SUMMER VILLAGE OF NORGLENWOLD SUBDIVISION AND DEVELOPMENT APPEAL BOARD AGENDA DENIAL OF DEVELOPMENT PERMIT FOR DECK ON THE ESCARPMENT JUNE 22, 2023 @ 10:00 a.m.

_		
1.	Call to Order	Chair
2.	Purpose of Hearing/Confirmation of Notice	Secretary
3.	Polling for Objections to members	Secretary
4.	Background of appeal (appeal letter)	Secretary
5.	Duties & Jurisdiction	Development Officer
6.	Hearing Procedures	Chair
7.	Background from Development Officer	Development Officer or Counsel
8.	Appellant Statement & Presentation	Appellant or Representative
9.	Questions from the board	
10.	Written letters supporting development	Secretary
11.	Speakers supporting development	
12.	Questions from the board to speakers	
13.	Written letters opposing development	Secretary
14.	Speakers opposing development	
15.	Questions from board to speakers	
16.	Rebuttal Statement from Appellant	Appellant or Representative
17.	Development Officer Summary	Development Officer or Counsel
18.	Additional questions from Board to anyone	
19.	Conclusion of Hearing	Chair

An appeal was received, one on May 15, 2023, appealing the denial of a development permit for a deck on the escarpment by the Municipal Planning Commission on April 21, 2023, in the Summer Village of Norglenwold.

Under the provisions of the *MGA*, the Subdivision and Appeal Board may deny the appeal and uphold the permit; or allow the appeal and deny the permit; or allow the appeal and approve the permit with or without variations to the permit.

NOTICE BEING GIVEN by mail on May 18, 2023, to the appellant and owners of property located within 200' radius of the proposed development and published on the Municipal website.

MUNICIPAL PLANNING COMMISSION AGENDA SUMMER VILLAGE OF NORGLENWOLD SUMMER VILLAGES ADMINISTRATION OFFICE APRIL 21, 2023 @ 8:30 A.M.

- A. CALL TO ORDER
- **B. ADOPTION OF AGENDA**
- C. DEVELOPMENT ITEMS
 - 1. 139 Grand Avenue
- D. ADJOURNMENT

Summer Village of Norglenwold – Municipal Planning Commission

April 21, 2023

Agenda Item

139 Grand Avenue (Lot 20, Block B, Plan 5108EO)

Development Permit Application

Background:

An application has been submitted on behalf of the registered homeowner for a lakeside deck on the escarpment at 139 Grand Avenue (Lot 20, Block B, Plan 5108EO) in the Summer Village of Norglenwold. This property is in the R1 District (Shoreline Residential).

In August 2021 administration reached out to the homeowner of 139 Grand Avenue as there was landscaping materials at the front of the property and it was suspected that development was taking place. Response from the homeowner included a description of the landscaping taking place, and a submission of site plans. It was found that no development permits were required at the time.

In September 2022 it came to administrations attention that a new deck was being built on the escarpment of the lakeside of the property. Administration reached out to the homeowner and explained that it was a new build and requires a development permit as the development is on the escarpment.

The proposed deck that was in the process of being constructed, is proposed to be "floating" on concrete pads alleviating the need for a buried foundation and the deck would be approximately 15' from the property line and on the escarpment.

Administration would consider the deck that was previously on the property as a non-conforming building. A non-conforming building is defined as "Means a building:

- a. That is lawfully constructed or lawfully under construction at the date this Land Use Bylaw or any amendment thereof affecting the building or land on which the building is situated becomes effective; and
- b. That on the date this Land Use Bylaw or any amendment thereof becomes effective does not, or when constructed will not, comply with the Land Use Bylaw." Also as stated in the Municipal Government Act, and the Land Use Bylaw "A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except:
 - a. to make it a conforming building;

- b. for the routine maintenance of the building, if the Development Authority considers it necessary; or
- c. in accordance with the variance powers possessed by the Development Authority pursuant to the Act and this Bylaw to approve a development permit despite any non-compliance with the regulations of this Bylaw.
- 5. If a non-conforming building is damaged or destroyed to the extent of more than seventy-five percent (75%) of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with this Bylaw.

As the deck has been removed and is being rebuilt, it is no longer considered a non-conforming building that can remain in place. For the new deck to remain in the location it is currently being constructed, it will require a variance granted by the Municipal Planning Commission.

Discussion:

This application is before MPC for the following reasons:

 Land located below the top of bank/top of escarpment should be in a natural state, a variance is required.

Recommendation:

After reviewing all relevant planning and other statutory documents, it is the recommendation of administration to deny the application. A variance should only be considered where warranted by the merits of the proposed development and in response to irregular lot lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or meeting the usual bylaw requirements. The Land Use Bylaw states that land located below the top of escarpment should be in a natural state and while the deck may have been there previously, as it was removed the lands are required to be in compliance with the regulations in the Land Use Bylaw. Adjacent landowners have been notified and administration has not received any comment.

Conditions:

If approved, Administration would recommend the following conditions:

- Completions Deposit of \$500.00
- Zero trees to be removed or any other landscaping changes to be made.
- A final as build real property report from an Alberta Land Surveyor at completion of development that includes parcel coverage.
- Copies of all applicable Superior Safety Codes permits shall be completed.

Authorities:

The MPC may:

- Grant a variance to reduce the requirements of any use of the LUB and that use will be deemed to comply with LUB.
- Approve application even though the proposed development does not comply or is a non-conforming building if:
 - o It would not unduly interfere with the amenities of the neighborhood, or
 - Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land, And
 - o It conforms with the use prescribed for that land or building in the bylaw.
- Consider a Variance only where warranted by the merits or the proposed development and in response to irregular lot lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements, except there shall be no variance for Parcel Coverage or Building Height.

Decision:

In order to retain transparency of the Commission, Administration recommends one of the following:

- 1. Approve the application with or without conditions (Section 642 of the MGA), or
- 2. Deny the application stating reasons why (Section 642(4) of the MGA).

139 Grande Avenue Norglenwold, AB

The Summer Village of Norglenwold Planning and Development 2 Erickson Drive Sylvan Lake, AB

28 Feb 2023

Dear Kara,

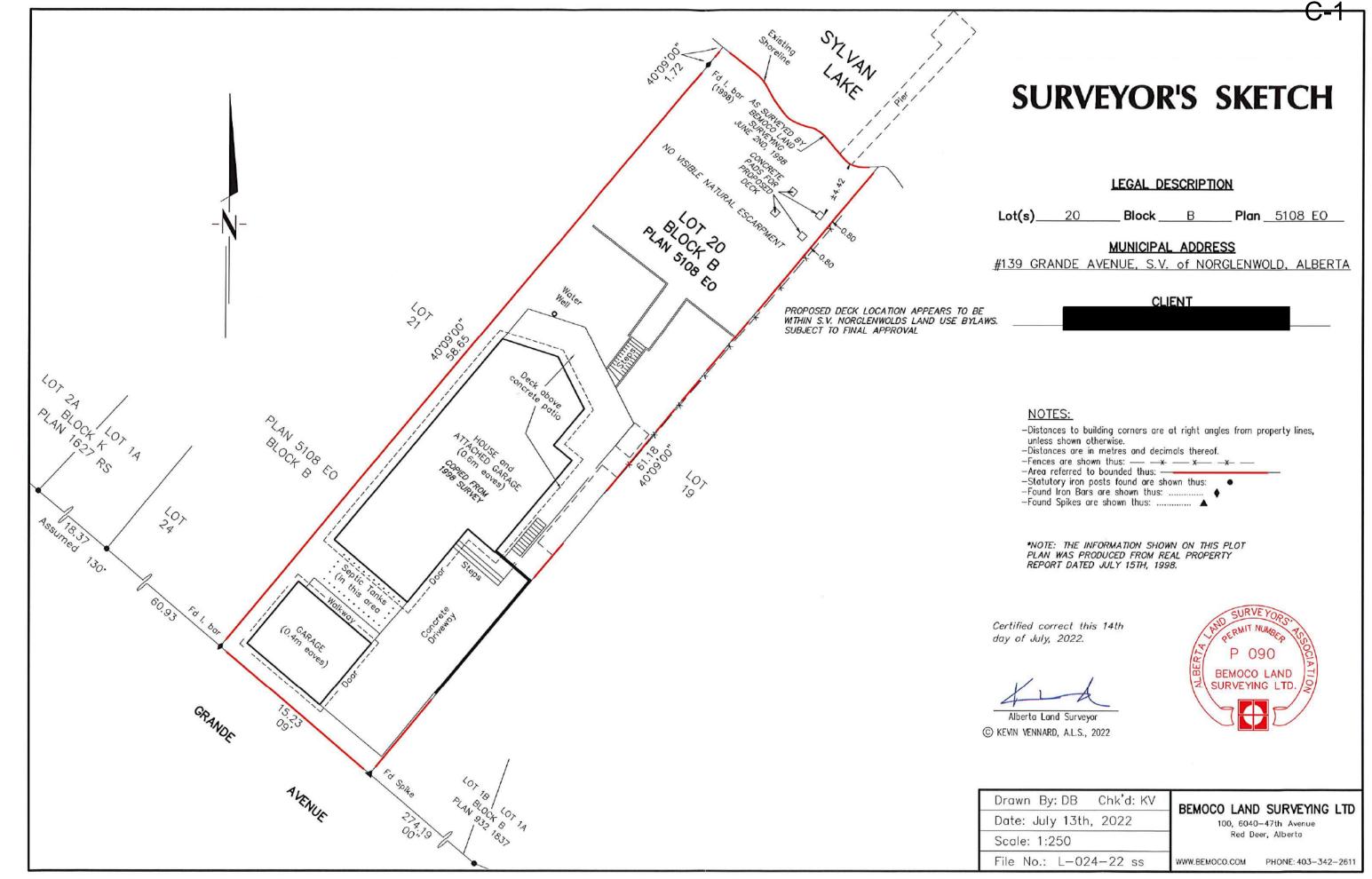
RE: Proposed Deck Permit at 139 Grande Avenue, Norglenwold

This letter of intent is required to provide purpose for a proposed deck permit application submitted to the Summer Village of Norglenwold for the property at 139 Grande Ave. This property originally accommodated a standalone deck structure which was located approximately 6 meters from the water's edge. This deck was a highly valued asset, both recreationally and aesthetically, however, the deck structure began to degrade over time and also became misaligned due to recent neighbouring development, becoming less functional and causing concerns of safety. Due to these uncontrollable circumstances, the original existing deck had to be removed.

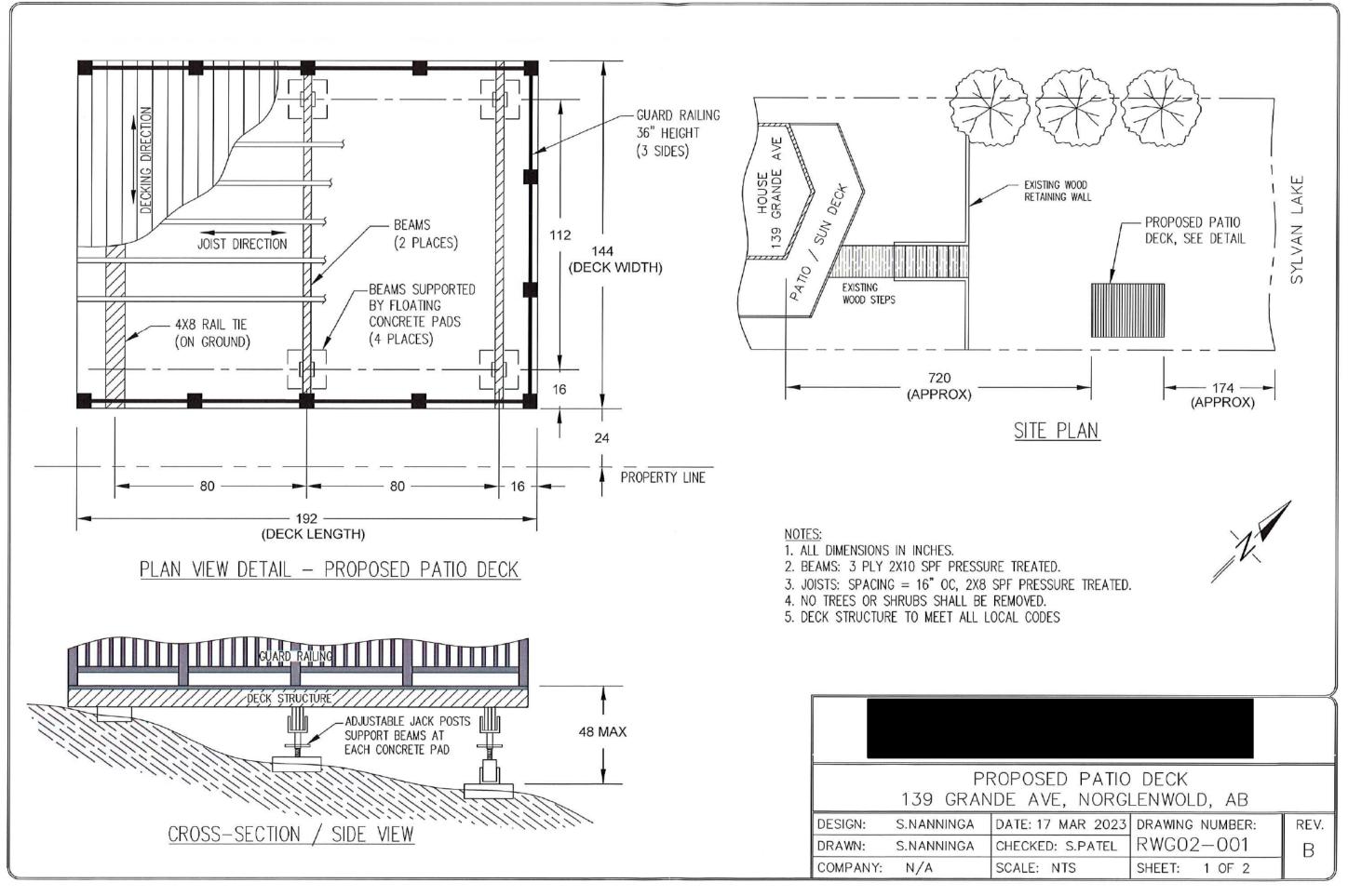
This was an unfortunate circumstance considering that this deck was highly valued by those dwelling at the property, adding an increased quality of living and was aesthetically pleasing to the landscaping of the back yard. Thus, it is for these reasons that the proposed replacement deck is being requested, to replace the original deck that previously existed on this property, and to regain the substantial value that was lost. The proposed location of the new deck is similar to that of the original deck, repositioned to correct for misalignment. The proposed deck is dimensioned the same as the previous existing deck, although is designed to be "floating" on concrete pads, thereby alleviating the need for a buried foundation, which results in less disturbance or impact.

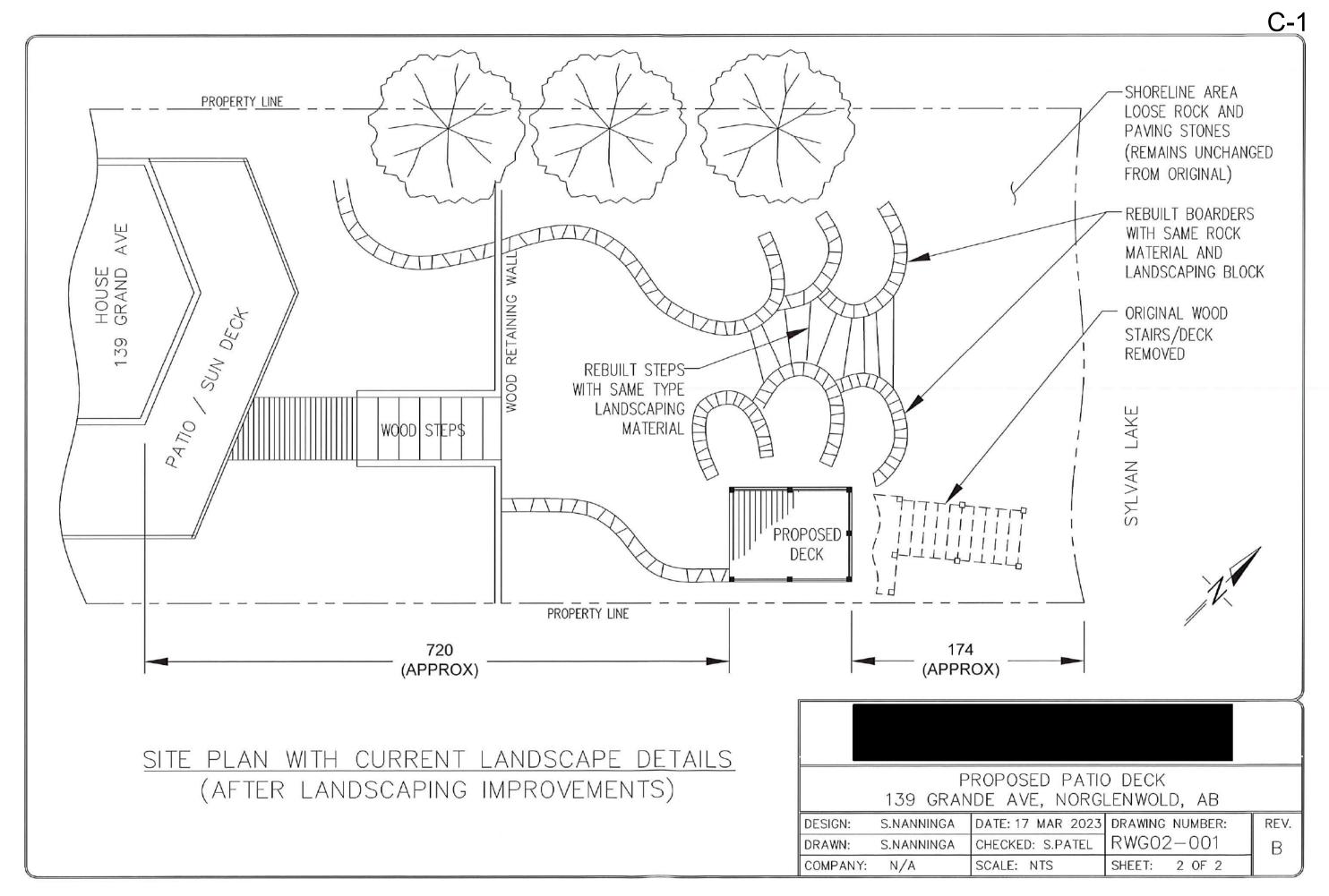
The intent of the proposed replacement deck is an attempt to retain the value that was lost from the removal of the original existing deck, which held significant value and sentiment to the property owners.

Yours truly,









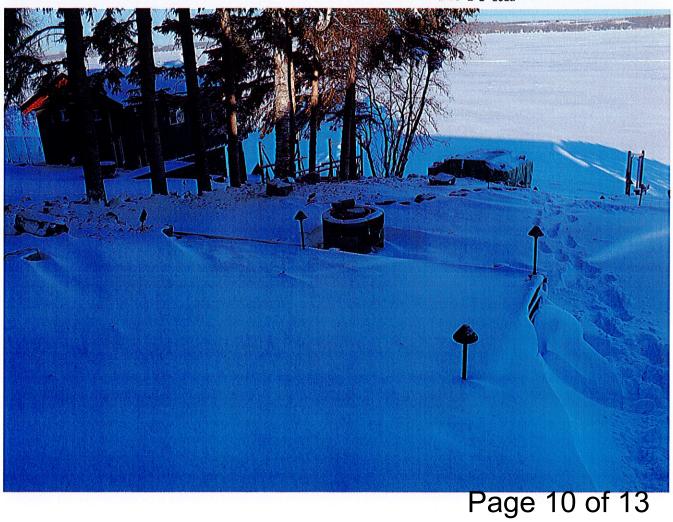






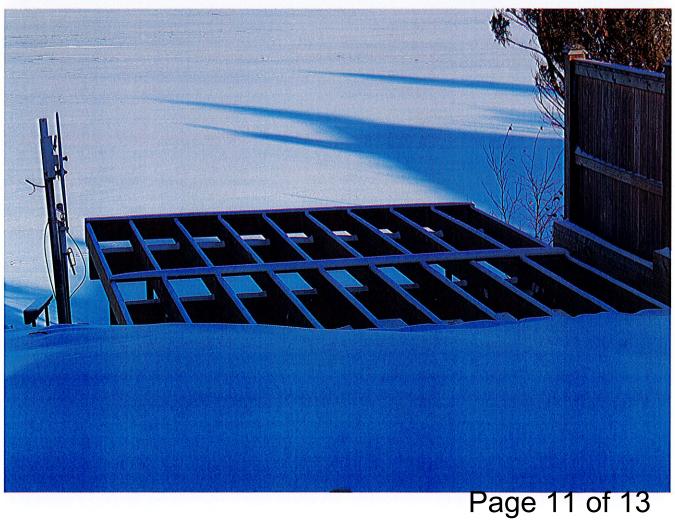


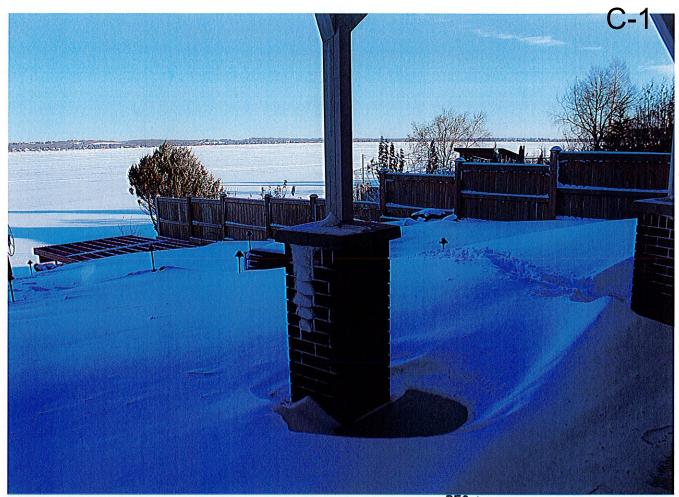
DEC 2 2 2022





DEC 2 2 2022





DEC 2 2 2022



Page 12 of 13





Page 13 of 13

Summer Village of Norglenwold April 21, 2023 Municipal Planning Commission Minutes Page 1 of 2

Minutes of a Municipal Planning Commission Meeting of the Summer Village of Norglenwold, Province of Alberta, held on April 21, 2023, at the Summer Villages on Sylvan Lake Administration Office in Sylvan Lake, Alberta.

PRESENT: Jeff Ludwig

Council Member:

Member at Large:

CAO:

Development Officer:

Recording Secretary:

Applicant:

Nav Rattan

Rob Furness

Tanner Evans

Kara Hubbard

Teri Musseau

Scott Nanninga

Robert Gibson

CALL TO ORDER: Chair Ludwig called the meeting to order at 8:29 a.m.

AGENDA:

MPC-23-007 Moved by Nav Rattan to approve the agenda as presented.

CARRIED

DEVELOPMENT APPLICATIONS

1. 139 Grand Avenue – Lakeside Deck on escarpment

Application for a lakeside deck on the escarpment for the property located at 139 Grand Avenue (Lot 20, Block B, Plan 5108EO).

Kara Hubbard, applicants, and gallery left the meeting at 8:42 a.m.

DECISION(S)

139 Grand Avenue – Lakeside Deck on Escarpment

MPC-23-008

Moved by Robert Furness that the Municipal Planning Commission deny the application for a lakeside deck on the escarpment at 139 Grand Avenue for the following reasons:

- Land located below the top of the bank/top of escarpment should be in a natural state.
- If a non-conforming building is damaged or destroyed to the extent of more than seventy-five percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the Land Use Bylaw.

CARRIED

Initials	

Summer Village of Norglenwold April 21, 2023 Municipal Planning Commission Minutes Page 2 of 2

TANNER EVANS, CAO

ADJOURNMENT	
MPC-23-009	Moved by Chair Ludwig that the Municipal Planning Commission meeting be
	adjourned at 8:58 a.m. CARRIED
	JEFF LUDWIG, CHAIR



Summer Villages on Sylvan Lake #2 Erickson Drive Sylvan Lake, AB T4S 1P5 (403) 887-2822

NOTICE OF DECISION

Municipal Planning Commission

April 25, 2023

Scott Nanninga 11635-156 St. Edmonton, AB T5M 3T8

RE: DEVELOPMENT APPLICATION – LAKESIDE DECK

Application was submitted on behalf of the homeowner for a lakeside deck on the property located at 139 Grand Avenue (Lot 20 Block B Plan 5108EO).

Finding of Fact:

Upon hearing and considering the representations and the evidence of the parties concerned the Commission find the facts in the matter to be as follows:

 Land located below the top of bank/top of escarpment should be in a natural state, a variance is required.

Decision of the Municipal Planning Commission:

The Summer Village of Norglenwold's Municipal Planning Commission decided to deny the application because as the application is not compliant with the Land Use Bylaw as below:

- 1. Land located below the top of the bank/top of escarpment should be in a natural state. The deck was in the process of being built on the escarpment.
- 2. If a non-conforming building is damaged or destroyed to the extent of more than seventy-five percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the Land Use Bylaw. The previous deck that was located on the escarpment would be considered a

E-mail: info@sylvansummervillages.ca Website: www.sylvansummervillages.ca



Summer Villages on Sylvan Lake #2 Erickson Drive Sylvan Lake, AB T4S 1P5 (403) 887-2822

non-conforming building and as that deck has been removed it is no longer considered a non-conforming building that can remain in place or be rebuilt.

Appeal:

Discretionary Use/Variance Request Applications are appealable to the Subdivision and Development Appeal Board, as provided for in Part 17, of the Municipal Government Act. Written statements relevant to the development and reasons for appeal along with a \$400.00 appeal fee should be submitted to the Secretary of the Subdivision and Development Appeal Board of the Summer Village of Norglenwold, #2 Erickson Drive, Sylvan Lake, Alberta T4S 1P5, within 21 days following the date of this notice. For further information contact the Secretary of the Subdivision and Development Appeal Board, Teri Musseau at 403-887-2822.

Sincerely,

Kth

Kara Hubbard Development Officer

E-mail: info@sylvansummervillages.ca

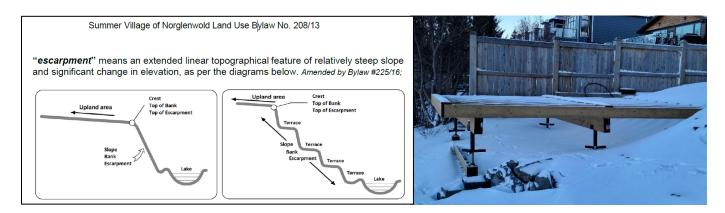
Website: www.sylvansummervillages.ca

Reason for Appeal:

(Attachment of "Notice for Appeal" Form, 139 Grand Ave, Norglenwold)

In regards to the development permit application for 139 Grand Ave, we wish to appeal the decision of the Municipal Planning Commission (MPC) given that the reasons for rejection are felt to be unreasonable and/or unverified.

Firstly, as per the Notice of Decision, MPC states that the primary reason for denying the application is that they claim that the proposed deck is located on lakeside escarpment. MPC makes this statement without any substantiation or documentation to back up this claim. Whereas the applicant contracted a professional surveyor which concluded that the proposed deck is not located on lakeside escarpment. The documented results of this survey where provided to MPC with the development permit application. Furthermore, per the land use bylaw, an escarpment is defined as a "steep slope and significant change in elevation". Based on this description and the picture of the proposed deck shown below, it seems reasonable to suggest that the proposed deck is not located on a "steep slope". Likewise, the general surface grade of the property from the house to the location of this proposed deck maintains a relatively constant slope throughout, which does not constitute as a "significant change in slope".



Secondly, we believe it is unreasonable to consider the following land use bylaw as a means to deny this deck proposal:

"If non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building, the building may not be repair or rebuilt..."

This land use bylaw was first put into writing in July, 2022. The decision process that dictated the removal of the original deck took place before this date (decision was made in 2021). If this bylaw was available or known to the applicant at the time of decision, the applicant likely would have decided to rebuild 75% of the deck in lieu of complete removal. It should also be noted that in 2021, the applicant sent a query to the MPC regarding the repair options for this original existing deck. The response received from the MPC at this time did not include this option or a similar alternative.



NOTICE OF APPEAL

This is to advise that an appeal has been received, on May 15, 2023, from the applicants, appealing the denial of a development permit from the Municipal Planning Commission on April 21, 2023, for a deck on the escarpment, for the property located at 139 Grand Avenue (Lot 20, Block B, Plan 5108EO) in the Summer Village of Norglenwold. The application was denied as the Land Use Bylaw states land located below the top of the bank/top of the escarpment should remain in a natural state and if a non-conforming building is damaged or destroyed to the extent of more than seventy-five percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the Land Use Bylaw.

The Development Appeal Board Hearing will be held as follows:

DATE: Monday, June 12th, 2023

TIME: 10:00 a.m.

LOCATION: Summer Villages on Sylvan Lake

2 Erickson Drive

Sylvan Lake, AB T4S 1P5

Documents regarding the development permit, and the notice of appeal are available for public inspection on the Summer Village Administration Office website. The Subdivision and Development Appeal Board will hear the appellant or any person acting on behalf of the appellant; the development authority or a person acting on behalf of the development authority; any person who received this notice and wishes to be heard or a person acting on behalf of that person; and any other person who claims to be affected by the decision.

Written submissions addressed to the Subdivision and Development Appeal Board Secretary and received at the Administration office prior to 4:00 p.m. on June 9, 2023, will be submitted to the Board at the Hearing.

Teri Musseau Secretary Subdivision and Development Appeal Board

SUMMER VILLAGE OF NORGLENWOLD SUBDIVISION AND DEVELOPMENT APPEAL BOARD MAY 24, 2023 RECORD OF HEARING AND DECISION

PRESENT Chair: Allan MacPherson via Zoom

Member-at-large: Toby Lampard via phone

CAO: Tanner Evans
Development Officer: Kara Kashuba
Recording Secretary: Teri Musseau

Appellant Counsel: Kathleen Elhatton-Lake via Zoom Summer Village Counsel: Alifeyah Gulamhusein via Zoom

CALL TO ORDER Chair MacPherson called the hearing to order at 10:12 a.m.

PURPOSE OF HEARING

The purpose of this hearing is to hear an appeal received from Scott Nanninga on behalf of Robert Gibson on May 15, 2023, appealing the denial of a development permit by the Municipal Planning Commission on April 21, 2023, for a deck on the escarpment for the property located at 139 Grand Avenue, Lot 20, Block B, Plan 5108EO, in the Summer Village of Norglenwold.

PRELIMINARY MATTER

A request was received from Alifeyah Gulamhusein, Counsel for the Summer Village of Norglenwold, for an adjournment to allow adequate time for her to prepare. All parties, including the board members, were contacted prior to the hearing, and agreed to an adjournment date of June 22nd, 2023[,] @ 10:00 a.m.

ADJOURNMENT

Chair MacPherson adjourned the hearing at 10:15 a.m. until Thursday, June 22nd at 10:00 a.m. The disclosure date for the Development Officer to submit her file to the SDAB Clerk will be June 12th, 2023. All submissions for inclusion in the Subdivision and Development Appeal Board agenda package must be received by the Secretary no later than the end of the business day on June 16th, 2023.

Dated at the Town of Sylvan Lake this 12th day of June 2023.

Allan MacPherson
Chair
Summer Village of Norglenwold
Subdivision and Development Appeal Board



NOTICE OF ADJOURNMENT

This is to advise that the appeal received on May 15, 2023, from the applicants, appealing the denial of a development permit from the Municipal Planning Commission on April 21, 2023, for a deck on the escarpment, for the property located at 139 Grand Avenue (Lot 20, Block B, Plan 5108EO) in the Summer Village of Norglenwold was adjourned.

The Development Appeal Board Hearing will reconvene as follows:

DATE: Thursday, June 22nd, 2023

TIME: 10:00 a.m.

LOCATION: Summer Villages on Sylvan Lake

2 Erickson Drive

Sylvan Lake, AB T4S 1P5

Documents regarding the development permit, and the notice of appeal are available for public inspection on the Summer Village Administration Office website. The Subdivision and Development Appeal Board will hear the appellant or any person acting on behalf of the appellant; the development authority or a person acting on behalf of the development authority; any person who received this notice and wishes to be heard or a person acting on behalf of that person; and any other person who claims to be affected by the decision.

Written submissions addressed to the Subdivision and Development Appeal Board Secretary and received at the Administration office prior to 4:00 p.m. on June 16th, 2023, will be submitted to the Board at the Hearing.

Teri Musseau Secretary Subdivision and Development Appeal Board



Tel 780.448.9275 Fax 780.423.0163

10104 - 102 Street

Edmonton, Alberta

Suite 2250

Bell Tower

T5J 0h8

June 1, 2023

DELIVERED VIA EMAIL < tmusseau@sylvansummervillages.ca>

Subdivision and Development Appeal Board Summer Villages on Sylvan Lake 2 Erickson Drive Sylvan Lake, AB T4S 1P5

Attention: Terry Musseau, Secretary

kathleen@shoresiardine.com

Direct Line: 780.702.4278

Re: Appeal Development Permit Refusal by the Summer Village of

Norglenwold Municipal Planning Commission for a deck on 139 Grand Avenue

I represent the appellant in this appeal to the subdivision and development appeal board ("SDAB"). Mr. Robert Gibson applied for a development permit for a 12' by 16' lakeside deck on floating supports in the Summer Village of Norglenwold (the "Summer Village").

The Municipal Planning Commission ("MPC") refused the development permit application. Mr. Gibson submits that this refusal was contrary to the Summer Village's Land Use Bylaw #267-22 (the "LUB") and the *Municipal Government Act*, RSA 2000 c M- 26 (the "MGA").

The appeal before the SDAB is a hearing *de novo*. The SDAB is not bound by any conclusions of the MPC and should not give any deference to the MPC's conclusions.

Background

Robert Gibson, the owner of 139 Grand Avenue has lived at 139 Grand Avenue for many years. Him and his family have enjoyed their lakefront property and the deck, which has been in place for many years. The pre-existing deck began to degrade and became misaligned due to the neighbouring property 137 Grand Ave installing a new fence. There were safety concerns regarding the pre-existing deck and stairs.

Mr. Gibson determined that it was appropriate to remove the wooden stairway and platform, relocate the wooden platform to above the existing escarpment area and install the platform of the deck floating on concrete deck blocks. The deck was to be rebuilt from the same materials that were used in the previous wooden platform, except for materials which had been damaged or went missing which were replaced. The relocation of the deck and removal of the stairs moved the deck further away from the shoreline. The proposed deck is setback approximately 14.5 feet from the property line and Sylvan Lake.



In 2021, Mr. Gibson and his representatives had discussions with the development officer for the Summer Village regarding their replacement of the deck. The development officer at that time advised that the work being performed did not require a development permit. In October 2022, the development officer stated that a development permit was required for the deck and Mr. Gibson applied for a development permit. Attached as **Tab A** is a copy of the correspondence between the development officer and Mr. Nanninga between September 16, 2021 and November 30, 2022.

Mr. Gibson retained a surveyor who identified that there was "NO VISIBLE NATURAL ESCARPMENT" in the area of the proposed deck and that the location appears to be within the Summer Village's LUB. Attached as **Tab B** is a copy of the stamped and certified Surveyor's Sketch done July 13, 2022 and an extract from the previous real property report showing the pre-existing deck.

On April 21, 2023, the MPC denied the development permit application.

I. The Deck is a Permitted Use

139 Grand Avenue is located in the R1 – Shoreline Residential District. In the R1 District, an accessory building where the total floor area is 53.5m2 (578.0 ft2) or less is a permitted use.¹ The proposed deck is 12' by 16' with a total floor area of 192 ft2.

It is unclear why the development officer identified the use as a "non-conforming" building as there are no sections of the LUB referenced in the Summer Village's submissions to the MPC. We have requested that the development officer identify the sections of the LUB that the proposed development does not comply with and why it has been characterized as a non-conforming building. The development officer identified only section 8 of the LUB regarding landscaping as being non-conforming. We submit that this section is not applicable.

Section 8.11 of the LUB sets a standard for landscaping. It explicitly does not apply to buildings (such as the deck) as it provides for landscaping requirements for "all areas of a parcel **not covered by buildings**, non-permeable driveways, storage and display areas". [emphasis added]

As section 8 refers to areas outside of those to be covered by buildings, it is not applicable to the proposed deck – a building. The MPC and development officer's interpretation is overly broad and results in a de facto sterilization of development along the lakeshore without a variance.

As the proposed development is for a permitted use and complies with the LUB, the development authority and the SDAB must issue a development permit.²

Even if the SDAB agrees with the develo, the SDAB can vary those requirements. The only portion of the LUB the SDAB cannot vary is use which is not at issue.

¹ LUB, 11.A.i. **[Tab D]**

² MGA, s. 642(1). **[Tab C]**



The test for a variance is set out in the MGA at section 687(3)(d), which allows the SDAB to vary the regulations set out in the LUB if:

- (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.

The Court of Appeal in the recent decision of *Edmonton (City of) Library Board v Edmonton (City of)*, 2021 ABCA 355 held that the variance power provides flexibility for an SDAB to relax the LUB where the test in section 687(3)(d) – described by the Court as the negative effects condition and the use condition is met.³ The Court of Appeal described this power as deliberately "very broad: giving the SDAB wide discretion.⁴

Critically, the variance power "is not limited to cases of undue hardship or unique or minor situations".⁵

The proposed deck does not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. We understand that the neighbouring property owner at 141 Grand Avenue will be providing a letter of support for the proposed deck to the SDAB. There are number of properties with similar decks or boathouses along Grand Avenue. Attached as **Tab F** are photographs taken on May 30, 2023 and October 3, 2021 showing a number of properties along Grand Avenue which have boathouses or decks in a similar position to that proposed. Attached as **Tab G** is a number of development permits have been issued nearby properties for decks or development along Sylvan Lake, including as recently as 2021.

The proposed deck is to be installed further back from Sylvan Lake than the pre-existing deck and stairs creating less of an impact on the neighbouring property owners and minimizing any impact on the lake. Similarly, the proposed deck is installed "floating" to minimize any disturbance to the natural landscape and is set back to ensure that it is not located on an escarpment.

The SDAB is required to articulate why it is denying a variance. If opponents of a variance fail to put in evidence or articulate why a proposed development would "unduly interfere with the amenities of the neighbourhood" or "materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land", it should come as no

³ Edmonton (City of) Library Board v Edmonton (City of), <u>2021 ABCA 355 at paras 41-42</u>. **[Tab F1**

⁴ Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 at paras 46. [Tab E]

⁵ Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 at paras 47. [Tab E]



surprise that the appeal board cannot do so either." There is no presumption that a variance will or will not "unduly interfere with the amenities of the neighbourhood" or "materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land".

We note that the Summer Village's LUB sets out a similar but distinct test to allow for the rebuilding of non-conforming buildings. This test has additional requirements which are not contained in section 687(3)(d) and will be addressed below. The Summer Village can put a more onerous test for a variance on the development officer or MPC but cannot override the MGA.⁸ If the SDAB determines that the proposed deck is a permitted use but requires variances to any sections of the LUB, only the test under section 687(3)(d) applies. The Summer Village's LUB cannot impose additional elements to the test for a variance that is set out in the MGA.

However, if the SDAB concludes that the proposed deck is not a permitted use but is a non-conforming building, then it may be rebuilt if the test as set out in section 4.7 of the LUB is met as discussed below.

II. The Deck is not located on an Escarpment

The MPC relied on the proposed deck being located on an escarpment to refuse the development permit application. This conclusion is factually inaccurate. There was no evidence before the MPC and there is no evidence before the SDAB to support a conclusion that the proposed deck is located on an escarpment.

The Land Surveyor who surveyed the property specifically notes that there is "NO VISIBLE NATURAL ESCARPMENT". An escarpment is defined in the LUB as follows:

1.4(62) Escarpment Means an extended linear topographical feature of relatively steep slope and significant change in elevation, as per the diagrams below.

The location of the proposed deck is not on an escarpment. As such, there is no ground to refuse the development permit.

⁶ Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 at paras 64. [Tab E]

⁷ Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 at paras 66. [Tab E]

⁸ Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 at paras 48-49. **[Tab E]**



III. The SDAB can allow non-conforming buildings

Mr. Gibson submits that even if the SDAB finds that the pre-existing deck was a non-conforming" building, it can be rebuilt pursuant to section 4.7 of the LUB. We would submit that the SDAB does not need to resort to this section as it may vary any requirements of the LUB as discussed above, but have provided the below analysis for completeness.

Section 4.7 of the LUB allows for a development permit application to be approved even if it does not comply with the regulations in the LUB if it is a rebuilding of a non-conforming building and the variance test as set out above is met and where a variance is warranted by the merits of the proposed development and in response to irregular parcel lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements.

The property is a lakefront parcel. Due to this site characteristic, the proposed development (a deck) is sited so as to minimize impact on the lake by being placed on floating blocks.

Of particular importance in this case, the appellant advised the development officer of its plans and was told a development permit was not required. Had the development officer advised the appellant of the requirements regarding rebuilding or repairing a non-conforming building, the appellant would not have removed the pre-existing stairs and deck and would have chosen to rebuild 75% of the pre-existing stairs and deck. Based on these discussions with the municipality, the appellant did not apply for a development permit in 2021, under the previous LUB.

The appellant has also requested a copy of the previous LUB. As the current LUB only was introduced in 2022, following the commencement of construction of the deck, it may be that the construction of the deck did not require a development permit under the previous LUB and the deck is a non-conforming building that may continue its construction. The development officer has not provided copies of the previous LUB at this time and we reserve the right to make submissions regarding the previous LUB once it is received.

Conclusion

The appellant is seeking a development permit for a permitted use – a lakeside deck of 12' by 16'. This is a common development along Sylvan Lake and a number of neighbouring properties have similar developments. Until 2021, the property had a similar deck and stairs and these had been in place for years. There was no negative impacts arising from the pre-existing deck and stairs and there is no evidence that there will be negative impacts from the proposed deck.



The development officer has not identified what, if any sections of the LUB are requested to be varied in respect of this development. As such, the appellant is in a difficult place to respond but notes that the SDAB has broad authority to vary the requirements of the LUB and seeks to have the SDAB, if necessary, vary the requirements of the LUB to issue the development permit.

Yours truly,

SHORES JARDINE LLP

Per: Kathleen Chatton-Lake

KATHLEEN ELHATTON-LAKE

kathleen@shoresjardine.com

KEL

Enclosures:

Tab A Correspondence between the development officer and Mr. Nanninga between September 16, 2021 and November 30, 2022.

Tab B is Stamped and Certified Surveyor's Sketch done July 13, 2022.

Tab C Extracts from the MGA

Tab D Extracts from the LUB

Tab E Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355 [extracts]

Tab F Photographs of properties along Grand Ave

Tab G Other development permits

TAB A

From: Kathleen Elhatton-Lake
To: Kathleen Elhatton-Lake
Subject: FW: 139 Grand Avenue
Date: June 1, 2023 12:41:00 PM

Attachments: <u>image002.png</u>

From: Scott E. Nanninga

Sent: Wednesday, November 30, 2022 11:32 AM

To: 'Kara Hubbard' < khubbard@sylvansummervillages.ca>

Subject: RE: 139 Grand Avenue

Good afternoon Kara,

Please see attached Development Application package and associated drawings for the proposed patio deck at 139 Grand Ave. As mentioned previously, we also had the lot professionally surveyed; I have attached the results of this survey. Please advise if you require any other information.

Best regards,

Scott Nanninga
Engineering Support
R.W. Gibson Consulting Services

Ph: 780-488-5532

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Friday, October 7, 2022 3:59 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Scott,

Thank you for getting back to me on this and you can absolutely submit the application package and drawings directly to me.

I look forward to receiving your application.

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5 **From:** Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Sent: Friday, October 7, 2022 1:36 PM

To: Kara Hubbard < khubbard@sylvansummervillages.ca>

Subject: RE: 139 Grand Avenue

Hi Kara,

Thanks for the explanation, that makes sense. I believe the confusion on this end resulted in that we are rebuilding the same platform from the dismantled materials, which is being placed on new support structure. As well, some of the dismantled material that could not be salvaged or went missing had to be replaced with new.

I have instructed our contractor to stop work on this project and will submit the required application within the next 1-2 weeks. Is it OK to submit the application package and drawings directly to you or should it be submitted to your main office. I have also instructed my contractor to check the sub-assembled structure to ensure that it is currently stable, if not, they may add few braces or stabilizing members to keep everything in place during the coming months of application review. Hopefully this is OK with you.

Regards, Scott

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, October 6, 2022 1:03 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>; Bob Gibson

<<u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Scott,

Thank you for your email reply. I think the difference here is that it is a new build of a staircase or deck and not relocating it. From the photos I have seen it is a new build and it is on the escarpment which requires a development permit. From the letter it sounded like you were just shuffling the deck up above the escarpment due to the neighbor putting up a fence but this is a totally new structure on the escarpment.

This development requires a development permit and will have to go to the Municipal Planning Commission for approval. I have attached a development permit application package for you, we expect that this development is applied for and the construction does not continue until the correct approvals are in place.

Thank you and please let me know if you have any questions on the application process.



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Sent: Friday, September 30, 2022 9:40 AM

To: Kara Hubbard <<u>khubbard@sylvansummervillages.ca</u>>; Bob Gibson

<<u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Good morning Kara,

The work taking place at 139 Grande Avenue is the continuation of the work that was outlined in our previous correspondence which included the relocation of an existing wood platform (was put on hold throughout the winter). To recall, the existing deck/stairs was encroaching at the property line and was located on the escarpment area; this work is the relocation of that platform above the escarpment, securing the platform to floating concrete pads and discarding the stairs. The described work was previously detailed in the communication and drawings that I send last fall (I have reattached those drawings for reference). In addition to the above mentioned efforts, we also contracted a surveyor to survey the site to ensure that the platform relocation was not located on the escarpment.

That being said, when it was previously stated that the enforcement letter was considered closed, we have only been conducting work that is within the scope that was previously detailed.

Regards,

Scott Nanninga Engineering Support The Gear Centre Group

Ph: 780-488-5532

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, September 29, 2022 3:03 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>; Bob Gibson

<<u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Importance: High

Hi Bob,

It has recently come to my attention that there is development of a deck or stairs taking place on the lakeside of 139 Grand Avenue. In our last communication it was clear that if you were doing any further work on the property to ensure a development permit is required or not. As this work is on the escarpment you will require a development permit.

I expect to hear from you on this as soon as possible. If I do not hear back I will be sending a letter.

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Kara Kashuba

Sent: Wednesday, October 13, 2021 3:12 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Cc: Bob Gibson < R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Hi Scott,

I really appreciate the detailed drawings and you helping me understand the work that has taken place. From looking at the drawings it looks like to me that it's repairs and no major additions or excavation, stripping or grading has taken place. I suggest that you check with our office prior to doing any work further on the property just to ensure if a development permit is required or not.

Thank you again for the information and I am considering this enforcement letter closed.

Thank you,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5 **From:** Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Sent: October 1, 2021 3:21 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u>> **Cc:** Bob Gibson < <u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Good afternoon Kara,

As per your request, please see attached site plan drawings of 139 Grand Ave, which corresponds with my previous email. The first drawing provides details of prior to landscape improvements, and the second provides details of the current landscaping.

Regards, Scott

From: Kara Kashuba [mailto:kkashuba@sylvansummervillages.ca]

Sent: Monday, September 27, 2021 12:55 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Cc: Bob Gibson < R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Good Afternoon,

I apologize for my late response on this, and I also thank you for your detailed response to my letter. From your explanation much of the work does sound like repairs and improvements but just to be able to clarify a little better, can you please provide me with a site plan (s) showing a clear before and after of what was there previously and what has changed. Just to get a better idea along with your explanation below. The existing site plan that you sent me earlier will work to use with drawings.

Thank you and let me know if you have any questions,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Sent: September 17, 2021 5:07 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u>>

Cc: Bob Gibson < R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Hi Kara,

I am quickly writing to let you know that I will be out of office all of next week (Sept 20-24). I have cc'd Robert Gibson (property owner) on this e-mail correspondence, so that your reply can be viewed by him as well.

Thank you and have a good weekend, Scott

From: Scott E. Nanninga

Sent: Thursday, September 16, 2021 1:18 PM

To: 'Kara Kashuba' < kkashuba@sylvansummervillages.ca>

Subject: 139 Grand Avenue

Re: Letter sent Aug 25, 2021 from Kara Kashuba to Robert Gibson (attached)

Good day Kara,

I am writing this email on behalf of Robert Gibson in regards to your inquiry of possible development at the subject property (see attached letter). The reason there appears to be development is that we have been reworking and fixing-up the existing landscaping on this property, which has involved straightening and correcting existing rock borders and rock stairway.

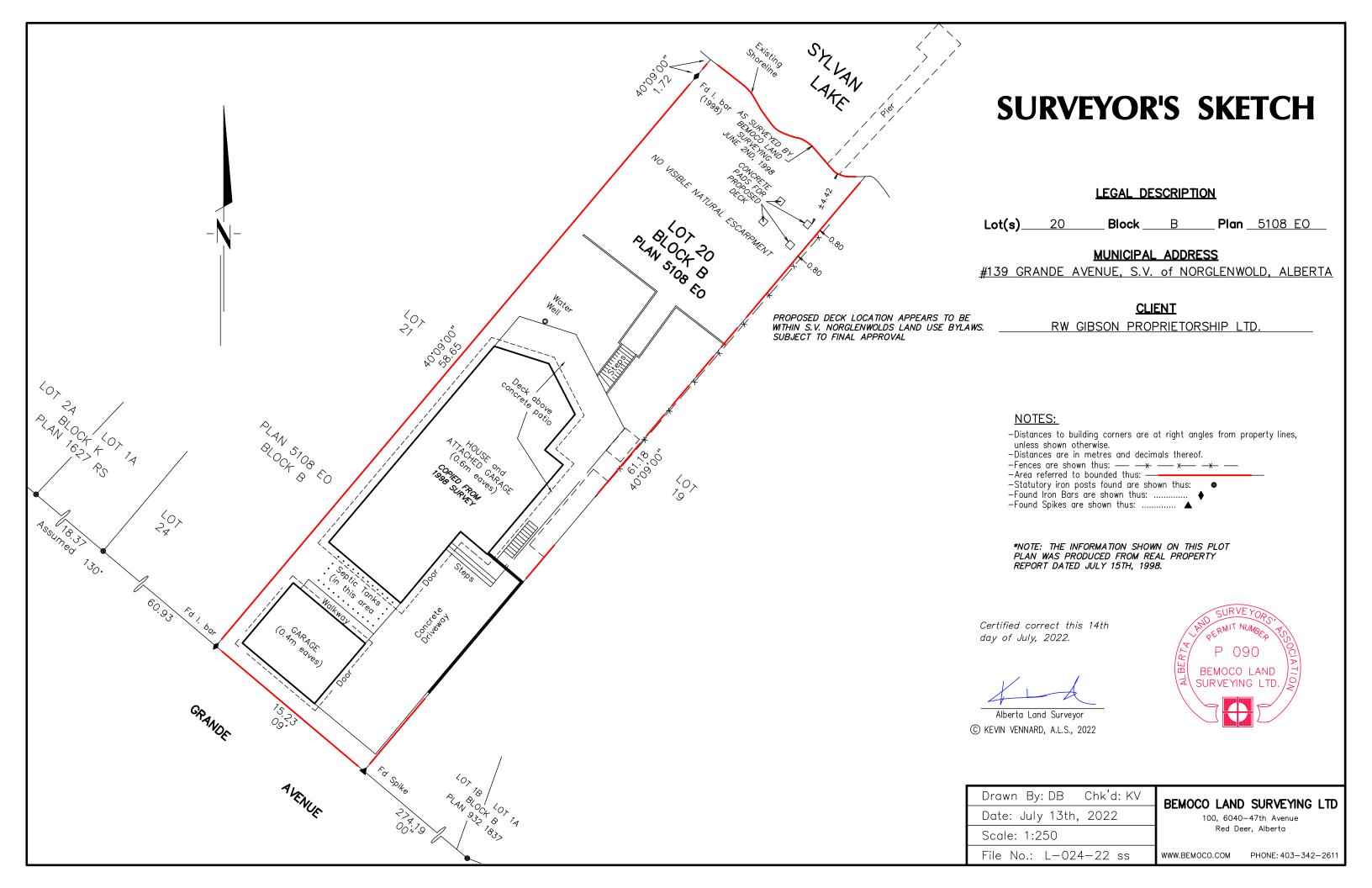
In addition, there was an existing wooden stairway and attached upper platform that was missaligned, out of level and degrading (refer to attached property report and photo which details the existing stairs). Due to a neighbour's recent new home built, a new fence was installed correctly to the property line, which resulted in the existing stairs/platform being misaligned to the fence and encroaching on close proximity to this adjacent fence. For these reasons, we also decided to remove this wooden stairway and platform and add landscaping to the area that was beneath these stairs. The removal of this stairway/platform exposed an area of bare ground which is also likely what caused the property to appear in development.

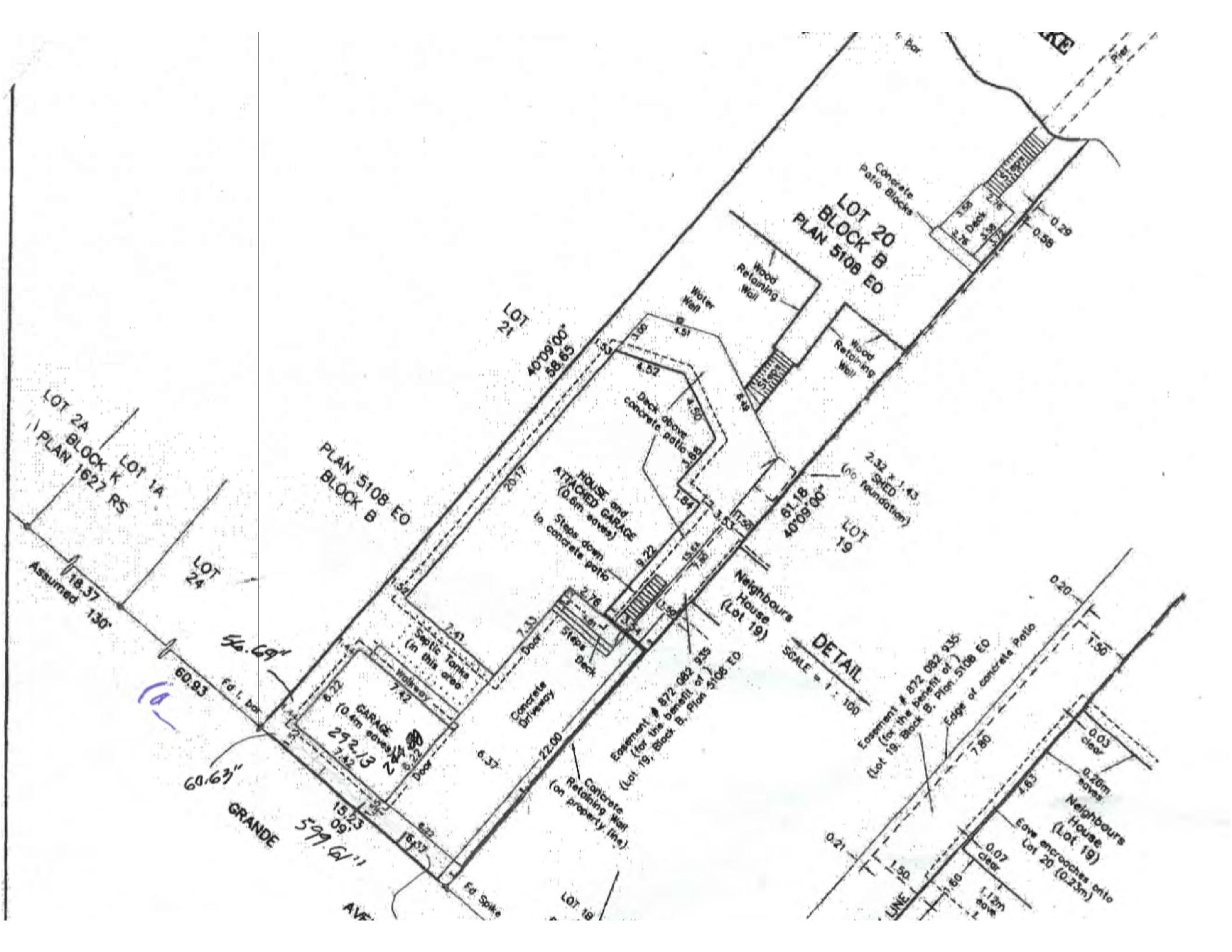
We hope to relocate this wooden platform to just above the existing escarpment area, as to not effect or disturb the existing shoreline escarpment of this property. The platform will be installed "floating" on concrete deck blocks, so the structure will be considered non-permanent, with no permanent foundation such as piles, footings, etc.

I hope this satisfactorily answers your questions?
Best regards,
Scott Nanninga
Engineering Support
The Gear Centre Group

Ph: 780-488-5532

TAB B





TAB C



MUNICIPAL GOVERNMENT ACT

Revised Statutes of Alberta 2000 Chapter M-26

Current as of April 1, 2023

Office Consolidation

© Published by Alberta King's Printer

Alberta King's Printer Suite 700, Park Plaza 10611 - 98 Avenue Edmonton, AB T5K 2P7 Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca Shop on-line at kings-printer.alberta.ca

- (3) A development authority, subdivision authority, subdivision and development appeal board, the Land and Property Rights Tribunal or a court shall not have regard to any policy approved by a council or by a person or body referred to in subsection (1)(b) unless the policy is set out in the list prepared and maintained under subsection (1) and published in accordance with subsection (2).
- (4) Repealed 2020 c39 s10(25). 2016 c24 s99;2020 cL-2.3 s24(41);2020 c39 s10(25)

Division 5 Land Use

- **639** Repealed 2020 c39 s10(26).
- **639.1** Repealed 2020 c39 s10(27).

Land use bylaw

- **640(1)** Every municipality must pass a land use bylaw.
- (1.1) A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality, including, without limitation, by
 - (a) imposing design standards,
 - (b) determining population density,
 - (c) regulating the development of buildings,
 - (d) providing for the protection of agricultural land, and
 - (e) providing for any other matter council considers necessary to regulate land use within the municipality.
- (2) A land use bylaw
 - (a) must divide the municipality into districts of the number and area the council considers appropriate;
 - (b) must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,
 - (i) the one or more uses of land or buildings that are permitted in the district, with or without conditions, or

(ii) the one or more uses of land or buildings that may be permitted in the district at the discretion of the development authority, with or without conditions,

or both;

- (c) must establish a method of making decisions on applications for development permits and issuing development permits for any development, including provision for
 - (i) the types of development permit that may be issued,
 - (ii) applying for a development permit,
 - (iii) processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,
 - (iv) the conditions that are to be attached, or that the development authority may attach, to a development permit, either generally or with respect to a specific type of permit,
 - (v) how long any type of development permit remains in effect,
 - (vi) the discretion that the development authority may exercise with respect to development permits, and
 - (vii) any other matters necessary to regulate and control the issue of development permits that to the council appear necessary;
- (d) must provide for how and to whom notice of the issuance of a development permit is to be given;
- (e) must establish the number of dwelling units permitted on a parcel of land.
- (3) A land use bylaw may identify additional land as adjacent land for the purpose of notification under sections 653, 679, 680 and 692.
- (4) Repealed 2020 c39 s10(28).
- (5) A land use bylaw may provide that when an application for a development permit or change in land use designation is refused another application with respect to the same lot
 - (a) for a development permit for the same or a similar use, or

(b) for a change in land use designation

may not be made by the same or any other applicant until the time stated in the land use bylaw has expired.

- (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 neighbourhood, 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.
- (7) A land use bylaw must be consistent 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.
- (8) Despite this section or any other provision of this Act, the authority to pass a land use bylaw does not include the authority to pass a bylaw in respect of the use of a building or part of a building for residential purposes that has the effect of distinguishing between any individuals on the basis of whether they are related or unrelated to each other.
- (9) The Minister may by order direct a municipality to amend its land use bylaw in respect of the use of a building or part of a building for residential purposes if the land use bylaw has the effect of distinguishing between senior citizens on the basis of whether they are related or unrelated to each other.

RSA 2000 cM-26 s640;2016 c24 s100;2017 c21 s28; 2020 c39 s10(28)

640.1 Repealed 2020 c39 s10(29).

Transitional — alternative time period in land use bylaw

- **640.2(1)** In this section, "alternative time period" means an alternative time period authorized by section 640.1 of this Act as it read immediately before the coming into force of this section.
- (2) Where, on the coming into force of this section, a land use bylaw providing for an alternative time period is in force, the provisions of the bylaw providing for the alternative time period continue to have effect for a period of 6 months beginning on the day this section comes into force.

2020 c39 s10(30)

Designation of direct control districts

- **641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.
- (2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.
- (3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.
- (4) Repealed 2015 c8 s66.

RSA 2000 cM-26 s641;2015 c8 s66

Permitted and discretionary uses

- **642(1)** 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.
- (2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

- (3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.
- (4) If a development authority refuses an application for a development permit, the development authority must issue to the applicant a notice, in the form and manner provided for in the land use bylaw, that the application has been refused and provide the reasons for the refusal.
- (5) Despite subsections (1) and (2), a development authority must not issue a development permit if the proposed development does not comply with the applicable requirements of 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.

RSA 2000 cM-26 s642;2016 cs24 s102;2017 c13 s1(58); 2017 c21 s28;2018 c11 s13;2020 c39 s10(31)

Non-conforming use and non-conforming buildings

- **643(1)** If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.
- (6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.
- (7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

1995 c24 s95

Acquisition of land designated for public use

- **644(1)** If land is designated under a land use bylaw for use or intended use as a municipal public building, school facility, park or recreation facility and the municipality does not own the land, the municipality must within 6 months from the date the land is designated do one of the following:
 - (a) acquire the land or require the land to be provided as reserve land;
 - (b) commence proceedings to acquire the land or to require the land to be provided as reserve land and then acquire that land within a reasonable time:
 - (c) amend the land use bylaw to designate the land for another use or intended use.
- (2) Subsection (1) does not apply if the Crown in right of Canada, the Crown in right of Alberta, an irrigation district, a board of a drainage district or a local authority, within 6 months from the date the land is designated under that subsection,
 - (a) acquires that land, or
 - (b) commences proceedings to acquire that land or requires that land to be provided as reserve land and then acquires it within a reasonable time.
- (3) Subsection (1) does not apply to land designated by the municipality as conservation reserve.

RSA 2000 cM-26 s644;2016 cs24 s103

(11) Repealed 2020 c39 s10(49).

2016 c24 s125;2020 c39 s10(49)

Development Appeals

Permit deemed refused

- **684(1)** The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).
- (2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.
- (3) If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.
- (4) Section 640(5) does not apply in the case of an application that was deemed to be refused under section 683.1(8).

RSA 2000 cM-26 s684;2016 c24 s126;2018 c11 s13

Grounds for appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal the decision in accordance with subsection (2.1).

- (1.1) A decision of a development authority must state whether an appeal lies to a subdivision and development appeal board or to the Land and Property Rights Tribunal.
- (2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal the decision in accordance with subsection (2.1).
- (2.1) An appeal referred to in subsection (1) or (2) may be made
 - (a) to the Land and Property Rights Tribunal

- (i) unless otherwise provided in the regulations under section 694(1)(h.2)(i), where the land that is the subject of the application
 - (A) is within the Green Area as classified by the Minister responsible for the *Public Lands Act*,
 - (B) contains, is adjacent to or is within the prescribed distance of a highway, a body of water, a sewage treatment or waste management facility or a historical site,
 - (C) is the subject of a licence, permit, approval or other authorization granted by the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission, or
 - (D) is the subject of a licence, permit, approval or other authorization granted by the Minister of Environment and Protected Areas or the Minister of Forestry, Parks and Tourism,

or

(ii) in any other circumstances described in the regulations under section 694(1)(h.2)(ii),

or

- (b) in all other cases, to the subdivision and development appeal board.
- (3) Despite subsections (1) and (2), 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 or the application for the development permit was deemed to be refused under section 683.1(8).
- (4) Despite subsections (1), (2), (2.1) and (3), if a decision with respect to a development permit application in respect of a direct control district
 - (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
 - (b) is made by a development authority, the appeal may only be made to the subdivision and development appeal board and is limited to whether the development authority followed the

directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

> RSA 2000 cM-26 s685;2015 c8 s73;2016 c24 s127; 2020 cL-2.3 s24(41);2020 c39 s10(50); 2022 c16 s9(81);2022 c21 s57

Appeals

686(1) A development appeal is commenced by filing a notice of the appeal, containing reasons, with the board hearing the appeal

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (1.1) Where a person files a notice of appeal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board, if
 - (a) in the case of a person referred to in subsection (1), the person files the notice with the wrong board within 21 days after receipt of the written decision or the deemed refusal, or

- (b) in the case of a person referred to in subsection (2), the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2) The board hearing an appeal referred to in subsection (1) must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3) The board hearing an appeal referred to in subsection (1) must give at least 5 days' notice in writing of the hearing
 - (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4) The board hearing an appeal referred to in subsection (1) must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
 - (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- **(4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.

 RSA 2000 cM-26 s686;2016 c24 s128;2017 c13 s1(65);

 2018 c11 s13;2020 c39 s10(51)

Hearing and decision

687(1) At a hearing under section 686, the board hearing the appeal must hear

- (a) the appellant or any person acting on behalf of the appellant,
- (b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,

- (c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
- (d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.
- (2) The board hearing the appeal referred to in subsection (1) must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.
- (3) In determining an appeal, the board hearing the appeal referred to in subsection (1)
 - (a) repealed 2020 c39 s10(52);
- (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.
- (4) In the case of an appeal of the deemed refusal of an application under section 683.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 683.1(2).

RSA 2000 cM-26 s687;2009 cA-26.8 s83;2015 c8 s74; 2017 c21 s28;2018 c11 s13;2020 c39 s10(52)

Court of Appeal

Law, jurisdiction appeals

688(1) An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the subdivision and development appeal board, and
- (b) a decision made by the Land and Property Rights Tribunal
 - (i) under section 619 respecting whether a proposed statutory plan or land use bylaw amendment is consistent with a licence, permit, approval or other authorization granted under that section,
 - (ii) under section 648.1 respecting the imposition of an off-site levy or the amount of the levy,
 - (iii) under section 678(2)(a) respecting a decision of a subdivision authority,
- (iii.1) under section 685(2.1)(a) respecting a decision of a development authority, or
 - (iv) under section 690 respecting an intermunicipal dispute.
- (2) An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to
 - (a) the Land and Property Rights Tribunal or the subdivision and development appeal board, as the case may be, and

TAB D





BYLAW #267-22

SUMMER VILLAGE OF NORGLENWOLD LAND USE BYLAW BYLAW #267-22

A bylaw of the summer village of Norglenwold in the province of Alberta for the purpose of repealing bylaw 208/13 and adopting a land use bylaw for the summer village of Norglenwold.

WHEREAS a Land Use Bylaw has been prepared for the Summer Village of Norglenwold based on public input and studies of land use, development, and other relevant data; and

AND WHEREAS the foresaid Land Use Bylaw describes the way in which the future development of the Village may be carried out in an orderly and economic matter;

NOW THEREFORE, the Council of the Village, duly assembled, and pursuant to the authority conferred upon it by the *Municipal Government Act*, R.S.A. 2000 c. M-26 as amended, enacts as follows:

- This new Bylaw may be cited as the "Summer Village of Norglenwold Land Use Bylaw".
- The Land Use Bylaw of the Summer Village of Norglenwold attached hereto as Schedule "A" to this Bylaw is hereby adopted.
- Bylaw 208/13, as amended, being the previous Land Use Bylaw of the Summer Village of Norglenwold, is hereby repealed.
- This Bylaw may be amended by Bylaw in accordance with the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended.
- This Bylaw shall come into force upon receipt of third and final reading.

INTRODUCED AND GIVEN FIRST READING this 27th day of May 2022.

Cyril Garevitch, G.C., Mayor

Tanner Evans, C.A.O.

PUBLIC HEARING HELD this 24th day of June 2022.

GIVEN SECOND READING this 29th day of July 2022.

GIVEN THIRD AND FINAL READING this 29th day of July 2022.

Cyril Gurevitch, Q.C., Mayor

Tanner Evans, C.A.O.

1. In this Land Use Bylaw:

						Α
1	ABUT (OR ABUTTING)	Means immediately contiguous or physically touching, and, when used with respect to a lot or site, means that the lot or site physically touches upon another lot or site, and shares a property line or boundary line with it.				
2	ACCESSORY BUILDING	Means a building separate and subordinate to the principal building, the use of which is incidental to that principal building and is located on the same parcel of land and includes, in the residential districts, such things as storage sheds garages, and a guest house. Accessory buildings are not intended for commercial purposes and do not include sea cans.				
3	ACCESSORY USE	Means a use customarily incidental and subordinate to the principal use and is located on the same parcel of land with such principal use.				
4	ACT (OR THE ACT)	Means the Municipal Government Act, R.S.A. 2000, c. M-26, as amended.				
		Means land or a portion of land that is contiguous to the land that is the subject of an application and includes land or a portion of land that would be contiguous except for a road, rail or utility right-of-way, river, or	M	DJACENT F		
		stream.				
5	ADJACENT LAND				SUBJECT SITE	×
				B		
				M		
6	ADJACENT LANDOWNER	Means owners of land that is contiguous to the land that is the subject of an application, and includes owners of land that would be contiguous except for public roadway, railway, utility right-of-way, or watercourse.				
7	AGRICULTURAL OPERATION	Means an agricultural operation as defined in the <i>Agricultural Operation Practices Act</i> , R.S.A. 2000, c. A-7, as amended.				
8	ANIMAL BOARDING AND LODGING	Means a development where domestic pets are bred, boarded or trained. Animal breeding and boarding facilities include kennels but do not include animal shelters, veterinary clinics, or veterinary hospitals.				
9	APIARY	Means the keeping of honey bees for honey production, and includes a place where bee colonies (beehives) are kept on a site and where raw honey is processed and stored.				
	В					
10	BASEMENT	Means a habitable portion of a building which is partly underground, but which has more than 50% percent of the distance, between the floor level and the underside of the ceiling joists, above adjacent ground elevation.				
11	BED AND BREAKFAST ESTABLISHMENTS	Means an accessory use within a single detached, owner occupied dwelling where temporary sleeping accommodations (maximum of 4 (four), excluding those used by the owner/operator/primary resident(s)), with or without meals, are provided for remuneration to members of the public. This use does not include a boarding house.				

58	DWELLING, SINGLE DETACHED	Means a building consisting of one (1) dwelling unit. A single detached dwelling is a dwelling which is normally constructed on-site. However, a single detached dwelling may be constructed in pieces offsite, or even in one piece, with the piece(s) being transported to the site for assembly on-site, and thus may be a modular dwelling.	
		Single detached dwellings do not include mobile home dwellings.	
59	DWELLING UNIT	Means a complete self-contained residence that contains sleeping, cooking and sanitary facilities intended for domestic use, and is used or intended to be used permanently or semi-permanently as a residence for a household. A dwelling unit must have a separate private entrance from the exterior of a building or from a common hall, lobby or stairway inside the building. A dwelling unit includes suites as defined in this Bylaw.	
		E	
60	EASEMENT	Means a right to use land, generally for access to other property or as a right-of-way for a public utility.	
61	ENVIRONMENTAL RESERVE EASEMENT	Means an environmental reserve easement as defined in accordance with the Act.	
62	ESCARPMENT	Means an extended linear topographical feature of relatively steep slope and significant change in elevation, as per the diagrams below. Crest Top of Bank Top of Escarpment Slope Bank Escarpment Lake Terrace Slope Terrace Bank Escarpment Terrace Lake	
63	EVAPO-	Means the process of water moving through a plant's roots to its leaves and stems, where it	
<i>C</i> /	TRANSPIRATION	evaporates back into the atmosphere.	
65	EXCAVATION EXTERIOR WALL	Means any breaking of ground, except common household gardening and ground care. Means the outermost point of a building projection, including, but not limited to, bay windows, oval windows, chimneys, veranda or other similar features, but not including roof overhangs less than 0.6 m (2.0 ft.).	
	F		
66	FAMILY CARE FACILITY	Means a facility which provides resident service in a dwelling to six (6) or fewer individuals. These individuals are handicapped, aged, disabled or in need of adult supervision and are provided service and supervision in accordance with their individual needs. This category includes boarding homes for children, group homes, and family homes.	
67	FENCE	Means a physical barrier constructed from typical building material for the purpose of providing aesthetic decoration, visual screening, sound abatement, or to prevent unauthorized access.	
68	FINISHED GROUND ELEVATION	Means the elevation of the finished ground at any point adjoining each exterior wall of a building or structure.	
69	FLOOR AREA	Means for buildings, the total area of the floor(s) in a building measured from the outside of exterior walls and does not include a basement, cellars, attached garages, carports, or open porches.	
70	FRONTAGE	Means the width of a lot or a site where it abuts a road.	

PERMITS, PROCEDURES, AND CONTRAVENTIONS

4.1 CONTROL OF DEVELOPMENT

- 1. Development Permits are required to ensure that all development is achieved in an orderly manner.
- 2. No development other than that designated in Section 4.2 shall be undertaken within the Summer Village unless an application for it has been approved and a development permit has been issued.
- 3. In addition to meeting the requirements of this Bylaw, it is the responsibility of the applicant to ensure and obtain other required provincial and federal approvals, permits and/or licenses.
- 4. Further, in addition to meeting the requirements of this Bylaw, it is the responsibility of the applicant to ensure that their development is consistent with the conditions of any registered easements or covenants which affect the subject site.
- 5. Notwithstanding Section 4.1.2 above, where a variance to any regulation in this Bylaw is required for any development listed in Section 4.2, a development permit shall be required.

