

**STATUTORY DECLARATION
DWIGHT DIBBEN**

CANADA	)	IN THE MATTER OF APPEALS FILED UNDER
	)	S.690 OF THE <i>MUNICIPAL GOVERNMENT ACT</i> ,
PROVINCE OF ALBERTA	)	RSA 2000, c.M-26 BY THE TOWN OF DRAYTON
	)	VALLEY AGAINST BRAZEAU COUNTY BYLAW
TO WIT	)	892-15 AND BYLAW 905-16
)	
	)	Bylaw 892-15, An Amendment to Brazeau County
	)	Land Use Bylaw 782-12, to change the designation from
	)	Agriculture to Direct Control District on portions of
	)	the E 1/2 of 3-49-7-W5M
)	
	)	Bylaw 905-16, Brazeau County Land Use Bylaw

I, **Dwight Dibben**, of the Town of Drayton Valley, Alberta, Chief Administrative Officer of the Town of Drayton Valley, DO SOLEMNLY DECLARE THAT:

1. I am the Chief Administrative Officer for the Town of Drayton Valley ("the Town") and as such have personal knowledge of the matters stated in this Statutory Declaration.
2. I have reviewed the Statutory Declaration of Martino Verhaeghe, Director of Planning and Development for Brazeau County ("the County") dated February 16, 2017 and any abbreviated terms used in the within Statutory Declaration have the same meaning as defined in Mr. Verhaeghe's Statutory Declaration.
3. I have attached Bylaw 892-15, excerpts of Bylaw 905-16 and excerpts of Bylaw 923-16 to this Statutory Declaration as Exhibits "A", "B", and "C", respectively, with relevant sections highlighted in yellow for the MGB's ease of reference. The full bylaws were filed with the MGB by the County on November 23, 2016.
4. In 2015, the Peck Lands were the subject of a Development Permit Application for an Outdoor Storage Facility ("the Development Permit Application"). The Development Permit Application was to facilitate storage of a large volume of modular camp trailers on the site. The Development Permit Application was referred to the Town for comments, as required by the 2011 Intermunicipal Development Plan ("the IDP").

5. A copy of the IDP is included in the materials filed by the County with the MGB on November 23, 2016 and thus not attached to my Statutory Declaration.
6. In 2015, under Bylaw 782-12, the Peck Lands were classified as lands within the Agricultural District. The use of Outdoor Storage Facility was limited to the status of a Discretionary Use under the provisions of Bylaw 782-12. The Peck Lands were governed, at all relevant times, by the River Flats Area Structure Plan ("River Flats ASP"). A copy of the River Flats ASP is included in the excerpts of the County Council's March 1, 2016 Agenda package, attached hereto as Exhibit "D".
7. The Town opposed the Development Permit Application. Both the County's Municipal Planning Commission and Subdivision Development Appeal Board refused to approve the Development Permit Application.
8. On January 6, 2016, the Alberta Court of Appeal refused the Peck's application to further appeal the refusals of the Development Permit Application. Copies of the background documents regarding the Development Permit Application were included in the County Council's March 1, 2016 Agenda Package regarding Bylaw 892-15, excerpts of which are attached as Exhibit "D".
9. On January 19, 2016, the County referred proposed Bylaw 892-15 to the Town for comment, as required by the IDP. Bylaw 892-15 proposed to rezone the Peck Lands from an Agricultural District to a Direct Control District. The provisions of Bylaw 892-15 proposed to elevate the status of the use of Outdoor Storage Facility from that of a Discretionary Use to that of a Permitted Use.
10. The Town advised the County of its concerns with Bylaw 892-15 in a letter dated February 17, 2016.
11. The County's Planning Department itself recommended against County Council passing Bylaw 892-15, as set out in the County Planning Report included in the excerpts of the County Council's March 1, 2016 Agenda package attached as Exhibit "D".
12. Contrary to its own internal recommendations, County Council gave Bylaw 892-15 second and third reading on March 1, 2016. County Council passed Bylaw 892-15 without addressing any of the Town's concerns or engaging in the mandatory dispute resolution processes required by the IDP.

13. The Town filed its s. 690 MGA appeal in relation to Bylaw 892-15 on March 31, 2016. The wording of the MGB's statement regarding the impact of s.690 (4) on Bylaw 892-15 is set out in the April 8, 2016 acknowledgment of the Town's appeal attached to Mr. Verhaeghe's Statutory Declaration as Exhibit "A".
14. Mediations regarding the Town's Bylaw 892-15 s. 690 appeal were ongoing when the County decided to proceed with second reading of Bylaw 905-16. As stated by Mr. Verhaeghe's Statutory Declaration, the Town wrote to the County regarding its concerns about Bylaw 905-16 on three separate occasions, being June 10, 2016, July 28, 2016 and August 16, 2016.
15. The Town's concerns about that Bylaw 905-16 included the provisions with similar goals as Bylaw 892-15, particularly with respect to the Peck Lands. The Town was concerned Bylaw 905-16 continued the elevation of the status of Outdoor Storage Facility uses to that of Permitted Uses in areas within the IDP referral area.
16. County Council proceeded to third reading of Bylaw 905-16 and passed it on August 16, 2016, without addressing any of the Town's concerns or engaging in the mandatory dispute resolutions processes required by the IDP.
17. Bylaw 905-16, as adopted, directed the specific repeal of Bylaw 782-12 and all amendments to Bylaw 782-12. Notably, Bylaw 892-15 was an amendment to Bylaw 782-12. Bylaw 905-16 stated as follows:
 - i. "That Bylaw 782-12, and amendments, are hereby repealed";
 - ii. Section 1.3.1- "This Land Use Bylaw comes into effect on the date of its third reading. At that time, the former Bylaw 782-12, and its amendments, shall cease to apply to new subdivision and development in Brazeau County."
 - iii. Section 1.5.1- 1.5.2- "Brazeau County Land Use Bylaw 782-12 is hereby repealed....Brazeau County shall continue to recognize Direct Control Bylaws listed and attached under Appendix 17."


18. Despite the requirements of s.1.5.2 to list DC Bylaws that the County would continue to recognize, Appendix 17 of Bylaw 905-16, attached as Exhibit “B”, does not list Bylaw 892-15 as a Direct Control bylaw that will continue to be recognized after the repeal of Bylaw 782-12 and its amendments.
19. Regardless of any opinions expressed by Mr. Verhaeghe in his Statutory Declaration about the legal status of Bylaw 892-15, there is no statutory provision within Bylaw 905-16 that would support his opinion. Contrary to Mr. Verhaeghe’s views, section 1.10.15 of Bylaw 905-16 specifically states: “In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall govern”.
20. The Town filed the s.690 appeal in relation to Bylaw 905-16 on September 15, 2016. The MGB sent out a Notice of Acknowledgment dated September 19, 2016, which was not included with Mr. Verhaeghe’s Statutory Declaration and attached hereto as Exhibit “E”. As with the Bylaw 892-15 s. 690 Notice of Acknowledgement, the Bylaw 905-16 s. 690 Notice of Acknowledgement explicitly stated: “Under section 690(4) of the *Act*, Bylaw 905-16 is deemed to be of no effect.”.
21. After the Town filed the Bylaw 905-16 s.690 appeal, the County notified the Town it was proceeding forward with a process to completely repeal Bylaw 905-16 and replace it with proposed Bylaw 923-16.
22. The text of Bylaw 923-16 directed the specific repeal of Bylaw 782-12, all amendments to Bylaw 782-12, and Bylaw 905-16. As previously noted, Bylaw 892-15 was an amendment to Bylaw 782-12. Bylaw 923-16 stated as follows:
 - iv. “That Bylaw 782-12, as amended, and Bylaw 905-16 are hereby repealed”;
 - v. Section 1.3.1- “This Land Use Bylaw comes into effect on the date of its third reading. At that time, the former Bylaw 782-12, and its amendments, shall cease to apply to new subdivision and development in Brazeau County.”
 - vi. Section 1.5.1- 1.5.2- “Brazeau County Land Use Bylaw 782-12 is hereby repealed....Brazeau County shall continue to recognize Direct Control Bylaws listed and attached under Appendix 17.”

23. Despite the requirements of s.1.5.2 of Bylaw 923-16 to list DC Bylaws that the County would continue to recognize, Appendix 17 of Bylaw 923-16 does not list Bylaw 892-15 as a Direct Control bylaw that will continue to be recognized after the repeal of Bylaw 782-12, the amendments to Bylaw 782-12 and Bylaw 905-16.
24. Regardless of any opinions expressed by Mr. Verhaeghe in his Statutory Declaration about the legal status of Bylaw 892-15, there is no statutory provision within Bylaw 923-16 that would support his opinion. Contrary to Mr. Verhaeghe's views, section 1.10.15 of Bylaw 923-16 specifically states: "In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall govern".
25. Unlike Bylaw 892-15 and Bylaw 905-16, the proposed provisions of Bylaw 923-16 returned the status of the Outdoor Storage Facility use to that of a Discretionary Use in Agricultural Districts and in all areas within the IDP referral area. Section 14.2.5 of Bylaw 923-16 specifically states: "Despite Outdoor Storage being a permitted use in several districts, all outdoor storage use is considered to be a discretionary use on lands within the overlay area."
26. Mr. Verhaeghe himself, in his email dated October 5, 2016, attached as Exhibit "F", characterized these section 14.2 provisions as amendments requested by the Town.
27. Land Use Map 49-7-C to Bylaw 923-16 sets out the boundaries of the area the section 14.2 Overlay applies to and includes the Peck Lands. Attached as Exhibit "G" is a copy of Map 49-7-C with an arrow added by me to point to the location of the Peck Lands.
28. On October 16, 2016, the County gave third reading to Bylaw 923-16 and passed it. The Town has not appealed or otherwise challenged Bylaw 923-16.
29. The Town accepted Bylaw 923-16 because it was consistent with the Town's focus of returning Outdoor Storage Uses within the IDP referral area to the status of a Discretionary Use and preserving the recreational purposes of lands within the River Flats ASP area.
30. The County has refused to accept the Town's position that Bylaw 923-16 governs planning and development decisions for the Peck Lands from October 16, 2016 forward. Specifically, the County has refused to acknowledge that Bylaw 923-16 returned the Outdoor Storage Facility use to the status of a discretionary use on the Peck Lands after October 16, 2016.

31. Regardless, the Town has acted consistently with its original focus which was to return the Outdoor Storage Facility use to Discretionary Use status and protect the recreational purposes of the Peck Lands and surrounding areas. The Town has not filed any s.690 appeals for any improper purposes nor has it filed appeals to create a legislative gap for the County.

AND I MAKE this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED before me at the Town of)
Drayton Valley, Alberta, this 21st day)
of March, 2017)



A Commissioner for Oaths in and for)
Alberta)
My Commission expires: 2019)



DWIGHT DIBBEN

Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019
#0720140

Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019

#0720140

BRAZEAU COUNTY

BYLAW NO: 892-15

This is Exhibit "A" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.


A Commissioner for Oaths in and for Alberta

BEING A BYLAW OF BRAZEAU COUNTY, IN THE PROVINCE OF ALBERTA, TO AMEND LAND USE BYLAW NO. 782-12, AS AMENDED

WHEREAS, Council of Brazeau County deems it expedient and proper, under the authority of and in accordance with the Municipal Government Act, RSA 2000, Chapter M-26 and amendments thereto, to make certain amendments to Land Use Bylaw No. 782-12; As amended; and

WHEREAS, the public participation requirements of Section 692 of the Municipal Government Act, RSA 2000, Chapter M-26, have been complied with;

NOW THEREFORE, the Council of Brazeau County, duly assembled, enacts as follows:

1. That a Pt. of the NE 3-49-7-W5M & Pt. of the SE 3-49-7-W5M be redesignated from Agricultural (AG) District to Direct Control (DC) District, as shown on attached Schedule 'A' ("the Lands") to this Bylaw and the appropriate Land Use District Map be amended accordingly.

2. That Direct Control District Bylaw 892-15 and attached Schedule "A" form part of Land Use Bylaw 782-12, as amended.

3. That the regulations of this Direct Control District comprise:

- 1.0 General Regulations
- 2.0 Land Use Regulations
- 3.0 Development Regulations
- 4.0 Definitions
- 5.0 Implementation

1.0 General Regulations

- 1.1. For the purposes of this Bylaw, the boundaries and description of the Lands shall be more or less as indicated in Schedule "A" attached hereto and forming part hereof.
- 1.2. The current Land Use Bylaw in place at the time of application is applicable unless otherwise specified in this Bylaw.
- 1.3. That Council is the Development Authority for the Issuance of Development Permits for the Lands subject to this Bylaw. Council delegates Development Authority for Permitted Use Development Permits for the Lands to the Director of Planning and Development.

3.6.1 Development Permit Applications

- (a) The Owner shall submit Development Permit applications for all proposed uses and structures, or expansion of uses or structures, on the Lands.

3.6.2 Development Permit Terms and Issuance

- (a) The Development Authority may consider approval of Development Permit applications in accordance with the Land Use Bylaw 782-12, as amended.
- (b) The term of any Development Permits issued on the lands shall be limited to a maximum of five (5) years.

3.6.3 Development Permit Conditions

- (a) The Development Authority may, through Development Agreements or conditions of Development Permit approval, stipulate any criteria or condition necessary to ensure all development of the Lands conforms to the requirements of this Bylaw and the Land Use Bylaw 782-12, as amended.
- (c) Proposed development of the Lands shall be restricted or prohibited once the existing outdoor storage facility has ceased in order to facilitate recreational use of the Lands.
- (d) The Development Authority may restrict or prohibit the use or development of the Lands, at its sole and unfettered discretion, by:
 - (i) Approving a Development Permit application subject to renewal.
 - (ii) Refusing a Development Permit application.
- (e) The Development Authority may consider and/or request, but is not limited to, the following resources when evaluating the suitability for development of the Lands:
 - (i) The 1:50 and 1:100 floodplain elevations as established by Alberta Environment.
 - (ii) Brazeau County's Environmentally Sensitive Areas Study (1992)
 - (iii) Studies or reports prepared by a professional engineer.
 - (iv) Any other information required by this Bylaw and/or deemed necessary by the Development Authority respecting the lands.

4.0 Definitions

- 4.1 "The Lands" means the lands as identified in Schedule "A" attached hereto.
- 4.2 Terms not defined above have the same meaning as defined in Section 10 of Land Use Bylaw 782-12, as amended.

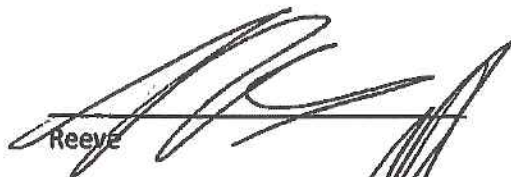
5.0 Implementation

- 5.1 This Bylaw shall take effect upon the final passing thereof.


READ a first time this 19th day of January, 2016

READ a second time this 1st day of March, 2016

READ a third time and finally passed this 1st day of March, 2016



Reeve



CAO

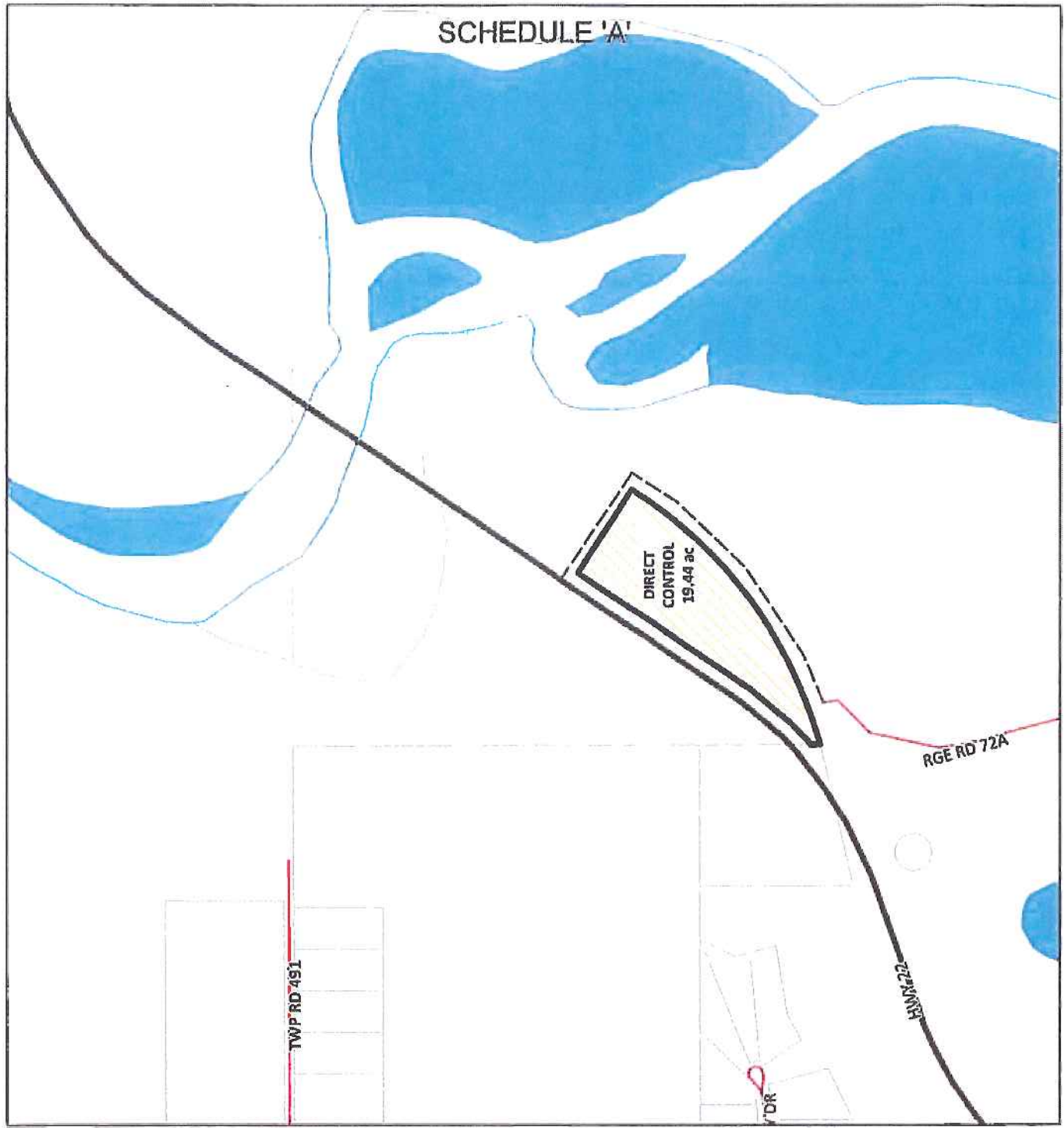


Municipal Address: 7210 HWY 22
Pt. NE 3 & Pt. SE-3-49-7-WSM

- DIRECT CONTROL BYLAW 892-15
- PARCEL BOUNDARY
- COUNTY COLD MIX
- COUNTY GRAVEL
- COUNTY PAVED
- OTHER GRAVEL
- OTHER PAVED
- PROVINCIAL GRAVEL
- PROVINCIAL PAVED

0 100 200 300 Meters
Scale: 1 : 10,000

Dec 14th, 2015
Taylor van den Brink
This map is intended for advisory purposes only. It is based upon data sources deemed reliable but Brazeau County is not responsible for errors or omissions.



Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019
#0720140

This is Exhibit "B" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.


A Commissioner for Oaths in and for Alberta

BRAZEAU COUNTY

BYLAW NO: 905-16

BEING A BYLAW OF BRAZEAU COUNTY, IN THE PROVINCE OF ALBERTA, TO ADOPT LAND USE
BYLAW NO. 905-16;

WHEREAS, the Council of Brazeau County deems it expedient and proper, under the authority of
and in accordance with the *Municipal Government Act*, RSA 2000, Chapter M-26 and
amendments thereto, to enact a Land Use Bylaw for the purposes of regulating the use and
development of lands and buildings within Brazeau County; and

WHEREAS, the public participation requirements of Section 692 of the *Municipal Government
Act*, RSA 2000, Chapter M-26, have been complied with;

NOW THEREFORE, the Council of Brazeau County, duly assembled, enacts as follows:

1. That Bylaw 905-16 entitled "Brazeau County Land Use Bylaw", attached hereto as
'Schedule A' is hereby adopted;
2. That Bylaw 782-12, and amendments, are hereby repealed; and
3. That this Bylaw shall take effect upon the final passing thereof.

READ a first time this 3rd day of May, 2016,

READ a second time this 21st day of June, 2016,

READ a third time and finally passed this 16th day of August, 2016.



Reeve



Chief Administrative Officer



Land Use Bylaw 905 - 16

August 16, 2016

1 INTRODUCTION

1.1 Title

- 1.1.1 This Bylaw shall be known as and may be cited as "Brazeau County Land Use Bylaw."

1.2 Purpose

- 1.2.1 The purpose of this Bylaw is to regulate, control, and/or prohibit the use and development of land and buildings within Brazeau County to ensure health and safety of its inhabitants, and also achieve the orderly and economic development of land, and:

- (a) To divide Brazeau County into land use districts;
- (b) To prescribe and regulate the use of land or buildings within each district;
- (c) To establish a method of making decisions on applications for development permits and the issuance of development permits;
- (d) To provide the manner in which a notice of issuance for a development permit is given;
- (e) To establish the number of dwellings that may be allowed on a parcel;
- (f) To establish regulations to assist in the subdivision and development decision making process;
- (g) To establish procedures of appealing the decisions related to this Land Use Bylaw;

- (h) To establish general development standards and specific use regulations;
- (i) To establish parking, signage, and landscaping standards; and
- (j) To establish subdivision design standards for Brazeau County.

1.3 Effective Date

- 1.3.1 This Land Use Bylaw comes into effect on the date of its third reading. At that time, the former Bylaw No. 782-12, and its amendments, shall cease to apply to new subdivision and development in Brazeau County.

1.4 Application

- 1.4.1 This Land Use Bylaw shall serve as a tool to implement policies established in the Municipal Development Plan (MDP), other statutory plans, and the *Municipal Government Act* (MGA), as amended from time to time.
- 1.4.2 All development hereafter in Brazeau County shall conform to the provisions of this Bylaw.

1.5 Previous Bylaws

- 1.5.1 Brazeau County Land Use Bylaw 782-12 is hereby repealed and this Bylaw shall apply to all lands within Brazeau County.
- 1.5.2 Brazeau County shall continue to recognize Direct Control Bylaws listed and attached under Appendix 17.

1.10.10 When any road or lane is closed, it has the same districting as the abutting land. When different districts govern abutting lands, the centre of the road or lane is the district property line, unless the district property line is shown clearly following the edge of the road or lane. If the road or lane is consolidated with an adjoining parcel, that parcel's district designation applies to affected portions of the closed road or lane.

1.10.11 The Development Permit Process and its relation to other Sections of the Land Use Bylaw can be found in Part 3 - Development Permit Process.

1.10.12 The uses that are listed in the permitted and discretionary use columns under the land use districts are not intended to be exclusive or restrictive. Where a specific use does not conform to the wording of any definition, the Development Officer may, at his/her discretion, determine that the use conforms to the spirit and intent of the purpose of the land use district and is determined similar to other uses allowed in that land use district. Notwithstanding the above, all uses defined as "same or similar uses" shall be considered discretionary.

1.10.13 All measurements in this Bylaw are metric. In the case of any conflict between information expressed in metric units and in imperial units, the metric shall govern.

1.10.14 In the case of any conflict between a number written in numerals and a number written in letters, the number written in numerals shall govern.

1.10.15 In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall govern.

1.10.16 Pursuant to Section 638.1 of the MGA, in the event of a conflict or inconsistency between a statutory plan or a Land Use Bylaw, and an Alberta Land Stewardship Act (ALSA) regional plan, the ALSA regional plan prevails to the extent of the conflict or inconsistency.

13.6 DC – Direct Control

Purpose

- 13.6.1 The purpose of the Direct Control District is to authorize and allow Council to exercise particular and specific direction and control over the use and development of land and buildings in particular areas of the County.

Use of Land and Buildings

- 13.6.2 Council may regulate and control the use of land and buildings in areas designated Direct Control, by this Bylaw, in any manner it considers necessary. The determination of appropriate uses and applicable development requirements within a Direct Control area must be as established and prescribed by Council upon review and consideration of a development proposal, or delegated in the Bylaw to a valid Development Authority.

Development Considerations

- 13.6.3 Council may regulate the following in consideration of a development within the Direct Control District:

- (a) Minimum requirements at the discretion of the Development Authority;
- (b) Maximum limits;
- (c) Parking;
- (d) Landscaping and screening;
- (e) Utilities and servicing;
- (f) Environmental impacts;
- (g) Public consultation; and
- (h) Other matters deemed relevant by Council.

- 13.6.4 Council may impose terms and conditions, including performance bonding, with or without a caveat registered against the Certificate of Title.

- 13.6.5 All existing development contained within a prior Direct Control District, at the time of passing of this Bylaw, must adhere to the development standards implied to it within that prior district until such time that a further development permit is required.

- 13.6.6 The purpose and regulations of each Direct Control District shall be detailed in Appendix #16 of this Bylaw.

17 APPENDICES

17.1 Direct Control Districts

DC #	DATE	BYLAW #	DESCRIPTION
DC-1	Sept-2005	515-05	NE-10-49-9-5
DC-2	Dec - 2008	653-08	NE-33-48-7-5
DC-3	Mar - 2009	662-08	SE-29-50-7-5
DC-4	Feb - 2009	677-09	SW-27-50-7-5
DC-5	May - 2009	681-09	SW-9-49-8-5
DC-6	Nov - 2010	738-10	NW-13-49-8-5
DC-7	Oct - 2010	741-10	E-3-49-7-5
DC-8	July - 2011	763-11	NW-7-48-9-5
DC-9	Aug - 2011	765-11	NW-21-50-7-5
DC-10	Oct - 2011	775-11	SW-23-48-8-5
DC-11	Aug - 2013	816-13	NE-35-48-4-5
DC-12	Mar - 2015	862-15	NW-12-49-7-5
DC-13	Dec - 2015	887-15	SW-27-49-5-5 & NW-22-49-5-5

Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019
#0720140

This is Exhibit "C" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.

