



## SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 22-005

**TIME:** 6:30 pm  
**DATE:** June 29, 2022  
**PLACE:** Council Chambers, Cochrane RancheHouse

Chairperson: Scott Shannon

Board Members: Ashley Marshall  
Christopher Hutchinson  
Mark Cardwell

Administration: Nicole Tomes, Planner  
Ryan Stewart, Manager, Civil Land Development Services & GIS  
John Popoff, Manager, Planning Services

SDAB Clerks: Karen Babin  
Leigh Sands

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### 1. CALL TO ORDER AND INTRODUCTIONS

- a. MOVED by C. Hutchinson to open the hearing  
Carried Unanimously
- b. Chairperson Shannon opened the hearing at 6:32 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 A. Marshall to adopt the Agenda as presented  
Carried Unanimously
- b. MOVED by M. Cardwell to adopt the Minutes from SDAB 22-004 as presented  
Carried Unanimously

### 3. OUTLINE OF HEARING PROCESS

- a. The Chairperson outlined the hearing process for all present
  - i. There were no concerns with the process from the Appellant, Administration or any other parties in attendance

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

**4. PRELIMINARY MATTERS**

- a. S. Shannon recessed the meeting at 6:40 pm to allow the Applicant time to review a late submission  
Meeting reconvened at 6:55 pm
- b. The Applicant requested a 14-day recess as new information had been brought to their attention and they would like an opportunity to review it with their engineer
- c. Neither the Applicant nor Administration were opposed to recessing the hearing
- d. MOVED by A. Marshall to go In Camera at 6:57 pm  
Carried Unanimously
- e. MOVED by A. Marshall to come out of In Camera at 7:02pm  
Carried Unanimously

**5. DECISION**

- a. The Board's decision is to grant up to a fourteen (14) day recess for Hearing 22-005. The Clerk will work with all parties to determine a date to re-convene.

**6. CLOSE**

- a. MOVED by C. Hutchinson to recess the hearing  
Carried Unanimously
- b. The hearing was recessed at 7:08 pm

**DATED** this 15<sup>th</sup> day of August 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: 22-005**

**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 Blair Block Condominium Corporation  
No. 0712669, of 9-30 Griffin Industrial Point, Cochrane, AB (Appellant)

**BEFORE:**

Scott Shannon, Chairperson  
Christopher Hutchinson  
Ashley Marshall  
Mark Cardwell

Karen Babin, SDAB Clerk  
Leigh Sands, 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 2021-200 for a Vehicle Wash, Major with Variances at 26 Griffin Industrial Point, Plan 021 0633, Block 4, Lot 5, in the Town of Cochrane (Town).

A hearing to consider the appeal was convened by the SDAB on June 29, 2022, commencing at 6:30 pm in the Town's Council Chambers. The hearing was adjourned and re-convened on July 13, 2022 in Council Chambers.

## I. BACKGROUND

The appeal before the Subdivision and Development Appeal Board (SDAB) was brought by Blair Block Condominium Corporation No. 0712669 (Appellant).

This appeal is from a decision of the Development Authority to issue development permit DP2021-200, with conditions. The development permit application was made by Richards Consulting & Associates Ltd. on behalf of the property owner Primero Developments Inc. for a Vehicle Wash, Major with Variances. The property is located at 26 Griffin Industrial Point and designated General Industrial District (M-1).

## II. PROCEDURAL HISTORY

The hearing commenced on June 29, 2022, with a consideration of procedural issues. The Board postponed the hearing to July 13, 2022, at the request of the Applicant but with consent of all parties. The hearing reconvened on July 13, 2022 and concluded on that date.

The hearing was held by a combination of in-person, video conference and teleconference. Audio issues were able to be addressed and all parties felt they received a fair hearing.

