



## SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 22-004

**TIME:** 6:30 pm  
**DATE:** May 26, 2022  
**PLACE:** Council Chambers, Cochrane RancheHouse

Chairperson: Scott Shannon

Board Members: Ashley Marshall  
Christopher Hutchinson  
Mark Cardwell  
Morgan Nagel, Councillor

Administration: Amanda Legros, Planner II  
John Popoff, Manager, Planning Services

SDAB Clerk: Karen Babin

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### 1. CALL TO ORDER AND INTRODUCTIONS

- a. MOVED by A. Marshall to open the hearing  
Carried Unanimously
- b. Chairperson Shannon opened the hearing at 6:56 pm
- c. Introductions were made from the Board and Administration
- d. Chairperson Shannon asked if anyone had any objections to any member of the Board
  - i. There were no objections

### 2. ADOPTION OF AGENDA AND MINUTES

- a. MOVED by Councillor Nagel to adopt the Agenda as presented  
Carried Unanimously
- b. MOVED by C. Hutchinson to adopt the Minutes from SDAB 22-003 as presented  
Carried Unanimously

### 3. APPEAL

- a. The Chairperson asked the Clerk to introduce the appeal
  - i. The Clerk read out the appeal as follows:  
DP2021-190  
297 Riviera Way  
Lot 6, Block 26, Plan 161 0575

Excavation and Stockpiling (Stripping and Grading)

- b. The Chairperson asked the Clerk if this Appeal had been duly advertised

The Clerk stated that the Notice of Appeal had been sent to adjacent landowners on May 6<sup>th</sup>

#### **4. OUTLINE OF HEARING PROCESS**

- a. The Chairperson outlined the hearing process for all present

There were no concerns with the process from the Appellant, Administration or any members of the audience

- b. The Chairperson asked the Clerk if each of the affected parties had received all materials in a timely fashion.

The Clerk replied that they had

#### **5. PRELIMINARY MATTERS**

- a. There were no preliminary matters

#### **6. PRESENTATIONS**

- a. Administration:

- i. The Chairperson called upon the Development Officer to come forward and present their report

- ii. A. Legros submitted a comprehensive Administrative Report and made an oral and visual presentation to the Board

- iii. Questions were asked from the Board to Administration

- b. Appellant:

- i. The Chairperson called upon the Appellant to come forward and present their report

- ii. William Petrie submitted photos and maps and made an oral presentation to the Board

- iii. Questions were asked from the Board to the Appellant

- c. Applicant:

- i. The Chairperson called upon the Applicant to come forward and present their report

- ii. Bonnie Anderson, Counsel for the Applicant, Alpin Martin Consultants, submitted a comprehensive report and made an oral presentation to the Board

- iii. Questions were asked from the Board to the Applicant

#### **7. QUESTIONS AND SUMMARIES**

- a. Final questions for clarification were asked

- b. Summaries were presented from Administration and the Appellant

- c. The Chairperson asked if all parties involved felt they were given a fair hearing

- i. All parties agreed they were given a fair hearing

**8. CLOSE**

- a. MOVED by M. Cardwell to close the hearing  
Carried Unanimously
- b. The Chairperson advised that the Board had 15 days to reach their decision
- c. Chairperson Shannon adjourned the hearing at 7:27 pm
- d. MOVED by A. Marshall to go in-camera  
Carried Unanimously

**DATED** this 29<sup>th</sup> day of June 2022

Original signed by Scott Shannon

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Scott Shannon, Chairperson

Original signed by Karen Babin

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Karen Babin, SDAB Clerk

**TOWN OF COCHRANE**  
**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

**BOARD ORDER: 22-004**

**IN THE MATTER OF THE *Municipal Government Act*, R.S.A. 2000 Chapter M-26 (Act)**

**AND IN THE MATTER OF AN APPEAL FROM AN ORDER** lodged by William and Connie Petrie of  
Cochrane, AB (Appellant)

**BEFORE:**

Scott Shannon, Chairperson

Ashley Marshall

Christopher Hutchinson

Mark Cardwell

Morgan Nagel, Councillor

Karen Babin, SDAB Clerk

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board (SDAB) of the Development Authority, being the Notice of Decision to approve Development Permit 2021-190 for Excavation and Stockpiling (Stripping and Grading) at 297 Riviera Way, Plan 161 0575, Block 26, Lot 6, in the Town of Cochrane (Town).

A hearing to consider the appeal was convened by the SDAB on May 26, 2022, commencing at 6:30 pm in the Town's Council Chambers.

