

**MINUTES OF THE MEETING OF THE  
SUBDIVISION AND DEVELOPMENT APPEAL  
BOARD THURSDAY, NOVEMBER 6, 2014 at 7:00 p.m.**

**PRESENT:**   Members:                   B. Hawreluk, V. Lutz, P. Montieth, G. Shipley  
  D. Kilpatrick (joined at 7:33 p.m.)  
  C. Crozier (joined at 7:33 p.m.)

                  Development Officer   B. Stehr  
                  Planning Consultant   B. Petch  
                  Manager of  
                    Engineering           K. Minhas  
                  Recording Secretary   S. Simon

                  Appellant               Donald & Elfriede Hoose  
                  (Appeal No. 1 - 2014 SUB 03)

                  Appellant               Medicine Hat Co-op - Rick Bolen and Pahl Haynes  
                  (Appeal No. 2 – 14-DP-094)

1.    **CALL TO ORDER**

Recording Secretary called the appeal hearing to order at 7:00 p.m., confirmed there was a quorum present to hear these appeals; and opened nominations for Chairman.

2.    **ELECTION OF CHAIRMAN**

V. Lutz nominated P. Monteith to be Chairman, seconded by G. Shipley. P. Monteith accepted and assumed control of the appeal hearing.

3.    **APPEAL NO. 1**  
      **Appeal of Subdivision Application 2014 SUB 03**  
      **Lots 1-20, Block 96, Plan 1117V (102 - 8 Street NW)**  
      **Appeal of Conditions 1, 2 & 3**

Chairman P. Monteith asked the appellant if he had any objection to any board members hearing the appeal. Donald & Elfriede Hoose advised they had no objection to any member of the Subdivision and Development Appeal Board.

a)    **Presentation of Appellant**

D. Hoose referenced his subdivision application and advised it was approved with 5 conditions. He indicated that they have complied with all the conditions with the exception of the requirement for the provision of an overland drainage plan which they would like removed from the approval.

D. Hoose distributed a picture of the site and advised that in the 29 years they have lived there the site has not flooded and if it had it would have been fixed. D. Hoose explained how their rain water is caught and released.

D. Hoose commented that the survey companies he has spoken to have questioned why a drainage plan is being requested since this is an existing property and not a vacant new property. He indicated that he understands it is to protect the town in the future, but this property has only been owned by one family.

D. Hoose explained the subdivision of the site is necessary for mortgage purposes for the new buyer. The buyers, however, intend to continue the use of the site as is.

D. Hoose commented on the costs of a site drainage plan being around \$2,000 and if easements are required the cost will increase. He further commented that in the future if the site was developed further a site drainage plan could be asked for at that time.

b) **Presentation of Subdivision Approving Authority Representative**  
Presentation attached.

There was discussion pertaining to the drainage in the area and proposed remedies, if any required.

c) **Presentation of anyone served notice of hearing (School Authority, Government Agencies)**  
No one was in attendance. Recording Secretary advised she received a response from the City of Medicine Hat Electric Department confirming their original comments.

d) **Presentation of Adjacent Property Owners**  
No one was in attendance.

e) **Rebuttal of Appellant**  
D. Hoose reiterated that there is currently no drainage issues, it is a flat property and the function of the property will not be changing.

f) **Other**  
Nothing further.

g) **Recess**

B. Hawrelak moved to meet in camera at 7:28 p.m. - Carried

The Appellants, Development Officer, and Planning Consultant left the meeting at 7:28 p.m.

h) **Decision**

B. Hawrelak moved that the appeal against the decision of the Subdivision Approving Authority to approve Subdivision Application 2014 SUB 03, Lot 1-20, Block 96, Plan 1117V (102 8 Street NW) with conditions be allowed in part and the decision of the Subdivision Approving Authority be varied by deleting condition number 3 which states "3. Provision of an overland drainage plan and provision of any required overland drainage right of way agreements & plans to the satisfaction of the Town of Redcliff. Any applicable costs to be the responsibility of the owner." - Carried.

**Reasons for Decision**

The Board advised the reasons for its decision:

1. There does not appear to be a history of water flooding or drainage issues relating to the site in question.
2. In the future if further development occurs on the site drainage can be addressed at that time.

