



Date: November 29, 2023

RE: Development Application #4126-23-D

Legal Land Description: NE 34-32-26 W4M

Location: Hamlet of Torrington- Plan 6820GY, Block P (1.25 Acres)

Applicant: Capital Converters Inc.

Subdivision and Development Appeal

Notice of Decision

Board Members: Lori Campion, Chair
 Steve Cullum
 Connie Fraser

Board Clerk: Carolyn Van der Kuil

- [1.] On November 29, 2023, the Subdivision and Development Appeal Board (the "Board") heard an appeal that was filed on **November 9, 2023**. The Appellant is Kay and Steven Griffiths who are landowners to the north of the development. The appeal concerned the decision of the Development Authority, issued on October 26, 2023, to approve the following development:
 - Development Permit Application: #4126-23-D
 - Landowners: Capital Converters Inc.
 - Land Use Designation: Hamlet General District
 - Application: Motor Vehicle Storage and Variance to allow an 8 ft perimeter fence instead of 6 ft.
- [2.] The application was approved on October 26, 2023, to allow for a Motor Vehicle Storage and variance to allow an 8 ft perimeter fence instead of a 6 ft on Ptn. NE 34-32-26 W4 Plan 6680 GY, Block P.
- [3.] The following documents were received prior to the hearing and form part of the record:
 - Notice of Appeal and Payment Confirmation
 - Clerk Report
 - Municipal Planning Commission Report from October 26, 2023
 - Approval letter from Municipal Planning Commission dated October 26, 2023
 - The Development Authority Submission
- [4.] The following exhibit was presented during the hearing and forms part of the record:
 - Telus Communication- No Objection
 - Alberta Transportation- No Concerns
 - Appellant Package (Delivered Nov 28)
 - Appellant Presentation
 - Letters of Support from various landowners

Preliminary Matters

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

Summary of Hearing

Position of the Development Officers, Barb Hazelton and Brandy Morgan

- [8.] The applicant applied for a Motor Vehicle Storage Facility, Used Auto Parts Sales, and Variance for the Fence height on NE 34-32-26 W4M, Plan 6820 GY, Block P within the hamlet of Torrington (File #:4117-23-D). This file was presented at the September 28th Municipal Planning Commission (MPC) meeting and Development Permit application 4117-23-D was denied (tie vote – tie is defeated).
- [9.] The applicant applied for Motor Vehicle Storage and Variance for an 8ft Fence on NE 34-32-26 W4M, Plan 6820 GY, Block P within the hamlet of Torrington (File #: 4126-23-D). This file was presented on October 26th, 2023, MPC meeting and Development Permit 4126-23-D was approved (carried unanimously).
- [10.] Motor Vehicle Servicing, Repair & Storage is a Discretionary Use (Section 97, (jj)) in the Hamlet General District and thus requires approval from the Municipal Planning Commission (MPC).
 - a. Definition of Motor Vehicle Servicing Repair & Storage from Land Use Bylaw 1808: *means a facility or area for the maintenance of motor vehicles and includes the supply and sale of fuels, oils, lubricants, tires, and other parts and accessories. And the storage and protection of vehicles, both indoors and in secured and screened compounds.*
- [11.] In the past, this parcel has been the home of a fertilizer storage and retail site and following that, a private yard/shop for the previous owner. The applicant recently purchased the property with the intention of moving the current business to Torrington from Olds where they lease a building.
- [12.] This is a unique business (and overlaps with a few uses in the Hamlet General District) and can simply be explained as a carrier for the auto transport industry. Capital Converters purchase unused and non-functioning vehicles from individuals. Acquired vehicles are transported to the storage yard (fully fenced and screened) where they sit until they are transported to a third-party recycler (wrecking yard) who processes the vehicles that are at the end of their life. Capital Converters does not engage in any part of the recycling process.
 - a. The applicant has completed Workplace Safety and has a current WHMIS Certification.
- [13.] The applicant wishes to have 30-65 vehicles at a time on site, this will allow for internal access for maneuvering and loading and offloading vehicles. The applicant has indicated that this site has a capacity for 100-120 vehicles, however, the applicant would like to have room for working with acquired vehicles and therefore has indicated that the maximum number of vehicles would be 65.