BRAZEAU COUNTY

A Commissioner for Oaths in and for Alberta

BYLAW NO: 923-16

**BEING A BYLAW OF BRAZEAU COUNTY, IN THE PROVINCE OF ALBERTA, TO ADOPT LAND
USE BYLAW NO. 923-16;**

WHEREAS, the Council of Brazeau County deems it expedient and proper, under the authority
of and in accordance with the *Municipal Government Act*, RSA 2000, Chapter M-26 and
amendments thereto, to enact a Land Use Bylaw for the purposes of regulating the use and
development of lands and buildings within Brazeau County; and

WHEREAS, the public participation requirements of Section 692 of the *Municipal Government
Act*, RSA 2000, Chapter M-26, have been complied with;

NOW THEREFORE, the Council of Brazeau County, duly assembled, enacts as follows:

1. That Bylaw 923-16 entitled "Brazeau County Land Use Bylaw", attached hereto as
'Schedule A' is hereby adopted;
2. That Bylaw 782-12, as amended, and Bylaw 905-16 are hereby repealed; and
3. That this Bylaw shall take effect upon the final passing thereof.

READ a first time this 18th day of October, 2016,

READ a second time this 18th day of October, 2016,

READ a third time and finally passed this 18th day of October, 2016.

Reeve

Chief Administrative Officer

1 INTRODUCTION

1.1 Title

1.1.1 This Bylaw shall be known as and may be cited as "Brazeau County Land Use Bylaw."

1.2 Purpose

1.2.1 The purpose of this Bylaw is to regulate, control, and/or prohibit the use and development of land and buildings within Brazeau County to ensure health and safety of its inhabitants, and also achieve the orderly and economic development of land, and:

- (a) To divide Brazeau County into land use districts;
- (b) To prescribe and regulate the use of land or buildings within each district;
- (c) To establish a method of making decisions on applications for development permits and the issuance of development permits;
- (d) To provide the manner in which a notice of issuance for a development permit is given;
- (e) To establish the number of dwellings that may be allowed on a parcel;
- (f) To establish regulations to assist in the subdivision and development decision making process;
- (g) To establish procedures of appealing the decisions related to this Land Use Bylaw;

- (h) To establish general development standards and specific use regulations;
- (i) To establish parking, signage, and landscaping standards; and
- (j) To establish subdivision design standards for Brazeau County.

1.3 Effective Date

1.3.1 This Land Use Bylaw comes into effect on the date of its third reading. At that time, the former Bylaw No. 782-12, and its amendments, shall cease to apply to new subdivision and development in Brazeau County.

1.4 Application

1.4.1 This Land Use Bylaw shall serve as a tool to implement policies established in the Municipal Development Plan (MDP), other statutory plans, and the *Municipal Government Act* (MGA), as amended from time to time.

1.4.2 All development hereafter in Brazeau County shall conform to the provisions of this Bylaw.

1.5 Previous Bylaws

1.5.1 Brazeau County Land Use Bylaw 782-12 is hereby repealed and this Bylaw shall apply to all lands within Brazeau County.

1.5.2 Brazeau County shall continue to recognize Direct Control Bylaws listed and attached under Appendix 17.

- 1.10.10 When any road or lane is closed, it has the same districting as the abutting land. When different districts govern abutting lands, the centre of the road or lane is the district property line, unless the district property line is shown clearly following the edge of the road or lane. If the road or lane is consolidated with an adjoining parcel, that parcel's district designation applies to affected portions of the closed road or lane.
- 1.10.11 The Development Permit Process and its relation to other Sections of the Land Use Bylaw can be found in Part 3 - Development Permit Process.
- 1.10.12 The uses that are listed in the permitted and discretionary use columns under the land use districts are not intended to be exclusive or restrictive. Where a specific use does not conform to the wording of any definition, the Development Officer may, at his/her discretion, determine that the use conforms to the spirit and intent of the purpose of the land use district and is determined similar to other uses allowed in that land use district. Notwithstanding the above, all uses defined as "same or similar uses" shall be considered discretionary.
- 1.10.13 All measurements in this Bylaw are metric. In the case of any conflict between information expressed in metric units and in imperial units, the metric shall govern.
- 1.10.14 In the case of any conflict between a number written in numerals and a number written in letters, the number written in numerals shall govern.
- 1.10.15 In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall govern.
- 1.10.16 Pursuant to Section 638.1 of the MGA, in the event of a conflict or inconsistency between a statutory plan or a Land Use Bylaw, and an *Alberta Land Stewardship Act* (ALSA) regional plan, the ALSA regional plan prevails to the extent of the conflict or inconsistency.

13.6 DC – Direct Control

Purpose

- 13.6.1 The purpose of the Direct Control District is to authorize and allow Council to exercise particular and specific direction and control over the use and development of land and buildings in particular areas of the County.

Use of Land and Buildings

- 13.6.2 Council may regulate and control the use of land and buildings in areas designated Direct Control, by this Bylaw, in any manner it considers necessary. The determination of appropriate uses and applicable development requirements within a Direct Control area must be as established and prescribed by Council upon review and consideration of a development proposal, or delegated in the Bylaw to a valid Development Authority.

Development Considerations

- 13.6.3 Council may regulate the following in consideration of a development within the Direct Control District:

- (a) Minimum requirements at the discretion of the Development Authority;
- (b) Maximum limits;
- (c) Parking;
- (d) Landscaping and screening;
- (e) Utilities and servicing;
- (f) Environmental impacts;
- (g) Public consultation; and
- (h) Other matters deemed relevant by Council.

- 13.6.4 Council may impose terms and conditions, including performance bonding, with or without a caveat registered against the Certificate of Title.

- 13.6.5 All existing development contained within a prior Direct Control District, at the time of passing of this Bylaw, must adhere to the development standards implied to it within that prior district until such time that a further development permit is required.

- 13.6.6 The purpose and regulations of each Direct Control District shall be detailed in Appendix #16 of this Bylaw.

14.1.1.8 All buildings within the Airport Protection Overlay shall comply with the acoustical requirements of the Alberta Building Code as required.

14.1.1.9 Development permit applications for the following shall be forwarded to Transport Canada for technical comment prior to issuance of a development permit:

- (a) Development directly adjacent to the runway; and
- (b) Large structures, such as but not limited to a warehouse or hangar, within 10km (6.2 miles) of a radar.

14.1.1.10 Applications shall be analyzed on a case-by-case basis and may be refused, notwithstanding that a land use class is listed as permitted, if it is deemed that such use class shall interfere with the operation of the Airport.

Regulations

- 14.2.2 The regulations of the underlying district shall apply.
- 14.2.3 Despite section 3.2, all storage containers require a development permit on lands within the overlay area.
- 14.2.4 Despite section 8.20, all storage containers are considered to a discretionary use in any district and prohibited within 300m of the center line of a highway corridor on lands within the overlay area.
- 14.2.5 Despite Outdoor Storage being a permitted use in several districts, all outdoor storage use is considered to be a discretionary use on lands within the overlay area.

14.2 Town of Drayton Valley Storage Management Overlay

Purpose

14.2.1 The purpose of the Town of Drayton Valley Storage Management Overlay (Map 49-7-C) is to encourage compatible land use planning and maintenance of visual aesthetics in the joint planning area of Brazeau County and the Town of Drayton Valley with respect to non-temporary Outdoor Storage and Storage Containers. This Section applies to all lands within the Town of Drayton Valley Storage Management Overlay.

17 APPENDICES

17.1 Direct Control Districts

DC #	DATE	BYLAW #	DESCRIPTION
DC-1	Sept-2005	515-05	NE-10-49-9-5
DC-2	Dec - 2008	653-08	NE-33-48-7-5
DC-3	Mar - 2009	662-08	SE-29-50-7-5
DC-4	Feb - 2009	677-09	SW-27-50-7-5
DC-5	May - 2009	681-09	SW-9-49-8-5
DC-6	Nov - 2010	738-10	NW-13-49-8-5
DC-7	Oct - 2010	741-10	E-3-49-7-5
DC-8	July - 2011	763-11	NW-7-48-9-5
DC-9	Aug - 2011	765-11	NW-21-50-7-5
DC-10	Oct - 2011	775-11	SW-23-48-8-5
DC-11	Aug - 2013	816-13	NE-35-48-4-5
DC-12	Mar - 2015	862-15	NW-12-49-7-5
DC-13	Dec - 2015	887-15	SW-27-49-5-5 & NW-22-49-5-5

This is Exhibit "D" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.


A Commissioner for Oaths in and for Alberta

Jennifer Lee Ashley Martin

A Commissioner for Oaths in and
for the Province of Alberta

Expiry Date October 28, 2017

#0720140

BRAZEAU COUNTY

COUNCIL MEETING

March 1, 2016



**BRAZEAU COUNTY
REGULAR COUNCIL MEETING
AGENDA**

DATE: 2016 03 01
TIME: 9:00 AM
PLACE: COUNTY ADMINISTRATION BUILDING, COUNCIL CHAMBERS

Call to Order

Present

1. Addition to and Adoption of the Agenda (**Pages 2-5**)
2. Adoption of the minutes of the Council Meeting of February 16, 2016 (**Pages 6-17**)
3. Business Arising
4. Urgent Items
5. Delegations/Appointments
 - 9:15 am Breton FCSS – Deanne Young (**Pages 18-21**)
 - 10:00 am Public Hearing Re: Bylaw 892-15 (**Pages 102-306**)
 - 10:15 am Public Hearing Re: Bylaw 893-16 (**Pages 307-319**)
 - 11:00 am Public Input Session
 - 1:15-2:15 pm **In Private – Municipal Inspection**
Coral Murphy, Manager, Municipal Advisory, Alberta Municipal Affairs
Stephanie Clarke, Executive Director, Municipal Services Branch, Alberta
Municipal Affairs
 - 2:30-3:30 pm Public Session – Municipal Inspection Presentation
6. Fire Services
 - a) Regional Agreement Municipal Preparedness Plan (RAMP) (**Pages 22-37**)
- Request for Council Decision attached
7. Community Services
 - a) Community School Resource Officer Steering Committees (Breton and Drayton Valley)
- Update Report attached (**Pages 38-58**)
 - b) NASP Provincials (**Pages 59-63**)
- Request for Council Decision attached
 - c) Lindale Community Association Grant (**Pages 64-70**)
- Update Report attached

8. Corporate Services
 - a) Linear Assessment (**Pages 71-72**)
 - Update Report attached
 - b) 2015 Accounts Receivable Write-Offs (**Pages 73-75**)
 - Request for Council Decision attached
9. Public Works and Infrastructure
 - a) Water Treatment Plant Capital Cost Sharing (**Pages 76-77**)
 - Request for Council Decision attached
 - b) 2015 Airport Cost Sharing (**Pages 78-80**)
 - Request for Council Decision attached
 - c) Twp. 501 from RR85 west to the end (RPID 63) (**Pages 81-83**)
 - Request for Council Decision attached
 - d) RR82 from Twp 482 to Hwy 620 (RPID 47) (**Pages 84-86**)
 - Request for Council Decision attached
 - e) Alberta Transportation – Hwy 22 Speed Limit Amendment (**Pages 87-92**)
 - Request for Council Decision attached
 - f) PW-25 Road Closure Policy (**Pages 93-101**)
 - Request for Council Decision attached
10. Planning and Development
 - a) Bylaw 892-15 LUB Amendment – Redistrict part of NE3-49-7-W5M & SE3-49-7-W5M from Agricultural District (AG) to Direct Control District (DC) (**Pages 102-306**)
 - Request for Council Decision attached
 - b) Bylaw 893-16 LUB Amendment – Redistrict part of NE28-47-9-W5M from Agricultural District (AG) and Rural Industrial (RI) to Rural Industrial District (RI) (**Pages 307-319**)
 - Request for Council Decision attached
 - c) Bylaw 897-16 LUB Amendment – Redistrict a portion of NW11, SW11 and SE10-49-7-W5M from Agricultural (AG) to Recreation (R) (**Pages 320-329**)
 - Request for Council Decision attached
11. General Matters
12. Question Period from the Media
13. Correspondence
 - a) Correspondence from Alberta Municipal Affairs regarding the Municipal Inspection (**Page 330**)
 - b) Thank you letter from Drayton Valley & District Community Learning Association (**Pages 331-333**)

14. Councillor Reports (February 2016)
Not available at this time
15. Agricultural Service Board Members Report (A. Heinrich/S. Mahan/B. Guyon)
16. Municipal Planning Commission Report (M. Gressler/A. Heinrich/M. Thompson)
17. Brazeau Seniors Foundation Report (S. Mahan/K. Westerlund)
18. Drayton Valley Library Board Report (K. Westerlund/S. Mahan)
19. Eagle Point/Blue Rapids Parks Council Report (A. Heinrich/S. Mahan)
20. Family and Community Support Services (R. Moir/M. Gressler)
21. Pembina Area Synergy Group (A. Heinrich/R. Moir)
22. North Saskatchewan Watershed Alliance (M. Gressler/B. Guyon)
23. West Central Airshed Society (B. Guyon/M. Gressler)
24. Warburg Seed Cleaning Plant (R. Moir/S. Mahan/A. Heinrich)
25. Pembina Sentinel Air Monitoring (M. Thompson/B. Guyon)
26. Breton and District Library Board (M. Thompson/A. Heinrich)
27. Municipal Library Board (S. Mahan/K. Westerlund/M. Thompson)
28. Yellowhead Regional Library Board (S. Mahan/M. Gressler)
29. Drayton Valley & District Chamber of Commerce (K. Westerlund/M. Thompson)
30. Breton & District Chamber of Commerce (M. Thompson/A. Heinrich)
31. Agricultural Complex Feasibility Committee (A. Heinrich/R. Moir/K. Westerlund)
32. Physician Recruitment and Retention Committee (M. Gressler/R. Moir)
33. Breton Community Centre Fund Raising Committee (M. Thompson/A. Heinrich)
34. Aquatics Facility Fund Development Strategy Committee (M. Gressler/K. Westerlund/A. Heinrich)
35. Eleanor Pickup Arts Centre (K. Westerlund/B. Guyon)
36. North Saskatchewan Watershed Headwaters Committee (M. Gressler/A. Heinrich)

37. Community/School Resource Officer Steering Committee (M. Gressler/K. Westerlund/R. Moir)
38. Northern Mayors Group (Reeve B. Guyon)
39. Meeting Dates
40. In Private
 - a) Legal:
 -
 - b) Personnel:
 - CAO/Council
 - Council
 - **3:45 pm** **In Private – Media Relations**
41. Adjournment

BRAZEAU COUNTY

REQUEST FOR COUNCIL DECISION



SUBJECT:	Land Use Bylaw Amendment 15A-019 - Bylaw 892-15: Redistrict part of NE 3-49-7-W5M & SE 3-49-7-W5M from Agricultural District (AG) to Direct Control District (DC)		
DATE TO COUNCIL:	March 1 st 2016		
SUBMITTED BY:	Benjamin Misener, Planning & Development Coordinator		
ENDORSED BY:	Martino Verhaeghe, Director of Planning & Development		
REVIEWED BY CAO:	<i>[Signature]</i>		
FILE NO:	15A-019		
Report/Document	Attached <input checked="" type="checkbox"/> x <input type="checkbox"/>	Available <input type="checkbox"/>	Nil <input type="checkbox"/>

RECOMMENDED ACTIONS:

That Council defeats Second Reading of Bylaw 892-15.

1. TOPIC DEFINED

Executive Summary:

An application was received for redistricting portions of NE 3-49-7-W5M & SE 3-49-7-W5M from Agricultural District (AG) to Direct Control District (DC) in order to permanently establish an Outdoor Storage Facility within the river valley of the North Saskatchewan River adjacent to Highway 22. An Outdoor Storage Facility had previously been refused by the Municipal Planning Commission (MPC) and the Subdivision and Development Appeal Board (SDAB); the Court of Appeal of Alberta deemed further appeal did not have a reasonable chance of success.

As this use can be established under the current district, technical issues of the MPC/SDAB decisions have not been resolved and the statutory policy issues persist, this bylaw only serves to undermine the legitimacy of the MPC and SDAB by contradicting a validly issued decision for a permit. **Staff is recommending Option A. Refusal of the bylaw amendment for policy, safety/land suitability, and inter-municipal incompatibility reasons.**

Key Issue(s)/Concepts Defined:

The process to bring the illegal development of this property into compliance has been ongoing since June 17, 2015. As noted above, the development permit application for outdoor storage, a discretionary use under the zoning of the property (AG District) was refused by the Municipal Planning Commission and the Subdivision and Development Appeal Board; the Court of Appeal

of Alberta which acknowledged an appeal of the SDAB decision had no reasonable chance of success.

A key consideration for Council is Bylaw 892-15 seeks to establish a use already contemplated under the current zoning of the property and spot zoning of these lands is not required. Further, creating a specific limited district and split zoning the lands do not change the fact none of the reasons for refusal stated by the MPC and SDAB have been addressed. The only purpose this bylaw serves is to undermine the legitimacy of these decision-making bodies by contradicting their authority to issue a decision on a validly applied for development permit application and would contradict the ruling of the Court of Appeal of Alberta.

Policy concerns with this rezoning application were noted extensively in the First Reading report and have been attached as Appendix J. Outstanding issues raised by members of Councilor during first reading are addressed as follows with subheadings for each issue:

Gravel:

The issue of gravel extraction has been brought forward several times throughout the development permit and rezoning process. Gravel extraction is a discretionary use under the current zoning and gravel processing is prohibited. Regardless, both uses are prohibited under the Land Use Bylaw due to the proximity of the site to a multi-lot residential subdivision. Alberta Transportation stated that gravel extraction is not feasible due to the proximity of the site to the new highway. Neither gravel extraction nor processing is contemplated as uses under the proposed Direct Control bylaw and therefore any discussion around gravel is not a relevant consideration.

Floodplain:

Alberta Environment was referred the application and provided Administration with a High Water Mark Study from the 1986 flooding of the North Saskatchewan River, however they noted this was not the 1:100 year design flood which would extend further into the property. Additionally aerial photos taken during the flood were ordered. Though the site was not inundated during the 1:50 year flood scenario, the River Flats Area Structure Plan anticipates the site is within the 1:100 year flood area based on elevation data. The Director of Engineering & Development for the Town of Drayton Valley provided his concerns the development:

"could detrimentally affect water quality in the river, should there be a spill, or a flood, and hazardous materials found their way into the river. Of note, this area is immediately upstream of the fresh water intake for our water treatment plant, and spills of hazardous or contaminated materials could have a public safety impact on the Town's drinking water. I would strongly reiterate our objection to a change in land use to permit this facility."

Alberta Environment could not confirm the specifics of the site relative to a 1:100 year flood event as no [filed] flood study has been undertaken at this time. Until a flood study has been completed, a development as significant as this should not be placed in a potential 1:100 year flood zone. Alberta Environment did note the reach of the North Saskatchewan River in SE 3-49-7-W5M is laterally active (meaning moving sideways) and as such shifting and bank erosion may be a concern.

Temporary vs. Permanent Use:

The applicant noted the proposed outdoor storage facility is a temporary use, occurring until gravel extraction is complete, to then be converted to a recreational use. The Land Use Bylaw (LUB) defines "Temporary Outdoor Storage Facility" as being 90 days with one 30 day extension. This use would last well beyond those timelines and therefore, by definition, is not temporary. Further, the bylaw application before Council is exclusively for a permanent facility.

Planning Law and Practice in Alberta (Laux), confirms unless a development permit has a clearly and validly established date for the conclusion of a temporary use, permits for development of land are legally established as permanent use of the lands. If approved, the rezoning application to Direct Control would allow for the use of this land as an Outdoor Storage Facility to exist in perpetuity with no ability by the County to regulate the length of use.

Though the modular trailers are on blocks, they are still considered a development as per the Municipal Government Act and our Land Use Bylaw definition:

"DEVELOPMENT" is development as defined by the Municipal Government Act and furthermore, for the purpose of this Bylaw, may include:

- an excavation or stockpile and the creation of them;
- a building or an addition to or replacement or repair of a building and the construction or placing of any of them in, on, over or under land;
- a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; and
- a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.

Incompatible use:

Questions have been raised about the proximity of the site to the Eagle Point Blue Rapids Park (EPBR) and the Willey West Campground. In the SDAB decision, it was stated the storage of modular camp trailers on the lands "is not complementary to the Provincial Park and recreation areas nearby." The applicant's legal counsel debated the SDAB's interpretation of adjacent in the applicant's submission to the Alberta Court of Appeal. The Honourable Justice reviewing the Leave to Appeal noted the SDAB's understanding of the term adjacent "as relating to the entire parcel of land, rather than just the site of the proposed development, is consistent with the meaning under the *Land Use Bylaw*." We note that under the Court Judgement these lands are also directly adjacent to 3 quarter sections which contain multi lot residential subdivisions.

Comments from EPBR were provided by the applicant, but no formal comments were received by Brazeau County as part of the rezoning referral process. It is not clear from the submission as to what the dialogue occurred and therefore cannot be deemed a formal comment from the EPBR, but classified as hearsay. There is no buffer between the site and the adjacent park boundary which follows the shoreline of the North Saskatchewan River.

Formal comments from the Director of Community Services state the lands are adjacent to a very busy and attractive recreation area and the change in zoning would not be conducive to tourism and recreation. This point was further emphasized by the Economic Development & Communications Manager who noted "there is a better solution of storage facilities in line with other areas designated for this purpose".

Inter-municipal and adjacent landowner concerns:

The Town of Drayton Valley provided comments during the formal referral process regarding this development at each stage of application. The subject lands are located within the Joint Inter-municipal Development Plan (IDP) boundaries and as such the comments from the Town are highly relevant to this application. Though the site outside of the required referral area, the proposed land use is industrial in nature and not consistent with the future use set out in the IDP and this provides grounds for an appeal under section 690 of the MGA; lack of referral would undermine a County decision at any such hearing. Further, the LUB provides Administration with the ability to refer any application to any government authority deemed appropriate within 5km of a site and the application is publically advertised in the paper.

Similar to their submission for the development permit application, the Town noted numerous concerns with the rezoning application including:

- Given the location, visibility and proximity of the land to the Provincial park and recreation area, the development of these lands as anything other than recreation or community enhancement is a detriment to the overall community
- The proposed development of the lands is in contravention of the County's Municipal Development Plan (MDP) policies 81, 82, and 84 through 87
- Immense opportunity for contiguous park and recreational area on the subject lands
- Development of any use other than recreational would be a detriment to the community and a loss of an opportunity
- Proposed development is not the best use of the subject lands

In addition to the comments received from the Town, an adjacent landowner submission was received noting that they did not wish for the trailers to stay there and that "they are extremely ugly to look at coming into our beautiful river valley".

Relevant Policy:

See Appendix J.

Strategic Relevance:

The applicant has acted in contravention of several County bylaws and policies by utilizing this site as an Outdoor Storage Facility without approvals in place. A Stop Order issued to remedy the contravention has been issued and was upheld on appeal. The Town of Drayton Valley, which is affected via joint land use policy and regional tourism, does not support the application. An identical application for an Outdoor Storage Facility, a use contemplated with the current zoning, was refused by the MPC, SDAB, and the Court of Appeal of Alberta did not find a strong enough reason to allow a Leave to Appeal. By approving the rezoning application, Council would be subverting its Development and Appeal Authorities decision making. There is no valid policy, regulatory, technical or planning reasons to approve the application.

2. RESPONSE OPTIONS

Option	Analysis
a. Council defeats Bylaw 892-15 at Second Reading	<ul style="list-style-type: none">- Council confirms County policies that do not support the rezoning- Council affirms authority of MPC and SDAB and respects decision of Court of Appeal of Alberta- Council decision is supported by Town on development that is within a shared jurisdiction
b. Council tables decision until IDP, MDP, and ASP are reviewed	<ul style="list-style-type: none">- Council tables Second Reading until such time that Administration reviews statutory documents affecting the subject lands to determine what revisions and studies are required to mitigate (if possible) policy and technical concerns.
c. Council approves Second and Third Reading	<ul style="list-style-type: none">- Bylaw 892-15 is passed despite lack of policy support- Overturns decisions of County's MPC and SDAB and does not acknowledge decision of Court of Appeal- Does not acknowledge Town's formal comments and concerns
d. Council provides direction to Administration	<ul style="list-style-type: none">- Administration follows Council direction on rezoning application

Preferred Strategy/Outcome:

Option a. - Council defeats Bylaw 892-15 at Second Reading

3. IMPLICATIONS OF RECOMMENDATIONS

Organizational:

Council confirms the policies contained within the statutory documents and support for its MPC and SDAB to make land use planning decisions. rezoning or the use of the lands for an Outdoor Storage Facility, affirms authority of MPC and SDAB, and acknowledges Town's position.

Financial:


N/A

Attachments:

- Appendix A: Location Map
- Appendix B: Aerial Photograph
- Appendix C: Bylaw 892-15 Direct Control District (DC)
- Appendix D: Application for Redesignation
- Appendix E: MPC Report - 15D-108, August 20, 2015

Appendix F: MPC Minutes - 15D-108, August 20, 2015
Appendix G: SDAB Report – 15SDAB-069, September 17, 2015
Appendix H: SDAB Decision – 15SDAB-069, September 28, 2015
Appendix I: Court of Appeal Decision, January 5, 2016
Appendix J: Policy Considerations
Appendix K: Applicant Submissions to Council
Appendix L: Adjacent Land Owner Letter
Appendix M: Referral Responses

APPENDIX 'E'

BRAZEAU COUNTY REQUEST FOR MUNICIPAL PLANNING COMMISSION DECISION			
SUBJECT:	Existing Outdoor Storage Facility for Modular Camp Trailers on part of NE & SE 3-49-7 W5M		
DATE TO MPC:	August 20, 2015		
SUBMITTED BY:	Planning & Development Coordinator <i>[Signature]</i>		
ENDORSED BY:	Director of Planning & Development <i>[Signature]</i>		
FILE NO:	15D-108		
Report/Document	Attached <u> x </u>	Available <u> </u>	Nil <u> </u>

RECOMMENDATION:

That Development Permit 15D-108 for the existing outdoor storage facility for modular camp trailers on part of SE 3-49-7-W5M & NE 3-49-7-W5M, between the new and old segments of Highway 22, be **REFUSED** for the following reasons:

- 1) The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88.
- 2) The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5).
- 3) The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and it's contradiction of the Joint IDP & ASP.
- 4) The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the lands for recreational purposes.
- 5) The application is not compatible with the River Flats Area Structure Plan **Map 7** – Proposed Amendment to IDP Land Use Concept Plan (Long Term).
- 6) The application is not compatible with the River Flats Area Structure Plan **Map 5** – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage.
- 7) The application is not compatible with Subsection 4.9 (1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.