V. Lutz moved to return to regular session at 7:32 p.m. - Carried

The Appellants, Development Officer, and Planning Consultant returned to the meeting at 7:32 p.m.

Chairman P. Monteith advised the appellant of the decision and that the written decision would be forthcoming.

D. Kilpatrick and C. Crozier joined the meeting at approximately 7:38 p.m.

4. **APPEAL NO. 2**  
**Appeal of Development Application 14-DP-094**  
**Lot 30, Block 80, Plan 1312206 (15 Mitchell Street NE)**  
**Appeal of height and sign faces**

Chairman P. Monteith asked the appellant if he had any objection to any board members hearing the appeal. R. Bolen advised they had no objection to any member of the Subdivision and Development Appeal Board.

a) **Presentation of Appellant**

R. Bolen advised that they are requesting placement of signage that is overheight and oversized in comparison to what is allowed in the Land Use

bylaw. However, the height and size of the proposed signage is standard for Medicine Hat Co-op. He advised the benefits of this signage for them are increased visibility from the highway which will attract more customers which will increase business and employment.

There was discussion regarding orientation and location of the signage on the site.

- b) **Presentation of Development Officer**  
The Development Officer referenced his report provided in the Agenda Package and advised he had no further information to add.
- c) **Presentation of Municipal Planning Commission**  
No one was in attendance.
- d) **Presentation of Planning Consultant**  
Presentation attached.
- e) **Presentation of anyone served notice of hearing**  
No one was in attendance.
- f) **Presentation of anyone claiming to be affected**  
No one was in attendance.
- g) **Rebuttal of Appellant/Applicant**  
No further comments were provided.
- h) **Other**  
The Board reviewed the aerial photo and the blueprints for the location.
- i) **Recess**

G. Shipley moved to meet in camera at 7:57 p.m. – Carried.

The Appellants, Development Officer, and Planning Consultant left the meeting at 7:57 p.m.

- j) **Decision**

C. Crozier moved the appeal against the decision of the Development Officer to refuse Development Application 14-DP-094, Lot 30 Block 80, Plan 1312206 (15 Mitchell Street NE) for a free standing sign be upheld and the decision of the

Development Officer revoked. Further that Development Permit Application 14-DP-094, Lot 30 Block 80, Plan 1312206 (15 Mitchell Street NE) for a free standing sign be approved with the following conditions:

1. The sign shall not display lights that adversely affect neighbouring properties.
2. The sign shall not display lights that interfere with the motoring public.
3. At all times the sign shall be maintained in good repair, be structurally sound, no materials or paint shall be allowed to peel or become torn, and metal components may not be allowed to rust.
4. No auxiliary sign shall be attached to the Freestanding Sign.
5. Obtain an approved Sign Installation Application from Alberta Transportation prior to construction of the sign.
6. Comply with approved plans.

- Carried.

#### **Reasons for Decision**

1. Due to the orientation of the sign that being oriented in an east / west axis the adjacent residential properties to the west will not be adversely affected.

D. Kilpatrick moved to return to regular session at 8:13 p.m. – Carried.

The Appellant(s), Development Officer, and Planning Consultant returned to the meeting at 8:13 p.m.

Chairman P. Monteith advised the appellant of the decision and that the written decision would be forthcoming.

#### **5. ADJOURN**

D. Kilpatrick moved the meeting be adjourned at 8:20 p.m.

  
\_\_\_\_\_  
Chairman

  
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S. Simon, Recording Secretary

## **Presentation Notes for Appeal of Subdivision Application 2014 SUB 03**

Subdivision and Development Appeal Board, Town of Redcliff  
November 06, 2014

Presented by Ben Petch, RPP, MCIP, ICACP, LEED Green Associate  
Planning Manager – Southern Region

### **Introduction**

My name is Ben Petch, I am acting on behalf of the Subdivision Approval Authority in the appeal of Subdivision Application 2014 SUB 03. By way of background, I am the Planning Manager – Southern Region for Scheffer Andrew Ltd. and a Registered Professional Planner in Alberta with nine years of professional planning experience.

