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HEARING DATE: July 15, 2025
FILE NO.: SDAB 2025-06

Notice of Decision of Subdivision and Development Appeal Board

INTRODUCTION

- [1] On May 28, 2025, the Development Authority of the City of Beaumont (the "Development Authority") approved a development permit (D-2025-042) for AMRICK CAPITAL MF DEVELOPMENT CORP. c/o Amrick Developments Ltd. (the "Applicant") for stripping and grading of the Lands to prepare for future servicing and residential construction, located at 5608 30th Avenue, Beaumont, AB and legally described as Plan 152 1520, Block 9, Lot 33 (the "Lands").
- [2] On June 13, 2025, the Appellant, Kristy Stamp (the "Appellant") appealed the Development Permit.
- [3] The Subdivision and Development Appeal Board (the "Board") heard the appeal on July 15, 2025. The Appellant did not appear at the Hearing. The Board proceeded in the absence of the Appellant, but relied upon the written submissions of the Appellant in this matter.

PRELIMINARY MATTERS

A. Board Members

- [4] At the outset of the appeal, the Chair requested confirmation from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. None of the persons in attendance had any objection to the members of the Board hearing the appeal. None of the Board members had any conflicts of interest that would prevent them from hearing the appeal.

B. Exhibits

- [5] The Board marked the exhibits as set out at the end of this decision.

C. Miscellaneous

- [6] At the beginning of the Appeal, the Applicant raised the issue as to whether the appeal had been filed in time. The Applicant noted that the date of the Development Permit is May 22, 2025 (page 60/77). The Applicant stated that the Notice of Decision is dated May 22, 2025 and was received by email on May 28, 2025. They noted that it was not issued to the Applicant on the day of the decision because they received the Development Permit on May 28, 2025. In addition, noted at the bottom of the Development Permit is a notation that the Appeal deadline is June 12, 2025. In light of this evidence, the Applicant questioned whether the appeal had been filed in time.
- [7] The Development Authority stated that the decision was made on May 28, 2025, and on the same day, a copy of the decision was emailed to the Applicant and notices to landowners were provided by mail. As a result, the Appeal was filed in time. The Development Authority noted that the date of the decision was incorrectly listed as May 22, 2025. The May 22nd date was a working draft which had been sent out in error. The date was corrected on the version sent to neighbouring parcels. With 21 days to file the appeal, and with the appeal being filed June 13, 2025, the appeal was filed within time.
- [8] The Development Authority stated that the decision of the Development Authority must be given to the Applicant on the same day that the decision is made and may include electronic notice under section 608 of the *Municipal Government Act*, RSA 2000, c. M-26 (the "MGA"). The appeal time for the Applicant is 21 days after the date the notice is given. The Development Authority gave notice on May 28, 2025 to the Applicant. For affected persons, the appeal period is 21 days from the date upon which notice is given in accordance with the Land Use Bylaw (the "LUB"). That notice was given on May 28 and was mailed.
- [9] In response, the Applicant advised that it acknowledged that there had been an error on the date. They wanted to bring the date of the appeal to the attention of the Board and were willing to proceed without the completion of the debate on this issue. They recognized that there were draft copies and errors were made on the distribution.
- [10] The Board notes the willingness of the Applicant to not have this issue decided. However, given that it is a jurisdictional issue for the Board, the Board must address this issue.
- [11] The Board accepts the evidence of the Development Authority that an improperly dated decision had been sent to the Applicant. The Board accepts the evidence of the Development Authority that the actual decision date was May 28, 2025, as reflected on the letter to the Appellant. This date is reflected in the materials submitted by the Appellant at page 47. The Board also notes that at page 48 the notification appeal period is stated to be May 28, 2025 to June 18, 2025.

- [12] In light of this uncontradicted evidence, the Board accepts as a fact that the date of notice to the Appellant was May 28, 2025. Twenty-one days from May 28 is June 18, 2025. The Board notes the appeal was filed June 13, 2025 (page 4). Since the appeal was received within the time of the 21-day appeal period, the Board finds that the appeal was filed in time.
- [13] The Board is satisfied that it has jurisdiction to deal with this matter. There were no objections to the hearing process outlined by the Chair. There were no preliminary matters raised at the beginning of the hearing and no requests for an adjournment.

DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

- [14] The Board denies the appeal and grants the Development Permit subject to the conditions set out on pages 20 and 21 of the hearing package.

