



Peace Regional SDAB  
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Notice of Decision

## PEACE REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

### NOTICE OF DECISION

#### IN THE MATTER BETWEEN KEN CANNING (APPELLANT) AND COUNTY OF NORTHERN LIGHTS (DEVELOPMENT AUTHORITY)

File Number: 23PRSDAB001  
Decision Date: September 15, 2023

Hearing held at: Town of Grimshaw Office (Council Chambers)  
Date of Hearing: August 31, 2023

Members Present: Peter Gunning (Chair)  
Avis Gagne  
John Przybylski

Clerk: Fiona Ness

Appellant: Ken Canning  
Applicant: Peace Country Steel and Salvage Ltd.  
Development Authority: County of Northern Lights

#### Background:

- [1] On August 31, 2023, the Peace Regional Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on May 3, 2022, for an application by Peace Country Steel and Salvage. The appeal concerned the decision of the Development Authority, issued on April 13, 2022, to approve the following development:

#### Salvage Yard

- [2] The subject property is located at 840017 Range Road 231, legally described as Lot 3, Plan 8020847, within SW-01-84-23-W5M, in the County of Northern Lights, within the General Industrial (M1) District of the Land Use Bylaw.
- [3] The appeal hearing on August 31, 2023, was held through a combination of written submissions and oral presentations. Video conferencing (Zoom) was available, though no participants joined the meeting using the platform. The following documents were received prior to the hearing and form part of the record:



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- Copy of the Development Permit Application with attachments, including the proposed site plan, additional information about the proposed development, correspondence from adjacent landowners voicing opposition to the development, and the approved Development Permit;
- Minutes of the Municipal Planning Commission meeting where the application was discussed and approved with conditions;
- The Appellants' written submission;
- The Development Authority's written submission; and,
- Excerpts of the relevant planning documents (Municipal Development Plan, Land Use Bylaw, Weberville/Warrens ville Area Structure Plan, and M.D. of Peace/County of Northern Lights Intermunicipal Development Plan).

### Preliminary Matters

- [4] At the outset of the appeal hearing, the Chair confirmed with the parties in attendance that 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 Development Authority, Theresa Van Oort and Anna Glover.**

- [7] The Municipal Planning Commission, acting as the Development Authority on behalf of the County of Northern Lights, approved this application on the grounds that:
- the development complies with the Land Use Bylaw,
  - the development complies with the Municipal Development Plan,
  - the subject lot had been rezoned to industrial land use in the early 1990s,
  - there is record of an application being made in the early 1990s for a salvage yard,
  - the existing residences on the site were approved by the Mackenzie Planning Commission in 1983 and 1988, and
  - this would be a continuation of use.
- [8] The Development Permit approval was granted subject to compliance with 20 conditions to ensure compliance with the Land Use Bylaw, Municipal Development Plan, and Intermunicipal Development Plan, and to ensure that the concerns of adjacent landowners were addressed.



