

**CYPRESS COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

Chairman: Todd Read
Vice-Chairman: Richard Oster
Member: Ernest Mudie

Appellant: Traci Krause

INTRODUCTION

[1] The Development Authority of Cypress County (the "Development Authority") issued a Development Permit to expand an existing equine rehabilitation and conditioning business- Holsom Equine – with the addition of further services on January 14, 2024, to Hilary Blanchette (the "Applicant") in relation to land legally described as, Plan 1512768, Block 2, Lot 8.

[2] The Appellant is appealing against the expansion to Holsom Equine, as it affects the residential subdivision negatively, due to mass traffic, on-road parking issues, safety concerns and a decrease in personal enjoyment of their own property.

[3] The Subdivision and Development Appeal Board (the "Board") heard the Appeal on February 22, 2024.

[4] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections from the members of the Board or the proposed hearing process.

[5] The Board marked as exhibits the documents set out at Appendix B to this decision. There was no objection to any of the documents marked as exhibits.

PRELIMINARY MATTERS

[6] In response to the Board's inquiry whether there was any additional information submitted, the Board was advised by the Clerk, that an additional letter was received after the submission deadline. The Chair requested the Clerk to read the submission, all parties were asked if there were any objections to this letter being added as an exhibit. No objections were heard. The Board motioned to add the letter as Exhibit 1 of the package.

FINDINGS OF FACT

[7] The property is zoned as Country Residential District 2 (CR-2) in the Cypress County Land Use Bylaw 2022/09 (the "Land Use Bylaw") and is legally described as Plan 1512768, Block 2, Lot 8.

[8] The property is 7.96 acres in size.

[9] The appeal was filed on time.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

The Board **VARIES** the conditions of the Municipal Planning Commission. The Board has added an hours of operation condition 13 to of Development Permit 23/192. The conditions on the Development Permit are as follows:

1. It is the responsibility of the Developer and/or Owner to ensure that any applicable Provincial and Federal statutes and regulations are complied with.
2. This Development shall comply with all regulations under the Land Use Bylaw except where a variance has been granted by the Municipal Planning Commission.
3. A new permit must be obtained for any future additions and/or changes in the use or the intensity of use of the land or buildings.
4. All waste disposal shall be the responsibility of the Developer and/or Owner and at his expense. All waste disposal must be in accordance with the Environmental Protection & Enhancement Act and Waste Control Regulation.
5. The approval of this application does not in anyway obligate Cypress County to provide access to development.
6. Any work or improvements in the County ditches including approaches between the property line and county roadway must be approved by the Public Works Department.
7. No additional signs will be permitted without prior approval.
8. Subject to 1 off-site employee. Any additional employees will require prior approval.
9. Subject to keeping a maximum of 9 horses.
10. Subject to annual review.
11. It is the Developer and/or Owner's responsibility to enter into a Road Use Agreement or a Temporary Right of Entry Agreement where required by Cypress County Public Works.
12. The applicant is responsible to ensure adequate parking is available on the property to prevent all parking, stacking and unloading on the internal service road in the subdivision.
13. Business Hours shall be Monday to Friday from 9:00 am to 5:00 pm. No business shall be conducted on the Weekends or Stat holidays.

SUMMARY OF HEARING

The following is a summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

Development Authority

- [10] The land is located within the Country Residential District 2 (CR-2) of Cypress County under Cypress County's Land Use Bylaw 2022/09 (the "LUB"). The lands are legally described as Plan 1512768, Block 2, Lot 8.
- [11] On January 9, 2024, the Municipal Planning Commission considered and granted a Development Permit for Hilary Blanchette on behalf of Holsom Equine. The applicant requested an expansion of an existing business to accommodate an increase in intensity and increase the number of horses allowed from 9 horses as approved on Development Permit 20/84 to 10 horses.
- [12] The property is in a multi-parcel country residential subdivision along Range Road 72, approximately 700 meters south of Highway 523.
- [13] At the time of application in 2020, it was anticipated that the business would see up to 6 client horses at any given time, that traffic would increase by about 1-3 trucks with trailers per day and there would be no additional employees. The rehabilitation program offered a solarium, a saltwater spa and a wet/dry treadmill which aids in wound healing, muscle recovery and low compression exercises for injured horses.
- [14] Holsom Equine is a specialized service, with clients coming from Alberta, Saskatchewan, BC. Most of the clients are referrals from veterinarians. While the clients are in Holsom's care, they may receive additional care or follow up visits from outside services such as vets, equine dentists, osteopathy, chiropractors, Magna wave PEMF therapy, acuscope, farriers and massage therapists. The additional services see an increase to 6+ clients or customers visiting the site daily.
- [15] In response to neighbours' concerns, the applicant has expanded the parking area in the yard which allows trucks and trailers to unload and turn around within the boundaries of the parcel. The applicant has also installed a no parking sign on the fence near the approach.
- [16] In April 2023, at the request of Mrs. Blanchette, the County verbally authorized an off-site employee. This employee worked remotely and was not deemed by the County to have an impact on the adjacent landowners. The county communicated to the applicant that if further employees were required, the intensity of the business increases, or if further complaints are received, a new development permit would be required.
- [17] The location of the property is within 800 meters of Highway 523, as a result the application was circulated for comments to Alberta Transportation. Their reply was that the proposed development falls within the permit area of a provincial highway as outlined in the Highways Development and Protection Act/Regulation. The proposed development, however, will not cause any concern for ongoing highway operation or future highway expansion. Transportation and Economic Corridors, therefore, issues an exemption from the permit requirements for the development listed above pursuant to Section 25 of the Highways Development and Protection Regulation.