4.2 DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT

- 1. The following development shall not require a development permit provided that the development otherwise complies with all other regulations of this Bylaw:
 - a. The carrying out of works of improvement, maintenance, repairs or renovation to any, but not limited to, building, deck, and/or driveway provided that such works do not include structural alterations, additions, or drainage alterations and that the works comply with the regulations of this Land Use Bylaw.
 - b. The completion of any development which has lawfully commenced before the passage of this Land Use Bylaw or any amendment thereof, provided that the development is completed in accordance with the terms of any permit granted in respect of it, and provided that it is completed within twelve (12) months of the date of notification of the permit;
 - c. The use of any such development as is referred to in Section 4.2.1.b for the purpose for which development was commenced;
 - d. The erection or construction of gates, fences, walls or other means of enclosures less than:
 - i. 1.0 m (3.3 ft.) in height in front yard;
 - ii. 1.0 m (3.3 ft.) in height in rear yards on lakefront lots; and
 - iii. and less than 2.0 m (6.6 ft.) in other yards;

and the maintenance, improvement and other alterations of any gates, fences, or walls or other means of enclosure unless the gate, fence, wall, etc. exceeds the regulations indicated in Section 9.4;

- e. A temporary building other than a dwelling, the sole purpose of which is incidental to the carrying out of a development for which a permit has been issued under this Land Use Bylaw;
- f. The installation, maintenance and repair of public works, services, or utilities carried out by or on behalf of federal, provincial, and/or municipal authorities on land that is publicly owned or controlled;
- g. For the maintenance of private sewer systems that can be undertaken without excavation of all or part of the system;
- h. Any development carried out by or on behalf of the Crown;
- i. Any development carried out by or on behalf of the municipality provided that such development complies with all applicable provisions of this Land Use Bylaw;
- j. Up to a maximum of two (2) accessory buildings with a floor area of 9.5 m² (102.3 ft.²) or less each and a building height of 2.5 m (8.2 ft.) or less on a lot, including garden or tool sheds, workshops, potting sheds and other similar structures provided that they are moveable and provided they otherwise comply with the provisions of this Land Use Bylaw.
- k. Development specified in section 618 (1) and (4) of the Act, which includes:
 - i. A highway or road;
 - ii. A well or battery within the meaning of the Oil and Gas Conservation Act;

- iii. A pipeline or an installation or structure incidental to the operation of a pipeline; or
- iv. Any other thing specified by the Lieutenant Governor in Council by regulation, which includes but is not limited to construction of buildings or the construction or installation of equipment, navigational aids, and communications systems for use in connection with the operation of airports owned by or on land vested in the Crown in right of Canada, the Crown in right of Alberta, or a municipal corporation;
- I. The erection of one (1) unilluminated sign of the following nature and size for each use within a building or on a parcel, provided such signs do not resemble or conflict with traffic signs;
 - i. A facia sign or freestanding sign for the purpose of identification, direction and warning not exceeding 0.2 m² (2.15 ft.²);
 - ii. A facia sign or freestanding sign relating to a person, partnership or company carrying on a profession, business or trade not exceeding 0.3 m² (3.23 ft.²);
 - iii. A facia sign or freestanding sign relating to a religious, educational, cultural, recreational or similar institution not exceeding 1.0 m² (10.76 ft.²);
 - iv. A portable sign or notice, relating to the sale or lease of land or buildings, sale of goods or livestock by auction, carrying out of construction, or the announcement of any local event of a religious, educational, cultural, political, or governmental nature not exceeding 3.0 m² (32.3 ft²) and limited in display to the period of completion of the sale, lease, construction or event; and
 - v. A flag attached to a single upright flag-pole;
- m. landscaping where the proposed grades will not adversely affect the subject or adjacent properties or result in an increase in surface water and sediment run-off into Sylvan Lake;
- n. development within a basement that does not change or add to the uses within a dwelling;
- o. a minor home occupation;
- p. apiaries for the keeping of a colony of up to 1,000 bees and no more than 1 queen;
- q. the erection of campaign signs for federal, provincial, municipal or school board elections on privately-owned lots for no more than thirty (30) days, or such time as regulated under provincial or federal legislation provided that:
 - i. such signs are removed within one (1) day after the election date;
 - ii. such signs do not obstruct or impair vision or traffic; and
 - iii. such signs indicate the name and address of the sponsor and the person responsible for removal;
- r. roof mounted solar energy collection systems;
- s. a maximum of one woodshed with a floor area not more than 7.0 m² (75.0 ft⁻²);
- t. pergolas less than 10.0 m² (107.6 ft.²) in area and less than 4.3 m (14.1 ft.) in height;
- u. micro wind energy conversion systems; and
- v. the demolition or removal of any building or structure for which erection a development permit would not be required pursuant to Section 4.2.1.a to 42.1.u, both inclusive.

4.3 NON-CONFORMING BUILDINGS AND USES

- 1. A non-conforming use of land or a building may be continued, but if that use is discontinued for a period of six (6) consecutive months or more, any future use of the land or building must conform to this Bylaw.
- 2. A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made thereto or therein.
- 3. A non-conforming use of part of a lot may not be exceeded or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed upon the lot while the non-conforming use continues.
- 4. A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except:
 - a. to make it a conforming building;
 - b. for the routine maintenance of the building, if the Development Authority considers it necessary; or

4.7 VARIANCES

- 1. The Development Officer may consider issuing a variance for a permitted use, where the variance requested does not exceed 10% of the applicable requirement of this Land Use Bylaw, and the requested variance does not affect maximum site coverage or maximum building height requirements.
- 2. The Municipal Planning Commission may grant a variance to reduce the requirements of any use of the Land Use Bylaw and that use will be deemed to comply with this land use bylaw.
- 3. The Municipal Planning Commission may approve an application for Development Permit even though the proposed development does not comply with the regulations of this bylaw or if the development is to be a rebuilding, an enlargement, an addition, or a structural alteration of a non-conforming building if, in the opinion of the Municipal Planning Commission;
 - a. The proposed development would not:
 - i. Unduly interfere with the amenities of the neighbourhood; or
 - ii. Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
 - o. The proposed development conforms to the use prescribed for that land or building in this bylaw.
- 4. In approving an application for development pursuant to Sections 4.7.2.a and 4.7.2.b, the Municipal Planning Commission shall adhere to the following:
 - a. A variance shall be considered only where warranted by the merits of the proposed development and in response to irregular parcel lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements. Except as otherwise provided in this bylaw, there shall be no variance from the following:
 - i. Site coverage; and
 - ii. Building height.
 - b. Where a variance is granted, the nature of the approved variance shall be specifically described in the Development Permit approval.
 - c. Where the issuance of a Development Permit involves the exercise of any specified discretion of the Municipal Planning Commission to relax a regulation of a district or any other regulation of this bylaw, the Municipal Planning Commission shall not permit any additional variance from that regulation.

4.8 NOTICE OF DECISION

- 1. When a development permit has been issued for a permitted use and no variance to any regulation has been granted, the Development Authority shall within five (5) working days after the decision on a development permit application has been granted, send a notice by regular mail of the decision to the applicant and post a notice on the Summer Village's website. Mailing the notice is not required when an applicant picks up a copy of the decision.
- 2. In addition to the above, within five (5) working days after a decision on a development permit application for a **discretionary use** or after a variance has been granted, the Development Officer shall:
 - a. send notice by regular mail (or by electronic mail if agreed to in advance by the applicant) to all affected adjacent land owners, as identified on the Summer Village Assessment Roll, to provide notice of the decision and right of appeal; and
 - b. post notice of the decision on the Summer Village's website; and
 - c. send notice by regular mail (or by electronic mail if agreed to in advance by the applicant) to any other landowner, business, agency, adjacent municipality, person, group, organization or similar body that the Development Authority deems may be affected to provide notice of the decision and right of appeal.
- 3. The notice indicated in **Sections 4.8.1 and 4.8.2** shall state:
 - a. the legal description and the street address of the site of the proposed development;
 - b. the uses proposed for the subject development,
 - c. any discretion that was granted in the approval of the development, whether by use or by interpretation of this Bylaw, and any variation or relaxation in regulation that was made by the Development Authority when the development permit was approved;
 - d. the date the development permit was issued;

8.8 EASEMENTS

1. A development permit shall not be issued for a development, other than a fence or landscaping, that encroaches in or over a utility easement or right-of-way without the written consent from the person to whom the easement is registered or the person whose utility is located in the easement and the Development Officer.

8.9 ENVIRONMENTAL SCREENING

1. Where the potential for prior contamination of a site exists, the approving Authority may require that a Phase 1 Environmental Site Assessment be conducted according to applicable provincial requirements and/or guidelines prior to a decision being issued. If the Phase 1 Environmental Assessment indicates that a Phase 2 Environmental Assessment should be undertaken, the approving Authority may require a Phase 2 Environmental Assessment be conducted and submitted prior to issuance of the decision affecting a subdivision or development application.

If follow-up assessments or remedies are required, and if such remedies are determined to be reasonably achievable, then completion of required remedies may be identified as conditions of subdivision or development approval.

8.10 EXISTING SUBSTANDARD LOTS

- 1. Proposed developments on existing substandard lots which do not meet the provisions of this Bylaw shall be considered by the Development Authority. The Development Authority may or may not issue a development permit for the site, having regard for the limitations of the site.
- 2. Development on a substandard lot is still required to meet all other provincial and federal legislation and regulations, including but not limited to the *Safety Codes Act*.

8.11 LANDSCAPING, ENVIRONMENTAL CONSERVATION, AND DEVELOPMENT

- 1. Landscaping in all developments within the Summer Village shall be to the satisfaction of the Development Authority.
- 2. As a condition of subdivision or development approval, a security in the form of an irrevocable letter of credit may be required by the Development Authority, up to a value of one hundred twenty five percent (125%) of the estimated cost of the proposed landscaping to ensure that the landscaping is carried out with reasonable diligence (in accordance with the approved landscaping plan), to the satisfaction of the Development Authority. A condition of the security shall be that the landscaping shall be completed in accordance with this Bylaw and the plan within one (1) growing season after the completion of the development. If the landscaping does not survive a two (2) year maintenance period, the amount shall be paid to the Summer Village to complete the landscaping.
- 3. A development permit for landscaping may be required where the proposed landscaping would result in the clearing of vegetation, stripping, or grading of the site.
- 4. Where a landscaping plan is required with an application for a development permit, no landscaping shall commence prior to the plan being approved by the Development Authority.
- 5. Landscaping plans shall incorporate (where possible) recommendations from the Alberta Clean Runoff Action Guide 2020 including:
 - a. Grading of lots to drain and retain runoff to control and reduce surface water leaving the lot;
 - b. Inclusion of the following clean runoff landscaping strategies:
 - i. Within planting beds and natural areas, keep the areas rough, with dished areas for trapping water.
 - ii. Where possible include a depression to intercept surface water (including snowmelt) before it leaves the site.
 - iii. Minimize turf areas on lakefront lots to decrease soil compaction and the proliferation of invasive weeds.
 - iv. Incorporate tools for capturing, treating, and using runoff into lot grading and landscaping.
 - v. Incorporate deciduous native plant species and wild flowers into landscaping plans to encourage fire suppression, support biodiversity, and increase evapotranspiration.
- 6. Landscaping plans shall include the following information which adheres to the following standards:
 - a. north arrow;
 - b. outlines of all buildings and structures on the subject site;
 - c. location of parking areas, vehicle and pedestrian circulation systems on the subject site;
 - d. location, height and materials of all proposed fences, screens, and walls on the subject site;

- e. location of any existing or proposed lighting, proposed recreational facilities and garbage collection areas on the subject site:
- f. existing vegetation, including mature trees, on the subject site, labeled by common name; and
- g. the proposed final grading and drainage plan of the area and the placing and spreading of topsoil. In particular, all areas to be landscaped shall be graded to drain to the lake, into catch basins or into adjacent drainage easements. Under no circumstances shall an area be designed, built or landscaped to drain onto adjacent property without appropriate easements.
- 7. In addition to the requirements of Section 8.11.5, landscaping plans shall also include pre-built and as-built shots to prove that the proposed final grading and drainage plan function properly.
- 8. The following standard of landscaping shall be required for all areas of a parcel not covered by buildings, non-permeable driveways, storage and display areas:
 - a. The conservation of existing trees and shrubs to the maximum extent possible;
 - b. The retention, in their natural state, of:
 - i. Wetlands, gullies and natural drainage courses;
 - ii. Unstable land;
 - iii. Land subject to flooding and/or located within a 1:100 year floodway or flood fringe area as determined by an engineer or flood study;
 - iv. Land with slope areas with a gradient of fifteen (15) percent or greater; and
 - v. Land located below the top of the bank of the lake, or any water body or water course.
 - c. The appropriate screening of outside storage areas, parking facilities and loading areas from adjacent buildings and roads.
 - d. A sufficient depth of topsoil to facilitate growth in the soft-landscaped areas, with areas not planted to trees and shrubs being seeded to grass, sodded or left with its natural grass cover; and
 - e. Completion of the landscaping within two (2) years of the date of issue of the Development Permit.

8.12 LIGHTING AND SURVEILLANCE EQUIPMENT

- 1. Outdoor lighting shall be located such that rays of light:
 - a. are not directed at an adjacent site or skyward; and
 - b. do not adversely affect an adjacent site or traffic safety.
- 2. Outdoor surveillance equipment shall not be directed at or into the private spaces (rear and side yards, dwellings, windows) on adjacent property, thereby materially, negatively interfering with or affecting the privacy, use, enjoyment or value of neighbouring lots.

8.13 MECHANIZED EXCAVATION, STRIPPING, AND GRADING OF PARCELS

- 1. A development permit is required prior to the commencement of mechanized excavation, stripping, or grading.
- 2. A temporary fence shall be erected around all excavations which in the opinion of the Development Authority may be hazardous to the public.
- 3. Where finished ground elevations are established, all grades shall comply therewith.
- 4. All topsoil shall be retained on the parcel, except where it must be removed for building purposes.
- 5. Finished ground elevations must be provided to the Development Authority for any dwelling unit containing a walkout basement.
- 6. Retaining walls greater than 1.0 m (3.3 ft.) in height above any adjoining grade requires a Development Permit.
- 7. Sediment control measures shall be required to ensure sediment is not transmitted to Sylvan Lake.

8.14 NUMBER OF BUILDINGS ON A PARCEL

- 1. A Development Permit shall not be issued for more than one (1) principal dwelling on a lot.
- 2. A Development Permit shall not be issued for more than two (2) accessory buildings on a lot.

3. Notwithstanding 8.14.2, a development permit for additional accessory buildings on lots greater than 0.2 ha (0.5 acres) in area may be issued at the discretion of the Development Authority if the total site coverage does not exceed the Maximum Site Coverage regulation in the applicable Land Use District.

8.15 OBJECTS PROHIBITED OR RESTRICTED IN YARDS

- 1. No person shall allow a recreational vehicle or other object which is in a dilapidated or unsightly condition, or a derelict vehicle to remain or be parked on a parcel in the residential districts, unless it is suitably housed or screened to the satisfaction of the Development Authority.
- 2. No person shall allow a vehicle of more than 1,000 kg (2,204.62 lbs) Gross Vehicle Weight to be parked or stored in the residential districts, except boats, boat trailers, school buses and recreational vehicles.
- 3. No person shall allow the parking or storage of a helicopter on a parcel.

8.16 ON-SITE AND OFF-SITE IMPROVEMENTS

- 1. Where any on-site services or improvements or any off-site local improvements are required to service a proposed development, a developer shall not begin the excavation for the foundation nor commence the development until the Development Authority is satisfied that such services or improvements will be undertaken and the required securities have been provided.
- 2. In order to satisfy the Development Authority, the developer may be required to enter into a development agreement with the municipality as a condition of development permit approval, and provide security in the form of cash or an irrevocable letter of credit, satisfactory to the Development Authority.
- 3. All future development areas must be serviced to the satisfaction of the Development Authority. Servicing shall be consistent with the Summer Village's Municipal Development Plan, the Sylvan Lake Intermunicipal Development Plan, approved intermunicipal collaboration framework(s), area structure plan(s) and/or conceptual scheme(s).

8.17 PROJECTION INTO YARDS

- 1. In the residential districts the portion of and attachments to a main or accessory building which may project over or on a minimum yard are:
 - a. Side yard:
 - i. Any projection, including unenclosed steps or eaves, not exceeding one-half of the minimum side yard required for the building.
 - b. Front yard and rear yard:
 - i. Any projection not exceeding 2.5 m (8.2 ft.) over or on a minimum front yard or rear yard.
 - ii. Unenclosed decks, if they do not project more than 50% of the minimum yard.
- 2. In all other districts, the portion of and attachments to a main or accessory building which may project over or on a minimum yard are:
 - a. Any projection not exceeding 1.5 m (4.9 ft.) into a front yard or rear yard;
 - b. Any projection not exceeding 0.6 m (2.0 ft.) into a side yard;
 - c. Any projection that is an exterior fire escape not exceeding 1.2 m (3.9 ft.) in width.
- 3. No portion of a building other than eaves, signs or canopies may project into a public or private right-of-way.

8.18 RELOCATION OF BUILDINGS

- 1. No person shall:
 - a. Alter the location on a parcel of a building which has already been constructed on that parcel; or
 - b. Place on a parcel a building which is to be relocated or moved from a different parcel or location;
 - unless a Development Permit has been issued by the Development Authority.
- 2. In addition to the requirements of Section 4.3, the Development Authority may require an application for a Development Permit to be accompanied with:
 - a. Recent colour photographs showing all elevations of the building;
 - b. A statement verifying the age, size and structural condition of the building; and

SPECIFIC DEVELOPMENT REGULATIONS

9.1 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS

- 1. An accessory building in a residential district shall be subordinate to the principal use in size, height, and use.
- 2. An accessory building shall not be constructed on an undeveloped lot unless it is associated with an approved development permit for a principal dwelling.
- 3. The Development Authority shall only approve the development of an accessory building where there is an existing or approved principal use or principal building on the site.
- 4. Subject to the provisions of Sections 9.1.2 and 9.1.3, accessory buildings shall be sited having regard to their:
 - a. Environmental impact;
 - b. Use;
 - c. Accessibility; and
 - d. Location in relation to other buildings on the parcel and the future use and/or subdivision of the parcel.
- 5. An accessory building on a lot <u>abutting Sylvan Lake</u> or a reserve parcel <u>abutting Sylvan Lake</u> shall be situated so that:
 - a. It is located within the minimum rear yard of any parcel;
 - b. It is setback from:
 - i. The front lot boundary;
 - ii. The top of any escarpment area or high water mark (as determined by the Development Authority)

A minimum of 15.0 m (49.21 ft.) or parallel to the front wall of the principal building, whichever is the lesser setback.

- c. On corner and interior parcels, a minimum of:
 - i. 3.0 m (9.8 ft.) from any side boundary abutting a street, or reserve parcel;
 - ii. 1.0 m (3.3 ft.) from the other side boundary; and
 - iii. 6.0 m (19.7 ft.) from the rear parcel boundary.
- d. Notwithstanding the above, an accessory building or any portion thereof may be erected or placed on the front or side boundary common to two parcels provided the accessory building serves the two abutting parcels.
- 6. An accessory building on a parcel <u>not abutting Sylvan Lake</u> or a reserve parcel <u>not abutting Sylvan Lake</u> shall be situated so that:
 - a. On an interior parcel, a minimum of:
 - i. 1.0 m (3.3 ft.) from the side parcel boundary;
 - ii. 3.0 m (9.8 ft.) from the rear parcel boundary;
 - iii. 6.0 m (19.7 ft.) from the front parcel boundary, and
 - b. On a corner parcel, a minimum of:
 - i. 3.0 m (9.8 ft.) from the side boundary abutting the street;
 - ii. 1.0 m (3.3 ft.) from the other side parcel boundary;
 - iii. 6.0 m (19.7 ft.) from the front parcel boundary; and
 - iv. 3.0 m (9.8 ft.) from the rear parcel boundary.
 - c. Notwithstanding the above, an accessory building or any portion thereof may be erected or placed on the front or side boundary common to two parcels provided the accessory building serves the two abutting parcels.
- 7. An accessory building without a guest house above a garage shall not be more than 5.0 m (16.4 ft.) in building height measured from grade.
- 8. An accessory building with a guest house above a garage shall not be more than 7.6 m (25.0 ft.) in building height measured from grade.

- 9. An accessory building erected or placed on a parcel shall not be used as a principal dwelling.
- 10. The exterior of an accessory building must be finished to match or compliment the exterior finish of the principal building.
- 11. The footprint of an accessory building on lots smaller than 0.2 hectares (0.5 acres) in area shall be a maximum of 111.5 m² (1,200 ft.²), and shall not exceed the maximum site coverage provisions in the applicable land use district.
- 12. The footprint of an accessory building on lots 0.2 hectares (0.5 acres) or more in area shall be a maximum of 223.0 m² (2,400 ft.²), and shall not exceed the maximum site coverage provisions in the applicable land use district.

9.2 DETACHED GARAGES

- 1. Parcels abutting Sylvan Lake or a reserve parcel abutting the lake:
 - a. In addition to the accessory building setbacks prescribed in Section 9.1, a detached garage shall be located a minimum of 6.0 m (19.7 ft.) from the rear parcel boundary if the overhead doors of the garage face a lane, street or rear property boundary.
 - b. Side entry detached garages:
 - i. Will only be permitted on parcels greater than 12.0 m (39.4 ft.) in width; and
 - ii. Shall be located a minimum of 3.6 m (12.0 ft.) from the rear parcel boundary.
- 2. Parcels not abutting Sylvan Lake or a reserve parcel abutting the lake:
 - a. In addition to the accessory building setbacks prescribed in Section 9.1, a detached garage shall be located a minimum of 6.0 m (19.7 ft.) from the front parcel boundary if the overhead doors of the garage face a lane, street or front parcel boundary.
 - b. Side entry detached garages:
 - i. Will only be permitted on parcels greater than 12.0 m (39.4 ft.) in width; and
 - ii. Shall be located a minimum of 3.6 m (12.0 ft.) from the front parcel boundary.

9.3 DRIVEWAYS AND PARKING

- 1. A developed non-permeable surfaced driveway shall be considered part of a lot's site coverage and (along with other developments on the lot) shall not exceed the maximum site coverage regulation in the applicable Land Use District.
- 2. A development permit shall be required for a new driveway, or to increase the area of an existing driveway.
- 3. Driveway construction shall not disturb or disrupt municipal stormwater management infrastructure, and shall be constructed in such a manner not to interfere with the natural flow or absorption of surface water.
- 4. Culverts shall be designed and installed to municipal standards at no cost to the Summer Village.
- 5. The maximum width of a driveway shall be 10.0 m (32.8 ft.). Driveway width shall be measured within the carriageway.
- 6. Driveways on corner parcels shall be setback from the street intersection not less than 6.0 m (19.7 ft.) where the driveway serves not more than four (4) dwelling units.
- 7. In residential districts, the number of driveways shall be limited to not more than one (1) driveway on a property with less than or equal to 40.0 m (131.2 ft.) and not more than two (2) driveways for properties with more than 40.0 m (131.2 ft.) of frontage.
- 8. Where the road storm drainage flow will be impacted by the construction of a driveway, at the discretion of the Development Authority, driveways shall contain culverts and be graded to the satisfaction of the municipality.
- 9. No operator or owner of a heavy vehicle shall park a heavy vehicle on a parcel within a Residential District.

9.4 FENCING

- 1. Within the residential districts:
 - a. For lakefront parcels abutting Sylvan Lake or a reserve parcel abutting the lake, fences:
 - i. Located within a rear yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
 - ii. Located within a side yard of a parcel shall not exceed 2.0 m (6.6 ft.) in height.
 - iii. Located within the front yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
 - iv. Located within the flankage yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.

SHORELINE RESIDENTIAL DISTRICT

11.1 GENERAL PURPOSE

1. To provide an area for low density residential development in the form of single-detached dwellings and compatible uses.

11.2 USES

A. PERMITTED USES	B. DISCRETIONARY USES
 i. Accessory Buildings where the total floor area is 53.5 m² (578.0 ft.²) or less 	i. Accessory Buildings where the total floor area is over 53.5 m² (578.0 ft.²)
ii. Day Homes	ii. Apiaries (for colonies greater than 1,000 bees and/or more than 1 queen)
iii. Dwellings, Single-Detached	iii. Suites, Guest House
iv. Home Occupations, Minor	iv. Home Occupations, Major
	v. Modular Home
	vi. Parks and Playgrounds
	vii. Public and Quasi-Public Uses
	viii. Signs
	ix. Temporary Buildings
	x. Walkways

11.3 MINIMUM PARCEL REQUIREMENTS

A. WIDTH	15.2 m (50.0 ft.)
	697.0 m ² (7,502 ft. ²)
B. AREA	Parcels not complying with the foregoing and legally created prior to promulgation of Alberta Regulation 132/78 (April 1978) are not subject to foregoing, but shall have an area not less than 520.0 m ² (5,597 ft. ²).

11.4 PARCEL SERVICING

- 1. No building may be erected or development commenced on parcels which are not proposed to be served by a piped water or wastewater system until arrangements, satisfactory to the Provincial Plumbing Inspector, Alberta Labour and the Public Health Unit, have been made for collection, storage, if any, and disposal of wastewater.
- 2. The Development Authority shall either refuse to issue a Development Permit for any building, structure or works, unless arrangements under (1) above have been completed, or issue a Development Permit subject to the conditions that arrangements under (1) above shall be completed prior to the commencement of the development.
- 3. Electrical power from the property line of any parcel to any building situate on the parcel shall be constructed underground.

11.5 SITE DEVELOPMENT

1. Unless otherwise provided in a development agreement registered by the municipality by caveat on the title to any parcel the following provisions shall apply:

A. MINIMUM FRONT	7.5 m (24.6 ft.) to the habitable dwelling unit from:a. The front parcel boundary; orb. The top of the escarpment; or		
YARD AND REAR	c. The high water mark;		
	Whichever is closest to the dwelling unit.		
	6.0 m (19.7 ft.) to a garage attached to (and structurally part of) the principal building.		
B. MINIMUM SIDE YARD	1.5 m (4.9 ft.) or ten (10) percent of the parcel width, whichever is greater, to a maximum of 3.0 m (9.8 ft.), or as required by the Alberta Building Code (whichever is greater).		
C. MAXIMUM SITE COVERAGE	50%		
	45%, of which 10% of the total lot area must be covered in trees and shrubs.		
	Sylvan Lake Non-permeable Surfaces (Maximum 50%) Front Property Line		
	Vegetation, includes trees and shrubs (Minimium 45%)		
	DECK PATIO Trees and Shrubs (Minimium 10% of total lot area)		
	DWELLING Side Pro Flex Area - Soft Landscaping Elements (5%)		
D. MINIMUM VEGETATION COVERAGE	Property Lot Boundary		
VEGETATION COVERAGE	The total vegetation coverage requirement is a minimum 45% of the total lot area. included in this 45% minimum requirement, 10% of the total lot area must be covered in trees and shrubs.		
	WAY (
	Flex area means the remainder of the lot area where soft landscaping elements or permeable surfaces (e.g. gravel, rock gardens, synthetic turf, permeable pavement) are encouraged.		
	Note: This illustration demonstrates an example of site coverage only and is not representative of requriements for setbacks, building floor area, and siting. This illustration is not to scale. The location of buildings, decks, non-permeable surfaces, vegetation (including trees and shrubs), and flex area is an example only.		
E. MAXIMUM DWELLING HEIGHT	10.0 m (32.8 ft.) measured from grade.		
F. MINIMUM FLOOR AREA	100.0 m ² (1,076 ft. ²)		
G. PARKING STALLS	All parking stalls shall have a dimension of not less than 2.7 m (9.0 ft.) by 5.5 m (18.0 ft.).		

H. MINIMUM PARKING (DETACHED DWELLING)	Two (2) parking stalls per dwelling.
I. MINIMUM PARKING (ALL OTHER USES)	As required by the Development Authority.

11.6 ADDITIONAL REGULATIONS

- 1. All uses must comply with the regulations in Section 8 and 9 of this Land Use Bylaw.
- 2. Shoreline erosion control measures are prohibited unless prior written approval has been received from the Alberta Environment and Parks and the Summer Village of Norglenwold.
- 3. Lot grading and landscaping shall comply with the regulations in Sections 8.11 and 8.13 of this Land Use Bylaw.
- 4. Lands subject to an environmental reserve easement must remain in their natural state.

TAB E

In the Court of Appeal of Alberta

Citation: Edmonton (City of) Library Board v Edmonton (City of), 2021 ABCA 355

Date: 20211102 Docket: 1903-0162AC Registry: Edmonton

Between:

The City of Edmonton Library Board

Appellant

- and -

The City of Edmonton and The City of Edmonton Subdivision and Development Appeal Board

Respondents

- and -

Rundle Centre Ventures Ltd.

Respondent

The Court:

The Honourable Chief Justice Catherine Fraser
The Honourable Justice Ritu Khullar
The Honourable Justice Dawn Pentelechuk

Reasons for Judgment Reserved of The Honourable Chief Justice Fraser Concurred in by The Honourable Justice Pentelechuk

Dissenting Reasons for Judgment Reserved of The Honourable Justice Khullar

Appeal from the Decision of The City of Edmonton Subdivision and Development Appeal Board Dated the 31st day of May, 2019

Reasons for Judgment Reserved of The Honourable Chief Justice Fraser

I. Introduction

- [1] This appeal is about the power of a subdivision and development appeal board (appeal board) under s 687(3)(d) of the *Municipal Government Act*, RSA 2000, c M-26 [MGA] to vary development standards in a land use bylaw. Specifically at issue is the requirement in the *City of Edmonton Zoning Bylaw 12800* [Zoning Bylaw] that there be a separation distance of at least 200 metres between a cannabis store and a public library.
- [2] The City of Edmonton Library Board (Library) objects to a development permit granted by the City of Edmonton Subdivision and Development Appeal Board (SDAB) for the development of a cannabis retail store by Rundle Centre Ventures Ltd. (Developer). This appeal was heard with two other appeals by the Library: *Edmonton (City of) Library Board v Edmonton (City of)*, 2021 ABCA 356 [*Downtown Library*] and *Edmonton (City of)* Library Board v Edmonton (City of), 2021 ABCA 357 [Heritage]. In all three cases, the SDAB granted a development permit to a cannabis store by varying the 200-metre separation distance from a public library prescribed in the Zoning Bylaw.
- [3] The primary issue in all three appeals turns on the interpretation of what is commonly referred to as the "variance power" of an appeal board under s 687(3)(d) of the MGA. An appeal board has the jurisdiction to issue a development permit for a proposed development even if it does not comply with the applicable land use bylaw if, in the appeal board's opinion, the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. The Library asserts that the SDAB wrongly imposed a burden of proving the contrary on the opponents of the proposed cannabis store.
- [4] The principles set out in these Reasons also apply to the related appeals, *Downtown Library* and *Heritage*.
- [5] In addition, in this appeal, the Library argues that the SDAB breached its duty of procedural fairness by failing to provide notice to the Library of the appeal hearing and by receiving and considering three submissions after conclusion of the oral hearing without giving the Library an opportunity to respond.
- [6] For the reasons that follow, I do not agree that the SDAB misinterpreted its variance power under s 687(3)(d). Nor do I find any breach of procedural fairness. Thus, the appeal must be dismissed.

II. Background Information

- [7] On April 13, 2017, Canada introduced legislation to legalize the sale, possession and personal use of cannabis. That legislation took effect October 17, 2018: *Cannabis Act*, SC 2018, c 16.
- [8] To prepare for legalization, Alberta put in place a legislative regime to regulate the sale of cannabis: see *Gaming, Liquor and Cannabis Act*, RSA 2000, c G-1, as amended by *An Act to Control and Regulate Cannabis*, SA 2017, c 21; *Gaming, Liquor and Cannabis Regulation*, Alta Reg 143/1996, as amended by AR 13/2018 [*Regulation*]. The only aspect of this provincial regime related to the location of a cannabis store is s 105(3) of the *Regulation*. It prevents a cannabis retailer from having any part of an exterior wall of its premises within 100 metres of a provincial health care facility, a school or land reserved for schools, or within 100 metres of the boundary of a parcel of land on which those facilities are located. A municipality may vary these distances in its land use bylaw: s 105(5) of the *Regulation*. Libraries are not included in the *Regulation*.
- [9] The City of Edmonton in turn took steps to amend its *Zoning Bylaw* in anticipation of cannabis legalization. It undertook a number of public consultation activities including online surveys, public engagement events, workshops with key stakeholders, circulation of the proposed land use framework to stakeholders and focus groups with interested cannabis store operators. The City also reviewed how other municipalities were addressing separation distances between cannabis stores and libraries, finding that the required distances varied between 30 metres and 300 metres.
- [10] On June 12, 2018, following a public hearing, the City amended its *Zoning Bylaw* by adding a new land use provision as s 70, "Cannabis Retail Sales", and stipulating that such sales are a "Permitted Use" in certain designated zones: *City of Edmonton Charter Bylaw 18387*. Section 70 of the *Zoning Bylaw* sets out a number of specific regulations for cannabis stores, including a 200-metre separation distance between such stores and a public library. On February 25, 2019, s 70 was amended in certain respects, including by varying the length of a number of separation distances under s 105(3) of the *Regulation* and exempting cannabis stores on sites greater than two hectares from the 200-metre separation distance under certain circumstances: *City of Edmonton Charter Bylaw 18720*.
- [11] The provisions of the *Zoning Bylaw* most relevant to this appeal are ss 70(2)(a) and 70(3)(a):
 - 2. Any Site containing Cannabis Retail Sales shall not be located less than:

- a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; ...
- 3. For the purposes of subsection 2,
- a. separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures; ...

In short, these sections prohibit a cannabis store from being located less than 200 metres from a public library when measured site to site. A "Site" is defined as "an area of land consisting of one or more abutting Lots": s 6 of the *Zoning Bylaw*.

- [12] The *Zoning Bylaw* also prescribes a number of different separation distances from a cannabis store. In the result, there must be:
 - at least 200 metres between two cannabis stores, measured from the closest point of use;
 - subject to s 70(4)(c)(i) of the *Zoning Bylaw*, at least 100 metres between a cannabis store and community recreation services, provincial health care facilities, school reserve or municipal and school reserve sites, measured from site boundaries; and
 - subject to s 70(4)(c)(i) of the *Zoning Bylaw*, at least 200 metres between a cannabis store and a public library or a public or private education facility, measured from site boundaries.
- [13] Section 70(4)(c)(i) of the *Zoning Bylaw* provides, amongst other things, that the 200-metre separation distance between a cannabis store and a public library under s 70(2)(a) does not apply where Sites are (i) greater than two hectares in size; (ii) zoned either CSC (Shopping Centre Zone) or DC2 (Site Specific Development Control Provision); and (iii) "do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales". The assumption appears to be that a large site would create a buffer between a cannabis retail store and a library.
- [14] On March 25, 2019, the Developer applied for a development permit to change the use of a Personal Service Shop at 3303-118 Avenue in the Beverly area to Cannabis Retail Sales. The

proposed cannabis store was on a shopping centre site just under one hectare in size and zoned CSC (Shopping Centre Zone), the general purpose of which is to "provide for larger shopping centre developments intended to serve a community or regional trade area": s 320.1 of the *Zoning Bylaw*. Under this zoning, Cannabis Retail Sales is a permitted use.

[15] The development officer rejected the application because the proposed development did not comply with the 200-metre separation distance from a public library required under s 70(2)(a) of the *Zoning Bylaw*. It was only 79 metres from the Abbottsfield-Penny McKee public library when measured from the site boundary of the shopping centre in which the cannabis store would be located to the site boundary of the public library.

III. The SDAB Hearing

- [16] The Developer appealed the development officer's decision to the SDAB, seeking a development permit and a variance to the 200-metre separation distance.
- [17] Prior to the appeal hearing, the SDAB notified property owners within 60 metres of the proposed site of the cannabis store of the appeal and the appeal hearing. Although the SDAB did not notify the Library, the Library became aware of the appeal and made written submissions to the SDAB. The Library objected to the variance, arguing that both at its current and planned future locations, the cannabis store would not satisfy the 200-metre separation distance. It also contended that the City's policy choices about protecting young children and vulnerable communities should be respected, especially since children and youth programming is offered throughout the day and evening at the public library.
- [18] In written submissions to the SDAB, the City's development officer recommended against granting the variance. He observed that the *Zoning Bylaw* prescribing the separation distance was drafted after extensive public consultation by the City and represented the City's policy choices regarding the regulation of cannabis stores. He also added that it was too early to assess the possible impacts of the cannabis store on the community because recreational cannabis sales had only been legal in Canada for approximately seven months at the time of the appeal hearing.
- [19] At the SDAB hearing held May 23, 2019, representatives of the Developer and the Beverly Heights Community League made oral submissions.
- [20] The Developer referred to evidence confirming that when the distance between the proposed cannabis store and the public library was measured building to building, the actual separation distance is over 200 metres. The Developer also noted that there were two streets 118th Avenue and 34th Street separating the store and the library, one being a major multi-lane road, namely 118th Avenue. In addition, the Developer pointed out that there were already certain "adult-oriented uses" (a liquor store and a bar/VLT gaming room) on the same site as the library and that the Edmonton Police Service (EPS) occupies a bay in the same strip mall as the proposed

cannabis store. It argued that if the goal is to keep at-risk youth away, the *Regulation* and the presence of police in the same building would accomplish this. Finally, the Developer drew attention to the fact that the library was scheduled to move across the street to the one shopping centre in the area of more than two hectares. The Developer argued that all these factors supported a variance.

- [21] The Beverly Heights Community League representative expressed concerns about the proposed cannabis store being located so close to the public library and the potential negative effects on the community. The representative pointed out that its residents tend to have a lower income and the population is transient and that the immediate neighbourhood south of the proposed development is highly populated and has one of the highest densities of young children in Edmonton.
- [22] The day after the hearing, the SDAB received written submissions from three parties, all of whom opposed the appeal. These submissions had not been made available at the public hearing because of a computer glitch. Amazone Playzone, an indoor playground, had "been trying to give a friendly and safe place for parents and their children" and was concerned a cannabis store "will likely have a negative impact" on children and the community: Extracts of Key Evidence (EKE), A32. The Candora Society, which provides community-based programs, including a child development centre and programming for adults with drug and alcohol addiction near the proposed location, was also concerned about the negative impact on the community. Finally, the owner of the Riverview Crossing Shopping Centre explained that it is a family-oriented shopping centre trying to promote a safe, friendly and fun space in a high crime area and that having a cannabis store across the street could detract from those goals.
- [23] These submissions were sent to the Developer and the Beverly Heights Community League only, with an invitation to submit any concerns arising therefrom. None were received.

IV. SDAB Decision

- [24] The SDAB allowed the appeal and granted the variance: *Ogilvie Law LLP v Development Authority of the City of Edmonton*, 2019 ABESDAB 10071 (CanLII) (Decision). It noted the following in its reasons: (i) Cannabis Retail Sales is a permitted use in the CSC Shopping Centre Zone; (ii) 118th Avenue "acts as a natural physical barrier between the two Sites"; and (iii) the "actual building-to-building" distance between the proposed cannabis store and the Library is 200 to 230 metres, though the site boundary to site boundary distance (as prescribed by the *Zoning Bylaw*) is only 79 metres: Decision at paras 41-44.
- [25] In finding the test for a variance had been met, the SDAB said this at paras 45 and 48:

The Board accepts the submission of the Appellant respecting the Newcastle Centre GP Ltd. v. Edmonton (City), 2014 ABCA 295

decision and the direction from the Court of Appeal therein. Specifically, unless the Board can **articulate** what harm can come from granting a variance, then the variance should be granted. The Board must reasonably demonstrate the negative effect the proposed variance would have on the amenities of a neighbourhood and on the neighbouring parcels of land. [Emphasis in original]

Υ

All told, the Board was provided with no substantive planning reasons from any parties in opposition that indicated that this development would unduly interfere with the amenities of the neighbourhood, nor that it would materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land...

- [26] The Library sought permission to appeal the SDAB's decision to this Court. One of its arguments was that the SDAB misunderstood this Court's reasoning in *Newcastle Centre GP Ltd v Edmonton (City)*, 2014 ABCA 295 [*Newcastle*]. Permission to appeal was granted on three questions (see *Edmonton (City of) Library Board v Edmonton (City of)*, 2019 ABCA 409), slightly reformulated as follows:
 - 1. Did the SDAB incorrectly interpret the variance test in s 687(3)(d) of the MGA?
 - 2. Did the SDAB breach its duty of procedural fairness by failing to notify the Library of the hearing?
 - 3. Did the SDAB breach its duty of procedural fairness by considering submissions received after the hearing or, alternatively, by not considering the submissions, thereby failing to consider relevant evidence?

V. Standard of Review

- [27] The appellate standards of review in *Housen v Nikolaisen*, 2002 SCC 33, [2002] 2 SCR 235 apply to statutory appeals from decisions of the SDAB: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 37 [*Vavilov*]; *Legacy Inc v Red Deer (City)*, 2020 ABCA 105 at para 16; *Edmonton (City of) v Edmonton (City of) Subdivision and Development Appeal Board*, 2020 ABCA 7 at paras 11-12. Accordingly, questions of law, such as the interpretation of the *MGA* or a land use bylaw, are reviewed on a standard of correctness.
- [28] The standard of review for questions of procedural fairness is whether the standard of fairness required by the common law has been met: Baron Real Estate Investments Ltd. v

Edmonton (City), 2021 ABCA 64 at para 17; Borgel v Paintearth (Subdivision and Development Appeal Board), 2020 ABCA 192 at para 11.

VI. Interpretive Approach to the MGA

- [29] The question before this Court involves the scope of an appeal board's variance power under the MGA. The words in the MGA must be read in their entire context, in their grammatical and ordinary sense and in harmony with the legislative scheme, its object and the intention of the Legislature: Rizzo & Rizzo Shoes Ltd. (Re), [1998] 1 SCR 27 at para 21; Northern Sunrise County v Virginia Hills Oil Corp, 2019 ABCA 61 at paras 35, 37. The same approach applies to the interpretation of a municipal bylaw: Love v Flagstaff (County of) Subdivision and Development Appeal Board, 2002 ABCA 292 at para 19 [Flagstaff]; see similarly Musqueam Indian Band v Musqueam Indian Band (Board of Review), 2016 SCC 36 at para 16, [2016] 2 SCR 3.
- [30] A contextual approach recognizes that what words mean depends on the entire context in which they have been used: *Chieu v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 3 at para 34, [2002] 1 SCR 84; *Bell ExpressVu Limited Partnership v Rex*, 2002 SCC 42 at para 27, [2002] 2 SCR 559. However, in addition to considering the text and context, "legislative intent can be understood only by reading the language chosen by the legislature in light of the *purpose* of the provision": *Vavilov* at para 118, emphasis added. Therefore, the meaning of a provision must have regard to its text, context and purpose: *Vavilov* at paras 118-121; *1193652 B.C. Ltd. v New Westminster (City)*, 2021 BCCA 176 at para 64 [*New Westminster*].

VII. The Variance Power under s 687(3)(d) of the MGA

A. Purpose of Alberta's Planning Laws

- [31] The MGA sets out the statutory framework for land development in Alberta. The governing framework is designed to give effect to the public interest in private land use decisions but not at the undue expense of private rights: **Flagstaff** at para 23.
- [32] Section 617 of the MGA explicitly provides as follows:

The purpose of this Part [17] and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

(a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and

(b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,

without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

- [33] The MGA establishes how municipalities can achieve these broad objectives. That includes creating statutory plans and land use bylaws in planning growth within their regions. Land use bylaws establish development standards so that everyone understands, at least broadly, the uses to which land can be put and the limits of those uses. The rules are predictable, and there is an expectation they will be applied fairly and equally: **Flagstaff** at paras 27-29.
- [34] A land use bylaw "may prohibit or regulate and control the use and development of land and buildings in a municipality": s 640(1.1) of the MGA. Among other things, a land use bylaw must set out the permitted uses and the discretionary uses of land or buildings: s 640(2)(b) of the MGA. A development permit must be issued if the proposed development is for a permitted use and otherwise complies with the land use bylaw: s 642(1) of the MGA; Flagstaff at para 70. If the proposed development is for a permitted use that does not comply with all the requirements of the land use bylaw, the developer can apply to an appeal board for a variance of the bylaw requirements.

B. Relevant Statutory Provisions

- [35] Under s 687(3)(a.3) of the MGA, an appeal board is required to comply with any land use bylaw in effect. But this requirement is expressly subject to s 687(3)(a.4) and s 687(3)(d) of the MGA.
- [36] Section 687(3)(a.4) has no application to this appeal. It provides that an appeal board "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". But as noted, the *Regulation* does not prescribe any minimum distance between libraries and cannabis stores.
- [37] Section 687(3)(d) sets out the variance power of an appeal board and the test for exercise of that power. It provides as follows:

In determining an appeal, the board hearing the appeal ...

...

- (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.
- [38] Accordingly, to grant a variance, an appeal board must be satisfied *in its opinion* as to two conditions. First, that the proposed development would not have certain effects as set out in s 687(3)(d)(i) namely, that the proposed development *would not* unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. For ease of reference, these effects of the proposed development collectively are sometimes referred to as the "negative effects" and the requirement that the proposed development would not, in the appeal board's opinion, have the negative effects as the "negative effects condition". Second, an appeal board must also be satisfied that the proposed development conforms with the use for that land or building in the bylaw. This condition in s 687(3)(d)(ii) is referred to as the "use condition".
- [39] An appeal board is not the only decision-maker authorized to exercise the variance power set out in s 687(3)(d) of the MGA. Section 640(6) of the MGA allows for, but does not require, municipal bylaws to grant a development authority the same variance power conferred on an appeal board under s 687(3)(d). However, the City has chosen to give its development officers less variance power than permitted under s 640(6) of the MGA: see Frederick A. Laux, Q.C. & Gwendolyn Stewart-Palmer, Planning Law and Practice in Alberta, 4th ed (Edmonton: Juriliber, 2019) at 9-23 and 9-24 [Laux & Stewart-Palmer]. Accordingly, s 11.4 of the Zoning Bylaw limits the circumstances in which a development officer may grant a variance to the following: "a variance may be considered in cases of unnecessary hardship or practical difficulties peculiar to the Use, character, or situation of land or a building, which are not generally common to other land in the same Zone".
- [40] With respect to cannabis retail stores though, the City's development officers do not possess even this limited variance power. Instead, subject to one exception, a development officer cannot grant a variance of any of the prescribed separation distances. Section 70(5) of the *Zoning*

Bylaw expressly provides that, notwithstanding s 11 of the Zoning Bylaw, a development officer shall not grant a variance of the prescribed separation distances. The one exception, which is inapplicable here, relates to the separation distance between two cannabis retail stores. In all other instances, an application for a variance must be made to the SDAB and is thus subject to a formal hearing.

C. Purpose and Scope of the Variance Power

1. What is the Purpose of the Variance Power?

- [41] The variance power exists to provide flexibility in applying development standards to a proposed development. By necessity, development standards in land use bylaws draw lines. The Legislature has recognized that, as with all line drawing, there will be cases in which a strict application of the lines drawn could lead to an unreasonable or unfair result: *Thomas v Edmonton* (*City*), 2016 ABCA 57 at para 29 [*Thomas*]. To relieve against circumstances in which strict enforcement is not appropriate, the Legislature has conferred on an appeal board the discretion to relax that is, vary, dispense with or waive development standards in the applicable land use bylaw providing that the conditions (the negative effects condition and use condition) set out in s 687(3)(d) of the *MGA* are satisfied.
- [42] In doing so, the Legislature has attempted to balance the interests of the landowner (private interests) and those of the community and adjacent neighbours (public interests). It has recognized that where the balance is to be struck will not always be obvious and that development standards grounded in generally applicable community standards may lead to an inappropriate result in an individual case.

2. Variance Power of an Appeal Board

- [43] This case raises the issue of the process an appeal board should follow when formulating its "opinion" whether the proposed development satisfies the negative effects condition under s 687(3)(d)(i) of the MGA. The use condition is not in issue here; cannabis retail sales are a permitted use in the subject shopping centre site.
- [44] To exercise its variance power, an appeal board must be satisfied *in its opinion* that the proposed development would not "unduly interfere with the amenities of the neighbourhood" or "materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land". This aspect of the test for a variance or some version of it has existed in Alberta's planning legislation since 1977: *Planning Act*, SA 1977, c 89, s 83(3)(c).
- [45] Several points flow from a consideration of the text, context and purpose of s 687(3)(d) of the MGA: **Thomas** at paras 19-20; **New Westminster** at para 64; **Vavilov** at paras 118-121.

- [46] First, an appeal board's variance power under s 687(3)(d) is very broad. And deliberately so. Section 687(3)(d) gives an appeal board wide discretion in deciding whether the negative effects condition has been met as confirmed by language such as "may", "in its opinion", "unduly" and "materially": Heritage Wind Farm Development Inc v Pincher Creek (Municipal District No. 9), 2010 ABCA 181 at para 10 [Heritage Wind Farm]. The words chosen are indeterminate and of such a nature that decision-makers can come to different conclusions about when something is "undue" or "material". As noted in Laux & Stewart-Palmer at 10-64 and 10-65, the language is "subjective" and "rarely admits of an objective standard". The circumstances in which it would be appropriate for an appeal board to grant a variance from development standards are diverse and not subject to a defined list.
- [47] Further, and most telling, in contrast to other jurisdictions, that power is not limited to cases of undue hardship or unique or minor situations: see, for example, *Planning Act*, RSO 1990, c P.13, s 45(1); *Local Government Act*, RSBC 2015, c 1, s 542(1). As explained in Laux & Stewart-Palmer at 10-64: "[u]nlike many other jurisdictions, in Alberta there is no express need for an applicant seeking a variance to establish that compliance with the provisions of the land use bylaw would cause him undue hardship or that the problem is unique to his land or that the variance he seeks is minor in nature".
- [48] This point was also made in *Tymchak v Edmonton* (Subdivision and Development Appeal Board), 2012 ABCA 22 at paras 19-20. Côté JA contrasted the variance power under s 11.4 of the Zoning Bylaw which he described as "fairly narrow" and required "unnecessary hardship, or practical difficulties peculiar to that lot" with the SDAB's variance power under s 687(3)(d) of the MGA which he described as "different" and "laxer", namely "no undue or material interference to neighbors' land or the neighborhood".
- [49] Second, the test the Legislature chose underscores the wide discretion conferred on an appeal board. An appeal board may grant a variance if, in its opinion, the proposed development would not *unduly interfere* with the amenities of the neighbourhood or *materially interfere* with or affect the use, enjoyment or value of neighbouring parcels of land. Whether an interference is *undue* or *material* in the circumstances is a matter of degree that will necessarily be dependent on the specific facts of the individual case. The point though is this. The Legislature evidently recognized and accepted that a variance could, and would, result in some permissible degree of interference with amenities and use, enjoyment and value of neighbouring lands.
- [50] Moreover, the Legislature chose the conditional tense to describe the impact the appeal board must consider: "the proposed development would not ..."; as opposed to "does not". This choice of language reflects that rarely will there be evidence of the actual effect of the proposed development on the amenities of the specific neighbourhood or on the use, enjoyment or value of the specific neighbouring land. That is for a simple reason: when the issue arises, the developer is seeking a development permit for a development not yet in existence. In that sense, the development will be assessed prospectively and the evidence on these negative effects will

necessarily be future-oriented. As a result, an appeal board is entitled to infer, based on the evidentiary record, whether certain effects are likely to follow from the proposed development with the requested variance.

- [51] Third, the purpose of the development standard in question will inform an appeal board's exercise of its variance power. After all, in deciding whether the negative effects condition has been met, an appeal board does not do so in a vacuum. Understanding the purpose served by a particular development standard assists an appeal board in deciding this question.
- [52] Development standards may serve one or more planning purposes. These include utilitarian, safety, privacy, environmental, aesthetic and social purposes. For example, development standards can regulate the location of buildings on parcels of lands. Minimum side yard requirements and maximum height standards are directly related to ensuring that the use and enjoyment of neighbouring properties are not unduly encroached on. Use, enjoyment and value can be compromised and potentially materially interfered with because of utilitarian issues such as access (side yards provide physical distance between properties) or nuisance issues such as noise (the closer properties are, the more sound carries from one building to another). On the other hand, yard maximums may be used to encourage construction of buildings close to sidewalks or other buildings (for a more pedestrian friendly appearance) and height minimums may be used to maximize density.
- [53] Development standards can also relate to providing separation for safety purposes (the closer buildings are to each other the greater the risk of damage to adjacent buildings in the event of fire). Or for privacy (the closer the buildings, the less the privacy). Additionally, they can relate to environmental purposes such as avoiding the undue diminution in access not only to sunlight but to light generally of neighbouring properties (which may impact not only on enjoyment but also value of adjoining properties). And they may also be directed to aesthetic issues, such as whether the proposed development is generally compatible with existing development vis-à-vis neighbouring properties (one building towering over another physically and visually) or the neighbourhood generally (for example, maintaining the character, integrity and contiguity of a neighbourhood community).
- [54] Development standards involving separation distances between cannabis retail stores and public libraries appear to be designed to provide a spatial separation between cannabis stores and children who will be accessing the library. The stated rationale in a document the City's development officer relied on entitled "Markup of Proposed Text Amendment to Zoning Bylaw 12800" is to "manage the incompatibility of cannabis stores and key places where minors gather": EKE, A18. This purpose appears at first blush inconsistent with the fact that both cannabis retail and public libraries are "permitted uses" in various zones. This is because "[t]he principle underlying permitted uses is that, as a matter of good planning, within a given district, one or more uses may be identified that are so clearly appropriate in that district, and *so compatible with one another* that they demand no special consideration": Laux & Stewart-Palmer at 6-5, emphasis

added. That said, the City has set out separation distance between these permitted uses. Thus, it is reasonable for this Court to conclude that the City intends that cannabis stores not enjoy a high visibility and presence where children congregate.

- [55] Fourth, in formulating its "opinion" regarding the proposed development, an appeal board should assess the scope and substantive impact of the requested variance since they will be directly related to the potential negative effects of the proposed development. There are both quantitative and qualitative aspects to this assessment. In making its case for a variance, an appellant may refer to or lead evidence regarding the proposed development generally and how it relates to the development standard for which a variance is sought. This need not be restricted to material considered by the development officer since the hearing before an appeal board is *de novo*: *Stewart v Lac Ste. Anne (County) Subdivision and Development Appeal Board*, 2006 ABCA 264 at paras 9-12.
- [56] In a separation distance case involving cannabis retail sales, an appellant will typically identify the particular physical circumstances that apply. For example, what is the actual number of metres by which the two premises are separated measured door to door, that is, by walking distance between the two? Other examples. Where is the cannabis store located vis-à-vis the subject library? Is it within sight of the library, irrespective of the number of metres away? And what are the practical realities of how properties are laid out in the disputed location? Does a major roadway separate the two sites? Do commercial towers separate the two visually? And where is the proposed cannabis store located in the shopping centre or building? For example, is it at street level or accessible only through an elevator or escalator?
- [57] Posing these questions does not mean that an appeal board must endlessly investigate the potential implications of a proposed development. But in determining whether to exercise its discretion to permit a variance, an appeal board must consider the facts on the ground sufficiently to decide whether, in its opinion, the proposed variation would or would not meet the negative effects condition in that location and community.
- [58] Fifth, and related to this point, while an appellant must make a case for a variance, a variance appeal before an appeal board cannot be equated with ordinary civil litigation. While an appeal in this category necessarily includes an appellant, there does not exist, as in civil litigation generally, a specific dispute between the appellant and those opposed to the variance. Indeed, in determining whether to exercise its discretion, an appeal board may not even be dealing with competing facts on the same point. The case before this Court is an example of that. The dispute here does not turn on what are essentially undisputed facts relating to walking distance, roadways and the presence of a police station in the mall where the Developer wishes to locate the cannabis store. The Developer relied on these in making its case. The opponents relied on other considerations of concern to them, largely policy ones.

- [59] In deciding whether to grant a variance, the appeal board will necessarily take into account evidence led or relied on by both those seeking and opposing a variance. Under s 629(a) of the MGA, an appeal board "may ... accept any oral or written evidence that it considers proper, whether admissible in a court of law or not, and is not bound by the laws of evidence applicable to judicial proceedings". The exercise of its discretion is not based only on evidence admissible in a court of law. A hearing before an appeal board is not a trial. Those for and against a variance may rely on other factors and considerations in presenting their case, including offering what often amounts to their own opinion "evidence" about the effects of the proposed development.
- [60] An appeal board may consider planning criteria and broader community interests in addition to the interests in conflict when deciding whether to apply s 687(3)(d). In particular, an appeal board is entitled to take into account planning and community considerations and needs that transcend the specific parties before it.
- [61] For example, it may be that a separation distance is designed to minimize the number of one category of retail stores in one community in the municipality. On the other hand, it may be that the commercial sites within that community are limited in number and located in close physical proximity to one another. When a municipality allows a number of permitted uses on a site zoned for commercial purposes, it has implicitly recognized the need for certain permitted use retail services to be provided to the community from that site. Valid planning objectives do not include creating effective monopolies. Hence, the appeal board may conclude, in all the circumstances, that a variation in separation distances is warranted even though the two sites are physically closer than the defined separation distances in the relevant bylaw.
- [62] To take another example, in considering whether the negative effects condition has been met, an appeal board is entitled to consider the cumulative impact of the proposed development having regard to existing comparable developments in the neighbourhood. This does not go to the issue of business competition generally which is not a relevant planning consideration, but rather to the potential impact of an undue concentration of cannabis stores on the amenities of a neighbourhood.
- [63] Accordingly, variance appeals do not engage typical litigation strategies. Everyone appearing before the appeal board must put their best case forward opponents cannot assume that a position of silence will be persuasive. Add to this that the exercise of an appeal board's discretion under s 687(3)(d) requires that the appeal board be satisfied as to a *negative*, a notoriously difficult thing to prove.
- [64] All this being so, it is understandable why an appeal board would note what evidence (including opinions) has, or has not, been tendered by an opponent of the variance. After all, who is going to submit evidence of undue or material interference besides someone in opposition to the proposed development? It must be borne in mind that an appeal board has an obligation to articulate why it is denying a variance: *Newcastle* at para 12. If an opponent cannot articulate why

the proposed development would "unduly interfere with the amenities of the neighbourhood" or "materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land", it should come as no surprise that the appeal board cannot do so either.

- [65] This is particularly relevant when dealing with separation distances. It is not necessarily evident why reducing a separation distance (at least where it does not involve premises immediately adjacent to each other) would lead to the negative effects set out in s 687(3)(d): *Newcastle* at para 11. Contrast that with development standards that apply to directly adjacent properties. In this latter instance, it is easier to understand why relaxing a development standard might well have a material negative impact on the neighbouring parcel of land.
- [66] In the end, the appeal board has to be persuaded to grant a variance. This typically comes down to a choice between competing positions even if those positions do not involve competing facts. An appeal board must formulate its opinion after giving due consideration to all the information provided to it. In doing so, it should find the background facts based on the evidence put before it by all the parties, and then formulate its opinion about whether the negative effects condition has been satisfied based on the evidence, including that relating to community interests and needs, as well as submissions and planning criteria, including development norms. In making this assessment, there is no presumption that varying the separation distance would or would not unduly interfere with neighbourhood amenities or materially interfere with neighbouring lands.
- [67] The conclusion of an appeal board will necessarily include an assessment of the extent to which the variance deviates from the development standard since that degree of deviation is directly linked to whether the proposed development unduly interferes with the amenities of the neighbourhood or materially interferes with or affects the use, enjoyment or value of neighbouring parcels of land. If the variance substantively satisfies the purpose of the development standard, then that will weigh heavily in favour of granting the variance. But even if the variance does not, the appeal board may still, depending on all the circumstances, decide to grant the variance since its variance power allows it to deviate from the development standard providing the proposed development does not run afoul of the negative effects condition.
- [68] In summary, while the decision-making process of an appeal board is, in a practical sense, triggered by the party seeking the variance, the ultimate conclusion is not a matter of a traditional adjudication between disputing parties. Rather, it is a conclusion that is based on weighing a constellation of considerations. The appellant must be able to produce enough justification for the variance to give the appeal board what it needs to grant it. Similarly, the opponents to the variance cannot just stand pat and expect their preferred outcome will follow. Everyone with a legitimate interest in the outcome (in effect, standing) must put their best case forward towards the outcome they prefer.

VIII. Application of the Law Relating to the Variance Power to this Appeal

- [69] The Library argues that the SDAB reversed the burden of proof and wrongly imposed on the opponents of the variance the onus of proving that there would be negative effects from the proposed development. It contends that a party seeking a variance bears the ultimate legal burden (or onus) of proof to justify the variance by establishing that there *would not* be negative effects. In particular, the Library argues that the SDAB misinterpreted *Newcastle* in deciding whether the negative effects condition was satisfied.
- [70] The SDAB, relying on *Newcastle*, stated at para 45 of its Decision:

... unless the Board can **articulate** what harm can come from granting a variance, then the variance should be granted. The Board must reasonably demonstrate the negative effect the proposed variance would have on the amenities of a neighbourhood and on the neighbouring parcels of land. [Emphasis in original]

It then added the following at para 48:

All told, the Board was provided with no substantive planning reasons from any parties in opposition that indicated that this development would unduly interfere with the amenities of the neighbourhood, nor that it would materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land...

The Library contends that these comments indicate that the SDAB misinterpreted *Newcastle* and wrongly imposed on those opposed to the variance the burden of establishing that a variance should not be granted.

- [71] This argument cannot be sustained. For the reasons explained above, conventional language about burdens of proof is not helpful given the role and jurisdiction of an appeal board under the *MGA*. While the SDAB may have overstated the import of *Newcastle*, this did not lead to a misinterpretation of its variance power under s 687(3)(d).
- [72] In *Newcastle*, the SDAB refused to grant a variance of a 500-metre separation distance between liquor stores. This Court overturned the decision on the basis that the SDAB had used the wrong legal test for variances: paras 16-17. It also concluded that the SDAB erred to the extent it reasoned as follows: "We, the Board, have a power to grant variances, but the bylaw creates a presumption of harm to the public, and we the Board cannot intervene unless that presumption is rebutted by the applicant": para 6. In other words, there is no presumption that a variance of a separation distance will create "harm" in the form of the negative effects contemplated in s 687(3)(d). Finally, *Newcastle* spoke to the insufficiency of reasons, this Court making the point

that the SDAB had a duty to explain why the negative effects condition was not met: para 12. This is consistent with the obligation on an appeal board to provide reasons for its decision: s 687(2) of the MGA. In particular, **Newcastle** noted that it was not immediately evident why reducing the separation distance between two liquor stores would lead to the negative effects: para 11.

- [73] That said, *Newcastle* does not stand for the proposition that an appeal board should automatically grant a variance of a separation distance requirement unless evidence is presented of negative effects. Thus, an appeal board cannot simply say: "No one has led any evidence as to negative effects of the proposed development and so we must therefore conclude the negative effects condition has been satisfied". An appeal board must consider all the evidence both for and against the variance, and such planning criteria it considers appropriate, in deciding whether, in its opinion, the negative effects condition has been satisfied. It therefore falls to the appeal board to decide what reasonable inferences it should properly draw from the "evidence" as a whole presented at the hearing.
- [74] Having carefully reviewed the reasons for the Decision, I am satisfied that the SDAB did not engage in truncated and incomplete reasoning to grant the variance.
- [75] I begin with this. In its reasons, the SDAB used the term "harm". The SDAB's reference to "harm", also found in *Downtown Library* and *Heritage*, is unhelpful, potentially confusing and best avoided. That said, it is apparent that the SDAB used the term "harm" merely as a shorthand reference to the negative effects set out in s 687(3)(d)(i) of the *MGA*. The SDAB made the general point that unless it, as the appeal board, could articulate what "harm" could come from granting a variance, it should grant the variance. Taken by itself, this could be interpreted as an overstatement. The issue is not whether the appeal board can articulate the "harm" that comes from granting the variance (that is, the proposed development with the variance) but whether the appeal board is satisfied there will be no "harm" from the variance (that is, the proposed development with the variance). In most cases, nothing will turn on this subtle difference in expressing the test under s 687(3)(d). The only time it would make a difference is where the evidence on negative effects is evenly balanced that is, where the appeal board concludes that it cannot say whether the proposed development will, or will not, have the negative effects set out in s 687(3)(d).
- [76] The critical point is this. The SDAB did not end its analysis by deciding it should grant the variance unless it, that is the SDAB, not the opponents, could articulate what "harm" could come from granting the variance. Instead, it went on to explain why it had concluded that the negative effects condition was in fact satisfied on this evidentiary record. In particular, the SDAB evidently found evidence on three key points compelling. Taken together, they demonstrate that the purpose of the prescribed 200-metre separation distance was substantively met in the circumstances before the SDAB.
- [77] First, the SDAB found that the actual "building-to-building" walking distance (that is, between the two locations, the cannabis store and the library) is roughly 200 to 230 metres:

Decision at para 44. This is significant since one of the rationales for the separation distance between a cannabis store and a library is to maintain a physical separation from where minors gather.

- [78] Given the wording of the *Zoning Bylaw*, were parcels of land arranged in a linear fashion along a roadway, the separation distance between the two might well be 200 metres door to door that is, in walking distance as well as 200 metres site to site. However, that will not always be so. To the contrary. Depending on the location of one site vis-à-vis another, the two sites may be less than 200 metres apart, but more than 200 metres apart by walking distance. Walking distance is important since walking is the basis on which people move from one location to another and is directly related to a factor motivating the separation distance, that is, the congregation of children in proximity to a cannabis store. Hence, the SDAB was entitled to rely on the actual "door-to-door" walking distance (what they referred to as "building-to-building") as a factor in support of its conclusion that the negative effects condition was satisfied and the variance should be granted.
- [79] Second, in addition to this quantitative assessment, the SDAB properly found there to be a qualitative factor that weighed in favour of granting the variance and in finding the negative effects condition to be satisfied. The cannabis store and library are separated by a major roadway, namely 118th Avenue. The SDAB found that 118th Avenue acts as a "natural physical barrier between the two Sites, namely an arterial roadway with four lanes of traffic and a boulevard that create a buffer between the Public Library and the subject Site": Decision at para 43. This too is a factor the SDAB could properly take into account, as it did, in deciding whether to exercise its variance power.
- [80] Third, the SDAB recognized that any concerns about possible nuisance issues and it expressly found no evidence that the cannabis store would "create" nuisance issues would be mitigated by the presence of a branch of the EPS in close proximity to, and on the same site as, the proposed cannabis store. It also noted that there were several "adult-oriented" uses next to the public library which "arguably have more of an impact" than the proposed cannabis store across 118th Avenue: Decision at para 47.
- [81] Put simply, any overstatement by the SDAB as to what should properly be taken from *Newcastle* did not limit its reasoning path in coming to its conclusion that the negative effects condition had been satisfied.
- [82] Nor did the SDAB improperly impose any burden of proof on the opponents. It merely observed that it had not been provided with any substantive planning reasons that the proposed development would unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
- [83] *Heritage Wind Farm* supports this conclusion. In that case, an appeal board upheld a variance given by a municipality relating to wind turbines that ran afoul of certain requirements in

a land use bylaw. The appeal board concluded the proposed development would not lead to the negative effects stipulated in s 687(3)(d) of the MGA. One of its reasons was that "the evidence of material interference submitted by [an opponent of the project] is speculative and is not evidence of a demonstrated effect on the value of the neighbouring parcels": para 6. The opponent sought leave to appeal in part on the ground that the appeal board reversed the onus of proof. Hunt JA rejected that argument, concluding at para 10:

Nothing supports the assertion that the Board placed an onus on the [opponent of the project]. Rather, its reasons suggest it considered the evidence before it and concluded that the requirements of s. 687(3)(d)(i) of the Act had been satisfied. [Emphasis added]

In short, she determined that the appeal board's finding that the opponent had not provided evidence of negative effects did not amount to a reversal of the onus of proof. Instead, the opponent's evidence was simply part of the evidence that the appeal board could weigh in its analysis.

- [84] That is essentially what happened here. The SDAB did not dispute the evidence that the Beverly community is a vulnerable neighbourhood that has faced social challenges and stigma: Decision at para 30. However, it concluded that the evidence accepted did not rise to the level of material or undue interference with the amenities of the neighbourhood or neighbouring parcels of land. In the result, the SDAB determined, based on the record before it, that the negative effects condition had been satisfied.
- [85] The Library and the City also argue that the SDAB has been gradually undermining the City's policy choice regarding separation distances between cannabis stores and public libraries, schools and other "sensitive uses". The City provided a list of 23 cases, in addition to the appeals currently before this Court, involving separation distances between cannabis stores and "sensitive uses" (including libraries) where the SDAB had granted a variance of the required separation distance.
- [86] Since those other cases are not before this Court, we are not familiar with the facts nor is this Court in a position to opine on whether there were errors of law in those decisions. Equally important, the absolute number of variances granted is not telling regarding whether the SDAB has properly exercised its variance power. The number of variances sought is linked in part to the fact that, under the *Zoning Bylaw*, a development officer is not entitled to vary the 200-metre separation distance irrespective of the circumstances. Further, this Court does not know how many cases there have been in which a developer has chosen not to appeal where a permit was denied based on non-compliance with a separation distance.
- [87] All this being so, I decline to draw any adverse inferences from the number of variances of separation distances granted by the SDAB. In particular, I decline to extrapolate from the number

of variances granted that this represents an improper exercise by the SDAB of its variance power under s 687(3)(d).

[88] Unlike a number of other Alberta municipalities, the City has chosen to make cannabis retail sales a permitted use, as opposed to a discretionary one. If a use is discretionary, an applicant has no right to a development permit. A discretionary use allows a municipality more latitude in deciding whether, in a given instance in a given community, a development permit should be issued for a cannabis store. The City's decision to make cannabis retail sales a permitted use is not a reason though for this Court to circumscribe the broad discretion granted to an appeal board under the MGA. Limiting an appeal board's variance power – which also applies in a vast number of other situations – is not a substitute for restricting the zoning of cannabis retail sales to discretionary uses.

[89] For these reasons, the SDAB did not err in interpreting its variance power under s 687(3)(d) of the MGA.

IX. Procedural Fairness Issues

[90] In this appeal, the Library was also granted permission to appeal on two procedural fairness issues:

- Did the SDAB breach its duty of procedural fairness by failing to notify the Library of the hearing?
- Did the SDAB breach its duty of procedural fairness by considering submissions received after the hearing or, alternatively, by not considering the submissions, thereby failing to consider relevant evidence?
- [91] Neither ground has merit.

A. Notice to the Library

[92] Section 686(3)(c) of the MGA requires that the SDAB give notice of an appeal hearing to (i) owners required to be notified under the land use bylaw and (ii) those persons the SDAB considers to be "affected" by the appeal. The SDAB gave notice to those within a 60-metre radius of the proposed development, presumably in response to the notice requirements in s 20.3 of the Zoning Bylaw: see Laux & Stewart-Palmer at 10-34. It provides that, in the case of the issuance of a permit for a Class B Discretionary Development, notice must be given to each assessed owner of land within a 60-metre radius of the site of the proposed development. While a cannabis store is a permitted, not discretionary, use, the cannabis store here falls within the definition of a Class B Discretionary Development since it is defined under s 12.4 of the Zoning Bylaw as including

anything requiring a variance. As the Library is 79 metres away measured by site-to-site boundaries, the SDAB did not give it notice of the hearing.

- [93] The Library argues it should nevertheless have received notice as an "affected" party under s 686(3)(c) of the MGA. Whether the 60-metre requirement for notice under s 20.3 of the Zoning Bylaw applies where a variation under appeal involves a 200-metre separation distance and whether the Library ought to have received notice of the hearing are, given the circumstances here, issues we need not resolve. That is because it is evident from this record that the Library did become aware of the hearing and participated through timely written submissions.
- [94] The content of the duty of procedural fairness is sensitive to the context of each case: **Baker v Canada** (**Minister of Citizenship and Immigration**), [1999] 2 SCR 817 at para 21; **Vavilov** at para 77. Moreover, it is necessary to consider whether there has been a prejudicial effect on a party when determining if a breach of procedural fairness has been established: **Taseko Mines Limited v Canada** (**Environment**), 2019 FCA 320 at para 62.
- [95] The Library has not suggested that its submissions would have been any different, or that it was otherwise prejudiced by the failure to receive the written notice. Nor did the Library ask for an adjournment or any other relief as a result of its not having received written notice. Therefore, on this record, there is no "possibility or Y likelihood" that the procedural irregularity, if any, prejudiced the Library: *Kane v Board of Governors of the University of British Columbia*, [1980] 1 SCR 1105 at 1116 [*Kane*]. Accordingly, the defect, if any, would be a technical irregularity and there has been no substantial wrong or miscarriage of justice to justify allowing the appeal on this ground: s 689(4) of the *MGA*.

B. Submissions Received after the Hearing

- [96] On May 24, 2019, the day after the hearing, the SDAB received three letters opposing the proposed cannabis store. The SDAB provided these letters by email to counsel for the Developer and the representative of the Beverly Heights Community League, both of whom attended the hearing. The SDAB advised that the letters were delivered before the hearing but, due to a computer glitch, did not appear until after the hearing. The covering email advised the Developer and the Beverly Heights Community League that the SDAB members had seen the letters and would consider them. It stated, "[i]f you have any concerns please don't hesitate to contact me": EKE, A31. As noted, the letters were not provided to the Library.
- [97] Based on the covering email and paras 3 and 46 of the Decision, it is clear the SDAB did consider all of the written submissions it received before it rendered its decision as it was entitled to do: s 629 of the MGA. Thus, there is no merit to the Library's argument that the SDAB failed to consider all of the evidence.

- [98] As noted, the content of the duty of procedural fairness is sensitive to context. In the context of this specific hearing, there was no procedural unfairness in the SDAB's accepting and considering the three written submissions without providing them to the Library or giving the Library an opportunity to comment on them. The submissions, which were all in writing and submitted to the SDAB prior to the hearing, only appeared after the hearing because of an SDAB computer glitch. The critical point is that the submissions all opposed the Developer's appeal. In these circumstances, the Developer was the only party that could possibly have been prejudiced by the SDAB's acceptance of these submissions after the hearing but before it rendered its decision. The Developer was notified and given an opportunity to raise concerns. It did not.
- [99] The other key point is that since the Library limited its participation in the hearing to written submissions only, it was not present at the hearing and did not respond to any oral submissions made. Accordingly, had the letters been available at the hearing, the Library would not have been present to respond to them in any event.
- [100] Thus, the failure to provide the letters to the Library did not prejudice it: *Kane* at 1116.

X. Conclusion

[101] In conclusion, the SDAB did not err in its interpretation of its variance power under s 687(3)(d) of the MGA. Nor did it breach procedural fairness requirements.

XI. Disposition

[102] The appeal is dismissed. Under s 689(1)(b) of the MGA, the SDAB's decision to grant the development permit is confirmed.

Appeal heard on October 7, 2020

Reasons filed at Edmonton, Alberta this 2nd day of November, 2021

		Fraser C.J.A.
I concur:		
	Authorized to sign for	Pentelechuk J.A.

Appearances:

- J.A. Agrios, Q.C./G.J. Stewart-Palmer, Q.C./K.E. Elhatton-Lake for the Appellant
- M.S. Gunther for the Respondent, The City of Edmonton
- P.A.L. Smith, Q.C. (not appearing) for the Respondent, The City of Edmonton Subdivision and Development Appeal Board
- J.W. Murphy, Q.C./K.A. Haldane for the Respondent, Rundle Centre Ventures Ltd.

TAB F

Shoreline Development on Properties West of 139 Grand Ave (141, 145 and 147 Grand Ave):





SHORELINE DEVELOPMENT ON NEIGHBORING PROPERTIES TO 139 GRAND AVE





Page **2** of **4**

SHORELINE DEVELOPMENT ON NEIGHBORING PROPERTIES TO 139 GRAND AVE

Shoreline Development on Properties East of 139 Grand Ave (135 and 133 Grand Ave):



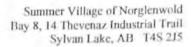


SHORELINE DEVELOPMENT ON NEIGHBORING PROPERTIES TO 139 GRAND AVE





TAB G





DEVELOPMENT PERMIT

Permit Number: 211516

Municipal Address: 141 Grand Avenue Lot: 21-22 Block: B Plan: 5108EO

Applicant: Lakeview Contracting Inc.

On Behalf Of:

The Development Involving: Mechanized Excavation

Has Been Approved Subject to the Following Conditions:

- The payment of all outstanding property taxes or the making of arrangements, satisfactory to the Council, for the payment thereof, prior to the commencement of the development.
- The development commences and continues in the manner applied for, including landscaping, and that all development complies with the regulations and specifications of the Land Use By-Law under which this permit was issued.
- 3) The construction shall be completed within 12 months and the landscaping shall be completed within 2 years of the date of
- 4) The payment of a \$1,000.00 completions deposit to ensure all conditions of this development permit have been met, including the completion of building construction within a one-year period, landscaping completed within two years, and any or all road damage repaired.
- 5) Shoreline erosion control measures are prohibited unless prior written approval has been received from the appropriate provincial authorities and the Municipality.
- 6) All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibility of the property owner.
- 7) Any damage to public roads due to the construction shall be repaired immediately at the expense of the permit holder.
- 8) Copies of all applicable Building, Electrical, and Plumbing & Gas permits shall be provided to the administration office to be kept on file.
- 9) Bed and shore disturbance to be kept to a minimum, as per Alberta Environment & Parks.
- 10) Zero trees to be removed.
- 11) Land located below the top of bank/land with slope areas of a gradient of 15% or more, are to retain in its natural state. Variance was granted by the Municipal Planning Commission.
- 12) Geotechnical report stating proposed development will rectify problem.
- 13) 1m no mow zone.
- 14) Detailed and dimensioned drawing/plan.
- 15) Landscaping plan.
- 16) Sewer curb stop must remain accessible at all times, during and after construction.
- 17) Any construction commenced prior to May 12, 2021 (21-day appeal period), is at the applicant's own risk.