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- [9] The site is zoned General Industrial (M1) District, which allows a Salvage Yard as a discretionary use, as per the Land Use Bylaw (LUB). The purpose of this District is to provide for industrial uses that require relatively large tracts of unserviced land, and are intended to accommodate uses related to natural resource extraction and agricultural development.
- [10] The development was determined by the Development Authority to meet the definition of “Salvage Yard” as per Section 2 of the LUB. The application was for a discretionary use, and was referred to the Municipal Planning Commission for a decision, as per Section C2.2 b of the LUB.
- [11] Salvage Yard is a discretionary use in the Agriculture General (A) District in Section K1.1 b and in the General Industrial (M1) District, in Section K9.1 b of the LUB. Salvage Yard is not listed as a Permitted or Discretionary use in any other district in the LUB.
- [12] With regard to Section C3.4 of the Land Use Bylaw, the Development Authority determined that the development complies, because it meets the fencing and screening requirements for Salvage Yards as per Section I9, and the buildings on the site comply with front, side, and rear yard setbacks set out in Section K9.
- [13] The development was determined by the Development Authority to not require the submission of an Environmental Site Assessment with respect to Section K9.2, because Alberta Environment was already inspecting the site and had determined that there were no issues.
- [14] Per the Canada Land Inventory, the development area is classified as Class 4, which is a lower quality agricultural land. In accordance with Section 1.4.2. of the Municipal Development Plan (MDP), Class 4 may be considered exempt from the definition of Better Agriculture Lands, if it is compatible with adjacent land uses and if subject to size constraints.
- [15] The lands are within the Grimshaw Gravels Aquifer, defined as an Environmentally Sensitive Area, as described in Section 1.4.3 of the MDP, and shown on the Future Land Use Concept Map 4.
- [16] The development complies with the General Development Strategy, in section 3.0 of the MDP, which directs the County to locate developments on lower quality agricultural lands or in identified development nodes where services and infrastructure are readily available or planned, and the County’s watershed and water source shall be protected to maintain their ecological importance.
- [17] The lands are subject to Industrial Development policies outlined in section 6.3 of the MDP. The development complies with Section 6.1, because the lands are not considered Better Agricultural Land, therefore industrial development may be allowed.
- [18] Per Section 6.3.2 of the MDP, Industrial Development may be supported in this area if the proposal caters to the needs of agriculture, forestry, or natural resource extraction, has large land requirements, is not suitable to an urban area, and does not conflict with adjacent land uses in terms of appearance, emissions, noise, or traffic generation unless suitable buffers are provided, and has minimal servicing requirements. The development complies with the above criteria.
- [19] The Development Authority determined that the development meets the criteria in Section 6.3.2 e of the MDP, and is suitable in terms of soil stability, groundwater level and drainage. A Geotechnical



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Assessment was not required of the Applicant, because the lot was already zoned for industrial uses, had been in use since the mid-1990s, and Alberta Environment was already monitoring the site.

- [20] Per Section 6.3.3 of the MDP, the development is compliant; Alberta Environment did not provide any requirements, even after multiple site inspections, and an Environmental Impact Assessment is only required for heavy industrial developments, which does not apply to the current use.
- [21] Per Section 6.3.3 b of the MDP, the development is compatible with surrounding uses.
- [22] Per Section 6.3.3 c of the MDP, the development is not located on Better Agricultural Land.
- [23] Per Section 6.3.3 d of the MDP, the Development Permit Notice of Decision included a condition to address fire suppression on site.
- [24] Per Section 6.3.3 e of the MDP, the Development Permit Notice of Decision included a condition to address local road network and that a Road Use Agreement be signed.
- [25] Per Section 6.3.3 f of the MDP, the development complies with the Land Use Bylaw.
- [26] Per Section 6.3.3 g of the MDP, the development application was circulated to obtain comments from adjacent landowners. Two adjacent landowners expressed opposition to the development. Their concerns were largely environmental issues related to storage of abandoned vehicles on the site, and the possibility of oil and antifreeze leaking into the surrounding land and ground surface water, and potential health hazards.
- [27] Per Section 6.3.4 of the MDP, the development complies with regulations for open discharge of effluent materials. The waste will be stored in a sealed septic tank and the septic tank then commercially removed.
- [28] Per Section 6.3.5 of the MDP, the Applicant was not encouraged to develop in an industrial park, because the lot had been zoned industrial since the early 1990s.
- [29] Per Section 6.3.8 of the MDP, adequate tree buffers are maintained between the lots; this would have been considered at the time of rezoning to industrial.
- [30] Per Section 6.3.10 of the MDP, a Risk Assessment was not required since the industrial use has been existing since the mid-1990s.
- [31] Per Section 6.3.11 of the MDP, the Development Permit Notice of Decision included a condition that requires removal of parts from vehicles that are likely to contain automotive fluids, those removals must be done on an impervious pad so as not to affect groundwater.
- [32] The lands are not subject to any Area Structure Plans or Concept Plans. When the application was received in 1988 by Mackenzie Regional Planning Commission, it was part of the Weberville/Warrensfield Area Structure Plan, but that is no longer in effect.
- [33] In the Intermunicipal Development Plan (IDP) between the County of Northern Lights and the



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Municipal District of Peace No. 135, the lands are designated Industrial in the Future Land Use Map 7. The development complies with policies and objectives of Section 3.2 for commercial and industrial development policies.

