

Hardwick Development Review Board  
Conditional Use/Flood Hazard Review Hearing  
*All Metals Recycling, Inc.*  
*2141 Route 15 West, Hardwick*  
*Application #2016-058*  
January 18, 2017

*To consider a conditional use request by All Metals Recycling, Inc. to add an accessory use to an established Nonconforming Use (Salvage Yard) in the Rural Residential District with a Flood Hazard Overlay. Property address is 2141 Route 15 West, Hardwick, Vermont.*

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.6 Rural Residential Table; 3.9 Nonconforming Structures & Nonconforming Uses; 3.11 Performance Standards; 3.14 Parking and Loading Requirements; 5.2 Conditional Use Review; 5.2 G4 Rural Residential District Standards; and 5.3 Flood Hazard Review.

**Warnings** were posted on January 3, 2017 at the Hardwick Memorial Building, the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Sundog Ag Ventures LLC; Gravel Construction Co Inc; Peggy Nichols & Russell Luce; Cheryl and Russell Mcallister; Nancy and Dennis Willey; and Cecile Leriche on January 3, 2017. It was also published in the Caledonian Record on Wednesday, January 4, 2017 (due to absence of the Hardwick Gazette for that week).

**Development Review Board members present:** Cheryl Michaels, Chair; Edward Keene; Ruth Gaillard; John Mandeville; and John Page.

**Development Review Board members absent:** Dan Bandit and Helm Nottermann

**Others present:** Randy Towns, applicant and Kristen Leahy, Zoning Administrator.

**During the course of the hearing the following exhibits were submitted:**

#1 Flood Hazard Review from the Regional Floodplain Manager, Sacha Pealer

### **Summary of Discussion**

Chair Cheryl Michaels began the hearing at 7:05 PM. She noted the hearing was quasi-judicial, explained the procedure for the hearing, asked board members for any disclosures of conflict of interest and swore in all those who wished to speak at the hearing. Mrs. Michaels then asked Mr. Towns to present the All Metals Recycling Inc. proposal.

Mr. Towns explained that he is a part-owner of All Metals Recycling, Inc on Route 15 West. They have a Salvage Yard operation which has been in existence for 23 years. The business was approached by a representative of the U-Haul company and asked if they wanted to become a “drop-off” spot for U-Haul rentals.

The current Salvage Yard operation has an office building which is staffed on a daily basis between 8 am and 4 pm and for ½ days on Saturdays. The staff person has to be on site even if the Salvage Yard traffic is slow (currently with the lower value on metal, the traffic has been reduced). The U-Haul customers would be able to drop off and pick up trailers and trucks on site. All Metals Recycling would essentially play the role of the middle person – the actual transaction would typically be accomplished over the internet (booking, transfer, etc). No additional staff members would be needed to add this aspect to the business. Mr. Towns estimated

that he would have 8-10 items on site at a time (including trailers and trucks). He may eventually have more on site but the initial estimate is 8-10.

The location where the trucks/trailers would be parked is where the tractor pulls used to occur. A little gravel may be needed for the parking area but no new structures or actual parking lots will be built. The access road is already in place for the existing Salvage Yard operation.

Mr. Towns reported that during the last flood (Irene), his staff moved trucks from the All Metals Recycling location to the gravel pit on the opposite side of Route 15 W. The area where the U-Haul vehicles would be located had approximately 6-8 inches of water during Irene. If a flooding situation occurs again, the U-Haul vehicles and trailers would be moved to the gravel pit across Route 15 W. The official access road is elevated and there is a possible secondary access on the eastern side of the property.

The U-Haul vehicle location would be approximately 150' from Route 15 West and would be to the rear of the current tree line. The existing trees would remain on site. Mr. Towns expressed his desire to keep the property presentable. The rental vehicles and trailers would be parked evenly and in neat rows.

Chair Michaels reviewed the performance standards with Mr. Towns. No adverse effects were identified.

The hearing ended at 7:25 pm. John Mandeville made the motion to enter deliberative session. Ruth Gaillard seconded the motion. All members were in favor.

### **Findings of Fact:**

Based on the application and testimony, the Development Review Board makes the following findings:

**2.6 Rural Residential District**— This zoning district has the stated purpose of promoting agriculture, forestry, and low to moderate density residential development. **The primary salvage yard use of the property, however, has been in existence for twenty-three years and will not create development on current agricultural or forested land. The addition of an accessory use to an established Nonconforming Use is allowed as a Conditional Use in this zoning district.**

**3.9 Nonconforming Structures & Nonconforming Uses** — the existing salvage yard is an established Nonconforming Use. The addition of U-Haul rental (with no new structures or parking areas) is the creation of an Accessory Use.

**3.11 Performance Standards** — The DRB reviewed each performance standard in relationship to the proposal. Overall, the proposed expansion of use is not anticipated to create or result in violations of the performance standards.

**3.14 Parking and Loading Requirements** — the current parking configuration is adequate for the existing business and for the addition of a U-Haul rental service. No additional employees will be added.

### **5.2 Conditional Use Review - E) General Review Standards**

*The proposed conditional use will not result in an undue adverse effect on any of the following:*

1. **The capacity of existing or planned community facilities and services.** No adverse effects identified. No new structures are planned.



2. **Character of the area affected.** Location within the Rural Residential District has been utilized for over twenty years. No testimony was received which would indicate that the addition of U-Haul rentals to the existing business would impact the character of the surrounding area.

3. **Traffic on roads and highways in the vicinity.** The circulation and traffic pattern is directed by an overall framework which is already in place. The changes to the traffic would not be discernable. No adverse effects were identified.