### **Background and Description of Development**

An application for subdivision approval was received from Noah Nichols of Global Raymac Surveys, acting as agent for D+E Greenhouses Ltd (the “owner”) on August 27, 2014. The subject property is located at 102 8 Street NW, or Lot 1-209, Block 96, Plan 1117V (the “site”).

The application was to subdivide the existing lot into two parcels. The proposed smaller parcel of 709.65 m<sup>2</sup> would accommodate an existing residence, while the larger remainder parcel of 3727.3 m<sup>2</sup> would accommodate an existing greenhouse.

The subdivision was approved by the Town of Redcliff Council on September 22, 2014, conditional to:

1. Verification of independent service connections with any applicable costs to be the responsibility of the owner.
2. Removal of any interconnecting service connections with any applicable costs to be the responsibility of the owner.
3. Provision of an overland drainage plan and provision of any required overland drainage right of way agreements and plans to the satisfaction of the Town of Redcliff. Any applicable costs to be the responsibility of the owner.
4. Payment of any outstanding taxes.
5. Applicant entering into an encroachment agreement relating to the encroachment of the greenhouse as indicated in the Real Property Report dated August 21, 2014 or removal of the encroachments, at the cost of the applicant.

A Notice of Appeal was submitted to the Municipal Manager on October 08, 2014 by Donald and Elfriede House (the “appellants”). Subsequently a Subdivision Appeal Board Hearing was scheduled for November 06, 2014. The application was processed in accordance with the Municipal Government Act and the Subdivision Development Regulation.





### **Reasons for Appeal**

The appellants have identified compliance with the conditions of approval 1, 2 and 3 as the matters of appeal. I note that the Town has received sufficient information to identify that conditions 1, 2, 4 and 5 have now been met by the application.

In respect of conditions 1 and 2, based on additional information provided by the appellants and a more detailed review of the property records by Town staff, the Subdivision Approval Authority is now satisfied that the residence and the greenhouse have entirely independent municipal services.

Along with the Notice of Appeal the appellants provided proof of payment for municipal property taxes, and an encroachment form and fee to recognize a minor 10 centimetre encroachment of the greenhouse building into a public right-of-way (8<sup>th</sup> Street NW).

Unless otherwise requested, I will not be discussing the basis for the subdivision approval or the reasons for conditions 1, 2, 4 or 5 as they are viewed by the Subdivision Approving Authority as having been met. Rather, I will restrict my comments to condition 3 regarding overland drainage.

### **Basis for Original Decision**

In respect of condition 3 I note that I am not a civil engineer and not an expert in storm water matters, but I have spoken with Mr. Khalil Minhas, Manager of Engineering, and can therefore convey general purpose for condition 3. Mr. Minhas will provide additional clarification on technical matters separately as required.

- There is a concern that overland flow paths are not clearly understood on the private property between the greenhouse and the residence.
- An overland drainage plan is required to ensure that the drainage of rain water between the greenhouse and the residential property is properly directed to the rear lane and that each site is independently graded for positive drainage.
- The drainage plan will ensure that there is no circumstance where run-off from the greenhouse will flood the residential property and vice versa.
- If the existing overland drainage from either the residential property or the greenhouse property crosses each other, then a drainage easement needs to be registered with appropriate agreement against the properties to recognize this situation and provide a solution to divert the surface drainage to existing laneway ensure its continuity after subdivision occurs. The easement width would be determined by the developer's professional preparing the overland drainage plan.

The Town acknowledges that the 8<sup>th</sup> St NW road boulevard (southwest of the greenhouse) was graded towards the greenhouse as the floor of the greenhouse in the SW was lower. The Town will look into whether there is a drainage concern in future.

The purpose of the overland drainage plan and any related easement is to ensure that neither lot creates drainage problems for the other lot once they are independent properties.



## **Municipal Government Act**

The Municipal Government Act allows a municipality to require conditions of subdivision approval.

### ***Conditions of subdivision approval***

**655(1)** A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part and the statutory plans and land use bylaws and the regulations under this Part, and any applicable ALSA regional plan, affecting the land proposed to be subdivided are complied with;

The Subdivision Approval Authority may under this section impose conditions relating to compliance with the Land Use Bylaw.