SUMMARY OF HEARING

- [15] The following is a brief summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

Development Authority

- [16] The Lands are located at 5608 30th Avenue, Beaumont, AB and legally described as Plan 152 1520, Block 9, Lot 33 within the Place Chaleureuse Outline Plan. The Development Permit 2025-042 (the "Development Permit") provides an opportunity for the construction activity with conditions to occur that would otherwise be covered through the Development Agreement.
- [17] The Development Permit follows the conditional approval of subdivision SDA-2024-17 Place Chaleureuse, Phase 9 on April 28, 2025. The reason presented by the Applicant for proceeding with a separate development permit application was to start stripping and grading work during the 2025 Spring/ Summer season which is appropriate in the only time of year that stripping and grading can occur.
- [18] Under section 3.4.2 of the LUB, Excavation, Stripping and Grading is a discretionary use in the Integrated Neighbourhood District. The LUB gives the Development Authority discretion under section 5.4.4(h) and outlines relevant considerations and potential conditions in section 5.18 of the LUB. Section 5.13.1(c) of the LUB provides that stripping, site grading or excavation that is part of a development for which a development permit or Development Agreement has been issued does not require a development permit provided the development complies with all other requirements of the LUB.

- [19] The Development Authority considered section 5.18.3(j) of the LUB in determining compatibility. The Development Authority reviewed the appropriateness of the proposed use in relation to the zoning and the appropriateness of the proposed use in relation to the surrounding area.

- [20] The zoning is Integrated Neighbourhood, and the Place Chaleureuse Outline Plan provides that this lot is medium density residential. The approved subdivision granted the ability to subdivide the parcel into 45 multi-attached and 12 semi-attached residential units. To enable future residential development, stripping and grading activities must first take place and therefore the approval was both logical and appropriate for the Lands.

- [21] The Lands are located in the Place Chaleureuse neighbourhood, surrounded on the north, east and west by low density residential. To the south across 30th Avenue is a storm water management facility, and a parcel designated for medium density residential development.

- [22] The Applicant was required to submit a lot grading plan, a cut and fill plan and an erosion and sedimentation control plan that were reviewed and accepted by the City's Infrastructure Department to ensure compliance with the General Design Standards. The erosion and sedimentation plan identifies how the Applicant will minimize erosion and manage sediment run off from the Lands. The information provided to the Development Authority indicated that the impacts to the surrounding area would be mitigated and the use would be compatible.

- [23] The Development Authority approved the Excavation, Stripping and Grading use because the use is a necessary prerequisite to the medium density residential development that will occur to meet the conditions of subdivision approval. The Development Authority is satisfied the use is compatible with surrounding development and that measures had been implemented to ensure that impacts on surrounding properties are mitigated. There are no constraints in the neighbourhood or surrounding area that would render the work inappropriate for the Lands or neighbourhood context. The proposed grading plan was reviewed and approved by the Engineering Department ensuring that the stripping and grading complies with the City's General Design Guidelines.

- [24] The owner is required to follow all municipal, provincial and federal regulations as it relates to the Development of the Lands.

- [25] In response to Board questions:
 - (a) The Development Authority indicated that the subdivision decision was circulated and those persons to whom the decision was circulated did not appeal.

 - (b) The Development Authority stated that the development and subdivision are in line with the Outline Plan of 2015. The City does not have control over the phasing. The Developer does the phasing in response to market demands. The surrounding

development occurred first and now this pocket is going to be developed. It has been planned to be medium residential density since 2015. The City's Subdivision Authority granted subdivision approval. After that, the next logical step is to strip and grade in advance of an executed Development Agreement.

Appellant - Kristy Stamp

- [26] Ms. Stamp did not appear in person at the hearing but submitted materials (pages 45 through 48). She stated that she was concerned about how the activities authorized by the Development Permit would affect her property primarily due to premature timing. She stated she did not want these activities to start prematurely but to follow due process to ensure that there were not unnecessary or duplicate disruptions. She stated that her main concerns were dust and air quality, noise, safety, slope stability and drainage and run off. She stated there was no need to allow early construction and suggested there needed to be conditions to protect adjacent landowners, such as dust suppression measures and a drainage and erosion control plan.

Applicant - Scheffer Andrew, on behalf of AMRICK CAPITAL MF DEVELOPMENT CORP. c/o Amrick Developments Ltd.

- [27] Ms. Stewart spoke on behalf of the Applicant. The Applicant stated that the Development Permit application was in conformity with the LUB and the suitability of the Lands for the proposed development. She stated that the Appellant's concerns do not relate to either the conformity with the LUB or the suitability of the Lands for the proposed development.
- [28] The Applicant stated that the concerns raised by the Appellant of aesthetics, noise, etc. are not items that would be considered by this Board. The Applicant is aware that the Appellant is affected by the construction, but the contractor agreements they have are with certified contractors who are required to meet the requirements of the LUB and City policies including bylaws on noise, fencing etc. as well as provincial safety standards. They will be providing a safe site, minimizing dust and noise. This will be a construction site, but there is a limited construction season in Alberta and although there will be some inconvenience during construction, it has nothing to do with the applicability of the use.
- [29] In relation to the concerns that had been raised, these matters have been covered under agreements with the contractors and the conditions of the permit.
- [30] In relation to slope stability and run off, the City has reviewed the lot grading plan, the cut and fill plan and the erosion and sediment control plan. With these engineering plans, the Applicant has designed the grade so that the end result will mesh with adjacent lands.
- [31] Given the site conditions as they are now, the Applicant will not be cutting away land, but filling. There should be no slope stability or drainage run off concerns. The Applicant is aware that it cannot drain the Lands to the adjacent properties.