Any variation to the above requires a variance of policy which must be specifically noted in the motion.

TOPIC DEFINED

Executive Summary:

Brazeau County has received a development permit application for an Outdoor Storage Facility – Modular Camp Trailers, upon the lands at NE & SE 3-49-7 W5M. The property is immediately adjacent to Highway 22, just south of the North Saskatchewan bridge. An Outdoor Storage Facility is a discretionary use in the Agricultural (AG) District. Administration recommends the application be refused based on the reasons listed above.

Background Information:

Brazeau County has received a development permit application for an Outdoor Storage Facility – Modular Camp Trailers. The subject land is located within part of SE 3-49-7-W5M and NE 3-49-7-W5M, between the new and old segments of Hwy 22, southwest of the North Saskatchewan River bridge (Appendix F). The lands are designated Agricultural (AG) District and are approximately 23 acres. Adjacent land uses are Crown Lands to the north and west and a large industrial, gravel operation to the east and south. There is a residential parcel directly adjacent to the proposed development site on the west side of Highway 22.

Prior to the development permit application being received, Administration had received a complaint from the Public Works department with concerns about impacts on the road and whether or not the approaches to the site met County specs. Upon inspecting the site, it was noted that several trailers had been moved on without approvals.

Continual development has been occurring on the lands, as shown by the site inspection photos (Appendix E), despite telephone calls and emails, asking the applicant to cease development until a permit has been issued. A Stop Order was issued on July 7, 2015 and was appealed (Appendix D). At the Subdivision and Development Appeal Board (SDAB) hearing on August 10, 2015, the Stop Order was upheld.

Site inspections conducted:

- 1) June 17, 2015 - approximately 10 trailers sited on the lands at the time of application
- 2) June 26, 2015 - approximately 28 trailers on site
- 3) July 9, 2015 - approximately 67 trailers on site
- 4) July 15, 2015 - over 100 trailers observed to be on site.

Administration has circulated the application to internal departments, external agencies, and landowners within the surrounding eight (8) quarters for review and comment. Comments were received from Alberta Environment, the Town of Drayton Valley, and Alberta Transportation. All other comments received had no comment or objection.

Alberta Environment noted that they had insufficient information to determine whether the parcel is located in the 1:100 year floodplain. It did appear from previous aerial imagery that the site was not flooded during a 1:50 year flood event in 1986.

The Town of Drayton Valley has significant concerns about the parcel and notes that it should be used for recreation or community enhancement given the location, visibility and proximity of the land to the Provincial park and recreation area. The town referenced several County policies, most of which are provided below. It was recommended that the land be purchased for Municipal Reserve once the gravel extraction has ceased.

Alberta Transportation is requesting that the applicant apply for a Roadside Development Permit at which time Alberta Transportation may have additional requirements or requests.

Administration notes that the site is in a highly visible, prominent location along Highway 22 on the south entrance to Drayton Valley. The proposed use of the lands for a storage site is not compatible with community enhancement and beautification. The aesthetic quality of the lands has deteriorated since the modular camp trailers have been moved on to the site.

In conducting a review of County policy and bylaws for the file, there are numerous reasons that Administration is recommending refusal (see below).

Relevant Policy:

The relevant County policies are the Municipal Development Plan (MDP), the Intermunicipal Development Plan (IDP) and the River Flats Area Structure Plan (ASP)(Appendix H). The Land Use Bylaw provides regulations on developing in a floodplain.

Municipal Development Plan:

The Municipal Development Plan Fringe Area Map (Figure 5) notes that the property should be designated as Residential in the future. The proposed use of the site is incompatible with this projection.

Policy 52 – Brazeau County shall encourage industrial and commercial development to locate within or near – existing business and industrial parks; where sufficient services are available; where sufficient transportation networks are available; where development setbacks or constraints prohibit residential development; or lands identified on area structure plans for industrial and commercial development.

Although there is existing industrial development on the adjacent property, this does not mean the lands are no longer agricultural. What has occurred is that an industrial use has been introduced on the adjacent lands and the subject parcel which is not compatible with the surrounding land uses. This type of operation should be located within an industrial business park.

Policy 54 – Brazeau County may permit the development of commercial and industrial activities on lands designated for Agriculture and Rural Development purposes, if, in the opinion of the Development Authority, the proposed development – is compatible with existing and planned adjacent land uses and land use activities; is located with a development setback that would otherwise prohibit other forms of development; is dependent on a specific area or location to operate successfully; is associated with an existing or planned agricultural operation; is located along or near a sufficient transportation network; maintains the functional integrity of the road network; does not negatively impact the quality and quantity of water to adjacent lands; and; demonstrates to the satisfaction of the Development Authority that onsite water and sanitary services can be provided in accordance with Brazeau County and provincial standards.

The proposed outdoor storage facility is not compatible with the adjacent Crown lands area and parks. Administration notes that the applicant has not demonstrated sufficient rationale for the storage site to be located on the subject lands, therefore there is no site specific reason for the outdoor storage facility to exist at this location.

Policy 55 – Brazeau County shall require all industrial and commercial developments to incorporate onsite measures to control potential offsite nuisances such as noise pollution, air quality, dust, storm water management and visual appearances to the satisfaction of the Development Authority to ensure that the proposed development properly integrates with surrounding land uses and landscapes.

There is no feasible means to ensure that the visual appearance of the site is maintained. The site is considerably lower than the adjacent highway and even with a large fence or landscaping, the storage facility would be visible to the travelling public. This is noted in the comments from the town.

Policy 82 – Brazeau County shall endeavor to ensure that new recreational land uses be located on lands that are not suitable for agricultural use, wherever possible.

The site and adjacent gravel operation are ideal locations for recreational facilities as they are abutting the Eagle Point – Blue Rapids Park area.

Policy 88 – Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development.

The proposed outdoor storage facility is not compatible or complimentary with the nearby Willey West Campground and Eagle Point – Blue Rapids Park. The aesthetic value of the adjacent areas is diminished and expansion of the existing industrial operation does not support the establishment of additional recreational opportunities in the area.

Inter-municipal Development Plan:

The IDP Future Land Use Concept Map (Figure 6) designates the lands as Agricultural.

As a result of the lands being in close proximity to the IDP referral area, Administration sent a copy of the development permit application to the town for comment. The town responded that they are not in favour of any development on the site unless it is for recreation or community enhancement. In the referral comment, County MDP policies 81, 82, and 84 through 87, are noted with the comment that approval of the application would be in contravention of these policies. The town asks that the County allow the gravel extraction to finish and then purchase the lands for Municipal Reserve.

Administration supports the town's comments and notes that while the application does not explicitly contradict the IDP, the process of cooperation and recognition of mutual agreement on planning considerations in this area compels the County to recommend refusal in support of the town and the IDP agreement. As a result of the IDP, a mutually agreed upon Area Structure Plan was adopted, which is discussed below.

River Flats ASP:

Statutory documents and the needs for an ASP - To paraphrase this section, there have been multiple illegal uses that have occurred on this property in the past including oilfield equipment storage and rental, and a log-hauling business. The current proposal was established illegally and should not be permitted to continue operating on the lands.

Relationship to proposed provincial recreation area - *Four of the Peck/McGinn parcels run all the way down to the water's edge, separating Eagle Point from Blue Rapids on the west side of the river. It would be in the public interest to negotiate some form of recreational right of way through the privately owned land. However, to avoid any risk to people who wander off the right of way, any provision for a recreational trail must wait until the gravel operations have ceased.*

This section of the ASP relates directly to MDP Policy 88. Continued use and expansion of the lands for industrial uses is not supported by either the County or the town.

Long term use of the site - *The landowners and the two municipalities agree that, following the exhaustion of the gravel, the long term use of the area should be recreation. Very few other places are so well suited by the combination of river frontage, access to a major highway, proximity to provincial recreation areas, and availability of urban services.*

The property has been identified on **Map 5 – Long Term Land Uses** as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage. On **Map 7 – Proposed Amendment to IDP Land Use Concept Plan (Long Term)**, the lands are identified as Recreational.

In light of the uncertainty regarding the 1:100 year floodplain, no further development of the site is recommended at this time. This is established in the Direct Control bylaw on the adjacent lands which does not permit the further construction of any permanent buildings. The risk to the landowner and the County is significant if the development is approved within a known floodplain. The province has established that certain development controls and regulations are required if development occurs in these hazards areas as does the County's Land Use Bylaw (LUB).

Land Use Bylaw:

Subsection 3.3 (6) of the Brazeau County Land Use Bylaw 782-12 states that the Development Officer shall refer development permit applications for discretionary uses to the Municipal Planning Commission for decision.

The Municipal Planning Commission may approve an application for a discretionary use and place any conditions deemed appropriate to ensure compatibility with the amenities of the surrounding neighbourhood and the use, enjoyment, and value of the neighbouring parcels of land.

Subsection 4.9 (1) states that no development shall be permitted within the 1 in 100 year floodplain of the North Saskatchewan River. Subclause 2 notes that temporary structures may be permitted within the 1:100 year floodplain but the County will require a caveat be registered against the title of the lands to ensure the County is held harmless.

There is significant risk and liability to the County if the development is approved within the floodplain. As it has taken several weeks to move the large number of modular trailers on to the site, it is unlikely that all of the trailers could be removed from the site in a timely manner during a flood event. The County has a legal opinion noting that hold harmless caveats are unlikely to stand up in court. Even if it did, such an agreement would not preclude the landowner or modular camp trailer company from suing the County.

The applicant began moving units on to the site without approval from Brazeau County which is in contravention of **Subsection 3.1 (2)**.

The applicant noted during the SDAB hearing that they intend to pursue gravel extraction on the site. Gravel extraction is prohibited if proposed within 800 metres of a multi-parcel subdivision as per **Subsection 4.13 (1)** of the LUB. The subject lands are within 800 metres of a multi-parcel subdivision located to the northwest and therefore any application for gravel extraction would be refused.

Strategic Relevance:

The applicant has acted in contravention of several County bylaws and policies by utilizing this site as an Outdoor Storage Facility without approvals in place. The town of Drayton Valley, which has a say in development on these lands, does not support the application. There are no valid policy reasons to recommend approval of the application and thus it should be refused.

1. RESPONSE OPTIONS

OPTION	ANALYSIS
MPC refuses the development	Proposed development is inconsistent with surrounding development, IDP, MDP & ASP.
MPC approves the development with conditions.	MPC must provide clear direction on policy variance and conditions.
Table the application	MPC cannot make an informed decision without additional information.

2. IMPLICATIONS OF RECOMMENDATION

Organizational: County policy and bylaws will be confirmed. The town will be satisfied with the cooperation provided by the County in ensuring the lands are developed in a sustainable manner.

Financial: N/A

Appendices:

Appendix A: Draft Conditions if Approved

Appendix B: Relevant Legislation

Appendix C: Development Permit Application

Appendix D: Stop Order

Appendix E: Site Inspection Photos

Appendix F: Location Maps

Appendix G: Referral Comments

Appendix H: MDP, IDP, ASP & Maps

APPENDIX A

Development Permit Conditions

That Development Permit 15D-108 proposing an Outdoor Storage Facility – Modular Camp Trailers on Pt. NE & SE 3-49-7 W5M be approved subject to the following conditions:

1. A hold harmless floodplain agreement shall be registered on title by Restrictive Covenant within two (2) weeks of submission to Brazeau County. The applicant/owner shall pay to Brazeau County all fees associated with registering the Restrictive Covenant on title.
2. The applicant/owner shall provide to Brazeau County and Alberta Environment and Parks a floodplain assessment for the lands which shall be registered on title by Restrictive Covenant within two (2) weeks of submission to Brazeau County. The applicant/owner shall pay to Brazeau County all fees associated with registering the Restrictive Covenant on title.
3. The applicant/owner shall obtain and maintain \$5,000,000 liability insurance in the name of Brazeau County as protection against any liability from flood damages.
4. This permit is issued for a period of **three (3) years or until the ceasing of the adjacent gravel extraction**. This permit may only be renewed or extended upon the applicant/owner applying for and obtaining a new development permit pursuant to the terms of the Land Use Bylaw in effect at such time.
5. A detailed landscaping plan shall be submitted to the Development Authority **within sixty (60) days of the date of issuance of this permit** for the area along the west and north boundaries of the lands which will be used for the Outdoor Storage Facility – Modular Camp Trailers. The landscaping plan shall include a cost estimate.
6. Upon approval of the landscaping plan by the Development Authority, the applicant/owner shall provide security in the amount of 100% of the estimated cost of the landscaping to ensure that such landscaping is carried out. This shall be in the form of an Irrevocable Letter of Credit or certified cheque as security for landscaping.
7. The landscaping according to the plan that was approved by Brazeau County shall be completed **within six (6) months of the date of issuance of this permit**, unless a seasonal variance is requested and approved.
8. The applicant/owner shall provide a storm water/ drainage plan to Brazeau County and Alberta Environment and Parks for approval. A copy of the approval shall be provided to Brazeau County at the County's request.
9. The approach to the Outdoor Storage Facility – modular camp trailers may need to be upgraded, at the applicant/owner's expense, to the standards and specifications of Brazeau County. The applicant/owner shall contact Public Works & Infrastructure at 780-542-7711 to arrange for an inspection prior to upgrading any approaches.
10. The applicant/owner shall enter into a road use agreement with Brazeau County for use of municipal roads. This agreement will include, but shall not be limited to, regular road maintenance requirements and the provision of effective dust control along the haul route. Effective dust control will be deemed to be the proper application of dust control product satisfactory to Brazeau County, to be

applied as required by Brazeau County, at the sole cost of the applicant/owner. The development cannot commence until a road use agreement has been entered into with Public Works & Infrastructure.

11. The applicant/owner shall obtain a Roadside Development Permit from Alberta Transportation for development in proximity to a Highway prior to commencing development.
12. The applicant/owner shall contact Alberta Transportation regarding the requirement of a Traffic Impact Assessment for intersections of the local roads and highways. Any improvements to the intersections that may be required as a result of this development are at the sole cost of the applicant/owner.
13. The Outdoor Storage Facility – modular camp trailers cannot be permanently used by another business unless the appropriate permit has been first obtained from Brazeau County.
14. The Outdoor Storage Facility – modular camp trailers shall not be used as dwelling units.
15. At all times the privacy of the adjacent residential dwellings shall be preserved and the Outdoor Storage Facility – modular camp trailers use shall not unduly offend neighbouring or adjacent residents by way of excessive lighting, late calling of clients of an unreasonable number, traffic congestion, or excessive on-street or off-street parking, etc.
16. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities
17. The applicant/owner shall retain any and all natural water features, drainage courses and gullies in its original state.
18. The vehicles and equipment associated with the Outdoor Storage Facility – Modular Camp Trailers shall not be cleaned / washed on site unless the appropriate approval has been obtained by the Development Authority.

AND WHEREAS:

- Approval is granted based on the information provided by the applicant/owner for the proposed Outdoor Storage Facility – modular camp trailers only and no other development.
- The Outdoor Storage Facility – Modular Camp Trailers shall be located as shown on the site plan provided by the applicant/owner and identified as Schedule 'A' attached hereto.
- The Outdoor Storage Facility – Modular Camp Trailers shall be operated in accordance with the business information submitted by the applicant/owner on June 17, 2015.
- Any exterior lighting shall not interfere with the safety of the operation of the vehicular traffic on a highway or public road.
- The use of the property shall not, in the opinion of the Development Authority, be a source of inconvenience, materially interfere with or affect the use, enjoyment of neighboring properties, by way of excessive noise, smoke, steam, odor, dust, vibration or refuse matter which would not commonly be found in the neighborhood.

- The site shall be maintained in a neat and orderly manner to the satisfaction of the Development Officer.
- The applicant/owner shall not alter or otherwise impact drainage and/or slope without approval from Brazeau County.
- The applicant/owner shall be responsible for the control of any weeds on the lands in accordance with the applicable provincial regulations.
- The applicant/owner shall ensure the development is not located within or over a Right of Way or Easement.
- Any storage and disposal of oils, fluids or other hazardous substances shall be in accordance with provincial regulations and requirements set out by Alberta Environment and Sustainable Resource Development for Containers and Above Ground Storage Tanks, and also the *Environmental Protection and Enhancement Act* Release Reporting Guideline.
- If at any time, any of the requirements for the Outdoor Storage Facility – Modular Camp Trailers have not in the opinion of the Development Officer been complied with, the Development Officer may suspend or cancel the development permit for the Outdoor Storage Facility – Modular Camp Trailers, pursuant to the provisions of the Act.
- No further development, expansions, or change in use is permitted unless approved by Brazeau County.

APPENDIX B

Relevant Legislation

6.1 *Agricultural District (AG)*

- (1) Purpose
 - (a) To preserve agricultural lands and to provide for a range of agricultural operations and compatible uses while recognizing the need to accommodate smaller agricultural holdings and provide a reasonable opportunity for the subdivision of land for non-agricultural uses.
- (2) District Characteristics
 - (a) The following uses shall be permitted or discretionary with or without conditions provided the application complies with the regulations of this district and this Bylaw.

Permitted Uses	Discretionary Uses
Accessory	Animal service facility
Agricultural, retail	Auction facility
Agricultural, specialty	Cemetery
Agricultural, support service	Communication tower
Bed and breakfast	Confined feeding operation
Family care unit	Guest ranch
Home occupation, "minor"	Home occupation "major"
Home occupation, "medium"	Kennel
Manufactured home	Landfarm
Modular home	Natural resource extraction
Outdoor storage facility, temporary	Outdoor storage facility
Public and quasi-public use	Recreational use
Public utility facility	Recreation service, outdoor
Secondary suite	Social Care Facility
Single-detached dwelling	Work Camp
Secondary single-detached dwelling*	

* on a parcel greater than 4 ha (10 ac), please refer to section 4.14 (2). *Bylaw 789-12*

- (3) Minimum Requirements
 - (a) Parcel Area:
 - (i) 0.4 ha (1 ac) for a residential parcel;
 - (ii) 1.2 ha (3 ac) for an existing farmstead parcel;
 - (iii) 4.0 ha (10 ac) for an agricultural parcel;
 - (b) Parcel Width:
 - (i) 30.5 m (100 ft) for a residential use;
 - (ii) 30.5 m (100 ft) for a panhandle/flag lot.

- (c) Front Yard:
 - (i) 40.0 m (131 ft) where abutting a County road where road widening has not been dedicated;
 - (ii) 25.0 m (82 ft) where abutting a County road where road widening has been dedicated;
 - (iii) 10.0 m (33 ft) where abutting an internal road;
 - (iv) 40.0 m (131 ft) where abutting a highway;
 - (v) Setback at the discretion of Development Authority for pan handle/flag lots.
- (d) Rear Yard:
 - (i) 8.0 m (26 ft);
 - (ii) 40.0 m (131 ft) where abutting a County road where road widening has not been dedicated;
 - (iii) 25.0 m (82 ft) where abutting a County road where road widening has been dedicated;
 - (iv) 10.0 m (33 ft) where abutting an internal road;
 - (v) 40.0 m (131 ft) where abutting a highway.
- (e) Side Yard:
 - (i) 6.0 m (20 ft);
 - (ii) 40.0 m (131 ft) where abutting a County road where road widening has not been dedicated;
 - (iii) 25.0 m (82 ft) where abutting a County road where road widening has been dedicated;
 - (iv) 10.0 m (33 ft) where abutting an internal road;
 - (v) 40.0 m (131 ft) where abutting a highway.
- (f) Floor Area:
 - (i) 74.3 m² (800 ft²) for a dwelling.
- (4) Maximum Limits
 - (a) Parcel Area:
 - (i) 1.6 ha (4 ac) for a residential parcel;
 - (ii) 6.1 ha (15 ac) for an existing farmstead parcel;
 - (iii) No maximum limit for an agricultural parcel;
 - (iv) No maximum limit for the remainder.
 - (b) Height:
 - (i) 8.5 m (28 ft) or three (3) storeys - the lesser thereof - for a dwelling;
 - (ii) One hundred (100%) percent of the height of the principal building for a freestanding sign.
 - (c) Density:
 - (i) Four (4) parcels per quarter section, including fragmented parcels and the remainder, but not including parcels for public, quasi-public and utility facilities; where battery sites, well sites, or other oil facilities, taken under Certificate of Title or plan will not be considered a utility facility.
 - (ii) Refer to section 4.14 under Development Regulations. *Bylaw 789-12*
- (5) Landscaping Requirements
 - (a) Refer to section 4.12 under Development Regulations.
- (6) Parking Requirements
 - (a) Refer to section 4.3 under Development Regulations.

- (7) Home Occupations
 - (a) Refer to section 4.10 under Development Regulations.
- (8) Sign Requirements
 - (a) Refer to section 4.22 under Development Regulations.

APPENDIX 'C'



For Office Use Only

Fee Submitted: \$430.00
 Date of Receipt: June 17/15
 Permit No.: 150-108
 Roll No.: 000327 + 000317

APPLICATION FOR A DEVELOPMENT PERMIT (BUSINESS)

I / We hereby make application under the Brazeau County, Land Use Bylaw No. 782-12 for a Business Development Permit. The plans and information submitted herewith are for this application.

1. OWNER(S) AVALIE PECK & DENNIS MCGINNIS Phon _____
 Address _____ Fax _____
 FOIP: s.17 (4) (g)
 Email _____
 FQIP: s.17 (4) (g)

2. APPLICANT HS HDOVZI hone _____
 (if different from the owner) Address _____ Fax _____
 Address _____ Cell _____
 P/C _____ Email _____

3. APPLICANT'S INTEREST IF NOT THE REGISTERED OWNER

4. LEGAL DESCRIPTION / AREA OF THE PARCEL OF LAND TO BE DEVELOPED

a. All Part of NE & SE ¼ Section 3 Township 49 Range 7 WSM
 Lot _____ Block _____ Plan _____
 b. Area of Parcel: 17 Acres / Hectares
 c. Lot Size: _____ Meters / Feet by _____ Meters / Feet

5. EXISTING USE AND PURPOSE OF THE DEVELOPMENT

a. How is the land currently designated? FARM LAND - PARCEL SEVERED
 (e.g. - Agricultural, Hamlet Residential, etc.)
 b. Existing use of the property: BY NEW HIGHWAY 22 AGRICULTURAL ZONING
 (e.g. - bare land, residential, haying / grazing, etc.) BALE LAND
 c. Purpose of the development applied for: STORAGE OF MODULAR CAMP TRAILERS
FENCED ENCLOSURE WITH LOCKED GATES; APPROACHES INSTALLED BY
AB TRANSPORTATION AS PER HIGHWAY EASEMENT AGREEMENT
 d. Estimated cost of project FOIP: s.17 (4) (g) (GATES) OUTDOOR STORAGE
FACILITY

6. PARTICULARS OF THE PROPERTY TO BE DEVELOPED

- a. Is the land adjacent to a municipal boundary? Yes _____ No ☒
If "yes", the adjoining municipality is: _____
- b. Is the land situated within 800-meters (0.5 miles) of a highway? Yes ☒ No _____
If "yes", the highway is: HIGHWAY 22
- c. Are there currently any dwellings on the property? How many? _____ Yes _____ No ☒
- d. Is the land situated within 100 m (300 ft.) of a sour gas facility? Yes _____ No ☒
- e. Is the proposed development site within 100 m (300 ft.) of a gas or oil well? Yes _____ No ☒
- f. Is the proposed development site within 300 m (1000 ft.) of a waste water treatment facility (sewage lagoon)? Yes _____ No ☒
- g. Is the proposed development site within 300 m (1000 ft.) of a waste transfer station or within 450 m (1476 ft.) of the working area of a landfill? Yes _____ No ☒
- h. Is the proposed development within 300 m (1000 ft.) of an intensive livestock operation (i.e. hog operation, feed lot)? Yes _____ No ☒

7. REGISTERED OWNER(S)

I/we AVALE PICK hereby certify that I/we am/are the owner(s) and that the information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application for development.

Date: JUNE 8, 2015

FOIP: s.17 (1) (g)

APPLICANT (If other than registered owner)

I/We _____ hereby certify that I am the agent authorized to act on the behalf of the registered owner(s) and that the information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application for development.

Date: _____

(signature)

(signature)

COMMERCIAL / INDUSTRIAL BUSINESSES

(Please complete this section ONLY if you are applying for a commercial / Industrial use or structure)

1. Business operating name: DENNIS MCGINN HOLDINGS LTD
2. Brief business description: COMMERCIAL STORAGE YARD
3. Hours and days of operation: AS REQUIRED - NOT ACCESSED DAILY
4. Number of employees (excluding self): _____ (full time) 2 (part time)
TWO DRIVERS RESIDE IN DRAXTON VALLEY, NONE OF THE EMPLOYEES WORK EXCLUSIVELY AT
5. Will hazardous materials be used or stored on site? ☐ Yes ☒ No THE SITE
If yes, please describe (examples include bulk oil, chemicals, explosives, etc.)

6. Are you renovating, altering, or constructing the building to accommodate the business?
☐ Yes ☒ No If yes, please describe: _____
7. Number and type of vehicles associated with the business:
NO VEHICLES WILL BE ASSOCIATED WITH THIS SITE
8. Number and type of heavy equipment associated with business:
INTERMITTENT USE OF HEAVY TRUCKS TO LOAD & UNLOAD CAMP
UNITS. TRUCKS NOT DISPATCHED FROM STORAGE AREA



APPENDIX "D"

Brazeau County

7401 Township Road 494, P.O. Box 77, Drayton Valley, Alberta T7A-1R1
PHONE: (780) 542-7777 - FAX: (780) 542-7770
www.brazeau.ab.ca

July 07, 2015

FILE # - 15D-108
ROLL # 000327/000313

Avalie Peck & Dennis McGinn

VIA REGISTERED MAIL

FOIP: s.17 (4) (g)

Dear Landowners:

RE: STOP ORDER - Unauthorized Development on NE & SE 3-49-7-W5M (the "Lands")
Land Use: Agricultural (AG)

In my capacity as the Development Officer, I am hereby issuing a Stop Order pursuant to Section 645 of the *Municipal Government Act*, with respect to the aforementioned Lands.