- [34] As per IDP policy 2.3.1 d i, the development permit was circulated to the MD of Peace No. 135.
- [35] The MD of Peace No. 135 had concerns with speed, and dust control concerns with one mile of Range Road 231, because they receive complaints about the large quantity of trucks using the road. They had asked for dust control measures, but indicated that in the past, their records indicate that the Applicant had refused requests for mitigating dust. Concerns raised by the MD and received from circulation to the MD were addressed by conditions for dust control management and a Road Use Agreement.
- [36] In the opinion of the County of Northern Lights, the development does not unduly interfere with the amenities of the surrounding area, or materially interfere with or affect the use and enjoyment of neighbouring properties, due to the conditions included with the approval. The County submits that the SDAB uphold the decision of the Development Authority and concludes that the proposed development on the lands meets the regulation and definition development of Salvage Yard in General Industrial (M1) District.
- [37] Theresa Van Oort, CAO of the County of Northern Lights, provided the following information in response to questions from the Board:
- a) The original development permit application was handled through what was at the time, Mackenzie Regional Planning Commission; they had a flood and lost all their records, so there is no record of that permit being approved or denied.
  - b) The distance of 50m set out in Condition 15 was deemed an acceptable distance for contamination. The condition refers to underground potable water, not the Grimshaw Gravels Aquifer. It is a requirement to have salvage yard operations far enough away from potable water. This condition refers to a potable water storage tank for the use of the people at the site.
  - c) The site is on the Grimshaw Gravels Aquifer, but condition 15 of the Development Permit Notice of Decision relates to underground potable water, it does not apply to the aquifer. There is a distinction between an underground potable water storage tank and the Grimshaw Gravels Aquifer.
  - d) The County would not have any say on what materials the site could accept, but the Applicant would have to meet the conditions of any other licences or permits that are required.
  - e) The development permit has been under appeal for the last 2 years, so nobody from the County of Northern Lights has been to the site in the past 3 years.
- [38] Anna Glover, a planner with ISL Engineering and Land Services which provides planning services to the County, provided the following information in response to questions from the Board:
- a) The lands have been zoned General Industrial (M1) since the 1980s. They applied for a development permit for a salvage yard about that time, but there is no record of it being approved.



b) She was at the site in May of this year.

**2) Position of the Appellant, Ken Canning**

- [39] Ken Canning, who owns a property adjacent to the proposed site, indicated that he has numerous concerns regarding the proposed development that have been expressed to the County of Northern Lights, that have not been adequately addressed through the development permit approval.
- [40] Concerns raised with the County of Northern Lights relate to the region's water supply, foul odors, and excessive operational noise.
- [41] According to an email dated March 16, 2022, from Ms. Glover to Adam Norris of the Grimshaw Gravels Aquifer Advisory Management Association (GGAAMA), an application was made in 1988 for a shop to sell new and used steel, but was never approved, meaning a Salvage Yard was never approved.
- [42] In the early 1980s, the land was zoned Country Residential; Julian Soleski owned the whole quarter, and in the early 1980s, subdivided it into four 40 acre parcels, one of which Ken purchased from Mr. Soleski in 2007.
- [43] Mr. McDonald, the Applicant, purchased one of the 40 acre parcels around 2008, for use as a Salvage Yard, according to his affidavit. Mr. Canning questioned why neither the County of Northern Lights nor Mr. McDonald ensured the proper permits were in place at that time.
- [44] The Appellant questioned why ISL Engineering and Land Services, who handles the County's planning and development, would approve a permit with no investigation of the property.
- [45] The Appellant asked why this Development Permit was approved, when it contravenes MDP Section 6.3.2 a, which clearly states that no industrial development shall be permitted where the depth to the aquifer is less than 5m from the base of the building foundation.
- [46] According to Mr. McDonald's affidavit, "in 2021 Ms. Van Oort advised me to submit a Development Permit Application for the salvage operation", and he was told "it was just a formality". The Appellant questioned why were so many things overlooked by County of Northern Lights administration and Council.
- [47] Council's decision to approve the Development Permit with 20 conditions is unacceptable. There is no way to enforce these conditions; the County has no bylaw officer.
- [48] The development is situated on Class 4 soil. Class 4 clearly states severe limitations. Class 4 soil is, in laymen's terms, are 75% granular in nature and 25% organic, fibrous in nature. Both have no retention for moisture, unlike a clay base, which holds back moisture. Leaching occurs when contaminants are allowed to have rain and snow leach down through them to enter our water aquifer.