## I. BACKGROUND

Development Permit application DP2021-190 is for Excavation and Stockpiling (Stripping and Grading). The proposed development is located at 297 Riviera Way. The subject property is designated Residential Mix District (R-MX).

Excavation, Stripping and Grading is a Discretionary Use in all districts and the Development Officer is the Development Authority under Land Use Bylaw 01/2022 (LUB).

The Appellant appealed this decision as per section 685(1) of the *Municipal Government Act*, RSA 2000, c. M-26 (MGA), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the Subdivision and Development Appeal Board.

## II. DETERMINATION OF THE BOARD

The Appeal is denied, and the decision of the Development Authority is upheld as per the reasons outlined in section V Decision.

## III. APPEARANCES and SUBMISSIONS

The Board received oral and/or written submissions from:

- a) William and Connie Petrie, the Appellant
- b) Bonnie Anderson, Counsel on behalf of the Applicant
- c) Amanda Legros, on behalf of the Development Authority
- d) John Popoff, on behalf of the Development Authority

The Board also received written submission from:

- a) Alex Rushton, with the Appellant

The following were presented during the hearing and form part of the record:

Addendum 1 – PowerPoint Presentation submitted by the Development Authority.

## IV. BACKGROUND and SUMMARY OF EVIDENCE

- a) Submissions of the Development Officer
- A development permit application for Excavation, Stripping and Grading at 297 Riviera Way was received on October 25, 2021.
- Excavation, Stripping and Grading is a Discretionary Use in all districts under the LUB and the Development Officer is the Development Authority.
- The application was reviewed against the following statutory and non-statutory planning documents:
  - [Municipal Development Plan](#), Bylaw 07/2008 (MDP)
    - Section 6.3.3 states that development near ecologically significant areas, such as escarpments, require that “geotechnical studies are undertaken, including slope analysis and a determination of existing and potential areas of erosion and instability”.
  - [South Ridge Area Structure Plan](#), Bylaw 14/94

- Section 3.10.2 requires a geotechnical evaluation and slope stabilization analysis when development is proposed on or adjacent to slopes greater than 15%.
- Section 3.10.4 requires a site-specific erosion control plan be provided prior to stripping and grading.
- Section 3.10.7 requires development adjacent to the escarpment to be set back a minimum distance as set out in the Land Use Bylaw.
- [Riversong Stage 2 Neighbourhood Plan](#) (RS2NP)
  - Section 1.4.1.1 describes the three (3) geotechnical investigations completed for these lands. The first two investigations determined that no additional measures were required to be undertaken. The third investigation specifically examined the toe of slope within this area and while no setbacks were identified, further geotechnical analysis will be required for that portion that crosses the toe of slope as part of this application.
- [Land Use Bylaw](#), Bylaw 01/2022
  - Section 8.21.4 requires a Geotechnical Engineering Report be submitted when the grade exceeds 15%. The Applicant has provided this report as well as a Slope Stability Analysis to the Development Authority.
  - The application would be subject to additional prior to release conditions i.e. Road Use Agreement, Letter of Credit, monitoring and revised drawings.
- Circulation Comments
  - The application was circulated to internal departments and external agencies for comment. While there were no objections, Fire Services noted that an emergency access route runs through this property and access cannot be impeded. The Applicant confirmed emergency access will be maintained throughout the work.
- Ms. Legros provided the following response to questions from the Board
  - With regard to the Appellant's position that the original land use for this parcel was to maintain those areas of the river valley that are treed and steeply sloped, Administration believes the application is in accordance with previously approved documents. Further, it is in alignment with the Municipal Development Plan, the Area Structure Plan and the Neighbourhood Plan.
- b) Submission of the Appellant
  - William Petrie, the Appellant, advised he is not opposed to development in general. This appeal pertains only to the southern one-third portion of the subject property.
    - Mr. Petrie referred to maps and photos contained within the Agenda Package that identified the specific area under appeal, the slope and the base of slope.
  - Mr. Petrie stated that the original land use was to maintain those areas of the river valley that are treed and steeply sloping.
  - A portion of this hill used to be treed but was cleared under a previous stripping and grading development permit.
  - Mr. Petrie noted that the Developer's map (Map #4) includes residences, suggesting future development plans. He is opposed to building on the slope, stating that this would go against previously set guidelines.
  - Mr. Petrie is not opposed to developing the north portion of the property but does not believe the Applicant should acquire the necessary fill for it from this slope.
  - There were no questions from the Board to the Appellant.
- c) Submission of the Applicant
  - Bonnie Anderson of Dentons, presented on behalf of the Applicant, Aplin Martin Consultants. Also in attendance were Pam MacInnis of B&A Planning Group and Kent Hystad, representing the owner.

