

MINUTES of the **Subdivision & Development Appeal Board** held on **Thursday, April 7, 2011** at **4:00 p.m.** in Council Chambers with the following in attendance:

<b>MEMBERS:</b>	L. Cutforth V. Chester A. Haesler T. Nicholson R. Stein J. Mauro T. Wickersham	Chairman Member at Large Member at Large (arrived for Hearing 2011-03) Member at Large Member at Large Alderman Alderman
<b>OTHERS:</b>	J. Price P. Colling A. Neufeld	Development Officer Development Officer Secretary to the Board

-----

**T. Nicholson**

THAT the Minutes of the Subdivision and Development Appeal Board held on February 10, 2011 be approved as presented.

-----**CARRIED**

**SDAB HEARING 2011-02**

**Appellants:** 1213382 Alberta Ltd, James R. Farrington  
Krushel Farrington Barristers Solicitors  
Meyer Aesthetics Corp., Dr. Johan G. Meyer and Meyer Family & Aesthetics  
Clinic

**Applicant: Chinook Homes by Chinook Construction:** To construct a 2.5 storey, twelve unit apartment building (6,150 sq. ft. per floor) and request a 5.78m (18'11") south side setback waiver at 317 – 17 Street South

Development Permit No. DEV02901  
Land Use District: C-G (General Commercial)

There were no objections when the Chairman asked if anyone present had a lawful reason why any particular member(s) of the Board should not hear this appeal.

**Development Officer's Presentation:**

**Jason Price, Development Officer,** stated this parcel is one of several which used to be the location of a former car dealership. This parcel was created in 2005. Several development permits have been issued for the property; however, no building permits were applied for.

The current applicant is the new owner and is proposing to construct a 2.5 storey, 12 unit apartment building which is a discretionary use in the General Commercial District. The proposed building requires a 5.78m (18'11") south side setback waiver because the dwelling units located at the south side of the building have a majority of their window area facing the side property line. If the proposed use of the new building was commercial in nature there would be no minimum setbacks required. Because the proposed use is for an apartment building, the Land Use Bylaw 4100 states differently.

Eighteen off-street parking spaces are required. The applicant is providing nineteen. The application meets the maximum requirements allowable for building height, floor area ratio and parcel coverage.

Mr. Price stated that the proposal was circulated to various departments internally and there were no concerns. Access and utility easements are shared by several of the adjacent properties.

The Land Use Bylaw 4100 requires landscaping. The applicant has agreed to landscape along the south property line and the boulevard at the end of the cul-de-sac.

Mr. Price displayed the site plan showing the location of the apartment building on the parcel. He also showed drawings of the floor plans, and the proposed development in proximity to the adjacent commercial development.

Mr. Price stated that the area surrounding the parcel is primarily commercial in nature; however, there would be little impact to the surrounding properties because of the relatively small scale of the proposed apartment building. It is more likely that residents of the proposed apartment building would be potentially impacted by the commercial development. The development permit approval was advertised in the Lethbridge Herald; no notification to the adjacent landowners was sent.

In terms of legislations and policy, the Integrated Community Sustainability Plan/Municipal Development Plan (Sections 6.2.1, 6.2.2, 6.4.1, 6.4.5) were areas considered in this development decision. The proposed development complies with these goals and policies of the Integrated Community Sustainability Plan/Municipal Development Plan.

He stated that there appears to be little or no material or undue impact on neighbouring parcels.

**Appellants' Presentation:**

**James Farrington, on behalf of 1213382 Alberta Ltd and Krushel Farrington Barristers Solicitors, 3, 1718 – 3 Avenue South and Dr. Johan G Meyer, Meyer Family & Aesthetics Clinic, 2, 1718 – 3 Avenue South**, own property north of the proposed development. He stated that an apartment is an unreasonable and inappropriate use in the proposed location. The proposed development will create a higher density in terms of people and cars than is appropriate for the location and is inconsistent with the character of the current area.

Mr. Farrington stated that adjacent landowners are requesting that the proposed development comply with the Land Use Bylaw. He stated that the apartment building is a discretionary use and the magnitude of the waiver granted is an indication of how inappropriate the proposed development is for this location.

The density created by the development will create significant overflow parking. Concerns with the parking space angle of 90° and the aisle width of 7.0m being adequate for the development were expressed.

