

Appeal No.: SDAB 003 2026
Hearing Date: September 17, 2026

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

PRESIDING OFFICER: T. HEGER
PANEL MEMBER: M. KARTUSCH
PANEL MEMBER: D. WIELINGA

BETWEEN:

GARY OOSTERHOFF, Property Owner

Appellant/Applicant

and

CITY OF RED DEER

Represented by David Girardin and Kimberley Couture

Subdivision Authority

DECISION

The Subdivision and Development Appeal Board denies the appeal and CONFIRMS the decision of the Municipal Planning Commission which REFUSED the Appellant's subdivision application for the property at 5055 45 Avenue, Red Deer.

A detailed summary of the decision is provided herein.

JURISDICTION AND ROLE OF THE BOARD

1. The Subdivision and Development Appeal Board (the "Board") is governed by the Municipal Government Act, RSA 2000, c. M-26 as amended (the "MGA"). Planning and Development is addressed in Part 17 of the MGA, and also in the Matters Related to Subdivision and Development Regulation, Alta. Reg. 84/2022 (the "SDR").
2. The Board is established by the City of Red Deer, Bylaw No. 3680/2022, Red Deer Tribunals Bylaw, April 11, 2022. The duty and purpose of the Board is to hear and make decisions on appeals for which it is responsible under the MGA and the City of Red Deer Zoning Bylaw 3357/2024, May 13, 2024, as amended (the "ZB").
3. None of the parties had any objection to the constitution of the Board. Member Wielinga noted that he had gone to school with the Appellant but that was many years ago and they were not currently friends. There were no conflicts identified by the Board Members.
4. The parties at the hearing did not raise any preliminary issues for the Board to decide. The Board raised a matter for the parties to consider. The Board, through its Clerk, effected a Development Permit notification protocol ("DNP") rather than a Subdivision Notification protocol ("SNP"). A DNP, following the requirements of the MGA, notifies affected persons in a 100-meter radius from the

subject property as well as the local community association. An SNP is far more restricted and would only notify adjacent landowners. Consequently, a greater number of parties were notified leading to a higher number of written submissions and more public members present at the hearing. At the outset of the hearing, the Board asked the Parties if they were willing to proceed under the DNP rather than the proper SNP. Both Parties agreed to proceed with the hearing as noticed under the DNP. The hearing then proceeded.

5. The Hearing was opened via email on August 19, 2026, and postponed with consent of the parties to September 17, 2026. The hearing concluded that same day.
6. The Board indicated that it would first hear from the City Authority on behalf of the Municipal Planning Commission (the "MPC"), then the Appellant, then anyone else present who wished to speak to the appeal. Following the submissions from the members of the public, the Board provided the City Authority and the Appellant an opportunity to respond to anything arising from the public member comments. There was no objection to the process as set out by the Board.

BACKGROUND

7. On April 27, 2026, the Appellant submitted an application to subdivide the existing residential lot at 5055 45 Avenue into two residential lots, retaining the existing dwelling on the proposed west lot and creating a new east lot to allow for the development of a new dwelling.
8. The subject lands are zoned Residential Low-Density (R-L) under the ZB in the Woodlea neighbourhood and is subject to the Woodlea Character Statements.
9. The site is addressed to 45 Avenue, with its longer boundary running along 51 Street.
10. On July 22, 2026, the application was heard by MPC and refused. A letter of refusal dated July 23, 2026, was sent to the Appellant.
11. On August 5, 2026, the Appellant filed an appeal to the SDAB regarding the decision of MPC.

SUMMARY OF EVIDENCE AND ARGUMENT

The City Authority

12. The City Authority began its presentation with a thorough review of the history of the application. On April 27, 2026, the Appellant submitted a subdivision application (SUB26209) to subdivide the existing residential lot at 5055 45 Avenue into two residential lots, retaining the existing dwelling on the proposed west lot and creating a new east lot to allow for the development of a new dwelling. The subject site is located within the Residential Low-Density Zone: R-L in the Woodlea neighbourhood and is subject to the Woodlea Character Statements.
13. On May 1, 2026, referrals were circulated to internal City departments and to external agencies and utility providers. 31 notification letters were also mailed to landowners within 100 m of the subject site. On May 7, 2026, the application was circulated to the Woodlea Community Association.

