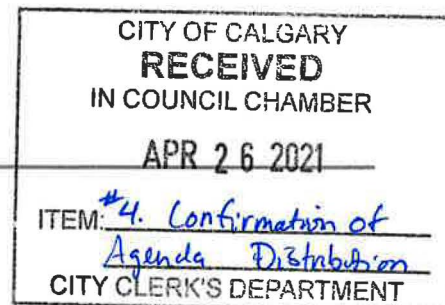


**From:** [Martin, Katarzyna A.](#)  
**To:** [Council Clerk](#)  
**Cc:** [Hamilton, Debra](#); [Jakal, Denise](#)  
**Subject:** FW: Please review - re: Response to Farkas on DQ  
**Date:** Monday, April 26, 2021 4:26:16 PM



**From:** Hamilton, Debra  
**Sent:** Sunday, April 25, 2021 2:23 PM  
**To:** Farkas, Jeromy A. <Jeromy.Farkas@calgary.ca>  
**Cc:** Duckworth, David <David.Duckworth@calgary.ca>; Dalglish, Stuart <Stuart.Dalglish@calgary.ca>  
**Subject:** FW: Please review - re: Response to Farkas on DQ

Hello Councillor Farkas

I appreciate you clarifying your question, your concern for the family, and your ideas. Administration acknowledges these are very challenging circumstances, has empathy for the property owners and family, and is committed to doing whatever is possible and feasible to enable and support their success.

Before I get to available options, I'll provide a bit of background and context first as this determines what options are available:

- 1) The Development Authority's decision was rendered on January 18, 2021 and the applicant filed an appeal on February 4, 2021. The hearing of the appeal occurred on April 22<sup>nd</sup>. The Subdivision and Development Appeal Board (the Board) is now forming their decision. We anticipate a decision in one to two weeks, as is typical from the Board, however this can be shorter or longer, depending on circumstances.
- 2) The Board is a quasi-judicial board, as per the MGA, and is independent of The City of Calgary. On the potential for Council involvement in this matter, and at this stage of the appeal, I refer you to the provisions of the [Calgary Subdivision and Development Appeal Board Code of Conduct \(calgarysdab.ca\)](#), including:

*8.1.7 Board Members shall not, directly or indirectly, disclose or discuss with the Public, or any member of City Council or City Administration, the position of the Board or any of its Board Members or the results of any vote by the Board or any of the Board Members on any appeal, matter or issue before, heard, decided, or yet to be heard or decided by the Board.*

*8.1.9 Any attempt by the public or any member of City Council or City Administration, to discuss any appeal, matter or issue before the Board with a Board Member shall be immediately reported or otherwise brought to the attention of the Chair.*

Given the appeal's status, the near-term option for the applicant is to await the Board's decision, for

which any of the following may occur:

- a. Uphold the decision of the Development Authority (i.e. refuse the development permit)
- b. Overturn the decision of the Development Authority (i.e. approve the development permit, as is)
- c. Overturn the decision of the development Authority with revisions (i.e. approve the development permit with new or revised conditions of approval)

Should the Board overturn the Development Authority's decision, the applicant will have the option to proceed with their development in accordance with the Board's decision and guidance.

Alternatively, should the Board uphold the Development Authority's decision, the applicant may consider the following options:

**1. Redevelop "like for like"**

The applicant may rebuild as per the original development permit from the 1980s and Drive Thru addition approved in the 1990s. These permits are still valid. A Building permit is required. Please note that the applicant was aware of this option and they chose not to pursue this option previously.

**2. Re-develop in accordance with the main street vision Council has established for this area**

The applicant may choose to submit a new development permit that complies with current Council-approved policy. This option was discussed with the Applicant previously. Note – we have already received offers from Councillors and consultants offering their services to assist the Applicant and Landowner on this option.