- a. Due to the nature of this business the business is slower with cold weather and busier in the warmer months. There is a steady turnover of inventory and not just a growing pile of vehicles.
- [14.] Vehicles with any type of leak are handled carefully and will be placed on existing cement pads at the location to prevent any contamination until they are transported to the third-party recycler.
- [15.] The applicant will maintain regular working hours (8am to 6pm, Monday to Saturday). The applicant has purchased fencing to be installed and screened with chain link fence slats (6ft fence). As well the property will be well lit and secured with a security system in place. Fire suppression devices and procedures are in place.
- a. The applicant wishes to apply for a variance which will allow Capital Converters to install an 8ft fence in the future if required.
- [16.] Capital Converters will store company vehicles (three tow trucks), a forklift and loader at this location for business use. Storage of most of the equipment will be indoors.
- [17.] Capital Converters has one full-time employee (the applicant) and casual labour is hired when the work load requires another employee.
- [18.] This application is not for a wrecking yard. Section 79 of Land Use Bylaw requires wrecking yards to be 800 m (0.5 miles) from an existing adjacent dwelling and have a minimum storage area of 2 acres (0.81 ha) and a maximum of 10 acres (4.04 ha).
- a. Wrecking Yards are only allowed in the Hamlet Industrial, Light Industrial, and Industrial Districts as Discretionary Uses under Land Use Bylaw 1808, and redesignation would need to be applied for, for this use to be permitted.
- [19.] Setbacks from property lines are met as required as per the site plan; Section 96(3)(a)(b)(c)(d).
- a. Setbacks from a primary highway fall to the authority of Alberta Transportation. A condition was included in the approval for the application to be made to Alberta Transportation with respect to the fence.
 - b. Setbacks for a structure are 135ft from the property line. Over time the setbacks have increased and the road right of ways have been widened. The current structure on this site does not meet the setbacks. If the building were to ever be rebuilt, the structure would need to meet the current setbacks required by Alberta Transportation.
- [20.] The parcel is accessed via Hwy 27 (north boundary).
- [21.] The property is serviced with water only, there is no sewer connection.
- a. It is not possible to connect this property to the existing sewer system as the current system is a gravity connection. A low-pressure system would need to be installed to service these properties.
- [22.] This parcel of land is not within an Environmentally Significant Area or considered a Significant Historical Site.
- [23.] The surrounding properties are zoned Agricultural, Hamlet General and Hwy Commercial. The properties adjacent to this property on the East, South and West are not residential use. The property to the North of this property is Agriculture.
- [24.] This application was referred to internal and external agencies and adjacent property owners:
- o General note: Information and images of properties outside our jurisdiction were submitted by the appellant. We are unable to validate these images, and other jurisdictions have different bylaws in place which govern what their applicants can and

can't do on a specific property. As such, these images would not be considered relevant information.

- Alberta Transportation – has no concerns with this development. No concerns with the height/variance of the fence with the speed limit at 50km on this portion of the highway.
- Mike Ziehr, Director of Infrastructure for Kneehill County – has no concerns about this development.
- Alberta Health Services – their office was satisfied that the application poses a minimal risk to public health.
- Griffith, Kay and Steven (Adjacent) – objection to proposed application. Four areas of concern are: Aesthetics, Fence, Environmental and Enforcement.
Aesthetics: first impression of the hamlet would be the business and fence.
Fence: included Section 78 from the Land Use Bylaw 1808 with respect to fencing and screening. Noted the setback from a highway is not met at 135ft.
Environmental: vehicles risk of leakage (battery acid, brake fluid, antifreeze, gas, oil, glass, rusted steel). Concerns leaks will not stay on the concrete pads and risk of soil contamination.
Enforcement: How is enforcement dealt with? Since the last application in September; 6 “Report a Concern” have been filed with the county; one of the concerns being this property. Concerns with the number of vehicles at the site that are out front, vehicles at the site daily, 2 flat beds and forklift and payloader; are these included in the 65 total to be stored on site?
Black and white photographs included with the letter of objection.
- Broughton, Merideth - area already has too many of these types of business. Close to Torre Ville Manor and other single-family dwellings. Increased traffic, noise, and industrial activities. Concerned with the property having a history of appearing derelict and a dumping ground and making the county look bad and harm community pride. Concerns with power draw, water servicing, power usage for a security system and fire suppression devices being a massive draw on the system. Concerns with appearance of lot – messy and abandoned, derelict and decrepit appearance right at the entrance to the Gopher Hole Museum. Concerns regarding the name being different from the previous application and also noting that the application asks if the development is within 800m of a municipal boundary and that this is within a hamlet border.
- MacKenzie, Susan – objected to the proposed application. Currently hauling in decommissioned vehicles looks like a breach of the current land usage. Does not appreciate Torrington having a dump site in the community and the location makes it an eye sore.
- Mikkelsen, Cheri – concerns regarding proposal. Concerns regarding the 8ft fence; not aesthetically appealing and welcoming. Should be in an industrial area. Concerns with increased traffic (influx of semi-trucks, speeding, noise pollution and strain on infrastructure) that will affect citizens’ quality of life.
- Mierau, Sandra – objected to the proposed development. Concerns with seeing a junk yard while entering or leaving the community and believes it is no benefit to the community.
- Petition with numerous landowners/residents – Letter with petition; the petition has photocopies of previous names submitted with the previous application (4117-23-D) and new names.