- [32] The Applicant noted that the Appellant's concerns are not asking if the Lands are in conformity with the Development or whether the Lands are suitable and asked for the appeal to be dismissed. The Lands is zoned, and the land use is in accordance with the outline plan. They have moved forward with their subdivision plan.
- [33] In response to Board questions:
- a) The Applicant stated that the Community Standards Bylaw provides that there can be no construction before 7:00 am or after 9:00 pm.
 - b) The Applicant stated that the Developer cannot start underground utilities until the Development Agreement has been signed. The engineering drawings are in their second submission. They have requested the Development Agreement and once they have approved engineering drawings, they will be starting underground work. In preparation for that, they will be stripping and grading with the approved Development Permit since it is later in the construction season. They will be installing underground utilities as soon as they are able under the Development Agreement.
 - c) They anticipate that the drawings will be approved by the end of the month and by the first week of August they should have a signed Development Agreement. They stated there should be 3 weeks of grading activities and then underground utilities will be placed. They should be starting the underground installation in late August.
 - d) The Applicant has a dust control plan in place and has noise control built into its terms with its contractor. There will be a water truck on site.
 - e) The Applicant had not had any visits with the neighbours because the appeal was the first time they had heard of any concerns.
 - f) The Applicant advised that there were no appeals in relation to the subdivision.
- [34] The Board heard from Wade Zwicker, the Development Manager for Amrick. They are not opposed to speaking with the neighbours but are not obliged to do so. They thought that they could speak with the Appellant on the day of the appeal hearing to alleviate her concerns, but she did not attend.
- [35] In response to Board questions, the Applicant advised that given the distance to adjacent properties, it is not anticipated that there will be any impact from heavy equipment causing cracks or other impacts on the adjacent properties. At the rear 6 to 8 metres of the Lands, there is not the same compaction required as compared to where the houses will be located on the Lands and therefore there should not be an issue with vibrations to adjacent parcels.
- [36] The Applicant stated that the Appellant did not raise objections to the suitability of the Lands or that the Development Permit was not in conformity with the regulations of LUB. They requested the dismissal of the appeal and asked the Board to confirm the

Development Permit decision as issued so they can start stripping and grading as reasonably possible.

FINDINGS OF FACT

- [37] The lands are located at 5608 30th Avenue, Beaumont, AB and legally described as Plan 152 1520, Block 9, Lot 33 (the "Lands").
- [38] The Lands are located within the IN – Integrated Neighbourhood (IN) District.
- [39] The Use of the Proposed Development is Excavation, Stripping and Grading.
- [40] Excavating, Stripping and Grading is a discretionary use in the IN District.
- [41] The Appellant and the Applicant are affected persons.

REASONS

Jurisdiction

- [42] The Board notes that its jurisdiction is found in section 687(3) of the MGA. In making this decision, the Board has examined the provisions of the LUB and has considered the oral and written submissions made by and on behalf of the Development Authority, the Applicant and the Appellant.

687(3) *In determining an appeal, the subdivision and development appeal board*

- (a) must act in accordance with any applicable ALSA regional plan;*
- (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 clause (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 license 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.

Affected Persons

- [43] The first question the Board must determine is whether those appearing and speaking before the Board are affected persons. The Board notes that there was no objection made to those making submissions to the Board. However, for completeness, the Board will address this issue in its reasons.
- [44] The Appellant lives in close proximity to the Lands. As a result, the Appellant is affected by the proposed development and is therefore affected.
- [45] As the person whose permit was appealed, the Applicant is an affected person.

Statutory Plans

- [46] The Board noted that at page 34, an excerpt from the Place Chaleureuse Outline Plan is included. The Lands are located within the Medium Density Residential District. The Board heard no specific submissions in relation to the City's statutory plans. In the absence of any submissions regarding the City's statutory plans, the Board infers that there are no concerns about compliance and the Board makes that as a finding of fact.

Land Use District

- [47] The evidence before the Board is that the Lands are zoned as IN – Integrated Neighbourhood (IN) District and the Board finds so as a fact.

What is the Use?

- [48] The Board must determine the nature of the use. The Application was for an Excavation, Stripping, and Grading permit. At page 10 of 77, the Development Authority has set out the definition:

The physical alteration of the land typically for the purpose of construction. Changes to drainage patterns are included in this case; however, normal agricultural activities excluded from this use, including but not limited to farm cultivation, and grading activities of regular maintenance.

