

Decision Report

City of Medicine Hat Subdivision and Development Appeal Board

Appeal #1-2026 – Appeal of Development Permit (PLDP 20260032)

352 Primrose Drive Southeast

B. Taylor, J. Taylor, and C. Horkoff (Appellants)

Hearing held on Wednesday, June 10, 2026, at 1:00 p.m.

MEMBERS PRESENT:

J. Taylor, *Chair*
Councillor B. Cocks
C. Acton

STAFF PRESENT:

Cyndi Cogbill, *Legislative Coordinator, SDAB Board Clerk*
Melissa Wagner, *Administrative Assistant*
Brad Irwin, *Senior Planner*
Robert Sissons, *Manager of Planning*
John Popoff, *Director of Planning and Development*

BACKGROUND OF THE APPEAL

- [1] The application (PLDP 20260032) is for a 40-unit multiple unit residential development located at 352 Primrose Drive SE (lot 1, block 2, Plan 7711650). The proposal seeks to develop the approximately 3.22 acre site with a mix of one-storey townhouse style units. The subject property is a 13,018.7 m² (3.22 ac) parcel currently designated as medium density residential district (RMD). It is situated in an area bounded by residential development and proximity to the area's amenities. As per Land Use Bylaw 4168 this Mult residential development would be considered a permitted use.
- [2] The development site has an area of 13,018.7 m² and proposes a total of 40 residential units, with a mix of 2, 3, and 4 units per building. The buildings are designed with a height of 5.4 metres and will cover approximately 37% of the site. The proposed density is 30.7 units per hectare (UPH). Parking will be provided through a total of 73 stalls, consisting of 40 driveway stalls, 30 garage stalls, and 3 visitor stalls.
- [3] The Appellant is appealing the Decision of the Development Authority to issue a Development Permit for the development of the subject area.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

- [4] The Board has no jurisdiction to hear this appeal pursuant to the *Municipal Government Act* Section 685 (3).

REASONS FOR THE DECISION

- [5] No appeal lies in the case of a permitted use, unless the Land Use Bylaw is relaxed, varied or misinterpreted. At the hearing June 10, 2026, no evidence was presented to establish that any of these three elements had occurred in this instance.
- [6] The Appellant indicated traffic concerns, suggesting a Traffic Impact Assessment ought to have been conducted. The planning authority confirmed that the development does not generate 100 new peak trips, and no further study is required. No relaxation occurred. Furthermore, anecdotal reporting, as presented by the Appellant has no bearing on Land Use decisions, but instead objective technical findings (objective) are considered.
- [7] The Appellant raised concerns about environmental and wildlife assessments. As per the Land Use Bylaw, a Phase 1 Environmental Assessment was completed. The results indicated that no further studies be completed. No relaxation occurred. Furthermore, at the hearing, it was indicated that unless a development occurs in an environmentally sensitive area, no wildlife sweeps are completed. This development does not lie in an environmentally sensitive area.
- [8] The Appellant indicated that the development approval occurred without any public input from impacted residents. No public input is required for a permitted use. In fact, the posting of an information sign, as was done in this case, is not even required. The Land Use Bylaw is the governing document when it comes to development and outweighs policy. Again, no relaxation was granted.
- [9] The Appellant raised concerns about storm-water management. As per the Land Use Bylaw, a storm-water management plan was submitted by an engineer that follows the requirements with respect to storm-water entering the system. No relaxation or variance occurred. The Board determined that it is the Appellant who seems to have misinterpreted the storm water management plan.
- [10] The Appellant suggested that a further ground water study be completed. A geotechnical report was completed, and the design of the foundations was based on this report. No relaxation or variance occurred. Furthermore, the developer went above and beyond, by having a hydrogeological study completed that showed no risk to adjacent groundwater levels or groundwater impacts based on the site conditions and building design. The development authority fulfilled their requirements as per the Land Use Bylaw without relaxation or variance. Bylaw 4168 Section 5.12 and Section 5.30 were adhered to.
- [11] The Appellant suggested the development would be a loss of green space. This site is zoned for Residential Mixed Density (R-MD). Though the area is currently grassed, it is zoned for development. The development authority must allow development in such parcels as long as the proposed development meets the requirements of the Land Use Bylaw, which this development clearly does. The neighborhood has no warranted expectation that site would remain as grass considering its zoning designation. Bylaw 4499 (bylaw to rezone 352 Primrose Drive from OS to R-MD) was adhered to.
- [12] In conclusion, the Appellant provided no evidence to suggest that a variance, relaxation, or misinterpretation occurred on the part of the planning authority. The planning authority