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- [49] In Anna Glover's Memorandum to the County of Northern Lights, she mentions that the development meets the intent of the objectives in Section 7.2 of the Weberville/Warrensville Area Structure Plan. She did not mention Section 7.2, Objective 7, which states "To ensure that the sites chosen have high potential for ground water and are capable of protecting the important groundwater aquifers from various forms of contamination".
- [50] Mr. Canning stated that Ms. Glover goes on to say that there are tree buffers on all sides of the development. 20 feet of sparse trees in his opinion does not constitute a screening buffer to adjacent landowners.
- [51] The subject lands are in the Grimshaw Gravels Aquifer Risk Zone. In his email response to Anna Glover regarding the Development Permit Application, Adam Norris of the Grimshaw Gravels Aquifer Management Advisory Association states that if used steel has oil or other substances on or in them, a secondary containment for these products would be a good idea. There is still no containment under the heavy oil field metals or the old car bodies and parts that are leaching out oil and other contaminants.
- [52] Wells in the area are about 12 feet deep. Water samples were taken in two different locations adjacent to the Salvage Yard. It has been determined by the Alberta Centre for Toxicology that there are some major concerns of high levels of the following chemicals and trace metals that are above satisfactory levels: manganese, lead, sulfates, total dissolved solids, and iron. These all come from the Salvage Yards, and have been documented in previous studies. Approval of such a large recycling facility on land that is so close to a huge water aquifer that runs for miles and supplies water to all the communities in the area should not be considered. The safety of drinking water is of the utmost importance.
- [53] In one of the tested wells adjacent to the site, belonging to Time Hewko, manganese was found to be 56% higher than maximum acceptable concentrations. Iron is 134% above the maximum acceptable level. They have been told not to drink the water from their well.
- [54] In Anna Glover's Memorandum, in closing she stated that two landowners expressed opposition to the proposed development. At a Council meeting, she said that one of the concerns was the possible health hazard for livestock and wildlife. This was not the case. The concern was the possible health hazard to humans. This downplaying of the importance of human health is totally uncalled for.
- [55] The Appellant stated that he will prove with pictures, email, and written submissions that this Salvage Yard had a permit approved by Council, without consideration for residents, or the water aquifer and a total disregard for policies, procedures, directives that have been put into place by governing bodies that fully expect they will be upheld.
- [56] The Appellant stated that he was told by Anna Glover that there were new owners of the Salvage Yard, and that a new permit was required. A new permit is required, but not because there are new owners; but rather because the County of Northern Lights cannot find record that a development permit was ever approved for the Salvage Yard.
- [57] The original yard was a small scale, selling new and used steel. Over the years, the price of steel has skyrocketed. The past two corporations that have leased the property, Tervita and now Secure Energy,



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have been shipping out salvage by the rail-carload, plus trucking to Edmonton. Since 2008, the salvage business has increased drastically. During the week of May 3-10, 2022, a total of 14 rail cars were filled at the Grimshaw Rail Yard, not counting the trucks hauling to Edmonton. This has continued until now. B-trains hauling steady to the rail cars, through all the rainfall during the summer, making Range Road 231 almost impassable, saying: "see the pictures to prove". The Appellant states he was told it takes 3 B-trains or more to fill a rail car. The scope of work and salvage leaving Grimshaw is much larger now and has been all summer. The trucks run steady.

