

From: [Amy Hardy](#)
To: [Appeals](#)
Cc: [Stacey Kotlar](#)
Subject: Fw: Re: Development Permit 26D 150
Date: August 4, 2026 3:30:27 PM
Attachments: [Easement afadavit.pdf](#)

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Forwarding this as requested by Ms Kotlar,

Amy Hardy
[REDACTED]

Sent with [REDACTED] secure email.

----- Forwarded Message -----

From: Amy Hardy [REDACTED]
Date: On Tuesday, August 4th, 2026 at 3:24 PM
Subject: Re: Development Permit 26D 150
To: Stacey Kotlar <Stacey.Kotlar@FoothillsCountyAb.ca>

Subject: Formal Notice of Appeal – Development Permit Refusal – Legal Access via Registered Access Easement 961034257

To the Subdivision and Development Appeal Board & Stacey,

I hereby give formal notice of appeal of the Development Authority's decision to refuse my Development Permit application.

Grounds of Appeal

The sole stated reason for refusal is that the existing Access Easement "may not expressly contemplate commercial operations or the regular use of larger commercial vehicles." This conclusion is incorrect in law. The registered Access Easement (Alberta Land Titles registration number 961034257, dated 21 November 1995) expressly grants:

"the free, uninterrupted, unobstructed and perpetual right-of-way and easement to enter on and use by any vehicle, whatsoever or on foot or by any other means whatsoever ... for the purpose of providing access to, ingress and egress from the Dominant Tenement and for the purpose of repairing and maintaining the road and surface drainage systems situate in the Easement Area."

The grant is unrestricted as to vehicle type, size, frequency of use, or commercial versus residential character. Under established principles of interpretation applicable to express easements in Alberta, the plain and ordinary meaning of the words of the grant determines the scope of the rights conferred. Broad language such as "any vehicle, whatsoever" must be given its full effect. There is no limitation in the instrument that excludes commercial traffic or larger commercial vehicles.

The Development Authority has provided no statutory provision, Land Use Bylaw section, or case authority supporting the proposition that an easement drafted in these unrestricted terms is legally insufficient for the proposed use.

Relief Sought

I request that the Subdivision and Development Appeal Board:

1. Allow this appeal;
2. Reverse the refusal; and

3. Approve the Development Permit application as submitted.

I further request that the Development Authority produce, prior to the hearing, any case law or legal authority on which it relies for the position that the easement as written does not support the application.

Please confirm receipt of this Notice of Appeal and advise of the hearing date and any filing requirements.

Respectfully submitted,

Amy Hardy



On Tuesday, July 14th, 2026 at 9:33 AM, Stacey Kotlar <Stacey.Kotlar@FoothillsCountyAb.ca> wrote:

Good morning Amy,

I wanted to reach out regarding your Development Permit application, as the time has come for me to render a decision.

After a thorough review of the application and the information available to us, it appears that I will be unable to support approval of the proposed development. The primary concern relates to legal access to the property. Access is currently provided through an easement, and it is our understanding that the easement may not expressly contemplate commercial operations or the regular use of larger commercial vehicles associated with the proposed business. Given previous challenges related to easement access within the County, we must be cautious when considering applications that rely on easements for business-related access.

As this would be a discretionary refusal, you would have the right to appeal the decision to the Subdivision and Development Appeal Board (SDAB). The Board would consider the application independently and has the authority to uphold or overturn the decision.

Should you wish to continue pursuing business operations on the property, I would encourage you to explore options that may help address the access concerns. These could include:

- Pursuing a boundary adjustment or other land transaction that would provide direct legal access to the property; or
- Renegotiating and amending the easement agreement to clearly permit commercial traffic and larger commercial vehicles associated with the proposed use.

Should the easement be amended, it would also be advisable to address matters such as maintenance responsibilities and dispute resolution procedures to provide greater clarity for all parties involved.

While neither of these options would guarantee approval of a future application, they would help address a significant concern currently affecting the proposal.

Please feel free to contact me if you would like to discuss these options further or have any questions regarding the decision or appeal process.

Kind regards,

Stacey Kotlar

Planning & Development Officer

Foothills County

309 Macleod Trail, Box 5605, High River, AB, T1V 1M7

t: (403) 603-6207 **f:** (403) 652-7880

www.foothillscountyab.ca



Please be advised that I am not in the office on Fridays.

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