[18] The Municipal Government Act Section 640(6) states that a land use bylaw may authorize a development authority to decide on an application for a development permit even though the proposed development does not comply with the land use bylaw or is a non-conforming building, if in the opinion of the development authority, the proposed development would not

- a. Unduly interfere with the amenities of the neighborhood, or
- b. Materially interfere with or affect the use, enjoyment or value of neighboring parcels of land

[19] Section 4.2.9 of the Municipal Development Plan, Growth of Home-Based Businesses and Working from Home, states that the County should encourage home-based businesses as a method of local economic diversification in all areas of the County.

[20] In the Land Use Bylaw 2022/09, Country Residential District 2, a Home-Based Business, Minor is a Class I Discretionary use, requiring approval from the Development Officer or Municipal Planning Commission.

The general purpose and intent of the Country Residential District 2 is to provide for low density country residential development and limited agricultural pursuits in Cypress County.

Section 11.13, Keeping of Animals, states that on parcels or lots containing less than 40 acres the number of animal units permitted without a development permit shall not exceed one animal unit equivalent per acre.

Section 11.13.11 - The keeping of livestock not in accordance with subsections 11.13.6 and 11.13.7 is considered a Discretionary Class 2 use and will require an approved development application where the applicant demonstrates they have made adequate arrangements for the maintenance of the animals and the disposal of manure in an acceptable manner, and if it is in the opinion of the MPC that the additional animals will not unduly affect surrounding properties.

[21] The Board must consider if the increased business activity and traffic has unduly interfered with or affected the use, enjoyment, quality of life or value of neighboring parcels.

Traci Krause, Appellant

[22] The appellant is appealing against the expansion of Holsom Equine as it affects their residential subdivision negatively. They (Holsom Equine) have created a commercial business within their community that has created mass traffic, on-road parking issues, safety concerns and a decrease in personal enjoyment of their own property. Ms. Krause states 'They have done all of this without the county's approval (until now), even after several complaints/supporting evidence were filed with the county.

[23] In her appeal letter the appellant said that in making the decision to make this community their home, many considerations were made. They checked the CR 2 Zoning to see any stipulations on animal allowances as they wanted to be certain that while they were out in the country, they would not be living next to an absurd number of animals. She said her family, and the residents of the subdivision, never expected to become neighbors to 10 horses at any given time, nor did they expect to all have to share the problems this business has created for their community.

[24] She expressed concern that County staff were not following protocol when photos submitted as proof of what was happening in the neighborhood made their way Hilary Blanchette.

[25] Ms. Krause said the traffic count on any given day is higher than the permitted 1-3 trucks and supplied various stats and pictures to support her claims. Through social media she was able to supply potential client appointments for 2021 - 76, 2022 - 76, 2023 - 35 and 2024 – 13, each appointment would travel in and out of the subdivision 4 times. In 2023 the County was contacted with complaints about the business, the county requested the complainants call the office on busy days, for Planning & Development to witness the traffic. It was at that time the social media account was locked down by the operator.

[26] Ms. Krause expressed her concern over the location of the business, saying it was neither logical nor thoughtful towards the residents in the area. The business itself is not a concern for the neighbors, but rather the oversize vehicles using the road.

[27] In her summary Ms. Krause is appealing the development due to safety, traffic volume, speeding, privacy, road conditions and repair, odor, decrease in resale value, and overall enjoyment of their property.

REASONS

Jurisdiction

[28] The Board notes that its jurisdiction is found in section 687(3) of the MGA. In making this decision, the Board has examined the provisions of the LUB and has considered the oral and written submissions made by and on behalf of the Development Authority and the Appellant.

687(3) *In determining an appeal, the subdivision and development appeal board*

- (a) must act in accordance with any applicable ALSA regional plan;*
- (a.1) must comply with any applicable land use policies;*
- (a.2) subject to section 638, must comply with any applicable statutory plans;*
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;*
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;*
- (b) must have regard to but is not bound by the subdivision and development regulations;*
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;*
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,*

- (i) *the proposed development would not*
 - (A) *unduly interfere with the amenities of the neighbourhood, or*
 - (B) *materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,*
- and*
- (ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

[29] The Appellant is affected because the development permit issued is near her residence.

[30] The Board notes the Equine Business is a Discretionary Use in the Country Residential District 2 (CR-2) Home Based Business, Minor/Major. Thus, the test for discretionary use is one of compatibility. The Board finds that the development of the Equine Business is compatible in a country residential district as 'Discretionary Uses'.

[31] The Board also notes the subdivision where Ms. Krause resides has 11 residences, 3 of whom have horses on their property.