- [58] The Appellant stated that roads are being punched out. The dust control measures implement by the company are not enough in his opinion.
- [59] Approving a Salvage Yard right in the vicinity of several acreages which are now zoned Country Residential should not be permitted. The residents paid big money to have the peace and quiet of country living. Now they are being forced to put up with the steady drone of cats and hoes operating 12 hours a day, 6 days a week, banging around and crushing steel. Last winter, it was 24 hours a day, 7 days a week. In early evenings, it is impossible for residents to sit on their decks with the constant noise, strong odors of stale gas and oil that continue to linger in the air.
- [60] The Appellant spoke about the three salvage yard studies included in his written submission. Salvage Yards are becoming an environmental concern the world over, posing numerous risks to the environment and the communities they are in. He argued that the biggest concern with a Salvage Yard is the issue of groundwater and soil contamination. Petroleum hydrocarbons and heavy metals contaminate groundwater. Vehicles are known to have nickel, aluminum, mercury, arsenic, lead, and cadmium. Mercury switches are in most vehicles now in hoods, trunks, doors, gas tanks. All of these are cancer causing agents, he claimed.
- [61] Salvage Yards are rarely inspected after receiving initial permits. Before permits are issued, due diligence must be done to ensure that Salvage Yards are in suitable areas, not to affect aquifers and residentially zoned areas.
- [62] Per the LUB, Section B – Definitions, General Industrial Type 1 means those developments where activities and uses are primarily carried on within an enclosed building and no significance nuisance factor is created or apparent outside an enclosed building. Any development, even though fully enclosed, where, in the opinion of the Development Authority there is significant risk of interfering with the amenity of adjacent sites because of the nature of the site, materials or processes, shall not be considered a General Industry Type 1. General Industrial Type II means those developments in which all or a portion of the activities and uses are carried on outdoors, without any significant nuisance or environmental factors such as noise, appearance, or odour, extending beyond the boundaries of the site. Any development where the risk of interfering with the amenity of adjacent or nearby sites, because of the nature of the site, materials or processes, cannot be successfully mitigated shall not be allowed.
- [63] Per Section 6.3.4 a of the MDP, no industrial development shall be permitted where the depth to the aquifer is less than 5m from the base of the building foundation.
- [64] Per Section 6.3.2 of the MDP, the County may support industrial development in the Agricultural Policy Area if the proposal:





- d) does not conflict with adjacent land uses in terms of appearance, emissions, noise or traffic generation, unless suitable buffers are provided;
- e) is located on a site that is suitable for the proposed development in terms of soil stability, groundwater level, and drainage and the applicant has made provision for sewage disposal in accordance with provincial requirements. For all industrial development proposals located within the Grimshaw Gravels Aquifer, and industrial development proposals elsewhere in the County greater than five parcels, the applicant shall submit a Geotechnical Assessment prepared by a qualified professional engineer that indicates the suitability of the subject lands to accommodate sewage disposal systems, and provides an assessment of water table conditions;

[65] Per Section 6.3.3 of the MDP, all industrial development proposals will be evaluated according to the following:

- a) any impact on water supplies and water courses, and conformity with guidelines, policies and conditions as required by Alberta Environment.

[66] Per Section 6.3.11 of the MDP, all waste generated by industrial developments shall be stored and disposed of in a manner that will not result in any contamination to groundwater supplies.

[67] The Weberville/Warrensville Area Structure Plan, Section 7.2, Objective 7, states that one of their objectives is: To ensure that the sites chosen have high potential for ground water and are capable of protecting the important groundwater aquifers from various forms of contamination.

[68] According to Mr. Canning, all the above references are taken right out of the County's policies and procedures. The proposed development does not meet these requirements and should not be allowed to go ahead.

[69] The Appellant stated that on December 22, 2021, there was an explosion and fire that shook a house 400-500 meters away. Employees at the site said they were burning old fuels and garbage when an old oil tank close to the fire exploded. Black smoke and flames could be seen from Highway 2 by a police officer who showed up to ask what was going on. Pictures of the fire are included in the Appellant's written submission.

[70] Description of photographs included in Appellant's written submission:

- a) The pictures of the road show poor road conditions on Range Road 231 due to extra mud brought out of the Salvage Yard when it rains mixes with the calcium on the road. It makes a big, soupy mess that is almost impassable at times.
- b) Picture showing two trucks, captioned two B-trains just coming in, pulling up to the scale at 10:30pm on a Sunday night.
- c) The pictures of the fire show the big tire pile in the same vicinity as the fire and right beside the tree line, and pallets and unknown materials burning uncontained, a worker said they were also burning off stale diesel.



d) Picture showing the tree buffer at the edge of the site.

[71] The Appellant, Ken Canning, provided the following information in response to questions from the Board:

a) All the wells in the area would be considered potable, except Tim Hewko's and Grant Anderson's, that were tested, and they have been told not to use it. A lot of wells that were drilled in earlier years are grandfathered in. The Appellant's well is registered, and it is only 12 feet deep. He stated he expects to have good water, but what he hears from Alberta Health Services, and what he has seen with these water samples is not good. The contamination has already been formed over the years, and it is a major concern.

b) No historical water sample reports are available.