**Applicant's Presentation:**

**Mohsen Seyed Mahmoud, Chinook Homes**, stated the south side of the proposed building backs onto the Lethbridge Collegiate Institute (LCI) sports field, the west side faces 17 Street South and the east and north exposure face a parking lot/roadway.

Mr. Mahmoud stated that the proposed building height and number of parking stalls are compliant with the Land Use Bylaw. The only waiver requirement is for the side setback waiver allowing 1.82m (6'0") south side setback for the building. Apartment building is a discretionary use in the General Commercial district. He responded to the following concerns of the neighbours:

- Apartment building does not necessarily create higher density; some commercial uses such as 24 hour convenience store or liquor store would create more density and traffic than the proposed use
- Proposed project would improve the character of the neighbourhood
- Height of the proposed building is 28.5' and 2.5 story and is compliant with the Land Use Bylaw
- Density created by the apartment building would be less than an office building of the same size
- Development is in close proximity to the downtown and owners/renters working in the downtown would commute by foot
- There are three access points to the building

Mr. Mahmoud showed pictures of their developments in other areas of the City and other mixed residential and commercial areas.

**Other Presentations:**

**Horst Mueller and Shelley Hamilton on behalf of HOM Holdings Ltd., 210 – 17 Street South**,

owns property adjacent to the proposed development. Mr. Mueller is concerned with the impact this development would have on his tenant's customer parking. He stated that the development is out of character for the neighbourhood.

Mr. Mueller stated that they have an easement registered on their property that prohibits expanding to the south or north of their property. He is opposed to the development.

**Discussion:**

The Board addressed the following issues during question period:

- Parking layout and turning radiuses
- Discretionary use of apartment buildings, minimum yard setbacks and the proposed changes in the new Land Use Bylaw regarding the setbacks for buildings containing dwelling units
- Approval of this application based on the current Land Use Bylaw 4100

- Development permit issued for apartment buildings and whether this development can be converted to condominiums
- Landscaping requirement and the percentage of landscaping required
- Process for advertising discretionary uses
- Bylaws for a condominium development and if bylaws can address occupancy and parking
- Owner listing agent
- Clarity on laneway as roadway or utility right of way, whether a registered easement
- Using the end of the cul-de-sac for parking
- Removing snow from the shared laneway and who is responsible
- Ownership of the land for the proposed development
- Current General Commercial (C-G) zoning, historically having commercial on the main floor
- Access to the proposed apartment building
- Zoning not regulating ownership
- Considerations used for parking calculations, requirement of 1.5 parking stalls per unit and why we calculate using a fraction
- Confirmation that commercial development in the C-G district is able to build right to property line
- Reason that Mr. Mueller is not able to expand his building
- Ownership of laneway
- Current and proposed use of signage to restrict parking
- Parking, access, snow removal in regards to Mr. Farrington's development
- Amenity space calculations for the proposed apartment building
- Maximum parcel coverage

**Decision:**

IN THE MATTER OF the Municipal Government Act

AND IN THE MATTER OF an Appeal made to the Subdivision and Development Appeal Board with respect to Development Permit No. DEV02901:

**Appellants:** 1213382 Alberta Ltd, James R. Farrington,  
Krushel Farrington Barristers Solicitors,  
Meyer Aesthetics Corp., Dr. Johan G. Meyer and  
Meyer Family & Aesthetics Clinic

to construct a 2.5 storey, twelve unit apartment building (6,150 sq. ft. per floor) and request a 5.78m (18'11") south side setback waiver at 317 – 17 Street South,

AND UPON HEARING from the Applicant, Chinook Homes by Chinook Construction.

AND UPON HEARING from the Development Officer, and other interested parties,

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act, the Municipal Development Plan, the Land Use By-law, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows and for the following reasons:

**V.CHESTER/T.NICHOLSON/T. WICKERSHAM**

**DECISION:** The Appeal is **DENIED** and the decision of the Development Officer regarding Development Permit DEV02901 on February 27, 2011 to construct a 2.5 storey, twelve unit apartment building (6,150 sq. ft. per floor) and request a 5.78 m (18"11") south side setback waiver at 317 – 17 Street South is hereby **ALLOWED**.

**REASONS FOR DECISION:**

It is the opinion of the Board that the proposed discretionary use does not materially interfere with the existing businesses in the neighbourhood.