- Ms. Anderson stated the Development Authority's presentation was comprehensive and that she did not have much more to add.
- Ms. Anderson considered raising the question of jurisdiction of the Appellant to file an appeal as she could not see substantive reasons how this development impacted them. They live some distance away and she normally would challenge their standing however, she now realizes they have two (2) parcels and one (1) of them is relatively close.
- After reviewing the materials in the package and hearing Mr. Petrie's presentation, she is not convinced they will be affected. It appears that the main issues is not understanding what would happen with the property. There are no documents that speak about retaining the trees, which were removed quite some time ago. Further, there is nothing in any planning documents that restricts touching the slopes. If they are greater than 15% one simply has to provide supporting professional reports confirming there is no danger in developing the lands.
- This application is strictly for stripping and grading. It does not address any development that may take place in the future or what took place in the past. Simply stated, this is for stripping and grading and leveling out the site as has been approved in planning documents.
- There were no questions from the Board to the Applicant.

d) In Favour of / Opposed to the Appeal

- Alex Rushton, an adjacent property owner, expressed his concern that the current pathway as shown in the Neighbourhood Plan would be removed. Mr. Rushton would like developers to be held to account for any such changes.

e) Final Comments

- Ms. Legros stated that the development application was approved because it meets all the requirements of the Plans, is compliant with the LUB and the requisite slope-related reports have been submitted.
- Mr. Petrie asked the Board to keep in mind that the original intent was to not develop the riverbank upwards of the flood plain and that this steep slope was not intended for development per the original plans for the area. Part of the slope was destroyed putting in storm sewer lines; there should not be any additional development. Instead of removing the hill and adding more lots, we should be re-treesing and re-foresting the area.
- Ms. Anderson had no final comments.

V. DECISION

The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on key evidence and arguments in outlining its reasons.

This appeal relates solely to the stripping and grading application and not any potential future development.

The Board did not find the Appellant's argument that the proposed application does not conform to the original land use to be convincing due to a lack of supporting evidence.

The Board considered the Municipal Development Plan, South Ridge Area Structure Plan, Riversong Stage 2 Neighbourhood Plan and the Land Use Bylaw in relation to the proposed development and found there to be considerable overlap of required environmental assessments. The Applicant has already submitted the requisite Geotechnical Investigation Report and Slope Stability Report. Detailed plans, including elevations and setbacks, and an Erosion and Sediment Control Plan are listed as prior to release conditions in the Notice of Decision. The Board is satisfied that the statutory requirements will be met through these conditions.

The Board further recognizes that in accordance with the LUB, the Applicant must ensure there is full-time geotechnical supervision of the work on site in addition to regular erosion and sediment control reporting and maintenance.

With respect to the hauling of material, the Applicant must enter into a Road Use Agreement and provide a Road Use Agreement Security. Additionally, a \$150,000 Performance Security must also be provided. The Board believes these prior to release conditions are satisfactory mitigation measures.

The Board finds that the development permit application conforms to the Plans and Land Use Bylaw and therefore should not be refused.

For the reasons set out above, the appeal is denied and the decision of the Development Authority is upheld. Development Permit DP2021-190 shall be issued with the conditions as outlined in the Notice of Decision dated April 7, 2022 and attached as Appendix A.

**Dated** this 9<sup>th</sup> day of June 2022

Original signed by Scott Shannon  
\_\_\_\_\_  
Scott Shannon, Chairperson

Original signed by Karen Babin  
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Karen Babin, SDAB Clerk

*An appeal of this Decision, on a question of law or jurisdiction, may be made to the Alberta Court of Appeal in accordance with section 688 of the Municipal Government Act, RSA 2000, c.M-26 within 30 days of the date of this Decision.*