**3) *Position of the Applicant, Landowner, Peace Country Steel and Salvage Ltd., Wade McDonald***

[72] Since the land was purchased, Peace Country Steel and Salvage has tried to be an upstanding corporate citizen. Peace Country Steel and Salvage has done at least the minimum, if not above, what they were asked to do, with or without the permitting in place, understanding that is a contentious issue. If there was mud on the road, they dealt with mud on the road.

[73] The point Mr. Canning made about scale traffic at 10pm is incorrect. They had trucks parked on the scale, so there was no one coming in that late. Space-wise, it was extremely busy two years ago, when scrap pricing was at an all-time high. They had several trucks a day coming in, so room was an issue, so they filled up the whole yard because they did not want them to stand out in front of the site.

[74] The Applicant stated he is sure Ms. Van Oort can attest that when this issue came to the table, it was not that Peace Country Steel and Salvage was trying to bypass anything, they were trying to get the permit done in the correct fashion. So whether it was done in 1988 or was not done in 1988 or got lost, when the application was submitted, it was done to clarify this issue. Considering where things are at now, and the thousands of dollars they have spent to be in the current situation, they probably would have done it a different way.

[75] The Applicant stated that he could probably go back in records to find out how much metal Peace Country Steel and Salvage bought directly from Tim Hewko when he was at Shell. Now they have received these complaints of contamination and odors from people who worked in that industry. "They are throwing stones at glass houses".

[76] As far as road use is concerned, whenever they saw issues on the road, Peace Country Steel and Salvage dealt with those issues. Sometimes the MD of Peace No. 135 would phone them to tell them that they had received a complaint, and they would send bobcats out there to re-gravel the road if necessary.

[77] Every clause that Ms. Glover brought up, Peace Country Steel and Salvage adhered to at a minimum or better. From a valid business in the community for over 40 years, over two owners, the company has adhered to the conditions put before it regarding hours of operation and Road Use Agreements. a



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Road Use Agreement is signed every year. Concerns about calcium were sorted out; they paid for calcium, so from a business perspective, all that had been adhered to.

- [78] Based on Ms. Glover's comments and Ms. Van Oort's comments, the Applicant thinks it is a valid application and should go through.
- [79] The Applicant, Wade McDonald, provided the following information in response to questions from the Board:
- a) There is no potable water storage tank on the site.
  - a) There has not been a Geotechnical Assessment done since they have owned the property.
  - b) Burning was part of the operations of the facility. Because they are in the Forest Protection Zone, in the summer they always got permission from Alberta Forestry, or it was off-season after fire season when snow was around.
  - c) Regarding the fire that Mr. Canning brought up, he was not on-site when that fire happened. The comment of the fire being adjacent to the tire pile, he believes is incorrect, there is 100-150 feet between where the fire was and where the tire pile was.
  - d) Regarding the condition requiring the tire pile to be no higher than the fence, there is no fence.
  - e) When de-commissioning air conditioning systems in vehicles, fridges or freezers, there is a machine that captures the freon gas and put into a canister and it is shipped out to a recycler.
  - f) They have a steel shale bin with some sawdust on the bottom of it. Cars were processed on top of that. Anything that leaks out or is dropped in the sawdust is contained in the sawdust, and the sawdust is removed.

#### **4) *Positions of Affected Parties***

- [80] Ralph Schipkoe stated that he lives in the M.D. of Peace No. 135, within earshot of the Salvage Yard, about half a kilometer away, and the noise from the site is like hearing a car accident every 5 or 10 minutes. It is very loud, especially in the winter. They are taking apart metal things and slamming them on other metal things. The sound is very jarring for residents in the area.
- [81] Tim Hewko, an adjacent landowner, explained that their well is their daily use well, they had water samples taken, and AHS advised them not to drink it. They have owned their place since 2005. His main concern, that he expressed to the County of Northern Lights when this permit application was put out for review was that they live in the Grimshaw Gravels Aquifer Risk Zone, as per the map. Yet the County of Northern Lights approved the permit for an existing facility, with no requirement for a Geotechnical report, so they do not know what the soil conditions beneath the Salvage Yard are, or if there is a pad to prevent contaminants from getting into the aquifer. There is no groundwater monitoring, there is no other testing that goes on, so they do not know what contaminants are getting in the soil. With the original application, the map of water wells showed three water wells in the area, and in reality, there



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are probably a dozen. His well is 20 feet deep, and has 12 feet of water in it, so the water level is 10 feet from the surface. His biggest concern is in the future, is his well going to be unusable? They have to rely on the regulatory requirements in Alberta for Salvage Yards, which seem to be pretty light.

