



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 22-007

TIME: 6:30 pm
DATE: August 15, 2022
PLACE: Council Chambers, Cochrane RancheHouse

Chairperson:	Scott Shannon
Board Members:	Chris Hutchinson Hayley Gavin Mark Cardwell Morgan Nagel, Councillor
Town Staff:	Amanda Legros, Planner II John Popoff, Manager, Planning Services
SDAB Clerk:	Karen Babin

1. **CALL TO ORDER**

- a. MOVED by M. Cardwell to open the hearing
Carried Unanimously
- b. Chairperson Shannon opened the hearing at 6:30 pm
- c. Introductions were made from the Board and Administration
- d. Chairperson Shannon asked if anyone had any objections to any member of the Board
 - i. There were no objections to any member of the Board

2. **ADOPTION OF AGENDA**

- a. MOVED by H. Gavin to adopt the Agenda as presented
Carried Unanimously

3. **ADOPTION OF MINUTES**

- a. MOVED by C. Hutchinson to adopt the Minutes from SDAB 22-005 as presented
Carried Unanimously
- b. MOVED by M. Cardwell to adopt the Minutes from SDAB 22-006 as presented
Carried Unanimously

4. **HEARINGS**

- a. The Chairperson asked the Clerk to introduce the appeal

- i. The Clerk read out the appeal as follows:
 - DP2022-004
 - Multi-Unit Dwelling (Apartments)
 - 500 River Heights Drive
 - Lot 3, Block 26, Plan 131 1268
- b. The Chairperson asked the Clerk if this Appeal had been duly advertised
 - The Clerk stated that the Notice of Appeal had been advertised in the August 11th edition of the Cochrane Eagle as well as sent out to adjacent property owners

5. PRELIMINARY MATTER

- a. Applicant:
 - i. The Chairperson asked the Applicant to present their preliminary matter
 - ii. Ms. Buchanan, legal counsel for the Applicant, stated that in accordance with the *Municipal Government Act*, the appeal has no merit and asks that the Board summarily dismiss the matter.
 - iii. Ms. Buchanan further stated that if the Board seeks to adjourn the hearing to consider this preliminary issue, she withdraws the request and asks they proceed to the hear the merits, with the Appellant presenting first.
- b. Appellant:
 - i. The Chairperson called upon the Appellant to respond
 - ii. Ms. Fenech stated that in the Notice of Development in The Cochrane Eagle, it is stated under discretionary uses that all aspects of the application can be appealed and that is why she is here. Their petition, which outlines the severe issues residents in Riversong are facing, has over 426 signatures. There are also two rows of concerned residents here today and we ask to be heard.
- c. Administration:
 - i. The Chairperson called upon Administration to respond
 - ii. Ms. Legros added that the proposed development is listed as a Permitted Use within the R-M District. As a Permitted Use with no variances, the Development Authority approved the application in alignment with the *Municipal Government Act*.
- d. The Chairperson adjourned the meeting for 15 minutes at 6:44 pm.
- e. The Chairperson re-convened the hearing at 7:00 pm.
- f. The Board's decision is to proceed with Hearing 22-007.

6. OUTLINE OF HEARING PROCESS

- a. The Chairperson outlined the hearing process for all present
 - There were no concerns with the process from the Appellant, Applicant, Administration or any members of the audience
- b. The Chairperson asked the Clerk if each of the affected parties had received all materials in a timely fashion.
 - The Clerk replied that they had

