



Peace Regional SDAB
P.O. Box 450, Berwyn, Alberta, T0H 0E0
5109 - 51 Street, Berwyn, Alberta
Ph. 780-338-3862
Email: info@mmsa.ca

Notice of Decision

PEACE REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD NOTICE OF DECISION

IN THE MATTER BETWEEN DARYLE REMPEL, AMY REMPEL AND TREVOR REMPEL (APPELLANTS) AND COUNTY OF NORTHERN LIGHTS (DEVELOPMENT AUTHORITY)

File Number: 22PRSDAB001
Decision Date: October 27, 2022

Hearing held at: County of Northern Lights Office (Council Chambers)
Date of Hearing: October 12, 2022

Board Members: Randy Morden (Chair)
Alison Bjornson
Dave van Tamelen

Board Clerk: Shirley Matiasiewich

Background

[1] On October 12, 2022, the Peace Regional Subdivision and Development Appeal Board (the "Board") heard an appeal that was filed on September 13, 2022 for an application by Mercer Peace River Pulp Ltd. The appeal concerned the decision of the Development Authority, issued on August 23, 2022, to approve the following development:

Log Storage Yard and associated infrastructure (weigh scale, fuel storage)

[2] The subject property is on NW-7-87-25-W5M, located in the County of Northern Lights, within the Agricultural General District of the Land Use Bylaw.

[3] The appeal hearing on October 12, 2022 was held through a combination of written submissions, oral presentations, and video conference (Zoom). The following documents were received and form part of the record:

- Copy of the Development Permit Application with attachments, including the proposed site plan, additional information about the proposed development, comments from an adjacent landowner voicing opposition to the development, and the approved Development Permit;
- Minutes of the Municipal Planning Commission meeting where the application was discussed and approved;



- The Appellants' written submission;
- The Applicant's written submission;
- The Development Authority's written submission; and
- Excerpts of the relevant planning documents (Municipal Development Plan, Land Use Bylaw, Soil Classification)

Preliminary Matters

- [4] At the outset of the appeal hearing, the Chair confirmed with the parties in attendance there was no opposition to the composition of the panel.
- [5] The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

Summary of Hearing

1) *Position of the Appellants, Daryle Rempel, Amy Rempel and Trevor Rempel:*

- [7] D. Rempel, who owns a property adjacent to the proposed site, indicated that they had expressed a number of concerns about the proposed development to the County of Northern Lights, which were either grossly misrepresented, ignored or not adequately addressed through the development approval.
- [8] Their main concerns include noise, potential crime, decline in property value and loss of farmland.
- [9] While the noise from trucks have been addressed, the noise from yard equipment has not been addressed.
- [10] Their property does not have enough trees to provide a buffer and will not hold out the noise or prevent them from seeing the log yard.
- [11] They believe that the expected increase in traffic in the area as a result of the development could result in increased crime. This was, however, dismissed as a non-concern by the Development Authority who claimed, without providing evidence, that there could be less crime for the same reasons.
- [12] Based on the expert opinion of 4 realtors they consulted, there will be a significant drop in their property value due to the proximity and impact of the proposed development. This concern was also dismissed by the applicant's representative, and ignored by the County, with the former suggesting that they could sell the property and move out.



- [13] In their opinion, allowing the development on the site will lead to loss of farmland, which must be curtailed. There are other marginal lands in the County that would fit the criteria and needs of the applicant.
- [14] He is also concerned about the proximity of the log storage yard to a water source.
- [15] He stated that Jake Brake signs need to be posted along the highway and their local road.
- [16] According to him, the maps presented with the application are not current.
- [17] The approved Development Permit does not show that it is only valid for four years. There is a risk that the development could continue in the long-term.
- [18] They are not opposed to the applicant or the forestry industry. They only believe that the subject site is not the appropriate location for the proposed log storage.
- [19] T. Rempel, who also spoke in favour of the appeal, supported the statements made by D. Rempel, adding that he does not want to be looking out his front window at a log yard, and urged asked the County and the applicant to come up with a different location.
- [20] D. Rempel provided the following information in response to a question from the Board:
- a) He did not have a current picture of the site.
- 2) *Position of the Development Authority, Anna Glover and Theresa Van Ort.*
- [21] The subject property is being leased from North Stone Ventures, the landowner, who also owns all the adjacent parcels, except the three to the north across Highway 689.
- [22] The proposed development would include log storage area, a parking area, a weigh scale, and a fuel storage tank. Drinking water will be brought to site, while port-a-potties and garbage bins will also be on site.
- [23] Trucks would haul logs to the site 24 hours a day, 6 days a week from December to March, and trucks would haul logs away from the site, to the Peace River Mercer Mill, 24 hours a day, 6 days a week for two months in the summer.
- [24] The trucks will enter and exit the site from Range Road 260, with the expectation that no more than 3 to 4 trucks will be on site at a time.
- [25] During driver orientation, drivers will be instructed not to use engine retarder brakes (Jake Brakes). Signs will be posted along Range Road 260 and at the site prohibiting the use of Jake Brakes. In addition, staff will be on site to remind drivers not to use Jake Brakes.