Concerns with first impression of the hamlet. Fence would be an eye sore and not encourage anyone to visit the community.

Health: end of life, decommissioned, salvage vehicles emit harmful pollutants including carbon dioxide, nitrogen oxides and sulfur dioxide which can contribute to air pollution and cause a range of health problems including asthma, heart disease and lung cancer. Oil and other automotive fluids can leak from abandoned cars and pollute nearby soil and water sources.

Environmental: the site is a clean site, but this application would make it unsightly and risk soil contamination. Risk of attracting rodents and other pests which can cause health problems and damage the ecosystems.

Enforcement: Torrington already has some violations happening and since the meeting in September, 6 "Report a Concern" have been filed with the county, including this site. Concerns with the number of vehicles at the site that are out front, vehicles at the site daily, 2 flat beds and forklift and payloader; are these included in the 65 total to be stored on site?

Black and white photographs included with the letter of objection.

- To date, no further objections from adjacent landowners or any other agencies have been received.

Position of Appellant Kay & Steven Griffiths

- [20.] The appellant has concerns with the aesthetic, first impression of the hamlet. It was stated that Torrington is trying to encourage growth, but if Capital Converters are the first impression of the Hamlet people will drive by. There are many things to offer, Gopher hole museum, camping ground, ball ground, Ron Gorr arena with skating and many functions.
- [21.] The appellant has concerns of harmful pollutants including carbon dioxide, nitrogen oxides and sulfur dioxide. These are air pollutants that could contribute to asthma, heart disease and lung cancer. Leakage/solid contamination of soil, from glass, anti-freeze, brake fluids, asbestos, battery acid, rust, mercury as no fluids are removed prior to storage only moved onto concrete pads once discovered, but still does not address the leakage. Rodents and birds are drawn to vehicles and transport their spoils to other areas.
- [22.] The appellant has concern for the applied use for a Motor Vehicle Storage Yard, the Hamlet does not have a discretionary use for Motor Vehicle Storage
- [23.] Motor vehicle storage: definition is more in line with RV storage where it is parked, and the customer pays a rental fee. What is being requested is storage for end of life, decommissioned, salvage vehicles.
- [24.] The appellant has concern with the fence. The appellant indicated she had no problem with the height of the fence, but where the fence was situated. As per the Land Use Bylaw 1808, Section IX, Landscaping, Fencing and Screening, it states that a fence must be 135 feet from a primary highway right of way.
- [25.] The appellant has concern with the landscaping, and references page 119, Section 4 (b) which is part of the Light Industrial District. She has concern with the applicant cutting down trees, which would be more aesthetically appealing than a fence.
- [26.] The appellant has concern with enforcement as of August 1, 2023, Capital Converters were bringing in vehicles to the site without approval.

[27.] The appellant stated that both her and her husband and 79 other Torrington residents signed a letter not agreeing with this proposal.

Position of the Applicant- Aly Jiwa

[28.] Over the last five years, the business has established its presence in Olds, undergoing significant evolution during this time. Initially focused on catalytic converter collection, the company has adapted its business model in response to market shifts. The current plan involves the transportation of non-operational vehicles. The company efficiently picks up these vehicles and temporarily stores them in its lot until they are ready for transportation to Calgary.

[29.] The applicant does not process vehicles anymore, just transports them.

[30.] The applicant guarantees that the vehicles typically do not experience leaks, ensuring that there will be no contamination of the property.

[31.] The applicant emphasized the considerable efforts undertaken to improve the property's visual aesthetics. Previously, the site served as a fertilizer storage facility, characterized by overgrown weeds. In response, the applicant has invested in enhancements, including the application of new gravel and the removal of the overgrown weeds.

[32.] To further improve the surroundings, the applicant intends to install a 8 ft fence, to screen the vehicle storage and contribute to an improved overall appearance.

[33.] The applicant has maintained consistent communication with the Kneehill County Planning Department. Specifically, when it came to the removal of trees, he diligently performed his due diligence by contacting the Planning Department to confirm that it fell within his jurisdiction to remove the dead trees.

[34.] The applicant has support from people in the community and has letters to support him.