[32] The Board recognizes that the Municipal Planning Commission has the authority under section 640(6) of the Municipal Government Act to decide on an application for a development permit

640(6) *A land use bylaw may authorize a development authority to decide on an application for a development permit even though the proposed development does not comply with the land use bylaw or is a non-conforming building if, in the opinion of the development authority,*

- (a) *The proposed development would not*
 - (i) *Unduly interfere with the amenities of the neighborhood, or*
 - (ii) *Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,*
- and*
- (b) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

[33] The Appellant's position was that the Planning Authority's decision was not granted on any technical or regulatory reasoning.

Hilary Blanchette, Applicant

[34] The Board heard from the business owner Ms. Blanchette who is aware of the complaints from various neighbors. She has attempted to address the concerns and figure out a solution to appease everyone while still operating the business.

[35] Ms. Blanchette said they are not trying to expand the business and said that 1 additional horse will have no adverse effect on the neighborhood, and there are only 3 horses that live on the property permanently.

[36] Ms. Blanchette also stated that her business transactions typically occur between 8:30 am – 3:00 pm. During those hours, most of the neighbors work while the children are in school, thereby limiting the impact her business has on the neighbors.

[37] Ms. Blanchette spoke on the issues around speeding, she said she herself pulls a horse trailer and that trucks pulling a trailer can take much longer to get up to speed than a passenger car. She also noted that responsible horse owners would be cautious with their 'live' cargo.

[38] With approval of Cypress County Ms. Blanchette hired a casual employee on August 25, 2023, prior to that there were no employees on site.

[39] Ms. Blanchette said the traffic count conducted by Cypress County September 12 – September 22, 2024 concurs with her records. She said there is additional traffic to and from her place of residence including a housekeeper, grocery delivery and her own family activities outside of the residence. She referred to footage from her own security cameras and noted that from February 1 – 18, 2023 there were 31 unknown vehicles utilizing the public road at the bulb directly in front of her business, and another 11 vehicles (10 pulling a trailer) who were utilizing her business services.

[40] Referring to the issue of on street parking, Ms. Blanchette installed 'No Parking' signs. In her defense Ms. Blanchette said that other property owners in the subdivision occasionally have vehicles parked on the street.

[41] With regards to complaint about odor, Ms. Blanchette said that due to infection protocols, the pens are cleaned regularly, and the manure is hauled away and used by an area farmer.

[42] The Board expressed concern over the decision of the Planning Commission stating the decision was very liberal and the conditions of the development permit should have been more definitive on the permitted use. The business is in a country subdivision and not on a two-way road.

[43] The Board reviewed the original Development Permit and said the business being conducted was not permitted on the original permit approved in 2020. Noting there are a minimum of three additional services being provided that were not part of the original development permit, which is now being resolved with Development Permit 23/192.

[44] The Board was understanding with the concerns brought forward by the appellant. In making their decision the Board reviewed section Section 11.13.7 of the Land Use Bylaw 2022/09, which states that 1 horse per acre of land is allowed. Ms. Blanchettes property is a 7.96 acre and was previously granted a relaxation with Development Permit 20/184 by allowing 1 additional horse on the property up to 9 horses. The Board acknowledged that by allowing an additional horse (10) on the property in question, it may affect the area traffic negatively.

[45] In the hopes of alleviating some of the concerns of the area residents, the Board has stated the hours of operation of Holsom Equine should be from 9:00 am – 5:00 p.m. Monday – Friday. No business shall be conducted on the weekends or Stat Holidays.

[46] Issued this 5th day of March, 2024 for the Cypress County Subdivision and Development Appeal Board.

A handwritten signature in black ink, appearing to be 'TR', written over a horizontal line.

Todd Read, Chair
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, in accordance with Section 688 of the Municipal Government Act, RSA 2000, c M-26

APPENDIX "A"
REPRESENTATIONS

PERSONS APPEARING

1. Traci Krause, Appellant
2. Hilary Blanchette, Applicant - Business and Homeowner
3. Becky Mack, Assistant Planner, Cypress County
4. K. Simpson, Planning Supervisor, Cypress County
5. Kim Dalton, Municipal Services Director, Cypress County

APPENDIX "B"
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

Exhibit List

Exhibit	Description	Date	Pages
1	Traci Krause Development Appeal	2024-01-26	2
2	Traci Krause Appeal Letter	2024-01-26	3-5
3	Dr. Ash Jaffer Letter	2024-01-26	6-7
4	Scott Schulze Letter	2024-01-26	8-9
5	Stef & Stu Monro Letter	2024-01-26	10-11
6	Doug & Doris Irwin Letter	2024-01-26	12
7	Jennipher Boschman & Richard Poter Letter (email)	2024-02-02	13-14
8	Stef Munro via Traci Krause email	2024 02 02	15
9	Chris & Lee Stewart letter (Email)	2024-02-14	16
10	Doug & Doris Irwin via Tracie Krause (Email)	2024-02-15	17
11	Development Officers Report	2024-02-15	18-63
12	Tracy Studer letter (Email)	2024-02-16	64

Exhibit 1

February 19, 2024 - Email from Anita Andres supporting development