- [26] The site is zoned Agricultural (A) District, which allows a Storage Yard as a discretionary use, per the Land Use Bylaw. The primary purpose of the land use district is to allow for agricultural production, and to allow for some complementary land uses.
- [27] The development is temporary and would run for a period of 4 years, after which the land will be remediated to County standards and returned to a state suitable for agricultural production.
- [28] Per the Canada Land Inventory, the development area is classified as Class 4, which is a lower quality agriculture land. In accordance with Section 1.4.2. of the Municipal Development Plan (MDP), Class 4 maybe be considered exempt from the definition of Better Agriculture Lands if it is compatible with adjacent land uses and if subject to size constraints.
- [29] Per Section 6.3.3 of the MDP, Industrial Development may be supported in this area if the proposal caters to forestry, has large land requirements, is not suitable to urban areas, and does not conflict with adjacent land uses in terms of appearance, emissions, noise, traffic generation unless suitable buffers are provided. Based on their review, the proposal meets all the above criteria. Buffers are provided by tree areas that remain at the northwest corner and tree buffers on the adjacent lots, as well as a tree buffer along the south of the parcel.
- [30] Furthermore, the proposal meets all the setback requirements of the Land Use Bylaw, including the proposed 200m setback from the east watercourse, and from adjacent roads.
- [31] The development is compatible with adjacent land uses as it is temporary, and there are only two farmsteads adjacent to the site, and a large site to store logs is not compatible with small urban lots.
- [32] Alberta Transportation has approved the development, including the use of Highway 689.
- [33] Prior to approving the development, a Council hearing was held where those in attendance were consulted and it was agreed that the operations could run for 24 hours a day so that the number of months in a year that the business would be operating would be shorter, and that no chipping would be done at the site. Prior to the hearing, the applicant was required to consult adjacent landowners and address specific concerns received by the County Office.
- [34] The Development Permit was approved with 14 conditions to regulate the development and ensure that adjacent landowner concerns were addressed. Conditions 5, 6, 7, 8, 9, are specific to this development in order to address the specific issues of this site. The balance of the conditions apply to most developments in the County. The approval conditions, along with the development proposal, would comply with both the Land Use Bylaw and Municipal Development Plan.



- [35] The forest industry is a large tax base for the County, and that Council supports the forest industry, and that they try to balance this with the needs of all their residents.
- [36] Anna Glover provided the following information in response to questions from the Board:
- a.) After the 4 years the Applicant will have to reapply for a Development Permit.
- 3) *Position of the Applicant, Mercer Peace River Pulp Ltd, represented by Clarence Budal.*
- [37] The purpose of the yard is to provide temporary storage space for timber harvested during the winter months. The timber, cut to length logs, will then be re-loaded for transport to the Mercer Peace River facility near Peace River in the summer months.
- [38] In an ideal situation, the company would be able to haul the timber all the way to the Peace River facility directly from the harvest areas, and thus eliminate the need for a temporary storage yard. This has, however, been determined not to be feasible for two main reasons. One is that there is insufficient room at the facility near Peace River to hold all of the wood harvested from all sites during the winter months. The other reason is that there is a lack of available trucks and, more importantly, truck drivers to move the wood during the limited time period offered by the frozen ground conditions during winter. For these reasons, the company has decided to utilize temporary storage yards to “spot” the winter harvested timber adjacent to all-weather roads for re-load and transport during the summer months.
- [39] The proposed location was selected based on the following factors:
1. Proximity to the harvest area: The proposed location is approximately 6 kms from the southeast corner of the operating area that they anticipate to harvest the timber for the storage yard. The proximity to the harvest area minimizes the trucking requirements.
 2. Proximity to all-weather road for summer haul: Secondary Highway 689 is adjacent to the property on the north edge. This is a paved road which provides the opportunity to remove the timber from the yard without haul stoppages for rain events. An uninterrupted haul is more efficient, cost effective and can aid in truck driver retention. Other potential sites that would require use of a gravel road do not have this significant advantage. A paved road also does not require daily maintenance in the form of grading and watering for dust control.
 3. Available space for storage of predicted volume: the proposed property is mostly a cleared quarter section. The company is proposing to use 60 acres for the storage yard. This will be adequate space for the volume of timber they are expecting to store at the site.
 4. Minimal impact to local residents: It is understood that the site selection may have impacts to local residents.