7. PRESENTATIONS

- a. Administration:
 - i. The Chairperson called upon the Development Officer to come forward and make their presentation
 - ii. Ms. Legros submitted a comprehensive Administrative Report and made an oral and visual presentation to the Board
 - iii. Questions were asked from the Board to Administration
- b. Appellant:
 - i. The Chairperson called upon the Appellant to come forward and make their presentation
 - ii. Ms. Fenech presented a comprehensive report and made an oral presentation to the Board
 - iii. Questions were asked from the Board to the Appellant
- c. Applicant:
 - i. The Chairperson called upon the Applicant to come forward and make their presentation
 - ii. Ms. Buchanan presented a comprehensive report and made an oral presentation to the Board
 - iii. Questions were asked from the Board to the Applicant
- d. Additional Presentations:
 - i. The following area residents spoke in favour of the appeal: Allan Hatton, Duncan Hecht, John Doyle, Carol Hogarth, Sarah Hamilton, Robb Aishford, Rod Williams, Shelley Luckasavitch and Shana Kirkpatrick.
 - ii. There were no additional presentations opposed to the appeal

8. QUESTIONS AND SUMMARIES

- a. Final questions for clarification were asked
- b. Summaries were presented from Administration and the Applicant
- c. The Chairperson asked if all parties involved felt they were given a fair hearing
 - i. All parties agreed they were given a fair hearing

9. CLOSE

- a. MOVED by H. Gavin to close the hearing
Carried Unanimously
- b. The Chairperson advised that the Board had 15 days to issue their decision in writing
- c. Chairperson Shannon adjourned the hearing at 8:25 pm

DATED this 23rd day of November 2022

Original signed by Scott Shannon
Scott Shannon, Chairperson

Original signed by Karen Babin
Karen Babin, SDAB Clerk

TOWN OF COCHRANE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

BOARD ORDER: 22-007

IN THE MATTER OF THE *Municipal Government Act*, R.S.A. 2000 Chapter M-26

AND IN THE MATTER OF AN APPEAL FROM AN ORDER lodged by Dana Fenech, of 603-501 River Heights Drive, Cochrane, AB (Appellant)

BEFORE:

Scott Shannon, Chairperson

Christopher Hutchinson

Hayley Gavin

Mark Cardwell

Morgan Nagel, Councillor

Karen Babin, SDAB Clerk

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board (SDAB) of the Development Authority, being the Notice of Decision to approve Development Permit 2022-004 for Multi-Unit Dwelling (Apartments) at 500 River Heights Drive, Lot 3, Block 26, Plan 131 1268, in the Town of Cochrane (Town).

A hearing to consider the appeal was convened by the SDAB on August 15, 2022, commencing at 6:30 pm in the Town's Council Chambers.

I. BACKGROUND

Development Permit application DP2022-004 is for Multi-Unit Dwelling (Apartments). The proposed development is located at 500 River Heights Drive and within the High-Density Multi-Unit Dwellings District (R-M).

The Appellant submitted a Notice of Appeal within the 21-day appeal period noted on the Notice of Decision. The development permit was issued for a Permitted Use with no variances to Land Use Bylaw 01/2004 (LUB).

II. DETERMINATION OF THE BOARD

The Appeal is denied, and the decision of the Development Authority is upheld as per the reasons outlined in section VI Decision.

III. APPEARANCES and SUBMISSIONS

The Board received oral and/or written submissions from:

- a) Dana Fenech, the Appellant
- b) Jennie Buchanan, counsel on behalf of the Applicant
- c) Amanda Legros, on behalf of the Development Authority
- d) John Popoff, on behalf of the Development Authority
- e) Allan Hatton, Duncan Hecht, John Doyle, Carol Hogarth, Sarah Hamilton, Robb Aishford, Rod Williams, Shelley Luckasavitch, and Shauna Kirkpatrick, with the Appellant

The Board also received written submissions from:

- f) Nancy Provost, for the appeal
- g) Neil Eggsgard, for the appeal (Addendum 1)
- h) Katrina Toews, for the appeal (Addendum 2)

The following were presented during the hearing and form part of the record:

Addendum 3 – PowerPoint presentation submitted by the Development Authority

Addendum 4 – PowerPoint presentation submitted by the Appellant

IV. PRELIMINARY MATTER

The Applicant raised a preliminary matter regarding whether the Appellant has the grounds to appeal the issuance of a development permit for a permitted use. Section 685(3) of the [Municipal Government Act, RSA 2000, c M-26 \(MGA\)](#) states “...no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted”.