The Lands subject of this Stop Order are designated as Agricultural (AG) and an Outdoor Storage Facility is a **Discretionary Use** and must be approved by the **Municipal Planning Commission**. Site inspections conducted on June 16, 2015, June 20, 2015 and June 26, 2015 revealed unauthorized storage of modular camp trailers placed upon the lands. Photos are enclosed.

A review of Brazeau County's records indicates that a development permit has not been issued for the development and storage upon the Lands. At present, the Lands do not comply with the Brazeau County Land Use Bylaw as follows:

Section 3.1 (2) No development, unless designated in section 3.2 must be commenced within the County unless a development permit authorizing the use and development has been issued.

All storage and development on site must cease until the Development Permit Application is approved by the Municipal Planning Commission. The Municipal Planning Commission date for your application (15D-108) is scheduled for **August 20, 2015** and notification went to adjacent landowners and external referral agencies on **June 26, 2015**.

Accordingly, you are hereby instructed to cease the illegal use of the Lands and to comply with the Brazeau County Land Use Bylaw and direction of the Brazeau County by:

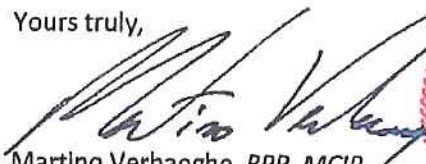
- 1) Immediately ceasing intensification of any and all illegal development on the Lands until the application is resolved; and be aware
- 2) Removing all storage of modular camp trailers and development from the lands will be required within 90 days of this order should MPC refuse the application on August 20, 2015.

You are hereby advised that you have the right to appeal this Order to the Subdivision and Development Appeal Board. If you wish to exercise this right, written notice of the appeal, together with the applicable fee of \$250, must be received by the Secretary of the Subdivision and Development Appeal Board within **fourteen (14) days** of receipt of this letter. The written notice of appeal may be sent to the following address:

Subdivision and Development Appeal Board
Brazeau County
Box 77, 7401 Twp Rd 494
Drayton Valley, AB T7A 1R1

In respect of the failure or refusal to comply with an order, pursuant to Section 646(2) of the *Municipal Government Act*, the County may register a caveat under the *Land Titles Act* against the certificate of title for the Land that is subject of the order. In the event that this Stop Order is not complied with, the County also has the authority to enter onto your Lands to take whatsoever actions are determined by the County to be necessary to bring the Lands into compliance, including seeking an Injunction or other relief from the Court of Queen's Bench of Alberta. Please also be advised, the costs and expenses for carrying out this Stop Order may be added to the tax roll for your Lands pursuant to Section 553(1)(h.1) of the *Municipal Government Act*.

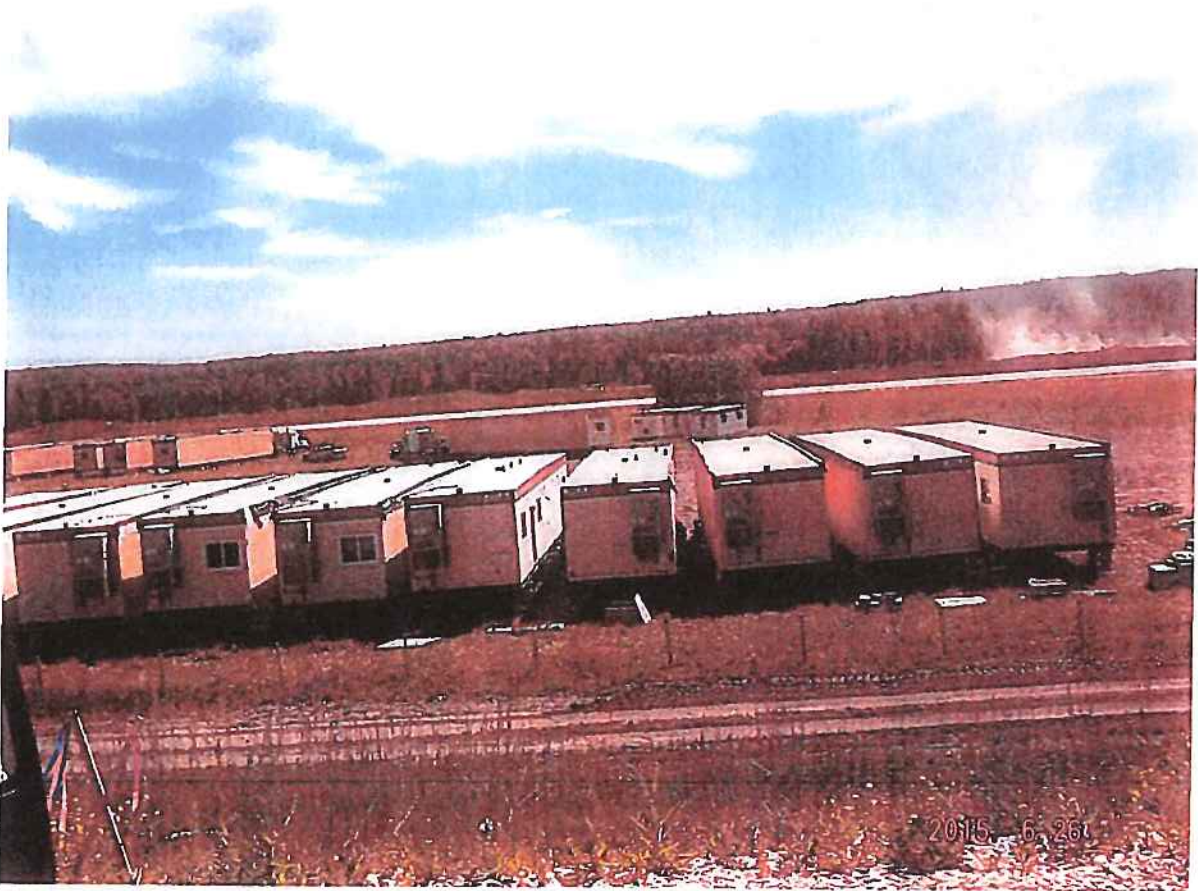
Yours truly,

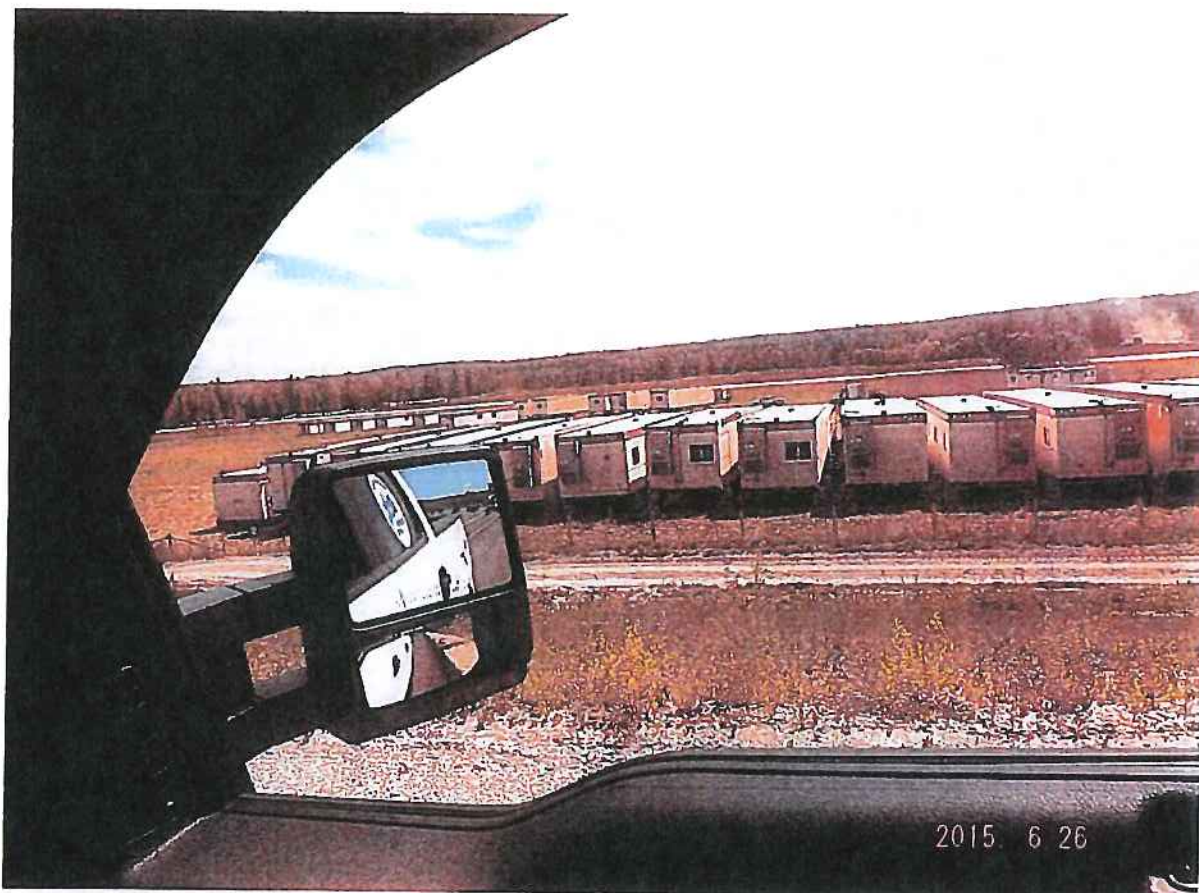

Martino Verhaeghe, RPP, MCIP
Director of Planning & Development
Brazeau County



MV/ mew

cc: Marco Schoeninger, Chief Administrative Officer





APPENDIX E

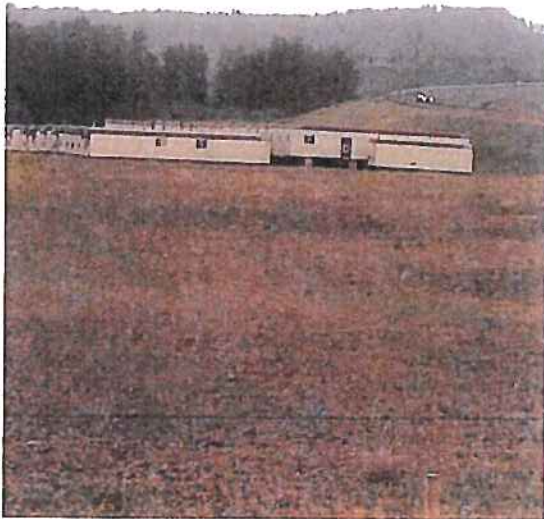
June 16, 2015:



June 26, 2015:



June 30, 2015:



July 9, 2015:



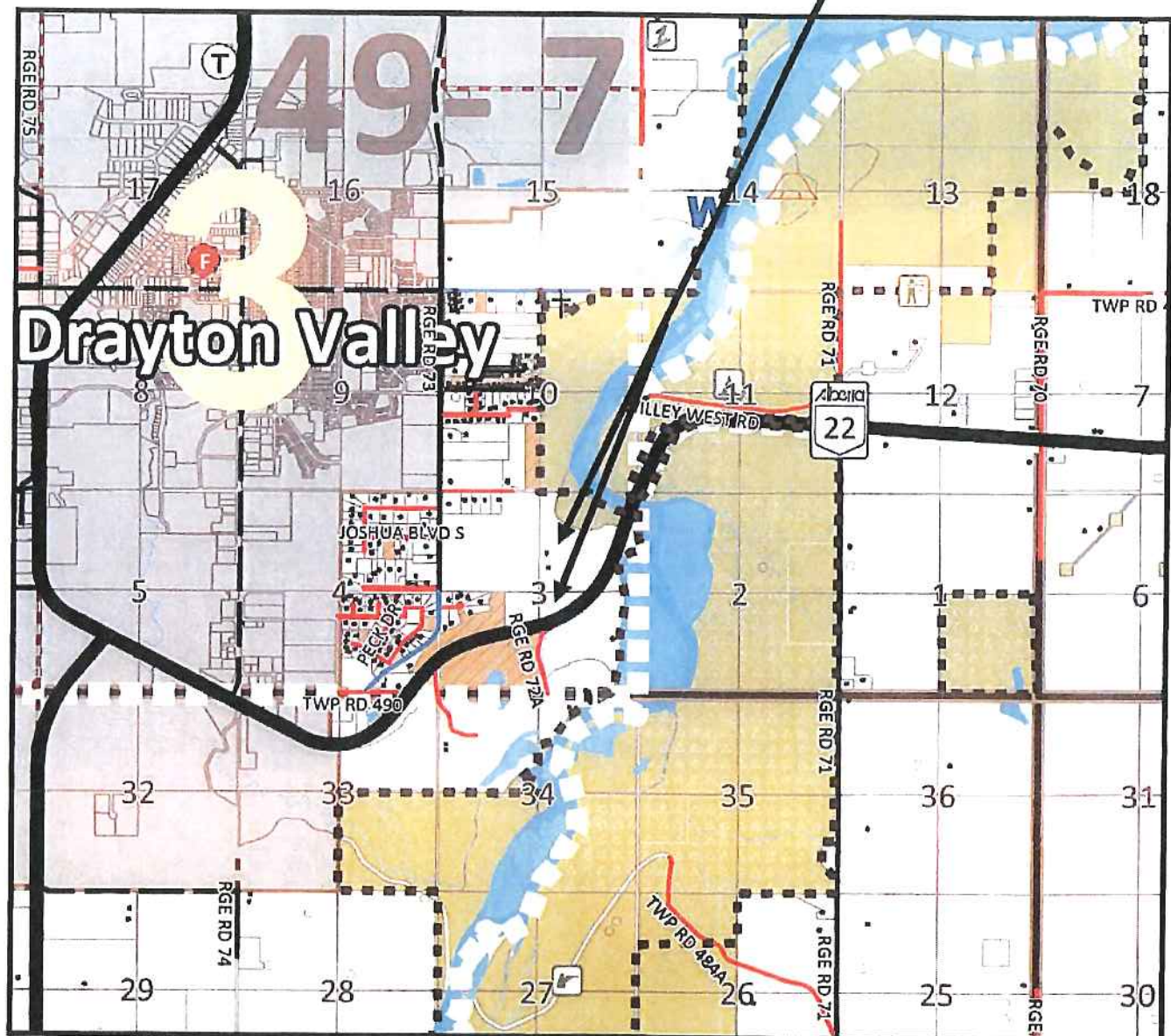
July 15, 2015:

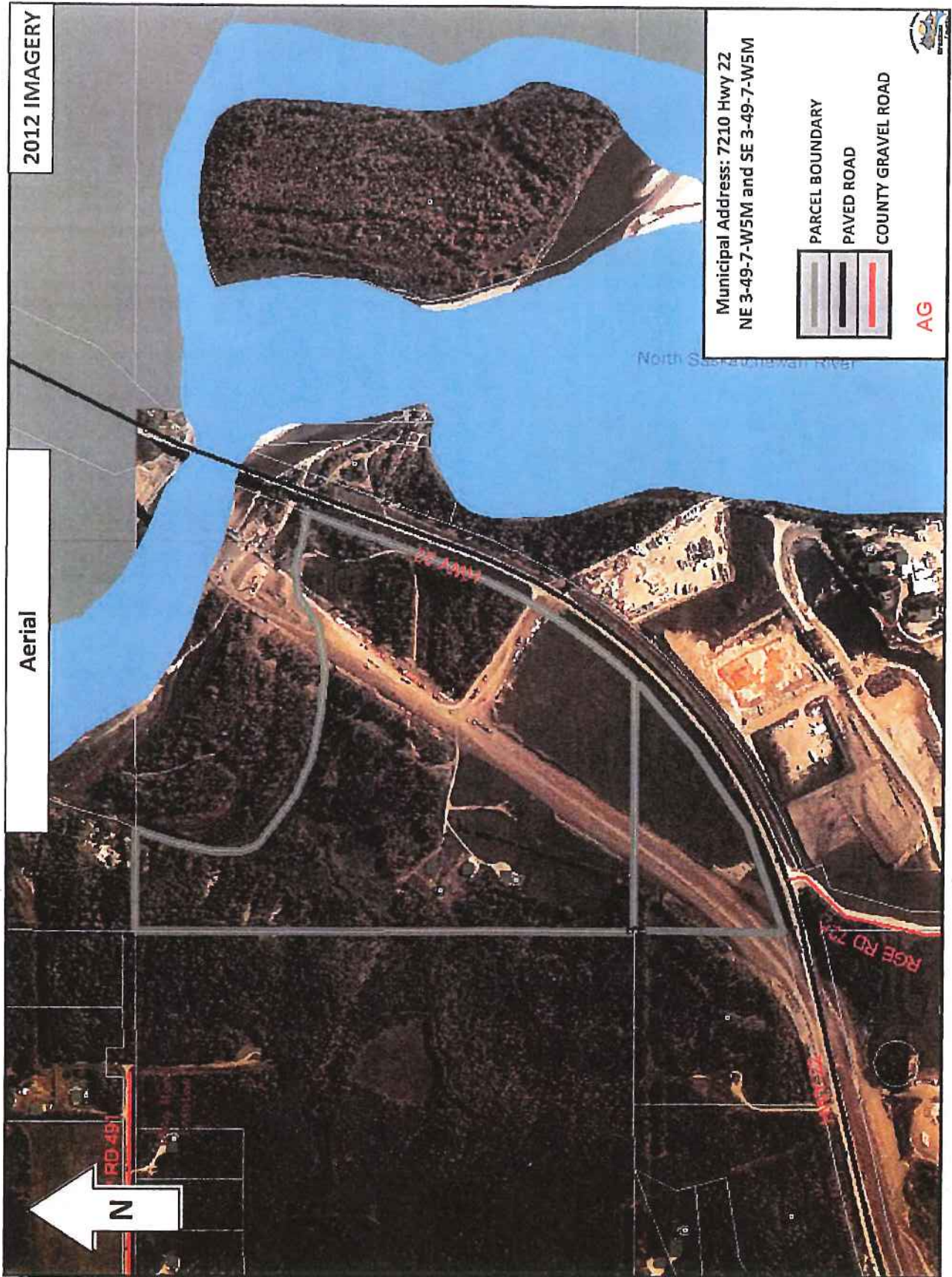


Land Location Map

Municipal Address: 7210 Hwy 22

NE 3-49-7-W5M and SE 3-49-7-W5M





APPENDIX G

Referral and Adjacent Landowner Comments

Brazeau County Internal Departments

Director of Public Works & Infrastructure – Storm water management will be required. Road paving required to County standards.

Superintendent of Utilities – No water/sewer services available at this location. A storm water management plan will be required to be submitted to Brazeau County and Alberta Environment and Parks.

Maintenance Supervisor – Both approaches need to be paved to property line.

Economic Development & Communications Manager – No concerns at this time.

Referral Agencies

Drayton Valley/ Brazeau County Fire Services – No issues or concerns with the proposed plans at this time.

Alberta Transportation – The applicant/owner must apply for a roadside development permit.

Town of Drayton Valley – Does not support the development. Property should be utilized for recreational purposes. Incompatible with surrounding parks. Not supported by County policy.

ATCO Pipelines – no objection.

Alberta Environment and Parks – Insufficient information to determine whether property lies in 1:100 year floodplain of North Saskatchewan River. Based on 1986 aerial of June 1:50 flood event, property did not appear to be flooded.

Adjacent Landowner Comments

None.

Mary Ellen Whyte

From: Madeleine Krizan
Sent: July-24-15 4:44 PM
To: Mary Ellen Whyte
Subject: FW: Referral for Development Permit Application 15D-108

For Peck file

Madeleine Krizan
P&D Development Officer
Planning & Development

Brazeau County
Box 77
Drayton Valley, Alberta
T7A 1R1
Tel: 780-542-7777 Fax: 780-542-7770
www.brazeau.ab.ca

.....
Please consider the environment before printing this email.

PRIVILEGE AND CONFIDENTIALITY NOTICE

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From: Murray Galavan [<mailto:deputyfc@draytonvalley.ca>]
Sent: July-24-15 4:38 PM
To: Madeleine Krizan
Subject: RE: Referral for Development Permit Application 15D-108

Hi Madeleine,

I must have missed this one but in reviewing the application 15D-108 there were no concerns for the fire department.
Thank you.

From: Madeleine Krizan [<mailto:MKrizan@brazeau.ab.ca>]
Sent: Friday, June 26, 2015 1:41 PM
To: Culture Historical Lup; Murray Galavan; Dennis Harper; landserv@fortisalberta.com; krystina.waddell@atcogas.com; isabel.solis@atcopipelines.com; sekura@telusplanet.net; KBuytels@arcresources.com; landrequests@pembina.com
Subject: Referral for Development Permit Application 15D-108

Good Afternoon,

Please see the attached referral package for development permit application 15D-108. Please provide comments by **July 27, 2015**. If we have not received a response by July 27, 2015, we will process the application as if you have no objection. Thank you.

Madeleine Krizan

From: Dennis Harper <dennis.harper@gov.ab.ca>
Sent: June-30-15 11:24 AM
To: Madeleine Krizan
Cc: Benjamin Misener
Subject: RE: Referral for Development Permit Application 15D-108
Attachments: 15D-108 McGinn Peck - Referral Package.pdf


Hi Madeleine,

Aside from our typical set-back distances, there is nothing else. Once we receive a roadside development application from the developer we will review for set-back, daily vehicle trips and intersection capacity, however according to the attached application, the number of daily trips appear to be minimal at this time.

Regards,

Dennis Harper, C.E.T.
Development and Planning Technologist

Alberta Transportation / Delivery Services Division
223-4709 - 44 Avenue / Stony Plain, AB T7Z 1N1
Tel: 780-963-5711 Fax: 780-963-7420
www.transportation.alberta.ca

 Please ~ only print this email if necessary!

From: Madeleine Krizan [mailto:MKrizan@brazeau.ab.ca]
Sent: Tuesday, June 30, 2015 9:46 AM
To: Dennis Harper
Cc: Benjamin Misener
Subject: RE: Referral for Development Permit Application 15D-108

Thanks Dennis! Are there any additional requirements that AT may have that I should put as conditions on the development permit? The storage yard is adjacent to Highway 22 and will be fenced. We can only really enforce on items that are part of the development permit, and I want to make sure AT has a proper say due to the proximity, and possibility for conflict of use. Thanks!

Cheers,

Madeleine Krizan
P&D Development Officer
Planning & Development

Brazeau County
Box 77
Drayton Valley, Alberta
T7A 1R1
Tel: 780-542-7777 Fax: 780-542-7770
www.brazeau.ab.ca



**DRAYTON
VALLEY**

July 21, 2015

Via e-mail: planning@brazeau.ab.ca

Brazeau County
P.O. Box 77
Drayton Valley, Alberta
T7A 1R1

ATTENTION: Madeleine Krizan
Development Officer

Dear Madam:

**Re: Brazeau County Referral Development Permit Application 15D-108
Existing Outdoor Storage Facility 6.88 ha (17 ac)
7210 Hwy 22 (within NE 3-49-7-W5M & SE 3-49-7-W5M)**

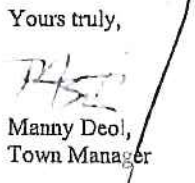
Thank you for your referral of the above-noted Development Permit application. Given the location, visibility and proximity of the land to the Provincial park and recreation area, these lands project the image of Brazeau County and Drayton Valley to any travelers or visitors passing through the area. The development of these lands as anything other than recreation or community enhancement is a detriment to the overall community.

In reference to the County's Municipal Development Plan and the policies contained therein, particularly policies 81, 82, and 84 through 87, the development proposed for these lands is in contravention. Specifically, we believe that the principle of policy 88: "Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development" most accurately applies.

As opposed to allowing these lands to develop as a commercial or industrial land use, Brazeau County should purchase the lands for establishing a municipal reserve; the immense opportunities for the creation of a contiguous park and recreational opportunity should not be lost. We encourage that the landowners be permitted to extract the gravel resources and that the lands then immediately revert to reserve. The development of any other use would be detrimental to the community and a loss of an opportunity which is available to Brazeau County.

The Town of Drayton Valley believes that the proposed development is not the best use of the subject lands and supports Brazeau County in acquiring and more effectively developing the lands.

Yours truly,


Manny Deol,
Town Manager

cc. Drayton Valley Town Council

51 20 - 52nd St, Box 6837, Drayton Valley, AB T7A 1A1 Canada Tel. /80-514-2200 Fax. /80-542-5753 www.draytonvalley.ca

Mary Ellen Whyte

From: Madeleine Krizan
Sent: July-21-15 3:10 PM
To: Mary Ellen Whyte
Subject: FW: 15-2187 Response - Referral for Development Permit Application 15D-108
Attachments: 15D-108 McGinn Peck - Referral Package.pdf

See below. For Peck McGinn file.

Madeleine Krizan
P&D Development Officer
Planning & Development

Brazeau County
Box 77
Drayton Valley, Alberta
T7A 1R1
Tel: 780-542-7777 Fax: 780-542-7770
www.brazeau.ab.ca

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From: Isabel.Solis@atcopipelines.com [mailto:Isabel.Solis@atcopipelines.com]
Sent: July-21-15 3:09 PM
To: Madeleine Krizan
Subject: 15-2187 Response - Referral for Development Permit Application 15D-108

ATCO PIPELINES has no objection.

Thank you :)

Isabel Solis | Operations Engineering Administrative Coordinator

Atco Pipelines Inc. 10000 100th Street, Drayton Valley, AB T7A 1R1
Tel: 780-542-7777 Fax: 780-542-7770

ATCO Pipelines has a new website! Check it out here: www.atcopipelines.com

MISSION: ATCO Pipelines provides reliable and efficient delivery of natural gas and is committed to operational excellence and superior customer service while ensuring the safety of our employees and the public.

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From: Madeleine Krizan
Sent: July-16-15 9:32 AM
To: Mary Ellen Whyte
Subject: FW: Referral for Development Permit Application 15D-108

See below email. For Peck McGinn file.

