



BEAUMONT  
**Subdivision  
and Development**  
APPEAL BOARD

HEARING DATE: May 9, 2024  
FILE NO.: 24-02  
DEVELOPMENT PERMIT 2023-316

**BOARD MEMBERS:**

Mr. Martin Stout, Chair  
Ms. Lindsay Skelly  
Ms. Christabel Khumalo  
Mr. Carl Savard  
Mr. Leonard Spink

**Notice of Decision of Subdivision and Development Appeal Board**

**INTRODUCTION**

1. The Development Authority of the City of Beaumont (the "Development Authority") **refused** a Development Permit for an Industrial – Light Use development for an existing fenced gravel parking area at 50420 RR 243, Beaumont, Alberta (Plan 3416RS, Block n/a, Lot C ) on March 25, 2024.
2. An appeal was filed by Bryan Romanesky (Permit Masters) on April 11, 2024.
3. The Subdivision and Development Appeal Board (the "Board") held the appeal hearing on May 9, 2024, in person.

**PRELIMINARY MATTERS**

**A. Board Members and Jurisdiction**

4. At the outset of the hearing, the Chair requested confirmation from all parties in attendance that there were no objections to the Board's jurisdiction to hear the appeal and that there was no opposition to the composition of the Board hearing the appeal. No

one had any objection to the Board's jurisdiction to hear the appeal or to any of the members of the Board hearing the appeal.

**B. Exhibits**

5. At the beginning of the hearing, the Chair confirmed that everyone in attendance had received the hearing package. All submissions were included in the hearing package which was circulated to all the parties prior to the hearing.

**C. Miscellaneous**

6. There was no request for an adjournment of the hearing.
7. There were no objections to the proposed hearing process.

**DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

8. The Board confirms the decision of the Development Authority, and the appeal is denied.

**SUMMARY OF HEARING**

9. The following is a summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

**Development Authority**

10. The Lands are legally described as Plan 3416RS, Block n/a, Lot C, and municipally described as 50420 RR 243, Beaumont.
11. The Lands are located within the Agricultural Holdings District (AH) as set out in the City of Beaumont Land Use Bylaw 944-19 (the "LUB").
12. The Applicant, William Yin of Helio Construction Ltd., submitted an application for a Fenced Gravel Parking Area on October 17, 2023. This application was filed in response to an enforcement letter issued by the Development Authority (DA) on October 4, 2023, concerning the unauthorized and unpermitted business operations related to *TBT Towing*.
13. As part of the enforcement process, the Applicant was advised that the proposed Use, categorized by the applicant as a Parking Lot with no associated Use, did not fall under either Permitted or Discretionary Uses, and was therefore not allowed in the Agricultural Holdings District.

14. The Development Authority presented the Applicant with options for proceeding and the Applicant requested that the Development Authority assess the application as an Industrial – Light Use, which is a Discretionary Use in the Agricultural Holdings District.
15. The application was deemed complete on February 6, 2024, and the Notice of Decision to refuse the Development Permit was issued on March 25, 2024.
16. The refused Use, Industrial – Light, is a Discretionary Use in the Agricultural Holdings District (LUB Sec. 3.2.2).
17. Industrial - Light is defined in Part 6: Definitions as: "*The manufacturing, fabrication, assembly, distribution, disposal, warehousing or bulk storage, trucking and equipment facilities, or any industrial activities primarily within a building and does not produce noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts. May include limited outdoor storage where external impacts are mitigated with a visual buffer. Outdoor storage shall not be located in the principal frontage.*"
18. The Development Authority determined that the existing business operations of a storage compound for damaged/wrecked vehicles relating to *TBT Towing* did not meet the definition for Industrial – Light Use because the proposed operations/vehicle storage would be conducted entirely outdoors, and the definition requires that industrial activities are conducted primarily within a building with only limited outdoor storage where external impacts are mitigated by a buffer.
19. The development permit application was received October 17, 2023, but business operations did not cease, as required.
20. The Development Authority took further enforcement action which eventually led to the issuance of a Stop Order on April 12, 2024, and the Property Owner complied with the requirements of the Stop Order.
21. On March 25, 2024, the Development Authority issued the Notice of Decision for the existing Industrial – Light Use relating to *TBT Towing*.
22. In accordance with the LUB, the Development Authority refused the Development Permit because the Proposed Development (i.e., a fenced gravel parking area, with no associated use on the property) is not allowed in the Agricultural Holdings District.
23. Further, the Development Authority noted that a Vehicle Towing operation with outdoor storage does not meet the definition and requirements for an Industrial Light – Use classification, since the entirety of the operations related to the development consisted of outdoor storage.
24. Finally, the Development Authority noted that while they may vary the standards associated with a particular use, they do not have the authority to vary the use and thus the Development Permit was refused.