The Board invited submissions from the parties on the preliminary matter.

- a) Submission of the Applicant
- Ms. Buchanan stated that it is clear there were no relaxations or variances to the LUB. The Appellant did not allege in the Notice to Appeal nor her submission that there has been a misinterpretation.
 - The Applicant requested the appeal to be summarily dismissed in accordance with the Alberta Court of Appeal’s decision in *Rau v. Edmonton (City)*, excerpted on page 82 of the Board package.
 - If the Board declined to summarily dismiss the appeal, the Applicant requested that the scope of the appeal be limited to whether there has been a variance, relaxation or misinterpretation. Additionally,

the Applicant requested that the Appellant present first in order to hear the grounds of appeal she planned to submit.

b) Position of the Appellant:

- Ms. Fenech said that she understood counsel's position; however, she filed the appeal on the basis that the Notice of Decision advertised in the Cochrane Eagle stated under discretionary uses that all aspects of a proposed development may be challenged. That is what this appeal is about.
- The Appellant started an online petition in June against the proposed development which has garnered over 426 signatures.
- The Appellant argued that to say their concerns about traffic, the neighbourhood and property values are not valid or have to fit within certain parameters is unjust.
- A number of concerned residents are here today, and we simply ask that our voices be heard about our community.

c) Position of the Development Authority:

- The proposed development is listed as a Permitted Use within the R-M District. As a permitted use with no variances, the Development Authority approved the application as required by the *MGA* and *LUB*.

d) Decision on Preliminary Matter

- The Chairperson stated that the hearing would be adjourned in order for the Board to thoroughly consider this preliminary matter and a written decision will be issued within 15 days, as required by the *MGA*.
- Ms. Buchanan stated that the Applicant was vehemently opposed to an adjournment and that if the options were between an adjournment or proceeding on the information contained in the package, they seek leave to withdraw the preliminary issue.
- After a brief recess, the Board returned with a unanimous decision to proceed with the hearing to ensure the principles of procedural fairness and natural justice are upheld.

V. SUMMARY OF EVIDENCE

a) Submissions of the Development Officer

- The Development Officer's submission included a report, maps, plans, photos and PowerPoint presentation.
- On January 14, 2022, the Applicant submitted a development permit application for Multi-Unit Dwelling (Apartments) at 500 River Heights Drive. Multi-Unit Dwelling is listed as a permitted use within the R-M (Residential High Density Multi-Unit Dwellings) District. The application was deemed complete on January 28, 2022 and circulated to internal departments and external agencies for comment.
- The application was reviewed against the following statutory and non-statutory planning documents:
 - [Municipal Development Plan](#), Bylaw 07/2008 (MDP)
 - Section 8.2 Land Use Goals: use land efficiently and creatively; meet minimum residential density level of eight units per acre
 - Section 8.4.2 Residential Goals: facilitate a balanced housing mix for all lifecycles, income levels and household sizes
 - Section 8.4.3: multi-unit dwelling developments shall be dispersed throughout Cochrane to avoid large concentrations of housing in any one area
 - [Cochrane Sustainability Plan](#), 2009
 - Pathway 9: provide diverse, accessible, safe and affordable housing options for all income levels, for either ownership or rental
 - Pathway 11: sets target of increasing density within the existing 2009 footprint