is required by law to issue a development permit for a permitted use and if no variance, relaxation or misinterpretation of the Land Use Bylaw occurs then no appeal lies in such a case.

APPEAL HEARING

- [13] The Board Chair introduced the Board and City of Medicine Hat staff members to present and provide information related to the hearing and decision process.
- [14] Prior to hearing submissions on the merits of the appeal, the Chair asked the Board members if, in their opinion, they may have a conflict of interest or bias or perceived conflict of interest or bias that may prejudice their decision with regard to this appeal. There were no concerns expressed.
- [15] The Chair asked the Appellant and Respondent if in their opinion if they felt that any member of the board had a conflict of interest or bias that may prejudice their decision in regards to this appeal. There were no concerns expressed.
- [16] The Clerk advised that Notice of the Hearing was published in the Medicine Hat News on May 30 and June 6, 2026, with 32 notifications sent to adjacent and abutting property owners. No additional submissions were received beyond those from the appellants. It was also noted that the hearing time published was incorrect; a correction was issued by the Medicine Hat News, and the City posted the correct time on City social media platforms on June 9, 2026.

PRELIMINARY MATTERS

- [17] The Chair acknowledged a preliminary matter raised by the City of Medicine Hat Planning and Development. It was clarified that this is a new hearing and that documentation was sent to all relevant parties indicating that this is a new hearing. City of Medicine Hat Planning and Development indicated the matter would be addressed as part of their presentation.

The following presentations were then heard.

Gwendolyn Stewart-Palmer, Legal Counsel for Planning and Development, advised the below summarized statements:

- [18] The scope of the Board's authority is governed by Sections 685(3) and 687(3)(c) of the *Municipal Government Act* (MGA). Section 685(3) provides that no appeal lies in respect of a development permit for a permitted use unless the provisions of the Land Use Bylaw were relaxed, varied, or misinterpreted, or the application was deemed refused under Section 683.1.
- [19] As a result, the jurisdiction of the Board on this matter is limited. In order to consider the merits of the appeal, the Board must first determine whether the Development Authority, in issuing the development permit, relaxed, varied, or misinterpreted the Land Use Bylaw. Reference was made to the decision in *Rau v. City of Edmonton* (2015 ABCA).

[20] If no such error is identified, the Board has no jurisdiction to proceed further or to reconsider the merits of the development permit. If an error is identified, the Board's authority is confined to correcting that specific matter.

Brad Irwin, Planning Officer provided the below summarized statements:

