

March 3, 2025

**VIA EMAIL
VIA REGISTERED MAIL AND EMAIL**

Subdivision and Development Appeal Board
Town of Strathmore
PO Box 2280, 1 Parklane Drive
Strathmore, AB T1P 1K2

Attn: SDAB Clerk

Sec. 17, FOIP

Re: Notice of Appeal pursuant to to Section 685(2) Municipal Government Act R.S.A. 2000, Chapter M-26; and Section 1.18(12) Town of Strathmore Consolidated Land Use Bylaw #14-11

Cancellation of Development Permit D24-114 - Plan 921 1782, Block 1, Lot 2 issued by the Town of Strathmore on October 17, 2024

Enclosed is a Notice of Appeal filed on behalf of Broadstreet Properties Ltd. ("**Broadstreet**" or the "**Appellant**"), pursuant to Section 685(2) of the *Municipal Government Act*, further pursuant to Section 1.18(12) of the Town of Strathmore Consolidated Land Use Bylaw #14-11 (the "**Bylaw**"), from the purported decision of the Town of Strathmore ("**Strathmore**" or the "**Town**") to cancel Development Permit Application No. D24-114 issued on October 17, 2024 (the "**DP**"). The DP authorizes Broadstreet to develop, for a housing/apartment proposed use, the Eagle Heights Development (the "**EH Development**") within the R3 – High Density Residential District (the "**R3 District**") of Strathmore.

As set out in the enclosed Notice of Appeal, the Appellant raises the following issues on appeal:

1. The EH Development is within the stated purpose and complies with the Bylaw.

The stated purpose of R3 District housing in the Bylaw, is: "to provide for high density multi-family housing to a maximum of 100 dwellings per hectare". The EH Development is for 147 units within 1.71 hectares. **That is 85.96 dwelling per hectare** – entirely within the stated purpose of the Bylaw.

The Town confirmed to Broadstreet that the EH Development complies with the Bylaw. On October 17, 2024, Development Officer Cathy Jones approved the DP. Prior to approving the DP, Cathy Jones provided detailed comment and review of Broadstreet's DP application to ensure it was in compliance with the Bylaw as well as all other relevant provincial and/or municipal legislation and authority. On October 8, 2024, Broadstreet further clarified with the Town that there were no issues with the maximum building height and site size area which would require Broadstreet to seek a variance.

Cathy Jones responded on the Town's behalf in no uncertain terms (emphasis added):

*I talked about lot size with the Planners – we're treating the lot as a legal existing lot, existing prior to the adoption of LUB 2014 and proceeding. **it's an outdated requirement, it's an error - there shouldn't be a maximum size in the LUB R3.***

Clearly, the Town advised Broadstreet that maximum site area was not an effective requirement under the Bylaw. Broadstreet did not seek any variance, as none was required, and, on October 17, 2024, the DP was duly approved.

2. A Development Officer can only cancel a DP when issued 'in error', which did not occur here.

Pursuant to Section 1.9(12) of the Bylaw, wherever it appears to a Development Officer that a Development Permit has been obtained by fraud or misrepresentation or has been issued in error, a Development Officer may suspend, cancel, or amend the Development Permit, as required.

By letter to Broadstreet, Cathy Jones advised that the DP "is being cancelled" due to it being issued 'in error' by Cathy Jones as contemplated by Section 1.9(12) of the Bylaw. It is unknown if the DP has at this time, been cancelled or if it is still in the process of "being cancelled".

As outlined above, the DP was not issued in error. It complies with the Bylaw, including fitting within the stated requirement of dwelling units per hectare for R3 District housing.

Broadstreet will take the position that the Town incorrect interpreted its authority to cancel the DP, as only a DP issued in error can be cancelled. There was no error here, as Cathy Jones and Broadstreet were of the knowledge that the DP fit within the purposes of the Bylaw, and the maximum site area language, if applicable, was in error and would therefore not apply to the DP.

3. Cathy Jones and/or the Town ignored its ability to simply vary the Bylaw.

Pursuant to Section 1.9(7)1.9(7) an of the Bylaw, a Development Officer or Approving Authority may vary the requirements of this Bylaw for any Development Permit or Certificate of Compliance, subject to the following conditions:

- a. the Development shall not unduly interfere with the amenities of the neighbourhood, and shall not materially interfere with the use, enjoyment, and value of neighbouring parcels of land;
- b. if the variance exceeds 10%, a Development Officer shall notify adjacent landowners and may publish in the local paper and/or post on site; and
- c. notwithstanding the above variances, a Development Officer or Approving Authority is bound by the use of the adopted land use designation

Pursuant to Section 1.24(2) of the Bylaw, the Town of Strathmore, at its sole discretion may initiate any amendment to this Bylaw.

Here, Cathy Jones and/or the Town were fully aware that the that the DP fit within the purposes of the Bylaw, and the maximum site area language, if applicable, was in error and would therefore not apply to the DP.

4. Cathy Jones and/or the Town ignored its ability to simply issue a variance.

Pursuant to Section 1.18(2) of the Bylaw, 2. if the application is for a permitted use that requires a variance pursuant to Section 1.9(7) or 1.9(8) of the Bylaw, or is for a discretionary use, a Development Officer shall also issue a notice stating the legal description of the property, civic address, and the nature of the use or development, to be send by ordinary mail to adjacent landowners and may, at the discretion of a Development Officer:

- a. be published in a local newspaper circulating within the municipality;
- b. be posted conspicuously on the property; or
- c. be published on the Town of Strathmore's website.

Here, Cathy Jones and/or the Town were fully aware that the that the DP fit within the purposes of the Bylaw, and the maximum site area language, if applicable, was in error and would therefore not apply to the DP. The Town even advised Broadstreet that a variance was not required, as it was not.

If a variance was required, the Town was negligent of its ability to simply issue the variance instead of cancelling the DP.

Yours truly,

MLT AIKINS LLP

FOIP Sec. 17(1)

Jonathan J. Bouchier