- [South Ridge Area Structure Plan](#), Bylaw 14/1994, as amended 2011
 - Section 3.3: the area will predominantly be single detached dwellings with a limited mix of multiple housing types
 - Section 3.3.3: multi-unit developments shall be located near major streets and open space area
 - Section 3.3.4: form, structure and appearance of multi-unit developments shall complement adjacent developments and streetscape
- Conceptual Plan 2001, Bylaw 19/2006 Version 2, Schedule A
 - Prior to Neighbourhood Plans being required, Concept Plans were reviewed and approved by Council. In 2001 a conceptual plan was approved for the area and in 2006, R-M zoning was granted for the subject parcel.
- Riversong Design Brief
 - In 2010 Council approved a Design Brief submitted by the new developer of the subject parcel.
 - The anticipated density for the R-M lots was 30 units per acre with the bylaw allowing up to 60 units. Section 3.1 requires further investigation of the topography and natural features to determine the actual density of the R-M lots prior to development.
- [Stage 2 Neighbourhood Plan](#)
 - The amended Neighbourhood Plan kept the existing land uses and increased the size of the subject property. Three multi-unit sites zoned R-M were identified to be developed as comprehensive multi-family sites. A detail review at the permit stage would be required to determine a suitable housing form.
 - Section 4.1 states a variety of housing be available including single- and semi-detached, townhomes and multi-unit dwellings
 - Section 6.0 anticipates the subject property to have a density of 15 units per hectare, below the maximum of 17.1 units per hectare cited.
- [Land Use Bylaw 01/2004](#) (LUB)
 - This application was reviewed against Land Use Bylaw 01/2004 as it was deemed complete prior to Council's approval of new Land Use Bylaw 01/2022.
 - The Development Officer provided a comprehensive overview of R-M District requirements including setbacks, lot coverage, building height, parking, landscaping, amenity space, fencing, screening and garbage storage. The proposed development is compliant with all regulations.
 - A Geotechnical/Slope Stability Report was required as the area has slopes greater than 15%. The Report was reviewed and approved by the Town's Civil Land Development Services department and a third-party consultant.
 - The Applicant submitted the required grading, servicing, and stormwater plans. These have been reviewed and approved by the Town's Civil Land Development Services department.
 - The Development Officer requested a Traffic Impact Assessment due to the potential impact the proposed development may have on the existing road network. The Applicant retained a qualified traffic engineer to perform the study; it was reviewed and approved by the Town's third-party consultant. The report concluded that the existing road network could accommodate the proposed development without any upgrades; however, no parking signed are required near the entrances to the sit to ensure proper sightlines are maintained.
 - The lot lighting plan submitted by the Applicant was found to be in alignment with the regulations for outdoor lighting.
 - Section 3.3.2 of Land Use Bylaw 01/2004 states "the development authority shall approve an application for a development permit for a permitted use, with or without conditions, upon the application conforming in all respects to the provisions of the bylaw".
- [Municipal Government Act, RSA 2000, c M-26](#)
 - Section 642 (1) of the Municipal Government Act states "when a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application

otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.”

- Circulation Comments
 - The application was circulated to internal departments and external agencies. Comments were received from Fire Services, Roads and Civil Land Development Services which were addressed prior to a decision being made on the application.
 - Comments were also received from area residents. The main concerns related to traffic, the size of the development and that the development should be townhomes or semi-detached homes.
- After thorough review, the Development Officer found the development application was in alignment with the planning policies and was compliant with all applicable regulations of the LUB. In accordance with the LUB and *MGA*, a development permit must be issued. The Notice of Decision was issued on June 30, 2022.
- Ms. Legros provided the following responses to questions from the Board:
 - The development permit application met all requirements of the statutory and non-statutory documents as well as the *MGA*.
 - The application was deemed complete on January 28, 2022 but the Notice of Decision was not issued until June because the review process itself can be lengthy. The circulation period for comments is 30 days and the Applicant was given time to address those prior to the notice being issued.