- [21] Jurisdiction: Section 685(3) of the MGA, an appeal for a permitted use is only valid if the Land Use Bylaw was relaxed, varied or misinterpreted. If the project is fully compliant with the regulations of Land Use Bylaw, the issuance of the permit is not subject to appeal.
- [22] Use and Zoning Compliance: Multiple unit residential development within the medium density residential district under section 6.3.2 of Land Use Bylaw 4168. The development is explicitly a permitted use in this district.
- [23] Section 642 of the MGA, states that when a person applies for a development permit for a permitted use and it conforms to the land use bylaw, the development authority must issue a permit.
- [24] Regulatory Compliance: The proposal meets or exceeds all R-MD District requirements for site width, site area, site coverage, density, setbacks and building height and no variances were required.
- [25] Technical Review: A full technical review was completed and verified, confirming compliance with all applicable regulations.
- a. A 2019 geotechnical report confirming site suitability for residential development, along with an engineered foundation design, utilizes slab on grade construction with helicon piles;
 - b. A Phase One Environmental Site Assessment (ESA) with no Phase Two recommended;
 - c. A Traffic Impact Assessment (TIA) was not required, based on low projected traffic volumes and available road capacity;
 - d. A stormwater management plan (SMP) meeting City standard; and
 - e. Crime Prevention Through Environmental Design (CPTED) principles, confirming appropriate safety and surveillance measures.
- [26] Procedural Validity: The development permit application complied with the application process in the MGA and Land Use Bylaw::
- a. The development authority issued a decision on the application within legislative timelines with a mutually agreed upon timeline extension;
 - b. No public hearing was required;
 - c. Official appeal received within legislated window; and
 - d. The community notification of the development permit application significantly exceeded the minimum standards set out in Section 3.5 of the Land Use Bylaw.
- [27] The Development Authority requests that the Board dismiss the appeal based on lack of jurisdiction as the development is a permitted use with no variances. There was

sufficient evidence in the technical report that confirm site suitability. All MGA and LUB required procedural steps were followed.

John Taylor, the Appellant, provided the following summarized statements for grounds of the appeal:

- [28] The Appellant argues the central issue relates to whether the development permit approval was granted in compliance with the applicable planning and regulatory framework, including Bylaw 4168 and related standards, and whether known risks were assessed prior to approval.
- [29] Drainage Regulation (Bylaw 4168, Section 5.12) requires development to manage surface water without adversely affecting adjacent lands, yet the March 18 technical committee memo identified required stormwater drainage of 239 m³—exceeding the 233 m³ standard—indicating a variance from both the bylaw and technical requirement. The TCC memo (March 18) identifies a significant variance from Bylaw 4168 Section 5.12, as the proposed stormwater release rate of 106.5 L/s far exceeds the allowable 46.5 L/s. This exceeds the allowable release rate identified in the MSSM and does not demonstrate compliance with Bylaw 4168.
- [30] Servicing Regulation (Bylaw 4168, Section 5.301–5.302) requires confirmation that developments are adequately serviced with sanitary, water, stormwater, and road infrastructure, yet approval was granted despite unresolved stormwater design errors and outstanding drainage issues.
- [31] Bylaw 4168 (Section 3) allows the development authority to impose conditions to ensure servicing standards and bylaw compliance, meaning a permitted use does not remove this responsibility. There is no record of adequate infrastructure servicing, as required by the bylaw, since unresolved engineering comments and future revisions do not constitute confirmed servicing at the time of approval.
- [32] Environmental Review (Bylaw 4168 Section 5.6) allows the development authority to require an Environmental Site Assessment (ESA) and impose or refuse approval based on environmental risk, yet the City relied only on a Phase 1 ESA which focused on contamination and did not address groundwater movement, hydrostatic pressure, off-site impacts, or effects on adjacent properties and environmental receptors.
- [33] Geotechnical Validation (Bylaw 4168; Report Limitations) the 2019 Wood Geotechnical Report was prepared for a different development and requires re-validation when design or timing changes occur, yet it was relied upon without update or confirmation, leaving the current proposal unsupported by a valid geotechnical assessment.
- [34] Traffic & Pedestrian Safety (Bylaw 4168, s. 5.24; Bylaw 4346, MGA s.687(3)(d)). The record does not demonstrate that pedestrian safety and traffic impacts were fully evaluated. While a Traffic Impact Assessment (TIA) was not required based on threshold criteria, Bylaw 4168, Section 5.24 requires consideration of site context, safety, and surrounding uses. Bylaw 4346 – Public Roads Bylaw further governs pedestrian movement and crossing safety. The record does not include a site-specific analysis

addressing conditions such as proximity to College Drive, opposing access configuration, pedestrian crossings, or traffic patterns associated with nearby institutional uses.