In his opinion, there was a lack of due diligence done on behalf of the County in issuing this development permit. Tim stated that he asked the County how they were going to enforce the conditions put on the original approval and Ms. Van Oort said they do not have a bylaw officer, so there is nothing they can do about it.

- [82] Grant Anderson, another adjacent landowner, stated that he had a water sample done, and there was lead, manganese and other contaminants in it. Lead is a huge concern to him. As for road conditions, when the Applicant, Wade McDonald, claims he did the minimum or better for the roads, he does not believe that. Grant stated that no one can even tell where the culverts are, as they are squashed and water does not flow through them. Grant also claimed that so much scrap gets dropped on the road, such that between him and his son, they had 6 flat tires.
- [83] Ryan Hee stated that he lives one kilometer north of the Salvage Yard, up Range Road 231. He agreed with Grant Anderson regarding the road maintenance and the flat tires due to pieces of scrap metal on the road. He has been in the area 11 years, and claims that has had at least a dozen flat tires between work and personal vehicles.
- [84] Clayton Canning stated that he lives on the southeast corner of the same quarter as the Salvage Yard and bought his property in 2007. With the condition regarding the distance to potable water, the Salvage Yard should not be allowed right there.
- [85] Deb Erkingler stated that she lives on the south side of the salvage yard, and the noise is “unbelievable”. She works all week, and on Saturday morning when she wants to sleep in, she cannot because of the noise. In the evenings, when she wants to sit outside on her patio, she cannot, because the noise is deafening. She cannot have a conversation. She cannot get her husband’s attention across the yard because he cannot hear her over the noise emanating from the Salvage Yard. They have seen bits of metal on the road outside of their place, which is not dust-controlled in front of their property. There was a steel wheel, an antique tractor tire on the road on a Friday night, and it stayed there until the next day. That road, Township Road 840, is quite well-travelled during the night, and Deb was worried that somebody would get killed if they had hit it. There are semis hauling steel past their place as well, and there are pieces of steel on that road just like on Range Road 231. They have seen fires from their deck in the evening in the summer, in the Salvage Yard. They have horrible smells in their yard. The last time it smelled like burned wiring. The smell was so strong that she checked her house to make sure it wasn’t coming from there. They have been there since 2001, and it has progressively gotten worse.

### **5) Closing Comments**

- [86] Development Authority’s Closing Comments – none
- [87] Appellant’s Closing Comments



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Ken Canning claims that the whole 40-acre site is full. That, according to him, is a lot of material, a lot of contaminants. He claims the information given in his presentation about Class 4 soil is factual. He stated that given the water samples that were taken, it is proven that the contaminants are already in the soil. He claims that with this much material with the rain and snow piled on it all winter long, in spring it melts and pools, and with the trucks driving through, it creates mud. As soon as the frost comes out of the ground all that material that has leached out in those piles, leaches down through the soil and into the water supply that is only 12 feet below the surface. 12 feet is nothing compared with the 50 meters that condition 15 of the County of Northern Lights Development Permit Notice of Decision required that the Salvage Yard be from an underground potable water storage tank. He added that "we are using our aquifer as potable water". The aquifer supplies thousands of people in the area. No environmental studies were done, no engineering geotechnical firm came in to see if that land could possibly handle a Salvage Yard, nothing like that was ever done.

### [88] Applicant's Closing Comments

Mr. Wade McDonald stated that he understood the frustration people were expressing. He has tried to be a good corporate citizen in every aspect. If a member of the public wants to bring scrap to the yard, they cannot control them. They can only control those who work for Peace Country Steel and Salvage Ltd. There are a lot of other commercial users on that road, it was not just a matter of super-B's carrying scrap, it was a public road. When they were operating, the conditions the County gave us were adhered to.