You are hereby authorized to proceed with the development specified, provided that any stated conditions are complied with, that the development is in accordance with any approved plans and applications, and that construction conforms with any provincial and federal requirements relative to this development.

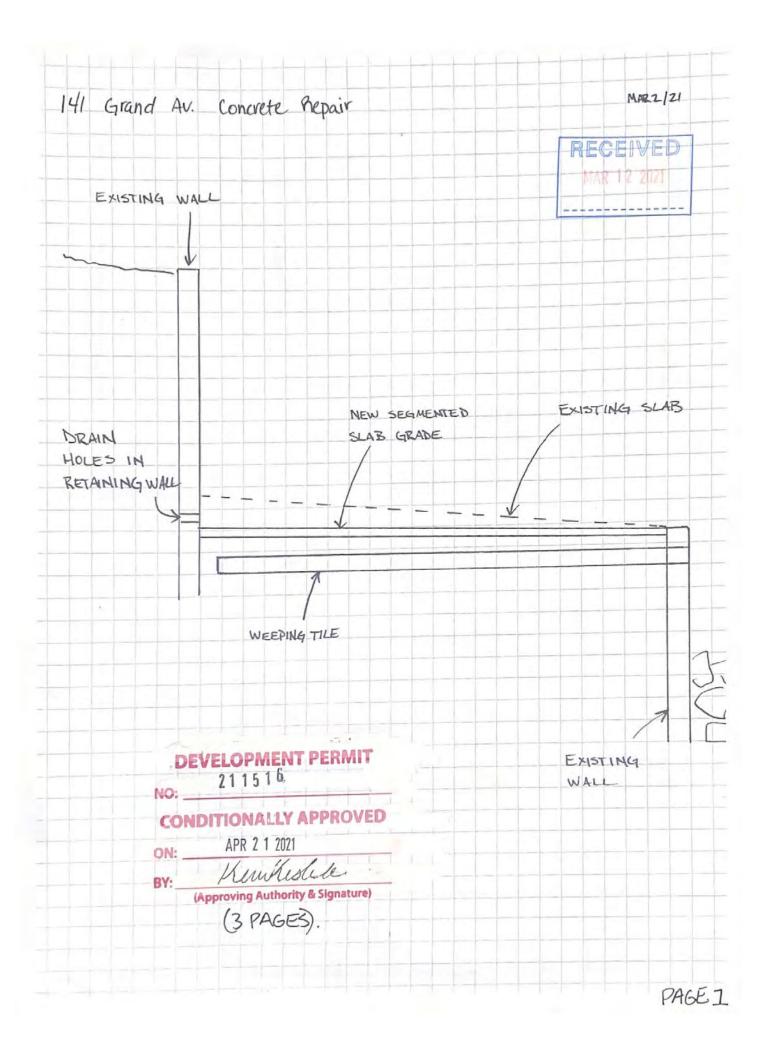
Date of Decision: April 9, 2021

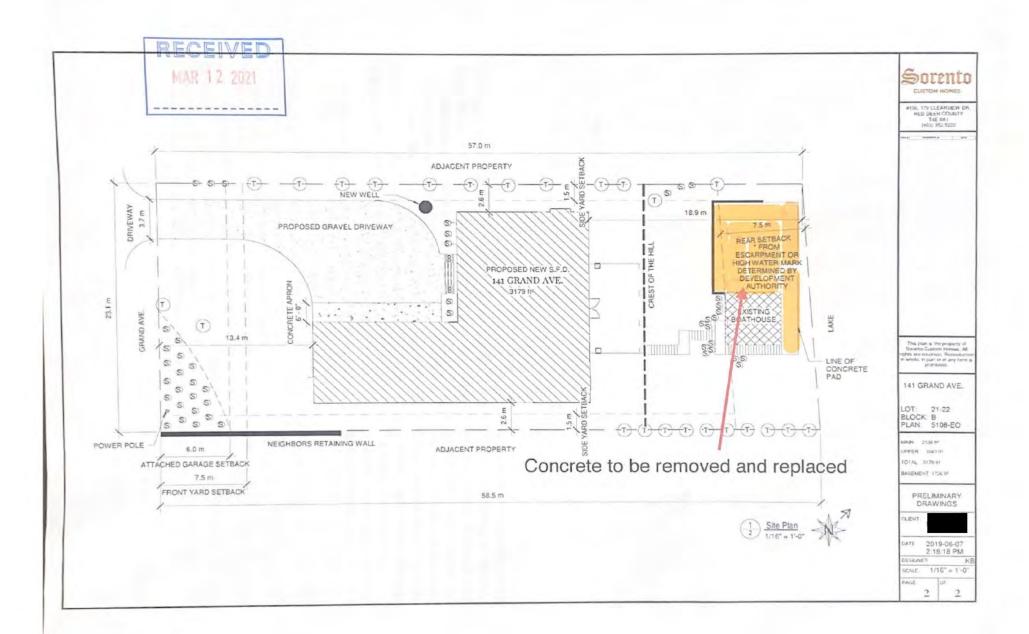
Date of Issuance of Development Permit: April 21, 2021

Development Authority

Note:

- The issuance of a development permit in accordance with the notice of decision is subject to the condition that it does not become
 effective until 21 days after the date that the development permit is issued.
- 2) This permit is valid for a period of 12 months from the date of its issue, or the date of the decision of the Council confirming it. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence as determined by the development officer, this permit shall be null and void, unless an extension to this period, being no longer than an additional 12 months, has been previously granted.
- 3) Development Authority may carry out on-site inspections of the development at any time.





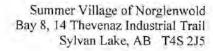
141 Grand Av. Letter of Intent

of 141 Grand Ave is in the last stages of completing a new dwelling build. Repairs of the existing boat house have also been completed. It has been noticed over the past several years that the existing concrete patio around the boathouse keeps heaving with the frost and fails to return to the original elevation. It is approximately 12" higher than the original elevation at the back of the pad along the retaining wall. This has led to the drain ports along the bottom of the retaining wall to become obstructed and unable to function as engineered. These drain holes are designed into retaining walls to relieve hydraulic pressure from saturated materials behind the retaining wall. With these drains being blocked the integrity of the retaining wall has been compromised and there is a danger of the retaining wall failing in the future. This may also be contributing to the failure of the concrete pad as water from the vents may be saturating the soils below the slab causing excessive frost jacking.

To help rectify this, it is proposed to remove the existing slab and excavate out the compromised soils below. Weeping tile would also be installed to help keep the subsoils free of excess water. The existing pad would be replaced with a segmented paving stone which would allow for an easier repair if ever required. The pad size would remain the same and would be installed below the elevation of the drain holes in the retaining wall allowing them to function properly. No additional construction would be taking place outside of the approved application. To complete this repair the use of mechanized

excavation is necessary and would require MPC approval.







DEVELOPMENT PERMIT

Permit Number: 191516

Municipal Address: 141 Grand Ave Lot: 21 Block: B Plan: 5108EO

Applicant: Sorento Custom Homes

#106 179 Clearview Drive Red Deer County, AB T4E 0A1

The Development Involving: Demolition and Dwelling

Has Been Approved Subject to the Following Conditions:

1) The payment of all outstanding property taxes or the making of arrangements, satisfactory to the Council, for the payment thereof, prior to the commencement of the development.

On Behalf Of:

- The development commences and continues in the manner applied for, including landscaping, and that all
 development complies with the regulations and specifications of the Land Use By-Law under which this permit was
 issued.
- The construction shall be completed within 12 months and the landscaping shall be completed within 2 years of the date of permit issuance.
- 4) The payment of a \$5,000.00 completions deposit to ensure all conditions of this development permit have been met, including the completion of building construction within a one-year period, landscaping completed within two years, and any or all road damage repaired.
- 5) An Alberta Land Survey Site plan is required prior to the footing/slab pour to ensure compliance with the setbacks, survey to include total parcel coverage (maximum 50%). This compliance is required prior to continuation of construction.
- 6) Shoreline erosion control measures are prohibited unless prior written approval has been received from the appropriate provincial authorities and the Municipality.
- 7) All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibility of the property owner.
- Any damage to public roads due to the construction shall be repaired immediately at the expense of the permit holder.
- Copies of all applicable Building, Electrical, and Plumbing & Gas permits shall be provided to the administration office to be kept on file.
- 10) Bed and shore disturbance to be kept to a minimum, as per Alberta Environment & Parks.
- 11) Land located below the top of bank/land with slope areas of a gradient of 15% or more, are to retain in its natural state. Variance was granted by the Municipal Planning Commission.
- 12) Sewer curb stop must remain accessible at all times, during and after construction.
- 13) Any construction commenced prior to July 4, 2019 (21 day appeal period), is at the applicant's own risk.

You are hereby authorized to proceed with the development specified, provided that any stated conditions are complied with, that the development is in accordance with any approved plans and applications, and that construction conforms with any provincial and federal requirements relative to this development.

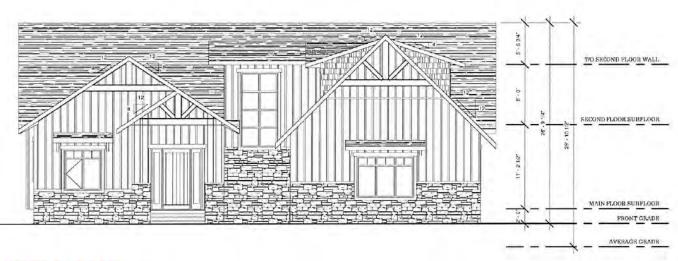
Date of Decision: June 13, 2019

Date of Issuance of Development Permit: June 13, 2019

Development Authority

Note:

- 1) The issuance of a development permit in accordance with the notice of decision is subject to the condition that it does not become effective until 21 days after the date that the development permit is issued.
- 2) This permit is valid for a period of 12 months from the date of its issue, or the date of the decision of the Council confirming it. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence as determined by the development officer, this permit shall be null and void, unless an extension to this period, being no longer than an additional 12 months, has been previously granted.
- 3) Development Authority may carry out on-site inspections of the development at any time.



DEVELOPMENT PERMIT

NO: 191516

CONDITIONALLY APPROVED

(10 PAGES TOTAL)

#106, 179 CLEARVIEW DR. HED DEER COUNTY T4E 0A1 (403) 352,5222

NA DEPOSITE ANT

This plan is the property of Screnic Custom Homes; All rights are reserved. Reproduction in whole, in part or in any form is prohibited.

141 GRAND AVE.

LOT: BLOCK: PLAN:

FRONT ELEVATION

1/8" = 1'-0"

MAIN: 2136 H UPPER: 1043 H TOTAL: 3179 ft BASEMENT: 1726 IF

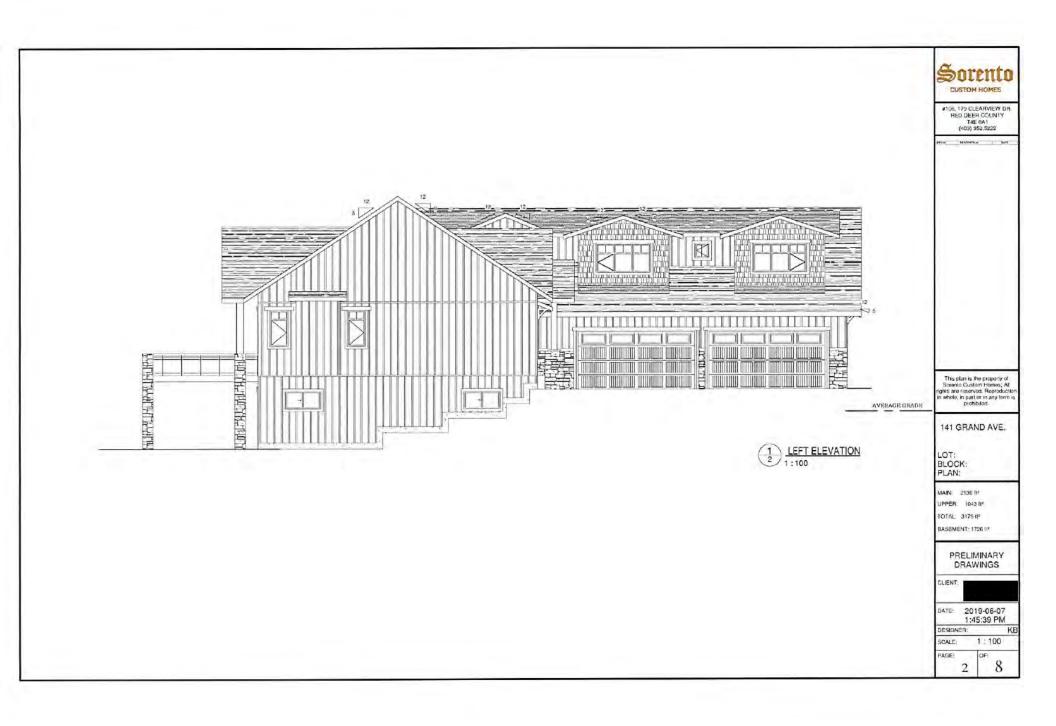
> PRELIMINARY DRAWINGS

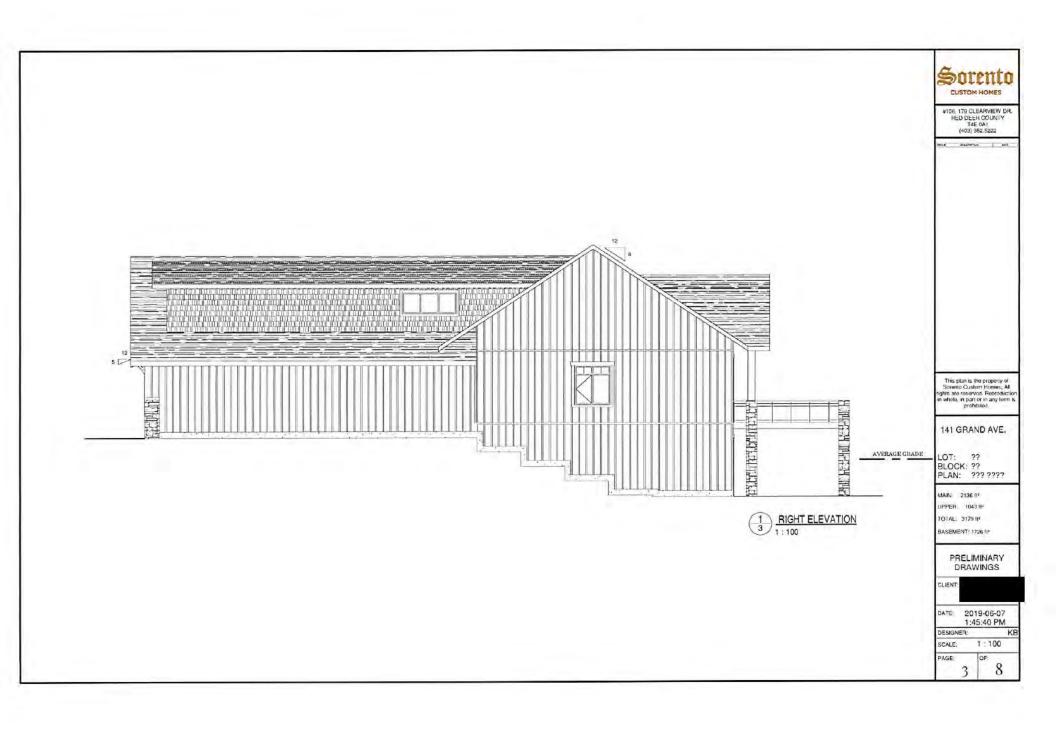
CLIENT:

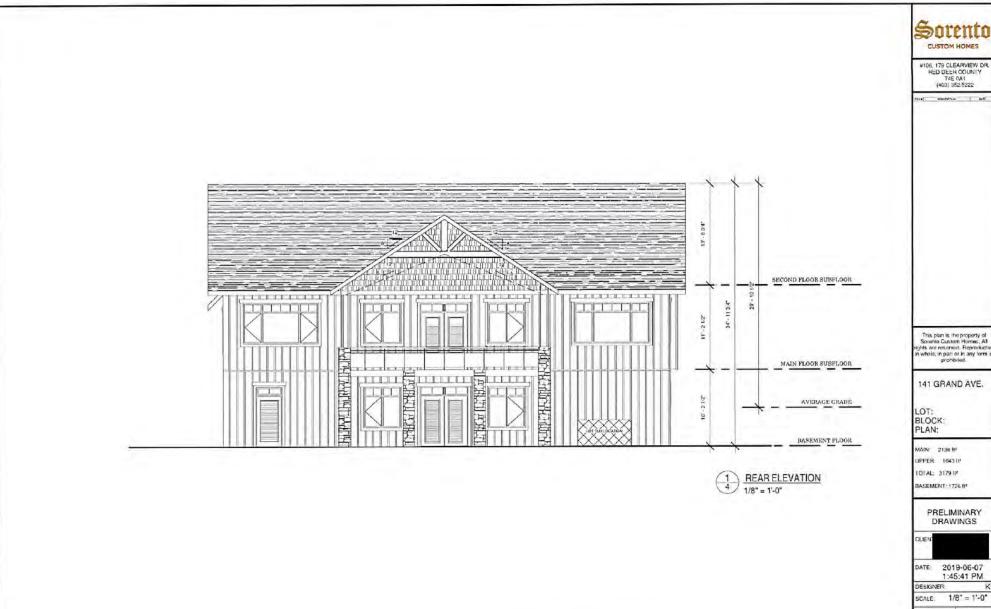
DATE: 2019-06-07 1:45:38 PM

DESIGNER-1/8" = 1'-0"

1







CUSTOM HOMES

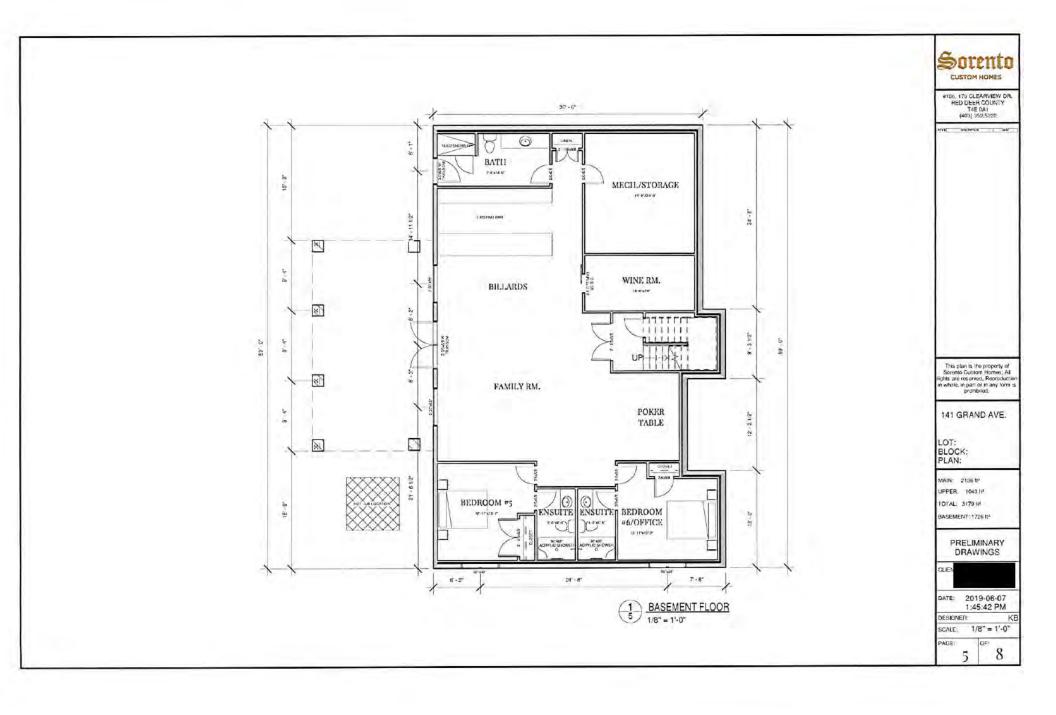
This plan is the property of Screenic Custom Homes, All rights are reserved. Reproduction in whole, in part or in any term is prohibited.

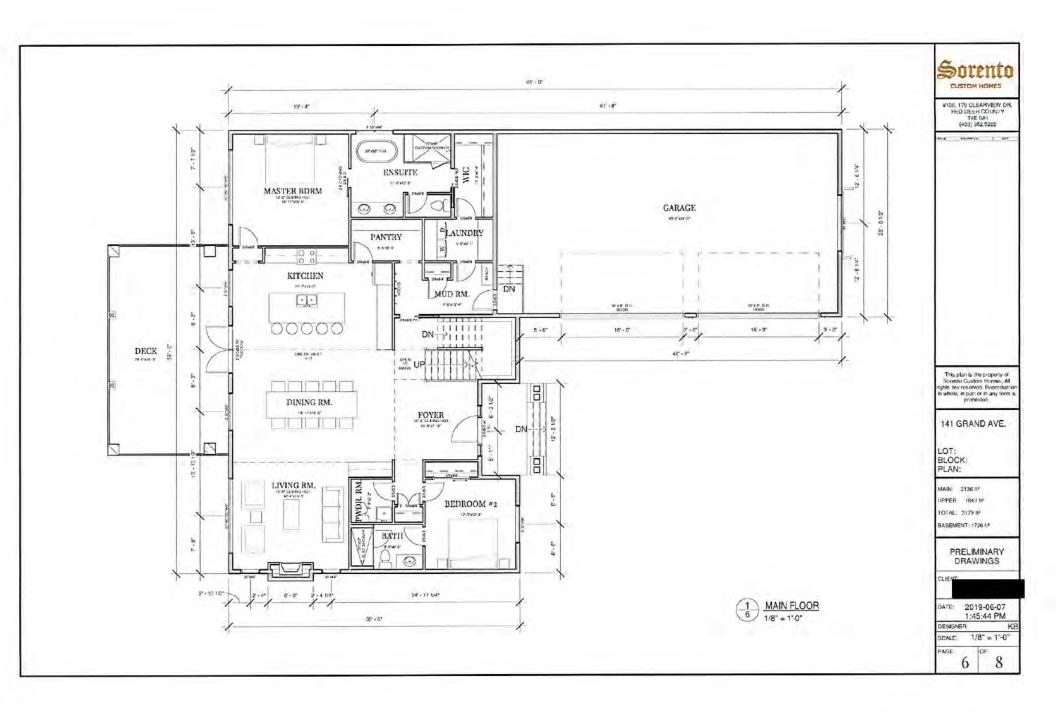
PRELIMINARY

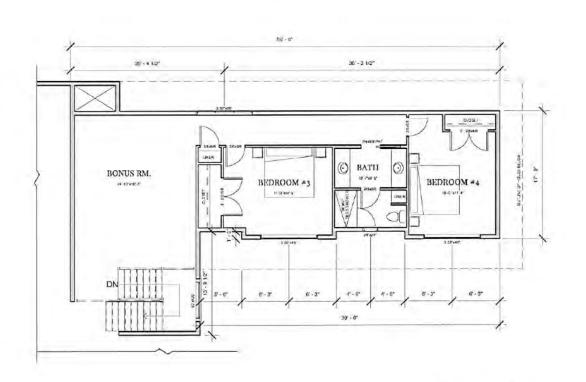
DATE: 2019-06-07 1:45:41 PM

PAGE: QF: 4

8







1 UPPER FLOOR 7 1/8" = 1'-0"



4106, 179 CLEARVIEW DR, HED DEER COUNTY T4E DA1 (403) 352,5222

UN DIRECTOR SATE

This plan is the properly of Sorenia Custom Homes, All rights are reserved. Reproduction in whole, in part or in any form is prohibited.

141 GRAND AVE.

LOT: BLOCK: PLAN:

MAIN: 2136 IP UPPER: 1043 IP TOTAL: 3179 IP BASEMENT: 1726 IP

> PRELIMINARY DRAWINGS

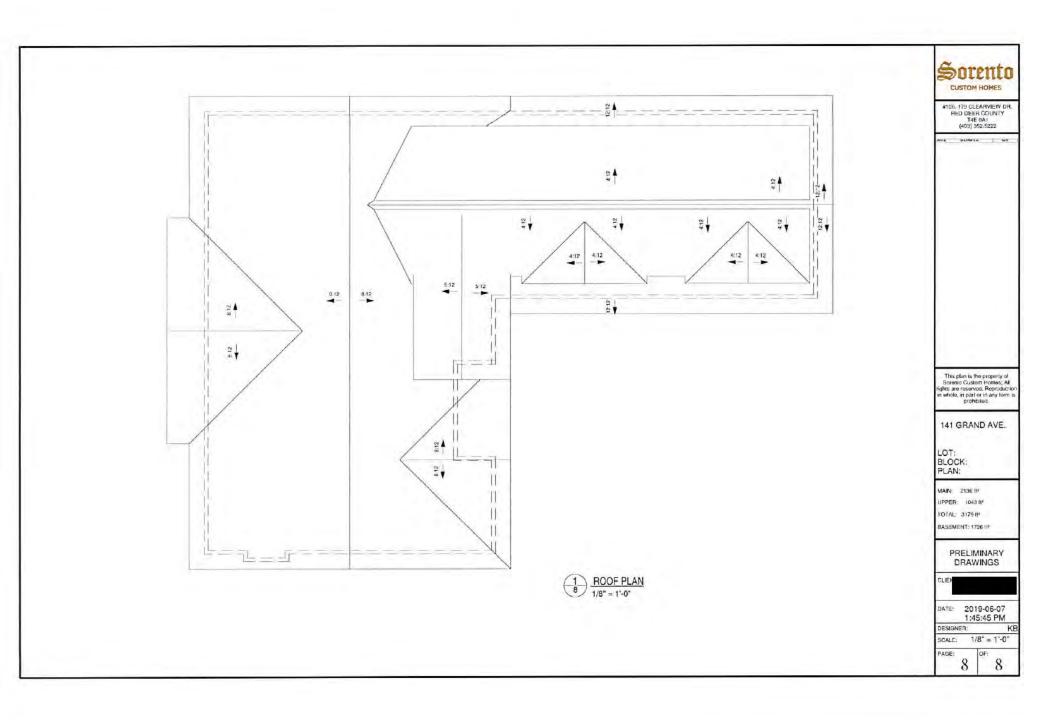
CLIENT

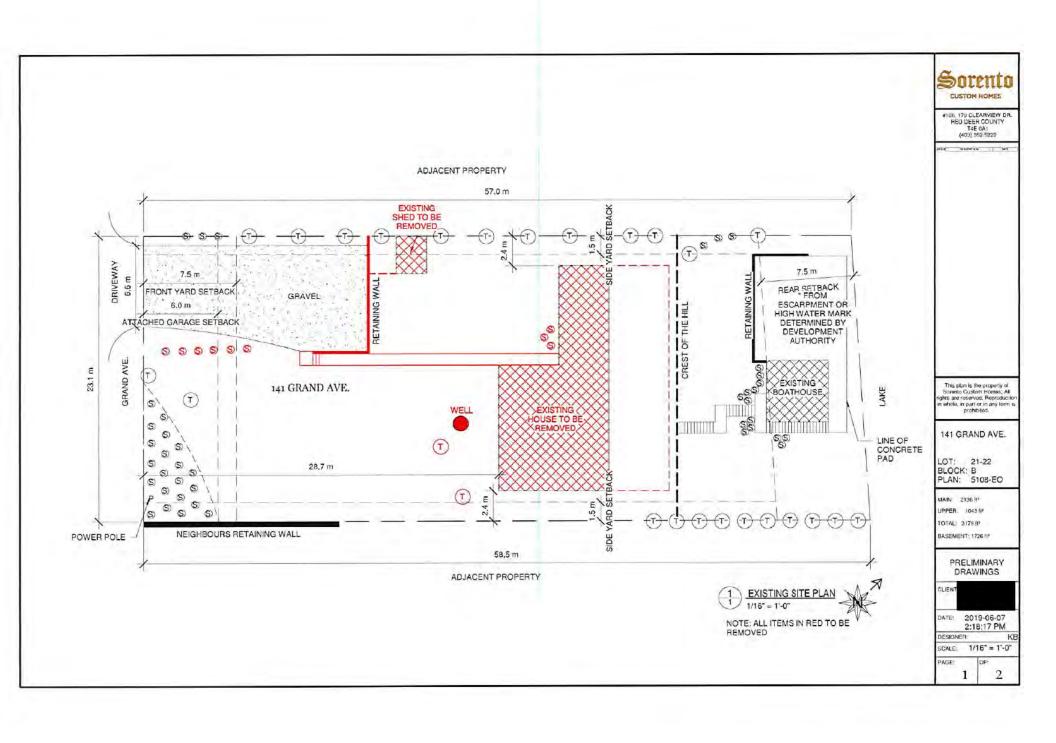
DATE: 2019-06-07 1:45:45 PM

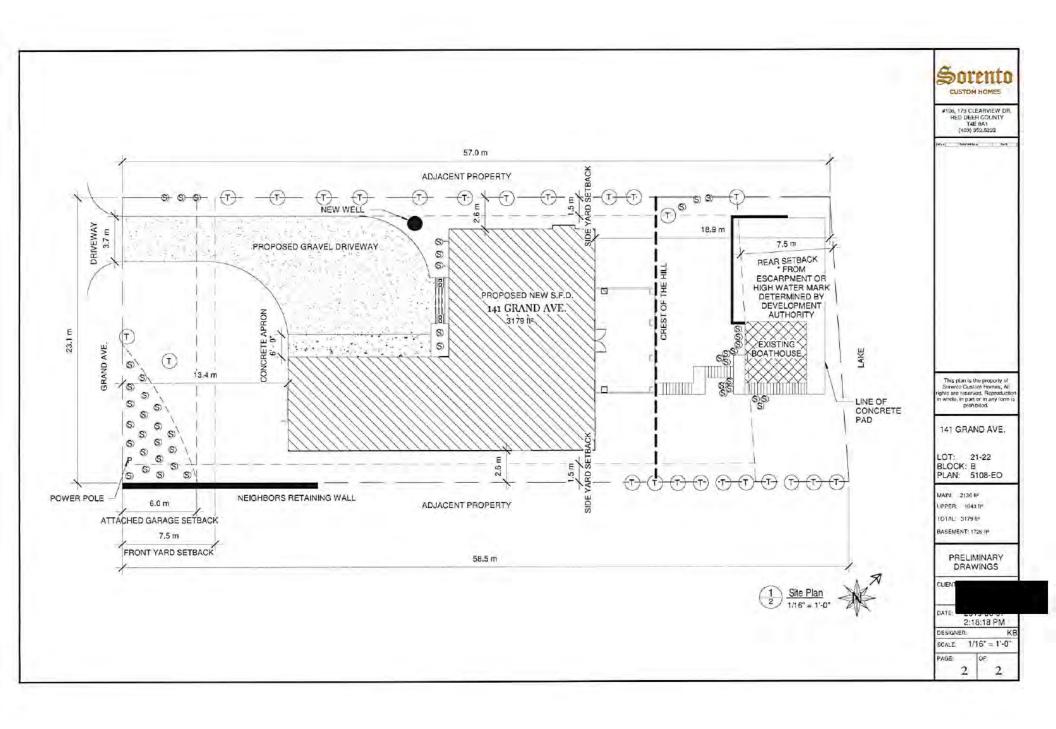
DESIGNER | K SCALE | 1/8" = 1'-0"

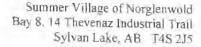
PAGE OF:

7











DEVELOPMENT PERMIT

Permit Number: 1/1508						
Municipal Address: 135 Grand Ave	Lot:	18	Block:	В	Plan:	5108EO
Applicant:	On Behalf Of:		1.5			

The Development Involving: Deck, Shed, & Fence

Has Been: Approved Approved Subject to the Following Conditions

- 1) The applicant entering into a development agreement as may be required by the Council of The Summer Village of Norglenwold in respect of such matters:
 - Construction or payment for the construction of public roadways to give access to the development.
 - Installation or payment for the construction of off-street or other parking areas, loading and unloading B) areas.
 - Installation or payment for the installation of utilities required to serve the development. CI
- The applicant paying any off-site or redevelopment levy as Council may impose by By-Law.
- The payment of all outstanding property taxes or the making of arrangements, satisfactory to the Council, for the payment thereof, prior to the commencement of the development.
- The development commences and continues in the manner applied for, including landscaping, and that all development complies with the regulations and specifications of the Land Use By-Law under which this permit was issued.
- 5) The construction shall be completed within 12 months and the landscaping shall be completed within 2 years of the date of permit issuance.
- 61 There shall be no increase in lot grade.
- The payment of a \$1,000.00 completions deposit to ensure all conditions of this development permit have been met, including the completion of building construction within a one-year period, landscaping completed within two years, and any or all road damage repaired.
- An Alberta Land Survey Site plan is required prior to commencement of development, survey to include parcel coverage (maximum is 50%).
- 9) All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibility of the property owner.
- 10) Any damage to public roads due to the construction shall be repaired immediately at the expense of the permit holder.
- 11) Copies of all applicable Building, Electrical, and Plumbing & Gas permits shall be provided to the administration office to be kept on file.
- 12) Electrical power from the property line to any building situated on the parcel shall be constructed underground.
- 13) The exterior of the shed must be finished to match or compliment the exterior finish of the main building.
- 14) Shed's building height to remain under 8.2 ft.
- Native shrubs to be planted along the top of the escarpment, escarpment to remain unaltered.
- 16) Native shrubs/trees to be planted between Grand Ave and existing asphalt driveway.
- 17) Any change to the material finish of the fence will require prior approval from the Municipal Planning Commission.
- 18) The Summer Village will not be held responsible for any slope instability or erosion that may occur on this property, therefore the owner must rectify at their expense.
- 19) Fence to remain below 4ft in the front yard.
- Sewer curb stop/valve must remain accessible as all times, during and after construction.
- 21) No work may commence prior to September 21th, 2017 to allow for the 21 day appeal period.

You are hereby authorized to proceed with the development specified, provided that any stated conditions are complied with, that the development is in accordance with any approved plans and applications, and that construction conforms with any provincial and federal requirements relative to this development.

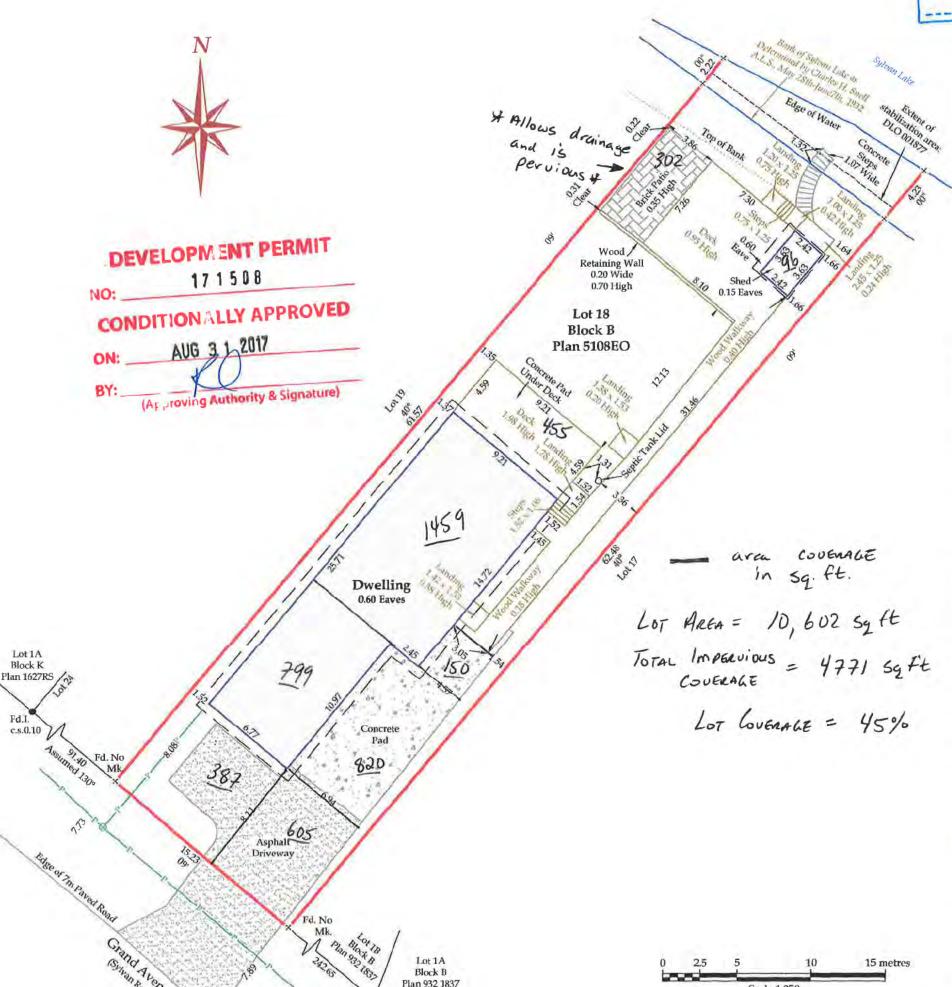
Date of Decision: August 25, 2017

Date of Issuance of Development Permit: August 31, 2017

Development Authority

Note:

- 1) The issuance of a development permit in accordance with the notice of decision is subject to the condition that it does not become effective until 14 days (permitted use) or 21 days (discretionary use) after the date that the development permit is issued.
- 2) This permit is valid for a period of 12 months from the date of its issue, or the date of the decision of the Council confirming it. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence as determined by the development officer, this permit shall be null and void, unless an extension to this period, being no longer than an additional 12 months, has been previously granted.
- Development Authority may carry out on-site inspections of the development at any time.



Within the Summer Village of Norglenwold, Alberta Attention: Koralyn Lemmon and Norglenwold MPC LEGEND

NOTES

Radial

Power Pole

Fence Line shown thus

Over Head Power Line

(R)

Statutory Iron Post Found The municipal address of the property is 135 Grand Avenue Title information is based on title no. 172 152 443 Iron Bar Found Property is subject to: No registrations affecting the extent of title Calculated Point Date of title search: June 28th, 2017 Reference Point Date of survey: June 30th, 2017 Countersunk Distances are in metres and decimals thereof and are all Fence Corner Post Fd. check measured at the time of survey. Found Mark Mk. Dimensions shown relate to perpendicular distances from property boundaries to exterior walls unless shown otherwise. Marker Post Mp. Statutory Iron Post Eave dimensions are to the line of the fascia. Foundation Fdn. All fences shown are within 0.20 metres of property line unless noted otherwise.

CERTIFICATION: I hereby certify that this Report and Plan of Survey was prepared and performed under my personal supervision and in accordance with the Manual of Standard Practice of the Alberta Land Surveyors' Association and supplements thereto. Accordingly within those standards and as of the date of this report, I am of the opinion that:

- 1. the plan illustrates the boundaries of the property, the improvements as defined in Part D, Section 8.5 of the Alberta Land Surveyors' Association's Manual of Standard Practice, registered easements and rights-of-way affecting the extent of the title to the property;
- 2. the improvements are entirely within the boundaries of the property,
- 3. no visible encroachments exist on the property from any improvements situated on an adjoining
- 4. no visible encroachments exist on registered easements or rights-of-way affecting the extent of the

PURPOSE: This Report and Plan of Survey have been prepared for the benefit of the Property owner, subsequent owners and any of their agents for the purpose of a land conveyance, support of a subdivision application, a mortgage application, a submittal to the municipality for a compliance certificate, etc. Copying is permitted only for the benefit of these parties. Where applicable, registered easements and utility rights of way affecting the extent of the property have been shown. Unless shown otherwise, property corner markers have not been placed during the survey for this report.

This Plan of Survey should not be used to establish boundaries due to the risk of misinterpretation or

The information shown on this Real Property Report reflects the status of this property as of the date of survey only. Users are encouraged to have the Real Property Report updated for future requirements.

Dated at Red Deer, Alberta

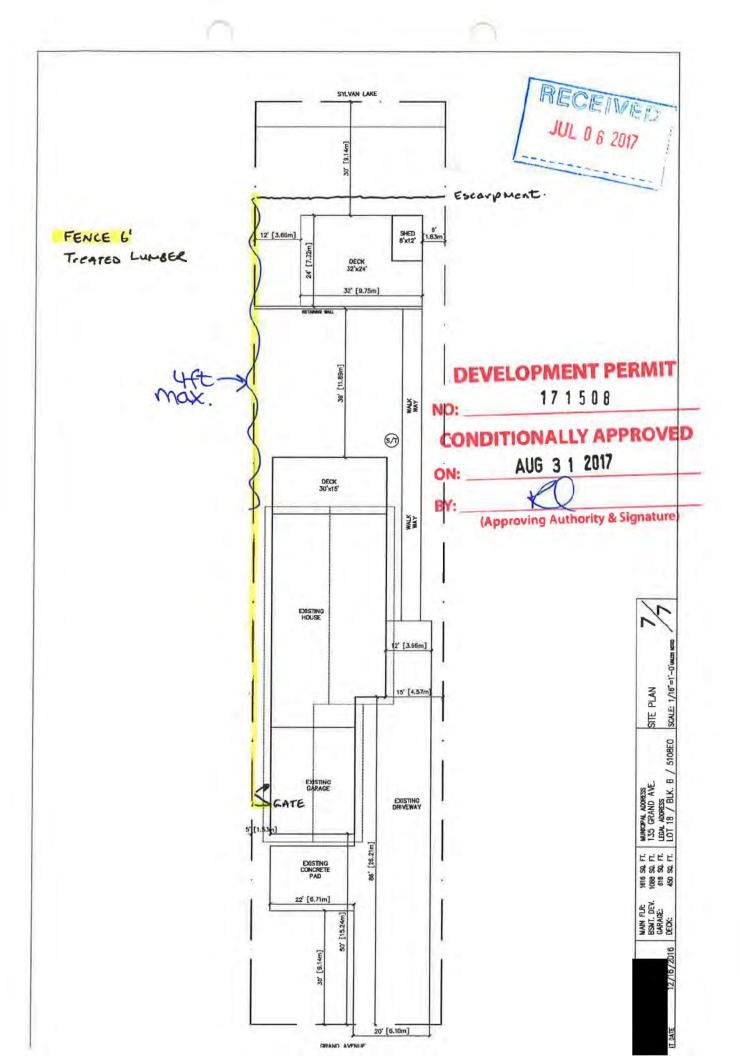
July 18th , 2017.

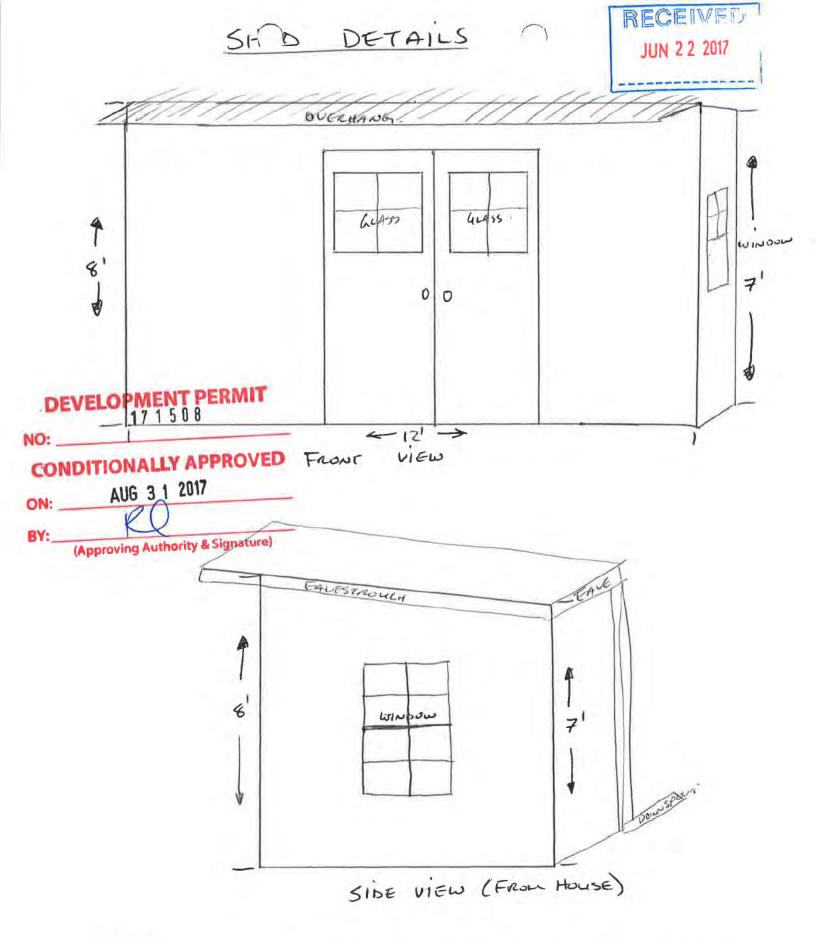
Jordan K. Westera, A.L.S. COMPASS GEOMATICS LTD, 2017



This document is not valid unless it bears an original signature (in blue ink) and Compass Geomatics Ltd. permit stamp (in red ink).

Document Prepared f





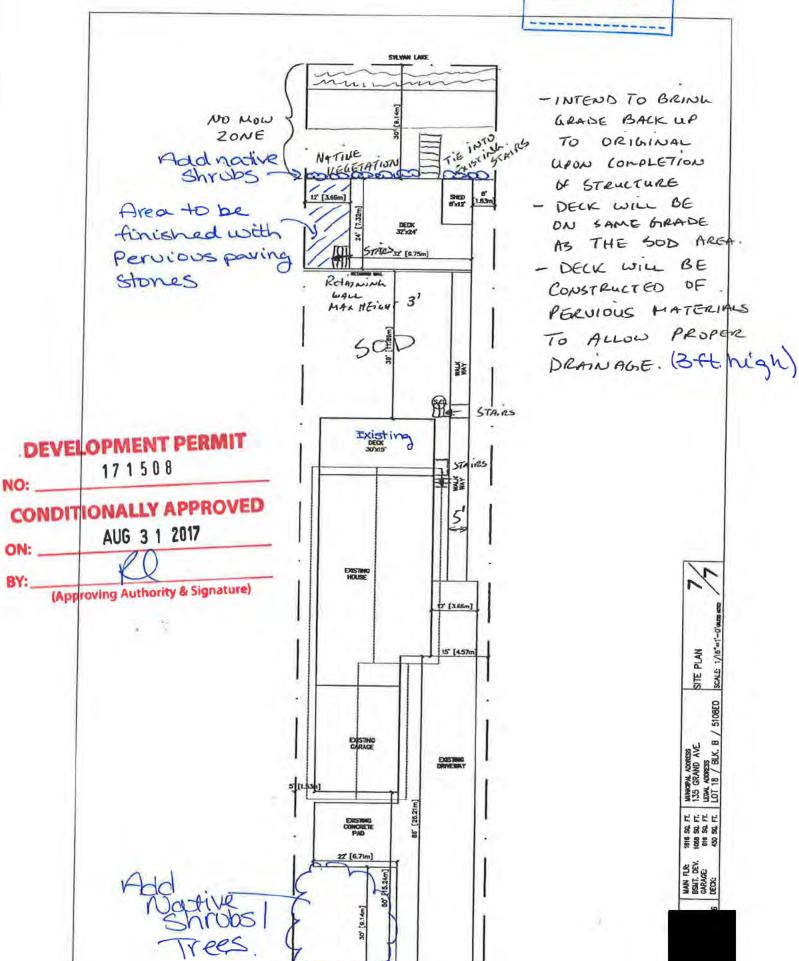
* SHED

* BECK TO SIT ON TOP OF PECK STRUCTURE AND IS A

MOVEABLE STRUCTURE *.

* EXTERIOR IN SMARTBUARD AND TRIN TO MATCH HOUSE #.

JUN 2 2 2017







119 - 62nd Ave - SE, Calgary, Alberta, Canada T2H 0R5 Phone: (403)255-7525

June 8, 2023

DELIVERED VIA EMAIL TO

tmusseau@sylvansummervillages.ca

SUMMER VILLAGES ON SYLVAN LAKE

Attention:

Teri Musseau

Administration Services Manager

RE: 139 Grand Ave Appeal

I reside at 141 Grand Ave, and I am a next-door neighbour to 139 Grand Ave. I am writing this letter to clarify my position in regards to the subject proposed deck, in that I have <u>no</u> objection to this proposal. It is in my opinion that this proposed deck will not at all interfere with the comforts, features or amenities of the Norglenwold neighbourhood. I feel that the proposed deck will actually help improve the overall appearance of the lake shoreline, as it will help the property appear more pleasantly unified in relation to the neighbouring properties.

With respect to the impact on my own property, I would like to confirm that the proposed deck will not materially interfere with or negatively impact the enjoyment, use or value of my property. In fact, I believe that this deck would improve the value of my property for reasons previously stated. The only factor from this proposed deck that is negatively impacting the current enjoyment and value of my property is the delayed mid-construction stage, which from my understanding is a direct result of the deck permit being denied by our development and planning council. Please approve this permit and help return our neighbourhood to its original pleasant appearance, so that we can enjoy the remainder of the summer.

Sincerely,

GLENN D. MOLNAR

CYRIL GUREVITCH AND BRENDA STROM 137 GRAND AVENUE, NORGLENWOLD, AB



Subdivision and Development Appeal Board, c/o The Summer Village of Norglenwold 2 Erickson Drive Sylvan Lake, AB

June 8, 2023

Dear Appeal Panel,

Re: Proposed Deck Permit at 139 Grand Avenue, Norglenwold

The purpose of this correspondence is to respond to the appeal commenced by the owners of the adjacent property to our own. We have had the opportunity to review the documentation previously presented to the Municipal Planning Commission and support their decision to deny the Applicant's application for the building permit.

We note that the report from Kara Hubbard indicates there was no previous objection leveled in opposition to the application before the MPC. We most certainly would have made an appearance at that time, however the Notice of the Hearing, though sent by regular mail a week prior to the hearing, was in fact received one week after the hearing and after the decision of the MPC. We would have rendered an objection to the development at that time.

The Summer Village of Norglenwold has had a Land Use Bylaw in place for many years. It was recently renewed after due notice to the community, after a formal public hearing and additional public meetings, after which public input was solicited. A firm was retained at great cost to the residents to guide the Council through the process. The Bylaw, as well as the previous Bylaw went through three readings before being passed. It was passed with the idea that it would bind the development throughout the Summer Village and all land owners would be required to abide by its terms.

One of the largest concerns emphasized in the Bylaw is the protection of Sylvan Lake. We are all aware that development around the lakeshore is particularly sensitive. That is why, in our submission, there are rules to ensure the escarpment is maintained in a natural state. Not only do plants prevent erosion and stabilize the banks, but they provide cover for birds and animals that inhabit the shoreline. Fish also spawn in the shallow areas adjacent to the shore. The plants are a natural filtration for what may go into the lake. Grass and plants are essential for that purpose. Without the natural land cover, silt and other materials are easily allowed to wash into the lake, and it is degraded by that action. It is unfortunate that we have witnessed the erosion of the natural buffer on 139 Grand Avenue. Several years ago the foreshore did have vegetation right down to the water. The trees and shrubs that were evident as recently as a year and a half ago no longer exist. We witnessed workers come in and remove the trees above the shoreline and shrubs that were long standing and mature simply dragged out of the ground. We then saw substantial amounts of limestone and brick installed. The owners have suggested that the

limestone was pre-existing, but we did see substantial amounts brought in, of much larger size than what previously existed.

When we were required to do erosion control of our own, we required five permits from the Federal, Provincial and Municipal authorities, together with detailed plans for our remediation of the shore. We were required to plant shrubs and trees even amid the large boulders. The prime concern was the protection of the foreshore. The owners of 139 Grand Avenue have eradicated the majority of their grass and green areas, replacing them with brick, blocks and rock. There was absolutely no replacement or replanting of trees, shrubs or grass.

The Applicants have suggested that they do not have an escarpment, yet the elevation of our neighbouring lots is virtually identical. In order to build the deck they started they brought in an excavator to dig out the terrain. They clearly invaded the embankment to do so. While their previous deck my have been in a similar location to the proposed new deck, as I understand the Bylaw, this was a non-conforming use that could not be reinstalled once the original structure was removed. The original structure was in fact torn down in its entirely. The location of the deck was also immediately adjacent to our fence, yet that was allowed to remain because of the non-conforming nature of the structure. New structures are not permitted within 1.5 meters of the fence under this Bylaw, to our understanding. So, this is a further reason to deny the application.

We point out that the previous stairs, that have now been demolished provided access to the neighbours' dock and boat. The provincial regulations require the docks to be built a minimum of 3 meters from the expended property lines. The dock installed last year not only encroached upon those three meters, but invaded our waters and made it more difficult for us to utilize our sea-doos. The structure was never moved, notwithstanding the fact that we spoke to the residents and pointed out the issue. If the new structure is allowed to stay, we will no doubt incur the same problem this year as the stairs will go down to the shore in exactly the same location. Not only that but the deck appears to be several feet larger in width, if not length as well, than the previous deck and thereby occupies more of the foreshore than its predecessor. Whether "floating" or not, the unit does not permit the growth of vegetation in that vicinity. The foreshore has also been expanded with rock that was never present before and this also spills onto our property, which it did not do before.

We also noted the Applicant's claim that the previous deck had some sentimental value to them. This is odd as we never saw anyone ever sit on it or use it for anything other than a traverse to the stairs. We purchased our property in 2006 and had a good opportunity to observe the usage next door since that time. The usage of the cabin has been sporadic at best, and the "deck" was not an item regularly used at any time.

Another comment was the suggestion that changes to the embankment had to be made because of "changes beside it". We fail to understand how that is possible. The original tree/shrub, clearly evident in the photographs, remained beside the former deck and at the end of our fence and was never disturbed. Our landscaping carefully maintained similar levels to the neighbours to ensure that there would be no undue flooding or erosion on either side of the fence. We jointly built the fence after substantial consultation. We carefully constructed our house so as not to degrade the field of vision of the lake.

In conclusion, we submit that it is of utmost importance to maintain the integrity of the lake and of the shoreline around it. This is for the benefit of the fish, animals and birds that inhabit this area. Environmental protection should not be ignored at the whims of new developments around the lake, no matter where they occur. And Bylaws established for that purpose and the permits that emanate from them should not be disrespected by our citizens.

Sincerely,

Cyril Gurevitch and Brenda Strom





























Subdivision and Development Appeal Board Submissions of the Development Authority for the Summer Village of Norglenwold

Appellant: Robert Gibson

Appeal: Decision of the MPC dated April 21, 2023

Legal Description of Lands: Lot 20, Block B, Plan 5108EO

Municipal Address: 139 Grand Avenue

District: R-1 (Shoreline Residential)

I. INTRODUCTION

- 1. The Appellant is appealing the decision of the Municipal Planning Commission (the "MPC") issued on April 23, 2023 denying an application for a development permit for a 12ft by 16ft lakeside deck on the Lands (the "New Deck").
- 2. The New Deck replaced a previous deck (the "Former Deck") and the New Deck has been partially constructed on or near the site of a Former Deck on the Lands.
- 3. The Summer Village of Norglenwold (the "Municipality") submits the Subdivision and Development Appeal Board (the "SDAB") should uphold the decision of the MPC.

II. BACKGROUND

- 4. The history of this matter is as follows:
 - a. August 25, 2021 The Development Authority contacted the Appellant to ask if a development was taking place on the Lands because building materials were visible on the property and the Development Authority had not received an application for a development permit.
 - b. September 2021 Scott Nanninga of The Gear Group contacted the Development Authority on behalf of the Appellant (**TAB 4**). He advised that they were "reworking and fixing up the existing landscaping on this property, which has involved straightening and correcting existing rock borders and rock stairway". He further clarified that they were removing the wooden stairway and platform and would add landscaping to the area noting "[t]he removal of this stairway/platform exposed an area of bare ground". In addition, Mr. Nanninga noted that they "hope to relocate this wooden platform to just above the existing escarpment area" and the "platform will be installed 'floating' on concrete deck blocks, so the structure will be considered non-permanent".

- c. September 27, 2021 The Development Authority responded to Mr. Nanninga and the Appellant advising that "your explanation of much of the work does sound like repairs and improvements <u>but just to be able to clarify a little better, can you please provide me with a site plan(s) showing a clear before and after</u>" (emphasis added) (TAB 4).
- d. October 1, 2021 The Appellant submitted site plans showing the Former Deck and stairs and the New Deck (called the Platform/Patio in the drawings) (**TAB 5**). Both plans show the shoreline escarpment boundary in red. The New Deck is in the escarpment area in the plans (page 2).
- e. October 13, 2021 Based on the plans provided, the Development Authority noted the work looked like repairs but cautioned checking with the office prior to doing any work to ensure whether a development permit is required (**TAB 4**).
- f. July 13, 2022 Bemoco Land Surveying Ltd produced a survey of the Lands (TAB 6). The survey indicates there is "no visible natural escarpment" to the south of the proposed New Deck but also notes the "Proposed [New]Deck location appears to be within the SV Norglenwold Land Use Bylaws <u>subject to final approval</u>" (emphasis added).
- g. September 29, 2022 The Development Authority became aware that the Former Deck had been removed and a New Deck was being built on the Lands in the escarpment area. The Development Authority contacted the Appellant to advise that a new Deck required a development permit. Mr. Nanninga responded and the Development Authority, on October 6, 2022, explained that because the development is a new build on the escarpment, a development permit is required (TAB 4).
- h. October 7, 2022 Mr. Nanninga responded to the Development Authority acknowledging that some of the New Deck materials and the support structure are new and advised the work will be put on hold until they applied for a development permit (**TAB 4**).
- i. November 30, 2022 The Appellant submitted a development permit application package to the Development Authority.
- j. December 22, 2022 The Development Authority attended the Lands and took pictures of the New Deck which was under constructions (**TAB 7**).
- k. February 28, 2023 The Appellant submitted a Letter of Intent (**TAB 8**) to accompany the New Deck application. The Letter says the Former Deck was degrading and misaligned therefore "the proposed replacement deck is being requested to replace the original deck".

1. March 17, 2023 – The Appellant provided plans dated March 17, 2023 for the New Deck which no longer included stairs (**TAB 9**). The plans indicate the following:

Proposed New Deck Measurements		
Length	192" (16ft)	
Width	144" (12ft)	
Height	48" (4ft)	
Slope below New Deck	25%	
Area	192 ft ²	
Distance from shoreline	174" (14.5ft)	

- m. April 21, 2023 The MPC heard the matter because the application required a variance. The MPC issued a decision refusing the development permit for the New Deck on April 23, 2023.
- n. May 25, 2023 The Development Authority conducted an inspection and took photographs of the New Deck (**TAB 10**).
- o. May 15, 2023 The Appellant's legal counsel filed a Notice of Appeal.

III. RELEVANT LEGISLATIVE FRAMEWORK

A. MUNICIPAL GOVERNMENT ACT ("MGA") (TAB 1)

- 5. The purposes of a municipality include fostering the well-being of the environment (s 3(a.1)).
- 6. Municipalities must pass a land use bylaw which may prohibit or regulate and control the use and development of land and buildings, including, without limitation, by imposing design standards, regulating the development of buildings, and providing for any other matter council considers necessary to regulate land use (s 640(1) and (1.1)).
- 7. When a person applies for a development permit for a permitted use, the development authority must, *if the application otherwise conforms to the land use bylaw*, issue a development permit with or without conditions (s 642(1)).

- 8. Non-conforming buildings are protected under the MGA subject to the following:
 - **643**(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except
 - (a) to make it a conforming building,
 - (b) for routine maintenance of the building, if the development authority considers it necessary, or
 - (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.
 - (6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.
- 9. In determining an appeal, the SDAB, among other things, must comply with applicable statutory plans and must comply with the land use bylaw (s 687(3)). In addition, the SDAB may do the following:
 - **687**(3) In determining an appeal, the board hearing the appeal referred to in subsection (1)

. . .

- (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.

B. LAND USE BYLAW NO #267-22 ("LUB") (TAB 2)

10. All developments in the Municipality require a development permit to "ensure that all development is achieved in an orderly manner", unless specifically exempted (ss 4.1.1, 4.1.2 and 4.2).

- 11. A building is defined as "anything constructed of placed on, in, over or under land" (s 1.4.1.17).
- 12. Accessory buildings are defined as "a building separate and subordinate to the main building, the use of which is incidental to that main building and is located on the same parcel of land and includes, in the residential district, such things as storage sheds garages, and a guest house" (s 1.4.1.2).
- 13. A development is defined as:

1.4.1.43

- (a) An excavation or stockpile and the creation of either of them; or
- (b) A building or an addition to, or replacement or repair of a building and the construction or placing in, on, over or under land of any of them; or
- (c) A change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or
- (d) A change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building (s 1.4.1.43).
- 14. An escarpment is defined as "an extended linear topographical feature of relatively steep slope and significant change in elevation", and the term "top of the escarpment" is used to reference the same point as the term "top of the bank" (s 1.4.1.62).
- 15. The LUB provides that a steep slope is slope of 15% or greater:

8.20.2. Steep Slopes

- a. All development shall be setback a minimum of 15.0 m (49.2 ft.) from the toe and crest of any slope and slopes of fifteen percent (15%) or greater, unless a lesser amount is identified in a geotechnical study prepared by a qualified professional engineer registered in the Province of Alberta.
- 16. Accessory buildings, such as the New Deck, on a parcel abutting Sylvan Lake shall be situated as follows:
 - **9.1.5.** An accessory building on a lot abutting Sylvan Lake or a reserve parcel abutting Sylvan Lake shall be situated so that:
 - a. It is located within the minimum rear yard of any parcel;
 - b. It is setback from:
 - i. The front lot boundary;

- ii. The top of any escarpment area or high water mark (as determined by the Development Authority)

 A minimum of 15.0 m (49.21 ft.) or parallel to the front wall of the principal building, whichever is the lesser setback.
- 17. For parcels abutting Sylvan Lake, the front yard faces Sylvan Lake (s 1.4.1.202).
- 18. In the Shoreline Residential District (the "R1 District")), the minimum side yard setback is 4.9ft or 10% of the parcel width, whichever is greater to a maximum of 9.8ft or as required by the Alberta Building Code (s 11.5.1(B)).
- 19. The R1 District provides that all users must comply with Section 8 and 9 of the LUB and landscaping shall comply with sections 8.11 and 8.13 (ss 11.6.1 and 11.6.3).
- 20. Section 8.11.8 provides that the following standard of landscaping shall be required for all areas of the parcel not covered by buildings, non-permeable driveways, storage and display areas:

8.11.8 ...

- a. The conservation of existing trees and shrubs to the maximum extent possible;
- b. The retention, in their natural state, of:
 - i. Wetlands, gullies and natural drainage courses;
 - ii. Unstable land:
 - iii. Land subject to flooding and/or located within a 1:100 year floodway or flood fringe area as determined by an engineer or flood study;
 - iv. Land with slope areas with a gradient of fifteen (15) percent or greater; and
 - v. Land located below the top of the bank of the lake, or any water body or water course (emphasis added).

C. MUNICIPAL DEVELOPMENT PLAN OCTOBER 2011 ("MDP") (TAB 3)

- 21. The MDP speaks to the conservation of the environment. In particular, it lists as a core value the "conservation of natural features, including their preservation wherever possible" (s 3.2(4)).
- 22. One of the guiding principles of the MDP is to collaborate with other municipalities around Sylvan Lake in order to "conserve the environmental health of the Lake" (s 4.4.3).

23. The MDP provides that one of its key strategic planning directions is as follows:

Protect the Lake environment by:

- (a) cooperating with municipalities around the Lake to ensure the long-term health of the Lake;
- (b) conserving riparian areas;
- (c) cooperating in the education of landowners and lake users on the importance of protecting significant shoreline fish habitat (s 4.5.4).
- 24. The MDP recognizes that conservation of the natural environment is important not only for the environment itself, but also for maintaining the quality of life for residents around Sylvan Lake (s 6.1).
- 25. The MDP requires that the Municipality "recognize the importance of ensuring the principles of sustainable development and environmental sensitivity are embodied in all planning decisions, particularly [...] lakeside development" (s 6.3.2).
- 26. The MDP requires that the Development Authority refuse to allow development near the shores of the Lake, unless the propone of such a development can demonstrate it will not adversely impact the environment, as follows:
 - **6.3.6** Norglenwold shall not allow development adjacent to or near the shores of the Lake, including reserves, and other open spaces, unless the proponent can demonstrate to the satisfaction of the Summer Village the development will not:
 - (a) reduce lake water quality;
 - (b) degrade fish or wildlife habitat;
 - (c) adversely impact the area's visual or natural quality through inappropriate or excessive removal of vegetation, and
 - (d) lead to soil erosion or instability or damage to the bank or shore.
- 27. The MDP policies recognize that while development *may* be approved on lands containing natural habitat, "Norglenwold shall encourage the protection and enhancement of fish and wildlife habitat" (s 6.3.9) and Norglenwold may require an environmental review to be prepared to the satisfaction of the Summer Village, as part of a plan, subdivision or development proposal to address things such as environmental sensitivity, adverse impacts during construction, adverse impacts associated with activities from the development and the inclusion of an environmental protection plan (s 6.3.10).

- 28. The MDP outlines future plans for the Municipality's shoreline residential areas (s 9.3) noting:
 - **9.3.6** Norglenwold shall promote private landowners of shoreline lots to keep the shoreline as natural as possible to maintain natural ecosystems.

D. OTHER

- 28. Aside from the Municipality's statutory documents, there are a number of publications from Alberta Environment that support the idea of leaving banks abutting the shoreline as natural as possible, including:
 - a. "Respect Our Lakes: Aquatic Vegetation and Lake Health" which states "the more natural you keep your property the healthier your lake will be" (TAB 11).
 - b. "Respect Our Lakes: Responsible Lake Living" which states "leave the shoreline in its natural condition" and "everything that happens within the lake watershed will have an impact on water quality and quantity" (TAB 12).
 - c. "Stepping Back From the Water" discusses the need to keep permanent developments an appropriate distance from the water and maintain riparian areas in a healthy state, and that no permanent development should be in the riparian area at all (TAB 13).
 - d. Alberta Environment discusses shorelines and riparian areas noting they are "among the most productive and valuable of all landscape types". It references the "Stepping Back from the Water" Guidelines (**TAB 14**).

IV. ARGUMENT

- 29. The Municipality submits the SDAB should uphold the decision of the MPC.
- 30. The Municipality's LUB and MDP align with the municipal purposes of the MGA and set out a regulatory scheme that aims to preserve and conserve both Sylvan Lake and its shoreline for the enjoyment of all. Although there may be other developments in the front yards of some of the properties in the R1 District, the Municipality has adopted the current LUB and MDP to regulate and restrict development moving forward in an effort to limit environmental impact.

A. THE DECK IS NO LONGER A NON-CONFORMING BUILDING

31. The Former Deck may have been a non-conforming building pursuant to section 643 of the MGA; however, once the Former Deck was demolished and replaced at greater than 75%, it was no longer a protected non-conforming building and the Appellant was required to apply for and obtain a development permit for the construction of the New Deck.

32. The work done to the Former Deck exceeds repairs or maintenance; structural alterations have been made which require a development permit.

B. VARIANCE IS REQUIRED

- 33. Although the New Deck is an accessory building that is a permitted use in the R1 District, the New Deck <u>does not conform to the development standards</u> in the LUB nor does it conform to the MDP.
- 34. With respect to the LUB, the New Deck does not conform with the following siting or setback standards:

Issue	LUB Requirement	New Deck
Siting	Accessory Buildings in Rear Yard (s 9.1.5.1(a))	Located in the Front Yard
Front Yard	From front lot boundary or top of any	Located 14.5ft from
Setback	escarpment area or high water mark a minimum	shoreline and not parallel to
	of 49.21ft or parallel to the front wall of the	the front wall of the principal
	principal building, whichever is less. (s	building.
	9.1.5.1(b))	
Side Yard	4.9ft or 10% of the parcel width [equals 4.9ft of	Located 2ft from property
Setback	49.96ft parcel], whichever is greater, to a	line to the east.
	maximum of 9.8ft (s 11.5.1(B))	

- 35. The March 2023 plans show a wooden retaining wall to the south of the New Deck. It is arguable the location of the retaining wall is the top of the escarpment.
- 36. Furthermore, the Lands abut Sylvan Lake. The New Deck is within the escarpment area, which is defined as having a "relatively steep slope". Steep Slope is defined as any slope of 15% or greater. The slope of the area on which the New Deck is build is 25% therefore it is in an escarpment area, as defined in the LUB.

C. EXERCISING VARIANCE POWERS

- 37. The SDAB in making a decision must comply with the applicable statutory plans and comply with the LUB.
- 38. The SDAB may grant a variance to the setback if the proposed development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels and the proposed development conforms with the use in the land use bylaw.
- 39. The Court in *Edmonton Library Board v Edmonton* (2021 ABCA 355) notes that the variance test is an "attempt to balance the interests of the landowner (private interests) and those of the community and adjacent neighbours (public interests)" (para 42). The reasons an SDAB may find appropriate to grant a variance are diverse and not subject to a defined list (para 46), meaning the reasons not to grant a variance are arguably similarly broad.

- 40. The Court acknowledges that development standards may serve one or more planning purposes, including "utilitarian, safety, privacy, environmental, aesthetic and social purposes" (para 52, emphasis added). The Court specifically notes: "Additionally, [development standards] can relate to environmental purposes such as avoiding the undue diminution in access not only to sunlight but to light generally" (para 53). In this case, the Municipality's development standards in the R1 District are in place to protect the Lake and reduce future harm.
- 41. The Court also notes the SDAB "is entitled to consider the cumulative impact of the proposed development having regard to existing comparable developments" (para 62). Although the Court refers to undue concentrations of amenities, this similarly means the SDAB can take into account the cumulative effect of allowing new development on the shoreline in the face of the Municipality's policy, outlined in the LUB and MDP, to curtail new development in order to protect and preserve the shoreline and the Lake.
- 42. The New Deck impacts the Sylvan Lake ecosystem contrary to the goals of the MDP and Alberta Environment. The Appellant has not demonstrated, as required by the MDP, that the development would not harm lake water quality, fish or wildlife habitat, or lead to soil erosion or instability, or otherwise damage the bank or shore, and the New Deck's construction and existence would be contrary to the siting and setback requirements of the LUB, which were adopted to protect the Lake for the use and enjoyment of all.
- 43. Damage to the Sylvan Lake ecosystem will materially interfere with the value of the neighbouring parcels of land and may interfere with water quality, cause erosion and sedimentation into the Lake and result in the loss of natural shoreline and habitat.
- 44. Additionally, the New Deck requires a side yard setback variance which may interfere with the value of the neighbouring parcel to the east.

D. APPELLANT POSITION – June 1, 2023 Submissions

- 45. The Appellant notes that he "determined it was appropriate to remove the wooden stairway and platform [Former Deck], relocate the wooden platform to the above existing escarpment area and install the platform of the deck floating on concrete deck blocks". However, the Municipality, through the enactment of the LUB and statutory plans and through the Development Authority is the body that determines if a development is appropriate.
- 46. The Appellant says that in 2021 he was advised a development permit was not required for the work; however, the Appellant's representative, Mr. Nanninga in September 2021 advised when the Development Authority contacted the Appellant, that they were "reworking and fixing up" and hoping to relocate the platform. Plans were not provided until 2022 at which time the Development Authority saw the Former Deck was being replaced entirely by the New Deck and indicated a development permit was required.
- 47. The Appellant notes the surveyor in July 2022 indicates "no visible natural escarpment" but the LUB provides the Development Authority will determine the top of any escarpment area

- (s 9.1.5(b)) and the definition of an escarpment is an area with a steep slope greater than 15%. The New Deck is building on an area with a slope of 25% (**TAB 2**).
- 48. Arguably, once the Appellant removed the Former Deck, the requirement under section 8.11 regarding landscaping came into effect, namely that trees and shrubs should be conserved and lands with slopes of 15% or greater or land located below the top of the back of the lake, should be retained in their natural state. The purpose of the cumulative provisions of the LUB is to protect and preserve the shoreline in the face of new development and if new development is to be considered, to ensure the appropriate environmental reports are provided and considered (TAB 2).

V. SUMMARY

49. In conclusion, the Municipality submits the decision of the MPC should be upheld and no development permit should be granted.

Submitted this 12th day of June, 2023.

BROWNLEE LLP

PER: ____

Alifeyah Gulamhusein Counsel for Summer Village of Norglenwold

TABS

Tab	Description
1	Municipal Government Act, RSA 2000, c M-26, excerpts
2	Summer Village of Norglenwold Land Use Bylaw #267-22
3	Summer Village of Norglenwold Municipal Development Plan October 2011
4	Email S Nanninga to K Kashuba, September 17, 2021
5	Platform/Patio Drawings
6	Bemoco Land Surveying Ltd. – Survey Notes
7	Photos of new deck, December 22, 2022
8	Letter of Intent, February 28, 2023
9	New Deck Drawings, March 17, 2023
10	Photos of new deck, May 25, 2023
11	Respect our Lakes, 2015
12	Respect Our Lakes, 2020
13	Stepping Back from the Water, 2012, excerpt
14	Shorelands – Riparian areas



MUNICIPAL GOVERNMENT ACT

Revised Statutes of Alberta 2000 Chapter M-26

Current as of April 1, 2023

Office Consolidation

© Published by Alberta King's Printer

Alberta King's Printer Suite 700, Park Plaza 10611 - 98 Avenue Edmonton, AB T5K 2P7 Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca Shop on-line at kings-printer.alberta.ca

Copyright and Permission Statement

The Government of Alberta, through the Alberta King's Printer, holds copyright for all Alberta legislation. Alberta King's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and copyright is acknowledged in the following format:

© Alberta King's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2016 c24 s91(d) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s616; s106 (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s650(1); s110 (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s655(1)(b); s123(a) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s680; s129 (2020 c39 s9 - effective December 9, 2020) amends s687(3); s131(a)(iii) (repealed by 2013 cS-19.3 s3 - effective December 31, 2022) amends s694.

2017 c13 s1(4) repeals Division 5 of Part 3; s1(39) repeals and substitutes Division 4 of Part 10 ss380.1 to 380.5; s1(40) amends ss410(e); s1(41) amends s437(c); s1(61) amends s666; s1(62) amends s667; s1(63) amends s670(1); s1(64) adds s670.2.

2020 c35 s24 amends s596(1)(b).

2022 c16 s9 amends ss297, 298(1)(y); repeals and substitutes s354(3.1).

Part 1 Purposes, Powers and Capacity of Municipalities

Municipal purposes

- **3** The purposes of a municipality are
 - (a) to provide good government,
- (a.1) to foster the well-being of the environment,
- (a.2) to foster the economic development of the municipality,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality,
- (c) to develop and maintain safe and viable communities, and
- (d) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

RSA 2000 cM-26 s3;2016 c24 s6;2017 c13 s1(3); 2022 c16 s9(3)

Corporation

4 A municipality is a corporation.

1994 cM-26.1 s4

Powers, duties and functions

- **5** A municipality
 - (a) has the powers given to it by this and other enactments,
 - (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
 - (c) has the functions that are described in this and other enactments.