b) Submissions of the Appellant

- The Appellant’s submission included a petition with comments, map, and PowerPoint presentation.
- Ms. Fenech stated that two main concerns of the residents in Riversong are traffic and excessive speed. They feel the area has reached maximum capacity and cannot accommodate such a large development with the current road network and River Heights Drive has become a main thoroughfare.
- The Town had anticipated that James Walker Trail would be complete by now so traffic could be diverted away from River Heights Drive. With the delay of the Southbow Landing development, there are no immediate plans to start construction on the final leg of James Walker Trail.
- The Appellant included a quote from Mayor Genung stating that River Heights Drive was not designed for the additional traffic it sees and recognizes that the residents’ complaints are legitimate and that something needs to be done. Not having James Walker Trail completed has affected the transportation plan so they are looking at ways to get it in place sooner.
- In a recent meeting with Mayor Genung, Mike Derricott, CAO and Drew Hyndman, Executive Director of Development and Infrastructure, traffic issues were discussed in detail. Construction vehicles may be able to use the existing access road thus removing them from River Heights Drive, but that does not address the existing traffic issues. More work needs to be done.
- The traffic study conducted for this area was completed some time ago for the developer and could only look at conditions at that time. It would not have been able to anticipate that construction of the Highway 1A/22 interchange would create traffic backups that have people choosing to cut through Riversong as a result.
- There is a traffic density issue when residents on River Heights Drive are not able to pull out of their driveways. Adding 390 vehicles to this section of roadway is not reasonable, is irresponsible development and has no regard for the residents.
- The Appellant is opposed to the size of this development. River Heights Drive cannot accommodate two 5-storey, 95-unit buildings with 390 parking stalls. This will be the largest development of this type in town and Riversong is not the right location for it. Existing multi-storey structures are located closer to the centre of town and those properties are smaller than this proposed development.
- The size and scope of the project does not fit the neighbourhood, it will detract from the surrounding natural beauty and negatively impact property values of neighbouring homes. It is a concrete

monstrosity that will overshadow homes in the area and would be better suited to Greystone as it is intended for higher density.

- The property most comparable to this development is The Village in Sunset Ridge with two 4-storey buildings. It however is adjacent to a four-lane roadway and Highway 22 so there are no traffic concerns.
- The Appellant feels that the additional noise this development will contribute because of construction vehicles and the additional traffic will be disruptive and negatively impact the current residents.
- The Appellant doubts this development will be able to adhere to the Town's dark sky lighting policy. External lighting plus 190 units with lights on will negatively impact the area and local wildlife.
- The people who purchased at The Rise were told by the builder that the vacant lot across the street would be townhomes with no more than 25 single family dwellings. If they had known this development would be going in, they may not have purchased their home. Although the area may be designated high-density, that does not mean they have to build to the maximum allowable.
- The Appellant presented a petition with 426 signatures of highly frustrated residents.
- The residents of the area ask that this development be cut in half at a bare minimum.
- Ms. Fenech provided the following response to a question from the Board:
 - This appeal meets the criteria listed for Discretionary Uses as was outlined in the Notice of Development ad in the Municipal Matters section of the paper.

c) Submissions of the Applicant

- The Applicant's submission included a comprehensive report including studies, drawings and supporting legal precedent.
- Ms. Buchanan, legal counsel for the Applicant, reviewed the process followed by the Development Officer to determine the development permit application was complete, in accordance with legislation.
- Ms. Buchanan explained that the application was considered under Land Use Bylaw 01/2004 as it was submitted prior to the approval of new Land Use Bylaw 01/2022.
- The application is for a Permitted Use and was approved without any relaxations or variances to the provisions of the LUB nor was there any misinterpretation.
- The Notice to Appeal filed by the Appellant does not identify any variances, relaxations or misinterpretations of the LUB.
- The Appellant brought up understandable concerns of the local residents but that does not give the Board jurisdiction to deny the application.
- The LUB does not require a traffic impact assessment (TIA) be conducted. The Development Officer requested one be submitted and the Applicant complied. It was reviewed by a third party and by the Town. The TIA found that the current roadways can accommodate the increased traffic volumes.
- The current increase in traffic is related to the delayed development of Southbow Landing and is not tied to this development.
- The Appellant noted that the subject development will result in increased noise. There are no applicable land use provisions regarding noise so this is not relevant.
- The Appellant noted that lights from the proposed development and parking lots do not align with Cochrane's Dark Sky plan. The Development Authority has confirmed that the application meets these requirements.
- The property has been zoned R-M for a number of years and 5-storey structures are a permitted use. As a result, the Development Officer is required to approve it.
- Ms. Buchanan provided the following response to a question from the Board:
 - It is s. 642 of the MGA that applies and not s. 624 as was stated earlier.