- [49] There was no dispute between the Development Authority, the Appellant or the Applicant that this is nature of the use. Based upon the submissions before the Board, the Board finds that the use is for Excavation, Stripping and Grading and finds so as a fact.

Nature of the Use

- [50] Having found that the Proposed Development is Excavation, Stripping and Grading, the Board turns to the nature of the use. This use is a discretionary use in the IN – Integrated Neighbourhood (IN) District, as set out in Section 3.3.2 of the LUB.
- [51] As the proposed development is a discretionary use, the Board must assess the compatibility of the use applied for with the neighbouring uses as referenced in *Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261.
- [14] The object and purpose of a discretionary use is to allow the development authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses.
- [52] The Board must determine whether the proposed development is compatible with neighbouring uses. The Appellant has raised several concerns in relation to compatibility including dust and air quality, noise, safety, slope stability and drainage and run off.
- [53] The Board notes that the Appellant's main concern was the timing of the Development, rather than the concerns itself.
- [54] In relation to dust and air quality, the evidence before the Board was that the Applicant has submitted for City approval, a lot grading plan, a cut and fill plan, and an erosion and sedimentation control plan. These three plans were reviewed and accepted by the City's Infrastructure Department to ensure compliance with the General Design Guidelines.
- [55] In addition, the condition on the permit requires the applicant to comply with all municipal bylaws and any relevant federal, provincial statutes or regulations.
- [56] In addition, the evidence before the Board was that the Applicant has certified contractors, and they will have water trucks on site. Further, the evidence before the Board was that the stripping and grading will take approximately 3 weeks. In light of this evidence, although there may be some dust arising from the development, in light of the limited time during which the stripping and grading will occur and the mitigation efforts from the Applicant, the Board concludes that any impact on dust and air quality will not be so significant to make this development incompatible.
- [57] In relation to noise, the Board acknowledges that there will be some noise from the stripping and grading; however, given the limited duration (3 weeks) and also given the fact that the Applicant must comply with the City's Community Standards Bylaw which provides that noise cannot start before 7.00 am and cannot continue after 9.00 pm, the Board is of the view that these other bylaws will address the question of noise. Given the short duration, 3 weeks of construction, and the fact that this construction might happen at some other time as part of a Development Permit which would be permitted,

the Board is of the view that this limited duration does not make the development incompatible.

- [58] In relation to safety, the impact of safety is mitigated by the requirement of the Applicant in condition number 4 to have comprehensive liability insurance. While it is hoped there will be no incidents, the Development Authority has imposed a condition which should address this concern. The Appellant raised a concern about slope stability issues. The evidence before the Board is that the Applicant is placing fill on the lands, rather than taking away soil. Further, the evidence of the Applicant is that they will not be doing significant work within 6 or so meters of the property line which should address this issue. Further, the Applicant has submitted a cut and fill plan to the City for review, which was approved.
- [59] In relation to drainage and run-off, the Board is aware that the Applicant has submitted an erosion and sedimentation control plan which was approved.
- [60] The Board is of the view that all three of the submitted plans address the concerns which the Appellant has raised. These plans have been reviewed and approved by the City providing assurance that the work should be addressed or conducted in accordance with those plans and which plans should address any impacts to the Appellant.
- [61] The Board has also considered the fact that the development of these lands is medium density residential has been specified within the Outline Plan. The low-density development (where the Appellant lives) has occurred first and the medium density development occurring later. As noted by the Development Authority, this stripping and grading would occur at some time and, if conducted as part of the actual development, would not require a separate development permit.
- [62] Having regard for the short duration of the time for stripping and grading and keeping in mind that the Applicant is quite limited in terms of the window of opportunity for stripping and grading to the summer months, the Board is of the view that the within application is compatible with neighbouring uses.
- [63] Issued this _____ day of July, 2025 for the City of Beaumont Subdivision and Development Appeal Board.

C. Winter, Clerk of the SDAB, on behalf of the
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, RSA 2000, c M-26.

APPENDIX "A"
REPRESENTATIONS

PERSONS APPEARING

1. K. Tarnawsky, Development Authority
2. Y. Sharpe, Development Authority
3. A. Stewart, Applicant, Scheffer Andrew
4. W. Zwicker, Development Manager, Amrick Developments Ltd.

APPENDIX "B"
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:

Exhibit	Description	Date	Pages
1.	Hearing Agenda	July 15, 2025	1-2
2.	Notice of Appeal	May 28, 2025	3-5
3.	Notice of Hearing		6-7
4.	Development Authority's Report		8-34
5.	Development Authority's Presentation		35-44
6.	Appellant's Submissions		45-52
7.	Applicant's Submissions		53-77