1994 cM-26.1 s5

Natural person powers

6 A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

1994 cM-26.1 s6

- (3) A development authority, subdivision authority, subdivision and development appeal board, the Land and Property Rights Tribunal or a court shall not have regard to any policy approved by a council or by a person or body referred to in subsection (1)(b) unless the policy is set out in the list prepared and maintained under subsection (1) and published in accordance with subsection (2).
- (4) Repealed 2020 c39 s10(25). 2016 c24 s99;2020 cL-2.3 s24(41);2020 c39 s10(25)

Division 5 Land Use

- **639** Repealed 2020 c39 s10(26).
- **639.1** Repealed 2020 c39 s10(27).

Land use bylaw

- **640(1)** Every municipality must pass a land use bylaw.
- (1.1) A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality, including, without limitation, by
 - (a) imposing design standards,
 - (b) determining population density,
 - (c) regulating the development of buildings,
 - (d) providing for the protection of agricultural land, and
 - (e) providing for any other matter council considers necessary to regulate land use within the municipality.
- (2) A land use bylaw
 - (a) must divide the municipality into districts of the number and area the council considers appropriate;
 - (b) must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,
 - (i) the one or more uses of land or buildings that are permitted in the district, with or without conditions, or

Section 640.2

Transitional — alternative time period in land use bylaw

- **640.2(1)** In this section, "alternative time period" means an alternative time period authorized by section 640.1 of this Act as it read immediately before the coming into force of this section.
- (2) Where, on the coming into force of this section, a land use bylaw providing for an alternative time period is in force, the provisions of the bylaw providing for the alternative time period continue to have effect for a period of 6 months beginning on the day this section comes into force.

2020 c39 s10(30)

Designation of direct control districts

- **641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.
- (2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.
- (3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.
- (4) Repealed 2015 c8 s66.

RSA 2000 cM-26 s641;2015 c8 s66

Permitted and discretionary uses

- **642(1)** 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.
- (2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

- (3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.
- (4) If a development authority refuses an application for a development permit, the development authority must issue to the applicant a notice, in the form and manner provided for in the land use bylaw, that the application has been refused and provide the reasons for the refusal.
- (5) Despite subsections (1) and (2), a development authority must not issue a development permit if the proposed development does not comply with the applicable requirements of 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.

RSA 2000 cM-26 s642;2016 cs24 s102;2017 c13 s1(58); 2017 c21 s28;2018 c11 s13;2020 c39 s10(31)

Non-conforming use and non-conforming buildings

- **643(1)** If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

Section 644

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.
- (6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.
- (7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

1995 c24 s95

Acquisition of land designated for public use

- **644(1)** If land is designated under a land use bylaw for use or intended use as a municipal public building, school facility, park or recreation facility and the municipality does not own the land, the municipality must within 6 months from the date the land is designated do one of the following:
 - (a) acquire the land or require the land to be provided as reserve land;
 - (b) commence proceedings to acquire the land or to require the land to be provided as reserve land and then acquire that land within a reasonable time:
 - (c) amend the land use bylaw to designate the land for another use or intended use.
- (2) Subsection (1) does not apply if the Crown in right of Canada, the Crown in right of Alberta, an irrigation district, a board of a drainage district or a local authority, within 6 months from the date the land is designated under that subsection,
 - (a) acquires that land, or
 - (b) commences proceedings to acquire that land or requires that land to be provided as reserve land and then acquires it within a reasonable time.
- (3) Subsection (1) does not apply to land designated by the municipality as conservation reserve.

RSA 2000 cM-26 s644;2016 cs24 s103

Section 687

- (b) in the case of a person referred to in subsection (2), the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2) The board hearing an appeal referred to in subsection (1) must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3) The board hearing an appeal referred to in subsection (1) must give at least 5 days' notice in writing of the hearing
 - (a) to the appellant,
 - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
 - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4) The board hearing an appeal referred to in subsection (1) must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
 - (a) the application for the development permit, the decision and the notice of appeal, or
 - (b) the order under section 645.
- **(4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).
- (5) In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.

 RSA 2000 cM-26 s686;2016 c24 s128;2017 c13 s1(65);

 2018 c11 s13;2020 c39 s10(51)

Hearing and decision

- **687(1)** At a hearing under section 686, the board hearing the appeal must hear
 - (a) the appellant or any person acting on behalf of the appellant,
 - (b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,

- (c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
- (d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.
- (2) The board hearing the appeal referred to in subsection (1) must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.
- (3) In determining an appeal, the board hearing the appeal referred to in subsection (1)
 - (a) repealed 2020 c39 s10(52);
- (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.
- (4) In the case of an appeal of the deemed refusal of an application under section 683.1(8), the board must determine whether the documents and information that the applicant provided met the requirements of section 683.1(2).

RSA 2000 cM-26 s687;2009 cA-26.8 s83;2015 c8 s74; 2017 c21 s28;2018 c11 s13;2020 c39 s10(52)

Court of Appeal

Law, jurisdiction appeals

688(1) An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the subdivision and development appeal board, and
- (b) a decision made by the Land and Property Rights Tribunal
 - (i) under section 619 respecting whether a proposed statutory plan or land use bylaw amendment is consistent with a licence, permit, approval or other authorization granted under that section,
 - (ii) under section 648.1 respecting the imposition of an off-site levy or the amount of the levy,
 - (iii) under section 678(2)(a) respecting a decision of a subdivision authority,
- (iii.1) under section 685(2.1)(a) respecting a decision of a development authority, or
 - (iv) under section 690 respecting an intermunicipal dispute.
- (2) An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to
 - (a) the Land and Property Rights Tribunal or the subdivision and development appeal board, as the case may be, and





BYLAW #267-22

SUMMER VILLAGE OF NORGLENWOLD LAND USE BYLAW BYLAW #267-22

A bylaw of the summer village of Norglenwold in the province of Alberta for the purpose of repealing bylaw 208/13 and adopting a land use bylaw for the summer village of Norglenwold.

WHEREAS a Land Use Bylaw has been prepared for the Summer Village of Norglenwold based on public input and studies of land use, development, and other relevant data; and

AND WHEREAS the foresaid Land Use Bylaw describes the way in which the future development of the Village may be carried out in an orderly and economic matter;

NOW THEREFORE, the Council of the Village, duly assembled, and pursuant to the authority conferred upon it by the *Municipal Government Act*, R.S.A. 2000 c. M-26 as amended, enacts as follows:

- This new Bylaw may be cited as the "Summer Village of Norglenwold Land Use Bylaw".
- The Land Use Bylaw of the Summer Village of Norglenwold attached hereto as Schedule "A" to this Bylaw is hereby adopted.
- Bylaw 208/13, as amended, being the previous Land Use Bylaw of the Summer Village of Norglenwold, is hereby repealed.
- 4. This Bylaw may be amended by Bylaw in accordance with the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended.
- This Bylaw shall come into force upon receipt of third and final reading.

INTRODUCED AND GIVEN FIRST READING this 27th day of May 2022.

Tanner Evans, C.A.O.

Cyril Gerevitch, G.C., Mayor

PUBLIC HEARING HELD this 24th day of June 2022.

GIVEN SECOND READING this 29th day of July 2022.

GIVEN THIRD AND FINAL READING this 29th day of July 2022.

Cyril Gurevitch, Q.C., Mayor

Tanner Evans, C.A.O.

Table of

CONTENTS

GUIDE TO USING THE LAND USE BYLAW	V
SECTION 1 - INTRODUCTION	
1.1 TITLE 1.2 PURPOSE	1
1.3 RULES OF INTERPRETATION 1.4 DEFINITIONS	1 2
1.5 ESTABLISHMENT OF FORMS 1.6 ESTABLISHMENT OF FFES	19 19
1.7 SEVERABILITY	19
1.8 REPEAL	20
SECTION 2 – AGENCIES	21
2.1 DEVELOPMENT AUTHORITY 2.2 DEVELOPMENT OFFICER	21 21
2.3 MUNICIPAL PLANNING COMMISSION	21
2.4 SUBDIVISION AUTHORITY 2.5 COUNCIL	21 21
SECTION 3 – AMENDMENTS TO THE LAND USE BYLAW	22
3.1 AMENDMENTS	22
SECTION 4 - PERMITS, PROCEDURES, AND CONTRAVENTIONS	25
4.1 CONTROL OF DEVELOPMENT	25
4.2 DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT 4.3 NON-CONFORMING BUILDINGS AND USES	25 26
4.4 APPLICATION FOR DEVELOPMENT	27
4.5 PROCESSING OF DEVELOPMENT PERMIT APPLICATIONS	29
4.6 DEVELOPMENT AGREEMENTS AND CONDITIONS	31
4.7 VARIANCES 4.8 NOTICE OF DECISION	32 32
4.9 CANCELLATION	33
4.10 COMPLIANCE WITH OTHER LEGISLATION	33
SECTION 5 – SUBDIVISION OF LAND	34
5.1 SUBDIVISION APPLICATION REQUIREMENTS 5.2 SUBDIVISION PROCESS	34 35
5.3 DUTIES OF THE SUBDIVISION AUTHORITY	36
5.4 SUBDIVISION REQUIREMENTS AND CONDITIONS	36
SECTION 6 - PROCESS FOR APPEAL	37
6.1 DEVELOPMENT APPEALS	37
6.2 SUBDIVISION APPEALS 6.3 APPEAL HEARINGS AND DECISIONS	38 38
SECTION 7 - ENFORCEMENT	39
7.1 GENERAL PROVISIONS	39
7.2 PROHIBITIONS	39
7.3 RIGHT OF ENTRY 7.4 VIOLATION WARNING	39 39
7.5 WARNING AND FINAL WARNING NOTICE	39
7.6 OFFENSES AND FINES	39
7.7 STOP ORDERS	39

7.8 ENFORCEMENT OF STOP ORDERS	40
7.9 VIOLATION TAGS AND TICKETS	40
SECTION 8 - GENERAL DEVELOPMENT REGULATIONS	41
8.1 ACCESS AND EGRESS	41
8.2 BUILDING DEMOLITION	41
8.3 BUILDING ORIENTATION AND DESIGN	41
8.4 CONDOMINIUMS AND MULTIPLE OWNERSHIP	41
8.5 CORNER AND DOUBLE FRONTING LOTS	42
8.6 CORNER SITE AND SITE LINE PROTECTION	42
8.7 DEVELOPER'S RESPONSIBILITY	42
8.8 EASEMENTS	43
8.9 ENVIRONMENTAL SCREENING	43
8.10 EXISTING SUBSTANDARD LOTS	43
8.11 LANDSCAPING, ENVIRONMENTAL CONSERVATION, AND DEVELOPMENT	43
8.12 LIGHTING AND SURVEILLANCE EQUIPMENT	44
8.13 MECHANIZED EXCAVATION, STRIPPING, AND GRADING OF PARCELS	44
8.14 NUMBER OF BUILDINGS ON A PARCEL	44
8.15 OBJECTS PROHIBITED OR RESTRICTED IN YARDS	45
8.16 ON-SITE AND OFF-SITE IMPROVEMENTS	45
8.17 PROJECTION INTO YARDS	45
8.18 RELOCATION OF BUILDINGS	45
8.19 SIGHT LINES AT INTERSECTIONS OF ROADWAYS	46
8.20 SITE CONDITIONS	46
8.21 SOUR GAS FACILITIES	47
8.22 WELLS AND PIPELINES	47
SECTION 9 - SPECIFIC DEVELOPMENT REGULATIONS	48
9.1 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS	48
9.2 DETACHED GARAGES	49
9.3 DRIVEWAYS AND PARKING	49
9.4 FENCING	49
9.5 HOME OCCUPATIONS	50
9.6 PRIVATE POOLS AND DECORATIVE PONDS	51
9.7 PUBLIC PROPERTIES	52
9.8 RECREATIONAL VEHICLES	52
9.9 SUITES	53
9.10 TOURIST HOMES	54
9.11 GUIDELINES FOR OTHER LAND USES	54
SECTION 10 - LAND USE DISTRICTS	55
10.1 ESTABLISHMENT OF LAND USE DISTRICTS	55
SECTION 11 - R1 SHORELINE RESIDENTIAL DISTRICT	<u>56</u>
SECTION 12 - R2 ESTATE RESIDENTIAL DISTRICT	59
SECTION 13 - EO ENVIRONMENTAL OPEN SPACE DISTRICT	62
SECTION 14 - CR COMMUNITY AND RECREATION DISTRICT	63
SECTION 15 - LAND USE DISTRICT MAP	64
SECTION IS - LAND USE DISTRICT MAP	04

THE LAND USE BYLAW

The Summer Village of Norglenwold Land Use Bylaw (LUB) establishes regulations affecting the development and use of land within the municipality. Regulations vary depending on the location and type of development. In addition to the LUB other bylaws or regulations of the Summer Village of Norglenwold, the provincial government, and the federal government must also be followed.

There are several parts of the Land Use Bylaw that need to be examined to understand how it works:



The Land Use District Map divides the Summer Village of Norglenwold into four distinct land use districts.



The text of the Land Use Bylaw details **application**, **appeal**, **and enforcement processes** affecting the development and use of land within the Summer Village.



Additional regulations are provided in Sections 7, 8, and 9 that apply to specific uses and land use districts. These regulations control what types of land uses and developments are allowed on a lot.

The following steps may assist the user:

LOCATE

the Land Use District Map divides the Summer Village into four land use districts. Take note of which land use district the subject property is located in. Please note that Land use districts are often referred to as "Zones" or "Zoning." In order to conform to the language of the Municipal Government Act, this document uses the terms "district" and "districting."

CHECK

the **Table of Contents** and locate the land use district that applies to your lot. Each land use district is listed in Section 10. In each land use district you will find a list of permitted and discretionary uses, subdivision regulations, development regulations, and other miscellaneous regulations. These regulations determine how and what can be developed in the district. There are **definitions** in Section 1.4 that should also be consulted to ensure that words and terms used in the Land Use Bylaw are understood.

REVIEW

the Table of Contents should be reviewed to see if there are any **General or Specific Development Regulations** that apply to the development or use in question.

DISCUSS

we encourage you to discuss your proposal or concern with **Summer Village Administration**. Summer Village Administration is trained and eager to assist you with your development, subdivision, or general inquiry issues and to explain procedures. They can also assist with other situations such as enforcement or a Land Use Bylaw amendment.

Please note that the Guide to Using the Land Use Bylaw is only intended to assist users and does not form part of this bylaw.

INTRODUCTION

1.1 TITLE

1. This Bylaw may be cited as "The Summer Village of Norglenwold Land Use Bylaw."

1.2 PURPOSE

- 1. The purpose of this bylaw is to, amongst other things:
 - a. Divide the municipality into districts;
 - b. Regulate and control or to prohibit the use and development of land and buildings in each district;
 - c. Establish the office of the Development Officer;
 - d. Establish a method of making decisions on applications for Development Permits including the issuing of Development Permits:
 - e. Provide the manner in which notice of the issuance of a Development Permit is to be given; and
 - f. Protect the shoreline and water quality of Sylvan Lake.

1.3 RULES OF INTERPRETATION

- 1. Compliance with the policies in this Bylaw shall be interpreted and applied as follows:
 - a. "shall" and "must" means mandatory compliance;
 - b. "should" means compliance in principle, but is subject to the discretion of the Development Authority where compliance is impracticable or undesirable because of relevant planning principles or circumstances unique to a specific application; and
 - c. "may" means discretionary compliance or a choice in applying regulation. The regulation can be applied, enforced or implemented if the Development Authority chooses to do so. Application may depend on site specific circumstances.
- 2. Where a regulation involves two (2) or more conditions, provisions or events connected by a conjunction, the following shall apply:
 - a. "and" means all the connected items shall apply in combination;
 - b. "or" indicates that the connected items may apply singly or in combination; and
 - c. "either-or" indicates the items shall apply singly but not in combination;
 - d. words used in the singular include the plural and vice-versa;
 - e. words used in the present tense include the other tenses and derivative forms.
- 3. All measurements in this Bylaw are metric. In the case of any conflict between information expressed in metric units and in imperial units, the metric shall govern.
- 4. In the case of any conflict between a number written in numerals and a number written in letters, the number written in numerals shall govern.
- 5. In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall govern.
- 6. Pursuant to Section 638.1 of the *Act*, in the event of a conflict or inconsistency between a land use bylaw and an *Alberta Land Stewardship Act* (ALSA) Regional Plan, the Regional Plan prevails to the extent of the conflict or inconsistency.
- 7. Words, phrases and terms not defined in this Bylaw shall be given their definition in the *Act*, the *Subdivision and Development Regulations*, or relevant enactments as the context requires. Other words shall be given their usual and customary meaning.
- 8. All references to legislation are to the most recent version of the legislation in effect, as amended, and any regulations enacted thereunder from time to time.

1. In this Land Use Bylaw:

						Α
1	ABUT (OR ABUTTING)	Means immediately contiguous or physically touching, and, when used with respect to a lot or site, means that the lot or site physically touches upon another lot or site, and shares a property line or boundary line with it.				
2	ACCESSORY BUILDING	Means a building separate and subordinate to the principal building, the use of which is incidental to that principal building and is located on the same parcel of land and includes, in the residential districts, such things as storage sheds garages, and a guest house. Accessory buildings are not intended for commercial purposes and do not include sea cans.				
3	ACCESSORY USE	Means a use customarily incidental and subord same parcel of land with such principal use.	linate to th	e principal use	e and is loca	ted on the
4	ACT (OR THE ACT)	Means the Municipal Government Act, R.S.A. 20	000, c. M-2	6, as amended	d.	
		Means land or a portion of land that is contiguous to the land that is the subject of an application and includes land or a portion of land that would be contiguous except for a road, rail or utility right-of-way, river, or	Al	DJACENT P		ES
		stream.				
5	ADJACENT LAND				SUBJECT SITE	
				\bowtie		
6	ADJACENT LANDOWNER	Means owners of land that is contiguous to the land that is the subject of an application, and includes owners of land that would be contiguous except for public roadway, railway, utility right-of-way, or watercourse.				
7	AGRICULTURAL OPERATION	Means an agricultural operation as defined in the <i>Agricultural Operation Practices Act</i> , R.S.A. 2000, c. A-7, as amended.				
8	ANIMAL BOARDING AND LODGING	Means a development where domestic pets are bred, boarded or trained. Animal breeding and boarding facilities include kennels but do not include animal shelters, veterinary clinics, or veterinary hospitals.				
9	APIARY	Means the keeping of honey bees for honey production, and includes a place where bee colonies (beehives) are kept on a site and where raw honey is processed and stored.				
	В					
10	BASEMENT	Means a habitable portion of a building which is partly underground, but which has more than 50% percent of the distance, between the floor level and the underside of the ceiling joists, above adjacent ground elevation.				
11	BED AND BREAKFAST ESTABLISHMENTS	Means an accessory use within a single detached, owner occupied dwelling where temporary sleeping accommodations (maximum of 4 (four), excluding those used by the owner/operator/primary resident(s)), with or without meals, are provided for remuneration to members of the public. This use does not include a boarding house.				

12	BERM	Means a landscaped mound of earth.		
13	BOARDING HOUSE	Means a building or a portion of a building without individual suites operated for the purpose of providing live-in accommodation (either room for rent or room and board) for five or more unrelated persons.		
14	BOAT HOUSE	Means an accessory building designed and used primarily for the storage of boats and is normally designed such that the main door faces the lake as to permit the direct removal of boats from the water to the structure. A boat house shall not include a dwelling, and shall not be located within the bed and shore of Sylvan Lake.		
15	BREEZEWAY	Means a roofed open passage connecting two or more buildings. An accessory building connected to a principal building by way of a breezeway shall not be considered part of the principal building.		
16	BUFFER	Means the use of berms, fencing and planting for the purpose of screening noises, views, dust, sprays and uses between properties where offsite impacts may occur.		
17	BUILDING	Means anything constructed or placed on, in, over or under land but does not include a highway or road or a bridge forming part of a highway or road.		
18	BUILDING AREA	See "Floor Area."		
19	BUILDING DEMOLITION	Means the pulling down, tearing down, razing, or removal of a building.		
20	BUILDING LINE	Means a line, other than a parcel line, used to regulate the location of a building or structure in relationship to the abutting street(s).		
21	BUILDING HEIGHT	Means the vertical distance of a building measured from the grade to the highest point of the building (see "Grade"). The highest point of a building shall be determined without considering an elevator housing, stairway entrance, a ventilating fan, a skylight, a steeple, a chimney, a smoke stack, a firewall, a parapet wall, a flagpole or similar device or feature not structurally essential to the building.		
22	BUNK HOUSE	See "Suite, Guest House."		
		С		
23	CANNABIS	Means the same as defined in the <i>Act to Control and Regulate Cannabis</i> , S.A. 2017, Chapter 21 and any amendments thereto, and included leaves stems, buds, oil and other parts or derivatives of the cannabis plant.		
24	CANNABIS, ACCESSORY	Means an object that is commonly used in the consumption or production of cannabis. A cannabis accessory includes, but is not limited to, rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers.		
25	CANNABIS, MEDICAL	Means cannabis that is intended for medical purposes in accordance with applicable federal law.		
26	CANNABIS PRODUCTION AND DISTRIBUTION FACILITY	Means a development used principally for one or more of the following activities relating to cannabis: a. the production, cultivation, and growth of cannabis; b. the processing of raw materials; c. the making, testing, manufacturing, assembling, or in any way altering the chemical or		
	T T T	physical properties of semi-finished or finished cannabis goods or products; d. the storage or shipping of materials, goods, or products, or;		

		e. the distribution and sales of materials, goods, and products to the Alberta Gaming, Liquor, and Cannabis Commission.
27	CANNABIS RETAIL SALES	Means a development used for the retail sales of cannabis (or consumable products made with cannabis) that is authorized by provincial or federal legislation. This use may include retail sales of cannabis accessories, as defined in the <i>Cannabis Act</i> , S.C. 2018, c. 16, as amended or replaced. This use does not include cannabis production and distribution facilities.
28	CARRIAGEWAY	Means that portion of the road right-of-way available for vehicular movement. Included are travelling lanes, medians, parking and other auxiliary lanes. Not included are ditches, sidewalks and other pedestrian areas.
29	CAVEAT	Means a formal notice expressing an interest in a parcel registered at Land Titles Office against the title to that parcel.
30	CELLAR	Means a portion of a structure which is mainly underground, and which has less than fifty percent (50%) of the distance, between the floor level and the underside of the ceiling joists, above adjacent ground elevation.
31	COMMERCIAL/ INDUSTRIAL USE	Means a business through which products, services, or entertainment are available to consumers, whether the general public or other commercial establishments. Commercial use shall include: bus depots, business services, drive-in businesses, funeral homes, retail stores, greenhouses, medical clinics, hotels, mail and parcel delivery services, office uses, and personal services. This use does not include: the manufacturing of products, adult uses, cannabis lounges, cannabis accessory retail sales or cannabis retail sales establishments.
32	COMMISSION	Means the Municipal Planning Commission of the Summer Village of Norglenwold, unless otherwise noted.
33	CONCEPTUAL SCHEME	Means a detailed land use plan for a specified area of land which conforms to all statutory plans and is used to relate a subdivision application to the future subdivision and development of adjacent areas. A conceptual scheme is adopted by resolution of Council, pursuant to the <i>Municipal Government Act</i> .
34	CONSTRUCTION MANAGEMENT PLAN	Means a plan provided by a development proponent that includes strategies to manage activities during active and post construction phases of a development. Construction management plans include strategies to implement low impact development techniques and best management practices for stormwater management.
35	COUNCIL	Means the Council of the Summer Village of Norglenwold.
		D
36	DATE OF ISSUE	Means the date on which the notice of a decision of the Development Authority is published, or five days after such a notice is mailed.
37	DAY HOME	Means an accessory use within a dwelling unit used to provide care and supervision, for adults or children in accordance with the <i>Child Care Licensing Act, S.A. 2007, c. 10.5, as amended,</i> as well as any other applicable Provincial or Federal legislation.
38	DECK	Means any open structure having a height greater than 0.6 m (2.0 ft.) above grade, thereby requiring stairs and railings as outlined in regulations approved under the <i>Safety Codes Act, R.S.A. 2000, c. S-01, as amended.</i> A deck shall not have walls higher than 1.25 m (4.1 ft.) from the surface of the deck floor, or a roof.
39	DECIDUOUS	Means trees, shrubs, and other forms of vegetation that seasonally shed leaves, petals, or fruit.
40	DECORATIVE POND	Means a made enclosed body of water for ornamental purposes, which may include vegetation and fish.

41	DESIGNATED OFFICER	Means a person authorized by Council to act as a development authority pursuant to Section 624(2) of the <i>Act</i> .		
42	DEVELOPER	Means an owner, agent or any person, firm or company required to obtain or having obtained a development permit.		
43	DEVELOPMENT			
		 the use of land for storage purposes or for the repair of equipment, vehicles or other kinds of machinery; 		

		s. the installation of any type of sewage disposal system including but not limited to holding tanks; or
		t. the digging of a well or installation of a water cistern.
44	DEVELOPMENT AUTHORITY	Means the person or persons appointed as the Development Authority pursuant to Development Authority Bylaw No. 140-95, as amended.
45	DEVELOPMENT DESIGN PLAN	Means a non-statutory plan prepared by a development proponent in support of a proposal for development. The purpose of a development design plan is to mitigate negative impacts on watershed health as required in the Sylvan Lake Intermunicipal Development Plan. A development design plan includes the following details: a. A planting plan including native vegetation; b. A sediment control plan; c. A drainage plan; and d. Information about site coverage. A development design plan shall be required at the discretion of the Development Authority, and will be enforced as a condition of development approval.
46	DEVELOPMENT OFFICER	Means the person(s) appointed as Development Officer(s) as established by this bylaw.
47	DEVELOPMENT PERMIT	Means a document authorizing a development issued pursuant to this Land Use Bylaw.
48	DISCRETIONARY USE	See "Use, Discretionary."
49	DISTRICT (OR LAND USE DISTRICT)	Means a designated area of the municipality within which certain uniform requirements and regulations govern the use of land, and the placement, spacing and size of structures.
50	DRAINAGE DITCH	Means a long narrow trench or furrow dug in the ground to accommodate over-land drainage.
51	DRIVEWAY	Means a vehicle access route between the carriageway of a public road and a use on a parcel.
52	DWELLING	Means any building or structure used exclusively for human habitation and which is supported on a permanent foundation or base.
53	DWELLING, DUPLEX	Means a dwelling containing two (2) dwelling units which share a common wall, and located side by side or one above the other.
54	DWELLING, FOURPLEX	Means a building containing four (4) dwelling units sharing a common wall either vertically, so dwellings are arranged one above the other, or horizontally, so that dwellings are arranged front-to-back or side-by-side. A separate, at grade, access is provided to each dwelling unit.
55	DWELLING, MANUFACTURED HOME	Means a dwelling which is constructed with a chassis or related assembly that allows for the permanent or temporary attachment of a hitch and assembly to enable relocation of the dwelling, and further, which conforms to the Canadian Standards Association A277 and Z-240 Standards (or subsequent CSA Standards). A manufactured home may be a single structure (commonly known as a "single wide") or two parts which when put together comprises a complete dwelling (commonly known as a "double wide").
56	DWELLING, ROW HOUSING	Means a building consisting of at least three (3) dwelling units with each unit having direct access to the outside grade, but shall not mean apartment.
57	DWELLING, SEASONAL	Means a dwelling that lacks one or more of the basic amenities or utilities required for year-round occupancy or use such as: a permanent heating system, insulation, and/or year-round usable plumbing.

58	DWELLING, SINGLE DETACHED DWELLING UNIT	Means a building consisting of one (1) dwelling unit. A single detached dwelling is a dwelling which is normally constructed on-site. However, a single detached dwelling may be constructed in pieces offsite, or even in one piece, with the piece(s) being transported to the site for assembly on-site, and thus may be a modular dwelling. Single detached dwellings do not include mobile home dwellings. Means a complete self-contained residence that contains sleeping, cooking and sanitary facilities intended for domestic use, and is used or intended to be used permanently or semi-permanently as a residence for a household. A dwelling unit must have a separate private entrance from the exterior of a building or from a common hall, lobby or stairway inside the building. A dwelling unit includes suites as defined in this Bylaw.		
		E		
60	EASEMENT	Means a right to use land, generally for access to other property or as a right-of-way for a public utility.		
61	ENVIRONMENTAL RESERVE EASEMENT	Means an environmental reserve easement as defined in accordance with the Act.		
62	ESCARPMENT	Means an extended linear topographical feature of relatively steep slope and significant change in elevation, as per the diagrams below. Crest Top of Bank Top of Escarpment Slope Bank Escarpment Lake Upland area Crest Top of Bank Top of Escarpment Terrace Slope Bank Escarpment Terrace Lake		
63	EVAPO-	Means the process of water moving through a plant's roots to its leaves and stems, where it evaporates back into the atmosphere.		
64	TRANSPIRATION EXCAVATION	Means any breaking of ground, except common household gardening and ground care.		
65	EXTERIOR WALL	Means any breaking of ground, except common household gardening and ground care. Means the outermost point of a building projection, including, but not limited to, bay windows, oval windows, chimneys, veranda or other similar features, but not including roof overhangs less than 0.6 m (2.0 ft.).		
		F		
66	FAMILY CARE FACILITY	Means a facility which provides resident service in a dwelling to six (6) or fewer individuals. These individuals are handicapped, aged, disabled or in need of adult supervision and are provided service and supervision in accordance with their individual needs. This category includes boarding homes for children, group homes, and family homes.		
67	FENCE	Means a physical barrier constructed from typical building material for the purpose of providing aesthetic decoration, visual screening, sound abatement, or to prevent unauthorized access.		
68	FINISHED GROUND ELEVATION	Means the elevation of the finished ground at any point adjoining each exterior wall of a building or structure.		
69	FLOOR AREA	Means for buildings, the total area of the floor(s) in a building measured from the outside of exterior walls and does not include a basement, cellars, attached garages, carports, or open porches.		
70	FRONTAGE	Means the width of a lot or a site where it abuts a road.		

		G		
71	GARAGE	Means an accessory building or part of the principal building, designed and used primarily for the storage of non-commercial motor vehicles, recreational vehicles and other chattels.		
		Means the ground elevation established for the purpose of determining building height. In determining grade, the Development Authority shall select from the following methodologies, whichever one best ensures compatibility with neighbouring developments: a. If the applicant can show by reference to reliable surveys that the predevelopment		
		a. If the applicant can show by reference to reliable surveys that the predevelopment elevation of the subject parcel varies by no more than 1.0 m (3.3 ft.) in 30 linear metres, the Development Authority may determine grade by calculating the average of the highest and lowest elevation on the parcel; or		
72	GRADE	 The Development Authority may determine grade by calculating the average of the pre-development elevations at the corners of the parcel as shown on a reliable survey; or 		
		 The Development Authority may determine grade by calculating the average elevation of the corners of the principal buildings on all properties abutting the subject parcel; or 		
		d. the average of the pre-development elevations at the corners of the building as shown on a survey prepared by an Alberta Land Surveyor.		
73	GROSS AREA	Means the area of a development, neighbourhood or planned area, before deductions for roads, municipal and environmental reserves and public utilities have been made.		
74	GROUP HOME	Means a development consisting of the use of a dwelling as a facility which is authorized, licensed or certified by a public authority to provide room and board for foster children or disabled persons, or for persons with physical, mental, social or behavioral problems and which may be for the personal rehabilitation of its residents either through self-help or professional care, guidance or supervision. The residential character of the development shall be primary with the occupants living together as a single housekeeping group and using cooking facilities shared in common. This does not include drug or alcohol addiction treatment centres.		
75	GUEST HOUSE	See "Suite, Guesthouse."		
		Н		
76	HARD LANDSCAPED AREA	Means the use of non-vegetative material, such as but not limited to monolithic concrete, or asphalt.		
77	HEAVY VEHICLE	Means a heavy vehicle, as per the Summer Village's Traffic Bylaw, Bylaw No. 207-12.		
78		Means any occupation, trade, profession, or craft carried on by an occupant of a dwelling which is clearly secondary to the residential use of the building, and which does not change the character of or have any exterior evidence of such secondary use other than a sign as allowed in this Bylaw. For the purposes of this Bylaw, home occupations are divided into two subclassifications - major home occupations and minor home occupations - with specific regulations for each as indicated in this Bylaw.		
	НОМЕ	A <u>minor home occupation</u> must not:		
	OCCUPATION	a. include exterior signage advertising the occupation;		
		b. generate pedestrian or vehicular traffic or parking and;		
		c. include the employment of persons other than residents of the dwelling.		
		A <u>major home occupation</u> may include a business which would normally:		
		a. includes exterior signage advertising the occupation;		
		b. generate pedestrian or vehicular traffic or parking; and/or		

		c. includes the employment at the dwelling or accessory buildings of no more than two(2) paid assistants, other than residents of the dwelling.				
		l.				
79	INCLUSIONARY HOUSING	Means the provision of dwelling units or land, or money in place of dwelling units or land, for the purpose of community housing, as defined in the <i>Act</i> .				
80	INDUSTRIAL HEMP	Means a cannabis plant – or any part of that plant – in which the concentration of THC is zero point three percent (0.3%) w/w or less in the flowering heads and leaves, as defined in the Industrial Hemp Regulations, $SOR/2018-145$, as amended or replaced.				
81	INDUSTRIAL HEMP PRODUCTION FACILITY	Means the use of land, buildings, or structures licensed and/or authorized to possess, sell, provide, ship, deliver, transport, destroy, produce, export and/or import industrial hemp, including related research, under the <i>Industrial Hemp Regulations</i> , SOR/2018-145, as amended, or replaced. This does not include cannabis retail sales or cannabis production and distribution facility, or the outdoor cultivation of industrial hemp.				
82	INSTITUTIONAL USE	Means a development of governmental, religious, social, health care, or cultural facilities serving the municipality, area, or region.				
		J, K				
83	KITCHEN	Means an area in a principal dwelling or suite that contains counters, cabinets, plumbing, appliances or wiring which taken together, is used for the preparation, storage, and/or cooking of food.				
		L				
84	LAND USE BYLAW	Means the Summer Village of Norglenwold Land Use Bylaw (Bylaw #267-22) as amended.				
85	LAND USE DISTRICT	Means an area as described in Section 10 – Land Use Districts, and illustrated in Section 15 – Land Use District Map.				
86	LANDSCAPING	Means to preserve or change the natural features of a parcel by adding lawns, trees, shrubs, ornamental plantings, fences, walks, or other structures and materials used in modern landscape architecture, but does not include stockpiling and excavation.				
87	LANE	Means a narrow roadway intended chiefly to give access to the rear of buildings and parcels of land, also known as an alley as defined by the <i>Traffic Safety Act</i> , R.S.A. 2000, c. T-6, as amended.				
		Means:				
		a. a quarter section;				
88	LOT	b. a river lot or a lake lot shown on an official plan referred to in the <i>Surveys Act</i> that is filed or lodged in a Alberta Land Titles office;				
		c. a settlement lot shown on an official plan referred to in the <i>Surveys Act</i> that is filed or lodged in an Alberta Land Titles office;				

		d. a part of a parcel of land described in a Certificate of Title if the boundaries of the parare described in the Certificate of Title other than by reference to a legal subdivision or						
		e. a part land c	of a parcel of described in cate of Title	а	DOUBLE FRONTING LOT			
		the bo	undaries of the e described i	ne 📗 🛕	INTERIO	R LOT	INTERIOR LOT	ROAD
		by refe	rtificate of Titl rence to a pla division.		CORNE	R LOT	CORNER LOT	. S
					ROAD			
89	LOT, CORNER	Means a lot having frontage on two (2) or more rights-of-way, other than lands, or in the case of a bareland condominium, a unit as described in the <i>Condominium Property Act</i> , R.S.A. 2000, c. C-22, as amended, having two (2) contiguous property lines abutting common property used as road access. For the purposes of this definition, a road shall not include an alley or lane.						
90	LOT, DOUBLE FRONTING	Means a lot which abuts two (2) roads (except alleys or lanes as defined in the <i>Traffic Safety Act</i> , R.S.A. 2000, c. T-06, as amended) which are parallel or nearly parallel where abutting the lot, but does not include a corner lot.						
91	LOT, INTERIOR	Means a lot that abuts a road only on the front line.						
92	LOT, LAKEFRONT	Means a lot adjacent to a waterbody or, or that would be adjacent to a waterbody if not for a reserve lot.	LAKEFRONT LOT RESERVE LOT	LAKEFRONT	LAKEFRONT LOT	LAKEFRONT LOT	LAKEFRONT LOT	LAKEFRONT LOT
93	LOT AREA	Means the area of a lot as shown on a plan of subdivision or described in a certified copy of a Certificate of Title. Lot area includes any area dedicated to an easement or a right-of-way.						
94	LOT COVERAGE	See "Site Coverage."						
95	LOT DEPTH	Means the average horizontal distance between the front lot line and the rear lot line.						
96	LOT LINE	Means the legally defined limit of any lot.						
97	LOT LINE, FRONT	Means the boundary line of a lot lying adjacent to a highway or road, except for lakefront lots, then the front lot line shall be considered the boundary line adjacent to the lake. In the case of a corner lot, the shorter of the two boundary lines adjacent to the highway or road shall be considered the front line.						
98	LOT LINE, REAR	Means the boundary line of a lot lying opposite to and farthest from the front line of the lot. For lakefront lots, the rear lot line is the lot line farthest from the lake.						

99	LOT LINE, SIDE	Means the boundary line of a lot lying between a front line and a rear line of a lot. In the case of a corner lot, the longer of the two boundary lines adjacent to the highway or road shall be considered a side lot line.				
100	LOT, UNDEVELOPED	Means a lot that does not contain a developed residence, building or structure. May also be referred to as a 'vacant lot.'				
101	LOT WIDTH	Means the length of a line parallel to the front line or, in a lot with a curved front line, perpendicular to a line running between the mid-point of the front line and the mid-point of the rear line, measured at a distance from the front line equal to the minimum required front yard.				
		M				
102	MANUFACTURED DWELLING UNIT	See "Dwelling, Manufactured Home."				
103	MECHANIZED EXCAVATION, STRIPPING, AND GRADING	Means the use of motorized equipment to remove, relocate or stockpile soil or vegetation in excess of normal landscape maintenance requirements.				
104	MUNICIPALITY	Means the Summer Village of Norglenwold, unless otherwise noted.				
105	MUNICIPAL GOVERNMENT ACT	Means the <i>Municipal Government Act</i> , R.S.A 2000, c. M-26 as amended together with all regulations passed thereunder, and may be referenced in this Land Use Bylaw as the <i>Act</i> .				
106	MUNICIPAL PLANNING COMMISSION	Means a commission established by the Municipal Planning Commission Bylaw No. 206-12, as amended.				
		N				
107	NATURAL AREA	Means an area that is to be preserved because: it is unsuitable in its natural state for development and/or areas that are desirable to be kept in their natural state.				
108	NON-CONFORMING BUILDING	 Means a building: a. That is lawfully constructed or lawfully under construction at the date this Land Use Bylaw or any amendment thereof affecting the building or land on which the building is situated becomes effective; and b. That on the date this Land Use Bylaw or any amendment thereof becomes effective does not, or when constructed will not, comply with the Land Use Bylaw. 				
109	NON-CONFORMING USE	 Means a lawful specific use: a. Being made of land or a building or intended to be made of a building lawfully under construction at the date that this Land Use Bylaw affecting the land or building becomes effective; and b. That on the date the Land Use Bylaw becomes effective does not, or in the case of building under construction will not, comply with the Land Use Bylaw. 				
110	NON-PERMEABLE SURFACE	Means any man-made surface that does not allow the absorption of water into the ground at a pre-development rate. A non-permeable surface consists of materials such as roofing materials, concrete, asphalt, unit pavers, and compacted gravel.				
111	NUISANCE	Means any act or deed, or omission, or thing, which is or could reasonably be expected to be annoying, or troublesome, or destructive or harmful, or inconvenient, or injurious to another person and/or their property, or anything troublesome or bothersome to other people for which complaints are received either by the Municipality's office or the Royal Canadian				

		Mounted Police, whether or not such act or deed or omission or thing constitutes nuisance at common law.
		0
112	OBNOXIOUS	Means (when used with reference to a development) a use which by its nature, or from the manner of carrying on the same, may, in the opinion of the Development Authority, create noise, vibration, smoke, dust or other particulate matter, odour, toxic or non-toxic matter, radiation, fire, or explosive hazard, heat, humidity, glare, or unsightly storage of goods, materials, salvage, junk, waste or other materials, a condition which, in the opinion of the Development Authority, may be or may become a nuisance, or which adversely affects the amenities of the neighbourhood, or which may interfere with the normal enjoyment of any land or building.
113	OCCUPANCY	Means the use or intended use of a building or part thereof for the shelter or support of persons or property.
114	OCCUPANT	Means any person occupying or having control over the condition of any property and the <i>Act</i> ivities conducted on the property, and includes the owner, lessee, tenant or agent of the owner.
115	OFFENSIVE	Means when used with reference to a development, a use which by its nature, or from the manner of carrying on the same, creates or is liable to create by reason of noise, vibration, smoke, dust or other particulate matter, odour, toxic or non-toxic matter, radiation, fire, or explosive hazard, heat, humidity, glare, or unsightly storage of goods, materials, salvage, junk, waste or other materials, a condition which, in the opinion of the Development Authority, may be or may become hazardous or injurious to health or safety, or which adversely affects the amenities of the neighbourhood, or interferes with or may interfere with the normal enjoyment of any land or building. For the purposes of this bylaw obnoxious shall not include activities associated with agricultural operations provided that they do not contravene generally accepted agricultural practices as defined in the <i>Agricultural Operations and Practices Act</i> R.S.A. 2000, c. A-07, as amended.
116	ORDER	Means a notice requiring compliance issued in writing by the Development Authority.
117	OUTDOOR STORAGE AND DISPLAY	Means the storage or display of equipment, goods, or materials in the open air on a permanent or continuous basis.
118	OWNER	 a. in the case of land owned by the Crown in right of Alberta or the Crown in right of Canada, the Minister of the Crown having the administration of the land, or b. in the case of any other land, the person shown as the owner of land on the municipality's assessment role prepared under the Act.
		P
119	PARCEL	Means the aggregate of one or more area of land described in a certificate of title by reference to a plan filed or registered in an Alberta Land Titles Office.
120	PARCEL, INTERIOR	Means a parcel abutting only one street other than a lane.
121	PARCEL WIDTH	Means the greater of either the width of the site at the building line or the front boundary of the parcel.
122	PARKING AREA	Means the area set aside for the storage and/or parking of vehicles and include parking stalls, loading spaces, aisles, entrances and exits to the parking area, and traffic islands where they are part of the parking area. A parking area may be within a building.

		Mean:
123	PARK MODEL	a. (Park Model Trailer) a unit designed to be towed by a heavy-duty tow vehicle (auto, van, pick-up truck, etc.) but is of restricted size and weight so that it does not require a special highway movement permit. The maximum width when being towed is 2.6 m (8.5 ft.). These units are designed for infrequent towing, and are not normally fitted with a 12-volt system for fixtures and appliances. Once on site in the set-up mode it normally must be connected to the local utilities. This style is normally built on a single chassis mounted on wheels. It usually has one or more slide-outs, but when in set-up mode the gross trailer area normally does not exceed 37.2 m² (400.0 ft.²). It conforms to the CSA Z-240 Standard for recreational vehicles.
		b. (Park Model Recreational Unit) a unit built on a single chassis mounted on wheels, which may be removed and returned to the factory. The unit is designed to facilitate occasional relocation, with living quarters for a temporary residence or seasonal use, and normally must be connected to those utilities necessary for the operation of installed fixtures and appliances. It normally has a floor area, including lofts, not exceeding 50.0 m² (540.0 ft.²) in the set-up mode and has a width greater than 2.6 m (8.5 ft.) in the transit mode. Park Model recreational units almost always require a special tow vehicle and a special permit to move on the road as the width of the unit is greater than 2.6 m (8.5 ft.). It conforms to the CSA Z-241 Standard for recreational vehicles.
		For the purposes of this Bylaw, park models are not allowed in any District within this Land Use Bylaw unless specifically identified as a permitted or discretionary use in the Residential District, and approved by the Development Authority within an approved development permit.
124	PATIO	Means any developed surface adjacent to a building on a site which is less than 0.6 m (2.0 ft.) above ground level.
125	PERGOLA	Means a structure usually consisting of parallel colonnades supporting an open roof of girders and cross rafters.
126	PERMITTED USE	See "Use, Permitted."
127	PRE-DEVELOPMENT	Means immediately prior to development.
128	PRIVATE DEVELOPMENT	Means any development carried out by an individual.
129	PRIVATE POOL	Means any outdoor private swimming pool or hot tub, whether above or below the ground, containing water for the purpose of swimming, wading or immersion of human beings.
130	PRINCIPAL BUILDING	Means a building which, in the opinion of the Development Authority: a. occupies the major or central portion of a parcel; or b. is the chief or principal building among one or more buildings on the parcel.
131	PRINCIPAL USE	Means the primary purpose, in the opinion of the Development Authority, for which a building or parcel is used.
132	PROJECTION	Means part of a building or its accessory structures which projects beyond the main walls into the yards.
133	PUBLIC AND QUASI- PUBLIC USE	Means a use of land or a building for purposes of public administration and service and shall also include a building for the purpose of assembly, instruction, culture, recreation or other community activity.
134	PUBLIC PARK	Means a development designed or reserved for active or passive recreational use, including all natural and man-made open space and landscaping, facilities, playing fields, and buildings that are consistent with the general purposes of recreation, whether or not such recreational

		facilities are publicly operated or operated by other organizations pursuant to arrangements with the public authority owning the public park. Public parks include tot lots, band shells, picnic grounds, pedestrian trails and paths, landscaped buffers, playgrounds, water features, baseball diamonds, football fields, soccer pitches, and similar outdoor sports fields.
135	PUBLIC UTILITY	Means a public utility as defined in the Act.
136	PUBLIC UTILITY BUILDING	Means a building in which the proprietor of a public utility, as defined in the <i>Act</i> , maintains its office or offices and/or maintains or stores any equipment used in connection with the public utility.
		Q, R
137	REAL PROPERTY REPORT	Means a codified standard report adopted by the Alberta Land Surveyor's Association which contains pertinent information on a parcel and the development which exists on the property.
138	REAR LOT LINE	"See Lot Line, Rear."
139	REAR YARD	"See Yard, Rear."
140	RECREATIONAL FACILITY	Means a public building and grounds for community entertainment, relaxation, social activity and other leisure needs.
141	RECREATIONAL USE	Means a recreational development conducted on a unified basis on a single site where the prime reason for location may be to take advantage of natural features. A recreational use may include the provision of day to day sporting and athletic facilities and the structures incidental thereto. A recreational use does not include: extensive recreation, or a campground, a recreational vehicle park or a recreation camp.
142	RECREATIONAL VEHICLE	Means a vehicle or a portable structure designed to be used as temporary sleeping accommodation for travel and recreation purposes. Recreational vehicles include, but are not limited to, motor homes, campers, holiday trailers, fifth wheels and park model recreation vehicles. Recreational vehicles do not include manufactured home dwellings or stick built units.
143	REGISTERED OWNER	 a. In the case of land owned by the Crown in right of Alberta or the Crown in right of Canada, the Minister of the Crown having the administration of the land; or b. In the case of any other land: i. The purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the certificate of title in the land and any assignee of the purchaser's interest that is the subject of a caveat registered against the certificate of title; or ii. In the absence of a person described in paragraph (i), the person registered under the Land Titles Act as the owner of the fee simple estate in the land.
144	RELOCATED BUILDING	Means a building that was constructed off-site in one (1) piece or in pieces and relocated to another site but does not include manufactured home dwellings.
145	REMAINDER	Means a portion of a lot for which subdivision approval is not requested or granted but which results from the approval of lots shown on a plan of subdivision.
146	REMOVAL OF TREES AND/OR SHRUBS	Means the removal of trees and/or shrubs, or the destruction thereof.
147	RENOVATION	Means an addition to, deletion from, or change to any building which does not require a permit other than a plumbing permit or an electrical permit pursuant to the <i>Safety Codes Act</i> .

148	RESERVE	Means a parcel of land owned and subject to the management of the municipality and reserved for use as natural areas, walkways or parks and playgrounds separating areas used for different purposes, and registered at an Alberta Land Titles Office as reserve, environmental reserve, or municipal reserve parcels.
149	RESERVE, COMMUNITY SERVICES	Means land designated Community Services Reserve (CSR) that may be used for community services (e.g. library, fire station, etc.), pursuant to the <i>Act</i> .
150	RESERVE, CONSERVATION	Means land designated Conservation Reserve (CR) that could not be required to be provided as environmental reserve, but which has environmentally significant features and which the municipality wishes to protect and conserve, pursuant to the <i>Act</i> .
151	RESERVE, ENVIRONMENTAL	Means land designated Environmental Reserve (ER) pursuant to the <i>Act</i> , when a subdivision occurs in an area where some of the land is undevelopable due to environmental factors.
152	RESERVE, MUNICIPAL	Means land owned by the Summer Village and designated as Municipal Reserve (MR) as defined under the <i>Act</i> . Municipal Reserve land does not include Environmental Reserve (ER) or School Reserve (SR) as defined in the <i>Act</i> .
153	RESERVE, MUNICIPAL AND SCHOOL	Means land designated Municipal and School Reserve (MSR) that may be used for municipal and school purposes, pursuant to the <i>Act</i> .
154	RESERVE, SCHOOL	Means land designated School Reserve (SR) that may be used for school purposes, pursuant to the <i>Act</i> .
155	RESIDENTIAL USE	Means the occupation and use of land and buildings as dwellings, whether on a seasonal or year-round basis.
156	ROAD OR ROADWAY	 Means land: a. Shown as a road on a plan of survey that has been filed or registered in an Alberta Land Titles Office; or b. Used as a public road; and includes a bridge forming part of a public road and any structure incidental to a public road.
		S
157	SAFETY CODES ACT	Means the <i>Safety Codes Act,</i> RSA 2000 c. S-1, as amended, and includes the regulations enacted and codes adopted thereunder from time to time.
158	SEA CAN (OR SHIPPING CONTAINER)	Means a container, originally used or intended to be used for the transportation of goods, not used as a moveable storage unit.
159	SCREEN, SCREENED, OR SCREENING	Means a fence, berm, hedge, wall or building used to separate areas or functions which detract from the appearance of the street scene and the view from the surrounding areas.
160	SEDIMENT CONTROL MEASURES	Means practices that stabilize erodible or sediment-producing areas through the use of grass, vegetation, sediment control traps, filters, barriers, swales, berms, and other measures that control the deposit of soil and earth materials. Sediment control measures may be identified

	in a Development Design Plan as methods of controlling sediment during active and post construction phases of development.
SETBACK	Means a distance additional to minimum yard requirements which may be required on parcels adjacent to the roads. REAR SETBACK JOSE JOSE JOSE JOSE JOSE JOSE JOSE JOSE
SIGHT TRIANGLE	Means an area at the intersection of roads in which all buildings, fences, vegetation and finished ground elevations shall be less than 1.0 m (3.3 ft.) in height above the average elevation of the carriageway, in order that vehicle operators may see approaching vehicles in time to avoid collision.
SIGN	Means any word, letter, model, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction and its supporting structure.
SIGN, A-FRAME	Means a type of sign commonly referred to as "sandwich boards", composed of two (2) hinged or otherwise joined boards which leans on the ground.
SIGN, CANOPY	Means a sign which is part of, or attached to, the outside edge of a canopy but which does not extend below the bottom edge or surface of the canopy.
SIGN, FASCIA	Means a sign attached to, marked or inscribed on and parallel to the face of a building wall but does not include a billboard.
SIGN, FREESTANDING	Means a sign that is supported independently of a building wall or structure but does not include a portable sign.
SIGN, PORTABLE	Means a sign which is not in a permanently installed or affixed position.
SIGN AREA	Means the total surface area within the outer edge of a sign, and, in the case of a sign comprised of individual letters, numerals, or symbols, shall be the area of a rectangle enclosing the letters, numerals, or symbols. Frames and structural members not bearing advertising matter shall not be included in the computation of the area of a sign.
SITE	Means a lot or parcel on which a development exists or for which an application for a development permit is made.
SITE COVERAGE	Means the total percentage of the parcel area covered by buildings or structures, including but not limited to the main building and any additions to it (e.g. covered decks), non-permeable synthetic turf, patios, parking facilities, non-permeable surfaced driveways, outdoor storage and display, and all other impervious surfaces but does not include steps, eaves, or similar projections permitted in this Land Use Bylaw.
SOLAR ARRAY	Means multiple solar panels used in conjunction to produce electricity.
SOLAR ENERGY CONVERSION SYSTEM	Means the complete system required to convert solar rays into useable electricity for private use, including solar panels, mounting equipment and additional required conversion electronics.
	SIGHT TRIANGLE SIGN SIGN, A-FRAME SIGN, CANOPY SIGN, FASCIA SIGN, FEESTANDING SIGN, PORTABLE SIGN AREA SITE SITE SITE COVERAGE SOLAR ARRAY SOLAR ENERGY CONVERSION

174	SOLAR PANEL, FREESTANDING	Means a device which is used to convert energy contained within the sun's rays into electricity, which is not mounted or attached to any other structure for support.
175	STREET	Means any category of road except a lane.
176	STRUCTURAL ALTERATION	Means the addition to, deletion from, or change to any building which requires a permit other than a plumbing, gas or an electrical permit pursuant to the <i>Safety Codes Act</i> , R.S.A. 2000, c. S-01, as amended.
177	SUBDIVISION AND DEVELOPMENT BOARD	Means the Subdivision and Development Appeal Board appointed by Council.
178	SUBSTANDARD LOT	Means a lot created by legal subdivision prior to this bylaw coming into effect which is smaller, in area or in any dimension, than the minimum permitted lot size or dimension stipulated in the regulations of the District in which the lot is located.
179	SUITE, GARAGE	See "Suite, Guest House."
180	SUITE, GUEST HOUSE	Means an accessory building (or portion of an accessory building) containing a bathroom and sleeping facilities for temporary usage only, and shall not have a kitchen or other cooking facilities. A guest house provides additional accommodation for a single-detached dwelling located on the same parcel, is not available for rent by a third party, and does not include recreational vehicles and/or sea cans.
181	SUITE, SECONDARY	Means a self-contained dwelling unit located within a single detached dwelling, and may include cooking, sleeping, and sanitary facilities. PRINCIPAL DWELLING SECONDARY SUITE
182	SUITE, SECURITY	Means a self-contained dwelling unit, either detached or within a building, used to provide accommodation for security personnel in commercial or industrial development.
183	SYNTHETIC TURF	Means a surface of synthetic fibers made to look like natural grass.
		Τ.
184	TEMPORARY USE OR BUILDING	Means a use or development for which a development permit has been issued and which is to exist for a timeframe of up to (but not exceeding) two years, at determined by the Development Authority.
185	TOP OF BANK	Means the upper valley break line or the line defining the uppermost or most obvious topographical discontinuity in slope distinguishing between the upper plateau and the valley wall. The "top of bank" is a natural boundary formed by the action of water for a long enough time to leave its signature on the ground. Unless coincidental, it is not a historic high water mark, a flood line, or the current waterline. An Alberta Land Surveyor may be required to define the top of bank.
186	TOURIST HOME	Means a dwelling unit operated as a temporary place to stay, with compensation, and includes all vacation rentals of a dwelling unit. The characteristics distinguish a tourist home from a dwelling unit used as a residence may include any of the following:

		a. The intent of the occupant to stay for short-term (30 days or less) vacation purposes rather than use the property as a residence;
		b. The commercial nature of a tourist home;
		c. The management or advertising of the dwelling unit as a tourist home or "vacation rental," on any website such as Airbnb or VRBO; and/or
		d. The use of a system of reservations, deposits, confirmations, credit cards, or other forms of electronic payments, etc.
		No recreational vehicle, dwelling unit or guest house suite shall be used as a tourist home.
187	TRAIL	Means an area used for hiking, cross-country skiing or other forms of non- motorized recreational travel.
		U
188	USE	Means the purpose or activity for which a site, a parcel of land, or a lot and any buildings located on it are designed, arranged, developed, or intended, or for which it is occupied or maintained.
189	USE, DISCRETIONARY	Means a use which may be compatible with other uses in the district, for which a Development Permit may be issued upon an application having been made.
190	USE, PERMITTED	Means a use which is compatible with other uses in the district and for which a Development Permit shall be issued provided it otherwise conforms to this Land Use Bylaw.
191	UTILITY BUILDING	 Means the building in which the proprietor of a utility: a. Maintains its office(s), and/or b. Maintains or houses equipment used in connection with the utility and which is not a public utility right-of-way.
		V
192	VACATION RENTAL	Means the licensed use of any type of residential dwelling unit or suite as temporary lodging (less than 30 days at any one time) for paying guests.
		w
193	WALKWAY	Means a public right-of-way for use by pedestrians only, which is registered at the Alberta Land Titles Office as a walkway or a reserve.
194	WALKING TRAIL	Means an unregistered hard or granular surfaced pathway used primarily for leisure and active transportation purposes like walking and bicycling. Note: Added to differentiate from walkway (no right-of-way).
195	WASTEWATER COLLECTION SYSTEM	Means a privately or publicly owned system for treating sewage effluent, recognized by the appropriate regulatory agency, consisting of either a municipal or an on-site on-parcel sewage collection system.
196	WIND ENERGY CONVERSION SYSTEM, LARGE	Means one or more buildings designed to convert wind energy into mechanical or electrical energy, including a wind energy conversion system (WECS) consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of more than 300 kW.
197	WIND ENERGY CONVERSION SYSTEM, MICRO	Means a system of one or more buildings designed to convert wind energy into mechanical or electrical energy which has a rated capacity of less than 0.5 kW. Micro wind energy conversion systems are small in height and diameter and may be installed on the roof of a building.
198	WIND ENERGY CONVERSION SYSTEM, SMALL	Means a system of one or more buildings designed to convert wind energy into mechanical or electrical energy which has a rated capacity of not more than 300 kW and which is intended to

		provide electrical power for use on-site (either behind the meter or off-grid) and is not intended or used to produce power for resale.
199	WOODSHED	Means a structure for the storage of firewood. A woodshed may have a hard or soft surface roof/cover, and shall include a maximum of three walled sides. A woodshed has a maximum floor area of 7.0 m ² (75.0 ft. ²).
		X, Y, Z
200	YARD	Means an open space on the same site as a building and which is unoccupied and unobstructed from the ground upward except as otherwise provided herein.
201	YARD, FLANKAGE	Means the side yard which abuts a street on a corner parcel.
202	YARD, FRONT	 a. In the case of parcels <u>abutting</u> Sylvan Lake or a reserve parcel abutting the lake, a yard extending across the full width of a parcel measured perpendicularly from the boundary of the parcel abutting the lake to the front wall of the principal building, situated on the parcel; or b. In the case of parcels <u>not abutting</u> Sylvan Lake or a reserve parcel abutting the lake, a yard extending across the full width of a parcel measured perpendicularly from the front boundary of the parcel to the front wall of the principal building situated on the parcel.
203	YARD, REAR	 a. In the case of parcels abutting Sylvan Lake or a reserve parcel abutting the lake, a yard extending across the full width of a parcel measured perpendicularly from the rear wall of the principal building situated on the parcel to the boundary abutting the street; or b. In the case of parcels not abutting Sylvan Lake or a reserve parcel abutting the lake, a yard extending across the full width of a parcel measured perpendicularly from the rear wall of the principal building situated on the parcel to the rear property boundary of the parcel.
204	YARD, SIDE	Means a yard extending from the front yard to the rear yard between the side boundary of the parcel and the wall of principal building thereon.

All other words and expressions have the meaning respectively assigned to them in the *Act*, other Acts of the Province of Alberta, or common law.

1.5 ESTABLISHMENT OF FORMS

- 1. For the purpose of administering the provisions of this Land Use Bylaw, the Council shall, by resolution, authorize the preparation and the use of such forms and notices as it may deem necessary.
- 2. Any such forms or notices are deemed to have the full force and effect of this Land Use Bylaw in the execution of the purpose for which they were designed, authorized and issued.

1.6 ESTABLISHMENT OF FEES

1. Development Permit application fees and fees for other matters arising through this Land Use Bylaw will be established by Council in the Summer Village of Norglenwold Fees Bylaw. Council may amend the bylaw to increase, decrease, or establish new fees by an amendment bylaw.

1.7 SEVERABILITY

1. If one or more provisions of this Land Use Bylaw for any reason are declared to be invalid by a court of competent jurisdiction, that decision will not affect the validity of the remaining parts of this Bylaw.

1.8 REPEAL

1. Land Use Bylaw 208/13 and all amendments thereto are hereby repealed.

AGENCIES

2.1 DEVELOPMENT AUTHORITY

- 1. The Development Authority is established by the Summer Village's Development Authority Bylaw.
- 2. The Development Authority shall be appointed by resolution of Council.
- 3. The Development Authority shall be:
 - a. the Municipal Planning Commission of the Summer Village; and the
 - b. the Development Officer of the Summer Village.
- 4. If the decision on a development permit application is to be made by the Municipal Planning Commission, the term Development Authority, when used in this Bylaw, shall be the Municipal Planning Commission.
- 5. If the decision on a development permit application is to be made by the Development Officer, the term Development Authority, when used in this Bylaw, shall be the Development Officer.

2.2 DEVELOPMENT OFFICER

- 1. Council shall appoint one or more Development Officer(s) who shall be designated officers within the meaning of the Act.
- 2. The Development Officer shall perform such duties that are specified in this Land Use Bylaw, including among other things:
 - a. Keeping and maintaining for the inspection of the public during all reasonable hours, a copy of this Land Use Bylaw and all amendments thereto; and
 - b. Keeping a register of all applications for development, including the decisions thereon and the reasons therefore. This information will be released to the public upon request in accordance with the *Freedom of Information and Protection of Privacy Act*.
- 3. The Municipal Planning Commission may act in place of a Development Officer.

2.3 MUNICIPAL PLANNING COMMISSION

- 1. The Municipal Planning Commission:
 - a. Is authorized to act as the Development Authority in those matters prescribed in this Bylaw and the Municipal Planning Commission Bylaw No. 206-12, as amended;
 - b. Shall consider and if necessary state terms and conditions on any other planning or development matter referred by the Development Officer or Administration;
 - c. May direct the Development Officer or Administration to review, research or make recommendations on any other planning and development matter; and
 - d. Make recommendations to Council on planning and development matters.

2.4 SUBDIVISION AUTHORITY

- 1. The Subdivision Authority of the Summer Village shall be as established by the municipality's Subdivision Authority Bylaw to act on behalf of Council in those matters delegated to it by this Bylaw and the Subdivision Authority Bylaw.
- 2. The Subdivision Authority shall be appointed by resolution of Council.

2.5 COUNCIL

1. Council shall be authorized to decide upon all development permit applications within a Direct Control District and to issue such decisions that it sees fit.

AMENDMENTS TO THE LAND USE BYLAW

3.1 AMENDMENTS

- 1. Subject to the Act, any Section of this Bylaw may be amended in accordance with this Bylaw.
- 2. Council may at any time initiate an amendment to this Bylaw by directing the Development Officer to initiate an amendment.
- 1. A person may make application to the Development Officer for amendment to this Land Use Bylaw.
- 2. All applications for amendment to this bylaw shall be accompanied by the following:
 - a. A statement of the specific amendment requested;
 - b. The purpose and reasons for the application;
 - c. If the application is for a change of district:
 - i. the legal description of the lands;
 - ii. a plan showing the location and dimensions of the lands; and
 - iii. a copy of the Certificate of Title for the land affected or other documents satisfactory to the Development Authority indicating the applicant's interest in the said land that is dated within thirty (30) days of application;
 - d. The applicant's interest in the lands; and
 - e. An application fee to be established by resolution of Council.
- 3. If the amendment is for the redistricting of land, the Development Officer may require:
 - a. A conceptual scheme (or area structure plan) for the area to redistricted, to the level of detail specified by the Development Officer that provides Council with information to determine:
 - i. If the site is suitable for the intended use:
 - ii. If the site can be reasonably and cost effectively services; and
 - iii. that the proposed amendment will not unduly impact the rights of adjacent landowners to use and enjoy their property; and
 - b. Payment of a fee equal to the costs incurred by the municipality to review the proposed redesignation and/or related conceptual scheme, or if necessary to prepare a conceptual scheme; and
 - c. Technical studies requested by the Development Officer to assess site suitability and servicing requirements.
- 4. Upon receipt of an application to amend this Land Use Bylaw, the Development Officer shall analyze the potential impacts of development that would result from the proposed amendment. This analysis must consider the full development potential for the proposed amendment and shall, among other things, consider the following impact criteria:
 - a. Relationship to and compliance with approved statutory plans and Council policies;
 - b. Relationship to and compliance with approved statutory plans, conceptual schemes, or plans in preparation;
 - c. Relationship to and compatibility with the Sylvan Lake Intermunicipal Development Plan;
 - d. Compatibility with surrounding development in terms of land use function and scale of development;
 - e. Traffic impacts:
 - f. Relationship to, or impacts on, water and sewage systems, and other public utilities and facilities such as recreation facilities and schools;
 - g. Relationship to municipal land, right-of-way, or easement requirements;
 - h. Effect on stability, retention and rehabilitation of desirable existing land uses, buildings, or both in the area;
 - i. Necessity and appropriateness of the proposed amendment in view of the stated intentions of the applicant; and
 - j. Relationship to the documented concerns and opinions of area residents regarding development implications.

- 5. Upon receipt of an application to amend the Land Use Bylaw, the Development Officer shall:
 - a. prepare a report with recommendations on the proposed amendment for Council and an amending Bylaw for consideration of first reading by Council;
 - b. mail notify or deliver in person a written notice to landowners who are adjacent to the parcel of land affected by the proposed amendment or to a larger area as directed by Council;
 - c. provide notice of the Public Hearing to the applicant, the owner of the subject land if different than the applicant, to all directly adjacent property owners, and any other individuals or organizations identified by Council;
 - d. prepare a report and recommendation, including maps and other material, on the application, prior to a Public Hearing on the application for amendment; and
 - e. inform the applicant of the recommendation to Council.
- 6. Council, in considering an application for an amendment to this Land Use Bylaw, may at its sole discretion:
 - a. Refuse the application; or
 - b. Refer the application for further information; or
 - c. Pass first reading to a bylaw to amend this Land Use Bylaw, with or without amendments; or
 - d. Defeat first reading of a bylaw to amend this Land Use Bylaw; or
 - e. Pass first reading of an alternative amendment to this Land Use Bylaw.
- 7. Following first reading of an amending bylaw, Council shall establish the date, time and place for a public hearing on the proposed bylaw.
- 8. If a bylaw to establish procedures for public hearings has not been passed, the Summer Village shall:
 - a. Outline the procedures to be followed by any person, group of persons or person representing them who wish to be heard at the public hearing; and
 - b. Outline the procedure for conducting the public hearing.
- 9. Following first reading of an amending bylaw, the Development Officer must give notice of the public hearing by:
 - a. Publishing notice at least once a week for two (2) consecutive weeks in at least one (1) newspaper or other publication circulating in the area to which the proposed bylaw relates; or
 - b. Mailing or delivering notice to every residence in the Summer Village.
- 10. A notice of a public hearing must be advertised at least five (5) days before the public hearing occurs.
- 11. A notice must contain:
 - a. A statement of the general purpose of the proposed bylaw and public hearing;
 - b. The address where a copy of the proposed bylaw and any document relating to it or the public hearing may be inspected; and
 - c. The date, place and time where the public hearing will be held.
- 12. In the case of an amendment to change the district designation of a parcel of land, the Development Officer must, in addition to the requirements of Section 3.1.11::
 - a. Include in the notice:
 - i. The municipal address, if any, and the legal address of the parcel of land; and
 - ii. A map showing the location of the parcel of land;
 - b. Give written notice containing the information described in Section 3.1.12 to the owner of that parcel of land at the name and address shown on the certificate of title (or tax roll); and
 - c. Give written notice containing the information described in Section 3.1.12 to each owner of adjacent land at the name and address shown for each owner on the tax roll of the municipality.
- 13. If the land referred to in Section 3.1.13.c is in an adjacent municipality, the written notice must be given to that municipality and to each owner of adjacent land at the name and address shown for each owner on the tax roll of that municipality.

- 14. Notwithstanding Sections 3.1.7 to 3.1.9, the Land Use Bylaw may be amended without giving notice or holding a public hearing if the amendment corrects clerical, technical, grammatical, or typographical errors and does not materially affect the Land Use Bylaw in principle or substance.
- 15. In the public hearing, Council:
 - a. Must hear any person, group of persons, or person representing them, who claim(s) to be affected by the proposed bylaw and who has complied with the procedures outlined by Council; and
 - b. May hear any other person who wishes to make representations and whom the Council agrees to hear.
- 16. After considering the representations made to it about the proposed bylaw at the public hearing and after considering any other matter it considers appropriate, Council may:
 - a. Pass the bylaw;
 - b. Defer it for further information or comment;
 - c. Make any amendment to the bylaw it considers necessary and proceed to pass it without further advertisement or hearing; or
 - d. Defeat the bylaw.
- 17. Prior to third reading of the proposed bylaw, Council may require the applicant to apply for a Development Permit and negotiate a development agreement in respect of the proposal which initiated the application for amendment.
- 18. After third reading of the proposed bylaw, the Development Officer shall send a copy of it to:
 - a. The applicant;
 - b. The registered owner of the land if not the applicant;
 - c. The municipality Planner; and
 - d. The adjacent municipality, if it received a copy of the proposed bylaw pursuant to Section 3.1.13.
- 19. The Development Officer shall not accept an application for an amendment which is identical or similar to an application which was refused by Council, for a period of six (6) months after the date of the refusal unless, in the opinion of the Development Officer, the reasons for refusal have been adequately addressed or the circumstances of the application have changed significantly.

PERMITS, PROCEDURES, AND CONTRAVENTIONS

4.1 CONTROL OF DEVELOPMENT

- 1. Development Permits are required to ensure that all development is achieved in an orderly manner.
- 2. No development other than that designated in Section 4.2 shall be undertaken within the Summer Village unless an application for it has been approved and a development permit has been issued.
- 3. In addition to meeting the requirements of this Bylaw, it is the responsibility of the applicant to ensure and obtain other required provincial and federal approvals, permits and/or licenses.
- 4. Further, in addition to meeting the requirements of this Bylaw, it is the responsibility of the applicant to ensure that their development is consistent with the conditions of any registered easements or covenants which affect the subject site.
- 5. Notwithstanding Section 4.1.2 above, where a variance to any regulation in this Bylaw is required for any development listed in Section 4.2, a development permit shall be required.

4.2 DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT

- 1. The following development shall not require a development permit provided that the development otherwise complies with all other regulations of this Bylaw:
 - a. The carrying out of works of improvement, maintenance, repairs or renovation to any, but not limited to, building, deck, and/or driveway provided that such works do not include structural alterations, additions, or drainage alterations and that the works comply with the regulations of this Land Use Bylaw.
 - b. The completion of any development which has lawfully commenced before the passage of this Land Use Bylaw or any amendment thereof, provided that the development is completed in accordance with the terms of any permit granted in respect of it, and provided that it is completed within twelve (12) months of the date of notification of the permit;
 - c. The use of any such development as is referred to in Section 4.2.1.b for the purpose for which development was commenced;
 - d. The erection or construction of gates, fences, walls or other means of enclosures less than:
 - i. 1.0 m (3.3 ft.) in height in front yard;
 - ii. 1.0 m (3.3 ft.) in height in rear yards on lakefront lots; and
 - iii. and less than 2.0 m (6.6 ft.) in other yards;

and the maintenance, improvement and other alterations of any gates, fences, or walls or other means of enclosure unless the gate, fence, wall, etc. exceeds the regulations indicated in Section 9.4;

- e. A temporary building other than a dwelling, the sole purpose of which is incidental to the carrying out of a development for which a permit has been issued under this Land Use Bylaw;
- f. The installation, maintenance and repair of public works, services, or utilities carried out by or on behalf of federal, provincial, and/or municipal authorities on land that is publicly owned or controlled;
- g. For the maintenance of private sewer systems that can be undertaken without excavation of all or part of the system;
- h. Any development carried out by or on behalf of the Crown;
- i. Any development carried out by or on behalf of the municipality provided that such development complies with all applicable provisions of this Land Use Bylaw;
- j. Up to a maximum of two (2) accessory buildings with a floor area of 9.5 m² (102.3 ft.²) or less each and a building height of 2.5 m (8.2 ft.) or less on a lot, including garden or tool sheds, workshops, potting sheds and other similar structures provided that they are moveable and provided they otherwise comply with the provisions of this Land Use Bylaw.
- k. Development specified in section 618 (1) and (4) of the Act, which includes:
 - i. A highway or road;
 - ii. A well or battery within the meaning of the Oil and Gas Conservation Act;

- iii. A pipeline or an installation or structure incidental to the operation of a pipeline; or
- iv. Any other thing specified by the Lieutenant Governor in Council by regulation, which includes but is not limited to construction of buildings or the construction or installation of equipment, navigational aids, and communications systems for use in connection with the operation of airports owned by or on land vested in the Crown in right of Canada, the Crown in right of Alberta, or a municipal corporation;
- I. The erection of one (1) unilluminated sign of the following nature and size for each use within a building or on a parcel, provided such signs do not resemble or conflict with traffic signs;
 - i. A facia sign or freestanding sign for the purpose of identification, direction and warning not exceeding 0.2 m² (2.15 ft.²);
 - ii. A facia sign or freestanding sign relating to a person, partnership or company carrying on a profession, business or trade not exceeding 0.3 m² (3.23 ft.²);
 - iii. A facia sign or freestanding sign relating to a religious, educational, cultural, recreational or similar institution not exceeding 1.0 m² (10.76 ft.²);
 - iv. A portable sign or notice, relating to the sale or lease of land or buildings, sale of goods or livestock by auction, carrying out of construction, or the announcement of any local event of a religious, educational, cultural, political, or governmental nature not exceeding 3.0 m² (32.3 ft²) and limited in display to the period of completion of the sale, lease, construction or event; and
 - v. A flag attached to a single upright flag-pole;
- m. landscaping where the proposed grades will not adversely affect the subject or adjacent properties or result in an increase in surface water and sediment run-off into Sylvan Lake;
- n. development within a basement that does not change or add to the uses within a dwelling;
- o. a minor home occupation;
- p. apiaries for the keeping of a colony of up to 1,000 bees and no more than 1 queen;
- q. the erection of campaign signs for federal, provincial, municipal or school board elections on privately-owned lots for no more than thirty (30) days, or such time as regulated under provincial or federal legislation provided that:
 - i. such signs are removed within one (1) day after the election date;
 - ii. such signs do not obstruct or impair vision or traffic; and
 - iii. such signs indicate the name and address of the sponsor and the person responsible for removal;
- r. roof mounted solar energy collection systems;
- s. a maximum of one woodshed with a floor area not more than 7.0 m² (75.0 ft^{.2});
- t. pergolas less than 10.0 m² (107.6 ft.²) in area and less than 4.3 m (14.1 ft.) in height;
- u. micro wind energy conversion systems; and
- v. the demolition or removal of any building or structure for which erection a development permit would not be required pursuant to Section 4.2.1.a to 42.1.u, both inclusive.