## III. 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.

## IV. APPEARANCES and SUBMISSIONS

The Board received oral and/or written submissions from:

- a) Harold Hiebert, representing the Blair Block Condominium Association, the Appellant;
- b) Mike Richards of Richards Consulting & Associates Inc., appearing by videoconference on behalf of the Applicant;
- c) Ken Blair of Primero Developments Inc., property owner and Applicant;
- d) Nicole Tomes, appearing by videoconference on behalf of the Development Authority; and
- e) Ryan Stewart, on behalf of the Development Authority;

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

Addendum 1 – PowerPoint Presentation submitted by the Development Authority.

## V. BACKGROUND and SUMMARY OF EVIDENCE

- a) Submissions of the Development Officer
- Ms. Tomes' submission included a report, maps, plans, photos and PowerPoint presentation.
  - The existing development on the property was originally constructed under DP2017-077. A stop order is registered on Title in accordance with SDAB Order 20-004 which impacts the occupancy and

operation of the business until the site is developed and constructed in accordance with approved drawings and receives a Development Completion Certificate. The development permit eventually expired without the necessary corrective actions taken.

- In order to move ahead with this site, a new development permit was applied for on November 26, 2021 and deemed complete on January 17, 2022. The application was circulated to internal departments and external agencies for comment and reviewed by Administration for compliance with Land Use Bylaw 01/2004 as well as other technical requirements.
- The application was reviewed against the following statutory and non-statutory planning documents:
  - [Municipal Development Plan](#), Bylaw 07/2008 (MDP)
    - Section 1.3, Principle 4: Economic Vitality - encourages the development of economic and employment opportunities within the Town.
    - Section 7.0, Economic Development – specifies the need to attract and retain business to serve the needs of residents.
    - Section 8.6, Industrial – outlines general industrial goals and policies including service commercial uses within business parks.
  - [Cochrane Sustainability Plan](#), 2009
    - Pathways 5 and 6 encourage new commercial buildings along major corridors and a healthy, diverse economy.
  - [Land Use Bylaw 01/2004](#)
    - The Notice of Decision for this application was issued under Land Use Bylaw 01/2004 as the new Land Use Bylaw 01/2022 was approved after the circulation period was completed.
    - After the original permit was issued, Bylaw 15/2018 amended LUB Bylaw 01/2004 to include new regulations for vehicle washes resulting in the need for variances for queuing and parking areas.
    - The application complies with all regulations related to development within M-1 Districts.
    - The application complies with most regulations related to general rules with M-1 Districts; however, four (4) variances related to lot access and traffic circulation on site are required.
    - The Development Authority had an opportunity to review traffic patterns while this development was operating. As a result, additional lane markings, signage and traffic control lighting will need to be addressed in the traffic plan as a prior to issuance condition.
- Circulation Comments
  - The application was circulated to internal departments and external agencies. While no objections were received from external agencies, several comments were submitted by Civil Land Development Services, Municipal Enforcement and Roads relating to drainage and site servicing plan, as-built condition of the site and some damage on Griffin Industrial Point.
    - With respect to the road damage, this has already been addressed. The Applicant made changes to the paving of the site to ensure no further damage would occur.
    - With respect to the drainage, site servicing plan and as-built comments, several prior to issuance conditions were included in the Notice of Decision as detailed in Appendix One of the Administrative Report.
    - Condition 12 of the Notice of Decision requires the Applicant’s engineer to perform a site visit and detail necessary tasks in order to bring the site into conformance with the approved site plans and DSSP drawings. This visit has already taken place and the list of tasks is included as Appendix Seven of the Administrative Report.
      - Item 12e of the list is in relation to the swale discussion. It was agreed that Richards Consulting would provide drawings or option to the Blair Block Condo Corporation for

approval prior to submitting to the Town. The proposed drainage plan has already been received by the Town but has not yet been reviewed or approved.