d) In Favour of / Opposed to the Appeal

- Allan Hatton, area resident in favour of the appeal

- The property is owned by West Urban based in Vancouver. They are already advertising as “Coming Soon. How can they do that when we are having this appeal? They also state they pick their sites to provide iconic views but it will be at the expense of his as the apartment building will stand taller than his house.
- Duncan Hecht, area resident in favour of the appeal
 - The Applicant, during the preliminary, brought up limiting the scope of the appeal, then withdrew their request for a preliminary and brought it up again during her presentation. He feels it is an estoppel against bringing it forward again and would like the Board to ignore anything brought up during preliminaries.
 - The approval process felt rushed to meet deadlines so they would not be subjected to changed bylaws. He understands this is not the right forum to object but there was no opportunity to review the application earlier which is why they are bringing them up now and require this process.
- John Doyle, area resident in favour of the appeal
 - He lives on River Heights Drive and agrees traffic is a major concern. The Appellant spent a lot of time on this topic and Planning made a single statement saying the traffic impact assessment was reviewed by engineering and was okay. The Applicant then responded by saying it is not this project that is causing problems, it is due to delays in another development. It cannot be said that adding this development and another 390 vehicles will not cause traffic problems. We already have a traffic problem. It does not matter who causes it, it is a reality that cannot be ignored. He suggests that there needs to be another look at the development even if traffic is the only issue.
- Carol Hogarth, area resident in favour of the appeal
 - She lives directly across the street from property. When she purchased her home in 2016, the builder assured her that 25 2-storey villas would be built on the subject property. Now six years later there will be two 5-storey buildings with over 400 parking spots. She would not have purchased if she knew that was coming. She is troubled that there was no opportunity to know about this development beforehand and how the zoning changed in the last six years.
 - There is constant traffic going to the school, school buses and Google maps is now directing traffic to take this route to save a couple of minutes. She is asking the Board to delay the project and reduce the size of it so it is more inline with the community and welcomed by residents of Riversong.
- Sarah Hamilton, area resident in favour of the appeal
 - She lives along River Heights Drive. It is very different now than when they moved in six years ago. She has questions about the traffic impact assessment as there are no details available. We know the developer hired people to conduct the study but when did it take place and what are details of the assessment? Is it available to review? Did it take place in April 2020 when everyone was staying home all the time? It is important they know the details so they can consider how the community will be impacted. She already fears for her four year old’s safety and has other drivers angry with her when she slows to pull into her driveway. This may cause her to move.
- Robb Aishford, area resident in favour of the appeal
 - He lives on River Heights Drive. He is not against development, just the size and density of this project. The Rise and the other new development beside it fit nicely with the community. If this project could be scaled down, they would welcome it in the neighbourhood. The development in Sunset can accommodate the extra traffic with a four-lane roadway and the highway.
 - The Town recently set up an armadillo traffic counter, but it is summer with kids out of school. He would like to have a fair measurement of traffic.
- Rod Williams, area resident in favour of the appeal
 - The LUB posted on the Town’s website states that anything going to Council after 2018 has to address traffic impacts, planning and look at how it would affect the community in the future. There is no transparency in this process because those documents were not shared. He is assuming the Applicant would have to follow this process but has not seen the documents to know.