## APPENDIX A

### CONDITIONS OF APPROVAL:

1. This development is classified as Excavation and Stockpiling (Stripping and Grading) and is a Discretionary Use in all Land Use Districts, on the lands legally described as Lot 6, Block 26, Plan 161 0575.
2. Prior to the release of the Development Permit, the applicant shall provide a full electronic set (PDF) of plans, elevations and details with metric dimensions which shall include any revisions required by the Development Authority as part of the approval at the time of the decision. The development shall be constructed in accordance with the plans, elevations and details approved and stamped by the Development Authority. Any changes to the design, format, location, orientation, capacity or use of any part of the development must receive the approval of the Development Authority before they may be commenced.
3. Prior to the release of the Development Permit, performance security of \$150,000.00, in a form deemed acceptable to the municipality (i.e. an irrevocable, automatically renewable Letter of Credit) shall be provided to the Development Authority.
4. Prior to the release of the Development Permit, the applicant/owner shall provide payment for the calculated Civil Land Development review fee, as adopted by Council at the time of Development Permit issuance.
5. Prior to the release of the Development Permit, the applicant/owner shall provide an Erosion and Sediment Control Plan and/or report deemed acceptable to the Development Authority.
6. Prior to the release of the Development Permit, the applicant/owner shall enter into a Road Use Agreement for the hauling of material along Town roadways, along with the required Road Use Agreement security, to the satisfaction of the Development Authority.
7. The applicant shall ensure the stockpiles are vegetated as described in the Erosion and Sediment Control Plan to the satisfaction of the Development Authority.
8. The applicant/owner shall adhere to the Deeps Fills Report which is deemed acceptable to the satisfaction of the Development Authority.
9. The applicant/landowner shall adhere to the approved drawings and shall only construct to rough grade, to the satisfaction of the Development Authority.
10. All erosion and sediment control measures are to be in place according to the Town of Cochrane guidelines before any work begins. Erosion and sediment control reporting and maintenance shall be submitted weekly and compliance to any inspection deficiencies shall be completed in a timely manner to the satisfaction of the Development Authority.
11. The applicant/owner shall adhere to the Geotechnical Report dated October 25, 2021, to the satisfaction of the Development Authority.
12. The applicant shall ensure that full-time geotechnical supervision of the stripping and grading work is provided to the satisfaction of the Development Authority.
13. It shall be the responsibility of the applicant to submit a compaction report at the completion of the stripping and grading operations specified in the approved plans to the satisfaction of the Development Authority.

14. Any temporary or auxiliary buildings/signs placed on site during stripping and grading shall be removed prior to the return of the Letter of Credit.
15. Construction materials, including garbage, shall be stored securely in weather-proof and animal-proof containers to the satisfaction of the Development Authority so as not to create a nuisance to neighbouring properties.
16. The applicant/owner shall be responsible for the clean-up of any garbage, materials or other items that may be unsightly, or disperse beyond the boundaries of the subject property during the construction of this development.
17. There shall be no unauthorized use of any adjoining rights-of-way or Reserve Land during the course of the approved stripping and grading other than as shown. However, the developer may apply to the Development Authority to utilize these lands on a temporary basis, if required.
18. The applicant/owner shall contact the Development Authority prior to activation to coordinate a start date and time.
19. This approval shall be voided if the conditions to be met prior to issuing a Development Permit have not been satisfactorily addressed within one year of the Notice of Decision date. An extension to the approval period for the Notice of Decision may only be considered by the Development Authority if a request is received in writing, along with the applicable fee, a minimum of forty (40) days before the expiry date noted above.
20. In accordance with Section 1.18.7 of Land Use Bylaw 01/2022, a Development Permit, if issued, is valid only if development commences within one year of the date of Development Permit issuance and the development is completed within two years of the date of issuance. A new Development Permit may be required unless a request for a time extension to the applicable date is received prior to its expiry.

ADVISORY NOTES:

- a. It is the responsibility of the applicant/owner to comply with all requirements of Land Use Bylaw 01/2022, other municipal regulations, and all provincial and federal legislation.
- b. It shall be the responsibility of the applicant/owner to provide conduit raceways to service the future development phases. Please contact (403)-530-5671 for more information.
- c. All contractors working on this development shall acquire a valid Cochrane Business Licence prior to the commencement of any work and shall maintain the licence for the full duration of the construction period.
- d. The developer/applicant must determine the exact location of the existing gas service line by arranging for an in-field location with Alberta One-Call at 1-800-242-3447. If any portion of the service line is not located within the parcel that it serves, it will have to be relocated at the developer's expense, or an easement registered to the satisfaction of ATCO Gas.
- e. It is the applicants/owner's responsibility to relocate the ATCO Gas Pipeline in accordance with the regulations and guidelines of ATCO Gas.
- f. Any excess fill must be deposited on a site approved by the Town of Cochrane. Please contact the Roads Department at (403)-851-2593 to discuss fill deposit locations.
- g. Winter excavations (October to May) within public rights-of-way and roads require approval by the Roads Department at the Town of Cochrane. Please contact Roads Department at

(403)-851-2593 for more information.

- h. Weekly erosion and sediment control inspections shall be conducted as per the Town of Cochrane erosion and sediment control guidelines.
- i. It is the responsibility of the applicant/owner to ensure that all conditions of approval are met.