Madeleine Krizan
P&D Development Officer
Planning & Development

Brazeau County
Box 77
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From: ESRD Flood [<mailto:ESRD.Flood@gov.ab.ca>]
Sent: July-16-15 9:29 AM
To: Madeleine Krizan
Subject: RE: Referral for Development Permit Application 15D-108

I have reviewed the development permit application. We have insufficient information to determine if the property lies within the 100 year floodplain of the North Saskatchewan River. We do note though that based on aerial imagery flown during the July 1986 flood on the North Saskatchewan River (about a 50 year event) the property did not appear to have been flooded at that time.

Patricia Stevenson, B.Sc.(Geog.)
River Forecast Section
Operations Infrastructure
Environment and Parks

Phone: (780)427-8349

From: Madeleine Krizan [<mailto:MKrizan@brazeau.ab.ca>]
Sent: June 30, 2015 10:19
To: planning@draytonvalley.ca; ESRD NSR Water Act; ESRD RDR Water Approvals; ESRD Flood; info@dfo-mpo.gc.ca; ed@epbrparkscouncil.org
Subject: Referral for Development Permit Application 15D-108

Good Morning,

APPENDIX 'H'

Brazeau County Municipal Development Plan



Objective 11: Promote and encourage Industrial and commercial development

Policy 51: Brazeau County shall ensure that a sufficient supply of commercial and industrial land is available in the County to accommodate a wide range of commercial and industrial opportunities. This supply of commercial and industrial land may be identified in this plan, existing or future area structure plans, or a separate study prepared for Brazeau County Council.

Policy 52: Brazeau County shall encourage industrial and commercial development to locate within or near:

- Existing business and industrial parks;
- Lands where sufficient services are available;
- Lands where access to sufficient transportation networks is available;
- Lands where development setbacks or constraints prohibit residential development; or
- Lands identified on area structure plans for industrial and commercial development.

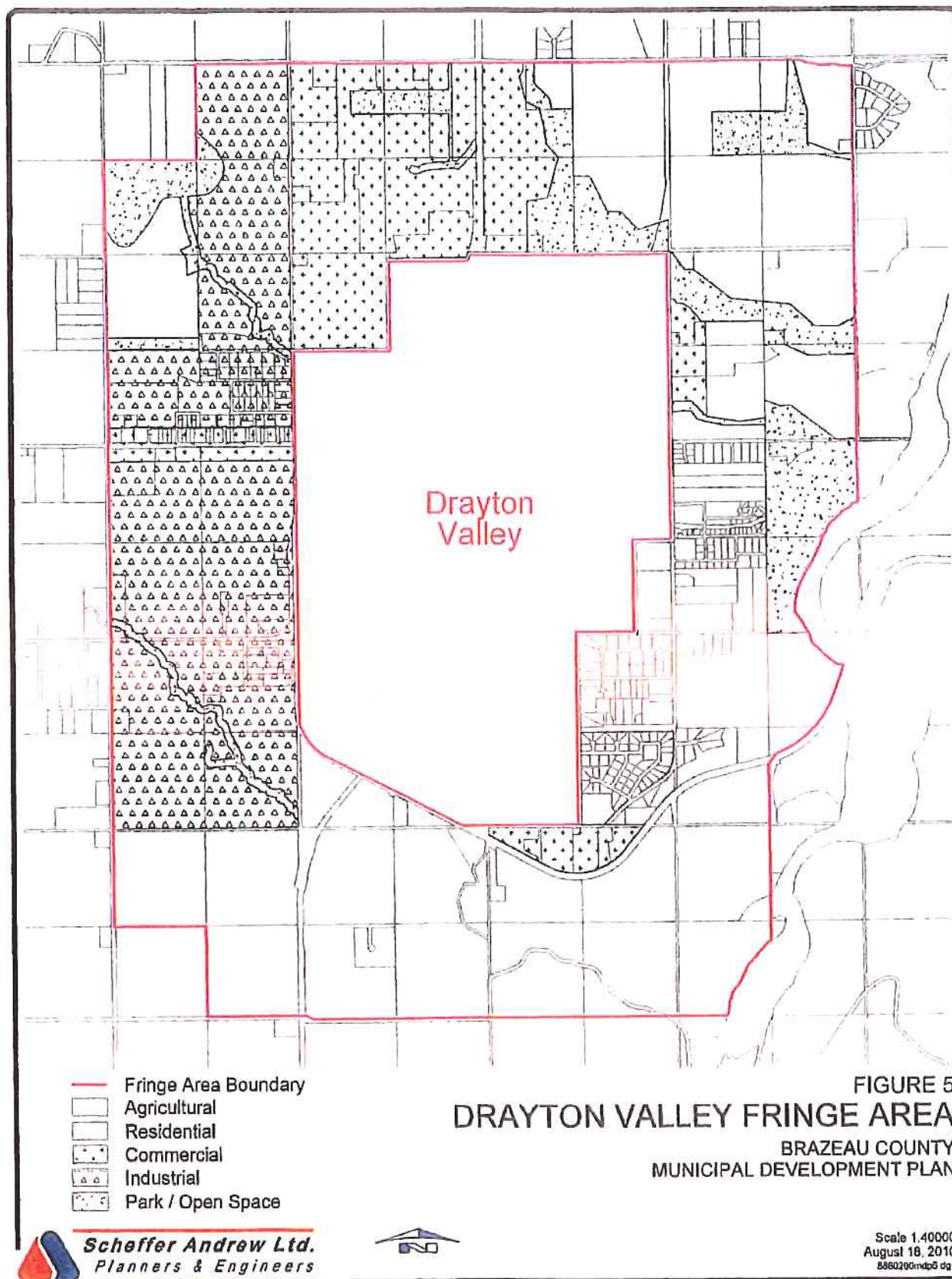
Policy 53: Brazeau County may consider the development of new industrial and commercial business parks. An area structure plan must be provided by the proponent of a new industrial and/or commercial business park that considers:

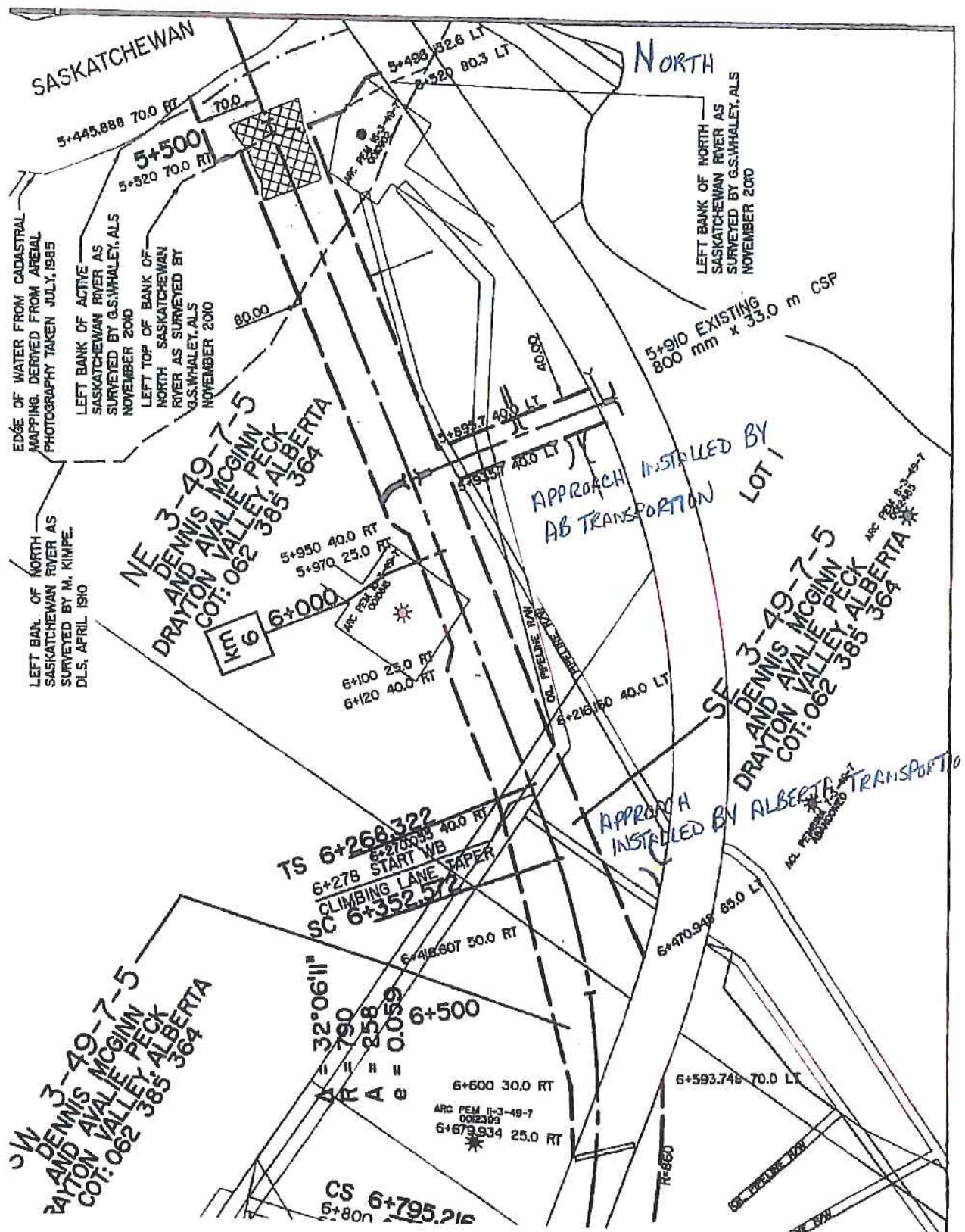
- Transportation and emergency services;
- The provision of water and sanitary services and storm water management;
- Potential impacts on adjacent and neighbouring land uses and the natural environment;
- Provisions for municipal and environmental reserve; and
- Any other issues that the Development Authority deems appropriate.

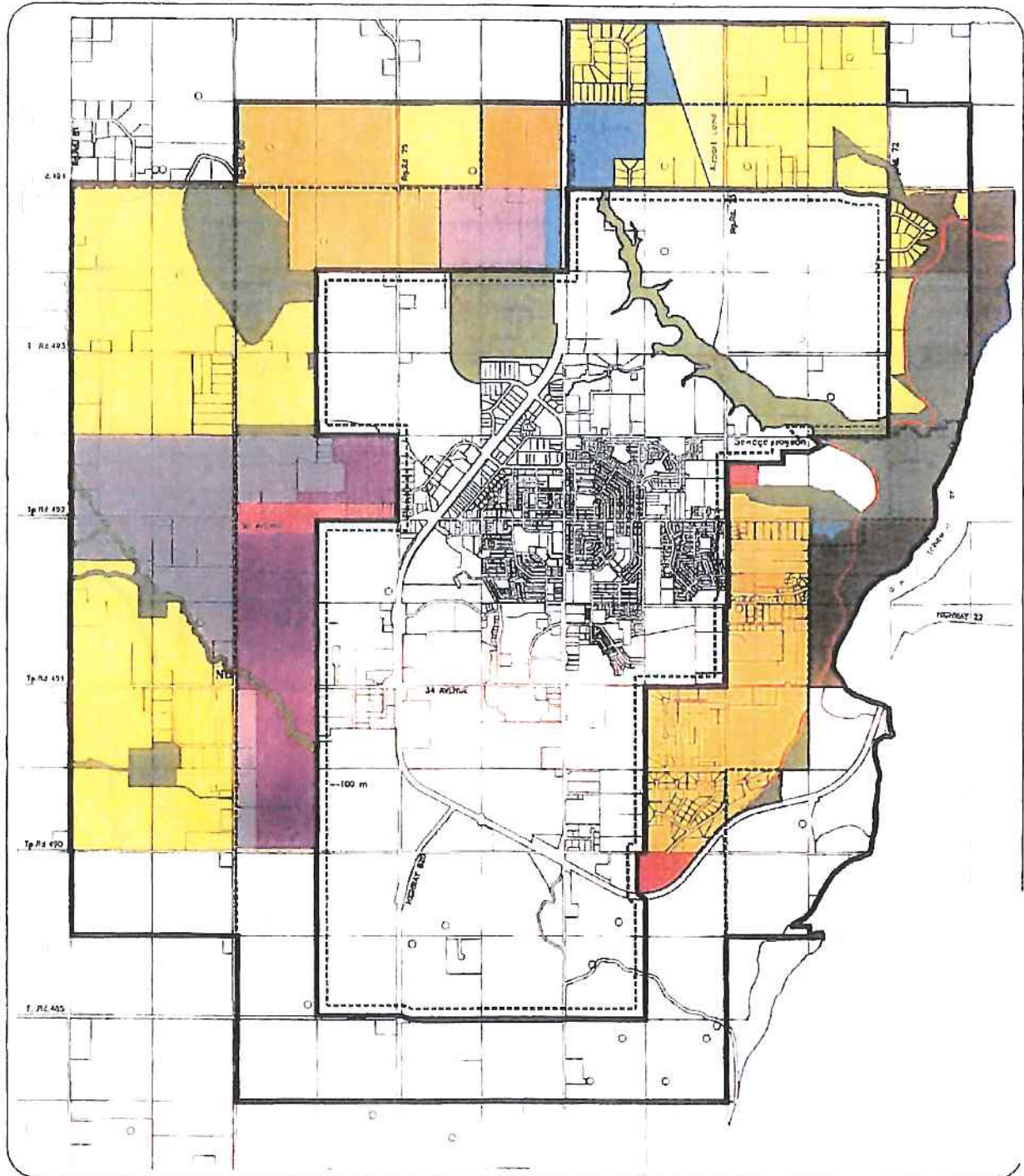
Policy 54: Brazeau County may permit the development of commercial and industrial activities on lands designated for Agriculture and Rural Development purposes, if, in the opinion of the Development Authority, the proposed development:

- Is compatible with existing and planned adjacent land uses and land use activities;

- Policy 81:** If the size, location or condition of the land being subdivided is not conducive to recreational use, or, in the opinion of the Development Authority, will not provide a benefit to County residents, cash-in-lieu of land (or a combination of land and cash-in-lieu of land) may be dedicated and used to enhance existing parks and/or recreational facilities, or create new parks and/or recreational facilities.
- Policy 82:** Brazeau County shall endeavour to ensure that new recreational land uses be located on lands that are not suitable for agricultural use, wherever possible.
- Policy 83:** Brazeau County will consult with the local school authority to ensure that municipal school reserve dedications can meet the needs of current and planned student populations.
- Objective 19:** Encourage the development of regional trail systems and park sites throughout Brazeau County
- Policy 84:** Brazeau County will encourage the dedication of municipal reserve lands that create regional trail systems and integrated park sites throughout portions of Brazeau County that can be safely and easily accessed by residents and visitors.
- Policy 85:** Brazeau County may utilize municipal reserve cash-in-lieu of land funds to secure lands for the purpose of creating regional trail systems and integrated park sites throughout portions of Brazeau County that can be safely and easily accessed by residents and visitors. Brazeau County may also utilize these funds to upgrade and improve existing trails systems and park sites.
- Policy 86:** Brazeau County may consider the development of regional trails systems and park sites on environment reserve or environmental reserve easement lands, if, in the opinion of the Development Authority, it is safe and efficient to do so, and potential negative impacts on the natural environment are minimal or can be effectively mitigated.
- Objective 20:** Support provincial parks and public recreation areas in Brazeau County
- Policy 87:** Brazeau County supports all existing provincial parks and public recreation areas in the County, and supports the creation of similar provincially-managed parks in the future if, in the opinion of Brazeau County Council, the provincial park and/or recreation area provides a benefit to Brazeau County residents.
- Policy 88:** Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development.
- Policy 89:** Brazeau County will cooperate with provincial departments, agencies and management councils in planning for new recreation facilities and tourism







Brazeau County
Proposed Area Structure Plan for
River Flats

Parts of
NE and NW 34-48-7-5
and
SE, SW, and NE 3-49-7-5

Prepared by Robert Riddett, MCIP
riddett@shaw.ca

River Flats Area Structure Plan
Draft dated 4 June 2008
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Introduction

This Area Structure Plan (ASP) deals with a block of about 480 acres made up of eight individual parcels which lie north and south of Highway 22 on the west side of the North Saskatchewan River. The closest part of this block is half a mile east of Drayton Valley. Map 1 shows the general location, Map 2 shows the legal parcels and ownership, and Map 3 is a recent air photograph.

Throughout this document, the eight parcels together will be referred to as "the area" or "the subject lands".

Ownership

Seven of the eight parcels are owned by Avalie Peck and Dennis McGinn, who operate Drayton Sand and Gravel from this site and from a location just west of Drayton Valley. The eighth parcel is owned by Brazeau County.

General characteristics

The area lies in the valley of the North Saskatchewan River. The valley wall covers about 90 acres. The remainder is valley floor, and is almost level, except where it drops about six metres down to the river. Part of the land is prone to flooding: this is discussed in more detail below.

On the south side of the highway, the area has three accesses. One is via Range Road 73 (identified as Access #1). This is a poor quality road, and the highway intersection is on a bend, part way down the valley side (known locally as River Hill). The second access (identified as Access #2) is a private driveway into the County pit and an oilfield installation in SW 3. Finally, there is another private access (identified as Access #3) to the Drayton Sand and Gravel land in SE 3. None of the accesses has a turning lane. A fourth private access (identified as Access #4) into SE 3, in the corner of the hay field south-west of the bridge, is visible on the air photo but has been closed.

North of Highway 22 there are also two accesses. A well site on SW 3 has a private access (identified as Access #5) which is gated. There is a second private access (identified as Access #6) into the house and well site on NE 3.

Present use of the land

Present uses of land can be seen on Map 3. The main elements are:

Gravel extraction The 2006 air photo shows that about 160 acres on parts of four quarter sections are being or have been worked for gravel, with on-site crushing, washing, and stockpiling.

The gravel deposits have a very favourable strip ratio, with between 25 and 35 feet of gravel and only eight to ten feet of overburden.

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Truck repair	A cluster of buildings in SE 3-49-7-5, about 400 metres south of the highway, is rented to Ken Richert Trucking (KRT). There are eight bays with 18,000 square feet of shop space.
Oilfield rentals	An abandoned well site in SE 3 immediately south of the highway is used by Hart Oilfield Rentals to store and display equipment. There is also a stockpile of rig mats at the gravel crusher site.
Residential	A house in NE 3, north of the highway, is rented out. The yard and outbuildings are used to store vehicles and machinery belonging to the renters' oilfield-related business. There are also two mobile homes on SE 3 and one on NW 34.
Agriculture	Most of the flat land not used for gravel extraction is used for hay and crop production. The 2006 air photos show about 33 acres in crop north of the highway, and about 50 acres in hay south of the highway.
Oil and gas	The land contains several active and abandoned wells, a satellite station, and many pipelines. Most of the facilities are owned or operated by ARC Resources. They are not posted sour. Wells and pipelines are exempt from municipal control by section 618 of the <i>Municipal Government Act</i> (MGA).
Natural areas	The valley walls generally retain their natural poplar cover, except where they have been cleared for oilfield operations.

Statutory documents and the need for an ASP

Brazeau County's Land Use Bylaw 474-04 classifies the land as Agriculture District. This District allows farming and single detached residences as permitted uses, and natural resource (gravel) extraction as a discretionary use.

Gravel crushing and washing are defined in the bylaw as natural resource processing, which is neither permitted nor discretionary in the Agriculture District. However, permits were issued under a previous land use bylaw in which they were discretionary uses. They may therefore continue as legal non-confirming uses under section 653 of the MGA, but may not be extended.

Oilfield equipment storage and rental is neither permitted nor discretionary in the Agriculture District, and has never been approved on the subject land by Brazeau County. This is an existing illegal use.

Truck repair is neither permitted nor discretionary in the Agriculture District. The buildings now used by KRT were erected legally, several years ago, for use in a log-hauling business which was deemed to be a home occupation by the then landowner, but their use for truck repair has never been approved on the subject land by Brazeau County, and is an existing illegal use. Because no development permit has been issued, the operators are unable to obtain certification by the Alberta Motor Vehicle Industry Council (AMVIC).

In most other areas, the owners could simply apply to the County to have the Land Use Bylaw amended to bring the land designation into conformity with the actual uses. Either Rural

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Industrial or Direct Control zoning would be appropriate. However, because the land is close to Drayton Valley, its use is also controlled by the Intermunicipal Development Plan (IDP) adopted by the Town and County in 2001, which limits the County's ability to change the Land Use Bylaw. Brazeau County needs cooperation from the Town of Drayton Valley to support this Area Structure Plan and to apply it as the instrument that will guide a subsequent amendment to the IDP.

Most of the land around Drayton Valley is allocated to a particular use by the IDP, but the subject lands south of Highway 22 are included in a Special Study Area. The IDP says that decisions on land use in the Special Study Area require further work before a land use is allocated. Both Councils have recently agreed to remove the Special Study Area status from the subject land, and have agreed that the process should be as follows:

- First, an Area Structure Plan is to be adopted, setting out the preferred uses of the land and the conditions under which it should be developed in both the short term and the long term.
- The Land Use Concept Map in the IDP may then be amended to remove Special Study Area status from the subject land, and to show preferred land uses.
- The landowners and/or business operators may then apply to the County to reclassify the land from Agriculture to a designation which is consistent with the ASP and the amended IDP.
- Following input from the public, the Town, and from affected agencies, County Council will accept applications to amend the Land Use Bylaw.
- Once the Land Use Bylaw is amended, the County will process two development applications which were made in 2007 but which have not yet been decided.
- With a development permit in hand, KRT will be able to apply for their AMVIC certification.

One possible obstacle to rezoning is that the level parts of the land (the area now used for hay and grain production) are shown by the Canada Land Inventory as Class 3 for agriculture. Policy 3.2 of the County's Municipal Development Plan supports the preservation of land of this quality for agriculture. However, because the land has been disturbed by gravel extraction, much of the agricultural value is lost.

Constraints imposed by site features

Some of the western parts of the property have gradients as high as 15%. This raises fears of slope stability and the risk of slumping. Engineering tests will be needed before there is any construction on these slopes.

An access road has been built diagonally down the valley wall, east from Range Road 73, with gradients up to 10%. Most municipal roads have a maximum grade of 7%, so any future development will need access from Highway 22 on to level land.

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Parts of the lower land are at risk from flooding of the North Saskatchewan River. Photographs of the July 1986 flood, flown by Alberta Environment (photo reference E86-024, AS 3331) show the river channel full, but no flood water on the hay fields. AE calculates the 1986 flood as being the once in fifty year event. The once in one hundred year flood line (normally used for planning purposes) may extend out into the hay field and include the KRT site.

Alberta Environment (Patricia Stevenson, River Engineering Branch) indicates that no photographs were flown of the more recent 1990 flood because the discharge rate was less than in 1986.

Map 4 shows contours, gradients, and the land which flooded in 1986.

Environmentally Sensitive Areas Study

In 1992 the former Yellowhead Regional Planning Commission engaged D. A. Wentworth and Associates to prepare an Environmentally Sensitive Areas (ESA) Study of Brazeau County. The study identified the North Saskatchewan River Valley as one such area. The riparian area, the flood plain, and the valley walls all have considerable value as wildlife habitat, but the real concern is that poorly managed land use could increase peak flows in the river, damage fish habitat, and reduce the quality and dependability of water supply for downstream users. The authors suggested that the best way to preserve the quality of the water was to minimize the loss of natural vegetation on adjacent land.

Despite the general environmental value of the river valley, the ESA study did not identify any sites of particular value or interest on the subject lands.

The original document is on file at the County office, and should be consulted when a development permit application is made.

Land use controls by senior governments

Alberta Transportation: A person wishing to develop within 800 metres of a numbered highway must obtain not only a municipal development permit, but also a roadside development permit from Alberta Transportation (AT). Almost all the subject lands lie within 800 metres of Highway 22, which gives AT an effective veto on development.

The approval of AT is similarly required for the subdivision of land within 800 metres of a numbered highway.

AT also controls access to highways. Normally, the department prefers access to be via local roads. Where this is impossible, they may allow a direct highway access, but it must be built to their specifications at the developer's cost. They will normally require a Traffic Impact Assessment (TIA), again at the developer's cost, to determine the type of intersection needed.

Other AT constraints on access include the classification of Highway 22 which is being protected to a multi-lane highway standard throughout the plan area, restricting access spacing to a minimum 1600 metres (one mile); the presence of existing and proposed bridge structures over the North Saskatchewan River (minimum 300 metres from end of bridge deck); access location related to climbing lane; sight distances and grade line geometry; proposed twinning

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resulting in two diverging highway directional structures due to separated river crossings; and high fill areas required to achieve desired minimum vertical gradients on Highway 22.

Energy Resources Conservation Board: Provincial regulations control the use of land near oil and gas wells and pipelines. Generally speaking, development is not allowed within 100 metres of a sweet well, or in the right of way of a sweet pipeline. Larger setbacks are required from facilities handling sour oil or gas.

There is no setback required from an abandoned well, but the ERCB prefers that a 15 metre clear space be left around it to allow access by service equipment in case it needs further work. The exact locations of all abandoned wells will be obtained from the ERCB and submitted as part of any new development application on the site.

Historical Resources: The provincial government has the right to ask a land owner to prepare a Historical Resource Impact Assessment before land is subdivided or developed. However, where the land has previously been disturbed, Alberta Tourism, Parks, Recreation and Culture commonly waives that requirement. A copy of this ASP has been forwarded to the department with a request for a waiver.

Agricultural Operations Practices Act: There are no confined feeding operations close enough to affect or be affected by any development on the subject lands.

Federal control of aviation: The site is not under the approach path to any airport, and the local airspace is Class G uncontrolled.

Health regulations: Provincial regulations limit development within specified distances of waste disposal grounds and sewage treatment lagoons. The subject land is far enough from such facilities that the regulations do not apply.

Gravel pit reclamation: Provincial regulations require that gravel pits be reclaimed after the resource has been extracted. Normally, the goal would be to bring the landscape back to something like its previous condition. In this case, regulators will be asked to allow a different goal: the creation of lakes and other water features to add value to the long term land uses proposed below.

Realignment of Highway 22

The provincial government plans to reconstruct Highway 22 through the North Saskatchewan River valley and build a new bridge over the river.