## **Municipal Development Plan**

The site is located in the Northend Transition Area of the Municipal Development Plan. This land use area is one which includes a mix of residential, horticultural and industrial uses. Because this mix of uses creates a greater potential for land use conflicts, the following policies from the Municipal Development Plan provide direction in how to regulate development in the area and are relevant to storm water management.

### **10.1 Northend Transition Area Objectives**

*c. to mitigate potential land use conflicts*

### **10.2 Northend Transition Area Policies**

*10.2.2 Special consideration shall be given to the interface of uses to mitigate potential land use conflicts.*

By creating a condition whereby the applicant shall provide an overland drainage plan and related right of way agreements, the Subdivision Authority is seeking to implement objective 10.1.c and policy 10.2.2 of the Municipal Development Plan by seeking to ensure that drainage between the horticultural and residential use is appropriately managed.

## **Land Use Bylaw**

The mechanism by which the Subdivision Approval Authority may require a drainage plan is set out in the Land Use Bylaw. Under Section 49. Drainage, subsection (4), the Town may require a site drainage or stormwater management plan for a subdivision application for a greenhouse or other developments as deemed necessary.

### **49. Drainage**

*(4) A site drainage/stormwater management plan prepared by a qualified professional, to the satisfaction of the Development Authority, may be required for all subdivision applications and Development Permit applications for commercial, industrial, Greenhouses and multi-family developments or other developments as required by the Development Authority.*





This section of the General Regulations of the Land Use Bylaw enables the Subdivision Approval Authority to require a drainage plan as set out in approval condition 3.

### **Summary**

The Notice of Appeal stated that conditions 1, 2 and 3 were the grounds of appeal. Subsequently and prior to this appeal hearing, the Subdivision Authority was satisfied that conditions 1 and 2 were met. The remaining grounds for appeal is condition 3, which requires an overland drainage plan and related easements.

The purpose of condition 3 is to mitigate the potential land use conflict related to having the residence and greenhouse on separate properties.

The Municipal Government Act section 655(1)(a) enables a Subdivision Authority to impose conditions on a subdivision approval to ensure that statutory plans and land use bylaws are complied with.

The site is located in the Northend Transition Area of the Municipal Development Plan. Through condition 3 of subdivision approval the Subdivision Authority is trying to ensure compliance with objective 10.1.c and policy 10.2.2 of the Municipal Development Plan by ensuring overland drainage is appropriately managed between the two properties.

Section 49 of the Land Use Bylaw enables the Subdivision Authority to require a site drainage/stormwater management plan prepared by a qualified professional to the satisfaction of the Development Authority.

The Subdivision Authority has clear authority through the Municipal Government Act, Municipal Development Plan and Land Use Bylaw to require an overland drainage plan as a condition of Subdivision Application 2014-SUB-03.

## **Presentation Notes for Appeal of 14-DP-094**

### **Subdivision and Development Appeal Board, Town of Redcliff**

Presented by Ben Petch, RPP, MCIP, ICACP, LEED Green Associate  
Planning Manager – Southern Region

I have reviewed documentation provided by the Town with regard to the appeal of the refusal of Development Permit application 14-DP-094. I offer the following planning comments.

#### **Description of Proposed Development**

Medicine Hat Co-Op (the “Applicant”) made an application for a Development Permit on September 29, 2014 for a Freestanding Sign at 15 Mitchell Street NE (the “Site”). There is a previously approved Development Permit for a Gas Bar and Convenience Store for the Site, but this application did not include a Freestanding Sign.

#### **Timeline Requirements**

Timeline requirements for processing the application, appeal and hearing date have been met.

- October 15, 2014 the Town’s Development Officer issued their decision, which was to deny the application.
- Notice of Appeal dated October 15, 2014 was submitted to the Town by the Applicant, within the 14-day appeal period.
- Notice of Appeal set out the grounds for appeal as being the height and sign area.
- Subdivision and Development Appeal Board hearing is being held within the required 30-day timeframe.