## **APPELLANT**

### **Bryan Romanesky (Permit Masters)**

25. Mr. Romanesky is the Agent representing the Applicant in this matter.
26. He submitted that the Proposed Development is one where cars towed to the Lands will be brought there by a local towing company and the cars will be stored on the Lands, and that the Proposed Development is associated with the RV storage use, which was subject to a previous development permit.
27. The Appellant stated that the purpose of the Agricultural Holding District includes outdoor storage:

General Intent: To continue to support rural agricultural activities prior to transitioning to urban style development. To ensure an orderly and planned transition, subdivision shall be restricted without an approved Area Structure Plan and / or Neighbourhood Structure Plan.

How uses are mixed: The variety of uses will primarily be agriculture activities carried out at a rural scale with some opportunities for outdoor storage.
28. The Appellant argued that the Proposed Development will not prevent a transition to future development.
29. The Appellant stated that the use is "Industrial-Light" and has no impact outside of the building or for the neighbours, and that the Proposed Development meets the definition of "Industrial - Light" because it provides limited outdoor storage where external impacts are mitigated.
30. He submitted that "Industrial – Light Use" is defined in the city's LUB as "the manufacturing, fabrication, assembly, distribution, disposal, warehousing or bulk storage, trucking and equipment facilities, or any industrial activities primarily within a building and does not produce noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts. May include limited outdoor storage where external impacts are mitigated with a visual buffer. Outdoor storage shall not be located in the principal frontage. The setbacks are significantly larger than the required 7.5 metres (Front and Back) and 5 metres (Side)."
31. He submitted that one of the reasons provided for the refusal of the Development Permit was that the Proposed Development is located in the frontage, but in his view the Proposed Development is not located in the frontage of the site since the LUB definition of "frontage" means "the area of a lot between a building façade and a curb inclusive of its built and landscape components" and the Proposed Development would not be located in such an area of the subject site.

32. He further noted that if the Proposed Development were considered to be in the frontage of the site, this requirement could be varied since the proposed development does not produce negative visual impacts to surrounding properties.
33. Speaking to the visual impacts of the Proposed Development, he noted that the proposed development was small in scale (80 x 100 feet) and located over 100 meters from Range Road 243 and that the single-family homes to the north of the proposed development are screened by the existing trees with only a few homes having a limited view of the proposed development.
34. He noted that outdoor storage is typically considered an issue because of its visual impact but the Development Authority did not note any concerns with the visual impact of the proposed development and ultimately the proposed development complies with the intention of the regulations set out in the city's LUB.
35. Finally, he noted that the Proposed Development of outdoor storage is appropriate for the subject site since it is a transitional use that does not fracture the land and meets the definition and intention of the AH District as set out in the LUB which says "[t]he variety of uses will primarily be agriculture activities carried out at a rural scale with some opportunities for outdoor storage."

#### **FINDINGS OF FACT**

36. In addition to the specific facts set out under the Board's reasons, the Board finds the following as facts.
37. The Lands are legally described as Plan 3416RS, Block n/a, Lot C, and municipally described as 50420 RR 243, Beaumont.
38. The Lands are zoned Agricultural Holdings District (AH).
39. The Appellant applied for a development permit for an "Industrial – Light Use" in the Agricultural Holdings (AH) District.
40. "Industrial – Light Use" is a discretionary use in the Agricultural Holdings (AH) District.
41. "Industrial – Light" is defined in Part 6: Definitions as: "*The manufacturing, fabrication, assembly, distribution, disposal, warehousing or bulk storage, trucking and equipment facilities, or any industrial activities primarily within a building and does not produce noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts. May include limited outdoor storage where external impacts are mitigated with a visual buffer. Outdoor storage shall not be located in the principal frontage.*"
42. The appeal was filed on April 11, 2024, and was filed on time.
43. There were no persons claiming to be affected who provided written or oral submissions as part of this hearing.



## REASONS

### Jurisdiction and Issues to be Decided

44. The Board's jurisdiction is found in s. 687(3) of the MGA.

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)

- (a) repealed 2020 c39 s10(52);
  - (a.1) must comply with any applicable land use policies;
  - (a.2) subject to section 638, must comply with any applicable statutory plans;
  - (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
  - (a.4) . . .
  - (b) . . .
  - (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
    - (i) the proposed development would not
      - (A) unduly interfere with the amenities of the neighbourhood, or
      - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

45. In its decision, the Board must determine:

- (1) What is the Land Use District for the Lands?
- (2) What is the nature of the Proposed Development and does the Proposed Development comply with the definition of "Industrial – Light Use" as set out in the City's LUB?
- (3) Would the Board be able to exercise its discretion to grant a variance that would allow the Proposed Development to proceed?