The realignment of Highway 22 and associated second river crossing was determined by a Functional Planning Study. As noted in that study, AT is proposing one all-directional, long-term access in the location shown on Map 5, where the two Highway 22 directional structures will diverge. This is close to the gated well site access in SW 3. This single access is proposed to serve the entire area. The other access to the residence in NE 3 will be closed except for a left-in/left-out access to serve only a well site located north-east of the hay field and which will remain between the two highway structures. All other access to the lands in this ASP must connect to this single long term access point, either by a public road or, if approved by the subdivision authority, by access easements. Interim access may be provided at the recently improved private access to Lot 2 in SE 3, but only until such time as the department's

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construction plans for Highway 22 causes construction of the long term access point, if the ongoing departmental TIA supports this alternative.

Relationship to proposed provincial recreation area

The Alberta Government intends to develop a large riverside recreation area along the North Saskatchewan River. This will be in two parts. North of Highway 22 the land has been designated Eagle Point Provincial Park and incorporates the present Willey West recreation area. South of Highway 22 the land has been designated Blue Rapids Provincial Recreation Area. The reason for the different designations is to allow a wider range of activities than are allowed in provincial parks, such as motorized recreation.

Four of the Peck and McGinn parcels run all the way down to the water's edge, separating Eagle Point from Blue Rapids on the west side of the river. It would be in the public interest to negotiate some form of recreational right of way through the privately owned land. However, to avoid any risk to people who wander off the right of way, any provision for a recreational trail must wait until gravel operations have ceased.

Immediate use of the site

The quality and location of this gravel deposit are so favourable that it should be extracted before the land is turned over to another use. The owners estimate that the deposit may have another ten years of life at the present rate of extraction, during which time the workings will move on to new areas north and north-east of the present operations. Access to the new workings will be provided by dedication of service roads, or by easements, to the standard required by the County and AT.

Gravel extraction is a dusty and noisy business which is not compatible with many other activities. However, the two existing (currently illegal) commercial businesses on site at present, KRT truck repair and Hart Oilfield Rentals, are quite compatible with gravel extraction. These uses do not require any improvements to servicing, and can continue with the present road access, water, sewer, garbage, and fire protection arrangements.

Long term use of the site

The landowners and the two municipalities agree that, following the exhaustion of the gravel, the long term use of the area should be recreation. Very few other places are so well suited by the combination of river frontage, access to a major highway, proximity to provincial recreation areas, and availability of urban services.

At this time it is not possible to say exactly what form this recreational use might take, but one possible use is a golf resort with water features based on reclaimed gravel pits. A golf resort would complement the adjacent provincial recreation areas just as nearby private developments complement Banff National Park. The private development benefits by access to the park, while visitors to the park use the commercial services on the private land.

Development will be simplified if the three titles land north of existing Highway 22 are consolidated into a single parcel, and the four privately owned parcels south of the highway,

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plus possibly also the County land, are similarly consolidated into a single parcel. However, this will not happen until the gravel is extracted and the use of the land is changed to recreational.

AT's functional planning study shows a single access north and south into the subject lands. This will be in SW 3 at the location shown on Map 5. All other accesses to the ASP area, including Range Road 73, the well site access in SW 3, and the access to the County pit will be closed.

From this single highway access point, service roads will be dedicated by the landowners and run east, parallel with the highway, giving access to the plan area. Tentative alignments are shown on Map 5.

Prior to any development, a more detailed TIA for the entire area will be undertaken, and any required road construction will be done at the developer's expense. A single, comprehensive TIA will avoid the problems that may arise from piecemeal development.

Development on the site will be divided into three areas based on topography, and this is illustrated on Map 5.

High flood risk:	This is the area adjacent to the North Saskatchewan River which was flooded in 1986. Alberta Environment reckons it to have been a once in 50 years event. At that level of risk, no buildings should be allowed, except for unattended structures like hay sheds and picnic shelters. Maximizing natural vegetation (as recommended in the 1992 ESA study) will help maintain bank stability and reduce erosion and silting. Compatible land uses include minor recreation such as walking trails, and the rougher parts of golf courses.
Low flood risk:	<p>This is the land above the 1986 flood, but at risk from the once in 100 years flood. Alberta Environment does not know the location of the 1:100 line. This will be determined by engineering studies commissioned by the developers before they submit any request for additional permanent buildings.</p> <p>Land uses compatible with a once in fifty year flood risk include golf courses and campsites. And because Alberta Environment usually gives several days' warning of floods on major rivers, the flood plain might also accommodate RV parking.</p> <p>Depending on the elevation of the 1:100 flood, it may be economic to fill part of the land to accommodate permanent buildings such as a hotel and other resort buildings. Possible locations are shown on Map 5. Filling can be done as part of the earthmoving needed to reclaim the gravel pits.</p>
No flood risk:	West of the flood plain, the land rises steeply, but the steep slopes (up to 15% gradient) will be a challenge to builders. Roads will have to run along the slope instead of up and down to achieve acceptable grades. The developers will also have to prove that the slopes are stable. They will do this by engaging an engineer to conduct tests and to recommend if any special construction techniques are necessary. These tests and recommendations will be submitted prior to any application for subdivision.

or development on the valley walls. The tests will pay particular attention to the risk of slumping affecting the highway.

Map 5 shows two roads which will not be needed after access to the area is limited to a single point. Township Road 490 is legally open, but is not developed. Subject to the public hearing required by legislation, and subject to AT's approval, this road might be closed and leased. Road Plan 3006 JY has been legally closed and title has been issued to the County. At a future date it could be consolidated into the adjacent lands.

Because the exact nature of the future recreational development is not yet known, it is not possible to for Map 5 to show the locations of future buildings or internal roads. These will be planned in conjunction with AT and the County prior to the submission of a development permit application.

The developers are the first to admit that this ASP does not provide the level of detail which such a document normally contains. However, it does indicate future uses and the sequence of development, and commits the landowners to making the necessary road and other improvements, so it meets the requirements of section 633 of the MGA.

Servicing

Recreational resorts need water and sewer systems, solid waste removal, fire protection, and storm water management.

Water supply: The land is about 2,500 metres away from the closest municipal water line, which is at the south end of 60 Street in Drayton Valley. Building a water line along Township Road 490 and under Highway 22, plus on-site distribution lines and a pressure reduction system needed because of the drop in elevation, would be very expensive. Whether the cost is justified depends on the density of development.

As an alternative, a private well, treatment facility, and distribution lines may be investigated. An engineer's report will be submitted with any development application.

Sanitary sewer: The Town's south sewer line is only 1,500 metres away from the site, but it is 90 metres higher, so a sewer connection would require not only a local gathering system and a main line, but also a force main. Again, whether the cost is justified will depend on the density of development.

If municipal sewer service is not economic, development could be served by a privately owned gathering system (gravity or low-pressure) feeding into a mechanical treatment facility. In view of the small volume of treated effluent, provincial regulators might allow it to be released directly into the North Saskatchewan River, avoiding the need for a storage pond. If regulators do require storage, inhabited buildings will have to be set back from the pond.

Any sewer system must be designed to withstand 1:100 year flooding.

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Solid waste:	Solid waste can be collected on the same basis as in other rural industrial and residential areas of Brazeau County.
Fire protection:	The site is reasonably close to the fire hall at Drayton Valley, so initial response times should be good. The main problem will be a supply of water if the site is not served by the Town system. Lacking that, there must be a reservoir with capacity to satisfy the Fire Chief, or a dry hydrant connection to the North Saskatchewan River.
Storm water:	Alberta Environment requires that the peak flows of storm water leaving a site must be no greater after development than before. Appropriate engineering calculations and proposed mitigating measures will be submitted with any development application.

Municipal and Environmental Reserves

When land is subdivided into multiple lots, the municipality has the right to take ownership of undevelopable land as environmental reserve, and up to ten per cent of the developable land as municipal reserve (MGA sections 664 and 666).

On the subject lands, the most recreational value would be had from a strip along the river, accommodating a trail linking nearby provincial recreation areas. A connection to the reserve land north of the highway in SW 3 would also be useful.

Reserves are only due when the land is subdivided, and that is probably many years in the future. In the interim, the landowners are willing to discuss an arrangement with the Alberta government to allow trails by easement along the river.

Proposed short term zoning

The present Agriculture zoning allows gravel extraction as a discretionary use, but does not allow processing, and it does not allow motor vehicle repair or the storage of oilfield rental equipment, so it is necessary to change the zoning to legitimize these uses. There are three possibilities.

The first possibility is to rezone part of the land *Rural Industrial*. In this district, automotive repair, natural resource processing, and warehouse sales and storage are permitted uses, and natural resource extraction and surveillance suites are discretionary uses, so development permits for the existing land uses could be issued. However, this zoning opens the way for auction marts, auto sales, service stations, and many other uses which the County may not wish to see at this location, and which might not be compatible with the preferred long term land use.

A second possibility is for the County to create a new land use district entitled *Natural Resource Extraction*, based on a similar district in the MD of Rocky View's Land Use Bylaw. This allows both extraction and processing of gravel as a discretionary use, but it does not allow motor vehicle repair or the operation of oilfield storage businesses. If the County adopts a Natural Resource Extraction district, it is recommended that those activities be added to the list of discretionary uses. This would allow the County to issue development permits for the present land uses.

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The third, preferred solution is to zone the land to *Direct Control* under section 641 of the MGA. Section 641(2) provides that when land is zoned Direct Control, "Council may, subject to any statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary."

That will enable the issuance of permits for any use which is consistent with this ASP and the text of the land use bylaw.

Pursuant to section 641(3) of the MGA, power to issue development permits can be delegated to the Development Authority. However, it is not recommended that this function be delegated to staff because of the sensitivity of the area, and the need to consider the views of government departments and the Town. In this situation it is better if development permits are issued by Council following input from the Intermunicipal Planning Commission (IMPC).

As soon as this ASP is adopted, and the IDP is amended, the private landowners will apply for Direct Control zoning on the lot containing the KRT and Hart operations. Zoning the entire Lot 1 Plan 812 0783, instead of just the areas occupied by KRT and Hart, will allow for minor expansion of those operations, so far as that is consistent with this ASP, without the need for further rezoning. The area proposed for immediate rezoning is shown on Map 6.

A draft amending bylaw is attached as Appendix A.

The owners request that development permits issued for KMT or Hart under DC zoning be valid for as long as those operations continue on site.

Proposed long term zoning

At a later date, after the gravel has been extracted, the owners may apply for rezoning to Recreation district, as shown on Map 7.

Public participation and referral process

An ASP which affects many adjacent landowners is usually presented at a public open house before it goes to a formal public hearing in front of Council, and that practice was followed here.

The draft ASP has also been submitted with a request for comments to the Town of Drayton Valley, and to provincial departments regarding their particular concerns: Alberta Transportation (Highway 22 access), Alberta Environment (water and sewer issues), Alberta Parks (Eagle Point/Blue Rapids recreation areas), and the Historic Resources Management Branch (request for waiver).

If any serious concerns are raised at the open house, or by the referral agencies, the ASP will be re-written to deal with them before it is taken to County Council for a decision.

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Proposed actions by Governments

Following the public participation process, it is requested that the following actions be taken by the various levels of government.

By Brazeau County:

- 1 Adopt this Area Structure Plan by bylaw.
- 2 Amend the Intermunicipal Development Plan by changing the text and maps to remove the subject lands from the Special Study Area and to recognize the short term and long term uses of land set out in this ASP.
- 3 Upon application by the landowners, amend the zoning of the land to either
 - (a) A new district to be known as Natural Resource Extraction, allowing for continuation of all existing land uses, or
 - (b) Direct Control.
- 4 Upon application by the owners, issue development permits for existing land uses

By the Town of Drayton Valley:

- 1 Acknowledge that this ASP reflects the Town's wishes.
- 2 Adopt the ASP by bylaw.
- 3 Amend the IDP, using identical wording as that used by Brazeau County.

By Alberta Transportation:

- 1 Declare that this ASP is satisfactory as a general guide to future development of the land, on the understanding that, before the use is changed to recreational, or additional new development takes place, more detailed planning will be undertaken (including a comprehensive Traffic Impact Assessment for the entire subject lands), and access will be improved to the satisfaction of the department.
- 2 Upon application by the owners, issue Roadside Development Permits for the existing land uses.
- 3 Design the highway accesses show on the department's functional plans so that they can accommodate the expected volume of traffic for the short term and long term land uses proposed in this ASP.

Conclusion

The owners of the seven privately owned titles submit that the present uses should be legitimized by a change to the Intermunicipal Development Plan and Land Use Bylaw until such time as the gravel pits are closed and reclaimed. At that time they will prepare detailed plans and apply for rezoning to allow recreational uses.

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Appendix A

Text of proposed amendments to the Land Use Bylaw

Brazeau County Bylaw ____ - 08

A bylaw to amend Land Use Bylaw 474-04 by establishing a Direct Control District

Pursuant to Part 17 of the *Municipal Government Act* (hereinafter referred to as "the Act"), the Council of Brazeau County enacts the following amendments to Bylaw 474-04, the Brazeau County Land Use Bylaw.

1 *Purpose of this bylaw*

The purpose of this bylaw is to provide an approval mechanism for existing and future developments on land legally described as Lot 1 Plan 912 0793 in SE and NW 3-49-7-5.

2 *Development Authority*

An application for a development permit on the land listed in section 1 shall be referred to Council for decision.

3 *Area Structure Plan*

In making a decision under section 2, Council shall be guided but not bound by the provisions of any Area Structure Plan adopted for the land, and by the lists of permitted and discretionary uses in the following sections.

4 *Permitted uses*

The following uses are permitted on the said land:

- Agriculture
- Single detached residences existing on site on the date of adoption of this bylaw
- Gravel extraction, processing, and storage

5 *Discretionary uses*

The following uses may be allowed at the discretion of the development authority:

- Automotive and Motorized Equipment Repair
- The storage of oilfield equipment and supplies, either for the use of the owner, or for rental to a third party
- Surveillance suites
- Any other use of land which in the opinion of Council is compatible with adjoining lands and with the uses set out in any Area Structure Plan affecting the land.

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6 *Regulations*

Council may make a decision under section 2 subject to any of the conditions normally attached to a development permit, and subject to any additional conditions it sees fit, to the extent allowed by section 641 of the Act.

7 *Amendment of Schedule A*

Schedule A of Bylaw 474-04 (the map of land use districts) is amended to show that the land listed in section 1 has been reclassified to Direct Control.

8 *Coming into effect*

This bylaw comes into effect on the latest of the following dates:

- (a) third reading, and
- (b) the date on which the Intermunicipal Development Plan is amended to allow the uses set out in sections 4 and 5 above, and
- (c) the date on which the River Flats Area Structure Plan receives third reading.

Note: DC zoning is seen as a short term control mechanism. When the gravel operations cease, the landowners may apply for Recreation zoning.

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Appendix B

Text of proposed amendments to the Intermunicipal Development Plan (IDP) bylaw

Brazeau County Bylaw ____
Town of Drayton Valley Bylaw ____

Pursuant to Part 17 of the *Municipal Government Act*, and in particular section 631 of the Act, the Councils of Brazeau County and the Town of Drayton Valley enact the following amendments to the Intermunicipal Development Plan adopted by County Bylaw ____ and Town Bylaw 2001/15/D.

- 1 Exhibit 1, the Land Use Concept Plan, is amended
 - (a) by removing the Special Study Area designation from sections 34-48-7-5 and 3-49-7-5 lying south of Highway 22, and
 - (b) by removing the Recreation designation from those parts of SE and NE 3-49-7-5 lying north of Plan 912 0793, and
 - (c) by removing the Residential designation from that part of SW 3-49-7-5 lying east of Plan 762 2123, and
 - (b) by adding a notation that the land described in clauses (a), (b), and (c) shall be governed
 - (i) by the attached maps** showing short term and long term land use, and
 - (ii) by the River Flats Area Structure Plan.
- 2 This bylaw comes into effect on the later of the following dates:
 - (a) third reading, or
 - (b) the date on which the River Flats Area Structure Plan receives third reading.

** The maps are those attached to this ASP as Maps 6 and 7.

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APPENDIX “F”

- If at any time, any of the requirements for the operation of a recreation service, indoor (gymnastics club) business have not, in the opinion of the Development Officer, been complied with, the Development Officer may suspend or cancel the development permit, pursuant to the provisions of the Act.
- No further development, expansions, or change in use is permitted unless approved by Brazeau County.

Members inquired about the conditions for parking and that due to the nature of the parking it drop offs and pick-ups what is there should be sufficient. Administration identified that parking is a use related standard requirement and after the site inspection there should be ample parking. J. Stuckenberg identified that parking had been address with the property owner also their operation usually falls outside the operating hours of the other businesses.

Members also indicated that drainage should be the responsibility of the owner of the property, not the renter. Administration noted that the and whereas portions of the permit are general conditions that people need to meet at all times and are only put as reminders on the permit and are actually the obligation of the landowner but may also be on the tenants as well.

100-15 Moved by S. Mahan, Municipal Planning Commission Member, to approve file 15D-106 with conditions as recommended in Appendix A.

CARRIED UNANIMOUSLY

PROPOSAL: Existing Outdoor Storage Facility for Modular Camp Trailers

LEGAL DESC.: part of NE & SE 3-49-7 W5M

APPLICANT: Avalie Peck & Dennis McGinn

OWNER: Avalie Peck & Dennis McGinn

FILE: 15D-108

D. Wiltse, Municipal Planning Commission Member, excused herself from hearing the application due to a conflict of interest and left the council chamber at 11:03 am.

An application for a development Permit 15D-108 for the existing outdoor storage facility for modular camp trailers on part of SE 3-49-7-W5M & NE 3-49-7-W5M, between the new and old segments of Highway 22, be **REFUSED** for the following reasons:

1. The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88.
2. The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5).
3. The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and it's contradiction of the Joint IDP & ASP.
4. The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the lands for recreational purposes.
5. The application is not compatible with the River Flats Area Structure Plan Map 7 – Proposed Amendment to IDP Land Use Concept Plan (Long Term).
6. The application is not compatible with the River Flats Area Structure Plan Map 5 – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage.
7. The application is not compatible with Subsection 4.9 (1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.

Any variation to the above requires a variance of policy which must be specifically noted in the motion.

B. Misener, Planning and Development presented the application and noted that PWI had concerns regarding the on the roads in the River Flats which the County will eventually assume control of and if recently installed approaches met County design specifications. After inspecting it was noted that several trailers had been moved on without approvals, this development has continued throughout the summer season to 133 units on the site. He noted that a stop order was issued in July 2015 and which the applicant appealed to the Subdivision and Development Appeal Board (SDAB), such stop order being upheld by the SDAB. Referral response concerns centered around development in the 1:100 year flood plain, non-compliance with statutory plans, impact on existing and future parks and the requirement for a road side development permit.

Members indicated that while they appreciate that the development is near the existing park, it is privately owned land. They also inquired if the multi parcel subdivision referred to in the report is residential or industrial. Administration confirmed that the subdivision is residential and at a higher elevation than the development, therefore common screening and fencing practices would not be sufficient.

A. Peck, provided that the residential subdivision is not on the River Flats, is accessed from the ring road and also that the operation cannot be seen from these residences. The applicant outlined the history of the parcel from the time of and reasons for its purchase to the present. She identified that Alberta Transportation changed the timing for the Highway 22 bridge project upgrade made them unable to remove the gravel thereby limiting the revenue that could be made from the property. The result is that land that they paid a premium price for is now not viable as a gravel operation and it is not large enough to be agriculturally viable to any farmer. Trying to develop the land for an outdoor storage facility was a viable way to recoup the funds lost due to lack of gravel production. The original intention was only to store 40 units however the economic downturn has required that more units be stored as they are not required to house production workers at this time. There has been no removal of topsoil or installation of utilities, also the land is gated and fenced for security reasons. The applicants shop and the trucking company they are working with provide much needed jobs in the Drayton Valley area at this time.

Administration identified that they did receive a submission of information from the applicant regarding the information they relayed however it was provided after the agenda had been prepared. Copies were then handed out to Members.

101-15 Moved by S. Mahan moved to accept the information.

CARRIED UNANIMOUSLY

Administration advised that Members could call a recess to review the information or table the application until the afternoon and review the information over the lunch hour so other applications may proceed.

102-15 Moved by S. Mahan to table the application until 1:00 to allow Members time to review the information provided.

CARRIED UNANIMOUSLY

107-15 Moved by S. Mahan, Municipal Planning Commission Member to recess for lunch and reconvene at 1:00 p.m.

CARRIED UNANIMOUSLY

K. Westerlund, Municipal Planning Commission Chairperson waited until 1:05 pm to reconvene the meeting to provide the applicants more time to attend. The meeting continued with the previously tabled file 15D-108. D. Wiltse, Municipal Planning Commission Member did not attend the afternoon session.

PROPOSAL: Existing Outdoor Storage Facility for Modular Camp Trailers

LEGAL DESC.: part of NE & SE 3-49-7 W5M

APPLICANT: Avalie Peck & Dennis McGinn

OWNER: Avalie Peck & Dennis McGinn

FILE: 15D-108

Members identified that they had the opportunity over the lunch hour to review the information provided.

108-15 Moved by S. Mahan, Municipal Planning Commission Member to refuse the application for the reasons specified in Appendix A of the report as follows:

- 1) The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88.
- 2) The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5).
- 3) The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and it's contradiction of the Joint IDP & ASP.
- 4) The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the lands for recreational purposes.
- 5) The application is not compatible with the River Flats Area Structure Plan **Map 7** – Proposed Amendment to IDP Land Use Concept Plan (Long Term).
- 6) The application is not compatible with the River Flats Area Structure Plan **Map 5** – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage.

- 7) The application is not compatible with Subsection 4.9 (1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.

Any variation to the above requires a variance of policy which must be specifically noted in the motion.

Members inquired if the applicant had land other than this area that they could use for this specific use. Administration identified that they applicant did own the adjacent property which has an existing permit for an outdoor storage facility. Administration also reiterated that should the application be refused there is a Stop Order in place which was upheld by the SDAB, with a deadline of 90 days from the date of issue to move the trailers to an adequate site. The SDAB Board Order was worded as follows:

Accordingly, you are hereby instructed to cease the illegal use of the Lands and to comply with the Brazeau County Land Use Bylaw and direction of the Brazeau County by:

- 1) Immediately ceasing intensification of any and all illegal development on the Lands until the application is resolved; and be aware
- 2) Removing all storage of modular camp trailers and development from the lands will be required within 90 days of this order should MPC refuse the application on August 20, 2015.

C. Andersen & C. Andersen entered the meeting at 1:07 p.m.

Members asked again for clarity if the applicant has other land where they could house the operation. Administration confirmed.

Members also inquired about the zoning of the land and if they could apply to rezone the lands and what the zoning was. Administration identified that they could apply to rezone the land and that it is currently zone direct control.

K. Westerlund, Municipal Planning Commission Chairperson reminded Members that there is already a motion on the floor.

CARRIED UNANIMOUSLY

APPENDIX "G"

SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING

FILE # 15SDAB-069

September 17, 2015

COUNCIL CHAMBERS,

BRAZEAU COUNTY ADMINISTRATION BUILDING

COPY

APPELLANT: Dennis McGinn Holdings Ltd.
Box 6062
Drayton Valley, AB T7A 1R6

APPLICANT: Avalie Peck & Dennis McGinn
Box 6062
Drayton Valley, AB T7A 1R6

DEVELOPMENT APPLICATION: Appealing refusal of development permit application 15D-108:
Outdoor Storage Facility

DEVELOPMENT ADDRESS: 7210 HWY 22
Brazeau County, Alberta

LEGAL DESCRIPTION: Part of SE 3-49-7-W5M & NE 3-49-7-W5M

LAND USE DESIGNATION: Agricultural District (AG)

RECOMMENDATION:

Development permit 15D-108 was refused by the Development Authority for an Outdoor Storage Facility on part of SE 3-49-7-W5M & NE 3-49-7-W5M (the "Lands").

It is recommended that the Subdivision and Development Appeal Board **DENY** the appeal of the refusal of development permit 15D-108 as the proposed use of the Lands does not comply with any statutory documents.

It is the recommendation of the Development Authority that the refusal of development permit 15D-108 be upheld as:

- 1) The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88;
- 2) The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5);
- 3) The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and it's contradiction of the Joint IDP & ASP;

- 4) The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the lands for recreational purposes;
- 5) The application is not compatible with the River Flats Area Structure Plan Map 7 – Proposed Amendment to IDP Land Use Concept Plan (Long Term);
- 6) The application is not compatible with the River Flats Area Structure Plan Map 5 – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage; and
- 7) The application is not compatible with Subsection 4.9 (1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.

BACKGROUND AND COMMENTS:

The Brazeau County Planning & Development Department (Administration) received a development permit application (15D-108) for an Outdoor Storage Facility on June 17, 2015 from the Applicant (pages 38-40 of SDAB agenda package).

The subject land is located on part of SE 3-49-7-W5M & NE 3-49-7-W5M between the new and old sections of Highway 22 (page 48 of SDAB agenda package). The land is designated as Agricultural District (AG). The proposed development is a discretionary use in the AG district.

Administration presented a report to the Municipal Planning Commission (MPC) on August 20th recommending refusal for development permit file 15D-108 proposing an Outdoor Storage Facility (pages 26-77 of SDAB agenda package). At the meeting, the MPC reviewed the report and supporting documentation and voted unanimously to refuse the development permit application. This refusal was based on contravention and lack of policy support from several statutory documents including the Brazeau County Municipal Development Plan, River Flats Area Structure Plan, and Intermunicipal Development Plan.

The applicant was provided with a Notice of Refusal (pages 91-92 of SDAB agenda package) and subsequently appealed the decision of MPC. The appeal is now being heard by the SDAB. Administration recommends that as per the reasons delineated in the August 20th MPC report and the Notice of Refusal, the appeal of refusal of development permit 15D-108 be denied.

SUMMARY / CONCLUSION:

After careful consideration of all comments and concerns received, it is recommended that the SDAB endorse the decision of the Development Authority and DENY the Appeal on the following grounds:

- 1) The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88;
- 2) The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5);

- 3) The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and it's contradiction of the Joint IDP & ASP;
- 4) The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the lands for recreational purposes;
- 5) The application is not compatible with the River Flats Area Structure Plan Map 7 – Proposed Amendment to IDP Land Use Concept Plan (Long Term);
- 6) The application is not compatible with the River Flats Area Structure Plan Map 5 – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage; and
- 7) The application is not compatible with Subsection 4.9 (1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.