**OPPOSED: L. CUTFORTH/J. MAURO /R. STEIN**

—————**CARRIED**

**SDAB HEARING 2011-03****Appellant:** Robert Dobra

**Applicant: Form Hair Salon, Loretta Marcotte:** To establish a Type B Home Occupation for the purpose of hair salon with a maximum of six customers per day, one at a time, with hours of operation Monday – Wednesday and Saturday 9:00 a.m. to 6:00 p.m.; Thursday and Friday 9:00 a.m. to 8:00 p.m., with two additional off street parking stalls at 309 Couleesprings Terrace South

Development Permit No. DEV03098  
Land Use District: R-L (Low Density Residential)

There were no objections when the Chairman asked if anyone present had a lawful reason why any particular member(s) of the Board should not hear this appeal.

**Development Officer's Presentation:**

**Pam Colling, Development Officer,** stated that a Type B Home Occupation means a home business with customer visits and are a discretionary use in the Low Density Residential. Ms. Colling provided a summary of Section 62, Home Occupations from the Land Use Bylaw.

The Municipal Planning Commission approved a policy on October 21, 2008 which no longer required neighbourhood notification unless a waiver of the performance standards was requested. All discretionary uses must be advertised in the Lethbridge Herald and are open to appeal 14 days from the date of advertising. A voluntary waiver of claims was signed by the applicant who allowed for the release of the approved Development Permit prior to the appeal period deadline.

Ms. Colling reviewed the Land Use Bylaw Home Occupation Performance Standards and stated the applicant has met or exceeded the requirements.

In terms of considerations, Ms. Colling stated the following:

- There are no other Type B home occupations in the surrounding area
- Road size is of standard width
- Sewer and water servicing will accommodate the additional water usage
- Fire hydrant is located at the west end of the cul-de-sac and parking is not permitted next to a fire hydrant. Access to fire hydrants must remain clear at all times.

Ms. Colling displayed the site plan and a street map showing the location of the fire hydrant.

In terms of legislations and policy, the Land Use Bylaw 4100 (Section 62) and the Integrated Community Sustainability Plan/Municipal Development Plan (Sections 6.1.1(5)) were considered in this development decision.

**Appellants' Presentation:**

The appellant was not present.

**Applicant's Presentation:**

**Maurice Marcotte, 309 Couleesprings Terrace South**, stated they developed their home with a basement entrance and an extra large driveway to facilitate a home occupation use. They live in a cul-de-sac; however they have ample parking on their driveway. They are able to meet the conditions of approval outlined in the development permit.

**Discussion:**

The Board addressed the following issues during question period:

- Established clientele, only by appointment and previous occupation
- Type of chemicals used

**Decision:**

IN THE MATTER OF the Municipal Government Act

AND IN THE MATTER OF an Appeal made to the Subdivision and Development Appeal Board with respect to Development Permit No. DEV03098:

**Appellant: Robert Dobra**

to establish a Type B home occupation for the purpose of hair salon with a maximum of six customers per day, one at a time, with hours of operation Monday-Wednesday and Saturday 9:00 a.m. to 6:00 p.m.; Thursday and Friday 9:00 a.m. to 8:00 p., with two additional off street parking stalls at 309 Couleesprings Terrace South,

AND UPON HEARING from the Applicant, **Form Hair Salon, Loretta Marcotte**

AND UPON HEARING from the Development Officer,

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act, the Municipal Development Plan, the Land Use By-law, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows and for the following reasons:

**L. CUTFORTH/A. HAESLER/T.NICHOLSON/R. STEIN/T. WICKERSHAM**

**DECISION:** The Appeal is **DENIED** and the decision of the Development Officer regarding Development Permit DEV03098 on March 2, 2011 to establish a Type B Home Occupation for the purpose of hair salon with a maximum of six customers per day, one at a time, with hours of operation Monday – Wednesday and Saturday 9:00 a.m. to 6:00 p.m.; Thursday and Friday 9:00 a.m. to 8:00 p.m., with two additional off street parking stalls at 309 Couleesprings Terrace South is hereby **ALLOWED**.

**REASONS FOR DECISION:**

It is the opinion of the Board that the proposed development does not materially interfere with the use and enjoyment of the neighbourhood.

**OPPOSED: V. CHESTER/J.MAURO**

**V. Chester**

THAT this meeting of the Subdivision and Development Appeal Board be adjourned.

-----CARRIED

-----CARRIED

CHAIRMAN

SECRETARY TO THE BOARD