- After review, Administration is of the opinion that once servicing and drainage details are approved, the development would meet the requirements for a Vehicle Wash, Major with the noted variances.
- Mr. Stewart provided the following responses to questions from the Board:
  - With reference to the drainage plan, the yellow line represents the eastern boundary where the swale is to connect the two paved portions. Currently there is a gravel strip that runs between the paved areas of the two properties. The difference in the two elevations was the focus of the site meeting on May 25<sup>th</sup>.
  - To clarify point 12d of the swale discussion during the site visit (Appendix Seven), the current site drainage between both properties is not ideal. Conditions 12d and 12e of the Notice of Decision are Administration requesting the Applicant's engineer to come up with a reasonable and amicable solution to the drainage issues to ensure both sites function properly and adhere to applicable bylaws. Administration has received the revised drainage plan but paused review and approval of the design pending the outcome of this appeal.
- Ms. Tomes provided the following response to a question from the Board:
  - Through circulation, there was a comment about scraping damage that had occurred to the road from large trailers pulling in on the west side of the site. The elevation here was quite high initially causing bumpers to drag upon entry. That portion of site has been lowered and is no longer causing an issue.

b) Submission of the Appellant

- The Appellant's submission included historical documents and drawings related to the development of the Blair Block Condominium and a current photo of a damaged section of the parking lot. Also included was SDAB Board Order 20-004 relating to the previous development permit issued for this property.
- The Appellant focussed on the following main areas of concern:
  - The shared access road is three to four inches higher than the established grade resulting in drainage issues on the Condo Association property and damage to their parking lot. When the shared access road was completed it should have matched the established grade and not sit higher like it currently does.
  - The swale should have been installed at the time of completion of Blair Block but a gravel strip was left. Typically the swale is built prior to paving to ensure the pavement adjoins the edges of the swale. He feels the gravel strip was intentionally left by the Applicant who then informed the Condo Association it was their responsibility to complete it despite the fact it was one of the conditions of his development permit and that it is also on his property. This failure to complete the design has resulted in damage to their parking lot and the asphalt on their property.
  - The shared access roadway was not built with any cooperation or in consultation with the Condo Association even though they share responsibility for future maintenance and any repairs.
  - The new drainage plan is insufficient and does not address the fact that the shared access was built at a higher grade. Further, it is their opinion that asphalt construction of the proposed swale is inferior to concrete construction; the original design for the swale was concrete. Since that development permit has lapsed, this new one has been applied for which is tailored to the existing site conditions, not previously approved plans. The Appellant requests the original design be used and the asphalt design be rejected. Having two cold edges where it will meet the edges of the roadway and a cold joint on the east side of the property line, where changes will also have to be

made to meet the grade, are not an acceptable, long-term solution.

- There is further concern that sub-surface preparation for the roadway and swale does not meet Town standards. Typically, there are full engineering and compaction reports for this type of construction but there is nothing for the shared access for which they will ultimately be partially responsible. It should be built to the standard previously approved.
- It is the Appellant's opinion that the new drainage plan submitted is not satisfactory and does not address all issues. The original design should be used to meet standards previously approved. Further, the development permit should not be approved until the engineering is satisfactory to all parties.

The Appellant provided the following responses to questions from the Board:

- Upon receipt of the latest drainage plan, the Condo Association reviewed the proposed asphalt swale and consulted with a number of professionals but did not engage them to be here tonight. The Applicant's engineer will probably tell us tonight that asphalt swales are an acceptable form of swale and they can be if constructed properly; however, those are designed and done at the time of construction, not after the fact with cold joints like what is being proposed here.
- The asphalt that was put down for the shared access roadway is three to four inches higher than our finished grade. As a result, our runoff water gets trapped there which then makes our parking lot soft and spongy. The asphalt has broken down in some areas and the subsurface is soft.
- We have not had direct discussions with the Applicant as he has not directly engaged the Condo Association beyond sharing the new drainage plan, which was received quite some time after the appeal was filed.
- Yes, the proposed drainage plan will be completely on the Applicant's property; however, for our water to properly drain, our asphalt will have to be built up to flow into the swale. Traditionally each property would slope to the access road with the swale in between. When the access road was constructed, it was graded so water runs west, not into the center where the swale would be. We have no concerns with runoff coming from the Applicant's property as it is graded to flow west, away from our property.