#### **Basis for Original Decision**

The basis for the Development Officer’s decision to deny the application was that the application did not comply with the regulations of the Land Use Bylaw No. 1698/2011 for the height and sign area maximum requirements for a Freestanding Sign.

#### **Land Use Bylaw Considerations**

The Site is within the C-3 General Commercial District of the Land Use Bylaw No. 1698/2011. The purpose of the C-3 District is to provide for the development of a variety of commercial uses which require locations on major traffic routes because of a high degree of visibility and accessibility. The application is consistent with the purpose of the C-3 District.



Part VIII Sign Regulations, 85(1) requires that all signs, unless otherwise exempted, require a Development Permit. The proposed sign is not exempt from development approval. All signs are considered Discretionary Use – Development Officer under Part VIII Sign Regulations, Section 85(2). The sign is considered a Freestanding Sign under section 85. Sign Regulations, which is defined as:

*“...a sign on a standard or column permanently attached to the ground and which is not connected in any way to any building or other structures.”*

Applicable regulations governing Freestanding Signs are found in the Use Bylaw section 85. Sign Regulations, sub-section 13. The regulations with which the application does not comply include:

Section 85(13) Freestanding Signs	Compliance with 85(13)
(c) The maximum height of any freestanding sign shall not exceed 9.0 m from grade or project above the height of the principal building.	Proposed height is 10.688 metres. Exceeds maximum height by 1.69 metres, or 19%.  Proposed height of the sign exceeds the height of the principal building by 4.28 metres.
(d) Freestanding signs shall not exceed 9.3 m <sup>2</sup> in sign area.	Proposed sign area is 13.96 m <sup>2</sup> exceeds maximum of 9.3 m <sup>2</sup> by 4.66 m <sup>2</sup> , or 47%.

In addition to 85(13), section 85(6) of the Land Use Bylaw sets out General Regulations for signs. There are two relevant regulation from 85(6) General Regulations, including:

*“(a) No sign shall be constructed, placed, relocated, or altered in a manner that, in the opinion of the Development Authority:*

*(i) conflicts with the general character of the surrounding streetscape or the architecture of buildings in the area”*

The sign is proposed along Mitchell Street, which is classified as an Arterial Road by the Municipal Development Plan. As an arterial road corridor, buildings are typically setback a fair distance from Mitchell Street and freestanding signs are not out of place in the streetscape context. The Site is near to Highway 1 and surrounding uses on all sides, except west, are commercial or industrial in nature. Large box-like commercial buildings are apparent, so the proposed sign does not conflict with the surrounding streetscape of architecture of commercial buildings in the area. West of the Site are residential buildings.



### Tests for Relaxation

The Subdivision and Development Appeal Board may make a decision where the proposed development does not comply with the Land Use Bylaw, if in its' opinion:

1. The proposed development would not interfere with amenities of the neighbourhood.
2. Materially interfere or affect the use, enjoyment or value of neighbouring properties.
3. The proposed development conforms to the use prescribed for that land or building.

The proposed variations, while significant by their percentage of the maximum restrictions, appear to meet the tests for relaxation.

### Summary

The following is a summary of this presentation:

- The proposed sign does not comply with the Land Use Bylaw requirements for height or sign area for Freestanding Signs.
- The proposed development does comply with the purpose of the C-3 General Commercial District to provide for the development of a variety of commercial uses which require locations on major traffic routes because of a high degree of visibility and accessibility.
- The proposed sign does not appear likely to conflict with the general character of Mitchell Street streetscape or the architecture of the surrounding buildings.

Should the Subdivision and Development Appeal Board choose to overturn the Development Officer's denial of Development Permit 14-DP-094, I suggest that the Board consider the following conditions:

1. The sign shall not display lights that adversely affect neighbouring properties.
2. The sign shall not display lights that interfere with the motoring public.
3. At all times the sign shall be maintained in good repair, be structurally sound, no materials or paint shall be allowed to peel or become torn, and metal components may not be allowed to rust.
4. No auxiliary sign shall be attached to the Freestanding Sign.
5. Obtain an approved Sign Installation Application from Alberta Transportation prior to construction of the sign.
6. Comply with approved plans.