[35.] The applicant noted that the anticipated noise level from his operations will be minimal compared to the traffic on the adjacent highway. As there will be no processing of vehicles on-site, the absence of grinders ensures a quiet environment. The only source of noise would be from the tow truck operations.

[36.] An aerial view was shown, with neighboring lots. The applicant stated that during the Municipal Planning Commission Meeting a member noted that there wouldn't be any negative effects to the visual appeal with what is already there.

Decision

[37.] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **GRANTED** as approved by the Development Authority.

[38.] In granting the development the Subdivision and Development Appeal Board uphold the conditions placed by the Municipal Planning Commission from their October 26, 2023, meeting for the Development Permit Application 4126-23-D for Motor Vehicle Storage and variance to allow an 8 ft perimeter fence instead of a 6 ft on Ptn. NE-34-32-26 W4M Plan 6680 GY, Block P as per the following conditions.

1. This permit is being issued pursuant to Section 97 of Land Use Bylaw 1808. The development must conform to the site plan that was submitted with the application, signed, and dated October 26, 2023, as attached to this approval.
2. This property is not permitted to operate as a wrecking yard. Vehicle crushing is prohibited.

3. All relevant Safety Codes Permits pertaining to Building, Private Sewage Disposal System, Gas, Electrical, and Plumbing must be applied for prior to any work being performed on site.
4. Fence to be installed and the site screened to the satisfaction of the Development Authority.
 - i. A variance for the fence from 6ft to 8ft has been granted.
 - ii. Slats are to be used for the screening on the chain link fence.
5. Hours of operation shall be between 8:00 a.m. and 6:00 p.m. Monday to Saturday.
6. Weeds and vegetation must be managed by the applicant/landowner.
7. The applicant shall have no more than 65 vehicles for storage on the property. Company vehicles are not included in this total (i.e. Tow trucks, loader, forklift).
8. The applicant must apply and attain an approval from Alberta Transportation for a Roadside Development Permit for the proposed development.
9. Pursuant to Land Use Bylaw 1808, Section 35 (4): the Accessory Building shall not be used as a dwelling or contain bedrooms or sleeping facilities unless it is within the Agricultural district and has been approved by the Development Authority.
10. The location of the proposed development must meet the minimum distance requirements from the existing sewage system(s) as set out in the Alberta Private Sewage Disposal System Regulation and Safety Codes Act.
11. Any business signs larger than 1.5m² (16ft²) in size will require an additional development permit as per Land Use Bylaw no. 1808.
12. The applicants must ensure adequate water and wastewater services either through a shared or individual system.
13. The developer is responsible for making suitable arrangements with the utility companies for provision of services and/or necessary easements and ensuring all development is outside active utility rights-of-ways.
14. All future additions and developments (including, but not limited to, decks and porches) will require Development Permits and relevant Safety Code Permits.
15. Approval by the approving authority does not exclude the need and/ or requirements of the applicants to obtain any and all other permits as may be necessary under this or any other legislation, bylaws or regulations.
16. Removal of any fluids from any vehicle must ensure they are contained in Environmental Protective Enhancement Act (EPEA) approved method or meet applicable regulation requirements.
17. This permit is valid for a period of 1 year from the date of issue or the date of an approved decision of the Subdivision and Development Appeal Board. If at the expiry of this period, the development or construction has not been commenced or carried out with reasonable diligence, this permit shall be invalid.
18. Any intensification of use will require a new development permit, failure to receive an additional approval will render the subject permit null and void.

Decision Reasons

- [39.] In making its decision, the Board reviewed all evidence and arguments, both written and oral, submitted by the parties.
- [40.] The Board has determined that the proposed development constitutes a valid discretionary use under the Kneehill County Land Use Bylaw 1808 and the conditions that were listed on the approved Development Permit Application 4126-23-D for Motor Vehicle Storage and variance to allow an 8 ft perimeter fence instead of a 6 ft were reasonable and justified.
- [41.] The Board carefully considered both the location and height of the fence. Recognizing that the area in question is adjacent to a provincial highway, they acknowledged that Alberta Transportation holds the authority to establish the required setbacks and permissible height for the fence. Given that Alberta Transportation has expressed no reservations regarding the fence's setbacks and height, the Board, in turn, found no grounds for objection.
- [42.] The Board heard no compelling evidence that the parked cars in the lot would release harmful pollutants and cause serious harm to people living the area.
- [43.] Given the above findings and pursuant to section 687 of the Municipal Government Act, the Board finds that the development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.



Lori Campion, Chairperson
Subdivision and Development Appeal Board