Report Prepared and Submitted by:


Mary Ellen Whyte
Education Officer
Brazeau County


Benjamin Misener
Planning & Development Coordinator
Brazeau County

ATTACHMENTS:

Appendix A – Report from MPC Chair



APPENDIX "A"

BRAZEAU COUNTY

REPORT TO THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD (SDAB)

SUBJECT: File 15D-108

DATE TO MPC: September 17th 2015

PREPARED BY: Municipal Planning Commission (MPC) Chair

INFORMATION: The Municipal Planning Commission voted unanimously to refuse development permit 15D-108. The refusal was based on information from both Brazeau County administration and those present during the presentation of this application. MPC felt this application was not compatible with the municipal development plan policies 52, 54, 55, 82, and 88. Also the application is not compatible with the municipal development plan fringe area map, river flats area structure plan, and the land use bylaw subsection 4.9(1).

APPENDIX 'H'

File: 15SDAB-069

Decision and Reasons of the Subdivision and Development Appeal Board of Brazeau County

Appeal of Dennis McGinn Holdings Ltd. In Relation to E ½ 3-49-7-W5M

**Heard: September 17, 2015
Decision Issued: September 28, 2015**

File: 15SDAB-069

BEFORE:

Marc Gressler, Acting Chairman
Maryann Thompson, Councillor
Duane Movald, Member at Large
Francine Fairfield, Member at Large

Karolina Drabik, Secretary

ALSO PRESENT WERE:

Avalie Peck, Representative for the Appellant

Benjamin Misener, Planning and Development Manager
Anthony Heinrich, Councillor
Mary Ellen Whyte, Planning and Development Education Officer

Courtney Whalen, Administrative Assistant
Tina Kwirant, Administrative Assistant

This is an appeal to the Subdivision and Development Appeal Board by Dennis McGinn Holdings Ltd., represented by Avalie Peck, (the "Appellant") regarding a refusal of a development permit application by the Municipal Planning Commission (the "MPC") with respect to E ½ 3-49-7-W5M in Brazeau County, Alberta (the "Land").

Notice was given to the interested parties, and a hearing was held at Brazeau County Administration Building on September 17, 2015.

Summary of Hearing

1. The Chairman announced the case, asked the Board to introduce themselves and asked the Board members if any should be disqualified from hearing the case. No members of the Board identified any reason to disqualify themselves from sitting on this appeal.
2. The Chairman asked the Appellant if there was any objection to the constitution of the Board. The Appellant indicated that she did not object to the constitution of the Board.

3. The Board noted that on August 31, 2015, the Administration mailed notices to the adjacent landowners. No adjacent landowners attended the hearing.
4. The Chairman explained the process that would be followed for the hearing, including the fact that the Secretary would be sitting through the 'in camera' portion of the meeting but does not participate or vote in the deliberation. There were no objections to the process.
5. The Board entered three exhibits in the hearing, as identified in the list of exhibits attached at the end of this decision.

Planning and Development

6. The Board heard from Benjamin Misener, the Planning and Development Manager, for the County. The Planning and Development Manager informed the Board that on June 17, 2015, it received a completed development permit application (15D-108) for an Outdoor Storage Facility – modular camp trailers. The Land is located between the new and old sections of Highway 22. The Land is zoned Agricultural, and the development is a discretionary use.
7. On August 20, 2015, the MPC heard the development permit application and voted unanimously to refuse the development permit for the following reasons:
 - a. The application is not compatible with the Municipal Development Plan policies 52, 54, 55, 82, and 88.
 - b. The application is not compatible with the Municipal Development Plan Fringe Area Map (Figure 5).
 - c. The application is not recommended for approval by the Town of Drayton Valley, having concerns with the regional impact on tourism and aesthetics of the site and its contradiction of the Joint IDP & ASP.
 - d. The application is not supported by the River Flats Area Structure Plan (ASP) which projects the short term use for agricultural production and long term use of the Land for recreational purposes.
 - e. The application is not compatible with the River Flats Area Structure Plan Map 7 - Proposed Amendment to IDP Land Use Concept Plan (Long Term).
 - f. The application is not compatible with the River Flats Area Structure Plan Map 5 – Long Term Land Uses which identifies the development as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage.
 - g. The application is not compatible with Subsection 4.9(1) of the Land Use Bylaw 782-12 which does not permit development within the 1:100 year floodplain of the North Saskatchewan River.
8. The Planning and Development Manager recommended that the SDAB deny the appeal for the same reasons. The Planning and Development Manager informed the Board that a Stop

Order was issued on July 7, 2015. The Stop Order was appealed to the SDAB and it was upheld.

9. The Planning and Development Manager informed the Board that site inspections of the Land were conducted on the below dates and provided photographs taken from the site inspections. The Appellant has added more units on the Land even after the Stop Order was upheld by the SDAB:

- a. June 17, 2015 – approximately 10 trailers on site at the time of application;
- b. June 26, 2015 - approximately 10 trailers on site;
- c. July 9, 2015 - approximately 67 trailers on site;
- d. July 15, 2015 - over 100 trailers observed to be on site;
- e. August 12, 2015 – approximately 133 trailers observed to be on site; and
- f. September 17, 2015 – close to 200 trailers.

10. The relevant County policies are the Municipal Development Plan, the Intermunicipal Development Plan and the River Flats Area Structure Plan. The Land Use Bylaw provides regulations on developing in a floodplain.

11. The following MDP policies are applicable: 52, 54, 55, 82 and 88. The Municipal Development Plan Fringe Area Map (Figure 5) notes that the property should be designated as Residential in the future.

12. In relation to policy 52, the proposed use of this site is not compatible with this projection. This type of operation should be located an industrial business park. The Land is not compatible with the surrounding land uses.

Policy 52 - Brazeau County shall encourage industrial and commercial development to locate within or near:

- Existing business and industrial parks;
- Lands where sufficient services are available;
- Lands where access to sufficient transportation networks is available;
- Lands where development setbacks or constraints prohibit residential development; or
- Lands identified on area structure plans for industrial and commercial development.

13. The proposed Outdoor Storage Facility is not compatible with the adjacent Crown lands, area and parks. The Appellant has not demonstrated sufficient rationale for the storage site to be located on the Lands; therefore, there is no site-specific reason for outdoor storage facilities to exist at this location.

Policy 54 - Brazeau County may permit the development of commercial and industrial activities on lands designated for

Agriculture and Rural Development purposes, if in the opinion of the Development Authority, the proposed development:

- Is compatible with existing and planned adjacent land uses and land use activities;
- Is located with a development setback that would otherwise prohibit other forms of development;
- Is dependent on a specific area or location to operate successfully;
- Is associated with an existing or planned agricultural operation;
- Is located along or near a sufficient transportation network;
- Maintains the functional integrity of the road network;
- Does not negatively impact the quality and quantity of water to adjacent lands; and
- Demonstrates to the satisfaction of the Development Authority that onsite water and sanitary services can be provided in accordance with Brazeau County and provincial standards.

14. With respect to policy 55, there is no feasible means to ensure that the visual appearance of the site is maintained. The site is considerably lower than the adjacent highway, and even with a large fence or landscaping, the storage facility will be visible to the travelling public. The Town submitted a letter which stated that the location, visibility and proximity of the Land to the Provincial Park and recreation area projects an image of Brazeau County and Drayton Valley to any travelers or visitors passing through the area. Development of this Land as anything other than recreation or community enhancement is detrimental to the overall community.

Policy 55 - Brazeau County shall require all industrial and commercial developments to incorporate onsite measures to control potential offsite nuisances such as noise pollution, air quality, dust, storm water management and visual appearances to the satisfaction of the Development Authority to ensure that the proposed development properly integrates with surrounding land uses and landscapes.

15. With respect to policy 82, the site and adjacent gravel operation are ideal locations for recreational facilities, as they are abutting the Eagle Point-Blue Rapids Park area.

Policy 82 - Brazeau County shall endeavor to ensure that new recreational land uses be located on lands that are not suitable for agricultural use, wherever possible.

16. With respect to policy 88, the proposed Outdoor Storage Facility is not compatible or complementary with the nearby Willey West Campground and Eagle Point-Blue Rapids Park. The aesthetic value of the adjacent lands is diminished, and expansion of the existing industrial operation does not support the establishment of additional recreation opportunities in the area.

Policy 88 - Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that,

in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development.

17. The IDP Future Land Use Concept Plan (Figure 6) designates the Land as Agricultural. As a result of the Land being in close proximity to the IDP referral area, Planning and Development sent a copy of the development permit application to the Town of Drayton Valley for comment. The Town responded that they are not in favour of any development on the site unless it is for recreation or community enhancement. Planning and Development supports the Town's comments and notes that, while the application does not explicitly contradict the IDP, the process of cooperation and recognition of mutual agreement on planning considerations in this area compels the County to recommend refusal in support of the Town and the IDP agreement.

18. The River Flats Area Structure Plan identifies the Land on Map 5 – Long Term Land Uses as being in the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage. Map 7 – Proposed Amendments to the IDP Land Use Concept Plan (Long Term), the Lands are identified as Recreational. In light of the uncertainty regarding the 1:100 year floodplain, no further development of the site is recommended at this time. The risk to the landowner and the County is significant if the development is approved within a known floodplain.

19. With respect to the Land Use Bylaw, subsection 4.1(1) states that no development shall be permitted within the 1:100 year floodplain of the North Saskatchewan River. Subsection 4.9(2) notes that temporary structures may be permitted in the 1:100 year floodplain, but the County will require a caveat be registered against the title of the Lands to ensure that the County is held harmless. There is significant risk and liability to the County if the development is approved within the floodplain. It has taken several weeks to move the large number of modular trailers onto the site, therefore it is unlikely that all the trailers could be removed from the site in a timely manner during a flood event.

20. The Appellant began moving units onto the Land without approval from the County, which is in contravention of the Land Use Bylaw, subsection 3.1(2). The Appellant has acted in contravention of several County Bylaws and Policies by utilizing the Land as an Outdoor Storage Facility without approvals in place.

21. Alberta Environment noted that they have insufficient information to determine whether the parcel is located in the 1:100 year floodplain. It did appear from previous aerial imagery that the site was not flooded during a 1:50 year flood event in 1986.

Appellant

22. The Appellant appeals the refusal of the development permit application for the following reasons. They find themselves in a situation of unforeseen circumstances caused by changes in Alberta Transportation's position on gravel removal, a commitment to a tenant, a delay in construction of the approaches and an unprecedented volume of modular units requiring storage.

23. The modular unit storage yard provides a reasonable interim use of the property. The property is flat and level; no earthwork or landscaping is required; the property was sprayed for weeds before any of the units were moved in; the site is fenced and gated; the units present no environmental concerns as they are office complexes used in the oilfield industry; no hazardous waste was created by the units; no utilities on the site; and when the units are removed the site will return to vacant agricultural land.

24. The units are arranged in an orderly manner on blocking. The site cannot be viewed by the multi-parcel as heavy bush obscures the storage yard. The Appellant explained that there is nothing immediately adjacent to the Land; it is isolated by the old and new highway, except for the North Saskatchewan River; there is a Direct Control District with an aggregate use to the south of the Land, the Willey West Campground is on the other side of the highway; there is another agricultural parcel in the area that has storage units on it; and this small portion of land is not conducive to agricultural use.

25. They own the 5 residences located in the River Flats ASP. The residents have no concerns.

26. There is no evidence of flooding on their parcel over the last 50 years. The Appellant questioned whether the Land was located in the floodplain.

27. The storage site does not present any safety risk to park users. The property is fenced, gated and on deeded land. A guard rail is in place around the curve and down the grade of the highway along the southwest portion of the highway.

28. Some employees' employment will be lost if the storage yard is not approved.

29. Recreational development on the property is currently impractical and unsafe given the parcel's proximity to the County's gravel pit and their gravel pit operation.

30. She was directed by Planning and Development to apply for a development permit application because they told her it would be faster than a rezoning application for direct control.

31. The Appellant also told the Board that they bought the parcel of land for \$2.5 million dollars. The Appellant admitted to adding more modular storage units to the site even after the Stop Order was issued and upheld by the SDAB.

32. The Appellant is looking to store the modular camp trailers for a couple of years.

33. The Chairman asked the Appellant if she felt that she received a fair hearing. She responded 'yes'.

Findings of Fact:

34. Upon hearing and considering the representation and the evidence of the parties concerned, the Board finds the facts in this matter to be as follows:

- a. The Land, located in Brazeau County, is owned by Avalie Peck and Dennis McGinn.
- b. On June 17, 2015, the Brazeau County Planning and Development Department received a completed development permit application for an Outdoor Storage Facility – modular camp trailers.
- c. The Land is zoned Agricultural, and the development is a discretionary use.
- d. The Land is located between the new and old segments of Highway 22. The modular camp trailers can be seen from the highway. They are not sheltered from view as can be seen in the photographs submitted by the Planning and Development Manager.
- e. The Board finds that the Outdoor Storage Facility – modular camp trailers is a development as defined in the County's Land Use Bylaw.
- f. On July 7, 2015, the County issued a Stop Order for illegal use of the Land and to limit the impact of a potential refusal of the development permit by the MPC.
- g. The Appellant appealed the Stop Order to the SDAB and on August 10, 2015, the SDAB upheld the Stop Order.
- h. As a condition of the Stop Order, the SDAB imposed that the Appellant could have no more than 100 modular camp trailers.
- i. On August 20, 2015, the MPC held a public hearing for the discretionary use and refused the development permit because the proposed development was not compatible with the Municipal Development Plan (policies 52, 54, 55, 82 and 88 and Fringe Area Map), the River Flats Area Structure Plan, the Intermunicipal Development Plan and the County's Land Use Bylaw.
- j. As of September 17, 2015, the Appellant had close to 200 modular camp trailers on a 17 acre parcel of land notwithstanding the Stop Order which limited the Appellant to 100 modular camp trailers.
- k. This is not a minor development, rather this is a major development and the Outdoor Storage Facility use is not compatible or complementary to the uses on the nearby lands, whose uses include the Willey West Campground and Eagle Point-Blue Rapids Park.
- l. The modular camp trailers are office complexes used in the oilfield industry, which the Board finds is a quasi-industrial use.
- m. Policy 88 of the County's Municipal Development Plan permits the restriction of uses that are non-complementary.
- n. This proposed use is not complementary to adjacent uses.

- o. For the purposes of the MDP and the meaning of "adjacent", the Board finds that "adjacent" includes the larger area in which the proposed development is located.
- p. The Board finds that storage of the modular camp trailers for "a couple of years" is not a temporary use.

Decision

35. The Subdivision and Development Appeal Board upholds the refusal of the development permit application.

Reasons

36. The Board notes that its jurisdiction is found in section 687(3) of the *Municipal Government Act*. In making this decision, the Board has examined the provisions of the County's Land Use Bylaw ("LUB"), the Municipal Development Plan ("MDP"), the Intermunicipal Development Plan ("IDP"), the River Flats Area Structure Plan ("ASP") and excerpts from the *Municipal Government Act*, as well as the oral and written submissions made by the Appellant and the Planning and Development Manager and the exhibits.

37. The Board finds that the outdoor storage of modular camp trailers on the Land is a development as defined in the County's Land Use Bylaw. The use for an Outdoor Storage Facility in the Agricultural District is a discretionary use. The Board began by considering whether the use is compatible with the neighbouring uses. The Board finds that it is not. The proposed Outdoor Storage Facility is not compatible or complementary with the nearby Willey West Campground and Eagle Point – Blue Rapids Park. The Board finds that the storage of trailers which is more industrial in nature is not a complementary to a recreational use.

38. The Land is close to the old and new Highway 22, and the parcel is not tucked away or sheltered from any travelers or visitors passing through the area. There are close to 200 of the modular camp trailers on a 17 acre parcel of land. The Board finds that the use will be visible to those driving on the highway, and the visibility of so many trailers is not compatible with the recreational and other uses in the neighbourhood of the Lands. This Land is different than the other parcel in the area that has storage units on it. Notwithstanding that there is the same use on a nearby parcel, the use on the other parcel appears agricultural due to the storage units being covered and hidden from the highway. The use is apparent from the highway, which the Board finds to be a significant factor in determining compatibility.

39. Further, The Board finds that this is not a minor development; rather this is a major development of almost 200 modular camp trailers. This is a significant development on the Land. Given the number of units on the Land, the location of them, the visibility of them from the highway and the proximity of the Land to the Provincial Park and recreation area, the Board finds that this outdoor storage use diminishes the aesthetic value of the nearby lands. In short, the Outdoor Storage Facility use is not compatible or complementary with the nearby lands.

40. Next, the Board is aware that it must comply with the County's statutory plans under section 687(3)(a.1) of the MGA, which includes the County's MDP, ASP and IDP. The Board will discuss each of them in turn, followed by a discussion of the LUB.

41. With respect to the MDP, the Planning and Development Manager submitted that the application is not compatible with policies 52, 54, 55, 82 and 88. The Board reviewed these policies and finds that policies 52, 54 and 55 are not reasons for refusal but are recommendations that the Board must take into account, rather than being directive. Policy 52 provides a reason to find that the proposed location is not appropriate for this type of use, as the outdoor storage is of office complexes used in the oilfield industry, which the Board finds is a quasi-industrial use.

42. Policy 54 is also a recommendation and not a list of requirements. Policy 55 would be applicable if the development was approved. Nonetheless, there is a concern with the visual appearance of the modular camp trailers at the current site, as discussed above and noted by the Town of Drayton Valley and the Municipal Planning Commission. There is no evidence satisfying the Board that there would be any measures taken to eliminate the visual blight, which is why the Board is choosing not to exercise its discretion to grant the development permit. As such, policies 52, 54 and 55 provide some guidance, but are not, in and of themselves a reason to refuse the development permit.

43. The Board considered policy 82 but did not find that it was determinative of the issues.

44. The Board finds that policy 88, on the other hand, is a critical factor. Policy 88 of the MDP reads as follows:

Policy 88: Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development.

45. As discussed above, the Board finds that the proposed development is not complementary to the Provincial Park and recreation areas nearby. Although the MDP policy 88 states "adjacent to provincial parks and recreation areas", the Board considered "adjacent" to be the larger area given the location of the old and new highway and finds the development is not complementary to the larger area, including the campground and Provincial Park, and the close to 200 modular camp trailers can be seen from the highway, which is not complementary to recreation and tourism. The Board finds the proposed development is contrary to policy 88 and, as a result, the Board refuses to exercise its discretion to grant the development permit.

46. With respect to the IDP, the Land is designated as Agricultural. The Board reviewed the IDP and finds that its provisions do not provide specific guidance to the Board in relation to this application.

47. The Board reviewed the ASP and finds the following excerpts relevant for consideration:

- a. Statutory documents and the need for an ASP
"Oilfield equipment storage and rental is neither permitted nor discretionary in the Agriculture District, and has never been approved on the subject Land by Brazeau County. This is an existing illegal use."
- b. Long term use of the site
"The landowners and the two municipalities agree that, following the exhaustion of the gravel, the long term use of the area should be recreation. Very few other places are so well suited by the combination of river frontage, access to a major highway, proximity to provincial recreation area, and availability of urban services."
- c. Proposed short term zoning
"The present Agricultural zoning allows gravel extraction as a discretionary use, but does not allow processing, and it does not allow motor vehicle repair or the storage of oilfield rental equipment, so it is necessary to change the zoning to legitimize these uses."

48. The ASP indicates what is appropriate and what is not appropriate on the Land. Specifically, the ASP does not allow for the storage of oilfield equipment and rental. Although the modular camp trailers are not explicitly oilfield equipment, the Board finds that they are a quasi-industrial use, as they are office complexes used in the oilfield industry. The ASP contemplates rezoning to happen to legitimize other uses, but no such application has been made. The Board finds that the application for development approval is premature in light of the absence of an application to rezone.

49. The Board has concerns with the Land being identified as Recreational in the River Flats ASP Land Use Concept Plan Map 7 and being in an area with a campground and Provincial Park. For the reasons listed above, the Board finds the proposed development is not complementary or compatible with the nearby lands.

50. Section 687(3)(a.1) of the MGA also requires that the Board comply with the Land Use Bylaw in effect. The Planning and Development Manager raised the concern that the property is located within the 1:100 year floodplain and therefore is not compatible with section 4.9(1) of the County's Land Use Bylaw which does not permit development within the 1:100 year floodplain of the North Saskatchewan River. Section 4.9(2) of the LUB reads as follows:

Notwithstanding subsection (1) of this section, temporary structures may be permitted within the 1:100 year flood plain of any permanent watercourse or water body but the County will require that a caveat be registered against the certificate of title to ensure that the County is held harmless from loss or damage caused by possible flooding and/or erosion.

51. The Appellant submitted that the Land is not in the floodplain, and the Land has not

flooded in the last 50 years.

52. The Planning and Development Manager submitted maps to the Board and relied on Map 5 – Long Term Land Uses in the ASP which showed the Land located in the 1:100 year floodplain. However, the Board reviewed the maps and notes that, with the new highway the ASP shows that the Land appears to be outside of the floodplain. The Board further notes that Alberta Environment submitted that they had insufficient information to determine if the Land was in the 1:100 year floodplain. Given the evidence, the Board cannot make a finding that the Land is located in the 1:100 year floodplain and does not make a finding on this point. However, in light of the Board's reasoning set out above, it is not necessary for the Board to come to a conclusion on this point.

53. Although the Board need not consider section 4.9(2) of the LUB in light of the conclusion reached about the location of the development in a 1:100 year floodplain, the Board also has concerns about the efficacy of a caveat. The Board is aware that the trailers are owned by a third party. A caveat would address the relationship between the County and the landowner (Appellant) and would not protect the County from any claim by the third parties. Therefore, it would not be a satisfactory condition due to its limited protection for the County.

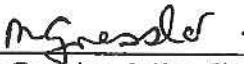
54. The Appellant submitted that the proposed development would only be for a temporary period of time, approximately a couple of years. The Board is aware that the number of trailers has increased, and has almost doubled, even in the face of a Board Order dated August 10, 2015 limiting the number of modular camp trailers to 100.

55. The Board's previous Order was clear that the Appellant could only keep 100 modular storage units on the site pending the MPC's decision, but could not add more to the Land. The Board notes the Appellant's disregard for the Board's Order. The Appellant has not adhered to the conditions that the Board had in place. Based upon the lack of compliance with the previous Order and its conditions, the Board is not confident of future compliance with any conditions it might impose in relation to the time that the development could continue, or the number of modular storage units, which is another factor in the Board refusing to exercise its discretion to grant a development permit.

56. The Appellant's request for approval for a couple of years exceeds the use of "Outdoor Storage Temporary", which is limited to 90 days with one extension of 30 days.

57. For the above reasons, the Board refuses to grant the development permit.

Issued this 28th day of September, 2015 for the Brazeau County Subdivision and Development Appeal Board



Marc Gressler, Acting Chairman
Subdivision and Development Appeal Board
Brazeau County

Exhibits

1. Agenda Package
2. Planning and Development Report
3. Maps (9)

APPENDIX 'I'

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**Re: *Dennis McGinn Holdings Ltd. v. Brazeau County and Brazeau County
Subdivision and Development Appeal Board***
Appeal No. 1503-0270AC

This will confirm that the reserved judgment in the above named case will be released the morning of **Wednesday, January 6, 2016**. On that day, between **9:30 a.m. and 10:00 a.m.**, a copy of the judgment will be faxed to you at the fax number listed above.

That same day, the judgment will also be sent to the Canadian Legal Information Institute (CanLII) at 10:00 a.m. for publishing to its website, which may occur that same day. Any concerns with on-line judgments should be raised directly with CanLII.

If you have any concerns about the judgment being faxed to you as set out above, please contact our office as soon as possible to make alternate delivery arrangements.

Thank you,

Deputy Registrar
Court of Appeal – Edmonton
/rz

2



Date:

January 6, 2016

As indicated above, attached is the judgment which was released today.

Thank you.

In the Court of Appeal of Alberta

Citation: Dennis McGinn Holdings Ltd. v Brazeau (County), 2016 ABCA 3

Date: 20160106
Docket: 1503-0270-AC
Registry: Edmonton

Between:

Dennis McGinn Holdings Ltd.

Applicant

- and -

**Brazeau County and Brazeau County Subdivision
and Development Appeal Board**

Respondents

**Reasons for Decision of
The Honourable Madam Justice Frederica Schutz**

Application for Permission to Appeal

**Reasons for Decision of
The Honourable Madam Justice Frederica Schutz**

Introduction

[1] The applicant seeks permission to appeal the decision of the Brazeau County Subdivision and Development Appeal Board (the Board) which affirmed the Municipal Planning Commission's denial of a development permit for an outdoor storage facility for modular camp trailers.

Background

[2] The applicant is the registered owner of a 110-acre parcel of land located in Brazeau County, north of Highway 22. Shortly after the appellant acquired this parcel, Highway 22 was realigned resulting in roughly 17 acres within the parcel being isolated between the old and new sections of the highway. The applicant proposed to develop this isolated site into an outdoor storage facility for modular camp trailers. The site is zoned agricultural and the proposed development is a discretionary use for that site under s 6.1 of the Brazeau County Bylaw No 782-12, *Land Use Bylaw* (26 March 2012).

[3] On June 17, 2015, the applicant submitted a development permit application to the Municipal Planning Commission. On July 7, 2015, prior to obtaining approval, the applicant began storing modular trailers on site prompting Brazeau County to issue a stop order against the unauthorized use of the land. The applicant appealed the stop order to the Board, which upheld it on August 10, 2015, with the caveat that the existing 100 trailers could remain on site pending determination of the development permit application. Contrary to the Board's stop order decision, the applicant brought more trailers on site, for a total of almost 200 by September 17, 2015.

[4] After hearing the application on August 20, 2015, the Municipal Planning Commission unanimously refused the development permit. The applicant appealed the Municipal Planning Commission's decision and a hearing was held before the Board on September 17, 2015. In upholding the Municipal Planning Commission's permit refusal, the Board concluded, among other things, that the proposed outdoor storage facility was not compatible or complementary with the adjacent recreational lands, which include a campground and a provincial park.

