he had troubles in March 2018 and September 2018 with discrepancies in the confirmations of testing being done and he believes this could be eliminated if Bills Water Well Services was conducting the piezometer readings.

The application was also circulated to the County's Operations Department and Alberta Transportation for comment.

The County's Operations Department has no issues with the application.

Alberta Transportation offered no objections in principle, but has indicated a Roadside Development Permit is required. The current Roadside Development Permit expires on March 30, 2020, and a future approval term will coincide with the County's permit expiry date.

Schedule A contains the pre-circulation package. Schedule B contains the pre-circulation responses from neighbouring landowners and consultation report.

## **PROPOSED MITIGATION**

### ***Gonda's Concerns***

As mitigation to the Gonda's concerns, Mixcor proposes to continue working with the Gonda's as they have done in the past to avoid hauling during school bus times.

### ***Sargent's Concerns***

Mixcor has requested a discontinuance of testing the Sargent's water well because four years of continued testing has shown that there is no correlation between the sand pit operations and any deviations in the water well flows. The deviations on the water well are a combination of environmental causes and other users of the bedrock aquifer, whether residential, industrial and agricultural, but not caused by Mixcor. As the continued dry sand pit operations are not connected to either the

groundwater or bedrock aquifer, Mixcor feel's continuing the testing program is unnecessary and simply a waste of valuable resources.

Mixcor placed the piezometers on the subject site to understand the groundwater connection for the pit, and the monthly disclosure of the piezometer readings were not required by the County as a condition of approval on either of the previous Development Permits, Mixcor willingly provided Mr. Sargent and Lacombe County this information. As noted over the past four years, the groundwater levels deviate seasonally and environmentally but potentially from other users of the groundwater aquifer, which could include residential, industrial, and agricultural. Taking piezometer readings involves using a water tape device which requires no calibration and no training courses for use. Mixcor feels they do not need the services of a consultant, water well testing company, or third party company to measure six piezometers as they have numerous employees in their company with experience testing piezometers with the use of a water tape. Further, Mixcor has concern that Bill's Water Well Services is a relative of the Sargent family and Mixcor feels that this is not an independent third party consultant.

Notwithstanding Mixcor's objections above, and due to the lack of evidence that Mixcor's operations are impacting local groundwater, if it is decided by the Municipal Planning Commission that testing for both Mr. Sargent's well and/or the Mixcor piezometers must continue with the use of third party consultants, Mixcor believes that the following conditions need to be implemented to ensure fairness in the process:

1. The cost of the residential water well testing program would be cost shared between Mixcor and Mr. Sargent, with Mr. Sargent paying not less than 50% of the costs.
2. The choosing of the consultant needs to go to a RFP process and be chosen on the merits of price and independence.

## **ANALYSIS**

A sand pit is considered a discretionary use in the Agricultural 'A' District of the County's Land Use Bylaw. The pit is an existing operation, and is considered a suitable use of the land.

The concerns received during the pre-circulation were mitigated by the applicant to

the County's satisfaction. Mixcor has only included dry pit excavation on their proposal. Dry pit excavation can only include excavation to a depth at which the water table begins, at Alberta Environment and Park's discretion. No excavation within the water table can occur for a dry pit approval, therefore no negative impact will occur to the groundwater aquifer(s). As Mixcor's long term plans do not include wet pit excavation, staff see no reason why continued water well testing on the W1/2 Pt. SW 28-40-23-W4M to gather baseline data is necessary. Further, the monthly disclosure of piezometer readings on the subject site were willingly done by Mixcor, and were not required by the County as a condition of approval.

It is a standard requirement that the operator enter into a development agreement/road haul agreement which is intended to alleviate issues by regulating side sloping, protective barriers (guard rails), erection of required signs and designated haul route.

Any affected parties may appeal a decision made by the MPC.