4. **Bylaws in effect** N/A.

5. **The utilization of renewable energy resources.** N/A

#### **F) Specific Review Standards shall include:**

1. **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **Proposed expansion of use meets all standards for the Rural Residential District.**

2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **Each Performance Standard reviewed – see above. No adverse effects identified. (See Condition #2).**

3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Proposed expansion meets all standards for the Rural Residential District.**

4. **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **No testimony was received to indicate the need for screening.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **No testimony was received to indicate the need for additional stormwater or erosion control practices.**

#### **5.2G Rural Residential Standards -**

a) **Development shall be designed to minimize loss of agricultural land.** The proposal would add an accessory use to an existing development. No new land would be utilized.

#### **5.3 Flood Hazard Review**

##### **Development Standards – Special Flood Hazard Area.**

All development shall be:

- a. Reasonably safe from flooding;
- b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
- g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes;

**All suggestions from the Floodplain Manager were incorporated into the conditions of the decision.**

**Decision and Conditions**

Based upon these findings, the Development Review Board voted unanimously to approve the application as presented with the following conditions.

**Conditions:**

- 1. Any and all necessary state and federal permits must be in place prior to the commencement of the proposed development.
- 2. All Metals Recycling, Inc. will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
- 3. All vehicles must be on wheels, registered, and highway-ready at all times.
- 4. The number of vehicles (including trailers) will not exceed the proposed 15 or fewer.
- 5. Rental vehicles will be parked within the designated area shown on the site plan and outside of the regulatory floodway.

Signed:

  
 \_\_\_\_\_, chair  
 Cheryl Michaels

\_\_\_\_\_, acting clerk  
 Kristen Leahy

date 1-24-17

date \_\_\_\_\_

**NOTICE:**

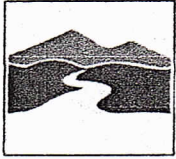
This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.



## Hardwick Unified Development Standards

### Section 3.11 Performance Standards

- (A) The following performance standards must be met and maintained for all uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No use, under normal conditions, shall cause, create or result in:
- (1) **regularly occurring noise**, which:
    - i. represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or
    - ii. in excess of 65 decibels, or 70 decibels within the Industrial District.
  - (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
  - (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
  - (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
  - (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
  - (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
  - (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
  - (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;



**Vermont Department of Environmental Conservation**  
 Watershed Management Division  
 1 National Life Drive, Main 2  
 Montpelier, VT 05620-3522



January 11, 2017

Kristen Leahy, Zoning Administrator  
 Town of Hardwick  
 P.O. Box 523  
 Hardwick, Vermont 05843  
 [by E-Mail]

Subject: Flood Hazard Review—Zoning Application No. 2016-058  
 Rental U-Haul Parking at 2141 Route 15 W

Dear Kristen:

I've reviewed the above-referenced application and offer the following comments. According to the effective FEMA Flood Insurance Rate Map (7/17/2002), the proposed area for the rental vehicle parking is located in the Special Flood Hazard Area—Zone AE of the Lamoille River and outside the regulatory floodway.

The proposal includes parking of 6-10 rental trailers and/or trucks within the floodplain. No paving, gravel, or additional improvements are proposed.

Hardwick's current Unified Development Bylaw prohibits new storage in the FHO District, while at-grade parking outside of the floodway is Permitted (see Table 2.8 A & D on page 16). The town will need to decide if the proposal constitutes storage or parking under Hardwick bylaws. In general, the project could meet NFIP standards and be considered parking as long as:

- 1) All vehicles are on wheels, registered, and highway-ready at all times.
- 2) The number of vehicles does not exceed the proposed 10 or fewer.
- 3) Rental vehicles are parked within the designated area shown on the site plan and outside of the regulatory floodway.

I recommend Hardwick include the above three items as conditions in the zoning permit.

While the proposal itself is limited in scope, it does incrementally contribute to more goods being placed in the floodplain at this facility. Portions of the existing operation are already very close to or in the floodway, and all of the facility is vulnerable to flooding (see attached map). If the parking is going to be added, I recommend consideration be given to how the facility might relocate some of the existing outdoor material storage (e.g., roll off containers) farther from the river.

Thank you for contacting the Vermont Rivers Program. These comments are offered in accordance with 24 VSA §4424. Please feel free to contact me at (802) 490-6162 or [sacha.pealer@vermont.gov](mailto:sacha.pealer@vermont.gov) if you have questions.

Sincerely,

Sacha Pealer

Regional Floodplain Manager  
 River Corridor & Floodplain Protection Program

Attachment: Digital Flood Insurance Rate Map (DFIRM) in ANR Atlas

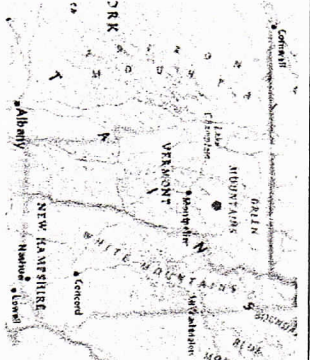




1: 3,969  
January 11, 2017

661.0 0 330.00 661.0 Feet  
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere 1" = 331 Ft. 1cm = 40 Meters  
© Vermont Agency of Natural Resources THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.



**LEGEND**

- Dfirm Floodways
- Flood Hazard Areas (Only FEM)
  - AE (1-percent annual chance flood)
  - A (1-percent annual chance flood)
  - AO (1-percent annual chance zone feet)
  - 0.2-percent annual chance flood ha
- Buildings (E911)
- Town Boundary

**NOTES**

Map created using ANR's Natural Resources Atlas