46. In making this decision, the Board has examined the provisions of the MGA and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority and the Appellant.

#### **a. What is the Land Use District?**

47. The evidence is clear that the Lands are located within the Agricultural Holdings (AH) – District under the City's Land Use Bylaw and the Board finds so as a fact. None of the parties before the Board raised any concerns and the evidence is clear that this is the zoning for the area.

**b. What is the nature of the Proposed Development and does the Proposed Development comply with the definition of "Industrial-Light" Use as set out in the City's LUB?**

48. The Development Authority noted that the sole purpose for the Lands was outdoor vehicle storage, without any associated business, buildings or use on the Lands.
49. The Appellant stated that the Proposed Development is one where cars towed to the Lands will be brought there by a local towing company and the cars will be stored on the Lands. The Appellant argued that the RV storage use, which was the subject of a previous development permit, is the associated business.
50. The Appellant stated that the purpose of the Agricultural Holding District includes outdoor storage:

General Intent: To continue to support rural agricultural activities prior to transitioning to urban style development. To ensure an orderly and planned transition, subdivision shall be restricted without an approved Area Structure Plan and / or Neighbourhood Structure Plan.

How uses are mixed: The variety of uses will primarily be agriculture activities carried out at a rural scale with some opportunities for outdoor storage.

51. The Appellant argued that the Proposed Development is perfect because it will not prevent a transition to future development.
52. The Appellant stated that the use is "Industrial-Light" and has no impact outside of the building or for the neighbours. The Proposed Development meets the definition of "Industrial - Light" (see below) because it provides limited outdoor storage where external impacts are mitigated.

"the manufacturing, fabrication, assembly, distribution, disposal, warehousing or bulk storage, trucking and equipment facilities, or any industrial activities primarily within a building and does not produce noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts. May include limited outdoor storage where external impacts are mitigated with a visual buffer. Outdoor storage shall not be located in the principal frontage. The setbacks are significantly larger than the required 7.5 metres (Front and Back) and 5 metres (Side)."

53. The Appellant stated that there is no definition as to what "limited outdoor storage" means. The Lands are 80 ft x 100 ft of a 4 to 5 acre parcel, meeting the intention of "limited".
54. The evidence before the Board is that the Proposed Development consists primarily of outdoor storage. Both parties agreed that the Proposed Development consisted of the storage of towed vehicles on the Lands. The Board finds as a fact that the Proposed Development is to park towed vehicles on the Lands.

55. The evidence before the Board is clear that the Development Permit was for an "Industrial – Light Use" in the Agricultural Holdings (AH) District which is a discretionary use in the City's LUB. This fact was not disputed by the parties.
56. The facts are not disputed – the Proposed Development is to park towed vehicles on the lands. The question for the Board is to determine whether this use falls within the definition of "Industrial – Light" as set out in the Definitions section (Part 6) of the City's LUB.
57. The Board carefully considered the definition and determined that in order for the Proposed Development to be considered "Industrial – Light" the following criteria must be met:
- (1) The Proposed Development must fit into one of the following categories:
    - (a) manufacturing,
    - (b) fabrication,
    - (c) assembly,
    - (d) distribution,
    - (e) disposal,
    - (f) warehousing or
    - (g) bulk storage,
    - (h) trucking and equipment facilities,

or

    - (i) some other industrial activity that is primarily within a building,
- and**
- (2) The Proposed Development must not produce noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts.
  - (3) The Proposed Development must not be in the principal frontage.
  - (4) If the above criteria are met, then some limited outdoor storage where external impacts are mitigated with a visual buffer would be acceptable.
58. There was no evidence before the Board that the Proposed Development falls into any of the activities listed in the definition of "Industrial – Light". There was no evidence that the Lands would be used for manufacturing, fabrication, assembly, distribution, disposal, warehousing or bulk storage, or trucking and equipment facilities. The only evidence before the Board was that the Appellant seeks to park towed vehicles on the Lands which the Board finds as a fact and this activity (i.e., the storage of vehicles) does not fall within any of the listed activities under the definition. The storage of vehicles is not manufacturing, fabrication or assembly – which all denote some form of activity. The evidence was the vehicles would be stored on the Lands, which is inconsistent with



distribution (which suggests incoming and outgoing goods). There was no evidence about "disposal, warehousing or bulk storage, trucking and equipment facilities".