**3. Propose Amendments to Council's vision for the area**

The applicant may choose to submit a land use and policy amendment application requesting exemption for the subject site from the policies of the existing North Hill Area Redevelopment Plan (approved in 2000) that identify Centre Street as a Main Street. As these policies – development along a Main Street is encouraged to have a continuous building edge, buildings located at the sidewalk and a high-quality pedestrian environment which encourages pedestrian activity and transit use – are the rationale for refusal of the development permit. I cannot guarantee what the recommendation of the Development Authority would be in this circumstance, but the decision rests with Council.

What role could Council play? In addition to the decision-making role Council would have with potential option 3, above, Council could also direct Administration to a) refund/waive permit fees for the prior and/or any future application and/or b) prioritize any future application.

In summary, as the hearing has occurred and the Board is forming their decision, there is no opportunity for Administration to stand down. We must await that decision before exercising any of the options noted above.

I hope these comments are helpful to you, Councillor Farkas, and I assure you – whatever the board decision and future Administration role in the applicant's next steps – Administration will work with the applicant toward a successful outcome for their property and business.

Debra

On Apr 25, 2021, at 8:09 AM, Farkas, Jeromy A.  
<[Jeromy.Farkas@calgary.ca](mailto:Jeromy.Farkas@calgary.ca)> wrote:

I am looking for any and all ways that we can help the family in this situation.

**From:** Hamilton, Debra <[Debra.Hamilton@calgary.ca](mailto:Debra.Hamilton@calgary.ca)>  
**Sent:** Saturday, April 24, 2021 3:05 PM  
**To:** Farkas, Jeromy A. <[Jeromy.Farkas@calgary.ca](mailto:Jeromy.Farkas@calgary.ca)>;  
Dalglish, Stuart <[Stuart.Dalglish@calgary.ca](mailto:Stuart.Dalglish@calgary.ca)>  
**Cc:** Duckworth, David <[David.Duckworth@calgary.ca](mailto:David.Duckworth@calgary.ca)>  
**Subject:** RE: City statement on the Centre Street Dairy Queen file

Hello Councillor Farkas  
I'm a bit confused on a portion of your statement (highlighted below). If you could clarify that for me, please, then I can respond. Thank you.  
Debra

**From:** Farkas, Jeromy A. <[Jeromy.Farkas@calgary.ca](mailto:Jeromy.Farkas@calgary.ca)>  
**Sent:** Saturday, April 24, 2021 2:26 PM  
**To:** Hamilton, Debra <[Debra.Hamilton@calgary.ca](mailto:Debra.Hamilton@calgary.ca)>;  
Dalglish, Stuart <[Stuart.Dalglish@calgary.ca](mailto:Stuart.Dalglish@calgary.ca)>  
**Cc:** Duckworth, David <[David.Duckworth@calgary.ca](mailto:David.Duckworth@calgary.ca)>  
**Subject:** RE: City statement on the Centre Street Dairy Queen file

Thank you. I understand that you may not recommend this, but would you have wording for the City contact SDAB and saying that they have withdrawn opposition to the DP, to stand down at SDAB so that our lawyers will not fight them, and invite the applicant to reapply and expedite approval for the DP? JF

**From:** Hamilton, Debra <[Debra.Hamilton@calgary.ca](mailto:Debra.Hamilton@calgary.ca)>  
**Sent:** Friday, April 23, 2021 5:53 PM  
**To:** Farkas, Jeromy A. <[Jeromy.Farkas@calgary.ca](mailto:Jeromy.Farkas@calgary.ca)>;  
Dalglish, Stuart <[Stuart.Dalglish@calgary.ca](mailto:Stuart.Dalglish@calgary.ca)>  
**Cc:** Duckworth, David <[David.Duckworth@calgary.ca](mailto:David.Duckworth@calgary.ca)>  
**Subject:** RE: City statement on the Centre Street Dairy Queen file

Hello Councillor Farkas  
Thank you for reaching out.