4.3 NON-CONFORMING BUILDINGS AND USES

- 1. A non-conforming use of land or a building may be continued, but if that use is discontinued for a period of six (6) consecutive months or more, any future use of the land or building must conform to this Bylaw.
- 2. A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made thereto or therein.
- 3. A non-conforming use of part of a lot may not be exceeded or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed upon the lot while the non-conforming use continues.
- 4. A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except:
 - a. to make it a conforming building;
 - b. for the routine maintenance of the building, if the Development Authority considers it necessary; or

- c. in accordance with the variance powers possessed by the Development Authority pursuant to the *Act* and this Bylaw to approve a development permit despite any non-compliance with the regulations of this Bylaw.
- 5. If a non-conforming building is damaged or destroyed to the extent of more than seventy-five percent (75%) of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with this Bylaw.
- 6. The use of land or the use of a building is not affected by a change of ownership, tenancy, or occupancy of the land or building.

4.4 APPLICATION FOR DEVELOPMENT

- 1. An application for development permit shall be completed and submitted to the Development Officer in writing, in the form required by the Development Officer, and shall be accompanied by:
 - a. post construction site and building elevations;
 - b. floor plans, elevations and sections of any proposed buildings, including the lowest floor elevation in either the basement or on the main floor in the principal and accessory buildings;
 - c. landscaping plans, including the location of existing and proposed trees, shrubs, grassed areas, fences, screenings, and outdoor furniture on the site and on adjacent boulevards within road rights-of-way;
 - d. drainage plans;
 - e. a Real Property Report;
 - f. a scaled site plan showing:
 - i. proposed site coverage, and as a percentage calculation of the total lot area;
 - ii. front, side and rear yards;
 - iii. north point;
 - iv. legal description of the property;
 - v. access and egress points to the property; and
 - vi. the location and dimensions of existing and proposed municipal and private local improvements, principal building and other structures including accessory buildings, garages, carports, fences, driveways, paved areas, access and egress points to the parcel, and major landscaped areas including buffering and screening areas where provided; and
 - g. a statement of existing and proposed use(s) or occupancy of all parts of the land and buildings, and such other information as may be required by the Development Officer.
- 2. Where a proposed development or redevelopment is within 30.0 m (98.4 ft.) of the top of bank or high water mark of Sylvan Lake, a Development Design Plan shall be submitted as part of a development permit application and enforced as a condition of approval. Determining which feature (top of bank or the high water mark of Sylvan Lake) is appropriate will be at the discretion of the Development Authority. Submission of the Development Design Plan shall be in accordance with the applicable policies of the Sylvan Lake Intermunicipal Development Plan.
- 3. In making a decision, the Development Authority may also require additional information in order to assess the conformity of a proposed development with this Bylaw before consideration of the development permit application shall commence. Such information may include (but not limited to):
 - a. A geotechnical report, assessment or investigation prepared by a qualified geotechnical engineer for any proposed development, redevelopment, clearing or grading, excavation or adding fill within escarpment areas having ten (10) percent or greater slopes. The proposed development plan must show slope setback distances, cross-sections of the slope area both before and after development and final grading. The height and existing angle of the slope shall be verified by accurate historical survey data or site specific information completed by a qualified surveyor;
 - b. A geotechnical report, prepared by a qualified geotechnical engineer, outlining seasonally adjusted and recommended water tables, location of on-site storage of sewage, and recommended building foundations, basement construction and soil bearing capabilities;
 - c. A visual impact assessment prepared by a qualified professional that assesses the impact of new development on view corridors and provides mitigation steps;
 - d. An environmental review prepared by a qualified professional, which shall include but is not limited to:
 - i. A description of the environmental sensitivity of the lands proposed for development and the surrounding area;

- ii. The identification of the nature and significance of any adverse impacts associated with the proposed development during construction;
- iii. The identification of the nature and significance of any adverse impacts associated with activities that will result from the development; and
- iv. The inclusion of an environmental protection plan to:
 - 1. Alleviate any adverse impacts;
 - 2. Monitor the performance of the environmental measures; and
 - 3. Identify any residual impacts and their significance on any or all of the following: fish and wildlife, vegetation, soils and terrain, water quantity and quality, shoreline, surface drainage and aquifers.
- e. the location of existing and proposed municipal and private stormwater and sanitary sewage collection and disposal, and water supply and distribution utilities, landscaped areas and buffering and screening;
- f. the height and horizontal dimensions of all existing and proposed buildings;
- g. outlines of roof overhangs on all buildings;
- h. existing and proposed elevations on the site and on adjacent sites, roads and lanes;
- i. a construction management plan;
- j. a hydrogeological assessment;
- k. a wetland assessment;
- I. a biophysical assessment;
- m. a historic resource impact assessment;
- n. future development plans for a site which is to be partially developed through the applicable development permit;
- o. in the case of a proposed home occupation, information concerning the number of employees, the location of any goods to be kept or stored, and an estimate of the number of client visits to be expected to the site each week;
- p. any other information or tests required by the Development Authority, at their discretion, respecting the site or adjacent lands, including an environmental screening of the site, geotechnical reports and/or flood hazard mapping;
- q. a statutory declaration indicating that the information supplied is accurate; and
- r. for a moved in (relocated) building, pictures of the exterior of the structure which provide information relating to the age and condition of the building and its compatibility with the Land Use District in which it is to be located.
- 4. In addition to the information requirements indicated above, an application for a development permit for landscaping or the excavation or stripping of land that is proposed without any other development on the same land shall also include:
 - a. An illustration indicating the location and area of the site where the landscaping or excavation is to take place;
 - b. A plan showing the existing trees and/or shrubs and identification of the trees and/or shrubs to be removed and/or added;
 - c. A statement on why the trees and/or shrubs are proposed to be removed and/or added;
 - d. The type and dimensions including average depth of the excavation to be done, and the potential, if any, to affect existing drainage patterns on and off the site;
 - e. The depth and variation in depth of groundwater encountered in test holes, if required at the discretion of the Development Authority;
 - f. The identification of potential for outdoor noise and the discharge of substances into the air,
 - g. Details outlining the measures that will be taken to ensure the integrity of trees and/or shrubs adjacent to those proposed to be removed is not compromised;
 - h. The condition in which the site is to be left when the operation is complete, including the action which is to be taken for restoring the condition of the surface of the land to be affected, and for preventing, controlling or lessening erosion or dust from the site;
 - i. An indication of all municipal servicing costs associated with the development;
 - i. The proposed haul route, dust control plan and expected hours of operation; and

- k. A statement may be required, at the discretion of the Development Officer, from a qualified environmental specialist or another qualified professional assessing the implications of tree and/or shrub removal will have on Sylvan Lake water quality, habitat and slope stability if applicable.
- 5. The Development Authority may refuse to accept an application for Development Permit where the information required by Sections 4.3.1, 4.3.2, and 4.3.3 has not been supplied or where, in the opinion of the Development Authority, the quality of the material supplied is inadequate to properly evaluate the application.
- 6. The Development Authority may deal with an application and make a decision without all of the information required by subsection Sections 4.3.1, 4.3.2, and 4.3.3 if it is the opinion of the Development Authority that a decision on the application can be properly made without such information.
- 7. Each application for a Development Permit shall be accompanied by a non-returnable processing fee, the amount of which shall be determined from time to time by resolution of Council.

4.5 PROCESSING OF DEVELOPMENT PERMIT APPLICATIONS

- 1. The Development Officer shall:
 - Receive all applications for a Development Permit;
 - b. Assess and provide notice in writing of a complete or incomplete application as required in Section 683.1 of the Act;
 - c. Refer all applications for development which would result in permanent overnight accommodation, including dwelling units, or public facilities to the Alberta Energy Regulator, if any of the land which is the subject of the application is within 1.5 km (0.9 miles) of a sour gas facility and the proposed development is not, in the opinion of the Development Authority, an infill development;
 - d. Refer any application to a municipality or agency as required by the Sylvan Lake Intermunicipal Development Plan or the Summer Village of Norglenwold Municipal Development Plan;
 - e. Refer any application to an adjacent municipality or any other agency or person which in their opinion may provide relevant comments or advice respecting the application;
 - f. Consider and decide on applications for Development Permit which meet the standards of this Land Use Bylaw for permitted uses; and
 - g. Refer with his/her recommendations, to the Municipal Planning Commission for its consideration and decision on all other applications for a Development Permit.
- 2. Notice of Complete or Incomplete Application
 - a. The Development Officer shall within twenty (20) days of the receipt of an application for a development permit, determine whether the application is complete.
 - b. The time period referred to in Section 4.5.2(a) may be extended by an agreement in writing between the applicant and the Development Authority.
 - c. An application is complete if, in the opinion of the Development Officer, the application contains the documents and other information necessary to review the application.
 - d. If the Development Officer determines that the application is complete, the Development Officer shall issue to the applicant, in writing or electronically, an acknowledgment that the application is complete.
 - e. If the Development Officer determines that the application is incomplete, the Development Authority shall issue to the applicant a notice, in writing or electronically, that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the Development Officer in order for the application to be considered complete.
 - f. If the applicant fails to submit all the outstanding information and documents on or before the date referred to in Section 4.5.2(e), the Development Officer may deem the application to be refused.
 - g. Despite the Development Officer having issued an acknowledgment under Section 4.5.2(e) or 4.5.2(f), in the course of reviewing the application, the Development Officer may request additional information or documentation from the applicant that the Development Officer considers necessary to review the application.

- 3. Upon receipt of a completed application for a development permit, the Development Authority:
 - a. shall approve, with or without conditions, an application for a permitted use where the proposed development conforms to this Bylaw;
 - b. shall refuse an application for a permitted use if the proposed development does not conform with this Bylaw, subject to Section 4.4.3(d);
 - c. may refuse or approve, with or without conditions, an application for a discretionary use where the proposed development conforms to this Bylaw;
 - d. may approve, with or without conditions, an application for a permitted or discretionary use with variances to the Bylaw;
 - e. prior to making a decision, the Development Authority may refer any application for a permitted or discretionary use to any municipal department, external agency or adjacent landowners for comment.
- 4. For a permitted use in any district:
 - a. The Development Officer shall approve, with or without conditions, an application for a Development Permit where the proposed development conforms in every respect to this Land Use Bylaw, the *Act*, the *Subdivision and Development Regulations*, approved statutory plans, and the Sylvan Lake Intermunicipal Development Plan; or
 - b. If an application for a Development Permit for a permitted use does not conform to the requirements of this Land Use Bylaw, the *Act*, the *Subdivision and Development Regulations*, approved statutory plans, and the Sylvan Lake Intermunicipal Development Plan, the Development Officer:
 - i. May refuse the application giving reasons for the refusal; or
 - ii. May consider issuing a variance (not greater than 15% of the applicable requirement of this Land Use Bylaw), consistent with the provisions in Section 4.7 Variances of this Land Use Bylaw; or
 - iii. May approve the application subject to conditions to ensure that the application conforms to the requirements of the Land Use Bylaw, the *Act*, the *Subdivision and Development Regulations*, approved statutory plans, and the Sylvan Lake Intermunicipal Development Plan.
- 5. For a discretionary use in any land use district:
 - a. The Municipal Planning Commission may approve an application for a Development Permit:
 - i. With or without conditions;
 - ii. Based on the merits of the proposed development, including its relationship to any approved statutory plan, non-statutory plan, or approved policy, affecting the site;
 - b. If an application for a Development Permit for a discretionary use does not conform to the requirements of this Land Use Bylaw, the *Act*, the *Subdivision and Development Regulations*, approved statutory plans, and the Sylvan Lake Intermunicipal Development Plan, the Municipal Planning Commission:
 - i. May refuse the application giving reasons for the refusal; or
 - ii. May consider issuing a variance consistent with the provisions in Section 4.7 Variances of this Land Use Bylaw; or
- 6. May approve the application subject to conditions to ensure that the application conforms to the requirements of the Land Use Bylaw, the *Act*, the *Subdivision and Development Regulations*, approved statutory plans, and the Sylvan Lake Intermunicipal Development Plan. The Development Authority may require with respect to a development that, as a condition of issuing a Development Permit, the applicant:
 - a. Submit a Real Property Report at the footings stage specifying the location of the development on the parcel; and
 - b. Enter into an agreement with the municipality to do all or any of the following:
 - i. To construct or pay for the construction of a road required to give access to the development;
 - ii. To construct or pay for the construction of pedestrian walkway systems;
 - iii. To install or pay for the installation of utilities that is necessary to serve the development;

- iv. construct or pay for the construction of off-street or other parking facilities, loading and unloading facilities;
- v. To pay an off-site levy or redevelopment levy imposed by bylaw;
- vi. To require the applicant to be responsible for the repair of any damage to the municipality's lands and works including but not necessarily confined to roads, drainage courses, trees and fences; and
- c. To pay to the municipality the costs paid by the municipality to any engineer or any other person for materials testing, inspections, monitoring of construction, review of construction drawings, and legal costs and expenses to which the municipality is put in connection with the development agreement and agreement relates;
- d. To whom a Development Permit has been issued shall obtain, where applicable, from the appropriate authority, permits relating to building, electricity, gas, plumbing and sewage disposal, and all other permits required in connection with the proposed development; and
- e. Shall be financially responsible during construction for any damage caused by the applicant, his/her servants, employees, suppliers, agents or contractors to any public or private property.
- 7. Prior to imposing any condition upon the issue of a Development Permit pursuant to Section 4.4.6, the Development Authority shall consult with Council as may be required in the circumstances and shall specify the terms and content of the agreement in the condition in the Development Permit.
 - The Development Authority may refuse to accept an application for a development permit if the application is for a similar development on the same property as a development permit which was applied for and refused by the Development Authority or the Subdivision and Development Appeal Board within six (6) months of the date of the current application.
- 8. After receipt of a development permit application, the Development Authority shall give notice to the applicant by email as per the email address listed on the Development Permit Application, that the application is deemed complete or incomplete.
 - a. If the application is deemed incomplete, the notice shall contain any outstanding documents and information required, and a date the outstanding documents and information shall be submitted, set out in the notice or a later date agreed on between the applicant and the development authority in order for the application to be considered complete.
 - b. If the applicant fails to submit all the outstanding information and documents on or before the date referred to in the email, the application is deemed to be refused. The development authority must issue to the applicant a notice by ordinary mail.

4.6 DEVELOPMENT AGREEMENTS AND CONDITIONS

- 1. The Development Authority may require that as a condition of issuing a development permit, the applicant to enter into an agreement to:
 - a. Construct or pay for the construction of public roadways, pedestrian walkways, or parking areas; and/or
 - b. Complete lot grading; and/or
 - c. Provide finished ground elevations; and or
 - d. Provide for the control of offsite drainage; and/or
 - e. Install or pay for the installation of utilities; and/or
 - f. Pay for an off-site levy or redevelopment levy imposed by bylaw.
- 2. A refundable completions deposit will be required when a development permit is issued. At the discretion of the Development Authority, the amount will depend on the estimated project cost, as establish. The deposit shall be refunded after completion of the construction including landscaping as per the development permit, subject to the Summer Village's Development Completions Deposit Policy.
- 3. To ensure compliance with the development agreement, the Summer Village may:
 - a. register a caveat against the certificate of title of the property that is being developed. This caveat shall be discharged when conditions of the development agreement have been met; and
 - b. require securities in the form of cash or an irrevocable letter of credit, satisfactory to the Development Authority.

4.7 VARIANCES

- 1. The Development Officer may consider issuing a variance for a permitted use, where the variance requested does not exceed 10% of the applicable requirement of this Land Use Bylaw, and the requested variance does not affect maximum site coverage or maximum building height requirements.
- 2. The Municipal Planning Commission may grant a variance to reduce the requirements of any use of the Land Use Bylaw and that use will be deemed to comply with this land use bylaw.
- 3. The Municipal Planning Commission may approve an application for Development Permit even though the proposed development does not comply with the regulations of this bylaw or if the development is to be a rebuilding, an enlargement, an addition, or a structural alteration of a non-conforming building if, in the opinion of the Municipal Planning Commission;
 - a. The proposed development would not:
 - i. Unduly interfere with the amenities of the neighbourhood; or
 - ii. Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
 - b. The proposed development conforms to the use prescribed for that land or building in this bylaw.
- 4. In approving an application for development pursuant to Sections 4.7.2.a and 4.7.2.b, the Municipal Planning Commission shall adhere to the following:
 - a. A variance shall be considered only where warranted by the merits of the proposed development and in response to irregular parcel lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements. Except as otherwise provided in this bylaw, there shall be no variance from the following:
 - i. Site coverage; and
 - ii. Building height.
 - b. Where a variance is granted, the nature of the approved variance shall be specifically described in the Development Permit approval.
 - c. Where the issuance of a Development Permit involves the exercise of any specified discretion of the Municipal Planning Commission to relax a regulation of a district or any other regulation of this bylaw, the Municipal Planning Commission shall not permit any additional variance from that regulation.

4.8 NOTICE OF DECISION

- 1. When a development permit has been issued for a permitted use and no variance to any regulation has been granted, the Development Authority shall within five (5) working days after the decision on a development permit application has been granted, send a notice by regular mail of the decision to the applicant and post a notice on the Summer Village's website. Mailing the notice is not required when an applicant picks up a copy of the decision.
- 2. In addition to the above, within five (5) working days after a decision on a development permit application for a **discretionary use** or after a variance has been granted, the Development Officer shall:
 - a. send notice by regular mail (or by electronic mail if agreed to in advance by the applicant) to all affected adjacent land owners, as identified on the Summer Village Assessment Roll, to provide notice of the decision and right of appeal; and
 - b. post notice of the decision on the Summer Village's website; and
 - c. send notice by regular mail (or by electronic mail if agreed to in advance by the applicant) to any other landowner, business, agency, adjacent municipality, person, group, organization or similar body that the Development Authority deems may be affected to provide notice of the decision and right of appeal.
- 3. The notice indicated in **Sections 4.8.1 and 4.8.2** shall state:
 - a. the legal description and the street address of the site of the proposed development;
 - b. the uses proposed for the subject development,
 - c. any discretion that was granted in the approval of the development, whether by use or by interpretation of this Bylaw, and any variation or relaxation in regulation that was made by the Development Authority when the development permit was approved;
 - d. the date the development permit was issued;

- e. whether an appeal lies to the subdivision and development appeal board or to the Land and Property Rights Tribunal; and
- f. how an appeal might be made and the deadline for such appeal.
- 4. Pursuant to this Section, a permit granted pursuant to this Part does not come into effect until twenty-one (21) days after the date that notice of the decision, or development permit is received. For the purposes of this Bylaw, notice is deemed to be received on the 5th day after the date of the issuance of the decision or permit. Any development proceeded with by the applicant prior to the expiry of this period is done solely at the risk of the applicant.
- 5. Where an appeal is made, a development permit which has been granted shall not come into effect until the appeal has been determined and the permit has been confirmed, modified or nullified thereby.
- 6. If the development authorized by a permit is not commenced within twelve (12) months from the date of the date of the issue of the development permit, and completed within twelve (12) months of the commencement of the development, the permit is deemed to be void.
- 7. A development, once begun, shall not be abandoned or left for an extended period of time in what the Development Authority considers to be an unsightly or unsafe condition.
- 8. The application may be responsible for any damages to public or private property occurring as a result of development.
- 9. A decision of the Development Authority on an application for a development permit shall be given in writing.

4.9 CANCELLATION

- 1. The Development Authority may cancel a Development Permit if:
 - a. The permit was issued in error; or
 - b. The permit was issued on the basis of incorrect information.

4.10 COMPLIANCE WITH OTHER LEGISLATION

- 1. Compliance with the requirements of this Land Use Bylaw does not exempt any person from:
 - a. The requirements of any federal, provincial or municipal legislation; and
 - b. Complying with any easement, covenant, agreement or contract affecting the development.

SUBDIVISION OF LAND

5.1 SUBDIVISION APPLICATION REQUIREMENTS

- 1. All Subdivision applications for lands within the Summer Village of Norglenwold shall comply with the provisions under this Section.
- 2. Approval of an area structure plan or conceptual scheme, prepared by a Registered Professional Planner (RPP), is required for multi-lot subdivisions that will result in a total of six (6) or more lots within a quarter section including the remainder of the quarter section. Additional supporting information may be required depending on the magnitude and complexity of the proposed subdivision.
- 3. A subdivision application may be submitted by:
 - a. the registered owner of the land to be subdivided; or
 - b. a person with written authorization to act on behalf of the registered owner.
- 4. Multi-lot subdivisions shall be developed in accordance with the provisions of the land use district affecting the subject site at time of application.
- 5. If the proposed subdivision requires an environmental assessment under the *Canadian Environmental Assessment Act*, the applicant shall file an environmental assessment in accordance with the *Canadian Environmental Assessment Act*. A copy of the environmental assessment shall be submitted with the subdivision application.
- 6. If the proposed subdivision is required to obtain assessments and/or approvals from relevant Federal or Provincial agencies and organizations, the applicant shall file and obtain the appropriate reports and/or approvals with relevant agencies and organizations. A copy of the required reports and/or approvals or licenses shall be submitted with the subdivision application.
- 7. Information on abandoned oil and gas wells as required by the *Subdivision and Development Regulations* and Alberta Energy Regulator Directive 079 shall accompany every subdivision application.
- 8. The tentative plan of subdivision shall:
 - a. clearly outline the location, dimensions, and boundaries of the land which the applicant wishes to subdivide;
 - b. show the location, dimensions and boundaries of:
 - i. each new lot to be created;
 - ii. reserve land(s), if required;
 - iii. the rights-of-way of each public utility, if required; and
 - iv. other rights-of-way, if required;
 - c. indicate the use, location, and dimensions of existing buildings on the land that is the subject of the application, if any, and specify whether the buildings are proposed to be demolished or moved;
 - d. show the location of any river, stream, watercourse, lake, or other body of water (natural or man-made) that is contained within the boundaries of the proposed parcel of land;
 - e. identify the location of any existing or proposed water wells, the locations and type of any private sewage disposal system(s), and the distance from these to existing or proposed buildings and property lines;
 - f. include information provided by the Alberta Energy Regulator identifying the location of any active wells, batteries, processing plants or pipelines within the proposed subdivision; and
 - g. identify the existing and proposed access to the proposed parcels and the remainder of the titled area.
- 9. The Summer Village may also require an applicant to submit to the Subdivision Authority any or all of the following:
 - a. a figure showing topographic contours at no greater than 1.5 m (4.9 ft.) intervals;
 - b. if the proposed subdivision is not to be served by a water distribution system, information supported by the report of a qualified professional, registered in the Province of Alberta, respecting the provision, availability, and suitability of potable water on or to the land to be subdivided;

- c. an assessment of subsurface characteristics of the land that is to be subdivided including, but not limited to, susceptibility to slumping or subsidence, depth to water table, and suitability for any proposed on-site sewage disposal system(s), prepared and signed by a qualified professional registered in the Province of Alberta;
- d. a storm water management plan, prepared by a qualified professional, which must be approved by Alberta Environment and Parks including:
 - i. topography;
 - ii. proposed minor drainage system (ditches/pipes/catch basin locations/flow rate);
 - iii. proposed major drainage systems (direction of surface drainage/flow rate);
 - iv. proposed on-site detention/retention facility (location/size/capacity);
 - v. location of outflow/outfall structures; and
 - vi. any related modeling and calculation information;
- e. if the land that is the subject of an application is located in a potential Flood Plain, a figure showing the 1:100-year Flood Plain or highest and most frequent rain event series relevant to flooding of the land;
- f. information respecting the land surface characteristics of land within 0.8 km (0.5 miles) of the land proposed to be subdivided;
- g. if any portion of the parcel of land affected by the proposed subdivision is situated within 1.5 km (0.9 miles) of a sour gas facility, a map showing the location of the sour gas facility; and
- h. where the proposed subdivision is staged or includes only a portion of the developable area within the subject site, an approved area structure plan or conceptual scheme that relates the application to future subdivision and development of adjacent lands.

5.2 SUBDIVISION PROCESS

- 1. The Subdivision Authority shall:
 - a. attend a pre-application submission meeting with development proponents (as requested);
 - b. receive all applications for subdivision applications; and
 - c. assess and provide notice of a complete or incomplete application;
 - d. issue notices in writing as required in the Act.
- 2. Notice of Complete or Incomplete Application
 - a. The Subdivision Authority shall within twenty (20) days of the receipt of an application for subdivision, determine whether the application is complete.
 - b. The time period referred to in **Section 5.2.2.a** may be extended by an agreement in writing between the applicant and the Subdivision Authority or, if applicable, in accordance with the Land Use Bylaw made pursuant to section 640.1(a) of the *Act*.
 - c. An application is complete if, in the opinion of the Subdivision Authority, the application contains the documents and other information necessary to review the application.
 - d. If the Subdivision Authority determines that the application is complete, the Subdivision Authority shall issue to the applicant, in writing or electronically, an acknowledgment that the application is complete.
 - e. If the Subdivision Authority determines that the application is incomplete, the Subdivision Authority shall issue to the applicant a notice, in writing or electronically, that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the Subdivision Authority in order for the application to be considered complete.
 - f. If the applicant fails to submit all the outstanding information and documents on or before the date referred to in Section 5.2.2.e, the Subdivision Authority must deem the application to be refused.
 - g. Despite that the Subdivision Authority has issued an acknowledgment under Section 5.2.2.d or 5.2.2.e, in the course of reviewing the application, the Subdivision Authority may request additional information or documentation from the applicant that the Subdivision Authority considers necessary to review the application.

5.3 DUTIES OF THE SUBDIVISION AUTHORITY

- 1. Upon receipt of a completed subdivision application, the Subdivision Authority:
 - a. shall approve, with or without conditions, a subdivision application for a permitted use where the proposed subdivision conforms to:
 - i. this Bylaw;
 - ii. applicable statutory plans; and
 - iii. the Act and the Regulations thereunder;
 - b. shall refuse an application for a subdivision if the proposed subdivision does not conform with:
 - i. applicable statutory plans; and/or
 - ii. the Act and the Regulations thereunder;
 - c. shall refuse an application for a subdivision if the proposed subdivision does not conform with this Bylaw, subject to subsection (d);
 - d. may approve, with or without conditions, an application for subdivision that does not comply with this Bylaw if, in the opinion of the Subdivision Authority, the proposed subdivision:
 - i. would not unduly interfere with the amenities of the neighbourhood;
 - ii. would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
 - iii. conforms to the use prescribed for that land in this Bylaw.
 - e. prior to making a decision, shall refer the subdivision application to any external agencies and adjacent landowners for comment and may refer the subdivision application to any municipal department as required.

5.4 SUBDIVISION REQUIREMENTS AND CONDITIONS

- 1. The Subdivision Authority of the Summer Village of Norglenwold shall abide by the requirements of and consider the matters indicated in Sections 652 to 670 of the *Act*.
- 2. Subdivision approvals must comply with Part 17 and 17.1 of the Act and the Regulations therein.
- 3. For the purposes of this Bylaw, an unsubdivided quarter section shall include those quarter sections where a separate title exists for a public utility or an institutional use.
- 4. Where the development involves a subdivision of land, no development permit shall be issued until the subdivision has been registered with Land Titles.
- 5. More than one active subdivision application will not be allowed affecting a single titled area. Where a subdivision is proposed for a titled area which is, at time of receipt of the new application, affected by an active subdivision file, the new application will not be accepted and processed until the existing open file has been closed or finalized to the satisfaction of the Summer Village's Subdivision Authority.
- 6. The Subdivision Authority shall not approve a subdivision which is inconsistent with the Summer Village of Norglenwold Municipal Development Plan and/or the provisions of any statutory plans that affect the land proposed to be subdivided.
- 7. As a condition of subdivision approval, Environmental Reserves will be taken according to Section 664 of the *Act*; either in the form of a lot (ownership transferred to the Summer Village) or as an Environmental Reserve Easement (private ownership is retained). The Summer Village may require that the proponent provide hazard land as Environmental Reserve as a condition of subdivision approval.
- 8. Property taxes must be up to date prior to final endorsement of any Subdivision within the Summer Village of Norglenwold.
- 9. The developer may be required to provide for Inclusionary Housing in accordance with the Act and the Regulations therein.
- 10. All proposed parcels being created shall be designed to not, in the opinion of the Subdivision Authority, prejudice the future efficient development of the remainder lot.

PROCESS FOR APPEALS

6.1 DEVELOPMENT APPEALS

- 1. An appeal may made if the Development Authority:
 - a. Fails or refuses to issue a development permit;
 - b. Issues a development permit subject to conditions; or
 - c. Issues a stop order under Section 645 of the Act;

By the applicant of the development permit or any person affected by the order.

- 2. In addition to Section 6.1.1, any person affected by an order, decision, or development permit made or issued by the Development Authority may appeal the decision in accordance with Section 685(2) of the *Act*.
- 3. Despite Sections 6.1.1 and 6.1.2, 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 or the application for the development permit was deemed to be refused under section 683.1(8) of the *Act*.
- 4. Despite Sections 6.1.1, 6.1.2, and 6.1.3, if a decision with respect to a development permit application in respect of a direct control district:
 - is made by a council, there is no appeal to the Subdivision and Development Appeal Board; or
 - b. is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the board hearing the appeal finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.
- 5. An appeal of a decision of the Development Authority for lands identified in Section 685(2.1)(a) of the *Act* shall be made to the Land and Property Rights Tribunal, and shall proceed in accordance with the processes identified in the *Act* and the Land and Property Rights Tribunal Act.
- 6. An appeal of a decision of the Development Authority for lands identified in Section 685(2.1)(b) of the *Act* shall be made to the Subdivision and Development Appeal Board of the Summer Village of Norglenwold.
- 7. An appeal with respect to an application for a development permit may be made by a person identified in Section 6.1.1 may be made by serving a written notice of appeal to the board hearing the appeal:
 - a. Within twenty-one (21) days after the date on which the written decision is given; or
 - b. If no decision is made with respect to the application within the 40-day period (or within any extension to that period under Section 684 of the *Act*), within twenty one (21) days after the date the period or extension expires; or
 - c. With respect to an order under Section 645 of the *Act*, within 21 days after the date on which the order is made.
- 8. An appeal with respect to an application for a development permit may be made by a person identified in Section 6.1.2 may be made by serving a written notice of appeal to the board hearing the appeal within twenty-one (21) days after the date on which the written decision is given.
- 9. An appeal to the Land and Property Rights Tribunal may be made by filing a notice to the Land and Property Rights Tribunal. The notice submission requirements shall be as established by the Land and Property Rights Tribunal.
- 10. An appeal to the Subdivision and Development Appeal Board may be launched by filing a notice by providing the following:
 - a. the appeal application fee as identified in the Summer Village's Fees and Charges Bylaw;
 - b. the legal description and/or the municipal address of the property to which the decision, order, or issuance of the development permit relates;
 - c. the name, contact information, and address of the appellant; and
 - d. the reasons for the appeal and the issue or condition in the decision or order that are the subject of the appeal.

- 11. Where a person files a notice of appeal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board, if:
 - a. in the case of a person referred to in Section 6.1.1 the person files the notice with the wrong board within 21 days after receipt of the written decision or the deemed refusal; or
 - b. in the case of a person referred to in Section 6.1.2, the person files the notice with the wrong board within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

6.2 SUBDIVISION APPEALS

- 1. The decision of a Subdivision Authority on an application for subdivision approval may be appealed:
 - a. by the applicant for the approval;
 - b. by a government department if the application is required by the *Subdivision and Development Regulations* to be referred to that department;
 - c. by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the Municipal Planning Commission of the municipality is not the Subdivision Authority; or
 - d. by a school board with respect to:
 - i. the allocation of municipal reserve and school reserve or money in place of the reserve;
 - ii. the location of school reserve allocated to it; or
 - iii. the amount of school reserve or money in place of the reserve.
- 2. An appeal of a decision of the Subdivision Authority for lands identified in Section 678(2)(a) of the *Act* shall be made to the Land and Property Rights Tribunal, and shall proceed in accordance with the processes identified in the *Act* and the Land and Property Rights Tribunal Act.
- 3. An appeal of a decision of the Subdivision Authority for lands identified in Section 678(2)(b) and 678(2.1) of the *Act* shall be made to the Subdivision and Development Appeal Board of the Summer Village of Norglenwold.
- 4. An appeal to the Land and Property Rights Tribunal may be made by filing a notice to the Land and Property Rights Tribunal. The notice submission requirements shall be as established by the Land and Property Rights Tribunal.
- 5. An appeal to the Subdivision and Development Appeal Board may be launched by filing a notice by providing the following:
 - a. the appeal application fee as identified in the Summer Village's Fees and Charges Bylaw;
 - b. the legal description and/or the municipal address of the property to which the decision, order, or issuance of the development permit relates;
 - c. the name, contact information, and address of the appellant; and
 - d. the reasons for the appeal and the issue or condition in the decision or order that are the subject of the appeal.
- 6. If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

6.3 APPEAL HEARINGS AND DECISIONS

- 1. Hearings for development appeals and decisions made by the board hearing the appeal shall be in accordance with Section 686 and 687 of the *Act*.
- 2. Hearings for subdivision appeals and decisions made by the board hearing the appeal shall be in accordance with Section 679, 680, and 681 of the *Act*.

ENFORCEMENT

7.1 GENERAL PROVISIONS

1. Enforcement may be conducted by a Designated Officer through the issuance of a violation warning, warning notice, final warning notice, stop order, violation tags or any other authorized action to ensure compliance.

7.2 PROHIBITIONS

- 1. No person shall contravene or permit a contravention of this Bylaw. No person shall commence or undertake a development, use, or sign that is not permitted by this Bylaw.
- 2. No person shall contravene a condition of a development permit or subdivision approval issued under this Bylaw.
- 3. No person shall authorize or undertake any development that is not compliant with the description, specifications or plans that were the basis for the issuance of a development permit.
- 4. No person shall modify any description, specifications, or plans that were the basis for the issuance of any permit by the Development Authority.

7.3 RIGHT OF ENTRY

- 1. After reasonable notice (generally to mean 48 hours) to the owner or occupant in accordance with the *Act*, a Designated Officer may enter property at reasonable times (generally to mean between the hours of 7:30 a.m. and 10:00 p.m.) to ascertain if Bylaw requirements are being met.
- 2. A person shall not prevent or obstruct a Designated Officer from carrying out any official duty under this Bylaw. If consent is not given, the Summer Village may apply to the Court of Queen's Bench for an authorizing order.

7.4 VIOLATION WARNING

1. A Designated Officer may issue a violation warning for minor offences by outlining the nature of the violation, corrective measures that may be taken, and the deadline for corrective measures.

7.5 WARNING AND FINAL WARNING NOTICE

1. A Designated Officer may issue a warning notice or a final warning outlining the nature of the violation, corrective measures that may be taken, and the deadline for corrective measures, or both.

7.6 OFFENSES AND FINES

- 1. A person who violates the provisions of this Bylaw or permits a contravention of this Bylaw, is guilty of an offence and is liable to a fine for a first offence and for each subsequent offense as specified in the Fees and Charges Bylaw.
- 2. If the penalty is not paid, the person is liable for imprisonment for not more than one year, or to both fine and imprisonment.

7.7 STOP ORDERS

- 1. On finding that a development, land use, or use of a building does not conform to the *Act* or its regulations, a development permit or subdivision approval or the conditions of either, or this Bylaw, the Development Authority may, by written notice, direct the owner of the property, the person in possession of the land, building, or sign, or the person responsible for a contravention or any or all of them, to:
 - a. stop the development or use of the land or building in whole or part as directed by the notice;
 - b. demolish, remove, or replace the development or landscaping; or
 - c. carry out any other actions required by the notice for compliance.
- 2. The notice shall specify a deadline for compliance.
- 3. A person named in a stop order may appeal to the Subdivision and Development Appeal Board.

7.8 ENFORCEMENT OF STOP ORDERS

- Subject to Section 542 of the Act, if a person fails to comply with the order of the Development Authority, a Designated Officer, or
 the Subdivision and Development Appeal Board, a Designated Officer may enter on the land or building and take any action
 necessary to carry out the order.
- 2. The Summer Village may register a caveat against the certificate of title for the land that is subject to the order, provided that the caveat is discharged when the order has been complied with.
- 3. The Summer Village's costs of carrying out any actions required for compliance may be added to the tax roll of the land subject to the order.

7.9 VIOLATION TAGS AND TICKETS

- 1. In accordance with the Provincial Offences Procedures Act, a Designated Officer may issue a violation tag to a person for specific offences in contravention of a violation issuing a warning notice, a final warning notice, or stop order where there is reasonable and probable grounds to believe there is a contravention of this Bylaw.
- 2. A violation tag may be issued to a person either personally or by registered mail.
- 3. The violation tag shall be in a form approved by the Summer Village and shall include the name of the person thought to have created the contravention, the offence, the penalty for the offence, a requirement that the penalty be paid within 30 days of issuance of the violation tag, the method by which the tag may be paid, and other information as may be required by the Summer Village.
- 4. Offenses and related fines are as specified in the Summer Village's Fees and Charges Bylaw.
- 5. Where a contravention is of a continuing nature, further violation tags may be issued.
- 6. The person to whom the violation tag is issued may, in lieu of being prosecuted, sign the plea of guilty on the violation tag and pay the specified fine to the location indicated on the violation tag.
- 7. If payment is not made within the time specified on the tag, a Designated Officer may issue a violation ticket requiring the person to whom the violation ticket is issued to appear in court on the date specified in the summons portion of the ticket.
- 8. Nothing in this Bylaw shall prevent a Designated Officer from immediately issuing a violation ticket for the mandatory court appearance of any person who contravenes any provision of this Bylaw.

GENERAL DEVELOPMENT REGULATIONS

8.1 ACCESS AND EGRESS

1. In all land use districts, all vehicle entrances and exits onto roads shall only be allowed in location approved by the Development Authority.

8.2 BUILDING DEMOLITION

- 1. An application to demolish a building shall not be approved without a statement or plan which indicates:
 - a. How the operation will be carried out so as to create a minimum of dust and other nuisances; and
 - b. The reclamation plan for the site including lot grading and landscaping; and
 - c. Proposed haul routes for the removal of site materials;

that is satisfactory to the Development Authority.

8.3 BUILDING ORIENTATION AND DESIGN

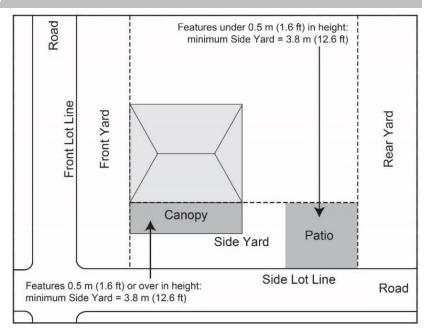
- 1. The design, character and appearance of any building, or series of buildings, structures or signs proposed to be erected or located in any district must be acceptable to the Development Authority having due regard to the following:
 - a. Amenities such as daylight, sunlight and privacy.
 - b. The character of existing development in the district.
 - c. Impact of proposed development on adjacent parcels.
 - d. Crime Prevention Through Environmental Design (CPTED), principles to discourage crime by reducing concealment opportunities, providing lighting to minimize dark spaces, placing windows to maximize surveillance, and easily identifiable addresses.
 - e. Proposed type of finish and use of building materials on all elevations and the roof.
 - f. The exterior finish on all buildings shall be of permanent material satisfactory to the Development Authority.
 - g. The roof pitch and width of the eaves.
 - h. The depth of the principal building shall not be greater than three (3) times its width.
 - i. The Development Authority may require additional building setbacks in order to accommodate any local, area or natural drainage courses or over land drainage issues. Surface drainage from one (1) parcel may not be directed onto or over an adjacent parcel without approval of the Development Authority.

8.4 CONDOMINIUMS AND MULTIPLE OWNERSHIP

- 1. The density of development and of population in a condominium shall be no greater than would be allowed for a similar land use which was being developed through the normal subdivision procedure.
- 2. Development in condominiums and on property owned in common by a number of people must be laid out in such a way that, should subdivision be undertaken at some future date, individual owners can obtain title to lots which meet the requirements of the *Act* and this Bylaw for separate titles and individual lots.

8.5 CORNER AND DOUBLE FRONTING LOTS

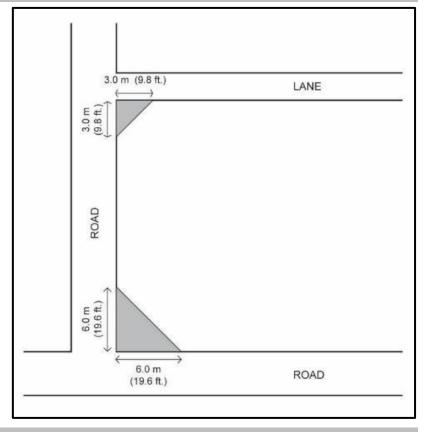
- In the case of double fronting lots, the front yard shall be that portion of the lot abutting the road on which the front yards of adjacent lots face. If adjacent lots have front yards facing both roads, front yards shall be considered to be on both roads and the lot may thus have no rear yard;
- 2. Notwithstanding any other provision of this Bylaw to the contrary, the Development Authority may require that a development on a corner lot or on a double fronting lot provide two (2) minimum required front yards, after having regard to the orientation of adjacent lots and to the location of accesses to the development;
- 3. Notwithstanding any other provision of this Bylaw to the contrary, where a second minimum front yard is not required on a corner lot, the minimum required side yard on the side adjacent to the road shall not be less than 3.8 m (12.5 ft.);



4. Notwithstanding Subsection 8.5.3, features under 0.5 m (1.6 ft.) in height may project to the side line where a second minimum front yard is not required on a corner lot.

8.6 CORNER SITE AND SITE LINE PROTECTION

- 1. On corner sites no fence, wall, tree, bush, structure or object more than 1.0 m (3.3 ft.) in height shall be erected, placed or maintained within the triangular area formed by the intersecting road right-of-way lines (or their projections) and a straight line joining points on the road right-of-way lines 6.0 m (19.7 ft.) from their intersection.
- 2. At the intersection of roads and lanes and at the intersection of driveways and roads, no fence, wall, tree, bush, structure or object more than 1.0 m (3.3 ft.) in height shall be erected, placed or maintained within the triangular area formed by the intersecting road and lane right-of-way lines on the road or lane right-of-way lines 3.0 m (9.8 ft.) from their intersection.
- 3. Notwithstanding any other provision of this Bylaw to the contrary, no sign shall be located in any district such that any part of the sign face is located between the heights of 1.0 m (3.3 ft.) and 3.0 m (9.8 ft.) above grade.



8.7 DEVELOPER'S RESPONSIBILITY

1. The applicant/landowner to whom a development permit has been issued shall obtain from the appropriate Provincial Authority, where applicable, permits relating to building, plumbing, gas, private sewage disposal systems, utilities municipal services, highways and all other provincial permits required in connection with the proposed development.

8.8 EASEMENTS

1. A development permit shall not be issued for a development, other than a fence or landscaping, that encroaches in or over a utility easement or right-of-way without the written consent from the person to whom the easement is registered or the person whose utility is located in the easement and the Development Officer.

8.9 ENVIRONMENTAL SCREENING

1. Where the potential for prior contamination of a site exists, the approving Authority may require that a Phase 1 Environmental Site Assessment be conducted according to applicable provincial requirements and/or guidelines prior to a decision being issued. If the Phase 1 Environmental Assessment indicates that a Phase 2 Environmental Assessment should be undertaken, the approving Authority may require a Phase 2 Environmental Assessment be conducted and submitted prior to issuance of the decision affecting a subdivision or development application.

If follow-up assessments or remedies are required, and if such remedies are determined to be reasonably achievable, then completion of required remedies may be identified as conditions of subdivision or development approval.

8.10 EXISTING SUBSTANDARD LOTS

- 1. Proposed developments on existing substandard lots which do not meet the provisions of this Bylaw shall be considered by the Development Authority. The Development Authority may or may not issue a development permit for the site, having regard for the limitations of the site.
- 2. Development on a substandard lot is still required to meet all other provincial and federal legislation and regulations, including but not limited to the *Safety Codes Act*.

8.11 LANDSCAPING, ENVIRONMENTAL CONSERVATION, AND DEVELOPMENT

- 1. Landscaping in all developments within the Summer Village shall be to the satisfaction of the Development Authority.
- 2. As a condition of subdivision or development approval, a security in the form of an irrevocable letter of credit may be required by the Development Authority, up to a value of one hundred twenty five percent (125%) of the estimated cost of the proposed landscaping to ensure that the landscaping is carried out with reasonable diligence (in accordance with the approved landscaping plan), to the satisfaction of the Development Authority. A condition of the security shall be that the landscaping shall be completed in accordance with this Bylaw and the plan within one (1) growing season after the completion of the development. If the landscaping does not survive a two (2) year maintenance period, the amount shall be paid to the Summer Village to complete the landscaping.
- 3. A development permit for landscaping may be required where the proposed landscaping would result in the clearing of vegetation, stripping, or grading of the site.
- 4. Where a landscaping plan is required with an application for a development permit, no landscaping shall commence prior to the plan being approved by the Development Authority.
- 5. Landscaping plans shall incorporate (where possible) recommendations from the Alberta Clean Runoff Action Guide 2020 including:
 - a. Grading of lots to drain and retain runoff to control and reduce surface water leaving the lot;
 - b. Inclusion of the following clean runoff landscaping strategies:
 - i. Within planting beds and natural areas, keep the areas rough, with dished areas for trapping water.
 - ii. Where possible include a depression to intercept surface water (including snowmelt) before it leaves the site.
 - iii. Minimize turf areas on lakefront lots to decrease soil compaction and the proliferation of invasive weeds.
 - iv. Incorporate tools for capturing, treating, and using runoff into lot grading and landscaping.
 - v. Incorporate deciduous native plant species and wild flowers into landscaping plans to encourage fire suppression, support biodiversity, and increase evapotranspiration.
- 6. Landscaping plans shall include the following information which adheres to the following standards:
 - a. north arrow;
 - b. outlines of all buildings and structures on the subject site;
 - c. location of parking areas, vehicle and pedestrian circulation systems on the subject site;
 - d. location, height and materials of all proposed fences, screens, and walls on the subject site;

- e. location of any existing or proposed lighting, proposed recreational facilities and garbage collection areas on the subject site:
- f. existing vegetation, including mature trees, on the subject site, labeled by common name; and
- g. the proposed final grading and drainage plan of the area and the placing and spreading of topsoil. In particular, all areas to be landscaped shall be graded to drain to the lake, into catch basins or into adjacent drainage easements. Under no circumstances shall an area be designed, built or landscaped to drain onto adjacent property without appropriate easements.
- 7. In addition to the requirements of Section 8.11.5, landscaping plans shall also include pre-built and as-built shots to prove that the proposed final grading and drainage plan function properly.
- 8. The following standard of landscaping shall be required for all areas of a parcel not covered by buildings, non-permeable driveways, storage and display areas:
 - a. The conservation of existing trees and shrubs to the maximum extent possible;
 - b. The retention, in their natural state, of:
 - i. Wetlands, gullies and natural drainage courses;
 - ii. Unstable land;
 - iii. Land subject to flooding and/or located within a 1:100 year floodway or flood fringe area as determined by an engineer or flood study;
 - iv. Land with slope areas with a gradient of fifteen (15) percent or greater; and
 - v. Land located below the top of the bank of the lake, or any water body or water course.
 - c. The appropriate screening of outside storage areas, parking facilities and loading areas from adjacent buildings and roads.
 - d. A sufficient depth of topsoil to facilitate growth in the soft-landscaped areas, with areas not planted to trees and shrubs being seeded to grass, sodded or left with its natural grass cover; and
 - e. Completion of the landscaping within two (2) years of the date of issue of the Development Permit.

8.12 LIGHTING AND SURVEILLANCE EQUIPMENT

- 1. Outdoor lighting shall be located such that rays of light:
 - a. are not directed at an adjacent site or skyward; and
 - b. do not adversely affect an adjacent site or traffic safety.
- 2. Outdoor surveillance equipment shall not be directed at or into the private spaces (rear and side yards, dwellings, windows) on adjacent property, thereby materially, negatively interfering with or affecting the privacy, use, enjoyment or value of neighbouring lots.

8.13 MECHANIZED EXCAVATION, STRIPPING, AND GRADING OF PARCELS

- 1. A development permit is required prior to the commencement of mechanized excavation, stripping, or grading.
- 2. A temporary fence shall be erected around all excavations which in the opinion of the Development Authority may be hazardous to the public.
- 3. Where finished ground elevations are established, all grades shall comply therewith.
- 4. All topsoil shall be retained on the parcel, except where it must be removed for building purposes.
- 5. Finished ground elevations must be provided to the Development Authority for any dwelling unit containing a walkout basement.
- 6. Retaining walls greater than 1.0 m (3.3 ft.) in height above any adjoining grade requires a Development Permit.
- 7. Sediment control measures shall be required to ensure sediment is not transmitted to Sylvan Lake.

8.14 NUMBER OF BUILDINGS ON A PARCEL

- 1. A Development Permit shall not be issued for more than one (1) principal dwelling on a lot.
- 2. A Development Permit shall not be issued for more than two (2) accessory buildings on a lot.

3. Notwithstanding 8.14.2, a development permit for additional accessory buildings on lots greater than 0.2 ha (0.5 acres) in area may be issued at the discretion of the Development Authority if the total site coverage does not exceed the Maximum Site Coverage regulation in the applicable Land Use District.

8.15 OBJECTS PROHIBITED OR RESTRICTED IN YARDS

- 1. No person shall allow a recreational vehicle or other object which is in a dilapidated or unsightly condition, or a derelict vehicle to remain or be parked on a parcel in the residential districts, unless it is suitably housed or screened to the satisfaction of the Development Authority.
- 2. No person shall allow a vehicle of more than 1,000 kg (2,204.62 lbs) Gross Vehicle Weight to be parked or stored in the residential districts, except boats, boat trailers, school buses and recreational vehicles.
- 3. No person shall allow the parking or storage of a helicopter on a parcel.

8.16 ON-SITE AND OFF-SITE IMPROVEMENTS

- 1. Where any on-site services or improvements or any off-site local improvements are required to service a proposed development, a developer shall not begin the excavation for the foundation nor commence the development until the Development Authority is satisfied that such services or improvements will be undertaken and the required securities have been provided.
- 2. In order to satisfy the Development Authority, the developer may be required to enter into a development agreement with the municipality as a condition of development permit approval, and provide security in the form of cash or an irrevocable letter of credit, satisfactory to the Development Authority.
- 3. All future development areas must be serviced to the satisfaction of the Development Authority. Servicing shall be consistent with the Summer Village's Municipal Development Plan, the Sylvan Lake Intermunicipal Development Plan, approved intermunicipal collaboration framework(s), area structure plan(s) and/or conceptual scheme(s).

8.17 PROJECTION INTO YARDS

- 1. In the residential districts the portion of and attachments to a main or accessory building which may project over or on a minimum yard are:
 - a. Side yard:
 - i. Any projection, including unenclosed steps or eaves, not exceeding one-half of the minimum side yard required for the building.
 - b. Front yard and rear yard:
 - i. Any projection not exceeding 2.5 m (8.2 ft.) over or on a minimum front yard or rear yard.
 - ii. Unenclosed decks, if they do not project more than 50% of the minimum yard.
- 2. In all other districts, the portion of and attachments to a main or accessory building which may project over or on a minimum yard are:
 - a. Any projection not exceeding 1.5 m (4.9 ft.) into a front yard or rear yard;
 - b. Any projection not exceeding 0.6 m (2.0 ft.) into a side yard;
 - c. Any projection that is an exterior fire escape not exceeding 1.2 m (3.9 ft.) in width.
- 3. No portion of a building other than eaves, signs or canopies may project into a public or private right-of-way.

8.18 RELOCATION OF BUILDINGS

- 1. No person shall:
 - a. Alter the location on a parcel of a building which has already been constructed on that parcel; or
 - b. Place on a parcel a building which is to be relocated or moved from a different parcel or location;
 - unless a Development Permit has been issued by the Development Authority.
- 2. In addition to the requirements of Section 4.3, the Development Authority may require an application for a Development Permit to be accompanied with:
 - a. Recent colour photographs showing all elevations of the building;
 - b. A statement verifying the age, size and structural condition of the building; and

- c. A statement of proposed improvements to the building.
- 3. An application for a Development Permit may be approved by the Development Authority if the proposal meets all of the regulations specified under the appropriate land use district in which it is proposed to be located.
- 4. Where a Development Permit has been granted for the relocation of a building either on the same parcel or from another location, the Development Officer may require the applicant to provide a performance bond of such amount to ensure completion of any renovations set out as a condition of approval of a Development Permit.
- 5. All structural and exterior renovations shall be completed within one (1) year of the issuance of a Development Permit.

8.19 SIGHT LINES AT INTERSECTIONS OF ROADWAYS

- 1. At the intersection of roadways, the Development Authority may require the calculation of sight triangles where:
 - a. One (1) or more rights-of-way is less than 15.0 m (49.2 ft.); or
 - b. Regulated vehicle speed exceeds 50 km/h; or
 - c. One (1) of the carriageways is not centered in its right-of-way; or
 - d. An intersection leg is curved or skewed; or
 - e. An intersection leg is sloped at 2% or greater.
- 2. Sight triangle calculations shall be in accordance with the recommended methods of the Roads and Transportation Association of Canada regarding crossing sight distances for roadways.

8.20 SITE CONDITIONS

- 1. Unstable Slopes
 - a. Development shall not be permitted on unstable slopes, land characterized by soil instability or land exhibiting evidence of poor drainage unless it can be demonstrated to the satisfaction of the Development Authority that unique site requirements warrant otherwise.

2. Steep Slopes

a. All development shall be setback a minimum of 15.0 m (49.2 ft.) from the toe and crest of any slope and slopes of fifteen percent (15%) or greater, unless a lesser amount is identified in a geotechnical study prepared by a qualified professional engineer registered in the Province of Alberta.

3. Flood Plains

a. No development shall be permitted in the 1:100 year flood plain of a waterbody or water course, or as established by Alberta Environment and Parks as otherwise prone to flooding or subsidence, unless the applicant demonstrates to the satisfaction of the Development Authority that preventative engineering and construction measures can be used to make the site suitable.

4. Wetlands

- a. All subdivision and development must be consistent with the requirements of the Alberta Wetland Policy. In order to ensure consistency with this policy a proponent may be required at time of subdivision, development, area structure plan preparation, or Land Use Bylaw amendment to provide the Summer Village with a Wetland Assessment, prepared by a Certified Wetland Professional, which delineates and classifies all wetlands within the proposed development area. Development that would cause the permanent destruction of permanent wetlands will be discouraged and will not be permitted without the consent of Alberta Environment and Parks.
- 5. Subdivision and Development Setback
 - a. The Subdivision Authority shall, as a condition of subdivision approval where applicable, require a 30.0 m (98.4 ft.) Environmental Reserve be provided from all the top of bank of Sylvan Lake.
 - b. The Subdivision Authority shall, as a condition of subdivision approval, require a 30.0 m (98.4 ft.) Environmental Reserve be provided from all naturally occurring tributaries to Sylvan Lake, unless the recommendations of a qualified professional as part of an environmental assessment identify that the Environmental Reserve indicate a greater or lesser reserve area. The Environmental Reserve shall be measured from top of bank of the tributary.

- c. the Development Authority may impose a greater setback requirement from a waterbody, tributary, escarpment bank, or any steep slope as part of a Development Permit application if the need for a greater setback is:
 - i. consistent with surrounding developments:
 - ii. supported by a geotechnical or environmental study prepared by a qualified professional; or
 - iii. identified by Alberta Environment and Parks.

6. Protection of Treed Areas

- a. the Development Authority may impose conditions on the approval of a development permit requiring the retention of trees, or additional planting of such a type and extent that is considered necessary by the Development Authority;
- b. a site plan detailing the protection of existing treed areas and site topography may be required prior to issuance of a permit for development.

7. Buffering

a. The Development Authority may prescribe setback and/or buffering requirements for uses which may be incompatible with adjacent land uses.

8. Screening

a. The Development Authority may prescribe conditions for screening for those uses which include the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other similar uses.

9. Pipelines

- a. No development shall be permitted within a pipeline right-of-way or the required setback area from active wells, batteries, processing plants or pipelines as recommended by the licensee and/or identified within the Subdivision and Development Regulations.
- b. further, all development near abandoned wells shall occur in accordance with the Subdivision and Development Regulations, AER Directive 079, Surface Development in Proximity to Abandoned Wells, and any other applicable federal or provincial legislation and/or regulation(s).

8.21 SOUR GAS FACILITIES

- 1. No development shall be permitted within 100.0 m (328.1 ft.) of a Level 1 sour gas facility (consisting of a well) as determined by the AER.
- 2. In the case of a Level 2 sour gas facility as determined by the AER:
 - a. no permitted dwelling shall be permitted within 100.0 m (328.1 ft.) of the sour gas facility; and
 - b. no rural public facility shall be permitted within 500.0 m (1, 640.4 ft.); of the sour gas facility.
- 3. In the case of a Level 3 sour gas facility as determined by the AER:
 - a. no permanent dwelling shall be permitted within 100.0 m (328.1 ft.) of the sour gas facility;
 - b. no unrestricted country residential development having a density of more than eight (8) dwelling units per quarter section shall be permitted within 500.0 m (1640.4 ft.) of the sour gas facility; and
 - c. no rural public facility shall be permitted within 1500.0 m (4921.3 ft.) of the sour gas facility.

8.22 WELLS AND PIPELINES

1. All development in proximity to a well, pipeline or sour gas facility shall adhere to the setback requirements as determined by the Alberta Energy Regulator.

SPECIFIC DEVELOPMENT REGULATIONS

9.1 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS

- 1. An accessory building in a residential district shall be subordinate to the principal use in size, height, and use.
- 2. An accessory building shall not be constructed on an undeveloped lot unless it is associated with an approved development permit for a principal dwelling.
- 3. The Development Authority shall only approve the development of an accessory building where there is an existing or approved principal use or principal building on the site.
- 4. Subject to the provisions of Sections 9.1.2 and 9.1.3, accessory buildings shall be sited having regard to their:
 - a. Environmental impact;
 - b. Use;
 - c. Accessibility; and
 - d. Location in relation to other buildings on the parcel and the future use and/or subdivision of the parcel.
- 5. An accessory building on a lot <u>abutting Sylvan Lake</u> or a reserve parcel <u>abutting Sylvan Lake</u> shall be situated so that:
 - a. It is located within the minimum rear yard of any parcel;
 - b. It is setback from:
 - i. The front lot boundary;
 - ii. The top of any escarpment area or high water mark (as determined by the Development Authority)

A minimum of 15.0 m (49.21 ft.) or parallel to the front wall of the principal building, whichever is the lesser setback.

- c. On corner and interior parcels, a minimum of:
 - i. 3.0 m (9.8 ft.) from any side boundary abutting a street, or reserve parcel;
 - ii. 1.0 m (3.3 ft.) from the other side boundary; and
 - iii. 6.0 m (19.7 ft.) from the rear parcel boundary.
- d. Notwithstanding the above, an accessory building or any portion thereof may be erected or placed on the front or side boundary common to two parcels provided the accessory building serves the two abutting parcels.
- 6. An accessory building on a parcel <u>not abutting Sylvan Lake</u> or a reserve parcel <u>not abutting Sylvan Lake</u> shall be situated so that:
 - a. On an interior parcel, a minimum of:
 - i. 1.0 m (3.3 ft.) from the side parcel boundary;
 - ii. 3.0 m (9.8 ft.) from the rear parcel boundary;
 - iii. 6.0 m (19.7 ft.) from the front parcel boundary, and
 - b. On a corner parcel, a minimum of:
 - i. 3.0 m (9.8 ft.) from the side boundary abutting the street;
 - ii. 1.0 m (3.3 ft.) from the other side parcel boundary;
 - iii. 6.0 m (19.7 ft.) from the front parcel boundary; and
 - iv. 3.0 m (9.8 ft.) from the rear parcel boundary.
 - c. Notwithstanding the above, an accessory building or any portion thereof may be erected or placed on the front or side boundary common to two parcels provided the accessory building serves the two abutting parcels.
- 7. An accessory building without a guest house above a garage shall not be more than 5.0 m (16.4 ft.) in building height measured from grade.
- 8. An accessory building with a guest house above a garage shall not be more than 7.6 m (25.0 ft.) in building height measured from grade.

- 9. An accessory building erected or placed on a parcel shall not be used as a principal dwelling.
- 10. The exterior of an accessory building must be finished to match or compliment the exterior finish of the principal building.
- 11. The footprint of an accessory building on lots smaller than 0.2 hectares (0.5 acres) in area shall be a maximum of 111.5 m² (1,200 ft.²), and shall not exceed the maximum site coverage provisions in the applicable land use district.
- 12. The footprint of an accessory building on lots 0.2 hectares (0.5 acres) or more in area shall be a maximum of 223.0 m² (2,400 ft.²), and shall not exceed the maximum site coverage provisions in the applicable land use district.

9.2 DETACHED GARAGES

- 1. Parcels abutting Sylvan Lake or a reserve parcel abutting the lake:
 - a. In addition to the accessory building setbacks prescribed in Section 9.1, a detached garage shall be located a minimum of 6.0 m (19.7 ft.) from the rear parcel boundary if the overhead doors of the garage face a lane, street or rear property boundary.
 - b. Side entry detached garages:
 - i. Will only be permitted on parcels greater than 12.0 m (39.4 ft.) in width; and
 - ii. Shall be located a minimum of 3.6 m (12.0 ft.) from the rear parcel boundary.
- 2. Parcels not abutting Sylvan Lake or a reserve parcel abutting the lake:
 - a. In addition to the accessory building setbacks prescribed in Section 9.1, a detached garage shall be located a minimum of 6.0 m (19.7 ft.) from the front parcel boundary if the overhead doors of the garage face a lane, street or front parcel boundary.
 - b. Side entry detached garages:
 - i. Will only be permitted on parcels greater than 12.0 m (39.4 ft.) in width; and
 - ii. Shall be located a minimum of 3.6 m (12.0 ft.) from the front parcel boundary.

9.3 DRIVEWAYS AND PARKING

- 1. A developed non-permeable surfaced driveway shall be considered part of a lot's site coverage and (along with other developments on the lot) shall not exceed the maximum site coverage regulation in the applicable Land Use District.
- 2. A development permit shall be required for a new driveway, or to increase the area of an existing driveway.
- 3. Driveway construction shall not disturb or disrupt municipal stormwater management infrastructure, and shall be constructed in such a manner not to interfere with the natural flow or absorption of surface water.
- 4. Culverts shall be designed and installed to municipal standards at no cost to the Summer Village.
- 5. The maximum width of a driveway shall be 10.0 m (32.8 ft.). Driveway width shall be measured within the carriageway.
- 6. Driveways on corner parcels shall be setback from the street intersection not less than 6.0 m (19.7 ft.) where the driveway serves not more than four (4) dwelling units.
- 7. In residential districts, the number of driveways shall be limited to not more than one (1) driveway on a property with less than or equal to 40.0 m (131.2 ft.) and not more than two (2) driveways for properties with more than 40.0 m (131.2 ft.) of frontage.
- 8. Where the road storm drainage flow will be impacted by the construction of a driveway, at the discretion of the Development Authority, driveways shall contain culverts and be graded to the satisfaction of the municipality.
- 9. No operator or owner of a heavy vehicle shall park a heavy vehicle on a parcel within a Residential District.

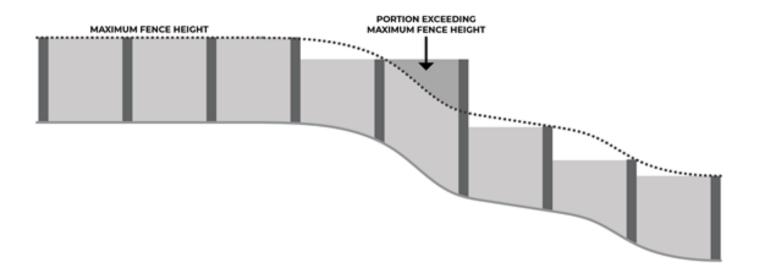
9.4 FENCING

- Within the residential districts:
 - a. For lakefront parcels abutting Sylvan Lake or a reserve parcel abutting the lake, fences:
 - i. Located within a rear yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
 - ii. Located within a side yard of a parcel shall not exceed 2.0 m (6.6 ft.) in height.
 - iii. Located within the front yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
 - iv. Located within the flankage yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.

- b. For parcels not abutting Sylvan Lake or a reserve parcel abutting the lake, fences:
 - i. Located within a rear yard or side yard of a parcel shall not exceed 2.0 m (6.6 ft.) in height.
 - ii. Located within the front yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
 - iii. Located within the flankage yard of a parcel shall not exceed 1.0 m (3.3 ft.) in height.
- c. Fence height shall be determined by measuring from the top of the fence to the ground.

MAXIMUM FENCE HEIGHTS WITHIN THE RESIDENTIAL DISTRICTS LAKEFRONT LOTS **NON-LAKEFRONT LOTS** 1.0 m (3.3 ft.) 2.0 m (6.6 ft.) 1.0 m (3.3 ft.) 1.0 m (3.3 ft.) 2.0 m (6.6 ft.) **ENVIRONMENTAL RESERVE** 2.0 m (6.6 ft.) FRONT YARD REAR YARD REAR FRONT **DWELLING** DWELLING YARD 1.0 m (3.3 ft.) 1.0 m (3.3 ft.) 2.0 m (6.6 ft.) 1.0 m (3.3 ft.) 2.0 m (6.6 ft.) ROAD GHT OF WA

- 2. Notwithstanding the requirements of Section 9.4.1.a.i, a fence in the rear yard of a lakefront lot may exceed 1.0 m (3.3 ft.) to a maximum of 2.0 m (6.6 ft.) if the portion of the fence that exceeds 1.0 m (3.3 ft.) in height is constructed to allow for visual access to the rear yard of the lot, to the satisfaction of the Development Authority.
- 3. Within other districts, a fence shall be sited to the discretion of the Development Authority.



9.5 HOME OCCUPATIONS

- 1. Home occupations shall not involve:
 - a. activities that use or store hazardous material in quantities exceeding those found in a normal household; or
 - b. any use that would, in the opinion of the development authority, materially interfere with or affect the use, enjoyment, or value of neighbouring properties.

- 2. A home occupation shall not occupy more than 20% of the floor area of the main dwelling or 35 m² (375 ft.²), whichever is the
- 3. A minor home occupation shall comply with the following regulations:
 - a. A minor home occupation shall not employ any person on-site other than a resident of the dwelling.
 - b. No offensive noise, vibration, smoke, dust, odour, heat, glare, electrical or radio disturbance detectable beyond the boundary of the lot on which the minor home occupation is located shall be produced by the home occupation.
 - c. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the minor home occupation allowed on the site. Storage related to the minor home occupation shall be allowed only in either the dwelling or accessory buildings.
 - d. Business activities must be carried out entirely within the dwelling.
 - e. Exterior alterations or additions to accommodate a minor home occupation shall not be allowed.
 - f. There shall be no exterior signage, display, or advertisement.
- 4. A major home occupation shall comply with the following regulations:
 - a. In addition to a development permit application, each application for a major home occupation shall be accompanied by a description of the business to be undertaken in the dwelling, an indication of the anticipated number of business visits per week, and details for the provision of parking along with other pertinent details of the business operation.
 - b. The number of non-resident employees working on-site shall not exceed one (1) on-site, non-occupant employees.
 - c. Up to eight (8) business visits per day are allowed.
 - d. No more than one (1) commercial vehicle up to but not exceeding a gross vehicle weight of 5,500 kg (12,225 lbs.), to be used in conjunction with the major home occupation, shall be parked or maintained on the site in a residential district. The parking space for the commercial vehicle shall be adequately screened and sited behind the principal building to the satisfaction of the Development Authority.
 - e. The outdoor storage of productions and materials shall be prohibited.
 - f. Any interior or exterior alterations or additions to accommodate a major home occupation may be allowed at the discretion of the Development Authority, as along as such alterations comply with this Bylaw and the *Alberta Safety Codes Act* and the regulations made thereunder.
 - g. There shall be no exterior signage, display or advertisement other than a business identification sign, the size of which shall be entirely at the discretion of the Development Authority.
 - h. Business activities must be carried out entirely within the dwelling.
 - i. When a development permit is issued for a major home occupation, such permit shall be terminated should the applicant vacate the property for which the permit has been issued.
- 5. A permit issued for a major home occupation is valid for one (1) year or longer as determined by the Development Authority. It is the obligation of the developer to seek renewal of a development permit prior to the expiry of the time period for which the initial permit was issued. The Development Authority shall consider the renewal on its merits.
- 6. A stop order may be issued at any time if, in the opinion of the Development Authority, the operator of the home occupation has violated any provisions of this Bylaw or conditions of the approval of a development permit and complaints based on the operation of the home occupation have been received.

9.6 PRIVATE POOLS AND DECORATIVE PONDS

- 1. For lots <u>abutting</u> Sylvan Lake or a reserve parcel abutting the lake, a private pool or decorative pond shall be located:
 - a. at least 1.5 m (4.9 ft.) from the side and rear property lines;
 - b. at least 6.0 m (19.7 ft.) from the front property line;
 - c. In a front yard or side yard in an interior lot; and
 - d. On a corner lot, located in a front yard or the side yard not adjacent to a public roadway.
 - e. A decorative pond may be located in a rear yard if:
 - i. The pond is 0.6 m (23.6 inches) or less in depth; and

- ii. The pond is located a minimum of 1.5 m (4.9 ft.) from the rear and side property lines.
- 2. For lots not abutting Sylvan Lake or a reserve parcel abutting the lake, a private pool or decorative pond shall be located:
 - a. At least 1.5 m (4.9 ft.) from the side and rear property lines;
 - b. In a rear yard or side yard in an interior lot; and
 - c. On a corner lot, located in a rear yard or the side yard not adjacent to a public roadway.
 - d. A decorative pond may be located in a front yard if:
 - i. The pond is 0.6 m (23.6 inches) or less in depth; and
 - ii. The pond is located a minimum of 1.5 m (4.9 ft.) from the front and side property lines.
- 3. A private pool shall be enclosed by a secure lockable lid or fencing equipped with gates that lock in accordance with the Alberta Building Code in effect at the date of the application for Development Permit.

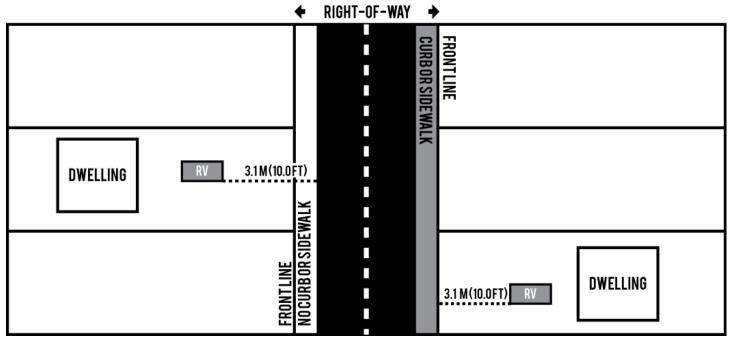
9.7 PUBLIC PROPERTIES

- 1. Parking or leaving a vehicle on public property shall be in accordance with the Summer Village of Norglenwold Traffic Bylaw 207-12, as amended.
- 2. The removal of trees and/or shrubs, excavation, grading or drainage alteration on any municipal reserve, environmental reserve or other municipal owned land, without expressed written approval from the municipality, is prohibited.
- 3. Private development on any municipal reserve, environmental reserve or other municipal owned land is prohibited.
- 4. The prohibition in **Section 9.7.3** does not apply to any uses listed in an applicable land use district and subject to expressed written approval from the municipality.
- 5. No person shall erect or cause to be erected any fence on any property owned by the municipality without their expressed written approval.

9.8 RECREATIONAL VEHICLES

- 1. The placement of a recreational vehicle on a lot requires a development permit.
- 2. A development permit application to place an recreational vehicle on a lot shall indicate:
 - a. where the recreational vehicle will be placed on a lot on a permanent basis;
 - b. how potable water, wastewater, and utilities will be provided; and
 - c. where onsite parking will be provided.
- 3. Except as noted in 9.8.4 below, a recreational vehicle shall not be placed on an undeveloped lot.
- 4. A maximum of one (1) recreational vehicle is permitted on an undeveloped lot on a temporary basis (with a development permit) in order to provide temporary accommodation (during construction) for a principal dwelling for which a development permit has been issued. The recreational vehicle must have approved potable water system and wastewater system that complying with current provincial requirements.
- 5. Additional recreational vehicles may be allowed on a lot on a temporary basis at the discretion of the Development Authority.
- 6. Recreational vehicles shall adhere to the front, rear, and side yard requirements of dwellings and accessory buildings identified in the applicable Land Use District.
- 7. A recreational vehicle on a lot shall be considered part of a lot's site coverage and (along with other developments on the lot) shall not exceed the maximum site coverage regulation in the applicable Land Use District.
- 8. Recreational vehicles on developed lots must be located entirely within the boundaries of the lot.
- 9. The towing vehicle associated with the recreational vehicle shall be parked entirely on the lot and not on the adjacent roadway.
- 10. Recreational vehicles shall not be located within a front yard on a lakefront lot.
- 11. All recreational vehicles shall not be permitted to dispose of wastewater and greywater on the ground within the Summer Village.
- 12. A maximum of one (1) recreational vehicle may be stored permanently on a residential lot.
- 13. The storage of a recreational vehicle year-round on a residential lot may be allowed under the following conditions:
 - a. The recreational vehicle:
 - i. Is entirely contained within the lot;

- ii. Conforms to the front, rear, and side yard requirements of dwellings and accessory buildings identified in the applicable Land Use Districts and the regulations in Section 9.8.8; and
- iii. Is located on a hard surfaced or gravel pad.
- 14. Notwithstanding section 9.8.13 above, at the discretion of the Development Authority Officer a recreational vehicle may be allowed year-round in a front yard on a hard surfaced or gravel pad if there is a minimum of 3.1 m (10.0 ft.) between the recreational vehicle when parked and the edge of sidewalk or, where there is no sidewalk, 3.1 m (10.0 ft.) from the back of curb adjacent to the lot. Where there is no curb or sidewalk, the required setback from a front lot line shall normally be 3.1 m (10.0 ft.).



- 15. Underground permanent utilities (e.g. water, wastewater, and dedicated power connections) are strictly prohibited for recreational vehicles in the Summer Village.
- 16. Recreational vehicles and recreational vehicle stalls shall not be rented for compensation.
- 17. Recreational vehicles must remain on private property at all times and cannot be stored or used on municipal land.
- 18. In no instance will the placement of a recreational vehicle in a front yard be allowed where the recreational vehicle would impede or obstruct the safety of pedestrians or vehicle traffic on adjacent sidewalks or roadways.

9.9 SUITES

- 1. A maximum of one (1) guest house suite is allowed on a lot.
- 2. A guest house suite (including a garage suite) shall not be allowed on an undeveloped lot.
- 3. Secondary suites and security suites shall be prohibited in the Summer Village.
- 4. In situations where a detached dwelling is being rented out and there is a guest house on the parcel, the guest house shall not be rented out to a separate party other than those renting the detached dwelling.
- 5. A guest house suite may not include a food preparation area, refrigerator, stove or provision of 220 volt wiring.
- 6. A site plan showing the location of the guest house suite on the lot, provisions for off-street parking and access to the guest house shall be provided by the applicant.
- 7. As a condition of the development permit, the guest house suite shall be connected to the municipal wastewater disposal system. The applicant shall be required to demonstrate that the system has sufficient capacity for the additional use and meets the requirements of the Wastewater Commission and the Summer Village.