- Shelley Luckasavitch, area resident in favour of the appeal
 - She is a long-time resident of River Heights and wants to re-iterate that the ongoing safety of River Heights Drive and of residents is paramount. She recognizes that traffic studies have been done but does not believe that adding access to a site of that size is safe.
 - The study may say an increase in volume of cars can be handled but there is a high school and the possibility of a K-6 school going in so she would encourage overall safety versus allowing increased traffic through that area.
- Shauna Kirkpatrick, area resident in favour of the appeal
 - She lives across the street from the proposed development and has huge concerns with traffic and the size of the project. She understands that the developer feels they have done everything they were asked to do but she is not confident in the traffic assessment. There have been a lot of changes in traffic with people staying home during the pandemic and now starting to go back to work. She hopes that these are things that have been considered.

e) Final Comments

- The Development Officer made the following final comments:
 - They understand that traffic is a major concern. A traffic impact assessment is not a requirement of the LUB but can be requested. For this project, Engineering requested it, not Planning. The assessment does account for Covid and it uses the Neighbourhood Plan so also considers future impact.
- The Applicant made the following final comments:
 - She withdrew the preliminary issue only to avoid an adjournment; an estoppel does not apply.
 - The R-M district was established around 2006 so it not something new. She cannot speak to what the builder/owner may have told potential purchasers.
 - The Traffic Impact Assessment is dated January 2022. Because it is not a requirement of the LUB, it is not a valid point for Board to overturn.
 - The Board does not have the authority to grant the appeal and asks for it to be dismissed.
- The Appellant did not make any final comments.

VI. DECISION

The Board considered all evidence and arguments, written and oral, submitted by the parties.

Multi-Unit Dwellings (Apartments) are a Permitted Use in the R-M Residential High Density Multi-Unit Dwellings District. The subject property is located in the R-M District.

The Board notes that section 685(3) of the *Municipal Government Act* is very specific about when a development permit issued for a permitted use can be appealed to the Board.

Section 685(3) of the *Municipal Government Act* provides for an appeal to the Board if the provisions of the land use bylaw were relaxed, varied or misinterpreted.

The main issues before the Board are: 1) Does the Board have jurisdiction to hear this appeal? and 2) Was the decision issued by the Development Authority appealable under section 685(3) of the *MGA*?

In *Rau v. Edmonton (City)* At Para. 15, “The Board’s jurisdiction is not limited to hearing meritorious appeals: it can also hear appeals that are flawed, even seriously flawed. The phrase “no appeal lies” found in s. 685(3) effectively means that “no appeal will be successful”, unless there is a relaxation, variation, or misinterpretation.”

The Board recognizes that the planning and development process is complex and requires Appellants to quickly gain an understanding of planning documents and legislation. In the interest of the principles of

procedural fairness, the Board agreed to proceed and hear from the Appellant and other affected parties present at the hearing.

In the written submissions received from the Appellant and other affected parties, the main concerns raised were excessive speeding, traffic flow and increased density resulting from the proposed development. In oral submissions by the Appellant and attending affected parties, the main concerns presented were the increase in traffic along with the size and density of the proposed development in a neighbourhood with predominantly single-family homes.

The Board acknowledges that these are valid concerns; however, the Board's jurisdiction is limited to the statutory provisions of the *MGA*.

The Board finds that the development permit was issued with no relaxations or variances. In considering the Appellant's arguments, the Board finds there was no misinterpretation of the provisions of the LUB; therefore, there is no right to appeal. In accordance with the *MGA* and LUB, there is no right to appeal a development permit for a Permitted Use with no variances.

Accordingly, the appeal is denied, and the decision of the Development Authority is confirmed. The development permit is granted as approved by the Development Authority.

Dated this 26 day of August 2022

Original signed by Scott Shannon

Scott Shannon, Chairperson

Original signed by Karen Babin

Karen Babin, SDAB Clerk

An appeal of this Decision, on a question of law or jurisdiction, may be made to the Alberta Court of Appeal in accordance with section 688 of the Municipal Government Act, RSA 2000, c.M-26 within 30 days of the date of this Decision.