## Decision

[89] The appeal is **ALLOWED**, and the decision of the Development Authority is **REVOKED**. The development is **REFUSED**.

### Reasons for Decision:

[90] The Board heard from the Appellant and adjacent landowners regarding extreme noise due to the proximity of such a development to their residences.

[91] The Appellant and adjacent landowners have described strong odors from the site that prevent them from enjoying their properties.

[92] Affected area residents spoke of the poor road conditions on Range Road 231 and Township Road 840; inadequate dust control on roads, scrap metal on the roads near the site, causing many flat tires, despite conditions for a road use agreement and dust control being in place.

[93] For the above reasons, the Board has determined that the development unduly interferes with the amenities of the surrounding area, and materially interferes with and affects the use and enjoyment of neighbouring properties. Therefore, the development does not meet the criteria set out in the Land Use Bylaw Sections C3.4(b)(i) and (ii).

[94] Based on information given at the hearing and noted above, the Board has determined that the subject development does not meet the criteria set out in Section 6.3.2 d of the MDP, that directs that the



## Notice of Decision

County may support industrial development in the Agricultural Policy Area, if the proposal:

- d) does not conflict with adjacent land uses in terms of appearance, emissions, noise or traffic generation, unless suitable buffers are provided.

[95] The site falls within the Grimshaw Gravels Aquifer Risk Zone. The Grimshaw Gravels Aquifer is an Environmentally Sensitive Area. The depth of the water table in the area is 8-12 feet below the surface.

[96] The Grimshaw Gravels Aquifer is a potable water source for the adjacent landowners and is a water source for nearby communities.

[97] Given the above information regarding the Grimshaw Gravels Aquifer, the Board has determined that the subject development does not meet the criteria set out in the MDP Section 6.3.4, which says:

Industrial development that involves the open discharge of effluent or other liquid waste shall not be allowed within the Grimshaw Gravels Aquifer. All industrial developments within the Aquifer are to be serviced by sealed holding tanks or other form of closed loop sewage disposal system. Restrictive covenants to this effect shall be registered on the proposed lots at the time of subdivision.

- a) No industrial development shall be permitted where the depth to the aquifer is less than 5m from the base of the building foundation.

[98] The Board has determined that the subject development does not meet the criteria set out in Section 6.3.2 e of the MDP, that directs that the County may support industrial development in the Agricultural Policy Area, if the proposal:

- e) is located on a site that is suitable for the proposed development in terms of soil stability, groundwater level, and drainage and the applicant has made provision for sewage disposal in accordance with provincial requirements. For all industrial development proposals located within the Grimshaw Gravels Aquifer, and industrial development proposals elsewhere in the County greater than five parcels, the applicant shall submit a geotechnical assessment prepared by a qualified professional engineer that indicates the suitability of the subject lands to accommodate sewage disposal systems, and provides an assessment of water table conditions.

[99] Further, the Board finds that the Development Authority should have required the submission of a Geotechnical Assessment by a qualified engineer that indicated the suitability of the subject lands to accommodate sewage disposal systems, and provides an assessment of water table conditions.

[100] The Board has determined that the development does not meet the criteria set out in the MDP Section 6.3.3 a, b, and e, which say that: All industrial development proposals will be evaluated according to the following:

- a) any impact on water supplies and water courses, and conformity with guidelines, policies and conditions as required by Alberta Environment. An environmental impact assessment prepared in accordance with Alberta Environment guidelines shall be required for all heavy industrial developments and industrial park proposals (Bylaw11-61-288);



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- b) proximity to residential, recreational, and public uses, and environmentally sensitive areas;
- f) impacts on the local road network;

[101] The Board has determined that per Section 6.3.10 of the MDP, a Risk Assessment should have been required by the Development Authority, given the nature of the development, and location of the site being within the Grimshaw Gravels Aquifer Risk Zone, the proximity to the Grimshaw Gravels Aquifer, and proximity to a residential area.

[102] Per the MDP, Section 3.0 General Development Strategy, the Board has determined that the development is not in keeping with objective 4:

- 4. The County's watershed and water source shall be protected to maintain their ecological importance.

Issued this 15th day of September, 2023 for the Peace Regional Subdivision and Development Appeal Board.

Per: 

Peter Gunning, Chair  
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.*