8. Other requirements for suites shall be as per the table below:

	GUEST HOUSE SUITES
MAXIMUM HEIGHT	7.6 m (25.0 ft.)
MINIMUM FLOOR AREA	30.0 m ² (323.0 ft. ²)
MAXIMUM FLOOR AREA (and shall not exceed the floor area of the principal building)	83.6 m ² (900.0 ft. ²)
MINIMUM # OF ADDITIONAL ON-SITE PARKING SPACES REQUIRED	1

^{9.} The maximum floor area for a guest house shall not enable a scenario whereby the total development on a lot exceeds the maximum site coverage regulations in the applicable Land Use District.

9.10 TOURIST HOMES

- 1. Tourist homes are not permitted within the Summer Village of Norglenwold.
- 2. The rental of dwellings in the Summer Village for a period longer than 30 consecutive days does not constitute a tourist home.
- 3. Persons found operating a tourist home within the Summer Village may be issued a penalty for the offense as identified in the Summer Village's Fees Bylaw.

9.11 GUIDELINES FOR OTHER LAND USES

- 1. All uses which are not covered by the regulations of Sections 8 and 9 of this Land Use Bylaw shall, in accordance with the following guidelines, be:
 - a. Separated from adjacent uses by such a distance as to ensure that there will be no adverse impact upon or by those adjacent uses;
 - b. At a density which is consistent with that prevailing in the area, unless otherwise provided for in a statutory plan;
 - c. Setback from any parcel boundary abutting a road or a reserve a sufficient distance to ensure that the development will not be visually intrusive, having regard to any possible changes in surrounding uses;
 - d. Of a height which will be consistent with that prevailing in the area;
 - e. Developed in such a manner that there will be no adverse impact upon or by traffic on adjacent roads; and
 - f. Developed in conformance with any applicable statutory plan policies.

LAND USE DISTRICTS

10.1 ESTABLISHMENT OF LAND USE DISTRICTS

1. For the purpose of this Land Use Bylaw, the municipality is divided into the following districts:

LAND USE DISTRICT	SYMBOL	COLOUR
SHORELINE RESIDENTIAL	R1	YELLOW
ESTATE RESIDENTIAL	R2	ORANGE
ENVIRONMENTAL OPEN SPACE	EO	GREEN
COMMUNITY AND RECREATION	CR	BLUE

- 2. The boundaries of the districts listed in **Section 10.1.1** are as delineated on the Land Use District Map show in **Section 15** of this Land Use Bylaw. All roads, water courses and lakes are excluded from the land use districts.
- 3. Where the location of district boundaries on the Land Use District Map is not clearly understood, the following rules shall apply:
 - a. A boundary shown as approximately following a parcel boundary shall be deemed to follow the parcel boundary;
 - b. A boundary which does not follow a parcel boundary shall be located by measurement of the Land Use District Map; and
 - c. A boundary location which cannot be satisfactorily resolved, shall be referred to Council for an official interpretation.

SHORELINE RESIDENTIAL DISTRICT

11.1 GENERAL PURPOSE

1. To provide an area for low density residential development in the form of single-detached dwellings and compatible uses.

11.2 USES

A. PERMITTED USES	B. DISCRETIONARY USES
i. Accessory Buildings where the total floor area is 53.5 m ² (578.0 ft. ²) or less	i. Accessory Buildings where the total floor area is over 53.5 m² (578.0 ft.²)
ii. Day Homes	ii. Apiaries (for colonies greater than 1,000 bees and/or more than 1 queen)
iii. Dwellings, Single-Detached	iii. Suites, Guest House
iv. Home Occupations, Minor	iv. Home Occupations, Major
	v. Modular Home
	vi. Parks and Playgrounds
	vii. Public and Quasi-Public Uses
	viii. Signs
	ix. Temporary Buildings
	x. Walkways

11.3 MINIMUM PARCEL REQUIREMENTS

A. WIDTH	15.2 m (50.0 ft.)
	697.0 m ² (7,502 ft. ²)
B. AREA	Parcels not complying with the foregoing and legally created prior to promulgation of Alberta Regulation 132/78 (April 1978) are not subject to foregoing, but shall have an area not less than 520.0 m ² (5,597 ft. ²).

11.4 PARCEL SERVICING

- 1. No building may be erected or development commenced on parcels which are not proposed to be served by a piped water or wastewater system until arrangements, satisfactory to the Provincial Plumbing Inspector, Alberta Labour and the Public Health Unit, have been made for collection, storage, if any, and disposal of wastewater.
- 2. The Development Authority shall either refuse to issue a Development Permit for any building, structure or works, unless arrangements under (1) above have been completed, or issue a Development Permit subject to the conditions that arrangements under (1) above shall be completed prior to the commencement of the development.
- 3. Electrical power from the property line of any parcel to any building situate on the parcel shall be constructed underground.

11.5 SITE DEVELOPMENT

1. Unless otherwise provided in a development agreement registered by the municipality by caveat on the title to any parcel the following provisions shall apply:

A. MINIMUM FRONT YARD AND REAR	 7.5 m (24.6 ft.) to the habitable dwelling unit from: a. The front parcel boundary; or b. The top of the escarpment; or c. The high water mark; Whichever is closest to the dwelling unit. 6.0 m (19.7 ft.) to a garage attached to (and structurally part of) the principal building. 		
B. MINIMUM SIDE YARD	1.5 m (4.9 ft.) or ten (10) percent of the parcel width, whichever is greater, to a maximum of 3.0 m (9.8 ft.), or as required by the Alberta Building Code (whichever is greater).		
C. MAXIMUM SITE COVERAGE	50%		
D. MINIMUM VEGETATION COVERAGE	A5%, of which 10% of the total lot area must be covered in trees and shrubs. Sylvan Lake Front Property Line Vegetation, includes trees and shrubs (Minimium 45%) Trees and Shrubs (Minimium 10% of total lot area) Flex Area - Soft Landscaping Elements (5%) Lot Boundary The total vegetation coverage requirement is a minimum 45% of the total lot area. included in this 45% minimum requirement, 10% of the total lot area and shrubs. Flex area means the remainder of the lot area where soft landscaping elements or permeable surfaces (e.g. gravel, rock gardens, synthetic turf, permeable pavement) are encouraged. Note: This illustration demonstrates an example of site coverage only and is not representative of requirements for setbacks, building floor area, and siting. This illustration is not to scale. The location of buildings, decks, non-permeable surfaces, vegetation (including trees and shrubs), and flex area is an example only.		
E. MAXIMUM DWELLING HEIGHT	10.0 m (32.8 ft.) measured from grade.		
F. MINIMUM FLOOR AREA	100.0 m ² (1,076 ft. ²)		
G. PARKING STALLS	All parking stalls shall have a dimension of not less than 2.7 m (9.0 ft.) by 5.5 m (18.0 ft.).		

H. MINIMUM PARKING (DETACHED DWELLING)	Two (2) parking stalls per dwelling.
I. MINIMUM PARKING (ALL OTHER USES)	As required by the Development Authority.

11.6 ADDITIONAL REGULATIONS

- 1. All uses must comply with the regulations in Section 8 and 9 of this Land Use Bylaw.
- 2. Shoreline erosion control measures are prohibited unless prior written approval has been received from the Alberta Environment and Parks and the Summer Village of Norglenwold.
- 3. Lot grading and landscaping shall comply with the regulations in Sections 8.11 and 8.13 of this Land Use Bylaw.
- 4. Lands subject to an environmental reserve easement must remain in their natural state.

ESTATE RESIDENTIAL DISTRICT

12.1 GENERAL PURPOSE

1. To provide an area for very low density residential development in the form of detached dwellings and compatible uses, on parcels not abutting the lake or a reserve parcel abutting the lake.

12.2 USES

A. PE	A. PERMITTED USES		SCRETIONARY USES
i.	Accessory Buildings where the total floor area is 53.5m^2 (578.0ft.^2) or less	i.	Accessory Buildings where the total floor area is over $53.5 \text{ m}^2 (578.0 \text{ ft.}^2)$
ii.	Day Homes	ii.	Apiaries (for colonies greater than 1,000 bees and/or more than 1 queen)
iii.	Dwellings, Single-Detached	iii.	Suites, Guest Houses
iv.	Home Occupations, Minor	iv.	Home Occupations, Major
		٧.	Modular Home
		vi.	Parks and Playgrounds
		vii.	Public and Quasi-Public Uses
		viii.	Signs
		ix.	Temporary Buildings
		X.	Walkways

12.3 MINIMUM PARCEL REQUIREMENTS

A. WIDTH	30.5 m (100.0 ft.)
	1,860 m ² (20,020 ft. ²)
B. AREA	Parcels not complying with the foregoing and legally created prior to promulgation of Alberta Regulation 132/78 (April 1978) are not subject to foregoing, but shall have an area not less than 520.0 m ² (5,597 ft. ²).

12.4 PARCEL SERVICING

- 1. No building may be erected or development commenced on parcels which are not proposed to be served by a piped water or sewerage system until arrangements, satisfactory to the Provincial Plumbing Inspector, Alberta Labour and the Public Health Unit, have been made for collection, storage, if any, and disposal of sewage.
- 2. The Development Authority shall either refuse to issue a Development Permit for any building, structure or works, unless arrangements under (1) above have been completed, or issue a Development Permit subject to the conditions that arrangements under (1) above shall be completed prior to the commencement of the development.
- 3. Electrical power from the property line of any parcel to any building situate on the parcel shall be constructed underground.

12.5 SITE DEVELOPMENT

1. Unless otherwise provided in a development agreement registered by the municipality by caveat on the title to any parcel the following provisions shall apply:

A. MINIMUM FRONT AND	7.5 m (24.6 ft.) to the habitable dwelling unit from the front parcel boundary.	
REAR YARD	6.0 m (19.7 ft.) to a garage attached to (and structurally part of) the principal building.	
B. MINIMUM SIDE YARD	1.5 m (4.9 ft.) or ten (10) percent of the parcel width, whichever is greater, to a maximum of 3.0 m (9.8 ft.), or as required by the Alberta Building Code (whichever is greater).	
C. MAXIMUM SITE COVERAGE	50%	
D. MINIMUM VEGETATION COVERAGE	45%, of which 10% of the total lot area must be covered in trees and shrubs. Sylvan Lake Non-permeable Surfaces (Maximum 50%)	
	Vegetation, includes trees and shrubs (Minimium 45%) Trees and Shrubs (Minimium 10% of total lot area) Flex Area - Soft Landscaping Elements (5%) CARAGE DRIVE WAY The total vegetation coverage requirement is a minimum 45% of the total lot area. included in this 45% minimum requirement, 10% of the total lot area must be covered in trees and shrubs. Flex area means the remainder of the lot area where soft landscaping elements or permeable surfaces (e.g. gravel, rock gardens, synthetic turf, permeable pavement) are encouraged. Note: This illustration demonstrates an example of site coverage only and is not representative of requirements for setbacks, building floor area, and siting. This illustration is not to scale. The location of buildings, decks, non-permeable surfaces, vegetation (including trees and shrubs), and flex area is an example only.	
E. MAXIMUM DWELLING HEIGHT	10.0 m (32.8 ft.) measured from grade.	
F. MINIMUM FLOOR AREA	100.0 m ² (1,076 ft. ²)	
G. PARKING STALLS	All parking stalls shall have a dimension of not less than 2.7 m (9.0 ft.) by 5.5 m (18.0 ft.).	
H. MINIMUM PARKING (DETACHED DWELLING)	Two (2) parking stalls per dwelling.	
I. MINIMUM PARKING (ALL OTHER USES)	As required by the Development Authority.	

12.6 ADDITIONAL REGULATIONS

- 1. All uses must comply with the regulations in Section 8 and 9 of this Land Use Bylaw.
- 2. Lot grading and landscaping shall comply with the regulations in Sections 8.11 and 8.13 of this Land Use Bylaw.

ENVIRONMENTAL OPEN SPACE DISTRICT

13.1 GENERAL PURPOSE

1. To provide an area for the preservation of municipal land in its natural state.

13.2 USES

A. PERMITTED USES	B. DISCRETIONARY USES
i. Natural Areas	i. Accessory Buildings and Uses
ii. Parks and Playgrounds	ii. Signs (public)
	iii. Trails
	iv. Utility Buildings
	v. Walkways
	vi. Any use that is similar, in the opinion of the Development Authority, to the permitted uses or discretionary uses described above.

13.3 SITE DEVELOPMENT

A. PARKING STALLS	All parking stalls shall have a dimension of not less than 2.7 m (9.0 ft.) by 5.5 m (18.0 ft.).
B. MINIMUM PARKING (ALL USES)	As required by the Development Authority.

13.4 ADDITIONAL REGULATIONS

1. All uses must comply with the regulations in Section 8 and 9 of this Land Use Bylaw.

COMMUNITY AND RECREATION DISTRICT

14.1 GENERAL PURPOSE

1. To provide an area for the development of public land for major multi-use recreational facilities, and other uses, herein listed, which are compatible with the area.

14.2 USES

A. PERMITTED USES	B. DISCRETIONARY USES
i. Parks and Playgrounds	i. Accessory Buildings and Uses
ii. Recreation Facilities	ii. Parking Facilities, Public
	iii. Public and Quasi-Public Uses
	iv. Signs (public)
	v. Utility Buildings
	vi. Any use that is similar, in the opinion of the Development Authority, to the permitted uses or discretionary uses described above.

14.3 SITE DEVELOPMENT

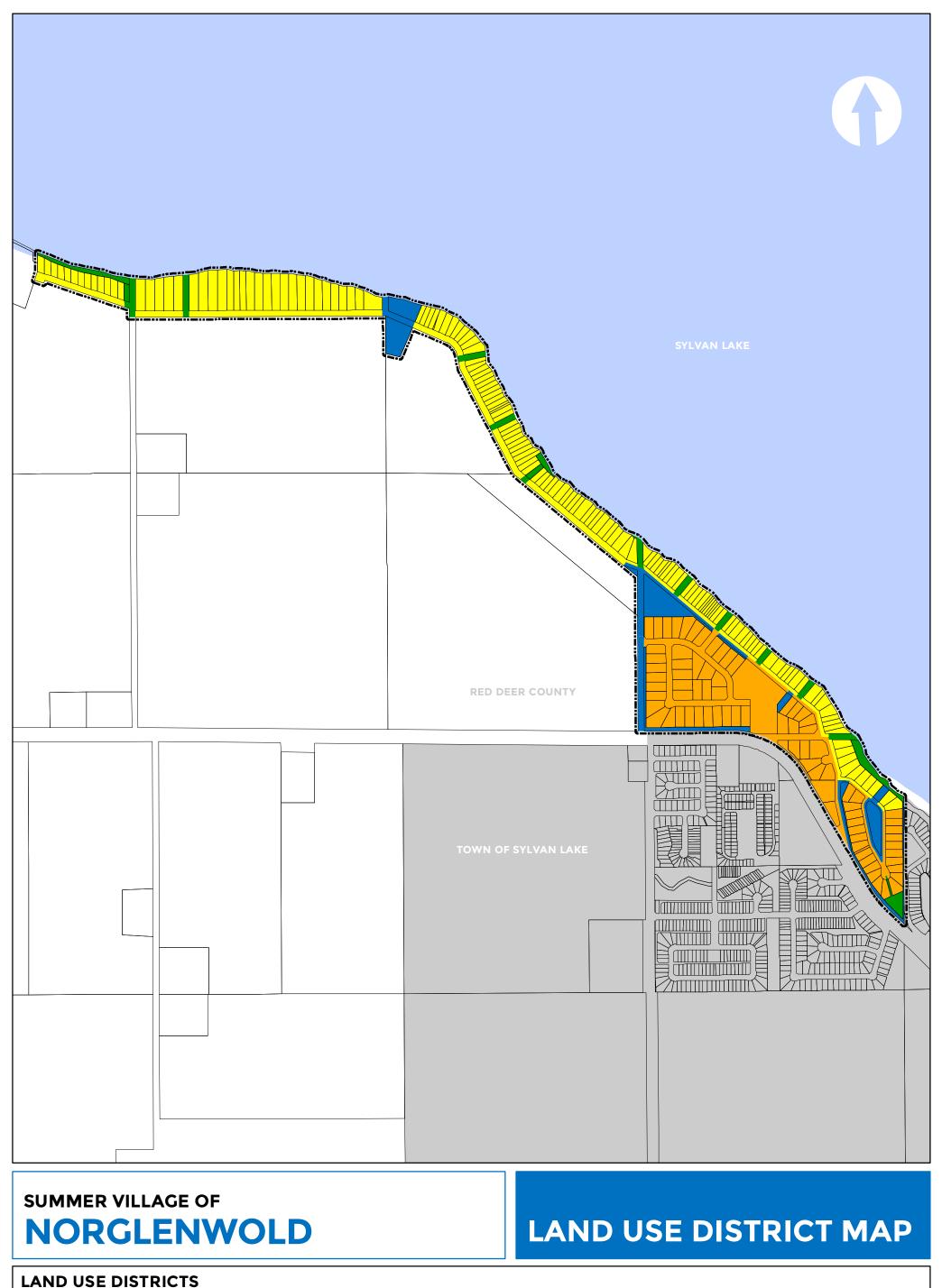
1. Unless otherwise provided in a development agreement registered by the municipality by caveat on the title to any parcel the following provisions shall apply:

A. MINIMUM FRONT YARD	9.0 m (29.5 ft.)
B. MINIMUM SIDE YARD	3.0 m (9.8 ft.) or as required in the Alberta Building Code, whichever is greater
C. MINIMUM REAR YARD	6.0 m (19.7 ft.)
D. MAXIMUM BUILDING HEIGHT	12.0 m (39.4 ft.)
E. PARKING STALLS	All parking stalls shall have a dimension of not less than 2.7 m (9.0 ft.) by 5.5 m (18.0 ft.).
F. MINIMUM PARKING (ALL USES)	As required by the Development Authority.
G. OUTDOOR STORAGE AND DISPLAY	Outdoor storage shall be screened.
	Outdoor display is not allowed.

14.4 ADDITIONAL REGULATIONS

1. All uses must comply with the regulations in Section 8 and 9 of this Land Use Bylaw.

LAND USE DISTRICT MAP





Digital Information: Geogratis, Geodiscover, and Altalis Projection: UTM NAD 83 12N







NORGLENWOLD PLAN 2011

October 2011

NORGENWOLD PLAN 2011

(being the Summer Village of Norglenwold Municipal Development Plan)

TABLE OF CONTENTS

Section	า	Page
1.0	What is Norglenwold Plan 2011 1.1 Background 1.2 Legislative Framework 1.3 Relationship with Other Plans 1.4 Plan Preparation Process 1.5 Organization of Norglenwold Plan 2011 1.6 Interpretation	1
2.0	The Summer Village of Norglenwold 2.1 Regional Setting 2.2 Historical Overview	4
3.0	Vision and Core Values 3.1 Vision Statement 3.2 Core Values	5
4.0	Strategic Planning Directions 4.1 Introduction 4.2 Change: What's Happening and What's Anticipated 4.3 A Key Choice in Responding to Change 4.4 Guiding Principles 4.5 Strategic Planning Directions	6
5.0 6.0 7.0 8.0 9.0 10.0 11.0 12.0 13.0	Quality of Life Conservation of the Environment Reserves and Open Spaces Managing Growth and Land Use Change Future Summer Village Form and Land Uses Roads and Utilities Infrastructure Intermunicipal Planning and Cooperation Implementation and Review Definitions Note: Sections 5.0 to 12.0 each contain an Introduction, Goals and Policies.	9 10 14 17 21 26 29 31 34
_		
Appen 1 2	Idices Guidelines for an Environmental Review	37 37
Maps A B	Location After Page General Land Use After Page	

1.0 WHAT IS NORGLENWOLD PLAN 2011

1.1 BACKGROUND

Norgenwold Plan 2011, being the Municipal Development Plan for the Summer Village of Norglenwold, is the chief community and land use planning document for the Summer Village. This Plan is primarily a policy document that serves as a framework to guide decisions on community growth, the uses of land and the conservation of resources, as well as the means to implement these decisions. The plan is mostly long-term and general in nature; in being so, it reflects the form and nature of community that is desired far into the future by Norglenwold's residents.

More detailed statutory plans, including area structure plans and area redevelopment plans, and outline plans may be adopted for portions of Norglenwold to provide greater detail for land use change, development and conservation measures.

1.2 LEGISLATIVE FRAMEWORK

As the Municipal Development Plan (MDP) for the Summer Village, Norglenwold Plan 2011 is a statutory plan adopted pursuant to the Municipal Government Act (Revised Statutes of Alberta 2000 Chapter M-26). While the Act makes it optional for municipalities with a population of less than 3,500 to adopt a Municipal Development Plan, Norglenwold views that having an MDP is important to guide Norglenwold into the future.

The Municipal Government Act requires that a municipal development plan address:

- 1. the future use of land within the municipality,
- 2. the manner of and proposals for future development in the municipality,
- 3. the coordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is not intermunicipal development plan with respect to those matters in those municipalities,
- 4. the provision of transportation systems either generally or specifically within the municipality and in relation to adjacent municipalities,
- 5. the provision of municipal services and facilities either generally or specifically,
- 6. policies compatible with the subdivision and development regulations to provide guidance on the type and location of land uses adjacent to sour gas facilities,
- 7. policies respecting the provision of municipal, school or municipal and school reserves, and policies respecting the protection of agricultural operations.

The Municipal Government Act also indicates that a municipal development plan may address, among other matters:

- 1. environmental matters,
- 2. coordination of programs related to the physical, social and economic development, and
- 3. goals, strategies and policies.

1.3 Relationship with Other Plans

Norglenwold Plan 2011 is greatly directed by Norglenwold's 'Strategic Planning Directions'. These directions provide the Vision Statement of the municipality, as well as its core values and guiding principles, which are cited in Section 4 of Norglenwold 2011. As required by the Municipal Government Act, all other statutory plans when adopted by the Summer Village must be consistent with Norglenwold Plan 2011,

Norglenwold has an extremely small land base. Most of the land within the municipality is presently developed or set aside for open space/park purposes. Because the municipality wishes to share in the responsibility of managing and guiding future land use change around the southwest portion of Sylvan Lake, Norglenwold's Growth Strategy casts a vision to expand the Summer Village's land base by annexing lands currently within Red Deer County. In support of this, Norglenwold is prepared to enter an intermunicipal development plan with Red Deer County and/or the Town of Sylvan Lake.

As one of eight municipalities around Sylvan Lake, Norglenwold remains committed to integrated lake-wide planning through the Sylvan Lake Management Plan, and any successor documents. Norglenwold Plan 2011 has been prepared to reflect with the Sylvan Lake Management Plan.

1.4 Plan Preparation Process

Norglenwold's residents provided considerable input into the previous municipal development plan – Plan 2000. The relevance of that plan has been monitored by the Council and administration of the Summer Village since its adoption.

Since 2000, there has been increasing growth pressures around Sylvan Lake, including adjacent and near to Norglenwold. In response to these pressures, in the Fall of 2010 the Town of Sylvan Lake revealed possible intentions, through an intermunicipal development planning process with Red Deer County, to expand the town boundaries so all land adjacent to the Summer Village would house a portion of the Town's future population growth. This is inconsistent with the Summer Village's actions in 2008 of serving notice to annex adjacent lands as a means to implement the land base expansion provisions in Plan 2000.

In January 2011, Norglenwold undertook action to review Plan 2000, recognizing that a review was timely, and necessary, to respond to growth pressures and the intermunicipal development plan being prepared by the Town and County.

The process to review and adopt the new municipal development plan – Norglenwold Plan 2011, included stakeholder collaboration and input through:

- community input at the 2011 Annual General Meeting in June
- community residents' response forms
- discussions with Red Deer County and the Town of Sylvan Lake
- meeting with representatives of municipalities around the Lake
- municipal written responses
- responses from public stakeholders
- a public hearing.

1.5 Organization of Norglenwold Plan 2011

Norglenwold Plan 2011 is divided into a series of sections.

Sections 1.0 and 2.0 respectively provide an introduction to the plan and to the municipality of Norglenwold.

Section 3.0 provides the vision of the community Norglenwold aspires to be in the future, and the values that are core to the community's future.

Section 4.0 outlines the strategic directions seen by the municipality to help achieve its vision.

Sections 5 through 10 address: quality of life aspects, the conservation of the environment, the provision of open spaces including natural areas, managing growth and change, the future municipal form and the uses of land, and the provision of road and utility infrastructure.

Section 11 addresses intermunicipal planning and cooperation.

Section 12 outlines how the planning policies are to be implemented.

Section 13 provides definitions to assist in understanding this Plan.

Appendix A is a guideline for environmental reviews. Appendix B is a guideline for visual impact assessments.

1.6 Interpretation

In Norglenwold Plan 2011:

- "Shall" polices are mandatory and must be complies with.
- "Should" policies encourage actions to achieve the intention or intentions of the policy, but action is not mandatory.
- "May" policies are discretionary as to the level of compliance on a case by case basis as determined by the applicable authority.
- "This Plan" means the Norglenwold Plan 2011.

2.0 THE SUMMER VILLAGE OF NORGLENWOLD

2.1 Regional Setting

As shown on Map 1, the Summer Village of Norglenwold is located at the southern end of Sylvan Lake, which is approximately 15 kilometers west of the City of Red Deer. Sylvan Lake is a very significant Alberta lake because of its central location along the Edmonton – Calgary corridor. Due to its attractive physical and environmental attributes, the Lake is a popular recreation area.

Norglenwold shares the Lake with other seven other municipalities - the Summer Villages of Jarvis Bay, Birchcliff, Sunbreaker Cove and Half Moon Bay; the Town of Sylvan Lake; Red Deer County; and Lacombe County.

2.2 Historical Overview

Seasonal cabins date back to the 1920's and 1930's. The early subdivisions were Northey Point (1911), Whitewold Beach (1912), Lyle Landing (1947) and Glen-Innes (1956). Through a provincial legislative order in December 1964, signed by Minister A.J. Hooke, on January 1, 1965 these four subdivision-communities were incorporated into "The Summer Village of Norglenwold".

The name "Norglenwold" was derived from three of the four early subdivisions: Nor (Northey Point), Glen (Glen-Innes) and Wold (Whitewold Beach).

The community is generally very lineal, being developed along the Lake from east (Northey Point) to west (Lyle Landing), and subsequently further west along Last Chance Way. More recently developments extended the Summer to the southeast where Sylvan Harbour Estates was developed adjacent to the Town of Sylvan Lake's Marina Bay Estates. Non lakefront developments have occurred by Sylvan Lane and in Ravenscrag.

In 1997 a sanitary sewer system was upgraded in Sylvan Harbour Estates (Rustic Crescent) and connected to the Town of Sylvan Lake's wastewater system and treatment facilities. In 2009, with the completion of a municipal wastewater trunk line the remainder of Norglenwold began to connect to the regional system that uses the Town's wastewater treatment facility. This is an excellent example of shared services among neighboring municipalities.

Norglenwold continues to evolve into a municipality of permanent residents. With this trend there is a marked increase in redevelopment of existing properties and a demand for serviced lots in new developments.

Recognizing the importance of water and wastewater services to the Summer Village and the whole lake, Norglenwold became a founding is member of the Sylvan Lake Regional Wastewater Commission and the Sylvan Lake Regional Water Commission, which has as a priority to investigate water availability for future growth and development around the Lake.

3.0 VISION AND CORE VALUES

3.1 Vision Statement

A vision statement expresses what the community desires to be in the future, a generation and more from now.

Norglenwold's vision statement is:

The Summer Village of Norglenwold, even with growth and expansion, remains a quiet residential community with cost effective services. Working cooperatively with all other communities around Sylvan Lake, it is an effective steward of the environment for the benefit of residents, visitors and future generations.

3.2 Core Values

In pursuing the community vision, Norglenwold holds the following core values.

- 1. Community autonomy, but actively partnering with other communities to mutually achieve common interests and goals.
- 2. Quiet enjoyment of private property.
- 3. Quality of life of its residents, which is to be maintained and enhanced by building on the advantages of being a small community, including community pride, personal and community safety, supportive social networks and community involvement
- 4. Conservation of natural features, including their preservation wherever possible.
- 5. Sharing responsibly in planning, managing and guiding growth and land use change around Sylvan Lake.
- 6. Participatory municipal governance that reflects changing demographics and technology.

4.0 STRATEGIC PLANNING DIRECTIONS

4.1 Introduction

Recognizing ongoing pressures for a multitude of changes around Sylvan Lake, the Summer Village realizes the importance to once again look to the future to:

- Identify how the Summer Village may help shape change.
- Actively protect the environment of the Lake and its shorelands.
- Preserve the quality of life valued by the residents of the Summer Village.
- Consider how the community vision, core values and principles can be articulated through strategic planning directions that maintain the ambiance of the community while guiding growth.

4.2 Change: What's Happening and What's Anticipated

Over the past ten years, there have been many changes around Sylvan Lake, including in and near the Summer Village. Pressures for land use change have grown considerably and will continue given the quality of the recreation resource values offered by the Lake and its central location within the Edmonton – Calgary corridor. With the growth of Red Deer as a major provincial centre, more than ever people are looking at the attractiveness of the Lake and its shorelands as a place to settle and raise a family, and where to recreate.

As well, the Town of Sylvan Lake has boomed as an economic centre, resulting in heightened pressure for places to live, especially around the south end of Sylvan Lake. The Town has looked to the future through its 2008 Growth Strategy. It foresees the need to plan the expansion of the Town to accommodate a projected population of at least 60,000 people, over four times the current population. In cooperation with Red Deer County, the two municipalities are preparing an Intermunicipal Development Plan to direct future growth which is compatible with the rural and urban character of the area, including the environment of Sylvan Lake.

Lacombe County also has responded to pressures for land use by preparing the Lacombe County Sylvan Lake Area Structure Plan. Similar in purposes to the draft Red Deer County/Town of Sylvan Lake Intermunicipal Development Plan, important goals of this plan are to provide clear and comprehensive policies to guide land use decisions, and in doing so manage growth to ensure the long term health of the Lake while minimizing impacts on existing residents.

4.3 A Key Choice in Responding to Change

Growth and change around Sylvan Lake, and perhaps especially the southern shorelands, are inevitable. The draft Red Deer County/Town of Sylvan Lake Intermunicipal Development Plan foresees the expansion of the Town to embrace all lands adjacent to the Summer Village.

As such, the Summer Village of Norglenwold is faced with a very key choice. It can maintain its present land base and respond to the form of land use change set out by a neighbouring community on lands adjoining the Summer Village. Or, it can proactively share in the responsibility of responding to growth by actively addressing the challenges

of growth through expanding the Summer Village's land base and, in cooperation with its municipal neighbours, accommodating land use change in ways that are in keeping with the vision, values and principles of the Summer Village.

Norglenwold has chosen to share in managing growth and land use change by seeking to expand the municipal boundaries. While strategic planning directions are always important to a municipality, they are even more important when a municipality determines it should increase its land base.

4.4 Guiding Principles

In addition to the Vision and Core Values in Section 3.0, the Summer Village's strategic planning directions also need to be guided by fundamental principles. These principles will guide Norglenwold's Council, administration and residents in making decisions and directing actions regarding future land use, the provision of infrastructure and the delivery services important to the quality of life in the Summer Village.

The guiding principles, which were mostly initially enunciated in Plan 2000, are:

- 1. Norglenwold is committed to collaborating with all municipalities around Sylvan Lake to build and maintain positive and mutually beneficial relationships.
- 2. Norglenwold is committed to collaborating with neighboring municipalities and other levels of government regarding matters of mutual significance, especially the long term protection of the Lake.
- 3. Particularly, Norglenwold is committed to collaborating with all municipalities around Sylvan Lake to conserve the environmental health of the Lake and the enjoyment of its recreation attributes.
- 4. Norglenwold will foster appropriate and compatible uses of land.
- 5. Norglenwold will advance the provision of safe, efficient and cost effective infrastructure which will meet the present and future needs of residents.
- 6. Norglenwold is committed to collaborating with neighboring municipalities and other levels of government regarding utility, transportation, recreation, health and cultural services.
- 7. Norglenwold recognizes individual property rights need to be respected in planning, subdivision and development approval processes while also considering the greater public interest.
- 8. Norglenwold is committed to sound financial management.
- 9. Norglenwold supports the provision of an effective and accessible municipal government committed to public participation in decision making.

4.5 Strategic Planning Directions

The Summer Village of Norglenwold strategic planning directions are comprised of the following seven key strategies and associated actions:

- 1. Recognize the need to responsibly share in responding to growth and change at the south end of Sylvan Lake by:
 - (a) working cooperatively with Town of Sylvan Lake and Red Deer County to address and shape future growth;
 - (b) undertaking and implementing joint plans with neighbouring municipalities;
 - (c) continuing to encourage and participate in cooperative watershed planning initiatives:

- (d) continuing to engage the community in determining directions for land use development and resource conservation.
- 2. Expand the Summer Village land base by:
 - (a) identifying lands for the near and long term growth of Norglenwold;
 - (b) annexing lands in a timely manner in consultation with Red Deer County.
- 3. Conserve land based resources by:
 - (a) avoiding the premature conversion of agricultural land to other uses;
 - (b) planning for natural areas to remain an integral part of the community fabric.
- 4. Protect the Lake environment by:
 - (a) cooperating with municipalities around the Lake to ensure the long-term health of the Lake:
 - (b) conserving riparian areas;
 - (c) cooperating in the education of landowners and lake users on the importance of protecting significant shoreline fish habitat.
- 5. Accommodate residential development by:
 - (a) maintaining the character and ambiance of existing residential areas;
 - (b) establishing certainty for future residential land in the expanded community;
 - (c) identifying and promoting appropriate new approaches to residential development;
 - (d) providing for densities and forms of residential neighbourhoods whose collective footprint on the land is smaller than traditional residential development in Norglenwold;
 - (e) exploring opportunities for the joint development of residential areas in and adjacent to the Summer Village.
- 6. Shared approach in the provision of infrastructure and 'soft' services by:
 - (a) continuing to encourage and participate in the regional delivery of wastewater services:
 - (b) continuing to seek, and then participate in, the regional delivery of water services;
 - (c) continuing to cooperate with the Town of Sylvan Lake, Red Deer County and the Province in the integration of the road network;
 - (d) continuing to cooperate with municipalities in the delivery of community recreation, library, cultural and emergency services;
 - (e) continuing to promote access to quality education and health care.
- 7. Implementation through statutory plans by:
 - (a) updating and reviewing at least every six years the Municipal Development Plan;
 - (b) undertaking jointly with the Town of Sylvan Lake and Red Deer County, a detailed land use plan for the lands adjacent and near the Summer Village;
 - (c) requiring area structure plans or outline plans to guide the use and development of land.

These strategic planning directions are given greater detail in the policies contained in Sections 5.0 to 12.0.

5.0 QUALITY OF LIFE

5.1 Introduction

Of fundamental importance is the continuation of the high quality of life enjoyed by the residents of Norglenwold. The community has been a quiet, secure and safe place to live. Even with future growth these aspects remain a high priority as facets that will contribute to the livability and sustainability of Norglenwold. Therefore, the presence and availability of protective and emergency services is important, as is access to quality education, recreation, cultural and health care facilities and services.

5.2 Goals

- 5.2.1 The quality of life goals are:
 - 1. To sustain the high quality of life enjoyed by Norglenwold residents.
 - 2. To continue to evolve as a quiet, healthy and safe community.

5.3 Policies

- 5.3.1 Norglenwold shall work cooperatively with other municipalities and agencies around the Lake to minimize noise pollution on and around the Lake.
- 5.3.2 From time to time Norglenwold may request input from the Norglenwold Safety Committee to review safety within the community and other related concerns.
- 5.3.3 In cooperation with the police protection service providers, Norglenwold shall continue to provide the appropriate level of protective services as needs change and the population grows.
- 5.3.4 Norglenwold should promote crime prevention through such strategies as community education and CPTED (crime prevention through environmental design) in site planning and property development as a means to enhance security and safety within the municipality.
- 5.3.5 In cooperation with the providers of fire and ambulance services, Norglenwold shall continue to provide the appropriate level of emergency services.
- 5.3.6 Norglenwold shall continue to cooperate with neighbouring municipalities and the applicable agencies to ensure an effective emergency response plan is in place for the community and neighbouring areas.
- 5.3.7 Norglenwold shall continue to work with neighbouring municipalities to achieve a mutually beneficial approach to the provision of recreation, library and cultural facilities and services.
- 5.3.8 Norglenwold continues to encourage access to quality education facilities and quality health care for its residents.

6.0 CONSERVATION OF THE ENVIRONMENT

6.1 Introduction

Sylvan Lake and the natural areas within and near Norglenwold offer many benefits, including the opportunity to experience, enjoy and respect the natural world. Environmental awareness and the benefit of hindsight to past mistakes have instilled a motivation to manage and monitor changes to the environment, especially the Lake, its riparian areas, wooded areas and the watershed, including land uses therein and impacts on small stream courses. The conservation of important ecosystems is not only important for the sustaining health of the natural systems but also for maintaining the quality of life for residents of and visitors to Norglenwold and other municipalities and sites around Sylvan Lake.

6.2 Goals

- 6.2.1 The conservation of the environment goals are:
 - 1. To protect the water quality, aquatic life, habitat and ecosystems of Sylvan Lake.
 - 2. To conserve natural areas, features and habitat, and seek to preserve areas and features which are especially significant or sensitive.
 - 3. To preserve lake escarpments and riparian areas.
 - 4. To maximize the provision of open space throughout the community.
 - 5. To avoid the premature conversion of agricultural land to other uses.
 - 6. To ensure the appropriate reclamation and future use of hazardous sites.
 - 7. To support initiatives that increase awareness and public involvement in sustaining the environment.

6.3 Policies

- 6.3.1 Norglenwold shall commit to environmental leadership to conserve, protect and improve the environment of Sylvan Lake and its watershed for the benefit of residents and recreators around the Lake.
- 6.3.2 Norglenwold shall recognize the importance of ensuring the principles of sustainable development and environmental sensitivity are embodied in all planning decisions, particularly those related to the implementation of the Growth Strategy; and lakeside development.
- 6.3.3 Norglenwold shall encourage all private citizens and all levels of government to recognize their roles and responsibilities in maintaining or improving the quality of the environment.
- 6.3.4 Norglenwold shall encourage preventative approaches to environmental concerns, including but not limited to the implementation and enforcement of by-laws regarding vegetation management and tree removal.
- 6.3.5 Norglenwold shall ensure that applications for subdivision and development include measures that minimize or mitigate any negative impacts on surface water drainage, soil erosion and the quality and availability of ground water.

- 6.3.6 Norglenwold shall not allow development adjacent to or near the shores of the Lake, including reserves, and other open spaces, unless the proponent can demonstrate to the satisfaction of the Summer Village the development will not:
 - (a) reduce lake water quality;
 - (b) degrade fish or wildlife habitat;
 - (c) adversely impact the area's visual or natural quality through inappropriate or excessive removal of vegetation, and
 - (d) lead to soil erosion or instability or damage to the bank or shore.
- 6.3.7 Norglenwold shall restrict development below the 938.0 m (3077.4 ft) contour on private land adjoining the Lake unless, with the prior approval of the Summer Village, the site is filled to a level sufficient to limit flooding and ice damage in a way that will not detrimentally impact riparian vegetation, aquatic habitat or neighbouring properties.
- 6.3.8 Should Norglenwold expand onto lands that abut the shoreline of Sylvan Lake, the Summer Village shall require statutory plans, outline plans and decisions on subdivision applications or development applications, as the case may be:
 - (a) to provide a 30 m environmental reserve and/or environmental reserve easement along the shoreline. If this 30 m does not extend at least 6 m beyond the top-of-bank, the environmental reserve and/or environmental reserve easement shall be widened to extend at least 6 m beyond the top-of-bank, and
 - (b) where there is no environmental reserve, environmental reserve easement and/or municipal reserve, to require development to be set back 30 m from the shoreline. If this 30 m does not extend at least 6 m beyond the top-of-bank, the development setback shall be widened to extend at least 6 m beyond the top-of-bank.
- 6.3.9 While development may be approved on lands containing natural habitat, Norglenwold shall encourage the protection and enhancement of fish and wildlife habitat by:
 - (a) requiring subdivision and development to designed in a way that is sensitive to the character of the habitat; and
 - (b) ensuring that effects on natural features are minimized, including through actions to mitigate effects.
- 6.3.10 Norglenwold may require an environmental review (see Appendix A) to be prepared, to the satisfaction of the Summer Village, as part of a plan, subdivision or development proposal. An environmental review shall include, but is not limited to:
 - (a) a description of the environmental sensitivity of the lands proposed for development and the surrounding area;
 - (b) the identification of the nature and significance of any adverse impacts associated with the proposed development during construction;
 - (c) the identification of the nature and significance of any adverse impacts associated with activities that will result from the development;
 - (d) the inclusion of an environment protection plan to:
 - (i) alleviate any adverse impacts;
 - (ii) monitor the performance of the environmental measures; and
 - (iii) identify any residual impacts and their significance on any or all of the following: fish and wildlife, vegetation, soils and terrain, water quantity and quality, shoreline, surface drainage and aquifers.

- 6.3.11 Should an environmental review identify a site contains a landfill or other hazardous land use, Norglenwold shall not approve development that is inappropriate on or adjacent to these sites. For any use of land that may be allowed on or adjacent to these sites, Norglenwold shall require the development to be designed to mitigate risk.
- 6.3.12 Norglenwold shall encourage and, where applicable, through the approval of area structure plans, outline plans, subdivisions and developments require the conservation of drainage courses by protecting the integrity of the channels and maintaining riparian vegetation.
- 6.3.13 In its land use decisions, Norglenwold shall recognize the importance of ground and surface water in supporting wildlife.
- 6.3.14 Through land use plans and decisions on subdivision and development, Norglenwold shall require that roadways be located and designed to minimize impacts on natural areas, parks and neighbourhoods.
- 6.3.15 Unless there are extenuating factors, Norglenwold shall discourage resource extraction in the Summer Village in order to greatly reduce or eliminate the impacts of noise, traffic, dust, odor and flaring on the quality of life in Norglenwold.
- 6.3.16 For any resource extraction proposed near the Summer Village, Norglenwold may advise the approving authority to establish appropriate setbacks and mitigation measures to minimize any possible adverse impacts upon the residents of the Summer Village caused by noise, traffic, dust, odor and flaring.
- 6.3.17 Should Norglenwold expand onto lands containing active agricultural operations, Norglenwold shall require land use plans and decisions on land uses to avoid the premature conversion of agricultural land to other uses.
- 6.3.18 Norglenwold shall participate in seeking regional solutions, acceptable to the Summer Village, for the provision of water and wastewater services in order to protect the quantity and quality of lake water and aquifers.
- 6.3.19 Norglenwold supports a regional approach to the provision of one or more formal pubic boat launches around the Lake providing the location is not in an environmentally sensitive habitat location as identified in the Sylvan Lake Management Plan and any amendments and successor plans thereto.
- 6.3.20 Norglenwold should encourage its residents and visitors to reduce the solid waste stream by promoting an integrated waste management program designed around the four R's Reduce, Reuse, Recycle and Recover.
- 6.3.21 Norglenwold may consider the establishment of an Environmental Advisory Committee to advise Council as required and to develop environment assessment awareness programs for residents.
- 6.3.22 Norglenwold shall encourage efforts by local environmental groups and Alberta Environment to monitor the quality of lake water on a regular basis, and to support the development of a Sylvan Lake Water Quality Management Plan.

6.3.23	Norglenwold shall add provisions in the Land Use Bylaw to manage the protection of vegetation cover, including woodlands, and to regulate the removal of trees.

7.0 RESERVES AND OPEN SPACES

7.1 Introduction

Open spaces, including natural areas, recreation parks and linked pathways, are important to the high quality of life enjoyed by Norglenwold's residents. Recreation is important to the health of people. Equally, the conservation of natural areas is important to the health of the environment, including wildlife. In future planning for Norglenwold, there is a need to balance the protection and use of natural areas. The linking of open spaces has become more important in community planning as people enjoy walking and biking more. At present, there is no foreseen need to provide land to accommodate a school, but should the community's land base expand in the future this option needs to be considered.

7.2 Goals

- 7.2.1 The reserves and open spaces goals are:
 - 1. To conserve natural areas so they remain an integral part of the community fabric.
 - 2. To provide recreation opportunities.
 - 3. To link open spaces.
 - 4. To establish policies for the dedication of reserve lands and cash in lieu of land dedication.

7.3 Policies

- 7.3.1 Should Norglenwold expand onto lands that abut the shoreline of Sylvan Lake, the Summer Village shall require statutory plans, outline plans and decisions on subdivision applications and development applications to provide environmental reserve and/or environmental reserve easement and development setbacks in accordance with Policy 6.3.8.
- 7.3.2 Norglenwold may consider the dedication of an environmental reserve easement in place of dedication of an environmental reserve, but only where the land is not suitable for public access.
- 7.3.3 Except as otherwise provided for in Policies 7.3.4 and 9.3.23, Norglenwold shall require 10 percent of the total parcel being subdivided, less any land dedicated as environmental reserve, to be dedicated as municipal reserve, school reserve or municipal and school reserve as provided for in the *Municipal Government Act*. The dedication of all or a portion of the reserve owing may be deferred to the remaining portion of the land being subdivided.
- 7.3.4 By consulting with landowners and developers Norglenwold shall encourage the dedication of reserve land to be greater than 10 percent where the additional dedication is to conserve natural areas that do not meet the definition of environmental reserve lands or to enlarge recreation sites.
- 7.3.5 Notwithstanding Policy 7.3.3, Norglenwold may accept cash-in-lieu of reserve lands in non-residential areas.

- 7.3.6 To promote development to back onto main roads, Norglenwold:
 - (a) should Norglenwold annex lands along the south or west side, as the case may be, of Grand Avenue, Honeymoon Drive, Last Chance Way and Aspen Lane, when the land is approved for subdivision the Summer Village shall require the dedication of municipal reserve adjacent to the road;
 - (b) should the lands along the south or west side, as the case may, be of Grand Avenue, Honeymoon Drive, Last Chance Way and Aspen Lane, not be annexed to the Summer Village and approved for subdivision by another municipality, Norglenwold shall request the dedication of municipal reserve adjacent to the road: and
 - (c) when land is subdivided along other main roads, either currently within the Summer Village or on lands that may be annexed to the Summer Village, Norglenwold may require municipal reserve adjacent to one or both sides of these other main roads.
- 7.3.7 In consultation with the school authority, if a school or a municipal and school reserve allocation is required, Norglenwold shall require the site be identified in an area structure plan.
- 7.3.8 Norglenwold shall require, wherever possible, municipal reserve:
 - (a) to be land which is suitable for development;
 - (b) to be located and configured to render the municipal reserve useful for the provision of recreation parks, more natural open space and/or trails;
 - (c) to promote linkages among open spaces, including municipal and regional trail corridors; and
 - (d) to promote trail access to the Sylvan Lake shoreline at appropriate locations.
- 7.3.9 Norglenwold shall require that trails be located and designed to minimize impacts on adjacent private property and natural areas, through which trails may be located.
- 7.3.10 Norglenwold should consider provisions to accommodate pedestrian access on all undeveloped surveyed road allowances including those accessing the lake shore. Vehicular access on these road allowances may only be allowed by and under the direction of the municipality.
- 7.3.11 The undeveloped connecting portions of the Honeymoon Drive and Grand Avenue road allowance shall remain in their natural state to form part of a shoreland natural area park which should include a pedestrian/bicycle trail. Norglenwold may take action to close the undeveloped portion of these road allowances.
- 7.3.12 Should the land base of Norglenwold expand in the future, the Summer Village shall plan to provide a variety of types of parks and recreation areas to complement the open spaces currently within the community.
- 7.3.13 In natural areas Norglenwold shall support, where appropriate, recreation uses that are in keeping with the sensitive nature of these areas.
- 7.3.14 Norglenwold shall not support the development of a public boat launch at any location along the shoreline of the Summer Village due to the presence of significant fish habitat along a majority of the shoreline, and the land use, traffic, parking and noise conflicts that are created by a public boat launch.

7.3.15 Norglenwold encourages the development of a regional trail network, which includes links to, or possibly through, the Summer Village and shall endeavor to participate, as deemed appropriate to the Summer Village, with others in the planning and development of the trail system or portions thereof. However, the trail within Norglenwold shall preclude any motorized vehicles or conveyances and shall only be for the use of pedestrians, bicyclists and cross-country skiers. The trail shall be located and designed to minimize impacts on adjacent private property and natural areas, through which the trail may be located.

8.0 MANAGING GROWTH AND LAND USE CHANGE

8.1 Introduction

As an extremely attractive place for living and recreating, Sylvan Lake continues to attract significant pressures for land use change all around the Lake. These pressures require municipalities to prepare and adopt plans that will guide and manage future growth and land use development. For example, planning by the Town of Sylvan Lake envisions a community of over 60,000 people, more than four times the current population. Some of the Town's residential growth may extend to all of the lands adjacent to Norglenwold.

In responding to growth pressure, the Summer Village essentially had two basic options:

- 1. Maintain its current boundaries, thus recognizing the Town will direct and manage land use changes on lands adjacent to Norglenwold; or
- 2. Expand the Summer Village boundaries to provide the Summer Village the ability to direct and manage land use change on these adjacent lands.

The Summer Village of Norglenwold Growth Strategy, approved by the community in June 2011, directs the Summer Village to pursue option 2.

Annexing adjacent lands will enable Norglenwold to responsibly share in the accommodation and management of future growth and land use change. It is intended that this be achieved through joint planning with the Town, in consultation with Red Deer County, for lands of mutual interest to the Summer Village and Town. Should lands annexed to the Summer Village, Norglenwold will amend Norglenwold Plan 2011 and prepare, or have prepared, area structure plans for these lands. The management of growth and land use change does not only look to future expansion lands, but also needs to address lands currently within the community. The retention of the amenities of present neighbourhoods is important to current and future residents of these neighbourhoods.

8.2 Goals

The managing growth and land use change goals are:

- 1. To sustain the quiet village feel of Norglenwold.
- 2. To maintain the attractiveness of current residential areas
- 3. To provide for the expansion of the municipal land base by working with the Town of Sylvan Lake and Red Deer County to identify and protect future growth areas for the Summer Village and Town.
- 4. To direct growth to locations that are or can be effectively serviced by existing and future infrastructure.
- 5. To adopt and implement land use plans to guide future growth and development.

8.3 Policies

8.3.1 Through Norglenwold Plan 2011, the Summer Village shall seek to implement the strategic directions contained in the Summer Village of Norglenwold Growth Strategy. The seven strategic planning directions in the Growth Strategy are provided in Section 4.5 of this Plan.

- 8.3.2 Norglenwold shall encourage and continue to participate in lake-wide cooperative planning initiatives.
- 8.3.3 Norglenwold shall work together with the Town of Sylvan Lake and Red Deer County, in consultation with other stakeholders, to prepare and jointly approve a detailed land use plan for the lands north of Highway 11A and east of Range Road 2-1. This plan is to address, but not be limited to, the following:
 - (a) allocation of land uses, either generally or specifically;
 - (b) utility servicing concepts;
 - (c) cost sharing agreements;
 - (d) the lands to be annexed to each municipality in the future;
 - (e) how the detailed land use plan is to be implemented by the municipalities; and
 - (f) a process for mediation, should mediation be required.
- 8.3.4 In accordance with the annexation phasing strategy that should be part of the detailed plan identified in Policy 8.3.3, Norglenwold should annex lands in accordance with this strategy. However, in the view of Norglenwold if this detailed plan is unduly delayed or does not arrive at an annexation strategy that satisfies the Summer Village, Norglenwold may proceed to annex lands without the completion of a detailed plan or joint approval of a detailed plan.
- 8.3.5 To manage growth on lands that may be annexed to the Summer Village, Norglenwold shall:
 - (a) amend Norglenwold Plan 2011; and
 - (b) prepare, or have prepared, and adopt one or more area structure plans for the annexed land.
- 8.3.6 Norglenwold shall require the preparation of an area structure plan to guide land use change, unless the change is determined by the Summer Village to be minor such that it will have little or no affect on surrounding land uses.
- 8.3.7 To guide growth and manage land use change, a fundamental goal of any land use plan shall be to sustain the quiet village ambience of Norglenwold.
- 8.3.8 Notwithstanding Policy 6.3.10, as part of the preparation of an area structure plan, an Environmental Review (Appendix A) may be required and a Visual Impact Assessment (Appendix B) may be required.
- 8.3.9 An area structure plan shall describe:
 - (a) the sequence of development proposed for the area;
 - (b) the land uses proposed for the area, either generally or with respect to specific parts of the area;
 - (c) the density of population proposed for the area, either generally or with respect to specific parts of the area; and
 - (d) the location of major transportation routes and public utilities.
- 8.3.10 In addition to the mandatory contents prescribed in Policy 8.3.9, Council may require an area structure plan to address:
 - (a) the impact of development on adjacent uses and the environment, and the means proposed to mitigate impacts;

- (b) how the development will conserve or protect the shoreline, tree rows, woodlands, water courses, wetlands, wildlife corridors and other natural features if any are contained within the site;
- (c) the structure of the internal roadway system and any required improvements to address safe and convenient access and identify and mitigate traffic impacts on external roadways, including intersections with those roadways;
- (d) the servicing of the land with water, wastewater, electric power, natural gas, visual and audio communication utilities and stormwater management;
- (e) impacts on protective, emergency, education and recreation services;
- (f) the provision of open spaces and trails;
- (g) the provision for schools, if required; and
- (h) the provision for separation and/or screening from main roads and land uses that may be incompatible.
- 8.3.11 Norglenwold may only approve an application for redesignation, subdivision or development when the application substantially meets the expectations of the Summer Village regarding:
 - (a) suitability of the features of the site for the proposed use or uses;
 - (b) site design, including scale, parcel sizes and density;
 - (c) impact on the site and adjacent lands, including land uses thereon;
 - (d) compliance with any applicable statutory plan, approved outline plan and the Land Use Bylaw;
 - (e) impacts on the environment, including sensitive lands, and the proposed means to mitigate impacts;
 - (f) traffic impacts and the proposed means to mitigate impacts;
 - (g) provisions for road widening, road improvements and intersection improvements for access roads leading to the site;
 - (h) design of internal road linkages with adjacent lands;
 - (i) provisions for water and wastewater services;
 - (i) provisions for stormwater management;
 - (k) provisions for open space, including open space corridors;
 - (I) dedication of land for environmental reserve, environmental reserve easement, municipal reserve, school reserve, municipal and school reserve or money-in-lieu of land:
 - (m) aesthetic details, including the retention of natural features and landscaping within and on lands adjacent to the site;
 - (n) impact on and provisions for public pedestrian access to the Lake;
 - (o) adequacy of the availability of community services;
 - (p) community consultation program; and
 - (q) any other matters required by the Summer Village.
- 8.3.12 Norglenwold may only approve significant changes to land use or the density thereof on the lands currently within the Summer Village, as shown on Map 2, through the preparation and adoption of an area redevelopment plan.
- 8.3.13 As a condition of subdivision and development approval, Norglenwold may require an applicant to enter into an agreement to construct or pay for any or all of the following:
 - (a) a road required to give access to the subdivision or development;
 - (b) a pedestrian pathway system;
 - (c) utilities, other than telecommunication systems,

- (d) off-street loading and unloading facilities;
- (e) off-street or other parking facilities; and
- (f) security to ensure the terms of the agreement are carried out.
- 8.3.14 Norglenwold may require in a manner and for the purposes of consistent with the Municipal Government Act:
 - (a) a redevelopment levy in respect of development in an area redevelopment plan area; and
 - (b) an offsite levy, adopted by bylaw, to pay for all or part of the capital cost of new or expanded water utility services, new or expanded wastewater services, new or expanded stormwater services, new or expanded roads required for or impacted by a subdivision or development, and land to connect any of the aforementioned roads and services.
- 8.3.15 Norglenwold's Subdivision Authority may approve an application for subdivision approval and Development Authority may approve an application for development approval or conformity of a real property report if, in the opinion of the Authority that the subdivision or development on that land 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
 - (c) the proposed subdivision or development conforms with the use prescribed for that land or building in the Land Use Bylaw.

9.0 FUTURE SUMMER VILLAGE FORM AND LAND USES

9.1 Introduction

In 2011 most of the land within Norglenwold is developed for residential and open space uses. Only a small portion of land remains undeveloped, and it is allocated for residential use in a manner consistent with adjacent residential areas.

There presently are two general residential areas – shoreline residential lots adjacent to the lake or shoreline reserve lands and non-shoreline residential lots. The older shoreline lots generally are 50 feet wide and long, extending to the shoreline or a reserve along the shoreline. The newer shoreline lots in the northwest portion and southeast corner of the Summer Village are wider but not as deep. The non-shoreline residential areas are more residential estate in nature, usually having larger country residential type lots.

Two challenges are evident for planning the future of the Summer Village. One is to maintain the ambience of existing quiet lakeside and estate neighbourhoods. The second is to guide the expansion of Norglenwold so it remains safe and quiet through planning creative neighbourhoods that extend the ambience of the presently developed portions of the community.

Important too, is that the Summer Village recognizes the Town of Sylvan Lake is the commercial and business centre for the Lake area. Norglenwold does not desire to compete for these types of land uses. As the Summer Village population grows, only localized commercial land uses will be appropriate. Most certainly, industrial and business park uses are not desired to be part of Norglenwold's village atmosphere. Also, as the Summer Village grows it will need to consider provisions for other land uses, including community, recreation, education and cultural services and facilities, to contribute to quality of life desired by residents.

9.2 Goals

- 9.2.1 The future Summer Village form and land use goals are:
 - 1. To maintain the ambiance of existing shoreline and estate residential areas.
 - 2. To envision future residential neighbourhoods that are creative, yet not incompatible with existing neighbourhoods.
 - 3. To encourage compatible land use patterns.
 - 4. To accommodate neighbourhood commercial land uses of a scale and nature suitable to residential areas.
 - 5. To provide for municipal, community, recreation, education and cultural buildings and facilities.
 - 6. To discourage industrial and hazardous land uses from locating within the community.

9.3 Policies

Land Uses

9.3.1 Norglenwold shall guide the use of lands as shown on Map 2, General Land Use.

Future Community Form

- 9.3.2 Planning the future form of Norglenwold shall be guided by the vision for the Summer Village to remain a quiet residential community.
- 9.3.3 As guided by this Plan, Norglenwold shall require land use plans and the Land Use Bylaw to shape the form of Norglenwold in a manner which is suitable to both its lakeside location and adjacency to the Town of Sylvan Lake.
- 9.3.4 The future form of Norglenwold is to promote a small village feel, being;
 - (a) primarily residential;
 - (b) quiet and safe;
 - (c) appealing, in part through the retention of a series of natural areas and other open spaces; and
 - (d) laced with pathways to promote a walkable community.
- 9.3.5 Norglenwold shall revise the Land Use Bylaw to replace the existing residential land use district with the following residential land use districts:
 - (a) shoreline residential district; and
 - (b) estate residential district.

Should Norglenwold expands its land base, one or more additional residential districts shall be required to be added to the Land Use Bylaw.

Shoreline Residential Areas

- 9.3.6 Norglenwold shall promote private landowners of shoreline lots to keep the shoreline as natural as possible to maintain natural ecosystems.
- 9.3.7 Through community consultation and action, Norglenwold should consider adopting a shoreline maintenance program for private and municipal lands along the shoreline.
- 9.3.8 Unless the parcel was created prior to the adoption of this Plan, Norglenwold shall require residential parcels that abut the Lake or a reserve along the Lake to be a minimum 50 feet (15.24 m) wide and contain at least 7,500 sq. ft. (697 m²).
- 9.3.9 In establishing the shoreline residential district, Norglenwold shall set out among other matters:
 - (a) the maximum footprint of all buildings, as a percentage of parcel size;
 - (b) the maximum height of main and accessory buildings;
 - (c) the minimum percentage of soft landscaping to be provided;
 - (d) site design requirements that will minimize the flow and/or rate of water drainage to the Lake.
- 9.3.10 The only type of residential building allowed in the shoreline residential district as a permitted use is a detached dwellings. Manufactured dwellings may be listed as a discretionary use, but approval of this form of dwelling may only be where it is demonstrated to the satisfaction of Norglenwold that the design and appearance of the manufactured dwelling is compatible with other dwellings adjacent and nearby.

Estate Residential Areas

- 9.3.11 Unless the parcel was created prior to the adoption of this Plan, in the estate residential area Norglenwold shall require a minimum parcel size of 1,860 m² (20,126 sq ft).
- 9.3.12 In establishing the estate residential district, Norglenwold shall set out among other matters:
 - (a) the maximum footprint of all buildings, as a percentage of parcel size;
 - (b) the maximum height of main and accessory buildings; and
 - (c) the minimum percentage of soft landscaping to be provided.
- 9.3.13 The only type of residential building allowed in the estate residential district as a permitted use is a detached dwellings. Manufactured dwellings may be listed as a discretionary use, but approval of this form of dwelling may only be where it is demonstrated to the satisfaction of Norglenwold that the design and appearance of the manufactured dwelling is compatible with other dwellings adjacent and nearby.

General Residential Provisions

- 9.3.14 Development on residential parcels shall:
 - (a) be set back from the road to provide for landscaping to promote an aesthetically pleasing village ambiance;
 - (b) minimize the removal of existing trees; and
 - (c) control erosion on lots adjoining the Lake; if erosion control measures appear necessary these may only be undertaken with the prior approval of the Summer Village and Alberta Environment.
- 9.3.15 Regarding lots that abut the Lake or a reserve parcel adjacent to the Lake, the rear yard shall be considered adjacent to the road. Within these rear yards a detached garage may be allowed if:
 - (a) the garage is architecturally compatible with the main building; and
 - (b) the garage would not adversely affect the enjoyment of neighbouring properties.
- 9.3.16 In older neighbourhoods, Norglenwold shall encourage quality redevelopment as these neighbourhoods experience conversion from older seasonal residences to new permanent and seasonal residences.
- 9.3.17 Within residential districts, Norglenwold may approve income generating guest suites only in accordance with the provisions of the Land Use Bylaw.
- 9.3.18 Within residential districts, home occupations may be approved in accordance with the provisions of the Land Use Bylaw provided the home occupation:
 - (a) is performed by an occupant of the main dwelling;
 - (b) remains the secondary use;
 - (c) does not change the character of the main use;
 - (d) does not adversely affect neighbouring properties and the enjoyment thereof; and
 - (e) there is no exterior signage or evidence of such secondary use.

- 9.3.19 Within residential districts, bed and breakfasts may be approved in accordance with the provisions of the Land Use Bylaw if the bed and breakfast:
 - (a) does not change the character of the main use;
 - (b) there is sufficient off-street parking; and
 - (c) does not adversely affect neighbouring properties and the enjoyment thereof.
- 9.3.20 Norglenwold may require a developer to place and enforce architectural controls on new development to ensure the development is complementary to a theme or other development in the area. Where applied, architectural controls shall be registered as a restrictive covenant on each lot subject to these controls. Matters to be considered may include, but are not limited to the following:
 - (a) the maximum cumulative building footprint and building heights; the architectural appearance of main and ancillary buildings, including the materials and colors of exterior facades;
 - (b) type and pitch of the roofs;
 - (c) the size, type and location of neighborhood identification signs;
 - (d) landscaping; and
 - (e) driveways, parking surfaces and vegetation removal.

Considerations for Future Neighbourhoods

- 9.3.21 Should lands be annexed to the Summer Village, Norglenwold shall amend Norglenwold Plan 2011 to provide statutory guidance to the design and form of new neighbourhoods. These amendments, among other relevant matters, shall:
 - (a) establish certainty for future residential land;
 - (b) identify and promote appropriate new and innovative approaches to residential development;
 - (c) provide for densities and forms of residential neighbourhoods so the collective footprint on the land is smaller than traditional residential development in Norglenwold; and
 - (d) require roads and utilities to be provided to a Summer Village standard.
- 9.3.22 Norglenwold recognizes the densities of new residential areas need to reflect the change to communal water and wastewater services, and the desire to reduce the footprint of development on land. The maximum gross density for the area shall be established in the area structure plan for that area.
- 9.3.23 Notwithstanding Policy 7.3.3, through area structure plans or outline plans and consulting with landowners and developers Norglenwold shall encourage the dedication of reserve land to be greater than 10 percent where the additional dedication is to promote cluster development and/or to conserve natural areas that do not meet the definition of environmental reserve lands or to enlarge recreation sites. Where municipal reserve dedication exceeds 10%, as approved in the area structure plan, the density of development should meet or may even exceed the density that would have been allowed if only 10% municipal reserve is being dedicated.
- 9.3.24 To promote access from internal local roads for new subdivisions along Grand Avenue, Aspen Lane, Honeymoon Drive and Last Chance Way, Norglenwold shall apply the provisions of Policy 7.3.6. Existing trees should be conserved and/or replaced in

- accordance with a roadside landscaping plan. Access roads into a new subdivision from these roads may be allowed if provided for in an area structure plan.
- 9.3.25 In new residential areas the parcel sizes adjacent to shoreline residential and estate residential districts shall provide for a compatible transition of density.

Other Land Uses

- 9.3.26 In recognizing the benefits of providing a combination of natural and designed open spaces as well as a combination of active and passive open spaces to the health of residents and the environment, Norglenwold shall provide for a variety of open spaces throughout the community in accordance with the features offered by sites, the needs of residents and the ability of the Summer Village to maintain these open space areas. Wherever possible, open space should be connected by open space corridors or other means of connection.
- 9.3.27 Public and quasi-public land uses and facilities, such as municipal, school, church and recreation buildings, may be approved in locations set out in an area structure plan.
- 9.3.28 The only commercial land uses that may be allowed are small neighbourhood commercial centres and corner stores. However, if annexed land contains a commercial land use that land use should be grandfathered into the area structure plan for that area, but may be required to be phased out over a period of time.
- 9.3.29 Industrial uses shall not be allowed. However, if annexed land contains an industrial use that land use may be grandfathered into the area structure plan for that area, but shall be required to be phased out over a period of time.
- 9.3.30 Landfills shall not be allowed. However, if annexed land contains a landfill or a former land fill site, subdivision and development shall be setback from the landfill or landfill site in accordance with the Subdivision and Development Regulations. The phasing out of a landfill and the reclamation of a landfill or former landfill site shall be required in the area structure plan for that area.
- 9.3.31 In any annexed area that contains energy facilities, the area structure plan for that area:
 - (a) should promote the phasing out of the facilities in a timely manner in order to place less restrictions of development; but
 - (b) shall ensure appropriate setbacks from facilities that remain at the time of development.

10.0 ROADS AND UTILITIES INFRASTRUCTURE

10.1 Introduction

Mobility of residents, including their safe and efficient movement on roads and paths, is significantly important to their well-being. Equally, the provision of roads and paths is vital to the functional design of neighbourhoods and connections among the various parts of the community. Therefore appropriate road and path standards are important to Norglenwold.

The provision of utilities is also important to the vitality and health of a community. The provision of potable water and wastewater services are critical. Norglenwold now has municipal wastewater services through partnership in the Sylvan Lake Regional Wastewater Commission. While individual private wells currently provide potable water, in the future a municipal water system likely will be required, especially with the growth of the Summer Village. Stormwater management is critical to health of the Lake. Electric power, natural gas and communication services round out requirements for contemporary village living.

10.2 Goals

The roads and utilities infrastructure goals are:

- 1. To provide for the safe and efficient movement of people and goods.
- 2. To coordinate land use planning with the provisions of roads.
- 3. To facilitate alternative means of transport to the automobile.
- 4. To provide environmentally responsible, safe, efficient and reliable water, wastewater and stormwater management services.
- 5. To ensure the availability of reliable and effective electric power, natural gas and communication services.

10.3 Policies

- 10.3.1 Norglenwold shall require the development and maintenance of an effective and efficient road system to facilitate the safe movement of motor vehicles into and throughout the community.
- 10.3.2 Norgenwold shall promote the development of a road system that:
 - (a) protects the character and ambiance of existing neighbourhoods;
 - (b) links the various parts of the Summer Village; and
 - (c) effectively ties into the road systems of adjoining municipalities.
- 10.3.3 In accordance with other policies in this Plan, Norglenwold may require boulevards along main roads to provide a landscaped, treed, country-like feel.
- 10.3.4 Should Norglenwold annex lands, the Summer Village shall require the future road system to link the east and west portions of the community. However, one of the link roads shall not be the connection of Grand Avenue with Honeymoon Drive.
- 10.3.5 Norglenwold shall maintain the surveyed road allowances that extend to the Lake from Grand Avenue and Honeymoon Drive as natural open space as part of the

Summer Village open space system. These road allowances may provide for walking access to an escarpment or to the shoreline.

- 10.3.6 Norglenwold shall maintain township grid roads as follows:
 - (a) Sylvan Lane: boat launching may be permitted but parking shall be restricted in accordance with the Traffic Bylaw; pedestrian access to the Lake shall be permitted year round, while vehicle access to the Lake may be permitted in winter
 - (b) Aspen Lane (north of Grand Avenue): escarpment shall remain as an undeveloped habitat area, while the remainder may be used for access to adjacent properties;
 - (c) Lakeside Lane: boat launching may be permitted but parking shall be restricted in accordance with the Traffic Bylaw; pedestrian access to the Lake shall be permitted year round, while vehicle access to the Lake may be permitted in winter when environmental conditions are favorable.
- 10.3.7 Norglenwold shall require the provision of an interconnected system of walking, biking and cross-country skiing paths to encourage forms of transportation other than the use of motor vehicles.
- 10.3.8 In operating and planning Norglenwold, the Summer Village shall require the development and maintenance of reliable, safe and effective utilities.
- 10.3.9 Norglenwold shall require all development that requires wastewater services to be served by the regional wastewater system.
- 10.3.10 Norglenwold shall require a study to be undertaken to identify the capacity of the present wastewater system serving the Summer Village to support future development within and adjacent to the Summer Village. This study is necessary as important input into the detailed land use plan outlined in Policies 8.3.3 and 11.3.4.
- 10.3.11 Norglenwold may approve development that uses unfiltered groundwater, but shall not approve development if it is determined for the development that there is a lack of sufficient groundwater or the quality of groundwater does not meet provincial standards. For a development where groundwater is approved as the source of potable water, a deferred servicing agreement shall be placed on the title of each new lot in the development to require the lot connect to a municipal/regional system when available.
- 10.3.12 Norglenwold may undertake to partner in an intermunicipal or regional water system. If in the future such a system provides water services to the Summer Village, all development within the Summer Village that requires water services shall be required to connect to the system within a defined period of time from the date of availability of the system.
- 10.3.13 Norglenwold shall ensure that stormwater run-off is effectively and safely drained in a manner that will not adversely affect Sylvan Lake, other water or other land.
- 10.3.14 Norglenwold shall require multi-lot developments to implement stormwater management plans prepared by a qualified professional to manage stormwater so

- that run-off does not exceed the pre-development rate and the quality of run-off is comparable to or better than that of pre-development run-off.
- 10.3.15 For private development, Norglenwold shall require all roads and utility services to be at the cost of the developer, unless the Summer Village deems it in the greater community interest to cost share in the provision of roads and/or utility services.
- 10.3.16 Prior to planning for future developed on annexed lands, Norglenwold shall have prepared a standards manual for roads and utilities.
- 10.3.17 Norglenwold shall encourage utility suppliers to provide equal utility services throughout the community wherever possible.

11.0 INTERMUNICIPAL PLANNING AND COOPERATION

11.1 Introduction

It is very important for Norglenwold to promote cooperative working relationships with municipalities around Sylvan Lake, while maintaining the Summer Village's autonomy and uniqueness. Further, with growth pressures around the Lake, it has become increasingly important for the Summer Village to cooperate with its neighboring municipalities in planning. This is particularly applicable for the fringe areas near Norglenwold's boundaries, which are of mutual interest to the Summer Village, the Town of Sylvan Lake and Red Deer County. Cooperative planning is needed to ensure that growth and development takes place in a mutually beneficial manner.

The Summer Village recognizes the value in cooperating with neighboring municipalities and other organizations to provide cost effective and efficient services to its ratepayers. Interdependencies between the Summer Village and other municipalities in the region have been evolving over the years. These include: intermunicipal and regional wastewater collection and treatment; solid waste disposal; fire protection; police services; emergency medical services; road maintenance and snow removal; recreation facilities; and bylaw enforcement. Presently, the development of a regional water system is of increasing importance.

The recreational and environmental attributes of the Lake, and the influences of growth and development, transcend municipal boundaries. Intermunicipal planning and cooperation is required if the health and enjoyment of the Lake is to be sustained. Intermunicipal cooperation importantly will assist Norglenwold's achievement of it's aspirations as identified by the Summer Village's vision statement, core values and key principles.

11.2 Goals

The goals of intermunicipal planning and cooperation are:

- 1. To promote watershed planning that is rational and inclusive of regional, urban and rural needs.
- 2. To provide clear and comprehensive policies to guide growth and development around the Lake.
- 3. To guide annexation of land to the Summer Village.
- 4. To promote compatible land use patterns, including adjacent to and near the Summer Village boundary.
- 5. To promote the provision of cost-effective utilities and services.

11.3 Policies

- 11.3.1 Norglenwold supports intermunicipal planning initiatives for the integrated planning of the shorelands around Sylvan Lake and the Sylvan Lake watershed.
- 11.3.2 Norglenwold shall promote and partner in reviews, updates and implementation of the Sylvan Lake Management Plan, and any successor plans thereto. An essential purpose of these plans should be to ensure the long term health of the Lake, a high quality lifestyle for resident and memorable recreation experiences of visitors.

- 11.3.3 Recognizing that the area around the south end of Sylvan Lake needs to be planned in an integrated manner, Norglenwold shall seek to collaborate with the Town of Sylvan Lake and Red Deer County to:
 - (a) ensure land use and development policies are mutually acceptable and compatible, and
 - (b) determine the most appropriate means of coordinating these policies.
- Pursuant to Policy 11.3.3, as outlined in Policy 8.3.3 Norglenwold shall cooperate with the Town of Sylvan Lake, Red Deer County and other stakeholders to prepare a detailed land use plan for the lands north of Highway 11A and east of Range Road 2-1.
- 11.3.5 Norgenwold shall consult with municipalities around the Lake to obtain their views on possible amendments to this Plan.
- 11.3.6 Norglenwold shall refer for their input a proposed area structure plan or amendment thereto to the Town of Sylvan Lake and/or Red Deer County, and may refer the plan to other municipalities around the Lake.
- 11.3.7 Norglenwold may, where beneficial to residents and other interests in the Summer Village, enter into agreements with respect to any of the following services: water utility, wastewater utility, waste management, road maintenance, protective, emergency, administrative, recreation, preventive social services, cultural and other services as determined by the Summer Village.

12.0 IMPLEMENTATION AND REVIEW

12.1 Introduction

Norglenwold Plan 2011, being the Municipal Development Plan for the Summer Village, is only effective when it is implemented judiciously and with consistency. Within this Plan, the community vision, core values, guiding principles, goals and policies provide numerous, interconnected directions regarding the future of Norglenwold as a safe, viable place in which to live and to play within a lakeside community that retains a quiet village atmosphere. The purpose of Section 12 is to identify mechanisms that will facilitate the transition of this Plan into tangible and sustainable land use, environmental and social results on the ground, thus promoting the achievement of the community vision for the Summer Village of Norglenwold.

12.2 Goals

- 12.2.1 The implementation and review goals are:
 - 1. To apply Norglenwold's vision, core values, key guiding principles and strategic planning directions.
 - 2. To effectively implement the policies set out in Norglenwold Plan 2011 to enhance the quality of life, manage growth and change, guide the provision of services and encourage private investments.
 - 3. To apply the policies of the Norglenwold Plan 2011 when collaborating with the provincial government, municipalities and other agencies and groups.
 - 4. To require where appropriate an area structure plan to guide land use changes.
 - 5. To monitor land use change to effect gradual, focused and measured growth.
 - 6. To provide for amendments to Norglenwold Plan 2011.