59. In the absence of any evidence about how the outdoor storage met the activities listed in the first part of the definition of "Industrial-Light", the Board finds that the storage of towed vehicles does not meet any of these activities.
60. Further, the Board notes that the outdoor storage also does not meet the criteria of "some other industrial activity that is primarily within a building" since the Proposed Development does not primarily take place in a building, but rather consists of outdoor storage alone.
61. The Board did not have any evidence that would confirm that the Proposed Development produces noise, heat, glare, dust, smoke, fumes, odours, vibration, or other external impacts; however, this factor alone does not comply with the requirements of the definition and since the definition requires that multiple criteria are met.
62. The Board considered the Appellant's argument that the other activity or development to which this storage use is related is the RV Storage. The Board noted that the Appellant provided evidence that the RV use is separate from the Proposed Development, which belies an argument that the two uses are connected. Further, although the statement was made about the two uses being connected, there was no evidence as to how RV storage relates to or is connected with the use of the Lands for storing towed vehicles. The Board rejects this argument as support for the proposition that the outdoor storage is connected to another use.
63. The Board accepts the Appellant's argument that the Proposed Development is not in the principal frontage of the subject site; however, given the fact that the Proposed Development does not meet the rest of the criteria, meeting this part of the definition is insufficient for the Board to find that the Proposed Development meets the definition of "Industrial-Light".
64. Based upon the above, the Board finds as a fact that the Proposed Development does not meet the definition of "Industrial – Light". The Board finds, based on the evidence of both parties, that the use is Outdoor Storage, which is neither permitted nor discretionary in the Agricultural Holdings District. Since the Board cannot vary use, the Board must deny the Appeal.

**c. Would the Board be able to exercise its discretion to grant a variance that would allow the Proposed Development to proceed?**

65. In its initial review, the Development Authority noted that the Proposed Development was located within the frontage. At the hearing, the Development Authority stated that it had considered this question and due to the configuration of the Lands, the Proposed Development may not technically be in the frontage. The Development Authority made clear that although it had included this as one of its reasons for refusal, the primary reason

for refusal was the fact that the use was neither permitted nor discretionary within the district. The Development Authority noted that the complete test for variance found in s. 687(3)(d) and in s. 5.5.2 of the Land Use Bylaw makes clear that a variance cannot vary use.

66. The Appellant stated that the Lands are not visible from neighbouring parcels due to the presence of the road, pathway, and privacy fences on the neighbouring parcels. The Appellant argued that the issue of frontage arises from a regulation, which the Board could vary. The impact which might arise from the Proposed Development is visual impact. There is no indication of an actual impact from the outdoor storage.
67. The Board notes that both parties provided submissions regarding the location of the Proposed Development within the frontage of the Lands.
68. The Board recognizes that the test for a variance includes the limitation only a regulation may be varied. The Board finds that the question of the location of the Proposed Development in the frontage is a question of compliance with a regulation in the Land Use Bylaw. However, the Board also accepts the argument of the Development Authority, based on the clear wording of s. 687(3)(d) of the Municipal Government Act and s. 5.5.2 of the Land Use Bylaw, that the Board cannot vary use. Having found that the use is not permitted or discretionary within the Agricultural Holdings District, but is outdoor storage, which is neither permitted nor discretionary in the Agricultural Holdings District, the Board finds that this appeal is not a situation in which the Board could grant the appeal by approving the variance. The Board does not have the authority to vary the use, and applying a variance would not overcome this issue.

### **Conclusion**

69. The Board determined that Proposed Development does not fall within the definition of "Industrial – Light". The use of the lands is for outdoor storage which is neither a permitted nor discretionary use in the Agricultural Holdings District. Since the Board cannot vary use, the appeal is denied.
70. Issued this 22 day of May 2024 for the City of Beaumont Subdivision and Development Appeal Board.



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M. Stout, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, RSA 2000, c M-26.

**APPENDIX "A"**  
**REPRESENTATIONS**

**PERSON APPEARING**

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Aleshia Ingram, Development Authority  
 Kendra Raymond, Development Authority  
 Patricia Lauze, Development Authority  
 Shawn Hipkiss Development Authority  
 Bryan Romanesky, Appellant

**APPENDIX "B"**  
**DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

<b>Agenda Package – circulated on April 30, 2024</b>
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Exhibit	Description	Pages
1.	Application	17-19
2.	Decision of the Development Authority	20
3.	Notice of Appeal	1
4.	Notice of Hearing	3-4
5.	Development Officer Submission	5-150
6.	Appellant Submission	151-166