#### c) Submissions of the Applicant

- The Applicant's engineer participated via telephone and Zoom. Speaking to the drainage side of the application, he stated that any water on the Applicant's site will stay there and not be an issue for the Appellant.
- Mr. Richards was asked to attend the site and come up with a remedial plan based on existing conditions and the current application. The proposed new design is for an asphalt swale on the Applicant's property. There currently are as-built water ponds on catchment areas that route sub-surface water away with a small portion going overland to the street. The swale will be installed to accommodate the Appellant as part of a Joint Access Agreement and drainage requirements.
- While there are some conditions on site still to be satisfied, they do not unduly affect the Appellant with regard to drainage. When all parties met on site in May, Mr. Richards encouraged the Appellant to retain an engineer to review the proposed plans, provide comment and answer any questions.
- An asphalt swale has been proposed at this time because it will marry up nicely with the asphalt parking lot in place. There is no question that the longevity of concrete exceeds asphalt but considering it is entirely on the Applicant's site, when the parking lot and driving lanes require resurfacing, the swale can be included in that paving.

There were no questions from the Board to the Applicant's engineer.

- Mr. Blair, the property owner and Applicant, described the June 12, 2022 photo he submitted. It was taken during a major rain storm and shows that the drainage does work as the engineer explained earlier.
- Also included in the Applicant's submission are copies of emails to the Appellant requesting comments on the drawings prior to this hearing. Mr. Blair stated that he did not receive any.
- The Applicant further explained that by law, they do not have to accept water from the Appellant. There was 18" of gravel left in place while waiting for a decision from the Appellant but he had not heard back. The previous development permit lapsed during this time.
- The asphalt meets the Town's standards, and the drawings were stamped by engineer. As for the easement, it meets the requirements for an industrial road.
- A letter was sent to the Appellant in 2019 stating that if they did not like the proposal, to engage their own engineer to work with the Applicant's. To date, that has not happened.

The Applicant provided the following response to a question from the Board:

- The swale design was changed from concrete to asphalt so it can easily be addressed when the parking lot is re-paved in the future. Also, under the Joint Access Agreement, the Appellant would be responsible for 50% of the cost. They were advised in 2019/2020 that they could lose access for up to 28 days while the concrete cured. The Applicant stated that he never received a response from them.
  - d) In Favour of / Opposed to the Appeal
- There were none
  - e) Final comments
- The Appellant made the following final comments:
  - Concrete would have served both parties much better than the asphalt proposed. The swale should have been completed under the previous development permit but was not and that is why they are in this current situation. There are numerous emails documenting their attempt to resolve these issues previously. We have tried to work collaboratively but feel that the Applicant has not.
  - There are funds being held in trust for a shared accessway. They would like to see engineering or compaction reports showing it was built properly and to standards prior to any money being released. Further, since maintenance costs will be shared, they would like some form of warranty should the access be constructed poorly. The Appellant is requesting that the money held in trust not be released until these conditions are met.

## VI. 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.

The Board considered the Land Use Bylaw in relation to the proposed development. While variances are required for access, traffic patterns and parking, they were not under appeal therefore not contemplated by the Board.

The Appellant's written submission and oral argument provided a comprehensive overview of the construction history of the two properties. The Board understands the Appellant's frustration; however, their role is to consider the evidence with regard to the merits of the current application. Additionally, any



other issues related to easements, right of ways and trust holdings are beyond the jurisdiction of this panel to address.

The Board could not give as much consideration to the Appellant's argument that the proposed drainage design and use of asphalt for the swale are inadequate as no evidence or engineering reports were provided to support that position.

The Board accepted the engineer's review of the proposed drainage plan and found the rationale for an asphalt swale to be reasonable. Further, the fact that the proposed swale will be completely on the Applicant's property and that no water will drain to the Appellant's property had merit.

In reviewing the Notice of Decision, the Board agrees that the prior to issuance conditions will address concerns about the servicing and drainage details.

For the reasons set out above, the appeal is denied, and the decision of the Development Authority is upheld. A development permit shall be issued.

**Dated** this 28 day of July 2022

Original signed by Scott Shannon

Original signed by Karen Babin

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Scott Shannon, Chairperson

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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.*