12.3 Policies

- 12.3.1 Norglenwold, through Council, the administration and development, subdivision and appeal authorities, shall apply the policies of this Plan when making decisions on any proposed redesignation, subdivision, or development application and any proposed statutory plan and outline plan.
- 12.3.2 Norglenwold shall apply the policies of this Plan in a manner consistent with the Provincial Land Use Policies.
- 12.3.3 Where required by this Plan, Norglenwold shall undertake or require to be undertaken area structure plans and area redevelopment plans. All adopted statutory plans shall be consistent with this Plan.
- 12.3.4 Norglenwold may accept an outline plan in place of an area structure plan.
- 12.3.5 For matters involving the expansion of Norglenwold's land base and the use of land adjacent and near to Norglenwold's municipal boundary, the Summer Village shall encourage and participate in joint planning in accordance with the provisions of Section 11 of this Plan.

- 12.3.6 When providing input to lake-wide planning initiatives, Norglenwold shall advance the provisions of this Plan.
- 12.3.7 Norglenwold shall undertake a review of the Land Use Bylaw and shall amend the Bylaw in a manner to promote consistency with this Plan and the implementation of this Plan.
- 12.3.8 Decisions on applications to redesignate, subdivide or develop land shall be guided by the provisions of this Plan.
- During the preparation of a statutory plan and outline plan, and any amendments thereto, Norglenwold shall require that the appropriate level and forms of public involvement, including the public participation provisions in the Municipal Government Act, are part of the process,
- 12.3.10 Unless initiated by the Summer Village, Norglenwold shall require the preparation of an area structure plan and area redevelopment plan to be the responsibility of the applicable landowner or developer.
- 12.3.11 Norglenwold may refer to an adjoining municipality an application to redesignate land for a major development.
- 12.3.12 Norglenwold should prepare and implement a Capital Works Plan to guide the provision of, and improvements to, roads, utilities and open spaces. The Capital Works Plan should be reviewed annually.
- 12.3.13 Norglenwold shall review and update the Summer Village of Norglenwold Growth Strategy at least every three years. Norglenwold Plan 2011 shall implement the Growth Strategy.
- 12.3.14 Norglenwold shall require this Plan to be reviewed at least every six years to ensure its relevance and effectiveness.
- 12.3.15 Norglenwold shall monitor the ongoing effectiveness of this Plan:
 - (a) as part of the preparation or review of other statutory plans and outline plans;
 - (b) in processing redesignation, subdivision and development applications; and
 - (c) reviewing and responding to referrals from adjoining municipalities.
- 12.3.16 Minor adjustments to land use boundaries and roadway locations shown on Map 2 may be approved without an amendment to this Plan provided the intent of this Plan is maintained. More significant adjustments shall be addressed through a proposed amendment to this Plan.
- 12.3.17 Norglenwold shall review, and amend as necessary, this Plan upon ratification by the Province of the Red Deer Regional Plan.
- 12.3.18 Norglenwold shall amend this Plan immediately following any annexation of land to the Summer Village.
- 12.3.19 The Council of Norglenwold may initiate an amendment of Norglenwold Plan 2011.

- 12.3.20 A person or persons having an interest in land in Norglenwold may initiate an amendment to Norglenwold Plan 2011.
- 12.3.21 When an amendment is initiated by someone other than Council, prior to the bylaw amendment process Norglenwold may require the initiator of the amendment to provide a report and any other relevant information to support the amendment.
- 12.3.22 When considering an amendment to this Plan, Norglenwold shall refer the amending bylaw to any adjoining municipality, school authority, provincial department and agency, and any other persons or agencies the Summer Village feels the amendment affects.
- 12.3.23 In considering an amendment to this Plan, the provisions of the Municipal Government Act pertaining to notifications and holding a public hearing shall be followed.

13.0 DEFINITIONS

The definitions provided in Section 13.0 are for use in understanding the directions and policies presented within Norglenwold Plan 2011. Where a definition in Section 13.0 differs from a definition in the Land Use Bylaw, the Land Use Bylaw definition shall be used in processing a subdivision or development application.

Area Redevelopment Plan is a statutory plan prepared pursuant to Section 634 of the Municipal Government Act. It provides a framework for the preservation, rehabilitation, removal and replacement of buildings and for the construction of new buildings.

Area Structure Plan is a statutory plan prepared pursuant to Section 633 of the Municipal Government Act. It provides a land use framework for more detailed subdivision and development, including the staging of development, densities and infrastructure matters.

Cluster means a development approach that concentrates residential buildings and/or lots within a portion of a site, with the intention of retaining a significant area of the land to be utilized for appropriate agricultural uses, open space, recreation, and conservation of environmentally sensitive features.

Conservation Easement is a voluntary legal agreement between a landowner and government or conservation agency, designed to protect the natural and cultural heritage of the land by restricting the landowner's right to develop the land.

Deferred Servicing Agreement means an agreement that places a future obligation on individual lot owners through a registered caveat on the title which requires future connection to municipal services when they become available.

Density means in a residential area the number of dwelling units per acre or hectare.

Emergency Services means fire and ambulance services.

Environmental Reserve is land designated as environmental reserve for environmental conservation or public access in accordance with Section 664 of the Municipal Government Act.

Environmental Reserve Easement is a caveat registered against a title for the protection and enhancement of the environment yet remains as private land rather than dedicating land as public environmental reserve, according to Section 664 of the Municipal Government Act.

Environmental Review is an assessment of the influence a project may have on the environment. The purpose of the assessment is to ensure that decision-makers consider environmental impacts before deciding whether to proceed with new projects. An environmental review is not an Environmental Impact Assessment.

Environmentally Sensitive Area is an undisturbed or relatively undisturbed site which has value to society and ecosystems worth conserving because of its natural features.

Environmentally Significant Area is a natural area, which because of its features or characteristics, are significant from an environmental perspective, and which have the potential to remain viable.

Form, in the context of community land use, means the pattern and appearance of the community.

Goal is an idealized end toward which planning policies and actions are directed and which provide an indication of what is to be achieved.

Growth Strategy is a document that establishes a high level of policy direction for the long term growth of the Summer Village.

Hazard Land is land that is prone to flooding, erosion, slope instability or other natural or man-made hazards and land in proximity to sour gas facilities.

Hazardous Use means a sour gas facility, active landfill and unreclaimed landfill.

Home Occupation is a small business operated within a residential property by a resident of that property in accordance with the Land Use Bylaw.

Intermunicipal Development Plan is a statutory plan prepared pursuant to Section 631 of the Municipal Government Act for lands of common interest to two or more adjoining municipalities.

Lake, or the Lake, means Sylvan Lake.

Lot means parcel.

Main Road refers to a road that serves as a major access road into Norglenwold or its neighbourhoods.

May is a discretionary term which provides notification that the policy in question can be enforced to the level of compliance on a case by case basis as determined by the applicable authority.

Municipal Reserve is land dedicated as part of a subdivision to be used for park/trail or school purposes, according to Section 666 of the Municipal Government Act.

Natural area is an undisturbed or relatively undisturbed site which because of its natural features has value to society ad ecosystems worth conserving.

Norglenwold means within the context of the policy or statement, the Summer Village as a municipal entity, the Council or the applicable subdivision, development or appeal authority.

Norglenwold Plan 2011 means Bylaw No. 199-11, being the Summer Village of Norglenwold Municipal Development Plan, and any amendments thereto, prepared pursuant to Section 632 of the Municipal Government Act.

Open Space is land allocated for public use, the conservation of features or for wildlife areas.

Outline Plan is a non-statutory plan prepared to a standard similar to an Area Structure Plan but approved by Council resolution instead of by bylaw.

Policy is a statement of a course of action for achieving a vision and goals.

Parcel means lot.

Protective Services means police services.

Riparian Land refers to the area of land immediately adjacent to Sylvan Lake or a watercourse. Riparian lands act as natural buffers, protecting aquatic ecosystems from excessive sedimentation, runoff and erosion.

Redesignation is a change of a land use district designation within the Land Use Bylaw.

Reserve is land provided as part of a subdivision, by the developer without compensation, for environmental conservation, park and/or school purposes in accordance with the provisions of the Municipal Government Act.

Shall is a directive that the action or actions within the policy are mandatory and therefore must be complied with. Where the policy applies to a plan or study to be undertaken or required to be undertaken by the Summer Village, the Summer Village shall undertake the action as resources are available.

Should is a directive that encourages actions to implement the policy, but such actions are not mandatory.

Statutory Plan means an intermunicipal development plan, municipal development plan, area structure plan and area redevelopment plan adopted by bylaw in accordance with the provisions of the Municipal Government Act.

Sustainable Development means meeting the needs of today without compromising the ability of future generations to meet their environmental, social and economic needs.

This Plan means the Norglenwold Plan 2011, being the Summer Village of Norglenwold Municipal Development Plan, and any amendments thereto.

Wetland refers to land having water at, near or above the land surface, or which is saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytes vegetation and various types of biological activity that are adapted to the wet environment.

Appendix A

Guidelines for an Environmental Review

Where an environmental review is required by this Plan, the assessment shall be undertaken by a qualified professional(s) and must address the following to the satisfaction of Norglenwold:

- 1. a description of the environmental sensitivity of the lands proposed for development and the surrounding area;
- 2. the identification of the nature and significance of any adverse impacts associated with the proposed development during construction;
- 3. the identification of the nature and significance of any adverse impacts associated with activities that will result from the development; and
- 4. the inclusion of an environmental protection plan to:
 - (a) alleviate (mitigate) any adverse impacts;
 - (b) monitor the performance of the environmental measures; and
 - (c) identify any residual impacts and their significance in any or all of the following:
 - fish and wildlife
 - vegetation
 - soils and terrain
 - water quantity and quality
 - the shoreline
 - surface drainage,
 - aquifers.

Appendix B

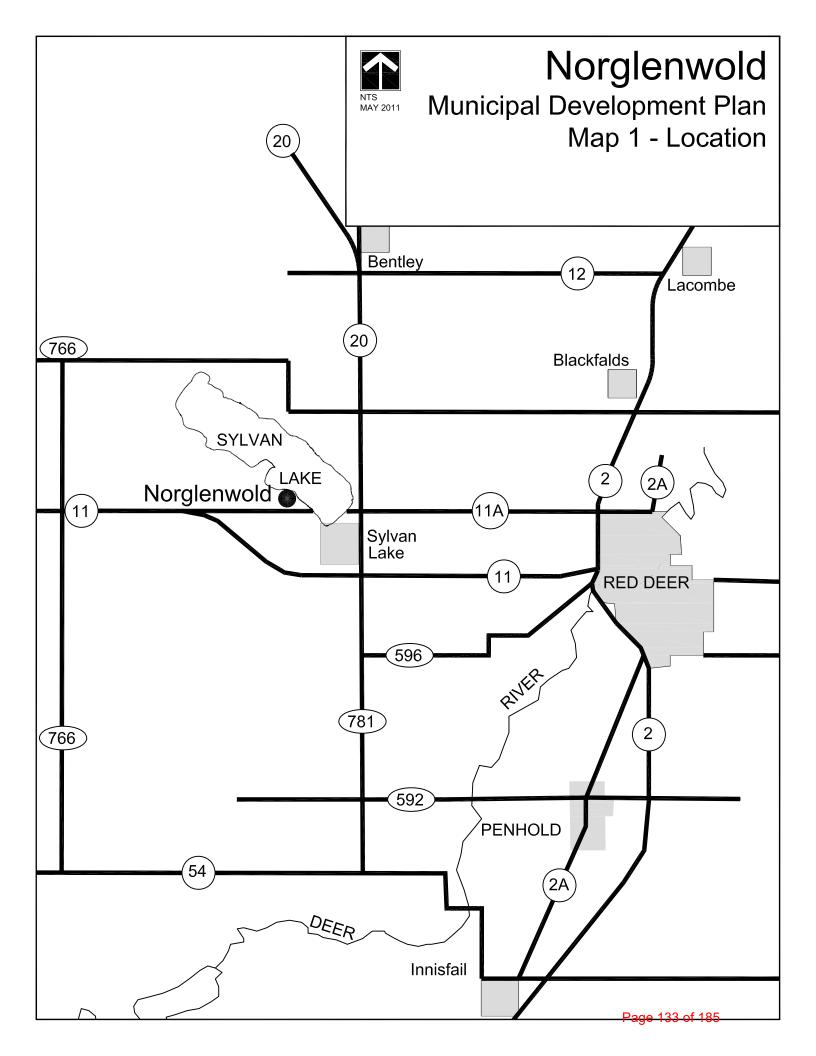
Guidelines for a Visual Impact Assessment

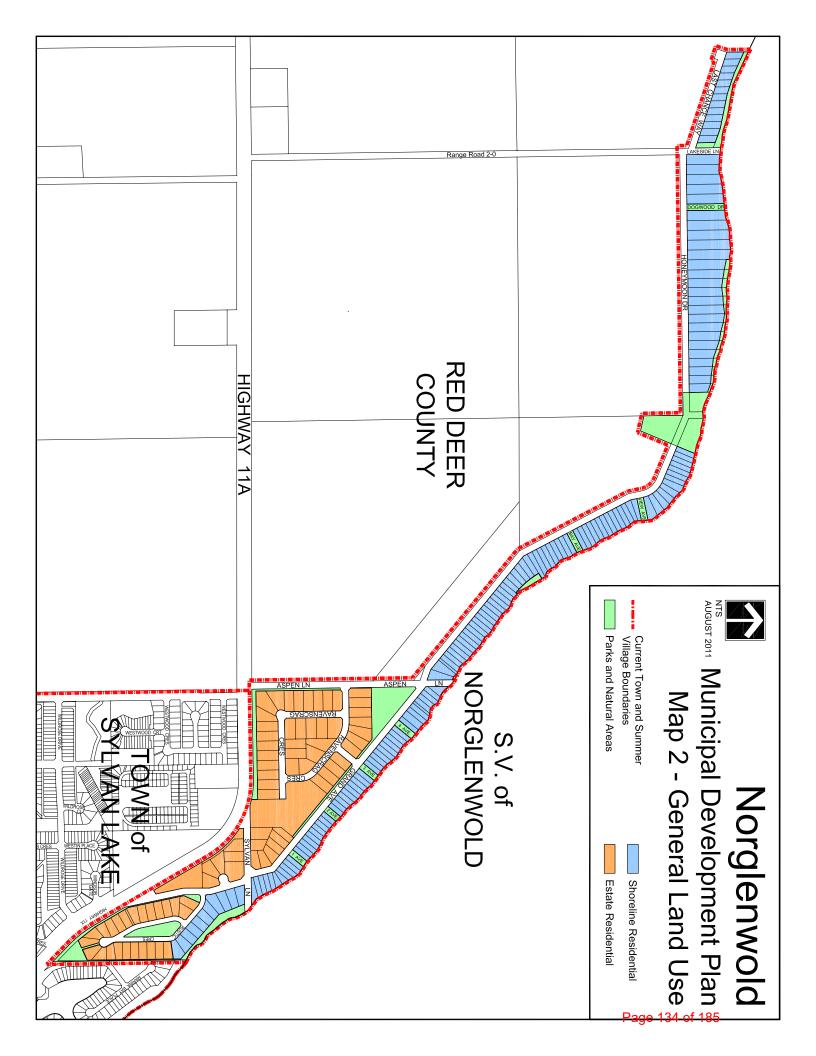
A visual impact assessment shall be undertaken by a qualified professional(s) and must provide sufficient information to show the likely effects of the proposed development and the extent to which any undesirable effects may be mitigated by the project design.

As general requirements, the assessment shall address to the satisfaction of Norglenwold:

- 1. how the natural features of the site will be preserved so as to contribute to the visual quality of the development.
- 2. the manner in which the density and form of the proposed development will be considered in terms of its visibility from important viewpoints on and off the Lake.

Except where necessary to sustain the woodlands or reduce the fire hazard, the clearing of vegetation is to be minimized in order to maintain the continuity of tree cover and screen the proposed development from view.







KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com >

Sent: Friday, October 7, 2022 1:36 PM

To: Kara Hubbard < khubbard@sylvansummervillages.ca>

Subject: RE: 139 Grand Avenue

Hi Kara,

Thanks for the explanation, that makes sense. I believe the confusion on this end resulted in that we are rebuilding the same platform from the dismantled materials, which is being placed on new support structure. As well, some of the dismantled material that could not be salvaged or went missing had to be replaced with new.

I have instructed our contractor to stop work on this project and will submit the required application within the next 1-2 weeks. Is it OK to submit the application package and drawings directly to you or should it be submitted to your main office. I have also instructed my contractor to check the sub-assembled structure to ensure that it is currently stable, if not, they may add few braces or stabilizing members to keep everything in place during the coming months of application review. Hopefully this is OK with you.

Regards, Scott

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, October 6, 2022 1:03 PM

To: Scott E. Nanninga <<u>S.E.Nanninga@gearcentregroup.com</u>>; Bob Gibson <<u>R.W.Glbson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Scott,

Thank you for your email reply. I think the difference here is that it is a new build of a staircase or deck and not relocating it. From the photos I have seen it is a new build and it is on the escarpment which requires a development permit. From the letter it sounded like you were just shuffling the deck up above the escarpment due to the neighbor putting up a fence but this is a totally new structure on the escarpment.

This development requires a development permit and will have to go to the Municipal Planning Commission for approval. I have attached a development permit application package for you, we expect that this development is applied for and the construction does not continue until the correct approvals are in place.

Thank you and please let me know if you have any questions on the application process.



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E. Nanninga@gearcentregroup.com>

Sent: Friday, September 30, 2022 9:40 AM

To: Kara Hubbard < khubbard@sylvansummervillages.ca >; Bob Gibson < R.W.Gibson@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Good morning Kara,

The work taking place at 139 Grande Avenue is the continuation of the work that was outlined in our previous correspondence which included the relocation of an existing wood platform (was put on hold throughout the winter). To recall, the existing deck/stairs was encroaching at the property line and was located on the escarpment area; this work is the relocation of that platform above the escarpment, securing the platform to floating concrete pads and discarding the stairs. The described work was previously detailed in the communication and drawings that I send last fall (I have reattached those drawings for reference). In addition to the above mentioned efforts, we also contracted a surveyor to survey the site to ensure that the platform relocation was not located on the escarpment.

That being said, when it was previously stated that the enforcement letter was considered closed, we have only been conducting work that is within the scope that was previously detailed.

Regards,

Scott Nanninga Engineering Support The Gear Centre Group Ph: 780-488-5532

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, September 29, 2022 3:03 PM

To: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com >; Bob Gibson < R.W.Gibson@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Importance: High

Hi Bob,

It has recently come to my attention that there is development of a deck or stairs taking place on the lakeside of 139 Grand Avenue. In our last communication it was clear that if you were doing any further work on the property to ensure a development permit is required or not. As this work is on the escarpment you will require a development permit.

I expect to hear from you on this as soon as possible. If I do not hear back I will be sending a letter.

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Kara Kashuba

Sent: Wednesday, October 13, 2021 3:12 PM

To: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com>

Cc: Bob Gibson < R.W.Gibson@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Hi Scott.

I really appreciate the detailed drawings and you helping me understand the work that has taken place. From looking at the drawings it looks like to me that it's repairs and no major additions or excavation, stripping or grading has taken place. I suggest that you check with our office prior to doing any work further on the property just to ensure if a development permit is required or not.

Thank you again for the information and I am considering this enforcement letter closed.

Thank you,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com>

Sent: October 1, 2021 3:21 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u>> **Cc:** Bob Gibson < <u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Good afternoon Kara,

As per your request, please see attached site plan drawings of 139 Grand Ave, which corresponds with my previous email. The first drawing provides details of prior to landscape improvements, and the second provides details of the current landscaping.

Regards, Scott

From: Kara Kashuba [mailto:kkashuba@sylvansummervillages.ca]

Sent: Monday, September 27, 2021 12:55 PM

To: Scott E. Nanninga < S.E. Nanninga@gearcentregroup.com>

Cc: Bob Gibson < R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Good Afternoon,

I apologize for my late response on this, and I also thank you for your detailed response to my letter. From your explanation much of the work does sound like repairs and improvements but just to be able to clarify a little better, can you please provide me with a site plan (s) showing a clear before and after of what was there previously and what has changed. Just to get a better idea along with your explanation below. The existing site plan that you sent me earlier will work to use with drawings.

Thank you and let me know if you have any questions,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>>

Sent: September 17, 2021 5:07 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u>> **Cc:** Bob Gibson < <u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Kara,

I am quickly writing to let you know that I will be out of office all of next week (Sept 20-24). I have cc'd Robert Gibson (property owner) on this e-mail correspondence, so that your reply can be viewed by him as well.

Thank you and have a good weekend, Scott

From: Scott E. Nanninga

Sent: Thursday, September 16, 2021 1:18 PM

To: 'Kara Kashuba' <kkashuba@sylvansummervillages.ca>

Subject: 139 Grand Avenue

Re: Letter sent Aug 25, 2021 from Kara Kashuba to Robert Gibson (attached)

Good day Kara,

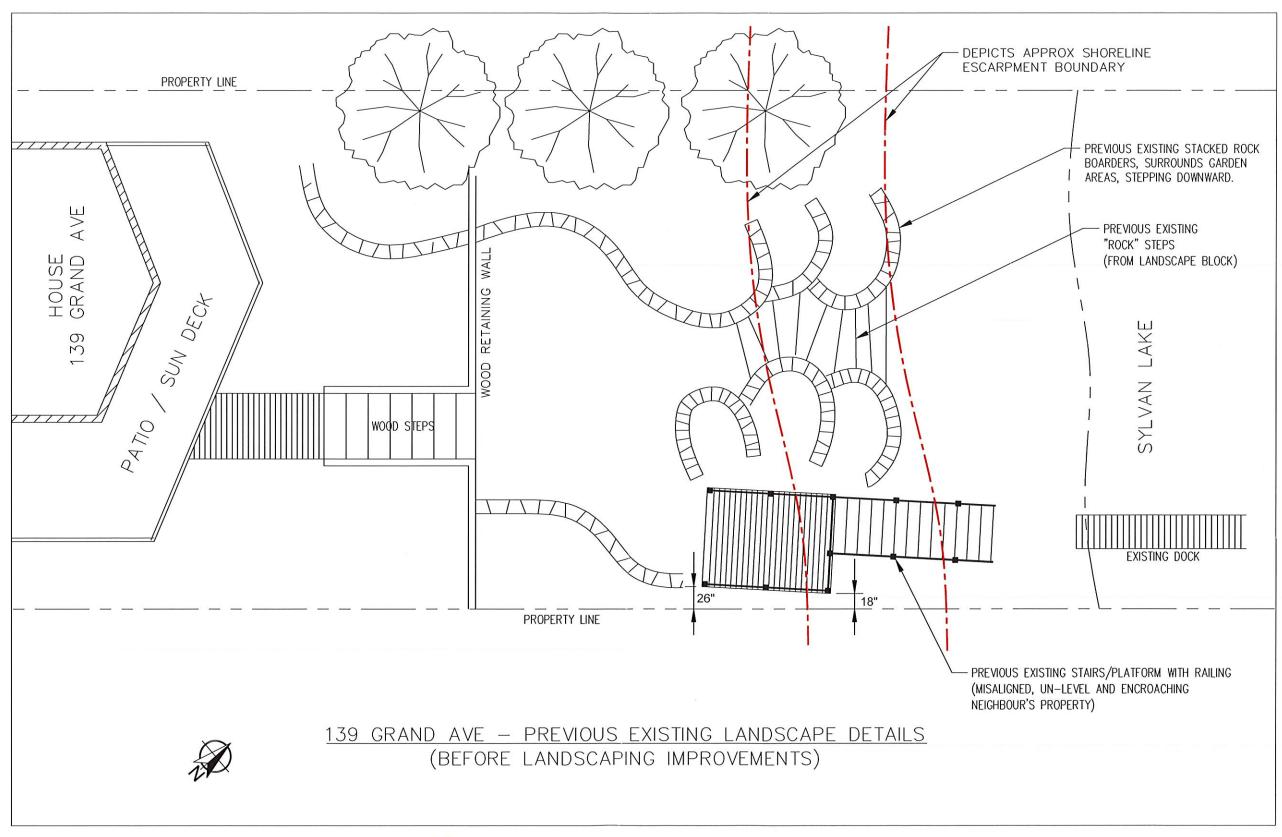
I am writing this email on behalf of Robert Gibson in regards to your inquiry of possible development at the subject property (see attached letter). The reason there appears to be development is that we have been reworking and fixing up the existing landscaping on this property, which has involved straightening and correcting existing rock borders and rock stairway.

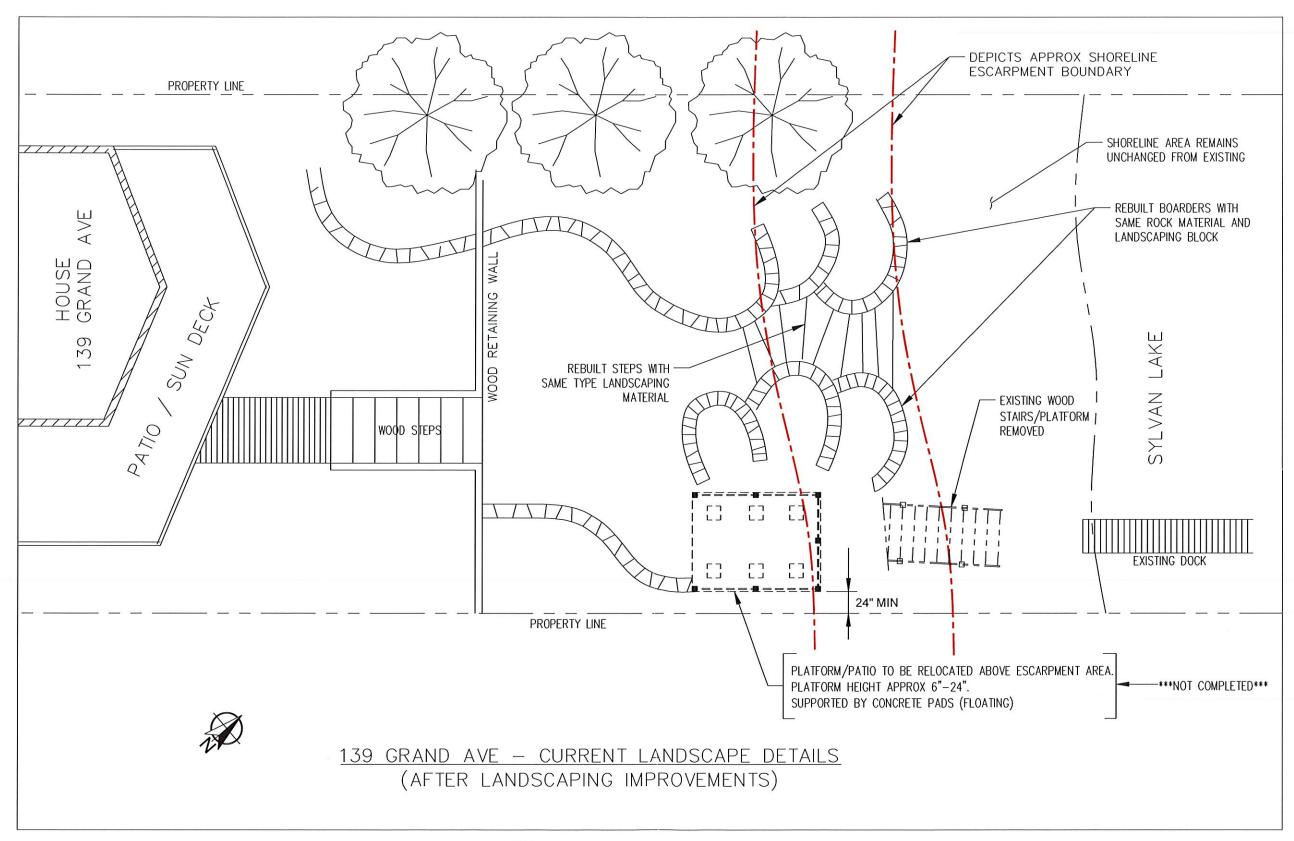
In addition, there was an existing wooden stairway and attached upper platform that was miss-aligned, out of level and degrading (refer to attached property report and photo which details the existing stairs). Due to a neighbour's recent new home built, a new fence was installed correctly to the property line, which resulted in the existing stairs/platform being misaligned to the fence and encroaching on close proximity to this adjacent fence. For these reasons, we also decided to remove this wooden stairway and platform and add landscaping to the area that was beneath these stairs. The removal of this stairway/platform exposed an area of bare ground which is also likely what caused the property to appear in development.

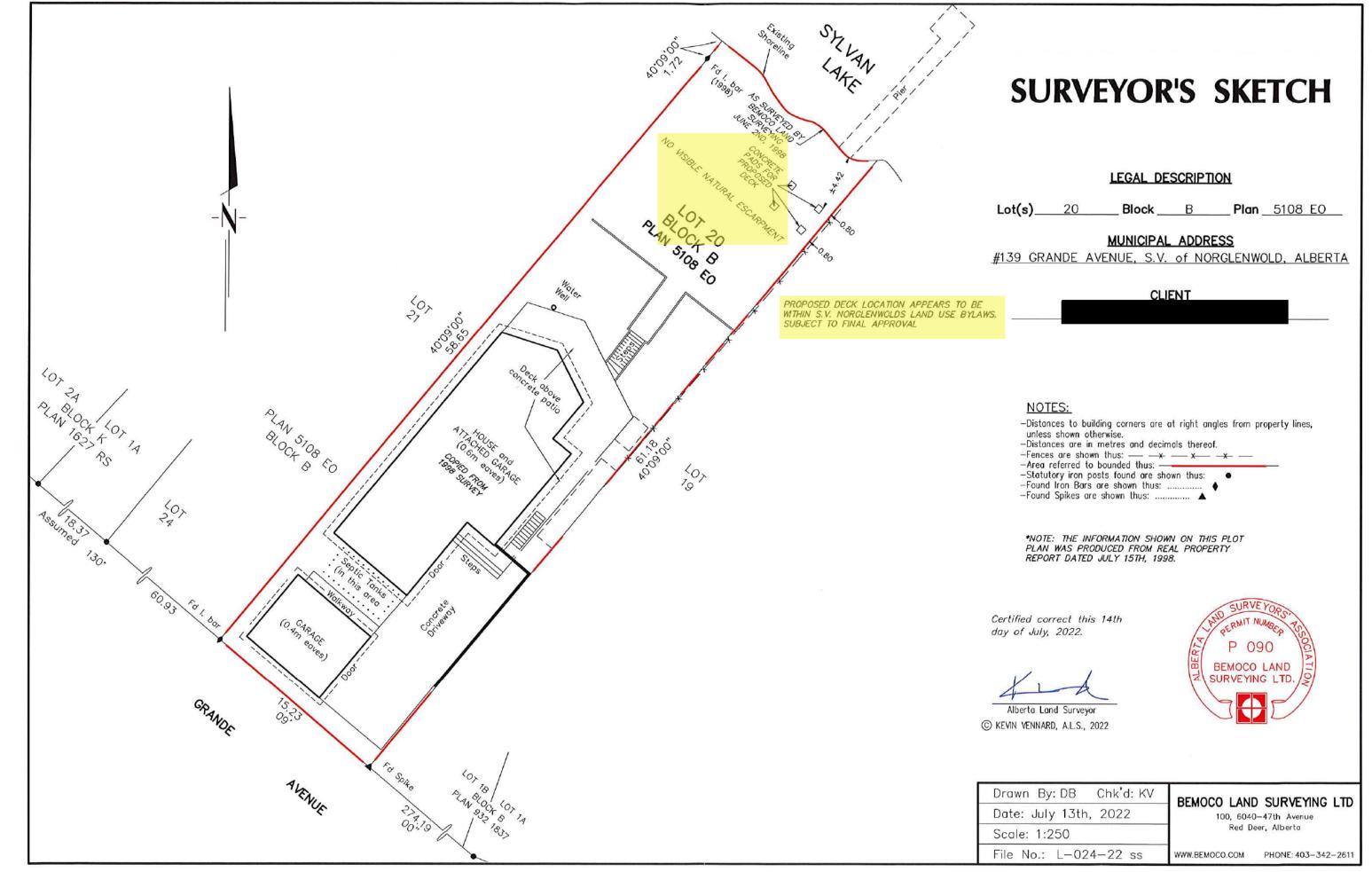
We hope to relocate this wooden platform to just above the existing escarpment area, as to not effect or disturb the existing shoreline escarpment of this property. The platform will be installed "floating" on concrete deck blocks, so the structure will be considered non-permanent, with no permanent foundation such as piles, footings, etc.

I hope this satisfactorily answers your questions?
Best regards,
Scott Nanninga
Engineering Support
The Gear Centre Group

Ph: 780-488-5532

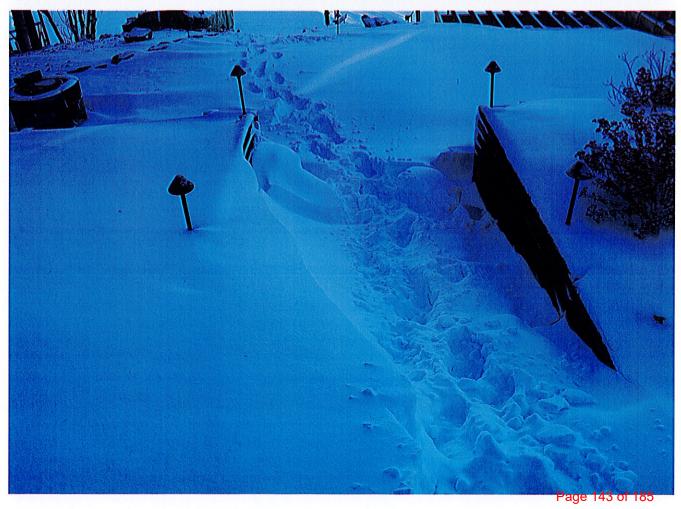






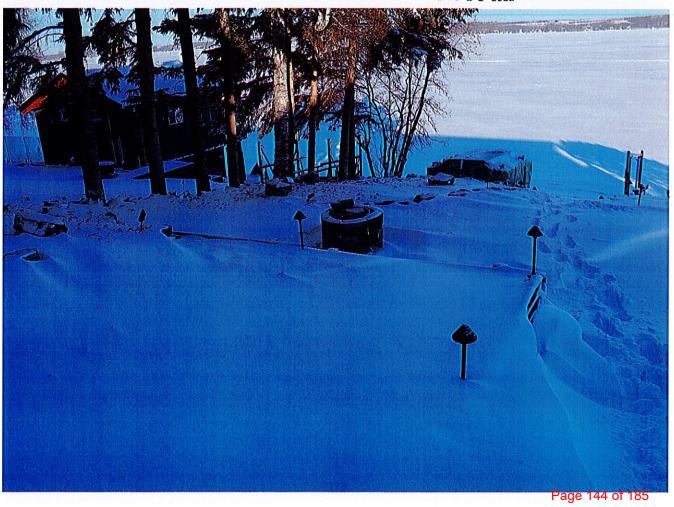


DEC 2 2 2022



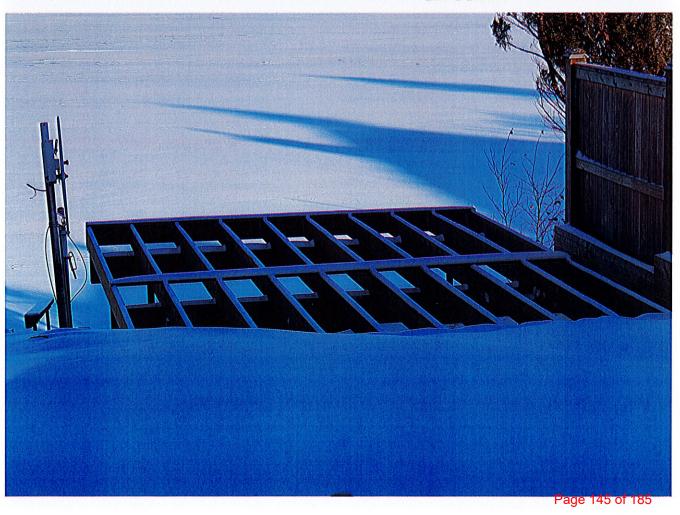


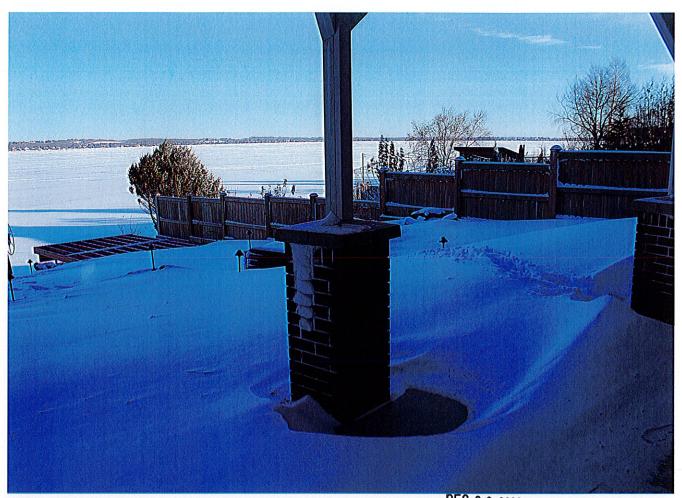
DEC 2 2 2022



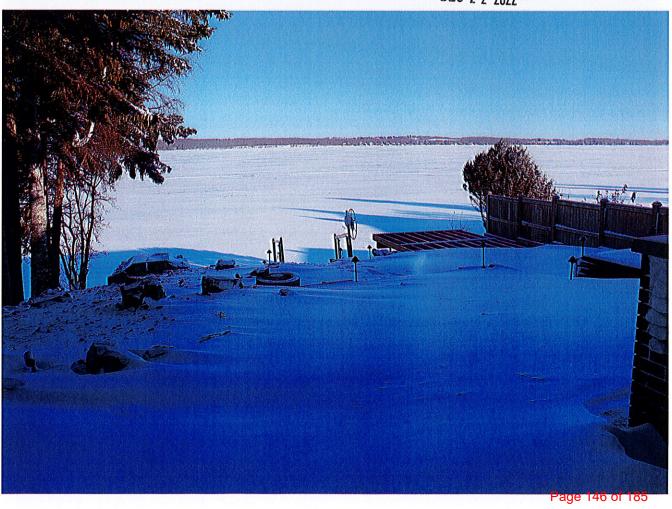


DEC 2 2 2022





DEC 2 2 2022



139 Grande Avenue Norglenwold, AB

The Summer Village of Norglenwold Planning and Development 2 Erickson Drive Sylvan Lake, AB

28 Feb 2023

Dear Kara,

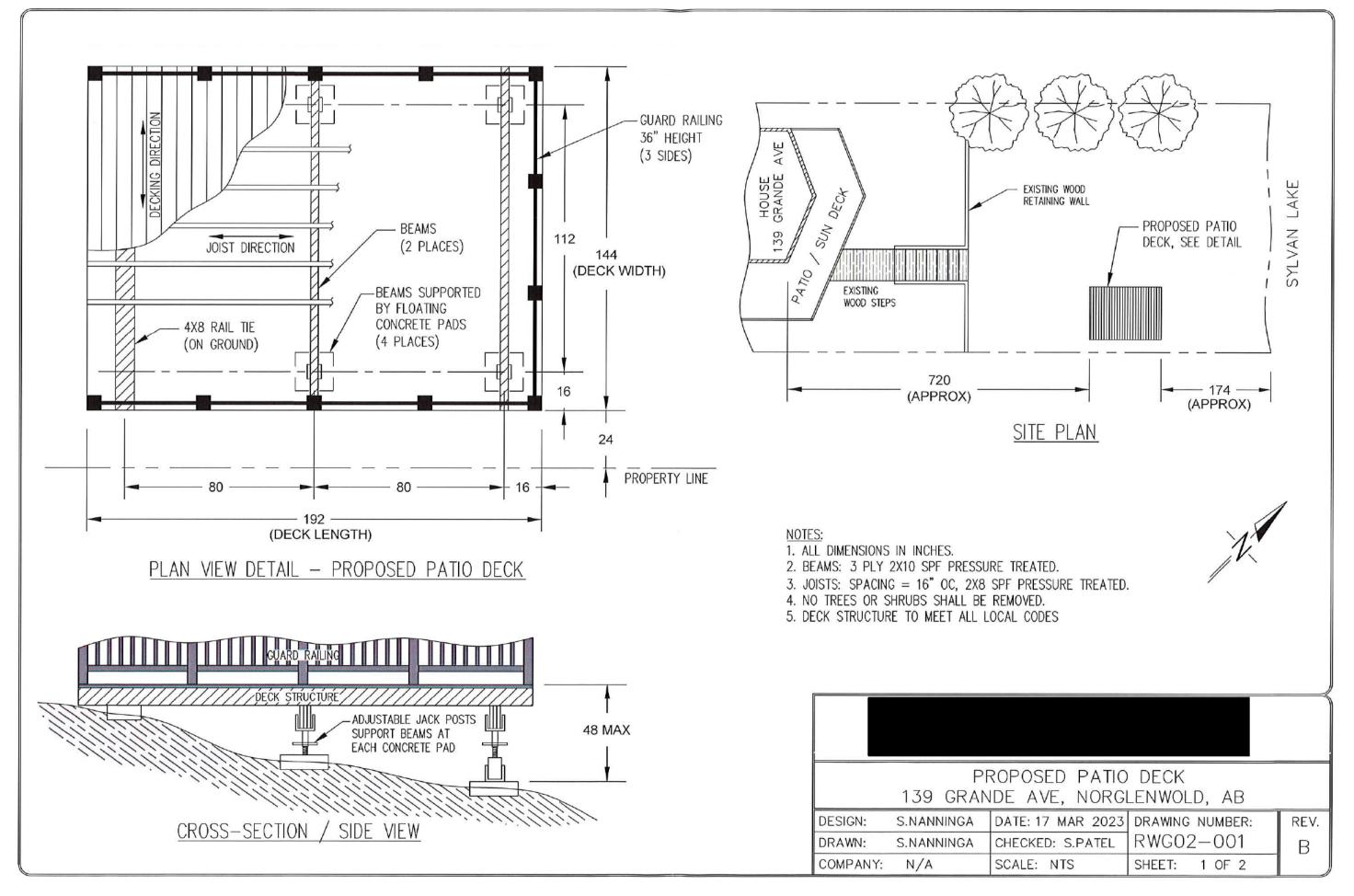
RE: Proposed Deck Permit at 139 Grande Avenue, Norglenwold

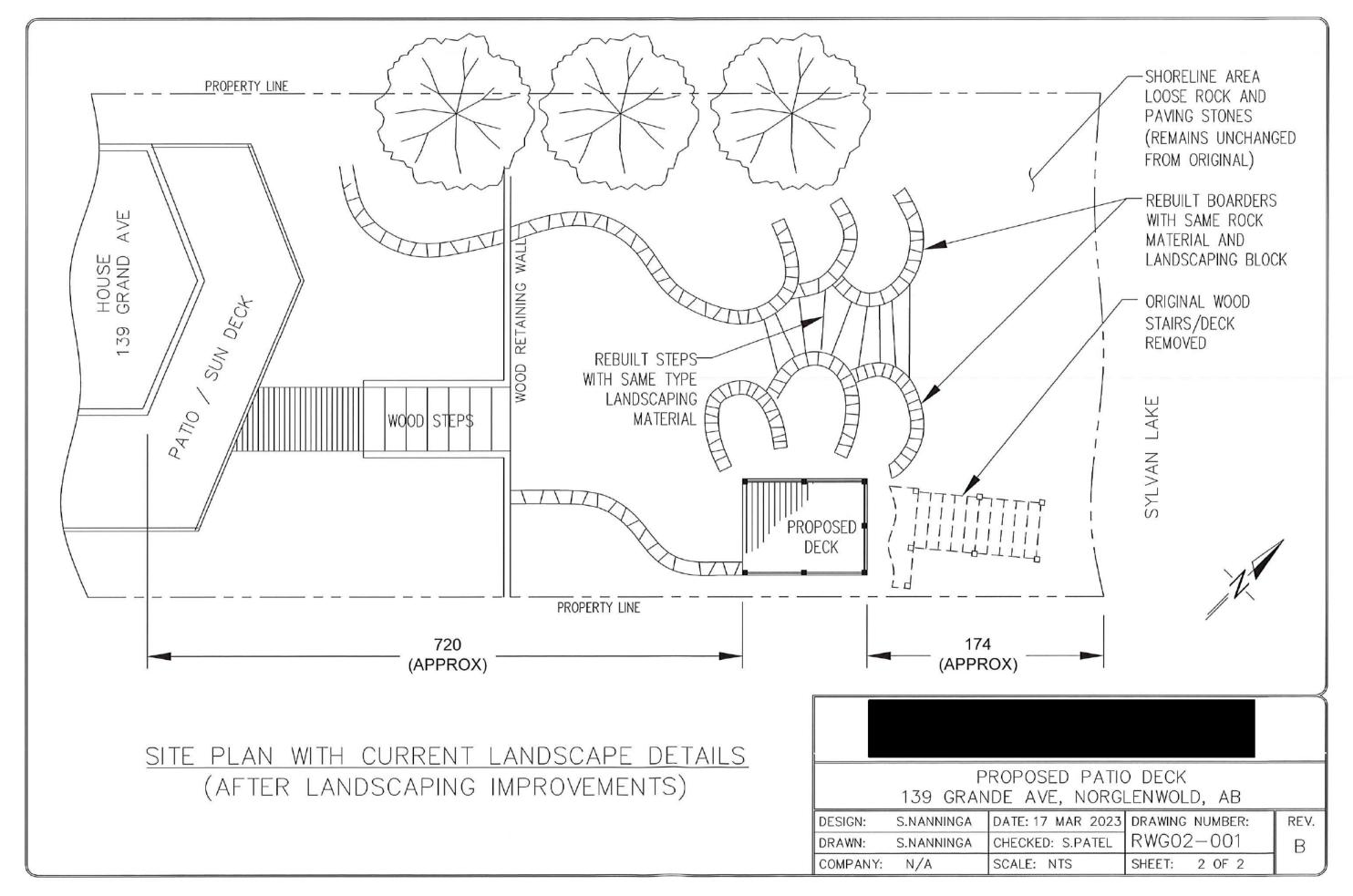
This letter of intent is required to provide purpose for a proposed deck permit application submitted to the Summer Village of Norglenwold for the property at 139 Grande Ave. This property originally accommodated a standalone deck structure which was located approximately 6 meters from the water's edge. This deck was a highly valued asset, both recreationally and aesthetically, however, the deck structure began to degrade over time and also became misaligned due to recent neighbouring development, becoming less functional and causing concerns of safety. Due to these uncontrollable circumstances, the original existing deck had to be removed.

This was an unfortunate circumstance considering that this deck was highly valued by those dwelling at the property, adding an increased quality of living and was aesthetically pleasing to the landscaping of the back yard. Thus, it is for these reasons that the proposed replacement deck is being requested, to replace the original deck that previously existed on this property, and to regain the substantial value that was lost. The proposed location of the new deck is similar to that of the original deck, repositioned to correct for misalignment. The proposed deck is dimensioned the same as the previous existing deck, although is designed to be "floating" on concrete pads, thereby alleviating the need for a buried foundation, which results in less disturbance or impact.

The intent of the proposed replacement deck is an attempt to retain the value that was lost from the removal of the original existing deck, which held significant value and sentiment to the property owners.

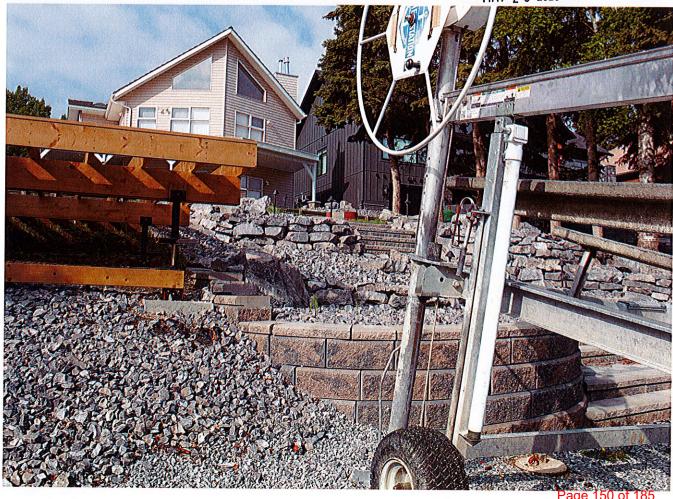
Yours truly,











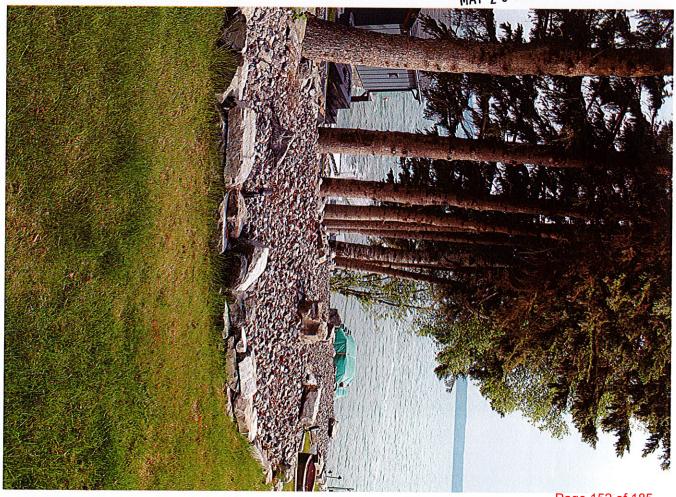


MAY 2 5 2023





MAY 2 5 2023



Page 152 of 185











For More Information

For more information about lake health, lake stewardship or the authorization process:

Environment and Parks

aep.alberta.ca (search 'Respect our Lakes') ESRD.Info-Centre@gov.ab.ca

Or call: 310-3773

For environmental complaints/emergencies call the 24-hour environmental hotline:

1-800-222-6514

ISBN 978-1-4601-2251-8 (Print) ISBN 978-1-4601-2252-5 (PDF)





Respect Our Lakes



Aquatic Plants and Lake Ecosystems

Aquatic plants along lake shorelines are important for maintaining healthy lake ecosystems. They provide habitat for fish spawning, nesting habitat for waterfowl and shorebirds, rearing sites for young fish and wildlife, and they protect shorelines from wave and wind erosion. Aquatic vegetation also performs many important biological functions that maintain lake water quality, such as filtering runoff water that enters the lake.

Lakeshore residents may wish to remove aquatic vegetation to make it easier to put in docks and piers, or to improve swimming and boating conditions. Some people think that removing aquatic plants helps to "clean up" the lake, however this is not true. Lakes that have lost significant aquatic vegetation are especially vulnerable to water quality problems including blue-green algal (cyanobacterial) blooms due to excess nutrient availability. Maintaining a natural shoreline with abundant native aquatic vegetation species is one of the best ways to ensure a healthy lake environment for everyone to enjoy.

Unauthorized Aquatic Vegetation Removal Is Illegal

Removing aquatic vegetation requires prior approval by the Government of Alberta, Department of Environment and Parks. Unauthorized removal could be subject to fines and penalties. Here's what the law says:

- Under the Public Lands Act, it is prohibited to disturb the bed and shore of a water body without prior authorization
- Under the Water Act, an approval is required for an activity which affects a water body such as aquatic vegetation removal

Aquatic vegetation removal may be permitted for individual use, public use or commercial purposes. Restrictions apply to ensure impact to the aquatic environment including fisheries and wildlife habitat are minimized. Application forms and guidelines can be found at aep.alberta.ca (search 'Water Act Forms').

Lake Stewardship and Aquatic Vegetation

Maintaining the health of Alberta's lakes is everyone's responsibility. Actions of individual lakeshore residents, decision makers and land users around the lake add up to make a huge difference! Here's how you can do your part:

- As much as possible, leave the lake in its natural condition; let aquatic vegetation grow and enjoy the many benefits they provide
- Consider sharing docks, piers and boat lanes within your community to minimize shoreline disturbance, as well as save time and money
- Remember that general beach clean-up involving picking up plant debris that has washed up on shore is ok, but be sure to apply for an approval for any other activities involving aquatic vegetation removal
- Get involved with your local lake stewardship group to help promote beneficial management practices







Report it! For environmental complaints or emergencies, call the environmental hotline at 1-800-222-6514



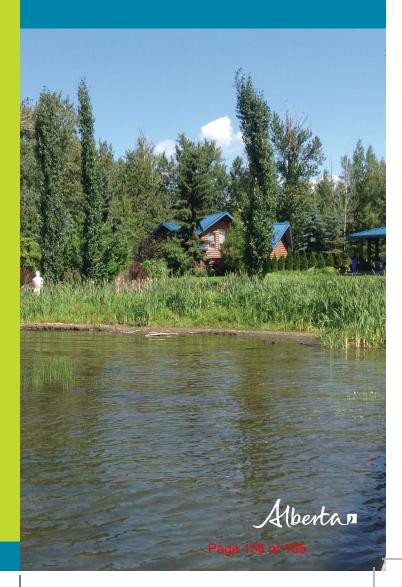
For more information:

Search 'Respect our Lakes' on Alberta.ca Contact us at rol@gov.ab.ca Call 310-3773



Respect Our Lakes

Responsible Lake Living



Keeping Alberta's Lakes Healthy

Lakeside land owners understand the value of healthy lakes for lake residents and visitors, and are environmental stewards committed to passing the legacy on to future generations.

The lakes of Alberta range from deep, clear and cold in the mountains to shallow, warm and green on the prairies. All play an essential role in maintaining local biodiversity, and for safeguarding the water quality and quantity for those living, working and playing nearby.

As Alberta's population continues to grow, there is increasing human

LOWER PEACE 207

LOWER PEACE 207

LOWER PEACE 3 III COMER ATHABASCA 501

LOWER PEACE 145

ATHABASCA 380

NORTH SASKAICHEWAN 680

RED DEER 143

SOUTH SASKAICHEWAN 323

Approximate number of lakes and reservoirs in each land use region.

easing human
use of the lake
watershed, the
land that drains
into the lake.
This, together
with climatic
variability, means
that Albertans
must consider
new ways to
protect our lakes
to ensure they
stay healthy for
years to come.

Stewardship in the watershed

Anyone who lives within a lake watershed can take these steps to improve the health of the lake and watershed!

- Maintain natural vegetation such as native trees and shrubs—they are much easier to care for than a lawn and will filter out pollutants and nutrients.
- Don't use lawn fertilizers because they add excess nutrients that feed nuisance algae. If needed, use organic, slow-release fertilizers for other gardening uses.
- Plant native plants and shrubs on your property in places where soil is exposed. Watch for invasive species and report invaders to EDDmaps.alberta.ca.
- Prevent rainwater and snow melt from washing pollutants into the lake. Reduce non-permeable surfaces like pavement and redirect runoff towards vegetation or a rain barrel.
- Have your septic system inspected regularly and empty septic tanks as recommended, or connect to municipal sewer system.
- Keep your "wheels out of water" off-highway vehicles are prohibited on the bed and shore of waterbodies.

Stewardship on the shore

Actions of individual shoreline residents add up to make a huge difference!

 Leave the shoreline in its natural condition shoreline vegetation provides habitat for fish and

Everything that happens within the lake watershed will have an impact on water quality and quantity.



wildlife, maintains water quality by filtering runoff and protects the shoreline against erosion. It is illegal to do any shoreline modification below the bank without written authorization from Environment and Parks.

- Aquatic plants are not "weeds" let them grow! Submerged aquatic vegetation compete with algae for nutrients and light, trap sediment and provide important wildlife habitat. Removal requires written authorization.
- Consider sharing docks, piers and boat lanes within your community to minimize shoreline disturbance.
- Keep your beach natural, don't plow it or add sand.
- Pick up dog poop and flush it or throw it in the garbage. This will help prevent harmful bacteria and phosphorus from entering the lake.

Stewardship in the water

It's time to get out on the water! Responsible recreation will help keep our lakes healthy for everyone to enjoy.

- Watch your wake! Keep motorized sports far from shore to prevent erosion and protect bird nests.
- Obey the law—keep boat speeds under 10km/hr within 30m of the shoreline and follow posted speed limits.
- Keep music and boat noise to a minimum.
- Clean Drain Dry Your Gear to prevent the spread of aquatic invasive species and diseases.
- Dispose of waste properly and remove ice fishing huts.
- Wash your pets, vehicles and off-highway vehicles at designated wash stations away from the lake.

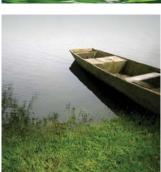
Learn more about your lake and beneficial management practices! Get involved with your local lake stewardship group to help promote responsible lake living.







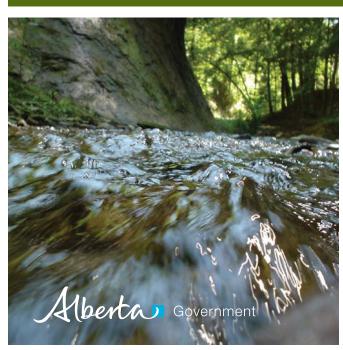






Stepping Back from the Water

A BENEFICIAL MANAGEMENT PRACTICES GUIDE FOR NEW DEVELOPMENT NEAR WATER BODIES IN ALBERTA'S <u>SETTLED REGION</u>









Disclaimer

The contents of this document have been prepared with funds from Alberta Environment and Sustainable Resource Development but do not necessarily reflect the Ministry's views or policies. Any mention of trade names or commercial products does not constitute an endorsement or recommendation for use.

Any comments, questions or suggestions on the content of this document may be directed to:

Regional Science and Planning Alberta Environment and Sustainable Resource Development 3rd Floor, Deerfoot Square 2938 - 11th Street N.E. Calgary, Alberta T2E 7L7

Tel: 403-297-7602 Fax: 403-297-6069

Additional Copies

Copies of this document may be downloaded from:

Information Centre
Alberta Environment and Sustainable Resource Development
www.environment.alberta.ca

Tel: 780-427-2700 (Outside of Edmonton dial 310-0000 for toll-free connection)

Fax: 780-422-4086

Email: env.infocent@gov.ab.ca

This report can be cited as: Stepping Back from the Water: A Beneficial Management Practices Guide for New Development Near Water Bodies in Alberta's Settled Region.

Copyright in this publication, regardless of format, belongs to Her Majesty the Queen in right of the Province of Alberta. Reproduction of this publication, in whole or in part, regardless of purpose, requires the prior written permission of Alberta Environment and Sustainable Resource Development.

© Her Majesty the Queen in right of the Province of Alberta, 2012.

ISBN: 978-1-4601-0058-5 (Printed Edition) ISBN: 978-1-4601-0059-2 (On-line Edition)

Foreword

INTENDED USERS OF THIS DOCUMENT

This handbook is for anyone with an interest in minimizing the impacts and risks associated with development¹ near water bodies. The emphasis is on conserving riparian areas, the lush strips of land adjacent to lakes, rivers, streams and wetlands.

WHAT IS THE PURPOSE OF THE DOCUMENT?

The question often arises: what is the minimum setback needed to protect aquatic ecosystems from development such as buildings, roads and other permanent structures? This handbook answers this question by providing decision makers with information for determining setback widths and designing effective buffers adjacent to water bodies.

Scientific studies from around the world have shown that healthy riparian areas provide essential ecological functions. Albertans recognize the need to protect and conserve water resources and aquatic ecosystems, along with their shorelines and unique landscapes including floodplains, ravines and valleys². But, construction activities in riparian areas can lead to erosion and sedimentation, flooding, slope failure, surface and groundwater pollution, and loss of valuable fish and wildlife habitat. This handbook can help avoid these and other problems by ensuring adequate setbacks and managing erosion and pollutants at source.

WHAT'S IN THIS DOCUMENT?

This publication contains the following information:

- An introduction to riparian areas;
- Recommendations for setback widths and buffers:
- An overview of riparian areas and how they function;
- Measures for protecting and conserving riparian areas;
- A listing of legislation and policy affecting riparian areas in Alberta;
- Examples of riparian guidelines from other jurisdictions;
- Managing runoff from new development; and,
- A resource list for further reading.

This document deals with setbacks only for new development adjacent to water bodies in Alberta's settled region. There are several types of setbacks for protecting water bodies in Alberta, affecting activities such as agriculture, timber operations, and oil and gas. These are beyond the scope of this document. Appendix 1 contains additional information about setback requirements in Alberta and the legislation that governs them.

¹As defined in the *Municipal Government Act*, development may consist of a building, excavation or stockpile. See the glossary in this report for a complete definition.

²Sections 5 and 6.3 of the provincial Land Use polices encourage municipalities to identify unique and sensitive landscapes and take measures to minimize possible negative impacts of subdivision development.

ACKNOWLEDGEMENTS

This document was prepared by Alberta Environment and Sustainable Resource Development with assistance from AMEC Earth and Environmental and the Alberta Riparian Habitat Management Society (Cows and Fish). It is based on an extensive review of scientific studies and accepted beneficial management practices. Valuable input was received through consultation with various Government of Alberta departments, municipal officials, land-use planners, academic researchers and watershed groups. The document follows on several key recommendations and conclusions of a report³ prepared in 2007 by a multi-stakeholder working group chaired by Alberta Environment, namely:

- Healthy intact riparian lands deliver broad benefits to society;
- Riparian lands are transition zones between the land and water. Their unique and dynamic nature present special challenges for their delineation and management;
- Riparian management is a shared responsibility of governments, communities and landowners.
 Within this management system, it is the role of governments to assure environmental quality;
- The best tools to achieve riparian land protection are those that help achieve outcomes and fit local environmental, social and economic conditions.

³Riparian Land Conservation and Management Project: Phase One Final Report. 2007. Prepared by Alberta Environment for Riparian Land Conservation and Management Project Members.





Table of Contents

6 Executive Summary

9 Setbacks and Buffers

- 9 Introducing You to Riparian Areas
- 9 Let's Talk About Water
- What are Riparian Areas?
- What Makes Riparian Areas Special?
- 12 Drawing the Line: Setback Widths
- 13 Thinking About Objectives
- Policy and Legislation Affecting Riparian Areas
- Technical Information Needs for Determining Setback Widths
- Why are Riparian Buffers Needed in Urban Areas?
- What is the Appropriate Setback Width?
- 22 Buffer Diagrams
- 26 Establishing Riparian Buffers

29 Understanding Riparian Areas

- 29 Water, Water Everywhere
- 30 Understanding Floods
- 33 Water Always Wins
- 34 Keep the "Lake" in Lakeshore
- 35 A Word About Wetlands
- 35 The Groundwater Connection
- 35 Nature's Water Filter
- 39 Fish and Wildlife Habitat
- 40 Riparian Areas Part of the Community

43 Choices -

Common Sense for Managing Riparian Areas

- 43 Indispensable Landscapes
- 44 Planning Tips
- 45 Riparian Zones
- 46 Landscape Matters
- 47 Bucking the Trend
- 47 Getting Ready for Climate Change
- 47 Learning from Others
- 48 Additional Information for Designing Effective Buffers
- 51 Conclusion
- 54 Glossary of Key Terms
- 60 References
- 64 Appendix 1
- 84 Appendix 2
- 86 Appendix 3

List of Tables

14 Table 1:

Recommended Data and Sources, by Function

16 Table 2:

Selected Export Coefficients for Various Land Use Categories (kg/ha/yr)

19 Table 3:

Effective Widths for Vegetated Filter Strips

20 Table 4:

Width Combinations of Vegetated Filter Strips Situated on Both Till & Alluvium (metres)

48 Table 5:

Additional Information Sources

List of Figures

10 Figure 1:

Illustration Showing a Riparian Area and Some of Its Interactions with Water

21 Figure 2:

Schematic Diagram of a Meander Belt

23 Figure 3:

A lake or wetland buffer on glacial till, comprised of a vegetated filter strip (VFS), and setback for shallow groundwater.

24 Figure 4:

A stream buffer on glacial till, comprised of a steep slope, slope stability setback, and a vegetated filter strip.

25 Figure 5:

River buffers on glacial till and alluvial sands/gravels, comprised of vegetated filter strips, a flood/aquifer setback, and a slope stability setback.

32 Figure 6:

Aerial View of a Typical 2-zone Flood Hazard Area Divided into the Floodway and Flood Fringe

32 Figure 7:

Cross Section View of a Typical 2-zone Flood Hazard Area Divided into the Floodway and Flood Fringe

37 Figure 8:

Riparian areas are important landscape features that can buffer water bodies from non-point sources of nitrogen pollution.

Executive Summary

BACKGROUND

As the Ministry responsible for the Water Act and implementing Water for Life, Alberta Environment and Sustainable Resource Development has a strong interest in maintaining the integrity of riparian areas. Fundamental to the Water Act is the recognition that the protection of the aquatic environment⁴ is essential to sustainable water management. The health of rivers, streams, lakes and wetlands involves more than managing water quantity and quality. Activities on lands near water bodies can also have a profound effect on aquatic ecosystem health and sustainability. Maintaining healthy aquatic ecosystems is one of three goals identified in Alberta's Water for Life strategy, which recognizes that healthy aquatic ecosystems are vital to a high quality of life for Albertans. Riparian areas, the strips of land adjacent to water bodies, have an important role in the natural regulation of water quantity and improvement of water quality. They provide many other important benefits to society including flood water conveyance and storage, groundwater recharge, shoreline protection, forage for livestock, and habitat.

The impacts and risks associated with development of riparian lands are well documented, but provincial direction on how to reduce and minimize the impacts and risks in Alberta's settled region is needed. As Alberta's population and economy continue to grow, pressure on riparian lands is increasing and the benefits they provide are being compromised. Currently, subdividing authorities have the ability to establish building development setbacks, or dedicate environmental reserve strips, for the purpose of preventing pollution. However, guidance has been lacking on exactly how wide an effective filter strip should be. In response to these and other concerns, Alberta Environment and Sustainable Resource Development has prepared this handbook to help minimize the impact of new development on water bodies in Alberta's settled region. By keeping permanent developments an appropriate distance from the water, maintaining riparian areas in a healthy state, and managing sources of pollution in our watersheds, the ecosystem services provided by riparian areas can be maintained and enjoyed for generations to come.

CONTENT AND SCOPE

The Stepping Back from the Water handbook is designed to assist municipalities, watershed groups, developers and landowners in Alberta's settled region determine appropriate water body setbacks for development around our lakes, rivers and wetlands. It will also encourage new policies for achieving riparian environmental outcomes. The handbook will help users with the following:

- 1. Identifying riparian lands, and understanding key riparian area functions;
- 2. Understanding how setbacks can be applied to create effective riparian buffers;
- 3. Conserving and managing riparian land;
- 4. Managing erosion and pollutants associated with new development.

The Stepping Back from the Water document contains recommendations for development setbacks and riparian buffer management based on a review of the scientific literature, published monographs, and regulatory and planning documents from various jurisdictions in Canada and the USA. Buffer strip recommendations for water quality functions were made using only the scientific literature, whereas a variety of sources were used relative to other core riparian functions including flood water conveyance and storage, bank stability, and habitat. In these cases, existing policies and beneficial management practices supplemented the scientific literature and offered practical guidance.

The Stepping Back from the Water handbook also provides guidance on watershed-scale approaches for protecting water bodies, sensitive areas, wetlands, shorelines and water quality, recognizing that riparian buffer strips alone are unlikely to reduce runoff and nutrient loading into surface waters. The importance of working together, and using a broad suite of tools and approaches to manage human impact on our natural environment, cannot be overemphasized. Later sections and the report's appendices contain information and links for land and water management beyond riparian areas.

⁴The aquatic environment is a complex system that is influenced by many factors such as climate, weather patterns, landscape and geology. It includes naturally occurring features, such as rivers, streams, creeks, riparian areas, lakes, wetlands and groundwater. Each water body is associated with a unique variety of plant and animal life as well as a riparian area.

HOW DO STEPPING BACK FROM THE WATER'S RECOMMENDATIONS COMPLY WITH EXISTING ALBERTA GUIDELINES AND REQUIREMENTS FOR SETBACKS ADJACENT TO WATER BODIES?

The recommendations for water body setbacks and riparian filter-strip widths in Stepping Back from the Water are discretionary. They are intended to assist local authorities and watershed groups in Alberta's White Area⁵ with policy creation, decision making and watershed management relative to structural development near water bodies. Alberta Environment and Sustainable Resource Development provides municipalities with guidelines for minimum environmental reserve/easement widths; however, Stepping Back from the Water's recommendations can be used to supplement those guidelines. When timber is cleared under a timber disposition, the Alberta Timber Harvest Planning and Operational Ground Rules will provide direction for the removal of the timber and the buffers (setbacks) required. Appendix 1 contains additional information about setback requirements in Alberta and the legislation that governs them.

STEPPING BACK FROM THE WATER HANDBOOK HIGHLIGHTS

- Setback recommendations are made with the following factors in mind:
 - » water quality functions of riparian areas,
 - » effect of slope on effectiveness of vegetated filter strips,
 - » risk of shallow groundwater contamination,
 - » flooding,
 - » shoreline migration, and
 - » bank stability.
- The 1:100 flood is recommended for determining setbacks relative to flood water conveyance and storage,
- Appropriate environmental assessments are recommended for protecting shallow groundwater and avoiding unstable ground,

- Additional buffer considerations are recommended for protecting aquatic and terrestrial habitat, wildlife travel corridors, and rare species,
- An appendix contains a summary of federal and provincial legislation, regulations, policies and guidelines that affect water body or riparian area management in Alberta,
- Examples from various Alberta municipalities and other jurisdictions are included to illustrate how others have approached riparian area management.

Alberta's Settled (White) Area



⁵Alberta's White Area was set aside as land primarily suited for agriculture and settlement. It covers about 39 per cent of Alberta (see map).





Water is the most critical resource issue of our lifetime and our children's lifetime. The health of our waters is the principal measure of how we live on the land. LUNA LEOPOLD

Setbacks and Buffers

INTRODUCING YOU TO RIPARIAN AREAS

You have likely walked in or crossed over a riparian area. You may live, work or play in one. As Alberta was settled, pioneers were attracted to agricultural land that was partly covered by woods and water. Sought-after lands often included riparian areas along rivers and streams or around wetlands and lakes. Towns and cities have since evolved from these early settlement patterns and many Albertans still live next to or in riparian areas. Over time, residential developments, recreational amenities, roads and industrial activities have encroached more and more on these attractive areas. Our current demands on riparian areas now compromise their ability to provide the environmental, aesthetic, and economic benefits that attracted settlers in the first place.

Let's Talk About Water

Albertans are concerned about water since our lives are intertwined with fresh water from surface and groundwater sources. Many of us live in areas of the province where water supplies are not abundant. The limiting factor to us isn't space, it's water. Water is essential for life and commerce; a finite amount means our care of it should be paramount.

Albertans have identified water quality and quantity as priorities. What influences water quality and quantity? In many cases it is how we treat the landscape (and watershed) and the areas that adjoin water – riparian areas. What can we do better and smarter around water bodies to improve and maintain them? To start we need to be able to identify those pieces of the landscape essential for our attention and management.



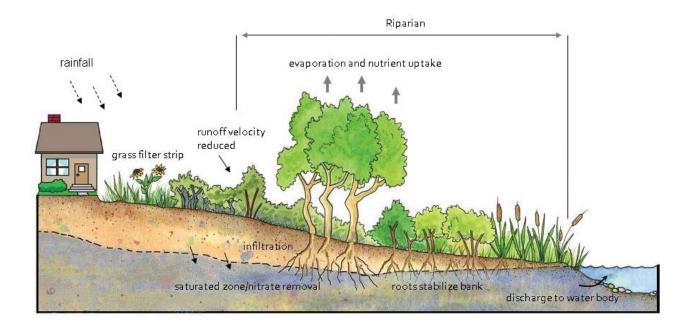
Credit: Alberta Riparian Habitat Management Society (Cows and Fish)

What are Riparian Areas?

If we get back to the basics, riparian areas are the place where water and land meet and interact. It is the interaction part that best defines a riparian area. They usually are distinctly different from surrounding lands because of unique soil and vegetation characteristics that are influenced by the presence of water above the ground and below the surface. Riparian areas occupy a small part of the landscape, but are important ecologically, socially and economically. They are the "thin green lines" between all we do in uplands and the effect of that use on aquatic ecosystems.

Riparian areas are created and maintained by water. A lot of water is present, seasonally or regularly, on the surface or close to the surface. Native riparian vegetation requires and survives well with abundant supplies of water. Soils have been modified by water, the deposition of sediment and by lush vegetation. Typical native riparian plants in Alberta's settled region include sedge, cattail, willow, cottonwood and poplar. Topographically, the riparian area can have variable widths and can be sloped or flat. Groundwater generally flows along the topographical gradient, or where the riparian area is level to gently sloping, flow direction is influenced by the surface water level. When your eye has been trained to recognize these unique areas, the distinctions between riparian and upland boundaries become clear. In some cases, because of developments that encroach into riparian areas, that distinction is lost. Only when riparian areas are inundated by high water, from a flood for example, are we reminded that these areas are created and maintained by water.

Figure 1 Illustration Showing a Riparian Area and Some of Its Interactions with Water



What Makes Riparian Areas Special?

As our understanding about the role of riparian land grows, so does our appreciation of how important these areas are to us. Healthy riparian areas possess several unique functions and provide important ecosystem services and benefits to society including:

Water Quality Functions (sediment, nutrients, flows and temperature)

- Improve water quality by trapping sediment, sediment-bound nutrients and other contaminants from surface runoff before they reach the water and downstream water users
- Reduce the velocity of sediment-bearing storm flows, allowing sediments to settle out of water and be deposited on land instead of being carried downstream
- Contribute large woody debris (snags) to streams that can trap large amounts of sediment
- Remove nutrients from groundwater via uptake in vegetation and by denitrification
- Help prevent eutrophication of aquatic ecosystems
- Shade and cover provided by riparian vegetation can moderate water temperature in small (low order) streams

Flood Water Conveyance and Storage

- Riparian areas reduce peak flows and downstream flooding. As flood water flows through a vegetated area, the plants resist the flow and dissipate the energy, increasing the time available for water to infiltrate into the soil and be stored for use by plants.
- The water that is stored in shallow groundwater (alluvial) aquifers helps maintain stream flow (and water quality) during low flow periods.

Bank and Shoreline Stabilization

 Deep-rooted, native plants protect shorelines by reducing bank erosion, bank failure, sediment transport, and loss of valuable lands

Habitat and Biodiversity

- Capture organic matter that is a source of food and energy for the aquatic ecosystem
- Support an exceptional level of biodiversity due to natural disturbance regimes, a diversity of habitats, and small-scale climatic variations
- Support species at risk
- Provide undercut banks, shade, food and woody debris to aquatic ecosystems
- Facilitate plant and animal dispersal along green corridors

Finally, naturally functioning riparian areas provide a range of social and economic benefits through their provision of water quality functions and other processes:

- Provide public access, recreational and educational opportunities in an aesthetically pleasing landscape
- Capture and slow flood waters, thereby decreasing damage to property
- Provide an important source of grazing land and forage for managed livestock grazing
- Provide green space that can increase property values
- Reduce the need to combat flooding, repair eroding stream banks, and replace damaged property

Other sections of this handbook contain more information about riparian areas and the benefits they provide to property owners, communities and to society.

DRAWING THE LINE: SETBACK WIDTHS

Setbacks identify the minimum distance required between water bodies and development, separating those areas where we want to work and live from what we want to conserve and protect. The strip of land created is generally called a buffer. Buffers are sometimes described as the boundary between the natural and the man-made world. Buffers can be comprised of a vegetated filter strip⁶ consisting of riparian and upland vegetation, a slope allowance, and in some cases can include a wildlife corridor as well.