- [35] Site Context & Neighboring Impacts (Bylaw 4168, s. 5.24; MGA s. 687(3)(d)). Bylaw 4168, Section 5.24 requires consideration of site context, adjacent uses, and potential impacts.
- [36] Section 687(3)(d) of the MGA requires that development must not unduly interfere with the amenities of the neighborhood or materially affect neighboring properties. The record identifies surrounding conditions and constraints but does not demonstrate that these factors were fully assessed or resolved at the time of approval.
- [37] Responsibility and Accountability Framework (Bylaw 4168; Municipal Servicing Standards Manual (MSSM)) requires that servicing and impact considerations be addressed, but the record does not demonstrate that responsibility and implementation mechanisms were established at the time of approval. There is no documented framework addressing groundwater migration, mitigation measures, cost allocation, or off-site impacts of liability.
- [38] Sequence of Review and Approval (Bylaw 4168; Bylaw 4499; MSSM)
Bylaw 4168 and MSSM contemplate that these matters be addressed and validated prior to approval. The record indicates that technical validation, mitigation measures, and servicing details were deferred to later stages rather than confirmed at the development permit stage.
- [39] Land Use Amending Bylaw 4499 states that health, safety, groundwater, stormwater, and environmental considerations would be assessed at the development permit stage, meaning the rezoning itself did not resolve these issues but explicitly deferred them.
- [40] Completeness of the Record and Bylaw Compliance: (Bylaw 4168; MGA s. 687)
Bylaw 4168 Section 5.24 requires consideration of statutory plans, site context, and off-site impacts, and under its transitional provisions a permitted use must still satisfy servicing, drainage, environmental, and contextual requirements; however, the record demonstrates only dimensional compliance and does not show that groundwater, drainage, pedestrian, or neighborhood impacts were fully reviewed or addressed.
- [41] Bylaw 4468 prioritizes environmental stewardship, water management, and livable neighborhoods with resident input, yet the record shows no evidence of groundwater or stormwater assessment, environmental or open space impact review, pedestrian safety analysis, or meaningful public engagement.
- [42] MGA Section 687 requires developments to comply with statutory plans and land use bylaws and not unduly impact neighboring properties, yet the record does not demonstrate that these broader compliance and neighborhood impact considerations were resolved beyond dimensional standards.
- [43] Public Participation and Information Access (Bylaw 3009, Bylaw 4636) Bylaw 3009 requires all relevant appeal materials be publicly available before the hearing, yet key

documents like the geotechnical report and environmental assessment were not accessible during the appeal notification period, limiting meaningful public response.

- [44] Bylaw 4636 requires accessible development information and meaningful public input, yet key technical materials were only provided at the appeal stage, rather than during the development notice period.
- [45] The Appellant requests the Board revoke or suspend the development permit approval, or requirement that all applicable bylaw, MSSM, and statutory requirements be demonstrated as satisfied prior to reconsideration.

Chris Horkoff, the Appellant submitted the below summarized statements:

- [46] The Appellant argues that there are around real-life impacts of proposed development, including pedestrian safety, traffic congestion, property damage, surface water management, loss of neighborhood enjoyment, environment concerns, due to public notification and appeal process, limited and or missing information of the public approved to the development.
- [47] Storm and Ground Water: The appeal cites bylaw deviations tied to groundwater and surface water migration, with ESA evidence indicating flow toward adjacent residential areas, creating foreseeable off-site impacts on neighboring properties, and no liability framework.
- [48] Traffic and Pedestrian Safety: The City determined a formal TIA was not required based on trip thresholds. The record does not demonstrate that any site-specific traffic or congestion analysis was actually completed or documented to address public safety concerns. This reflects a broader pattern where technical evaluation is limited to opinion.
- [49] Resident observations and incident examples demonstrate frequent pedestrian safety risks and traffic conflicts at the College Drive–Primrose Drive intersection, with inadequate driver yielding, congestion near transit stops, and existing collision history indicating that additional development traffic could further exacerbate these hazards.