I want to assure you that this was not an easy decision for the Development Authority to make given the circumstances. However, as I noted in my email below, the applicant/landowner was not willing to build like for like nor work with us on an acceptable proposal. Their decision was to take a refusal.

Now that the matter is before the SDAB, The City has no jurisdiction to make another decision on the development permit. Once we rendered our decision on the development permit we are functus and have no ability to reconsider that decision.

The only way for City Administration to reconsider a development permit decision, is for the applicant to re-apply for a new development permit. Without speaking to the applicant, they may prefer to wait for a decision from the SDAB.

If you have any further questions or would like me to follow up with the applicant on your behalf (and ask the question – reapply or wait for SDAB), please let me know.

Debra

**From:** Farkas, Jeromy A. <[Jeromy.Farkas@calgary.ca](mailto:Jeromy.Farkas@calgary.ca)>  
**Sent:** Friday, April 23, 2021 5:12 PM  
**To:** Dalglish, Stuart <[Stuart.Dalglish@calgary.ca](mailto:Stuart.Dalglish@calgary.ca)>  
**Cc:** Hamilton, Debra <[Debra.Hamilton@calgary.ca](mailto:Debra.Hamilton@calgary.ca)>;  
Duckworth, David <[David.Duckworth@calgary.ca](mailto:David.Duckworth@calgary.ca)>  
**Subject:** FW: City statement on the Centre Street Dairy Queen file



Hello, I reach out to David and he asked me to contact you. I am interested in Council debating a resolution that would allow an exception to policy to accept the development permit, direct the Development Authority to withdraw opposition, and/or help them (or not participate) in the SDAB hearing. What would the language look like for that? Now that this is with SDAB, is this possible? It is very unfortunate that they have to lawyer up and go through the legal battle. JF

**From:** Hamilton, Debra <[Debra.Hamilton@calgary.ca](mailto:Debra.Hamilton@calgary.ca)>

**Sent:** Friday, April 23, 2021 3:25 PM

**To:** Council <[A-PORTF@calgary.ca](mailto:A-PORTF@calgary.ca)>

**Cc:** Executive Leadership Team

<[ExecutiveOfficers@calgary.ca](mailto:ExecutiveOfficers@calgary.ca)>; Carignan, Shannon D.

<[Shannon.Carignan@calgary.ca](mailto:Shannon.Carignan@calgary.ca)>; Sharp, Sonya

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<[Christina.Fuller@calgary.ca](mailto:Christina.Fuller@calgary.ca)>; Matheson, Sarah A.

<[Sarah.Matheson@calgary.ca](mailto:Sarah.Matheson@calgary.ca)>

**Subject:** City statement on the Centre Street Dairy Queen file

Hello Council,

In light of the media and inquiries related to the Centre Street N Dairy Queen, Administration has prepared and will be issuing the following statement momentarily:

*We have heard recent concerns circulating about the development permit for a Dairy Queen at 1906 Centre Street NE. The original building was destroyed in a fire in 2019. We empathize with the owner and franchisee in navigating a difficult situation in trying to rebuild this business after this tragedy.*

*In circumstances such as this, applicants have the ability to build a like-for-like structure to replace the original building. This is an option for any business owner in this situation.*

*However, the applicant proposed changes to the previous structure and site plan which included a*

*different configuration for the drive-thru and a modest expansion of the building. This then triggered the project to be evaluated against current bylaws and policies.*

*The City tried to work with the applicant to align their new proposal with current City standards. The applicant decided to proceed with their new plans, with a City of Calgary refusal, and then filed an appeal of The City's decision with the Subdivision & Development Appeal Board (SDAB).*

*Upon decision of the SDAB, The City is prepared to continue to work with the applicant on this project, as we recognize the importance of small business success to the Calgary community.*

If you have any questions or concerns, please reach out to me directly.

Thank you,  
Debra

**Debra Hamilton**, RPP, MCIP  
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Planning & Development  
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