To function effectively, riparian areas must be healthy. Placing permanent structures in riparian areas not only compromises riparian function, but puts people and property at risk from flooding, ice damage, unstable ground and other dangers. Development of riparian lands can have many undesirable consequences including: altered drainage and sedimentation processes, decreased bank stability and increased erosion and pollutants, introduction of invasive species, habitat loss, and visual impacts. In many cases, development near water will be constrained by an active flood plain and topographic factors such as steep slopes and unstable ground. Keeping development back from such hazards will in most cases be sufficient for avoiding riparian areas. In others, it may be necessary to maintain a vegetated filter strip as a buffer. This chapter explains how setbacks can be determined for different types of water bodies found in Alberta's White Area, and how setbacks can be used to create effective riparian buffers.

The approach described in this document can be used for most types of permanent developments including the following:

- Urban subdivisions
- Country residential developments
- Cottages
- Farm buildings
- Golf courses (buildings)
- Commercial buildings
- Stormwater ponds
- Roads and dikes, and
- Temporary land uses such as sand and gravel pits.

Scientific studies have found that the effectiveness of riparian buffers as water quality filters varies from location to location. The size, topography and geology of the watershed determine the amount and quality of surface water and groundwater that passes through a buffer. Site characteristics such as slope, soils and substrate can determine the amount of pollutants that are filtered out before they reach the water body. Although the type and health of vegetation can affect sediment removal effectiveness, nitrate removal in riparian areas is influenced mainly by hydrogeological characteristics, for example see Vidon and Hill (2004, 2006).

The large number of variables that control the effectiveness of riparian buffers in filtering pollutants underlines the importance of maintaining riparian areas in a natural state and in so doing, maintaining ecological processes. For example, studies suggest that the quantity and quality of the organic carbon in subsurface sediments in riparian areas regulate the removal of nitrogen (Hill and Cardaci 2004), and zones of high biological activity and groundwater flow are more effective at removing this nutrient (Maitre et al. 2003). Although prescribing a minimum setback distance is difficult, scientific studies generally agree that wider, forested riparian strips are more effective at removing pollutants. The setback needed to maintain other important functions including water storage and flood control, bank stabilization, and aquatic and terrestrial habitat depend more on hydrological and landscape factors than width alone.

Setbacks should be determined on a case-by-case basis by a person or persons qualified to make these assessments. This may involve a report certified by a professional biologist, engineer, geologist or geophysicist, as defined in the appropriate legislation governing these professions.

⁶A vegetated filter strip is land left in a natural, preferably undisturbed state, usually consisting of riparian soils and native or planted vegetation, situated between development and a water body.

Thinking About Objectives

Organizing objectives according to the water body classification used in this document is recommended. The classification includes: 1) Lakes and Class III, IV, V, VI & VII Wetlands; 2) Rivers and Streams; 3) Ephemeral/intermittent streams; 4) Class I & II Wetlands, Seeps and Springs. Ephemeral streams are streams that flow only during and immediately after rainstorms. Intermittent streams flow for part of each year.

Setbacks are only one tool for achieving desired environmental outcomes for riparian lands and aquatic environments. Managing development and agricultural and industrial land uses throughout the watershed play an integral role in protecting sensitive landscapes and managing sources of pollution. Later sections and the appendices of this report contain information on policies, legislation and resource management strategies for achieving environmental outcomes.

Policy and Legislation Affecting Riparian Areas

Working knowledge of relevant policy and legislation and how they affect development adjacent to water bodies is a prerequisite for ensuring that any proposed or new setback widths complement and do not conflict with existing sets of rules. For example, municipalities may have addressed riparian and wetland protection in their plans and polices, or may have created guidelines for setbacks in their Area Structure Plans. Alternatively, watershed management plans may provide additional guidance for riparian conservation and management.

There are several important pieces of legislation affecting land development on or adjacent to shorelines and riparian areas in Alberta, including the following:

- Municipal Government Act Alberta Municipal Affairs
- Fisheries Act Fisheries and Oceans Canada (DFO)
- Migratory Birds Convention Act Environment Canada, Canadian Wildlife Service
- Navigable Waters Protection Act –
 Transport Canada
- Public Lands Act Alberta Environment and Sustainable Resource Development
- Water Act Alberta Environment and Sustainable Resource Development

 Forest Act – Alberta Environment and Sustainable Resource Development

Appendix 1 contains a complete list of policy and legislation affecting riparian areas along with a brief summary of each policy or act.

Technical Information Needs for Determining Setback Widths

The more detailed information that is collected and used in this process, the more likely the buffer will provide desired ecosystem services and benefits. This section describes the technical information needed for determining setbacks, along with recommended data sources (Table 1). At a minimum, information assembly should support the determination of filter strip width, unstable ground, erosion-prone areas, and the flood plain.

The retention of full-width buffers to protect habitat and biodiversity may not always be practical; however, emphasis should be placed on protecting environmentally significant areas, sensitive wildlife habitats, and rare species. In the absence of recent data for the specific site or area that is being considered, a qualified environmental professional may be needed to identify and collect relevant information.

Mapping the Legal Bank of a Water Body

The legal bank⁷ of a water body should be determined as defined in the *Surveys Act*. Setbacks should be measured from this line, except for ephemeral/intermittent streams where the middle axis of the channel can be used. Aerial photographs and Alberta hydro-net data can be used to map the legal bank; however, using a LiDAR-derived Digital Elevation Model (where available) will give a much more accurate representation of stream networks and wetlands, and water body boundaries. The actual legal bank will have to be determined for each individual water body in the field at time of survey. Marshland or wetland vegetation such as cattails and sedges form part of the bed and shore of a water body.

⁷Under Section 3 of the *Public Lands Act*, the Crown claims title to the beds and shores of all permanent and naturally occurring bodies of water including rivers, streams, watercourses and lakes.

Table 1
Recommended Data and Sources, by Function

Type of Data	Data Source
Water Quality Functions	
 Topography and Slope⁸ Topographic slope from the legal bank extending out to adjacent uplands, including floodplains and valley escarpments. 	Maps Alberta Geological Survey; Alberta Soil Information Viewer (AGRASID); Canadian Soil Information System (CanSIS) DEMs AltaLIS: Spatial Data Warehouse Ltd.; DEMs using LiDAR: Alberta Environment and Sustainable Resource Development
Parent Material Glacial till or water/wind deposited substrate.	Maps Alberta Geological Survey; Alberta Soil Information Viewer (AGRASID); Canadian Soil Information System (CanSIS)
 Groundwater Surficial aquifers/alluvial aquifers (areas of high hydraulic connectivity between surface water and groundwater and vulnerable to surface contamination) 	Maps and Records Agri-Environment Services Branch (AESB); Alberta Environment and Sustainable Resource Development: Groundwater Information Centre, Groundwater Observation Well Network; Groundwater Centre (www.tgwc.com); Watershed Management Plans
• Shallow groundwater (< 1.8 m)	Geotechnical studies.
• Springs, seeps	Topographic land surveys; geotechnical studies.
Flood Water Conveyance & Storage	
 Floodplains (Rivers and Streams) Floodway and flood fringe 1:100 year floodplain 	 Flood Hazard Maps Alberta Environment and Sustainable Resource Development Areas Without Flood Hazard Maps Use the most recent topographic maps to evaluate land contours & elevations, named water bodies, and wet areas. Choose at least four aerial photos between 1960 (or earlier) and the present to determine if the site is subject to periodic inundation by water. Photos taken during the months of April-June have a higher chance of showing flooded areas; flood photography is also available from Alberta Environment and Sustainable Resource Development. The use of satellite and LiDAR imagery is acceptable for determining flood prone areas.
Flood Water Conveyance & Storage	
Flood Levels (Lakes) 1:100 year level Bank/Shoreline Stability	MapsAlberta Environment and Sustainable Resource Development
Erosion Prone Lands, Undercut Banks such as the outside bends of rivers having dynamic channels, including highly erodible soils & areas subject to channel migration	Soil Maps Alberta Geological Soil Survey; Alberta Soil Information Viewer (AGRASID); Alberta Agriculture and Rural Development: Water Erosion Risk Map of the Agricultural Areas of Alberta; Canadian Soil Information System (CanSIS); geotechnical studies.

⁸There is a direct relationship between slope and erosion potential, conversion of nutrients, and retention of nutrients. A steeper slope usually results in higher erosion potential and lower nutrient conversion and retention. Slopes with grades of 15 per cent or over are steep. If disturbed, these areas can yield heavy sediment loads on streams. Very steep slopes, over 25 per cent grade, produce heavy soil erosion and sediment loading

Type of Data	Data Source
Bank/Shoreline Stability (continued)	
Sloping Ground Including slopes more than 25%. Slope constraint maps, if available.	See "Topography and Slope" Some municipalities may have slope constraint maps for areas with approved area structure plans. Note: gathering of these data can be coordinated with preparation of Master and Overland Drainage Plans.
Unstable Groundsuch as the base and top of steep banks, or close to seeps and springs	Geotechnical studies
Habitat/Biodiversity	
 Environmentally Significant Areas (ESAs) includes some riparian areas of major rivers 	 Maps and Records Alberta Conservation Information Management System (Alberta Tourism, Parks and Recreation). Municipalities also may house updated information.
Wildlife Sensitivity Maps Includes migration corridors, critical wildlife summer or winter range(s), traditional nesting, calving, fawning, or birthing sites, endangered and threatened plants ranges, colonial nesting birds, sensitive amphibian ranges.	 Maps and Data available through Alberta Environment and Sustainable Resource Development Landscape Analysis Tool used by the Government of Alberta's Enhanced Approval Process. See also: Ducks Unlimited Canada; Hinterlands Who's Who and Canadian Important Bird Areas (IBA).
 Rare Species Includes wildlife species at risk that rely on or use riparian areas, including northern leopard frog, peregrine falcon, prairie falcon, bald eagle, great blue heron, and other species. Includes rare plant species or rare plant communities. 	Recommended Land Use Guidelines for Protection of Selected Wildlife Species and Habitat within Grassland and Parkland Natural Regions of Alberta • Alberta Environment and Sustainable Resource Development Species at Risk Act • www.sararegistry.gc.ca Contacts • Alberta Conservation Information Management System (Alberta Tourism, Parks and Recreation). If the proposed development is in a natural landscape, a rare plant survey should be considered. • Alberta Environment and Sustainable Resource Development – Fish and Wildlife Division.
Vegetation • Cover type & composition	Aerial Photos/Imagery Government of Alberta Aerial Photo Distribution Centre Inventories Alberta Grassland Vegetation Inventory, Alberta Vegetation Inventory (Alberta Environment and Sustainable Resource Development)

Why Are Riparian Buffers Needed in Urban Areas?

Nitrogen export from urban watersheds generally is a major contributor of water quality degradation and eutrophication of receiving water bodies (McLeod et al. 2006, Massal et al., 2007, Shields et al. 2008). Low density suburbs served by septic systems can be major contributors to downstream nitrogen loading, while more heavily urbanized, impervious areas tend to have a greater nitrogen export under high-flow conditions. Phosphorus export from non-point sources in urban areas is generally less than from agricultural land, except for urban commercial developments where it can be higher. Studies generally show that undisturbed riparian buffers can help ensure proper filtration and maintenance of water quality in urban areas.

Even though urban stormwater systems direct large amounts of stormwater away from riparian areas, substantial amounts of stormwater still reach riparian areas in urban environments, especially during high-flow storm events. Nitrogen and phosphorus loadings in runoff from urban lands are generally higher than from native grass and parkland, and are similar to loadings from pasture and cropland (Table 2). For these reasons, vegetated filter strips adjacent to water bodies are strongly recommended as a beneficial management practice in urban areas, and minimum effective widths for removing pollutants are provided in the following section (Table 3). The recommended widths for vegetated filter strips in Table 3 are based on a thorough review of the scientific literature. Developers wishing to use narrower filter strips should be able to demonstrate that narrower strips are adequate for preventing pollution.

Table 2
Selected Export Coefficients for Various Land Use Categories (kg/ha/yr)

Land Use Category	Total Phosphorus	Total Nitrogen	Author, Location
Urban, residential	0.03-1.90	0.17-0.79	USEPA (2002); Oberts (1989); MDEP (2000); McLeod (2006), Various
Urban, commercial	0.48 1.70-3.00	2.18	McLeod et al. (2006), Saskatchewan Oberts et al. (1989), Minnesota
Lawns, golf courses	0.51 0.19	1.43 1.52	King et al. (2007), Texas Reckhow et al. (1980), Pennsylvania
Parkland	0.03-0.08	0.20-0.82	Jeji (2004), Alberta
Forest	0.18	0.45-2.50	USEPA (2002); MDEQ (2001), Montana
Pasture	0.20-1.42	5.10	Mitchell & Trew (1982), Alberta
Cropland	0.01-0.63	0.010-2.13	Ontkean et al. (2000), Alberta

What is the Appropriate Setback Width?

This section contains a step-by-step approach for determining setbacks for all types of water bodies and various types of development. A checklist, recommendations by function, a table (Effective Widths for Vegetated Filter Strips), and diagrams are provided to help determine what the setback should be for any particular situation.

Checklist

1. Define scenario

Assemble background information. What type of water body is affected? What type(s) of lands are being buffered (e.g., urban, country residential, agricultural)? Are large industrial spills a possibility?

2. Summarize key information

What type of substrate is adjacent to the water body? What is the slope profile of the bank and backshore? Is there unstable ground, and what is its location? Where is the 1:100 year floodplain? Is there shallow groundwater and what is its location?

- 3. **Determine width of vegetated filter strip**The width of a vegetated filter strip needed for removing pollutants will depend mainly on the type of substrate (i.e., glacial tills or sands/gravels).
- 4. **Determine setbacks relative to site constraints**Consider unstable ground, slopes, shallow groundwater, and floodplain.
- Additional considerations
 Adjust setback for other needs including habitat/biodiversity.

Setback Recommendations (By Function)

Water Quality Functions

- Table 3 lists effective widths for vegetated filter strips for removing nitrate, and trapping other contaminants including sediment and phosphorus. For sites that contain both till and alluvial sediments, refer to Table 4 to determine the appropriate widths.
- The risk of contacting shallow groundwater should be assessed, and where necessary, setbacks should be increased to prevent contacting shallow groundwater. Alternatively, measures should be taken to protect against its contamination in accordance with current legislation and guidelines.
- Siting of sewage disposal systems will follow standard Alberta septic system management practices (Appendix 1 contains a list of policies and legislation governing septic systems).
- Siting and maintenance of aggregate extraction pits will follow Alberta's Code of Practice for Pits, and A Guide to the Code of Practice for Pits (Alberta Environment and Sustainable Resource Development). A setback of at least 50 metres is recommended along rivers whose channels consist of coarse, alluvial sediments (Table 3). Appendix 1 contains information about the A Guide for Code of Practice for Pits.

Bank and Shoreline Stability

 Appropriate setbacks should be used to keep development back from areas that may be susceptible to slope movement and erosion.
 A geotechnical assessment should be carried out using accepted engineering principles with regard to slope stability, toe erosion and shoreline migration.

Flood Water Conveyance and Storage

Lakes, and Class III - VII Wetlands:

 Setbacks should encompass the 100-year water level, plus an allowance for wave action and, if necessary, an allowance for other water-related hazards such as ice piling.

Rivers and Streams:

- If the flood fringe and floodway have been mapped, the setback should encompass the floodway. In general, new development within the floodway is not permitted. Within the flood fringe area, development may be permitted when certain design conditions are met.
- If the flood hazard area has not been mapped, a qualified environmental professional (e.g., hydrologist) should be retained to properly assess flood hazard risk and provide setback recommendations, using the following criteria:
 - » Flood risk assessments should be conducted within 100m of all named rivers and streams, or wherever flood hazard is believed to exist. Table 1 contains information sources for identifying flood risk areas.
 - » The scope of the assessment will depend on the nature of the development relative to flood hazard. Proponents are encouraged to discuss proposed assessments with Alberta Environment and Sustainable Resource Development to clarify matters of scope.
 - » To minimize the risk from floods, developments are frequently restricted to outside the generally accepted 1-in-100-year flood elevation line.
 A 1-in-100-year flood is a flood having a 1 per cent chance of being equalled or exceeded in any given year. Based on the expected floodwater level data (defined by monitoring gauges or geomorphic indicators), a predicted area of inundation can be mapped out.

For more information on flood hazard mapping, go to the Alberta Environment and Sustainable Resource Development website: www.environment.alberta.ca/01655.html.

Habitat and Biodiversity

- The setbacks for other core functions will in most cases protect aquatic and terrestrial habitat including: undercut banks, shade, food, woody debris, facilitate plant and animal dispersal, and help conserve riparian-dependent species.
- Setbacks should be extended to encompass environmentally sensitive areas, sensitive wildlife areas, and rare species. Each situation should receive an assessment and recommendation by appropriate qualified environmental professionals (e.g., wildlife biologist, botanist, rare plants specialist).
- Appendix 3 contains corridor widths for various species of wildlife and species at risk.

Table 3
Effective Widths for Vegetated Filter Strips

Type of Water Body	Substrate	Width	Modifiers	Notes
Permanent Water Bodies Lakes, Rivers, Streams, Seeps, Springs	Glacial till	20m ⁹	If the average slope of the strip is more than 5%, increase the width of the strip by 1.5 m for every 1% of slope over 5%	Slopes > 25% are not credited toward the filter strip
Class III - VII Wetlands	Coarse textured sands & gravels, alluvial sediments	50m ¹⁰	None	Conserve native riparian vegetation and natural flood regimes
Ephemeral and Intermittent Streams, Gullies	Not specified	6m strip of native vegetation or perennial grasses adjacent to the stream channel crest ¹¹	If the average slope of the strip is more than 5%, increase the width of the strip by 1.5 m for every 1% of slope over 5%	Maintain continuous native vegetation cover along channels and slopes
Class I & II Wetlands	Not specified	10m strip of willow and perennial grasses adjacent to water body ¹²	None	Maintain and conserve native wetland or marshland plants on legal bed and shore

In situations where the land near a water body consists of a combination of alluvial or coarse-grained sediments adjacent to the legal bank and glacial till further inland, use Table 4 to determine how wide a vegetated filter strip should be.

⁹ Vidon and Hill 2006 (See Appendix 2 for additional supporting references)

 $^{^{\}rm 10}$ Vidon and Hill 2006 (See Appendix 2 for additional supporting references)

 $^{^{11}}$ Gharabaghi et al. 2006 (minimum width of strip required for capturing sediment > 40 $\mu\text{m})$

¹² Liu et al. 2008 (optimal width of strip for capturing sediment)

Table 4
Width Combinations of Vegetated Filter Strips Situated on Both Till & Alluvium (metres)

Alluvium	Till	VFS Width
0	20	20
5	18	23
10	16	26
15	14	29
20	12	32
25	10	35
30	8	38
35	6	41
40	4	44
45	2	47
50	0	50

To use Table 4, first determine the average width of the alluvial sediments that are adjacent to the target water body, and find that width in the "alluvium" column in the table. Then, find the corresponding width of till in the adjacent "till" column. This will determine how wide the alluvium and till strips will be, along with the total width of the strip, for areas with an average slope of less than five per cent.

Example:

- Average width of alluvium from map or field measurements = 10 metres
- Corresponding width of glacial till = 16 metres
- Total width of vegetated filter strip = 26 metres

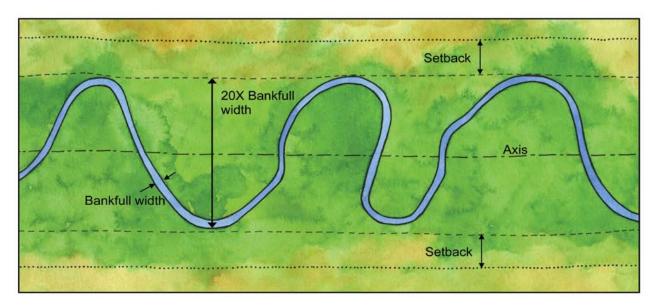
Figure 5 contains another example of how to determine filter strip width on sites that consist of both till and alluvium.

Additional Considerations

- Riparian areas that are currently in a natural state, especially filter strips adjacent to a drinking water source, should be maintained free of any development or impervious surfaces that may increase the chances of polluted runoff entering the water body.
- Riparian areas that are already disturbed should be reclaimed to a natural state. This may be done as compensation under *Fisheries Act* authorizations.
- The most effective filter strips contain healthy, native forest vegetation and perennial grasses to improve diffuse flow and trap sediment. In general, the wider the filter strip the better it will perform; however, the first five metres are critical for the removal of suspended sediments (Gharabaghi et al. 2006). More than 95 per cent of the aggregates larger than 40 μm in diameter (coarser silt fraction plus sand) can be captured within the five metres of a grass strip.
- Regular harvesting of buffer vegetation may reduce export of phosphorus.
- Revegetate cleared areas and bare ground by planting perennial grasses, trees and shrubs.

- Remediate concentrated flow paths where possible and install additional grass buffer strips or grassed swales.
- For medium-sized and smaller watercourses that have actively moving channels through the active processes of bank erosion and bank building, consider using the width of the meander belt (Figure 2). For such streams, aerial photos often show the existence of abandoned channels or oxbows and other associated features, and can help in mapping the meander belt. The meander belt is determined by multiplying bank full width by 20 for each reach, and is split equally on either side of the channel along its axis. Setbacks are measured from the edge of the meander belt as opposed to the legal bank of the watercourse.
- Use a minimum 30 metre buffer if the water body is fish bearing or where the riparian vegetation is dominated by trees. This would enhance shading and overhang by trees, important elements on fish-bearing streams.

Figure 2
Schematic Diagram of a Meander Belt



Reservoirs

Note:

Alberta Environment and Sustainable Resource Development requires a certain amount of land around reservoirs. This area is often referred to as the reservoir right-of-way or buffer zone. The reservoir right-of-way is determined after consideration of geotechnical data on soil and slope stability, potential flood levels, and mitigation requirements. Generally, the criteria used to determine the amount of right-of-way is the top-of-dam contour elevation with a minimum distance of 30 metres from the reservoir full supply level. Where the top-of-dam contour elevation falls across a slope, additional land is acquired to ensure stability.

Industrial Development and Transportation

- All new proposed industrial developments will follow Alberta Environment and Sustainable Resource Development's A Guide To Content of Industrial Approval Applications.
- All new and upgraded rural watercourse crossings will follow Alberta Transportation's best practice Guideline for Stormwater Management at Rural Stream Crossings.

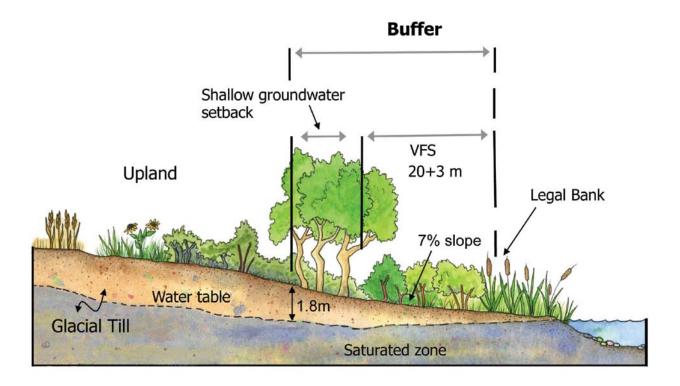
Buffer Diagrams

This section contains some diagrammatic examples of how setbacks can be applied to create buffer strips on various water bodies using the rules described above. The relative setback widths shown are only examples. Actual setback widths will depend on local conditions. The diagrams are drawn not to scale.

Note:

The total buffer should be wide enough to achieve all desired functions, but it should be no less than the calculated width of the vegetated filter strip (i.e., 20 metres + slope factor for glacial till; 50 metres for alluvial sands/gravels), where contaminant removal is a priority.

Figure 3
A lake or wetland buffer on glacial till, comprised of a vegetated filter strip (VFS), and setback for shallow groundwater.

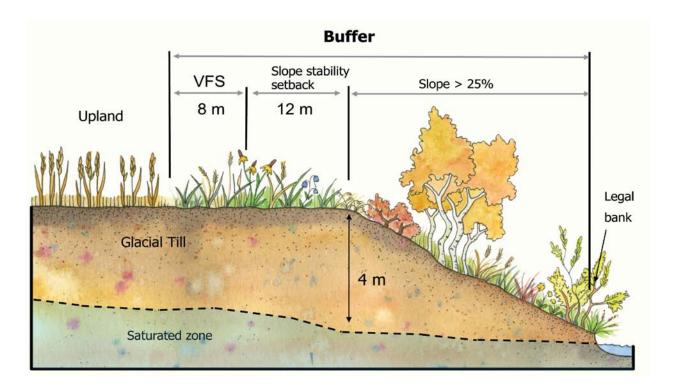


Buffer width calculation for Figure 3

Setback	Width (metres)
Vegetated filter strip (glacial till)	20
Slope factor, glacial till (7 - 5) x 1.5	3
Setback to avoid shallow groundwater ¹³	10
Total buffer width	33

 $^{^{13}\,\}mathrm{The}$ setback to avoid contacting shallow groundwater will vary depending on local conditions. Alternatives to a setback can be taken to avoid contacting shallow groundwater.

Figure 4
A stream buffer on glacial till, comprised of a steep slope, slope stability setback, and a vegetated filter strip. The steep slope does not count toward the vegetated filter strip.

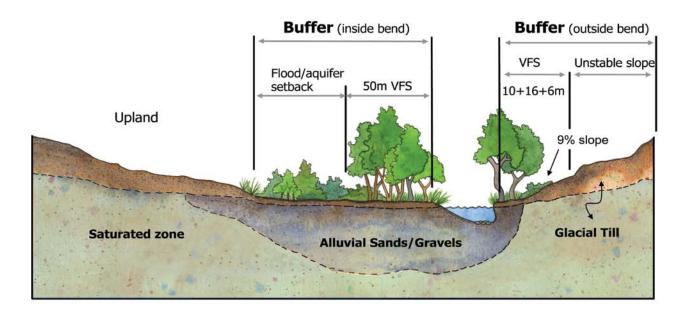


Buffer width calculation for Figure 4

Setback	Width (metres)
Steep slope > 25%	16
Slope stability setback ¹⁴	12
Vegetated filter strip	8
Total buffer width	36

¹⁴ The width of the slope stability setback will vary depending on local conditions and the geotechnical method used.

Figure 5
River buffers on glacial till and alluvial sands/gravels, comprised of vegetated filter strips, a flood/aquifer setback, and a slope stability setback.



Buffer width calculation for Figure 5

Setback (Inside Bend)	Width (metres)
Vegetated filter strip (alluvium)	50
Flood/aquifer setback (site dependent)	50
Total buffer width	100

Setback (Outside Bend)	Width (metres)
Vegetated filter strip (alluvium)	10	
Vegetated filter strip (glacial till, Table 4)	16	
Slope factor, glacial till (9% – 5%) x 1.5	6	
Unstable slope setback (site dependent)	20	
Total buffer width	52	

ESTABLISHING RIPARIAN BUFFERS

Riparian buffers created through development setbacks as described above may be legally designated in accordance with the *Municipal Government Act* by various methods. These include:

- Environmental reserve or environmental reserve easement: recommended for dedicating a vegetated filter strip adjacent to a water body to prevent non-point source pollution,
- Municipal reserve: recommended where land may be used for a public park, a public recreation area adjacent to or near a vegetated filter strip.
- Conservation easement: recommended where the landowner can benefit by retaining ownership of the land or some property tax reductions, and the municipality can benefit by not having to manage small parcels of land.

Municipalities may also create defacto buffers through the creation of land-use bylaws. Section 640 of the *Municipal Government Act* enables building development setback land use bylaw provisions on land subject to flooding or subsidence or that is low lying, marshy or unstable or on land adjacent to or within a specified distance of the bed and shore of any lake, river, stream or other body of water. A "building" includes anything constructed or placed on, in over or under lands, but does not include a highway or road or a bridge that forms part of a highway or road.

Other options for landowners include the Government of Canada's Ecological Gifts program in which private and corporate landowners can make donations of ecologically sensitive land (e.g. wetland areas), or interests in these lands, and receive tax benefits.

Developers are strongly encouraged to establish riparian buffers together with other environmental features associated with water bodies, with the purpose of protecting sensitive lands or providing public access for enjoyment of natural features. For example, section 664(1) of the MGA: Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land as environmental reserve if it consists of:

- a swamp, gully, ravine, coulee or natural drainage course,
- land that is subject to flooding or is, in the opinion of the subdivision authority, unstable, or
- a strip of land, not less than six metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
 - » preventing pollution, or
 - » providing public access to and beside the bed and shore.

Riparian buffer boundaries should be clearly marked and signed in the field and on appropriate maps and drawings prior to commencement of any subdivision site work. Temporary boundary markers should be maintained until construction of buildings, roads and other subdivision amenities are completed. Once construction is finished, permanent boundary markers and signage should be installed. Fencing may have to be considered to keep unauthorized vehicles from entering buffer strips, or properly managing livestock within the buffer area.

Riparian buffers may also be required in areas where timber clearing is subject to forestry legislation (i.e., the Forests Act and Timber Management Regulation). The Alberta Timber Harvest Planning and Operation Ground Rules set out buffer requirements for timber harvesting in these areas. Agricultural producers wishing to establish appropriate buffers adjacent to water bodies are encouraged to contact their local agricultural office for information. Setbacks for feedlots are regulated by Alberta's Natural Resources Conservation Board.

Finally, provision should be made for ongoing protection and management of riparian buffers. For example, regular access may be needed for emergencies, to manage recreational activities, and resource management purposes including vegetation management. However, road construction should be avoided, and access routes should be left in a natural state such as grass to allow infiltration. Wetland vegetation and unstable areas should be left undisturbed. The appendices in this report contain resource lists and links for further information. Development of management plans for riparian land is strongly encouraged to help ensure that conservation objectives are achieved. The "Choices – Common Sense for Managing Riparian Areas" section of this document also contains helpful information for managing riparian buffers.

Shorelands - Riparian areas

The province protects riparian areas – the productive and valuable vegetated lands beside water features.

On this page:

Overview

Alberta's forested region

Alberta's settled region

Guidelines

Overview

Riparian areas:

- are lush vegetated lands beside streams, rivers, lakes and wetlands
- · have vegetation and soils strongly influenced by the presence of water
- · make up only a small fraction of the land
- are among the most productive and valuable of all landscape types

Alberta's settled region

Private land generally borders rivers, streams, lakes and wetlands in settled areas of Alberta.

Public land may also border the water body and may be leased for grazing. Public land managers work with private landowners and leaseholders to maintain the landscape and ecology of riparian areas.

Cows and Fish Program

This partnership program with the Alberta Riparian Habitat Management Society:

- · promotes sustainable riparian land management
- helps landowners by providing tools and information
- · aims to maintain or restore healthy riparian areas
- see the Cows and Fish Program for details

Riparian health assessment

This assessment was developed by the Rangeland Management Branch and the Cows and Fish Program. It provides tools to assess the general health of riparian areas on public rangelands.

Alberta's forested region

The Crown owns the forested regions of Alberta, including the beds and shores of all water features. Approved land uses usually require a riparian buffer between operational areas and the banks and shores of water bodies.

Guidelines

The province has a number of guidance documents related to riparian management.

- Forest management standards and guidelines
 See Timber Harvest Planning and Operating Ground Rules
- Stepping back from the water



June 16, 2023

VIA EMAIL <tmusseau@sylvansummervillages.ca>

Subdivision and Development Appeal Board Summer Villages on Sylvan Lake 2 Erickson Drive Sylvan Lake, AB T4S 1P5

Attention: Terry Musseau, Secretary

Tel 780.448.9275 Fax 780.423.0163

Suite 2250 Bell Tower 10104 - 102 Street Edmonton, Alberta T5J 0h8

kathleen@shoresjardine.com

Direct Line: 780.702.4278

Re: Appeal of Development Permit Refusal by the Summer Village of Norglenwold Municipal Planning Commission for a deck on 139 Grand Ave

I write to reply to the submissions of the Development Authority of the Summer Village of Norglenwold, ("Summer Village") and the submissions from Mr. Cyril Gurevitch and Brenda Strom.

The following are addressed below:

- The Development Authority's is seeking to inappropriately bootstrap the denial of the development permit;
- Response to the Development Authority's Submissions; and
- Response to the Submissions of Mr. Cyril Gurevitch.

As an overarching comment, the Appellant notes that Mr. Cyril Gurevitch, his neighbor, appears to have taken a close and personal interest in 139 Grand Avenue and the relatively minor development of a deck smaller than 195 sqft on floating pads. Mr. Gurevitch is the Mayor of the Summer Village who was elected in the municipal council elections in 2021. The Appellant is concerned that the Development Authority's actions in this appeal are driven by a personal *animus* of the Mayor rather than in response to the minor development being proposed.

I. The Development Authority's is seeking to inappropriately bootstrap the denial of the development permit

The Appellant objects to the role the Development Authority has taken in this appeal. The role of a Development Authority before the Subdivision Development Appeal Board is not to advocate for a particular response but rather to explain the planning rationale which went behind its decision. The Development Authority must maintain an attitude of neutrality in order to preserve the integrity of the process. The Court of Appeal in Springfield identified that, "The development authority is primarily there to explain the

¹ Springfield Capital Inc. v Grande Prairie (Subdivision and Development Appeal Board), 2018 ABCA 203 at para 19 [Tab A]



planning considerations underlying the decision, and should not actively advocate a result, at least where all the adverse parties are present and able to make their own representations."²

The SDAB should disregard the submission of Development Authority in respect of issues which were not before the Municipal Planning Commission ("MPC") and not identified by the MPC in its reasons for refusal.

We wrote to the Development Authority on May 31, 2023 in respect of the proposed development and sought to identify why the Development Authority had identified the proposed Deck as being non-conforming.³ The Development Authority only identified Section 8 of the Land Use Bylaw regarding an escarpment being in a natural state.⁴

After the Development Authority's request for an adjournment, the Development Authority has now raised a significant number of issues which were never before raised to the Appellant or before the Municipal Planning Commission ("MPC"). This is inappropriate and the SDAB should disregard these submissions.

The Appellant will address each of the alleged nonconforming elements of the proposed Deck below but notes the fact that the Development Authority did not raise any of these issues before the Municipal Planning Commission or to the Appellant prior to its submissions on June 12, 2023 indicates that these were not issues of any significance, and so far as is required the SDAB should grant a variance.

II. Reply to the Development Authority's Submissions

The history of this matter is one that raises some confusion.

In September of 2021, Mr. Nanninga on behalf of the Appellant identified that the Appellant was reworking and fixing the existing landscaping on the property and that they intended to remove the wooden stairway and previous deck and looked to:

"...relocate this wooden platform to just above the existing escarpment area, as to not effect or disturb the existing shoreline escarpment of this property. The platform will be installed "floating" on concrete deck blocks, so the structure will be considered non-permanent, with no permanent foundation such as piles, footings, etc."⁵

² Springfield Capital Inc. v Grande Prairie (Subdivision and Development Appeal Board), 2018 ABCA 203 at para 19.

³ Non-conforming is defined in the Summer Village's Land Use Bylaw at 1.4(108) to include "a building... (b) That on the date this Land Use Bylaw or any amendment thereof becomes effective does not, or when constructed will not, comply with the Land Use Bylaw"

⁴ Emails between Ms. Kathleen Elhatton-Lake and the Development Authority dated May 31, 2023 **[Tab B].**

⁵ See email from S. Nanninga to Development Authority on September 16, 2021 **[Tab C]**



Mr. Nanninga attached the Survey to his email and provided photographs.

Mr. Nanninga further provided a site plan at the request of the Development Authority on October 1, 2021 which showed:

"PLATFORM/PATIO TO BE RELOCATED ABOVE ESCARPMENT AREA. PLATFORM HEIGHT APPROX 6"-24". SUPPORTED BY CONCRETE PADS (FLOATING)."

"SHORELINE AREA REMAINS UNCHANGED FROM EXISTING"

"REBUILT BOARDERS WITH SAME ROCK MATERIAL AND LANDSCAPING BLOCK"⁶

Based on the plans provided, the Development Authority advised a development permit was not required.⁷ A year later, the Development Authority reversed its position.⁸

The Appellant submits that the plans provided in September and October 2021 is exactly what he carried out. Though he was unable to utilize all of the previous Deck as some portions had been stolen over the winter and others had deteriorated, for all intents and purposes, he has followed the plan as was set out to the Development Authority in 2021.

Mr. Nanninga advised that the work ongoing was a continuation of the work that had previously been identified to the Development Authority and that the Development Authority had advised did not require a development permit. He identified that "we have only been conducting work that is within the scope that was previously detailed." 10

The Development Authority advised that the development permit application submitted would need to go to the MPC but did not identify any variances that required the side yard, front yard, or rear yard setback.¹¹

The Development Authority in its report to MPC did not identify **any variances** to the setbacks which were required but instead stated only "Land located below the top of bank/ top of escarpment should be in a natural state, a variance is required."

At no point prior to seeing the Appellant's submissions in this matter appeal did the Development Authority raise any concerns regarding setbacks, the location of the proposed Deck, or any environmental impact.

⁶ Email from S. Nanninga to Development Authority dated October 1, 2021 **[Tab C];** Attachments "Previous Existing Landscaping" and "Current Landscaping" **[Tab D].**

⁷ Email from Development Authority to S. Nanninga dated October 13, 2021 [Tab C].

⁸ Email from Development Authority to S. Nanninga dated September 29, 2022 [Tab C].

⁹ Email from S. Nanninga to Development Authority dated September 30, 2022 [Tab C].

¹⁰ Email from S. Nanninga to Development Authority dated September 30, 2022 [Tab C].

¹¹ Email from S. Nanninga to Development Authority dated October 6, 2022 [Tab C].



As such, the SDAB should disregard the Development Authority's submission in this regard. The Development Authority is attempting to bootstrap the decision to deny the development permit application by identifying new grounds not previously raised and with no supporting evidence. No issues regarding environmental protection of Sylvan Lake were raised by the Development Authority in the course of the development permit application. To attempt to raise them at this stage is significantly prejudicial to the Appellant.

Moreover the Development Authority has provided no evidence or identification of any specific environmental concerns from the proposed Deck, located in the same location as the previous Deck. If a specific concern was raised, the Appellant could obtain evidence to rebut or address any concerns. The Development Authority has not raised specific concerns arising from the proposed Deck. The Appellant submits that this is because there are no specific environmental concerns.

However, in the interest of completeness the Appellant will address each of the alleged areas of the proposed Deck which the Development Authority states are non-conforming.

a. Setback Distances for the Deck

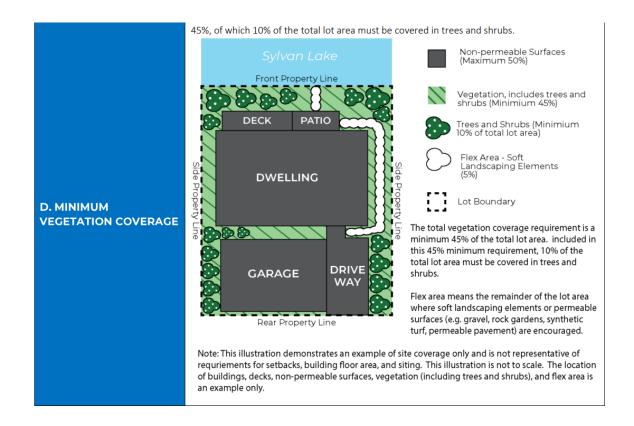
The Development Authority, for the first time, now raises concerns regarding the setback from the deck from the side yard and front yard under the Land Use Bylaw.

The proposed Deck is located in a similar position to the previous Deck. No neighbours have raised concerns regarding the location of the Deck. This would suggest limited to no impact on adjacent property owners. A variance is not only appropriate in this case but should be required given the actions of the Development Authority.

The proposed Deck is located over 20 feet from Sylvan Lake and a <u>minimum</u> of two feet from the neighboring property line. Mr. Nanninga advised that he had measured the distance and that the surveyor had shown a lesser distance as they relied on survey pins from 1988. Sylvan Lake had receded since 1988 and thus the true setback for the proposed Deck is further than shown by the surveyor. The Development Authority directed Mr. Nanninga to revise the plans to show a lesser setback.

In respect of the siting of proposed Deck between the principle residence and Sylvan Lake, the Land Use Bylaw requirement as interpreted by the Development Authority would mean that every time a development sought to have a deck, shed or boathouse between a principal residence and Sylvan Lake, a variance would be required. As can be seen from the photographs provided by the Appellant, many of the properties in the Summer Village along Sylvan Lake have decks or other accessory buildings between a principal residence and Sylvan Lake.¹² The Land Use Bylaw itself shows a deck between a principal residence and Sylvan Lake as an example in the R1 Shoreline Residential District:

 $^{^{\}rm 12}$ See Submissions of the Appellant dated June 1, 2023 at Tab F.



b. Landscaping

The Summer Village's submissions regarding landscaping is confusing. It appears that they have derived a slope of 25% using the length of the proposed Deck and the maximum height identified to the top of the proposed Deck landing. This is not an accurate measurement of slope and the Appellant disputes that there is an escarpment or slope of greater than 15%. As shown in the photos attached as Tab E, the slope in the area of the proposed Deck is slight. Most importantly, the evidence of a surveyor is that there is no escarpment.

In this case there is no landscaping which is being disturbed by the construction of this development. The development is replacing a pre-existing one; there is no trees, shrubs, or other vegetation which is being removed. The pre-existing landscaping, including rocks and rock borders is not being revised as a result of the proposed Deck.

The plans submitted by the Appellant as part of the development permit application identify that:

"SHORELINE AREA LOOSE ROCK AND PAVING STONES (REMAINS UNCHANGED FROM ORIGINAL)"13

-

¹³ Agenda Package page 9 of 21.



"NO TREES OR SHRUBS SHALL BE REMOVED""14

I note that the Development Authority had already commenced an investigation into the action on this and considered the development closed but reopened it in 2022. The Development Authority appears to have restarted its investigation with certain vigor. The Appellant is concerned that the Development Authority's interest is directed by the political reality of the Appellant of living next to the Mayor elected in the 2021 municipal elections.

c. Environmental Concerns

The Appellant appreciates the need for protection of Sylvan Lake. He enjoys and appreciates Sylvan Lake and hopes to have his children and grandchildren continue to enjoy Sylvan Lake in the same way he has for decades.

At no point prior to its June 12, 2023 submissions did the Development Authority raise any concerns regarding the impact of the proposed Deck on Sylvan Lake or the ecosystem.

Had the Development Authority raised any concerns regarding the ecosystem of Sylvan Lake prior to this, the Appellant would have taken such necessary steps to investigate any potential impact. It is absurd to suggest that replacing an existing deck with a deck that is supported by floating pads and has less impact, is going to negatively impact the ecosystem of Sylvan Lake.

If the Development Authority had genuine concerns regarding the impact of the proposed Deck on Sylvan Lake or its ecosystem it surely would have raised these prior to June 12, 2023, in respect of a development that has been in discussions since 2021.

Quite simply, the Development Authority is grasping at straws for a politically motivated opposition to this appeal.

III. Response to the Submission of the Mayor

The Mayor of the Summer Village, who began constructing his residence in 2016/2017, is the only individual who has expressed concerns regarding the proposed Deck. However, his letter does not appear to take issue with the proposed Deck but is mainly baseless allegations against the Appellant from apparent ongoing surveillance over years.

First, the letter seeks to have the escarpment maintained in a natural state. As noted, the area of the proposed Deck is not in a natural state. The previous deck was there and when removed there was a bald patch of earth and rock. The Appellant repaired some of the pre-existing landscaping including stone steps down to Sylvan Lake and the rock borders (note, these are not the wooden stairs on the side of the property near the Mayor's property but rather are to the other side of property line). The rock border and rock stairs

¹⁴ Agenda Package page 8 of 21.



are not the issue before the SDAB as the Appellant was repairing existing landscaping.

The Mayor further alleges that trees were removed. This is inaccurate. The Appellant has small vegetation in the planters surrounded by the rock borders and advises he is replanting this as part of the repair of the existing landscaping. Any vegetation "removed" (to the extent that removing from garden beds is removed and not merely gardening) was not in the location of the proposed Deck and ultimately irrelevant to this development permit appeal.

The Mayor also appears to submit that his property is on an escarpment and thus the Appellants must be as well. No evidence has been provided regarding slope and the Appellant notes that when the Mayor constructed his residence, he made significant changes to the grade, which was evident considering that following the development, runoff storm water came onto the Appellant's property from the Mayors property. The authority on an escarpment is the surveyor, who identified that there is no natural escarpment on the property.

In respect of the allegation that the Appellant brought an excavator out to dig up the terrain. This is incorrect. The equipment pictured is not an excavator but a small loader that was used by the landscaping company to move rocks for the repair of the stone stairs and rock borders.

In respect of the Mayor's concern regarding the wooden stairs, the Appellants note that they have no request to rebuild the stairs that the Mayor appears to reject to. In fact, there is a different path on the opposite side of the property which is how they will be accessing Sylvan Lake. Similarly, the Appellant's dock has been moved for the 2023 season.

IV. Conclusion

The Appellant has serious objections and concerns regarding the Development Authority's bootstrapping of a refusal to issue a development permit for a relatively minor development of which the only unusual feature appears to be that it is on a property located adjacent to the Mayor of the Summer Village.

The proposed Deck is consistent with existing and recent development in the Summer Village along Sylvan Lake. No environmental concerns were raised by the Development Authority until well into the appeal process and the Appellant submits that is because there is no foundation for any concerns. The proposed Deck has minimal to no environmental impact due to the footings and is in the location of the previous Deck, requiring no removal of natural vegetation.

The SDAB can and should grant a variance in this matter, to the extent that one is needed. The proposed Deck is located in a similar place to the previous Deck. Neither the Development Authority nor the neighbours have been able to identify that the proposed



Deck will materially impact the use, enjoyment or value of neighbouring properties or unduly interfere with the amenities of the neighborhood.

Yours truly,

SHORES JARDINE LLP

Per: Kathleen Chatton-Lake

KATHLEEN ELHATTON-LAKE kathleen@shoresjardine.com KEL/wh

CC: Client via email Alifeyah Gulamhusein, counsel for the Summer Village, via email agulamhusein@brownleelaw.com Enclosures:

Tab "A" Springfield Capital Inc. v Grande Prairie (Subdivision and Development Appeal Board), 2018 ABCA 203

Tab B Emails between Ms. Kathleen Elhatton-Lake and the Development Authority dated May 31, 2023.

Tab C Email correspondence from S. Nanninga to Development Authority between September 16, 2021 to November 30, 2022

Tab D Attachments to October 13, 2021 email from S. Nanninga to Development Authority "Previous Existing Landscaping" and "Current Landscaping" Tab E Photographs of Property

TAB A

In the Court of Appeal of Alberta

Citation: Springfield Capital Inc. v Grande Prairie (Subdivision and Development Appeal Board), 2018 ABCA 203

Date: 20180525 Docket: 1803-0016-AC Registry: Edmonton

Between:

Springfield Capital Inc.

Applicant

Respondents

- and -

City of Grande Prairie Subdivision and Development Appeal Board and the City of Grande Prairie and Signature Support Services Society

Reasons for Decision of
The Honourable Mr. Justice Frans Slatter

Application for Permission to Appeal

Reasons for Decision of The Honourable Mr. Justice Frans Slatter

- [1] The applicant seeks permission to appeal a decision of the Grande Prairie Subdivision and Development Appeal Board, which approved a permit to operate a recycling facility.
- [2] Appeals to the Court of Appeal are only available on questions of law or jurisdiction. The test is set out in s. 688(3) of the *Municipal Government Act*, RSA 2000, c. M-26:
 - (a) the proposed appeal involves a question of law;
 - (b) the issue is of sufficient importance to merit a further appeal; and
 - (c) the proposed appeal has a reasonable chance of success.

The test is discussed in cases like Yee v Leduc (County), 2016 ABCA 40 at paras. 9-11.

Background

- [3] The lands in question are a part of the Gateway Shopping Centre, a large regional shopping centre in Grande Prairie. The lands are covered by the *Gateway Area Structure Plan*, which was adopted to enable the development of the quarter-section of land on which the Gateway Shopping Centre is located. The lands were originally zoned "C2" under the previous land use bylaw, and are now zoned Arterial Commercial (CA). "Recycling Depot" is a permitted use.
- [4] The Gateway Area Structure Plan Bylaw C-1216 recites that it evolved from an earlier West Highway #2 Area Structure Plan, which was never implemented but which contemplated multiple uses. The Gateway Area Structure Plan discusses the "Proposed Land Use Classifications":

It has been stated that further to the present General Municipal Plan, mixed use is requested.

In addition to catering to the shopping needs of the City of Grande Prairie and the region, it is proposed to develop a mixed use Regional Centre. It has long ago been recognized by City planners that different uses add life to developments and that each use helps the others, the residential helps the stores and the proximity of the stores makes the residential more desirable etc.

The *Gateway Area Structure Plan* then discusses, in narrative form, various uses, including retail, housing, hotels, truck stop, automobiles and pedestrians, and auto mall. The *Gateway Area Structure Plan* does not specifically impose zoning, or amend the zoning of the land under the *Land Use Bylaw*.

[5] The main issue on which permission to appeal is sought arises from "Figure 2" attached to the *Gateway Area Structure Plan*. It is a sketch of the shopping centre site, with various blocks of land designated for "proposed" uses such as "Retail", "Retail C2", "Major Retailer", "Residential", "Motel", "Truck Stop" and "Business/Commercial". Figure 2 is not referred to anywhere in the text of the *Gateway Area Structure Plan*. In particular, there is nothing in the *Gateway Area Structure Plan Bylaw* making mandatory the land uses shown on Figure 2. The applicant argues that the areas on Figure 2 marked as "retail" can only be used for retail purposes, and that a Recycling Depot is not allowed even if it is permitted under the CA zoning.

Appeals of Permitted Uses

- [6] The respondent City argues, as a threshold issue, that no appeal is possible because a "Recycling Depot" is a permitted use. The City points to s. 685(3) of the *Municipal Government Act:*
 - (3) Despite subsections (1) and (2), 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 or the application for the development permit was deemed to be refused under section 683.1(8).

The City argues that since the provisions of the bylaw were not relaxed or varied, and they were not misinterpreted, there can be no appeal. This subsection does not completely close the door to appeals from permits for permitted uses, because it allows appeals in cases of "misinterpretation", which could cover many things. In context, the subsection mainly prevents appeals on the basis that the permitted <u>use</u> is somehow inappropriate or undesirable.

- [7] The applicant's main argument is that the development permit might comply with the *Land Use Bylaw*, but it is inconsistent with Figure 2 of the *Gateway Area Structure Plan*. It points out that the SDAB is required under s. 687(3) to comply with statutory plans:
 - (3) In determining an appeal, the subdivision and development appeal board . . .
 - (a.2) subject to section 638, must comply with any applicable statutory plans;
 - (a.3) subject to clause (d), must comply with any land use bylaw in effect;

The applicant argues that if the SDAB fails to comply with the statutory plan, that would be a ground of appeal not foreclosed by s. 685(3). The City counters that binding authority confirms that in these circumstances the bylaw prevails and the statutory plan is "read down": *Hartel Holdings v Calgary*, [1984] 1 SCR 337 and *Spruce Grove (City) v Parkland (County)*, 2000 ABCA 199 at para. 18.

- [8] Hartel Holdings concerned a provision that required the municipality to purchase lands it had "designated under a land use by-law" as parkland. The issue was whether a statutory plan showing the lands as future parkland was sufficient to trigger the requirement to purchase. While the context was different, the Court did suggest at p. 352 that "the land use bylaw rather than statutory plans [is] the primary implementation tool of the planning process". Hartel Holdings did not concern a development permit, and did not concern the inviolability of a "permitted use". It is not direct authority for the proposition that the SDAB need only comply with the land use bylaw, and can "read down" any applicable statutory plan, notwithstanding the imperative wording of clause 687(3)(a.2). "Reading down" may be appropriate where it is impossible to comply with both the statutory plan and the zoning bylaw. However, where compliance with both is possible a more natural interpretation would be that any developer must comply with all regulatory requirements in order to get a permit. A permit could not, however, be refused based on "use" if it was a "permitted use".
- [9] Clauses 687(3)(a.2) and (a.3) were added to the *Act* in 2017. Their effect on the earlier case law is uncertain. Permission to appeal was not sought on this precise issue, and it is not necessary to resolve it in order to dispose of this application.

The Legal Effect of Figure 2 of the Gateway Area Structure Plan

- [10] The main proposed ground of appeal is that even though the permit may comply with the *Land Use Bylaw*, it does not comply with the *Gateway Area Structure Plan Bylaw*. Even though a Recycling Depot is a permitted use under the CA zoning, the applicant argues that the areas on Figure 2 marked as "retail" can only be used for retail purposes, and that a Recycling Depot is not retail.
- [11] The references in Figure 2 to "Retail C2" are a reference to the "C2" zoning found in the previous (now repealed) *Land Use Bylaw*. The C2 zoning has generally been replaced by the CA zoning, and there is no longer any legislative reference to "C2" zoning. Since the Gateway Shopping Centre is now zoned CA, the only reasonable interpretation of Figure 2 in the current context is that it should be read as referring to CA zoning. The only remaining issue is whether the references to "Retail" in Figure 2 are intended to displace all of the permitted uses in CA zoning, other than retail uses.
- [12] The SDAB concluded that the *Gateway Area Structure Plan* did not preclude the development:
 - 6. The Board considered the Appellant's submissions that the Gateway Area Structure Plan ("Gateway ASP") limits developments to retail businesses in this area. The Board considered that the Land Use Bylaw enacted by city council specifically provided that a Recycling Depot is a permitted use in this development. The Board also noted that the Land Use Bylaw specifically permitted many types of businesses other than retail operations in the Gateway Power Centre. The Board

further concluded that the Gateway Area Structure Plan was a policy document and was intended to be conceptual in design. It was not intended to restrict developments that are permitted uses in the Land Use Bylaw.

Given the general nature of the narrative in the *Gateway Area Structure Plan*, the absence of any mandatory wording about the permitted uses, the absence of any indication that Figure 2 is intended to be a binding limitation on potential uses, and the specific provisions of the CA zoning, this reasoning does not disclose any obvious flaws.

- [13] Under s. 640(2) of the *Act* zoning is to be dealt with in land use bylaws, which must "divide the municipality into districts" and, other than for direct control districts, "prescribe with respect to each <u>district</u>" permitted and discretionary uses. Area structure plans, on the other hand, are to provide "a framework for subsequent subdivision and development", with either general or specific "land uses <u>proposed</u> for the <u>area</u>": s. 633. The structure of the planning provisions of the *Act* therefore supports the concept that, in terms of <u>uses</u> at least, "the land use bylaw rather than statutory plans [is] the primary implementation tool of the planning process". This is consistent with the wording of Figure 2, which merely says that it sets out "proposed" uses.
- [14] While it is true that Grande Prairie City Council adopted the *Gateway Area Structure Plan*, it subsequently went on to zone these lands as Arterial Commercial (CA). The argument that Figure 2, a general attachment to the *Gateway Area Structure Plan*, is intended to be the document that prescribes permitted and discretionary uses would turn the *Gateway Area Structure Plan* into a type of "direct control" zoning. The zoning would not be Arterial Commercial (CA) at all, but really "retail", or one of the other designations on Figure 2. If Council had intended that result, it is anomalous that it would impose the (apparently redundant) Arterial Commercial (CA) zoning on the site.
- [15] It is also of significance that in 2016 an attempt was made to amend the Arterial Commercial (CA) zoning to change "Recycling Depot" from a permitted use to a discretionary use. That amendment was unanimously defeated by Council, confirming Council's view that this type of use is appropriate in the CA zoning, and that Figure 2 was not intended to restrict the permitted uses.
- The applicant argues that the full Court should determine whether the provisions of Figure 2 are merely "aspirational", reflecting broad policy objectives, or whether they are intended to be mandatory. Requiring permission to appeal from SDAB decisions recognizes a gatekeeping function. Grounds of appeal must be on questions of law or jurisdiction, and they must be of sufficient importance to warrant a further appeal. The prospects of success must be sufficient to justify a further appeal, which invokes the standard of review that would likely be applied. Deference would generally be extended to the SDAB on the interaction of various planning documents, and the interpretation of the details of statutory plans: *McCauley Community League v Edmonton (City)*, 2012 ABCA 224 at paras. 20-3, 533 AR 319. The decision of the SDAB that Figure 2 was intended to be a policy document, and conceptual in design, is reasonable. When all

of these factors are considered, the interpretation and application of Figure 2 is not an issue of sufficient importance to warrant a further appeal. It is the type of local issue involving the suitability of a particular development on a specific site that is properly within the mandate of the SDAB.

The Definition of the Development

[17] The applicant also seeks permission to appeal on whether the proposed development is actually a "Recycling Depot". The facility in question redeems beverage containers on which a deposit has been paid. The applicant argues that it is a "Waste Management Facility", not a Recycling Depot, because it has a compactor that crushes the plastic bottles and cans to make them easier to ship. Whether this development is truly a Recycling Depot is a question within the mandate of the SDAB, and is at best a mixed question of fact and law on which permission to appeal is not possible or appropriate: *McCauley Community League* at para. 23.

<u>Inappropriate Involvement of the Development Authority</u>

- [18] Finally, the applicant seeks permission to appeal on the basis that the SDAB "allowed egregious 'bootstrapping' by the development authority". By this the applicant means that the development authority's participation in the appeal exceeded the guidelines set in cases like *Ontario v Ontario Power Generation*, 2015 SCC 44 at paras. 52ff, [2015] 3 SCR 147.
- [19] When a development permit is appealed, the development authority must maintain an attitude of neutrality in order to preserve the integrity of the process. It is no answer that the development authority is given a right of audience under clause 687(1)(b), nor that the appeal might be *de novo*. The development authority is primarily there to explain the planning considerations underlying the decision, and should not actively advocate a result, at least where all the adverse parties are present and able to make their own representations. In this case, the applicant expresses legitimate concerns about the aggressive conduct of the development authority in arguing about the standing of some of the parties, whether they appeared at prior hearings, whether they were represented by counsel, and whether their concerns should be taken seriously.
- [20] That being said, development authorities have a legitimate role to play at development appeals. As *Ontario Power Generation* states at para. 55: "Canadian tribunals occupy many different roles in the various context in which they operate". Development authorities generally do not give extensive reasons for granting permits; normally the permit would just be issued, with or without conditions. Their participation during development appeals is influenced by that, and an appropriate explanation of the reasons behind the granting of the permit is not objectionable. Further, development appeals are not just conflicts between various citizens. There is a significant public policy element in planning decisions, and the development officer is entitled to make representations to the SDAB on the impact that any particular development will have on the community.

[21] Controlling the representations it receives is primarily up to the SDAB. In this particular case, it does not appear that any of the challenged representations of the development authority had any impact on the ultimate decision. Its input on the specific issues that underlie this application for permission to appeal were within acceptable bounds. The participation of the development authority in this particular SDAB appeal does not raise issues that would justify a further appeal to the full Court.

Conclusion

[22] In conclusion, the applicant has failed to demonstrate an issue warranting permission to appeal, and the application is dismissed.

Application heard on May 23, 2018

Reasons filed at Edmonton, Alberta this 25th day of May, 2018

Slatter J.A.

Appearances:

K.D. Wakefield, Q.C. for the Applicant

R.G. McVey, Q.C. (No Appearance) for the Respondent City of Grande Prairie Subdivision and Development Appeal Board

J.S. Grundberg and A. Gulamhusein for the Respondent City of Grande Prairie

C.M. Headon for the Respondent Signature Support Services Society

TAB B

From: <u>Kara Hubbard</u>
To: <u>Kathleen Elhatton-Lake</u>

Subject: RE: 139 Grand Avenue - Appeal to the Subdivision and Development Appeal Board

Date: Thursday, June 1, 2023 1:15:05 PM

Attachments: <u>image003.pnq</u>

Norglenwold LUB - AMENDED 2019.pdf

Good Afternoon Kathleen,

Thank you for your email. I have attached Land Use Bylaw 208/13 as requested, I have also included a link below to current Land Use Bylaw, Section 8 (Landscaping) talks about the escarpment being in a natural state and the non-conforming is in Section 4 (4.3). Which is something that we always refer to as well out of the Municipal Government Act.

http://www.sylvansummervillages.ca/uploads/8/8/0/5/88056186/summer_village_of_norglenwold_land_use_bylaw - bylaw 267-22 - july 2022 - approved - last_version.pdf

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Kathleen Elhatton-Lake <Kathleen@shoresjardine.com>

Sent: Wednesday, May 31, 2023 1:59 PM

To: Kara Hubbard < khubbard@sylvansummervillages.ca>

Subject: 139 Grand Avenue - Appeal to the Subdivision and Development Appeal Board

Importance: High

Good Afternoon Ms. Hubbard,

I have been retained by the appellant to represent them in this appeal. I have reviewed the agenda package and I am looking for some clarification from yourself as the development officer as to the sections of the Land Use Bylaw

Can you advise as to the sections of the Land Use Bylaw that you relied on to determine that the development was "non-conforming" and that land located below the top of bank/top of escarpment should be in a natural state?

Can you also provide a copy of the previous land use bylaw being Bylaw 208/13?

Sincerely,



Kathleen Elhatton-Lake
Partner
Suite 2250 Bell Tower | 10104-103 Avenue | Edmonton, Alberta T5J 0H8
Tel 780.448.9275 | Fax 780.423.0163 | www.shoresjardine.com

This email is legally privileged and confidential. If you have received it in error, please reply and advise the author, and delete the message. Thank you. Copyright in this message and all attachments sent by our office belongs to Shores Jardine LLP, which reserves all rights.

TAB C

Wendy Horton

From: Kathleen Elhatton-Lake
Subject: FW: 139 Grand Avenue

Attachments: Development Package 139 Grand Ave.pdf; Patio Deck DWG 139 Grand Ave.pdf; L-024-22 ss (July

26-22).pdf; 139 Grande Ave Land Title 05 27 21.pdf

From: Scott E. Nanninga

Sent: Wednesday, November 30, 2022 11:32 AM

To: 'Kara Hubbard' < khubbard@sylvansummervillages.ca>

Subject: RE: 139 Grand Avenue

Good afternoon Kara,

Please see attached Development Application package and associated drawings for the proposed patio deck at 139 Grand Ave. As mentioned previously, we also had the lot professionally surveyed; I have attached the results of this survey. Please advise if you require any other information.

Best regards,

Scott Nanninga Engineering Support R.W. Gibson Consulting Services

Ph: 780-488-5532

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Friday, October 7, 2022 3:59 PM

To: Scott E. Nanninga < S.E. Nanninga@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Hi Scott,

Thank you for getting back to me on this and you can absolutely submit the application package and drawings directly to me.

I look forward to receiving your application.

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E. Nanninga@gearcentregroup.com >

Sent: Friday, October 7, 2022 1:36 PM

To: Kara Hubbard < khubbard@sylvansummervillages.ca>

Subject: RE: 139 Grand Avenue

Hi Kara,

Thanks for the explanation, that makes sense. I believe the confusion on this end resulted in that we are rebuilding the same platform from the dismantled materials, which is being placed on new support structure. As well, some of the dismantled material that could not be salvaged or went missing had to be replaced with new.

I have instructed our contractor to stop work on this project and will submit the required application within the next 1-2 weeks. Is it OK to submit the application package and drawings directly to you or should it be submitted to your main office. I have also instructed my contractor to check the sub-assembled structure to ensure that it is currently stable, if not, they may add few braces or stabilizing members to keep everything in place during the coming months of application review. Hopefully this is OK with you.

Regards, Scott

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, October 6, 2022 1:03 PM

To: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com >; Bob Gibson < R.W.Gibson@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Hi Scott,

Thank you for your email reply. I think the difference here is that it is a new build of a staircase or deck and not relocating it. From the photos I have seen it is a new build and it is on the escarpment which requires a development permit. From the letter it sounded like you were just shuffling the deck up above the escarpment due to the neighbor putting up a fence but this is a totally new structure on the escarpment.

This development requires a development permit and will have to go to the Municipal Planning Commission for approval. I have attached a development permit application package for you, we expect that this development is applied for and the construction does not continue until the correct approvals are in place.

Thank you and please let me know if you have any questions on the application process.



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga <S.E.Nanninga@gearcentregroup.com>

Sent: Friday, September 30, 2022 9:40 AM

To: Kara Hubbard <khubbard@sylvansummervillages.ca>; Bob Gibson <R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Good morning Kara,

The work taking place at 139 Grande Avenue is the continuation of the work that was outlined in our previous correspondence which included the relocation of an existing wood platform (was put on hold throughout the winter). To recall, the existing deck/stairs was encroaching at the property line and was located on the escarpment area; this work is the relocation of that platform above the escarpment, securing the platform to floating concrete pads and discarding the stairs. The described work was previously detailed in the communication and drawings that I send last fall (I have reattached those drawings for reference). In addition to the above mentioned efforts, we also contracted a surveyor to survey the site to ensure that the platform relocation was not located on the escarpment.

That being said, when it was previously stated that the enforcement letter was considered closed, we have only been conducting work that is within the scope that was previously detailed.

Regards,

Scott Nanninga **Engineering Support** The Gear Centre Group

Ph: 780-488-5532

From: Kara Hubbard [mailto:khubbard@sylvansummervillages.ca]

Sent: Thursday, September 29, 2022 3:03 PM

To: Scott E. Nanninga <S.E.Nanninga@gearcentregroup.com>; Bob Gibson <R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Importance: High

Hi Bob,

It has recently come to my attention that there is development of a deck or stairs taking place on the lakeside of 139 Grand Avenue. In our last communication it was clear that if you were doing any further work on the property to ensure a development permit is required or not. As this work is on the escarpment you will require a development permit.

I expect to hear from you on this as soon as possible. If I do not hear back I will be sending a letter.

Thank you,



KARA HUBBARD DEVELOPMENT OFFICER

khubbard@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Kara Kashuba

Sent: Wednesday, October 13, 2021 3:12 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>> **Cc:** Bob Gibson < <u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Scott,

I really appreciate the detailed drawings and you helping me understand the work that has taken place. From looking at the drawings it looks like to me that it's repairs and no major additions or excavation, stripping or grading has taken place. I suggest that you check with our office prior to doing any work further on the property just to ensure if a development permit is required or not.

Thank you again for the information and I am considering this enforcement letter closed.

Thank you,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E. Nanninga@gearcentregroup.com >

Sent: October 1, 2021 3:21 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u> > **Cc:** Bob Gibson < R.W.Gibson@gearcentregroup.com >

Subject: RE: 139 Grand Avenue

Good afternoon Kara,

As per your request, please see attached site plan drawings of 139 Grand Ave, which corresponds with my previous email. The first drawing provides details of prior to landscape improvements, and the second provides details of the current landscaping.

Regards, Scott

From: Kara Kashuba [mailto:kkashuba@sylvansummervillages.ca]

Sent: Monday, September 27, 2021 12:55 PM

To: Scott E. Nanninga < <u>S.E.Nanninga@gearcentregroup.com</u>> **Cc:** Bob Gibson < R.W.Gibson@gearcentregroup.com>

Subject: RE: 139 Grand Avenue

Good Afternoon,

I apologize for my late response on this, and I also thank you for your detailed response to my letter. From your explanation much of the work does sound like repairs and improvements but just to be able to clarify a little better, can you please provide me with a site plan (s) showing a clear before and after of what was there previously and what has changed. Just to get a better idea along with your explanation below. The existing site plan that you sent me earlier will work to use with drawings.

Thank you and let me know if you have any questions,



KARA KASHUBA DEVELOPMENT OFFICER

kkashuba@sylvansummervillages.ca 403-887-2822 #2 Erickson Drive, Sylvan Lake, AB T4S 1P5

From: Scott E. Nanninga < S.E.Nanninga@gearcentregroup.com >

Sent: September 17, 2021 5:07 PM

To: Kara Kashuba < <u>kkashuba@sylvansummervillages.ca</u>> **Cc:** Bob Gibson < <u>R.W.Gibson@gearcentregroup.com</u>>

Subject: RE: 139 Grand Avenue

Hi Kara,

I am quickly writing to let you know that I will be out of office all of next week (Sept 20-24). I have cc'd Robert Gibson (property owner) on this e-mail correspondence, so that your reply can be viewed by him as well.

Thank you and have a good weekend, Scott

From: Scott E. Nanninga

Sent: Thursday, September 16, 2021 1:18 PM

To: 'Kara Kashuba' <kkashuba@sylvansummervillages.ca>

Subject: 139 Grand Avenue

Re: Letter sent Aug 25, 2021 from Kara Kashuba to Robert Gibson (attached)

Good day Kara,

I am writing this email on behalf of Robert Gibson in regards to your inquiry of possible development at the subject property (see attached letter). The reason there appears to be development is that we have been reworking and fixing-up the existing landscaping on this property, which has involved straightening and correcting existing rock borders and rock stairway.

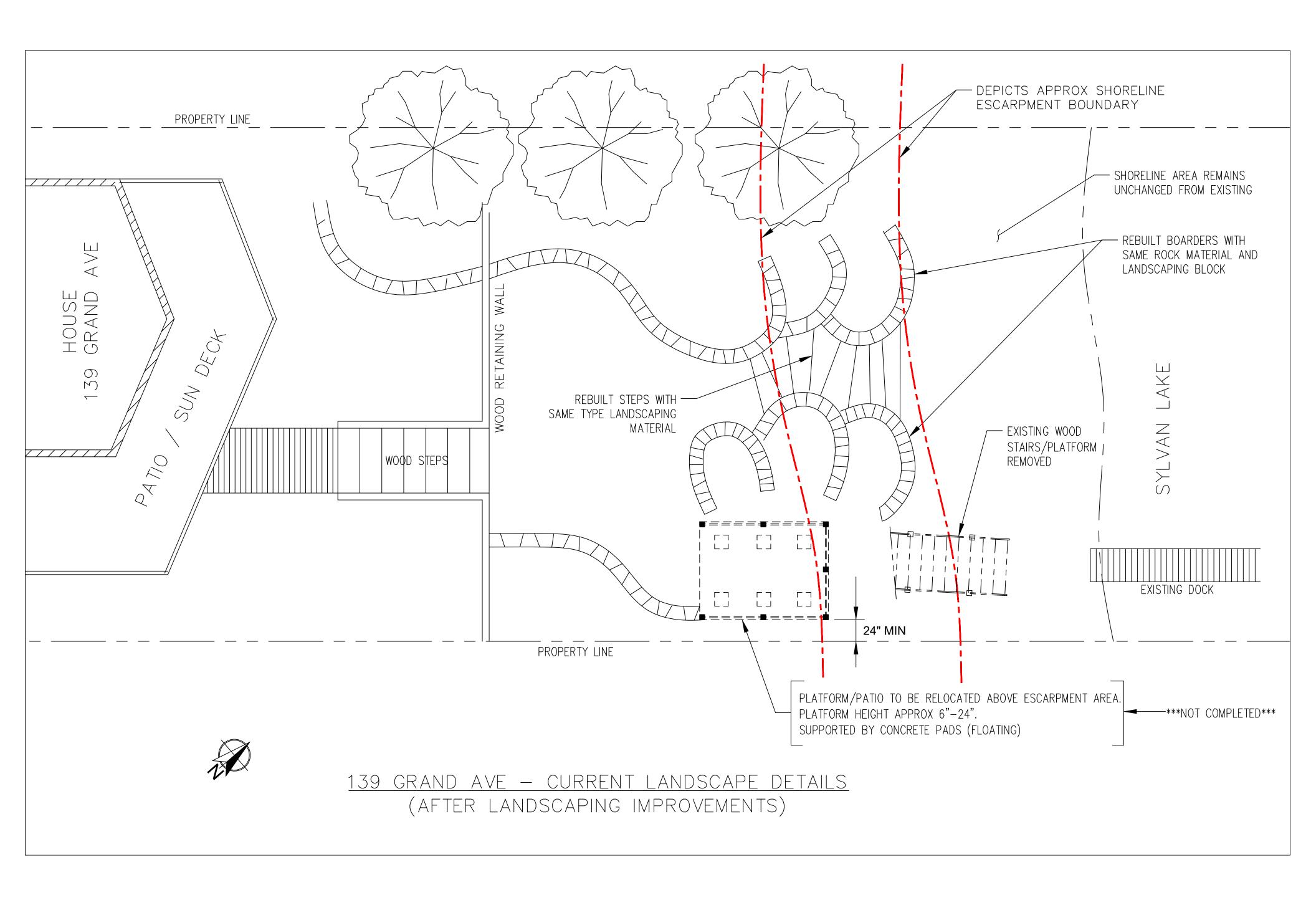
In addition, there was an existing wooden stairway and attached upper platform that was miss-aligned, out of level and degrading (refer to attached property report and photo which details the existing stairs). Due to a neighbour's recent new home built, a new fence was installed correctly to the property line, which resulted in the existing stairs/platform being misaligned to the fence and encroaching on close proximity to this adjacent fence. For these reasons, we also decided to remove this wooden stairway and platform and add landscaping to the area that was beneath these stairs. The removal of this stairway/platform exposed an area of bare ground which is also likely what caused the property to appear in development.

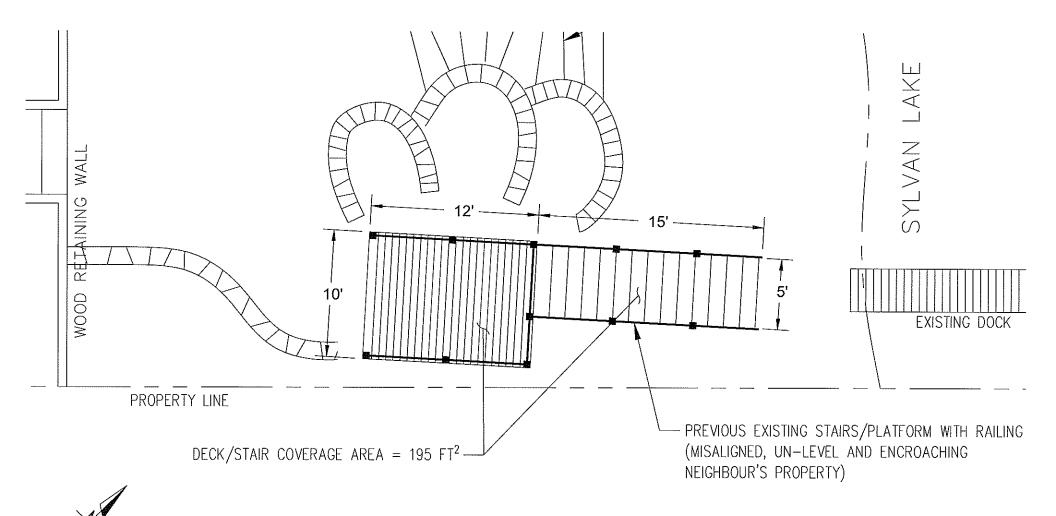
We hope to relocate this wooden platform to just above the existing escarpment area, as to not effect or disturb the existing shoreline escarpment of this property. The platform will be installed "floating" on concrete deck blocks, so the structure will be considered non-permanent, with no permanent foundation such as piles, footings, etc.

I hope this satisfactorily answers your questions? Best regards, Scott Nanninga Engineering Support The Gear Centre Group

Ph: 780-488-5532

TAB D





139 GRAND AVE - PREVIOUS EXISTING LANDSCAPE DETAILS (BEFORE LANDSCAPING IMPROVEMENTS)

TAB E

TAB G



Photos of Proposed Deck Location