Proposed Grounds of Appeal

[5] The applicant seeks permission to appeal on the grounds that the Board erred by:

1. Misconstruing the permit for which the applicant had applied;

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2. Failing to properly interpret and apply the meaning of “adjacent” under the Municipal Development Plan;
3. Considering and being influenced by irrelevant evidence relating to the past conduct of the applicant;
4. Misinterpreting the provisions of the Area Structure Plan; and
5. Rendering inadequate reasons.

Test for Permission to Appeal

[6] Section 688(3) of the *Municipal Government Act*, RSA 2000, c M-26 (*MGA*) provides that permission to appeal may be granted if the appeal involves a question of law that is of sufficient importance to merit a further appeal and has a reasonable chance of success.

[7] A non-frivolous, arguable legal issue has a reasonable chance of success on appeal: *Edmonton (City) v Edmonton (Subdivision and Development Appeal Board)*, 2014 ABCA 337 at para 6, 584 AR 248. The applicable standard of review should be considered when assessing likelihood of success: *Lor-al Springs Ltd v Ponoka (County of) Subdivision and Development Appeal Board*, 2000 ABCA 299 at para 6, 271 AR 149 [*Lor-al Springs*].

Standard of Review

[8] Questions of law and the Board’s interpretation of the *MGA* and land use bylaws are reviewable for correctness, unless the “expertise of the Board is engaged”: *McCauley Community League v Edmonton (City)*, 2012 ABCA 86 at para 18, 522 AR 98; *1694192 Alberta Ltd v Lac La Biche (Subdivision and Development Appeal Board)*, 2014 ABCA 319 at para 18, 584 AR 112. However, the Board’s interpretation of statutory plans is reviewed for reasonableness, because they are not drafted with the same precision as statutes, regulations or bylaws: *Lor-al Springs* at para 7; *Goodrich v Flagstaff (County of) Subdivision and Development Appeal Board*, 2002 ABCA 293 at para 8, 317 AR 289.

Analysis

1. Misconstruing the Permit for which the Applicant had Applied

[9] The applicant argues that the Board incorrectly characterized its proposed development as “Oilfield Support Services” based on comments in a single paragraph of the Board’s 12 pages of reasons. However, when the decision is read as a whole it is clear that the Board understood the applicant was seeking a development permit for the discretionary use of “Outdoor Storage Facility”. This ground does not have a reasonable chance of success on appeal, and in any event

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the characterization of the development permit application is a question of mixed fact and law that cannot be appealed to this Court.

2. Misinterpreting the Meaning of “Adjacent” under the Municipal Development Plan

[10] The word “adjacent” is not defined anywhere in the Municipal Development Plan, and the applicant contends that the Board misinterpreted the meaning of this word under the Plan because the site of its proposed development is isolated between the old and new highways and is not physically contiguous to the nearby recreation areas. However, the entirety of the applicant’s lands is the parcel for which the development application was submitted, and the Board’s interpretation of “adjacent” as relating to the entire parcel of land, rather than just the site of the proposed development, is consistent with the meaning under the *Land Use Bylaw*. I am not satisfied that the meaning of “adjacent” in the Municipal Development Plan is an extricable question of law, as it is an entirely fact-dependent concept. Even if a pure question of law can be extricated, deference is owed to the Board’s interpretation as its expertise is engaged, especially since the Board’s interpretation “is one the instrument can reasonably bear”: *Lor-al Springs* at para 7; *Karagic v City of Calgary*, 2012 ABCA 309 at para 7, [2012] AJ No 1069 (QL). Thus, this ground does not have a reasonable chance of success on appeal, particularly in light of the applicable standard of review of reasonableness.

3. Considering Irrelevant Evidence Relating to the Past Conduct of the Applicant

[11] The applicant argues that the Board’s decision was wrongly influenced by irrelevant evidence of its past conduct, namely its failure to comply with the stop order, based on *Dallinger v Calgary (City)*, 1975 AltaSCAD 13 at para 29, 62 DLR (3d) 433. However, that decision does not support the applicant’s position as two of the three justices in that matter stated that evidence of an applicant’s conduct is not necessarily irrelevant: *Dallinger* at paras 2 and 52. This Court has also said that the factors an administrative tribunal considers to be relevant are within its discretion and entitled to deference on appeal: *Wood Buffalo (Regional Municipality) v Alberta (Energy and Utilities Board)*, 2007 ABCA 192 at para 8, 417 AR 222 [*Wood Buffalo*]. This ground also does not have a reasonable chance of success on appeal, particularly in light of the deferential standard of review.

4. Misinterpreting the Provisions of the Area Structure Plan

[12] The applicant argues that the Board misinterpreted the provisions of the Area Structure Plan based on statements regarding oilfield equipment, rezoning, and the mischaracterization of the land as recreational. The Board’s interpretation of the Area Structure Plan is reviewable for reasonableness, and its comments relating to the Area Structure Plan cannot be viewed as unreasonable. Furthermore, the crux of the Board’s decision (found at paragraphs 37-39 of the decision) was that the proposed development was not compatible or complementary with the

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adjacent recreational lands, which followed Policy 88 of the Municipal Development Plan. Thus, any alleged errors regarding the Board's interpretation of the Area Structure Plan would not have affected the outcome and this ground does not have a reasonable chance of success on appeal.

5. Adequacy of Reasons

[13] The applicant suggests that the Board's reasons are inadequate because they raise more questions than they resolve. The failure to provide any reasons, or the provision of unintelligible reasons, may be a reviewable error of law based on a contravention of the duty to provide written reasons under s 687(2) of the *MGA: Site Energy Services Ltd v Wood Buffalo (Regional Municipality)*, 2015 ABCA 106 at para 14, 35 MPLR (5th) 21 [*Site Energy*].

[14] However, providing inadequate or insufficient reasons is not generally a stand-alone basis for reviewing an administrative decision: *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 14, [2011] 3 SCR 708; *Wood Buffalo* at para 10; *Site Energy* at para 15. The Board's reasons in this case are not unintelligible; they allow the parties to understand how and on what evidence it reached its decision. This ground does not raise an issue of law with a reasonable chance of success on appeal.

Conclusion

[15] The development application in this case involved a discretionary use, and the Board's decision is owed deference on appeal. None of the proposed grounds of appeal involve a question of law with a reasonable chance of success, nor are they of sufficient importance to merit further appeal. The application for permission to appeal is dismissed on all grounds.

Application heard on December 15, 2015

Reasons filed at Edmonton, Alberta
this 6th day of January, 2016



Schutz J.A.

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Appearances:

K.A. Haldane
for the Applicant

D.J. Young
for the Respondent Brazeau County

A. Athwal
for the Respondent Brazeau County SDAB

APPENDIX "J"

concerns in relation to flooding potential of the North Saskatchewan River Valley. There are also concerns about this development being located in the floodplain which has yet to be confirmed by a floodplain study.

The River Flats Area Structure Plan projects the long term use of the lands for recreational use and there are restrictions on any future structures being developed on the lands. The mobile office trailers being stored on the land are of high value, especially in light of the number of units on the site, which have grown exponentially since they were first moved on illegally. At last count, there are more than 200 trailers on the lands.

The Town indicated opposition to the development permit application and it should be noted that if this bylaw is passed, there is potential the Town can proceed with mediation and ultimately an appeal under Section 690 of the *Municipal Government Act*. In light of the above information and the specific policy sections noted below, Administration recommends that the First Reading of Bylaw 892-15 be defeated.

Relevant Policy:

The relevant County policies are the Municipal Development Plan (MDP), the Intermunicipal Development Plan (IDP) and the River Flats Area Structure Plan (ASP). The Land Use Bylaw provides regulations on developing in a floodplain.

Municipal Development Plan:

The Municipal Development Plan Fringe Area Map (Figure 5) notes that the property should be designated as Residential in the future. The proposed use of the site is incompatible with this projection.

Policy 52 – Brazeau County shall encourage industrial and commercial development to locate within or near – existing business and industrial parks; where sufficient services are available; where sufficient transportation networks are available; where development setbacks or constraints prohibit residential development; or lands identified on area structure plans for industrial and commercial development.

Although there is existing industrial development on the adjacent property, this does not mean the lands are no longer agricultural. What has occurred is that an industrial use has been introduced on the adjacent lands and the subject parcel which is not compatible with the surrounding land uses. This type of operation should be located within an industrial business park.

Policy 54 – Brazeau County may permit the development of commercial and industrial activities on lands designated for Agriculture and Rural Development purposes, if, in the opinion of the Development Authority, the proposed development – is compatible with existing and planned adjacent land uses and land use activities; is located with a development setback that would otherwise prohibit other forms of development; is dependent on a specific area or location to operate successfully; is associated with an existing or planned agricultural operation; is located along or near a sufficient transportation network; maintains the functional integrity of the road

network; does not negatively impact the quality and quantity of water to adjacent lands; and; demonstrates to the satisfaction of the Development Authority that onsite water and sanitary services can be provided in accordance with Brazeau County and provincial standards.

The proposed outdoor storage facility is not compatible with the adjacent Crown lands area and parks. Administration notes that the applicant has not demonstrated sufficient rationale for the storage site to be located on the subject lands, therefore there is no site specific reason for the outdoor storage facility to exist at this location.

Policy 55 – Brazeau County shall require all industrial and commercial developments to incorporate onsite measures to control potential offsite nuisances such as noise pollution, air quality, dust, storm water management and visual appearances to the satisfaction of the Development Authority to ensure that the proposed development properly integrates with surrounding land uses and landscapes.

There is no feasible means to ensure that the visual appearance of the site is maintained. The site is considerably lower than the adjacent highway and even with a large fence or landscaping, the storage facility would be visible to the travelling public. This is noted in the comments from the town.

Policy 82 – Brazeau County shall endeavor to ensure that new recreational land uses be located on lands that are not suitable for agricultural use, wherever possible.

The site and adjacent gravel operation are ideal locations for recreational facilities as they are abutting the Eagle Point – Blue Rapids Park area.

Policy 88 - Brazeau County may restrict the development of uses or facilities adjacent to provincial parks and recreation areas that, in the opinion of the Development Authority, are considered to be non-complimentary or pose a safety risk for park goers or users of the proposed development.

The proposed outdoor storage facility is not compatible or complimentary with the nearby Willey West Campground and Eagle Point – Blue Rapids Park. The aesthetic value of the adjacent areas is diminished and expansion of the existing industrial operation does not support the establishment of additional recreational opportunities in the area.

Inter-municipal Development Plan:

The IDP Future Land Use Concept Map (Figure 6) designates the lands as Agricultural.

As a result of the lands being in close proximity to the IDP referral area, Administration sent a copy of the development permit application to the town for comment. The town responded that they are not in favour of any development on the site unless it is for recreation or community enhancement. In the referral comment, County MDP policies 81, 82, and 84 through 87, are noted with the comment that approval of the application would be in

contravention of these policies. The town asks that the County allow the gravel extraction to finish and then purchase the lands for Municipal Reserve.

Administration supports the town's comments and notes that while the application does not explicitly contradict the IDP, the process of cooperation and recognition of mutual agreement on planning considerations in this area compels the County to recommend refusal in support of the town and the IDP agreement. As a result of the IDP, a mutually agreed upon Area Structure Plan was adopted, which is discussed below.

River Flats ASP:

Statutory documents and the needs for an ASP - To paraphrase this section, there have been multiple illegal uses that have occurred on this property in the past including oilfield equipment storage and rental, and a log-hauling business. The current proposal was established illegally and should not be permitted to continue operating on the lands.

Relationship to proposed provincial recreation area - *Four of the Peck/McGinn parcels run all the way down to the water's edge, separating Eagle Point from Blue Rapids on the west side of the river. It would be in the public interest to negotiate some form of recreational right of way through the privately owned land. However, to avoid any risk to people who wander off the right of way, any provision for a recreational trail must wait until the gravel operations have ceased.*

This section of the ASP relates directly to MDP Policy 88. Continued use and expansion of the lands for industrial uses is not supported by either the County or the town.

Long term use of the site - *The landowners and the two municipalities agree that, following the exhaustion of the gravel, the long term use of the area should be recreation. Very few other places are so well suited by the combination of river frontage, access to a major highway, proximity to provincial recreation areas, and availability of urban services.*

The property has been identified on Map 5 -- Long Term Land Uses as being within the 1:100 year flood risk, which allows for recreational uses and flood resistant buildings, not outdoor storage. On Map 7 -- Proposed Amendment to IDP Land Use Concept Plan (Long Term), the lands are identified as Recreational.

In light of the uncertainty regarding the 1:100 year floodplain, no further development of the site is recommended at this time. This is established in the Direct Control bylaw on the adjacent lands which does not permit the further construction of any permanent buildings. The risk to the landowner and the County is significant if the development is approved within a known floodplain. The province has established that certain development controls and regulations are required if development occurs in these hazards areas as does the County's Land Use Bylaw (LUB).

Land Use Bylaw:

Subsection 4.9 (1) states that no development shall be permitted within the 1 in 100 year floodplain of the North Saskatchewan River. Sub clause 2 notes that temporary structures may be permitted within the 1:100 year floodplain but the County will require a caveat be registered against the title of the lands to ensure the County is held harmless.

There is significant risk and liability to the County if the development is approved within the floodplain. As it has taken several weeks to move the large number of modular trailers on to the site, it is unlikely that all of the trailers could be removed from the site in a timely manner during a flood event. The County has a legal opinion noting that hold harmless caveats are unlikely to stand up in court. Even if it did, such an agreement would not preclude the landowner or modular camp trailer company from suing the County.

The applicant began moving units on to the site without approval from Brazeau County which is in contravention of Subsection 3.1 (2).

Strategic Relevance:

The applicant has acted in contravention of several County bylaws and policies by utilizing this site as an Outdoor Storage Facility without approvals in place. The town of Drayton Valley, which has a say in development on these lands, does not support the application. There are no valid policy reasons to recommend approval of the redistricting application and thus it should be defeated.

2. RESPONSE OPTIONS

Option	Analysis
a. Council defeats First Reading	- Bylaw defeated
b. Council approves First Reading	- Public Hearing and Second and Third Reading scheduled for April 5 th , 2016 at 10 AM
c. Council requires more information	- Table First Reading

Preferred Strategy/Outcome:

Option a - Council defeats First Reading

IMPLICATIONS OF RECOMMENDATIONS

Organizational:

Council confirms the policy contained within the statutory documents that do not support this rezoning or the use of the lands for an Outdoor Storage Facility.

Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019
#0720140



This is Exhibit "E" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.

[Signature]
A Commissioner for Oaths in and for Alberta

Government of Alberta ■

15th floor, Commerce Place
10155 - 102 Street
Edmonton Alberta Canada T5J 4L4

Tel 780.427.4864 Fax 780.427.0986
Email mgbmail@gov.ab.ca

Our File: 16/IMD/04

September 19, 2016

Agent, Town of Drayton Valley
Janet Hutchison
Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3

Appellant, Town of Drayton Valley
Dwight Dibben, CAO
Town of Drayton Valley
5120 52 Street
Drayton Valley, AB T7A 1A1

Respondent, Brazeau County
Marco Schoeninger, CAO
Brazeau County
Box 77, 4701 Twp. Rd. 494
Drayton Valley, AB T7A 1R1

Agent, Brazeau County
Gwendolyn Stewart-Palmer
Shores Belzil
2250-10104 103 Ave
Edmonton AB T5J 0H8

Notice of Acknowledgement and Instructions

Re: Intermunicipal Dispute – Section 690 Municipal Government Act
Appealed by: Town of Drayton Valley
Bylaw under Appeal: Bylaw 905-16, Brazeau County Land Use Bylaw

This letter is to advise that on September 15, 2016, the MGB received a notice of appeal from the Appellant's Agent, along with the required statutory declaration respecting this dispute.

A summary of the appeal

The Town of Drayton Valley's (Drayton Valley) statutory declaration states that the dispute is being filed because the Brazeau County Land Use Bylaw (Bylaw 905-16) adopted by Brazeau County (Brazeau) has, or may have, a detrimental effect upon it. The statutory declaration sets out a number of reasons for detriment, and is attached to this notice.

Instructions

Section 691(1)(a) of the *Municipal Government Act (Act)* requires the MGB begin a hearing within 60 days after receiving an appeal, unless all parties agree to a later time that is acceptable to a panel of the MGB. If all parties do not agree, the MGB must begin the hearing **no later than November 15, 2016.**

.../2

Please take note of the following information and undertake the requested actions:

- Under section 690(4) of the *Act*, Bylaw 905-16 is deemed to be of no effect.
- The MGB requests that by **Thursday, October 3, 2016 at 4:00 pm**, the Respondent, Brazeau County provide the names and mailing addresses of the owners of the lands that are the subject of the appealed bylaw. The MGB requires this information in order to provide notice under section 691(2). If possible, this listing should be provided electronically to mgbmail@gov.ab.ca.
- Under Section 690(3) of the *Act*, Brazeau County must submit to the MGB and to Drayton Valley, a statutory declaration stating the reasons that mediation was not possible, or that mediation was not successful and the reasons it was not successful, or that mediation is being proposed, or is ongoing. The deadline for receiving this declaration is **Friday, October 14, 2016 at 4:00 pm**.
- The MGB proposes that a preliminary hearing take place on **November 2 or 3, 2016**, in Edmonton. A formal hearing notice will be issued by the MGB when the precise date and location is confirmed. This hearing will initiate the proceedings and deal with necessary preliminary matters, including:
 - Status of and potential for mediation;
 - Identification of any issues relating to this appeal, including the need for any studies;
 - Exchange dates for submissions, responses and rebuttals;
 - Date for the continuation of the hearing and an estimate of time required for a merit hearing.

Legal counsel should discuss their availability prior to this preliminary hearing and be prepared to provide the MGB with potential evidence exchange and merit hearing dates, as well as an estimate of time required to make their presentation at a merit hearing.

If it is not possible to attend this preliminary hearing, please advise the MGB Intermunicipal Dispute Case Manager in writing before **October 14, 2016 at 4:00 pm** of the reasons attendance is not possible and provide a list of alternative dates.

- The MGB requests copies of each municipality's submissions to be posted on their municipal website for review by the owners of the lands covered by the ASP, and for the public. In addition, a copy is to be made available for viewing at the municipal office by the public, and if copies are requested, these are to be provided upon payment of a reasonable fee. These actions are to be complete by **October 21, 2016 at 4 pm**.

Our File: 16/TMD/04

Page 3

- The MGB requests that Brazeau County provide a copy of Bylaw 905-16 for the file.
- Please note that Drayton Valley and Brazeau County are responsible for retaining the services of a court reporter for the hearing. All associated costs of retaining the court reporter are to be shared between the municipalities and a written transcript is to be provided at no charge to the MGB. Copies of the transcript for the municipalities or the landowner are to be ordered directly from the court reporter with each municipality or landowner responsible for their own costs.

Attached you will find a copy of the MGB's Intermunicipal Dispute Procedure Rules. If you have any questions, you may contact me in a number of ways.

Main Phone: 780-427-4864
Voice Mail/Direct Line: 780-422-8120
Fax: 780-427-0986
E-mail: cindy.millerreade@gov.ab.ca

Or write to the address shown on the letterhead. After September 23, 2016 please note that the MGB will be located at 1229 91 Street SW, Edmonton, AB, T6X 1E9.

Please note that submissions may be delivered electronically to mgbmail@gov.ab.ca, with a hard copy mailed or couriered to the MGB. Please contact the MGB to confirm the delivery address.

Yours truly,


for Cindy Miller Reade RPP MCIP
Case Manager

cc: Dennis McGinn and Avalie Peck, Landowners, Box 6062 Drayton Valley, Alberta T7A 1R6
Peter (Doanh) Ngo, Alberta Transportation
Andrew Dick, Alberta Environment and Parks
Michael Scheidl, Manager, Municipal Dispute Resolution Services, Municipal Affairs

Ron Fraser

From: Martino Verhaeghe <MVerhaeghe@brazeau.ab.ca>
Sent: Wednesday, October 05, 2016 2:14 PM
To: Shahid Mughal
Cc: Ron Fraser; Jenn Martin
Subject: New County LUB 923-16 addressing Town issues

Hello Shahid,

Just dropping you an email to see if you had a chance to review bylaw 923-16. As I noted to Jenn when the package was dropped off, we have made the 3 amendments requested by the Town by including them in 14.1 (airport overlay) and creating 14.2 (storage management area) and adding an additional map (related to 14.2).

Our hope is these changes meet the Town's needs with regards to the formal comments received on 905-16 and our subsequent discussions. If you are able to provide comments by October 11 before noon I will ensure I include it within my formal report, if they are received later I will present them October 18. Hopefully this will allow the Town to provide comments in support of this Council initiative with the inclusion of the changes.

If you want to meet to discuss anything with the bylaw I am free Thursday before 11:30 or Friday before 9:30.

Cheers

Martino Verhaeghe, RPP, MCIP
Director of Planning & Development

Brazeau County
Box 77 – 7401 Twp Rd 494
Drayton Valley, Alberta
T7A 1R1
Tel: 780-542-7777 Fax: 780-542-7770
www.brazeau.ab.ca

This is Exhibit "F" to the Statutory Declaration
of Dwight Dibben solemnly declared before me
on the 21st day of March, 2017.


A Commissioner for Oaths in and for Alberta

Jennifer Lee Ashley Martin
A Commissioner for Oaths in and
for the Province of Alberta
Expiry Date October 28, 2019

#0720140

Please consider the environment before printing this email.

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#0720140

Jennifer Lee Ashley Martin



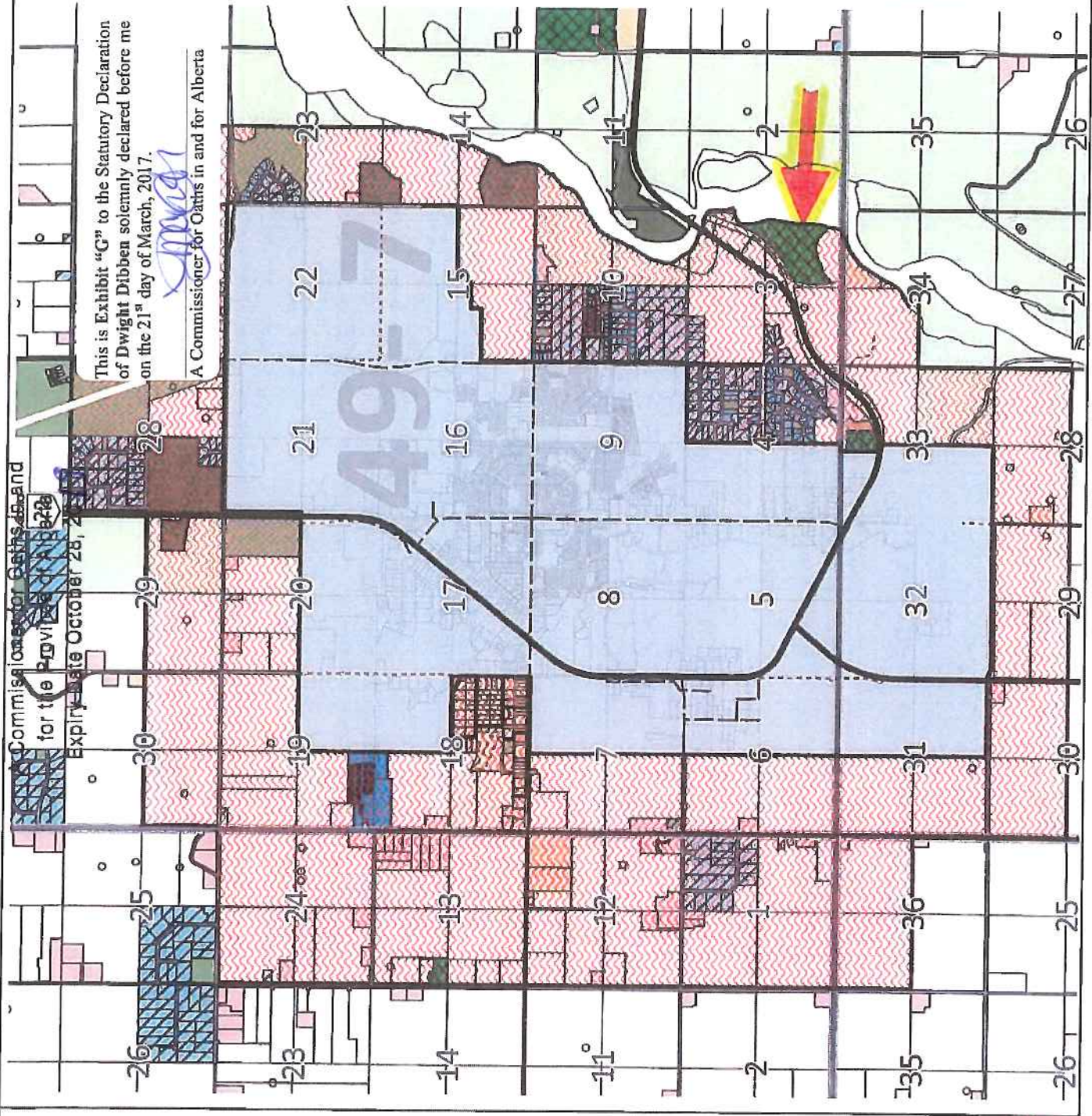
49-7 - C Land Use Map

ZONING CODES

- AGRICULTURE
- AGRICULTURAL HOLDINGS
- COUNTRY RESIDENTIAL
- COMPACT COUNTRY RESIDENTIAL
- HAMLET RESIDENTIAL
- BIRCHWOOD COUNTRY CONDOMINIUM
- MOBILE HOME PARK
- COMMERCIAL
- RURAL INDUSTRIAL
- LIGHT INDUSTRIAL
- RECREATIONAL
- CROWN LAND
- DIRECT CONTROL
- INSTITUTIONAL
- URBAN RESERVE DISTRICT
- NATURAL RESOURCES EXTRACTION AND PROCESSING
- TOWNSHIP GRID
- IDP AREA



CONTACT BRAZEAU COUNTY FOR ZONING VERIFICATION
This map is intended for advisory purposes only. It is based upon data sources deemed reliable but Brazeau County is not responsible for errors or omissions.



This is Exhibit "G" to the Statutory Declaration of Dwight Dibben solemnly declared before me on the 21st day of March, 2017.

[Signature]
A Commissioner for Oaths in and for Alberta

Commissioner for Oaths and
for the Province of Alberta
Expiry Date October 28, 2017