Whitney Watson, Environmental Specialist, submitted the below summarized environmental statements on behalf of the appellant:

- [50] Environment: Under the Alberta Fish and Wildlife Act, an environmental sweep is required to determine if an environmental assessment is required. The iNaturalist mapping website is used to identify regulated species habitats, and if present then development applications should include an environmental impact assessment to identify species presence and required mitigation efforts. For this development, the great horned lizard is identified. Mitigation efforts would need to address the sensitive amphibian range, the sensitive snake habitat, and the greater shorthorn lizard range.

Chris Horkoff, the Appellant, submitted the below summarized statements:

- [51] The City relied on prior rezoning to conclude no further environmental or wildlife assessment was needed, despite the site's proximity to a sensitive area, and publicly

available does not demonstrate any current, site-specific evaluation of development impacts on adjacent natural features.

- [52] Public Participation Timeline and Process Gaps: Public participation policies (Policy 0165 and Policy 0192), as endorsed by Council, establish expectations for public engagement. The process relied on an “inform only” approach with unclear approval notification, a compressed timeline, no public hearing or structured engagement, and limited access to information, resulting in poor transparency and restricted meaningful public participation.
- [53] MGA Section 686(4) requires that all relevant materials be made available for public inspection for the purpose of an appeal. The record indicates that additional technical materials referenced during the hearing, including a geotechnical opinion and any traffic-related assessments or memoranda, were not included in the original development permit submission materials or clearly available for public review prior to the appeal.
- [54] The Appellant requests the Board to revoke or suspend the development permit approval.

Rob Whitten, Vice President of Operations, speaking on behalf of the Developer, NewRock Developments, responded with the summarized statements:

- [55] The Respondent argues that the Land Use Bylaw sets out the design requirements under which the project was approved as a permitted use without variances, and that permitted use classification of Permitted Use itself is not in dispute.
- [56] The design guidelines indicate that traffic, parking, and pedestrian capacity concerns are not substantiated, as the site is approved for up to 73 units and the proposed 40 units remain well within established servicing, infrastructure, and access capacities.
- [57] The stormwater design meets MSSM requirements and, through engineered controls, is intended to reduce post-development runoff from the site. Following three Technical Coordinating Committee (TCC) review cycles and engineering input, the design meets MSSM standards and models a reduction in post development runoff to 47 L/s from the current estimated 58-L/s under a 1-in-100-year storm event through controlled drainage measures.
- [58] The planning and public interest considerations were addressed, noting that a development permit would not have been issued without meeting technical requirements and that public input opportunities were provided during the earlier land use amendment process.
- [59] The design has considered groundwater and potential neighborhood impacts, noting that the bungalow development interfaces appropriately with surrounding neighborhoods and is not directly adjacent to single-family homes, which are instead located across College Drive and nearby green space.
- [60] The hydrogeological impact assessment was reviewed by Enviro Geotech Consulting, and stated the proposed development is not expected to adversely affect regional groundwater conditions, nearby surface water features, or adjacent properties, provided

that construction activities and groundwater management measures are implemented in accordance with the applicable municipal requirements, Alberta regulatory guidelines, and industry best practices.

- [61] Based on the available geotechnical and hydrogeological information, the development is considered feasible, with no anticipated significant adverse impacts on surrounding properties, groundwater, or nearby surface water features.
- [62] The 2018 Land Use Bylaw was fully complied with, stating the development is a permitted use with no variances or misinterpretations and that all procedural requirements of the development permit process were followed.

Cyndi Cogbill

Cyndi Cogbill, Legislative Coordinator
SDAB Board Clerk

June 23, 2026

Date

Decisions of the Subdivision and Development Appeal Board are final. However, an appeal may be made to the Alberta Court of Appeal under Section 688 of the *Municipal Government Act*. An application for leave to appeal must be filed and served within 30 days of the written decision.

cc. Chirs Horkoff (Appellant)
John Taylor (Appellant)
Brad Irwin, Senior Planner
Robert Sissons, Manager of Planning
John Popoff, Director of Planning and Development
Gwendolyn Stewart-Palmer, Partner, Shores Jardine
Robert Whitten, VP Operations NewRock Developments