## **STAFF RECOMMENDATION**

APPROVE the application, subject to the following conditions:

1. term of development permit to be for **five (5) years**
2. this approval shall be subject to annual review by the Development Officer. Failure to comply to the conditions of development permit may result in the permit being suspended or revoked
3. this approval is for a dry pit excavation, and screening activities only. Further approval is required from the County for any additional activities, **including wet pit excavation**
4. **the pit size is to be no larger than 15 hectares (37 acres). The pit size includes all excavation areas where aggregate is being removed, areas where reclamation material has been salvaged and stockpiled, and areas determined to be infrastructure (e.g., access road, stockpiles, processing equipment, weigh scales)**
5. prior to a development permit being issued, the operator shall submit a progressive reclamation plan to the County's satisfaction
6. prior to a development permit being issued, the operator to enter into a development agreement with the County respecting the operation. A caveat respecting the agreement shall be registered against the title of the property.

All terms and conditions of the development agreement shall be met to the satisfaction of the County

7. prior to a development permit being issued, the operator shall also enter into a sand/gravel haul agreement with the County. All terms and conditions of the sand/gravel haul agreement shall be met to the satisfaction of the County
8. **applicant to continue regular correspondence and dialogue with the landowner(s) of SW 29-40-23-W4M to provide notification of site operations, provide notification of hauling, and establish scheduling of hauls to ensure school bus pickup and dropoff times are avoided**
9. applicant is required to direct all haul traffic directly north onto Highway 50. No other route shall be used for haul traffic, unless permission is received in writing by the County
10. **if, at Lacombe County's sole discretion, it is determined the undeveloped road allowance (Range Road 23-4) requires upgrading to facilitate access into the proposed pit, it will be the responsibility of the applicant to construct it to the satisfaction of the County's Operations Department and it will be at the applicant's sole expense**
11. hours of operation for the sand pit shall be **Mondays to Saturdays, 7:00 a.m. to 6:00 p.m.**, with **no hauling on Sundays or holidays**. Please note that screening is excluded from these hours of operation
12. if, in the opinion of the County, screening on this site causes noise, dust problems or other safety concerns, the County shall impose restricted hours of screening, as deemed necessary, at the sole discretion of the County
13. appropriate noise abatement measures will be required to reduce nuisance impact on adjacent residents, and the County reserves the right to further restrict the hours of operation at its sole discretion
14. applicant to ensure that there is ongoing communication with surrounding property owners and other residents that advises them of extended or non-typical operations, including the timing and duration of screening activities and major hauls
15. if extended hours of operation are required beyond those outlined in condition 11, the operator shall ensure surrounding property owners and other residents are notified at least seven (7) days prior to the proposed date of the proposed extended hours of operations. Please note that if concerns are raised by surrounding property owners and other residents, the operator will be required to limit all operations to those outlined in condition 11

16. applicant to ensure all gravel trucks used in the operation are registered with the provincial central truck registry. Written evidence of the same is to be provided to the County
17. a 3 metre (10 foot) wide buffer to be maintained for excavation from property lines with a minimum 3:1 slope ratio
18. cut and fill slopes to be no steeper than 4:1 for the final design when adjacent to a road, and 3:1 when adjacent to a property line
19. no new topsoil, overburden or granular material to be piled over 2 metres (6.56 feet) in height within 30.0 metres (98.42 feet) from a property line
20. applicant to satisfy all requirements of Alberta Environment and Parks for the sand operation

*It is important to note that since the property is located within ½ mile of Highway 50, approval is also required from Alberta Transportation pursuant to the Alberta Public Highways Development Act and the Highway Department Control Regulations. For more information, please contact the Department at (403) 340-5166.*

*Please note that Lacombe County has passed Bylaw 1261/17 which authorizes the collection of a community aggregate payment from all sand and gravel operations in the County. Attached is a copy of the Bylaw.*

## **MPC DECISION**

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**PREPARED BY: Cajun Paradis, Planner/Development Officer**

**REVIEWED BY: Dale Freitag, Director of Planning Services**

**REVIEWED BY: Tim Timmons, County Manager**