- [40] He has engaged with nearby residents through multiple personal contacts since June 1, 2022. This included conversations with residents who submitted letters of concern about the proposed development where they found some common ground whereby the company could mitigate some of the concerns.
- [41] One of the primary concerns voiced by the residents is the potential noise associated with trucks entering or leaving the site or from the operations on the site. The noise from trucks is mostly associated with the use of engine retarder brakes (Jake-Brakes). In response to this, Mercer Peace River Ltd has committed to installing signs on the roads approaching the site prohibiting their vehicles from the use of Jake-Brakes. This will also be brought up during truck driver training sessions and reminder signs will be posted on the site for trucks leaving the site. The company also intends to use a group of trucks for the summer haul that are equipped with automatic transmissions. These trucks should have less inclination to use Jake-Brakes to slow down to enter the proposed site.
- [42] Potential onsite noise would be from power generation to the site and from equipment operations. During conversations with nearby residents, Mercer Peace River Ltd agreed that connection to the existing power grid to provide the electricity needed on the site would be preferable. Subsequently, ATCO Electric was contacted and has provided the company with a quote for providing service to the site. This will eliminate the need for a diesel-powered generator that was agreed would be a significant noise concern.
- [43] Regarding the noise from equipment on the site, part of the permit application stated that Mercer Peace River Ltd would maintain vegetation along the north boundary of the property and that the company would deck the timber from north to south and un-deck from south to north. Both of these strategies should help to minimize noise from the site disturbing adjacent residents.
- [44] Planting trees to enhance the buffer would not be effective, as the growth of the trees will take time and would not help in dealing with noise by the time the four-year tenure is up, although they are open to other ideas to help with buffers.
- [45] Another concern expressed by the residents was potential decrease in land values. This appears to have caused some confusion. C. Budal shared the opinion that this would only be an issue if the landowners were actively engaged in trying to sell their property. However, this did not seem to be the intention of the landowner at the time of the conversation. C. Budal apologized for any offense this may have caused.
- [46] C. Budal also met with two other nearby residents, neither of whom expressed any significant concerns about the proposal other than the potential impacts associated with additional traffic.



[47] Environmental impacts would be minimized as the proposed site is mostly level which allows for a greater level of control of potential run-off from the site. Also, the proposed site on the property is buffered by a significant distance from the watercourse on the east side of the property.

[48] C. Budal provided the following information in response to questions from the Board:

- a.) Has been in talks with ATCO to add them to the power grid. This will elevate the need for a diesel generator, thereby helping with the noise generation from site.
- b.) He is unable to say yes or no, if Mercer Peace River Ltd will continue to use the site beyond the 4 years.

4) *Position of Land Owner, Duane Stone - North Stone Ventures Ltd.*

[49] He would like a resolution with the appellants.

[50] He has done some of the logging that was being referred to by D. Rempel.

[51] He has a farmland around a permanent log yard owned by Mercer Peace River Ltd at a different location. The company has been good with upholding any conditions imposed on them. The roads are good and maintained. Everything Mercer Peace River Ltd has said they will do has been done. The truckers have been respectful. The company tracks and watches what goes on.

[52] He understands the Rempels' concern regarding the land value. But he has seen an increase in land values surrounding properties on other log yards, and he feels the values will go up not down.

[53] He does understand the concern for noise and traffic, and hopes there can be a resolution.

[54] While a dirt berm might work in mitigating noise, it could be unsightly. He is willing to work with everyone.

[55] As for the concern on crime, he feels that with the traffic increase and more people around crime may decrease.

[56] He is happy that Mercer will restore the land to farmland as that would benefit him as the land is currently not farmland.



Decision

- [57] The appeal is **DENIED**, and the decision of the Development Authority is **UPHELD**. The Development Permit is **CONFIRMED** with the original fourteen (14) conditions and **SUBJECT TO** the following additional conditions of approval:
15. The Permit is valid until October 27, 2026.
 16. The Applicant shall install temporary screening supplemental to the existing trees, in accordance with the Municipal Development Plan and the Land Use Bylaw.
 17. Electricity shall be supplied from the existing grid only.
 18. The Applicant shall be required to post signage identifying the avoidance of Jake Brakes on Highway #689.
 19. The Applicant shall develop a process for inspection of the site to ensure compliance with applicable Provincial and Federal Environmental and Safety Legislation. Inspections shall be conducted quarterly for the duration of the validity of the development permit. Inspection reports shall be supplied to the issuing Authority within 14 days of completion.

Reasons for Decision

- [58] The Board has determined that the proposed development constitutes a valid discretionary use under the County of Northern Lights Land Use Bylaw, and that the original and additional conditions attached to the Development Permit sufficiently address concerns regarding:
- Environmental impact
 - Noise impact and
 - Impact on adjacent properties
- [59] In the opinion of the Board, the original fourteen (14) conditions of approval were reasonable and justified.
- [60] The concerns regarding the loss of agricultural land are mitigated by the temporary nature of this development.
- [61] Based on the information presented at the Hearing, potential negative impacts on adjacent land values were inconclusive.
- [62] Based on the information brought to the hearing in regard to criminal activity, the Board determined that it was also inconclusive as to whether 24/7 activity would increase or deter



Peace Regional SDAB
P.O. Box 450, Berwyn, Alberta, T0H 0E0
5109 - 51 Street, Berwyn, Alberta
Ph. 780-338-3862
Email: info@mmsa.ca

Notice of Decision

criminal activity.

Issued this 27th Day of October, 2022 for the Peace Regional Subdivision and Development Appeal Board.

Randy Morden, Chair of Panel
Peace Regional Subdivision and Development Appeal Board

IMPORTANT NOTICE

Appeals:

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, R.S.A. 200q c.M-26. This section requires an application for leave to be filed with the Court of Appeal of Alberta within 30 days of receipt of this decision

Enforcement:

When a decision has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Municipality.