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14. The deadline for written comments passed on May 22, 2026. At that point, 16 responses were received, all of which opposed the proposed subdivision. There are five adjacent property owners, all of whom provided comments. Referral responses were received from Engineering Services, Development Services and ATCO Gas. No referral agency objected to the proposed subdivision.
15. The application was referred to MPC by the subdivision officer pursuant to section 55(2)(b) of the Committees Bylaw, Bylaw 3576/2016.
16. On July 22, 2026, the application was presented to MPC. Administration presented the report and recommended approval of the application subject to conditions. Eight people spoke to the item before MPC. MPC defeated the motion to approve the application. MPC then passed a refusal motion, which was carried.
17. On July 23, 2026, MPC's written decision and reasons were issued to the Appellant. Ultimately, MPC, acting as the Subdivision Authority, refused the subdivision application for the following reasons:
- "1. In the opinion of the subdivision authority, the land proposed to be subdivided is not suitable for the purpose for which the subdivision is intended [s.654(1)(a)], as the developable area of the proposed east lot is so limited that the subdivision authority is not satisfied that a development permit for a dwelling could be obtained; and
 - 2. The proposed subdivision does not meet the intent of the Woodlea Character Statements (Appendix E), including s.2.3.6, which requires lots to be compatible in width, depth and area with properties existing within the Immediate Street Context, and the subdivision authority declines to exercise its discretion under s.654(2) of the Municipal Government Act to approve the proposed subdivision despite that non-compliance.
 - 3. The Subdivision Authority does not support the subdivision of this property as compatibility of a subdivided lot with the neighborhood is critical. It does not meet the intent of the Woodlea Character Statements and would not be compatible with the depth, width and area of the immediate properties within the immediate street context and streetscape.
 - 4. The Subdivision Authority acknowledges the statement from the City Zoning Bylaw 3357/2024 and the Woodlea Character Statements, Section 1.2 and how character Statements applied, "Where the regulations in the Land Use Bylaw or the Neighborhood Planning and Design Standards conflict with the Character Statements, the Character Statements shall prevail".
 - 5. The Subdivision Authority relies on 'Section 1.4 – Interpretation' within the Woodlea Character Statements that states "Character Statements that contain "shall" are those which must be followed."
 - 6. The Subdivision Authority relies on the statement from the Appellant that there is an expected and likelihood of significant variances and setbacks if this application would be approved."
18. The City Authority then reviewed sections 678, 680, 654, and 663(c) of the MGA, section 9 of the Subdivision and Development Regulation (AR 84/2022), and sections 6.10.1, 6.10.4, 6.10.5, 3.190.1, 3.190.4.1.1 of the ZB along with the definition of "Immediate Road Context" as found in the ZB.
19. The City Authority then reviewed the Woodlea Character Statements ("WCS"), which form Appendix D of the ZB, noting that the subject property is within the Central Woodlea Character Area ("CWCA"). The City Authority continued with the WCS reviewing sections 1.2, 1.3, 2.3.6, 2.3.2, 2.3.7, 3.6.1, 3.6.2.

20. The City Authority then noted that the applicable statutory plan for the site is the Municipal Development Plan (“MDP”). MDP policies 5.10, 7.7, 10.9 and 10.10 were identified in the subdivision report as relevant to the application.
21. The City Authority then went through its analysis of the proposed subdivision against the ZB. The City Authority provided the following table evaluating the proposed subdivision against the relevant requirements of the R-L Zone in the ZB:

R-L Standard	Proposed West Lot	Comment	Proposed East Lot	Comment
Minimum Lot Frontage: 12.0m	19.8m	65% over the min. standard	33.50m	179.17% over min. standard
Minimum Lot Area: 324.0m ²	754.4m ²	132.84% over min. standard	616.4m ²	90.25% over min. standard
Front Yard Setback within 1.2m of the average of the Immediate Road Context (s.3.190.4.1.1): 6.09m to 8.49m (average 7.29m)	23.64m	Existing dwelling; the 23.64m setback is lawfully existing and is unaffected by the proposed subdivision. No new dwelling is proposed on the west lot as part of this application.	6.09m	Within 1.2m of the average Front Yard Setback of the Immediate Road Context as per s.3.190.4.1.1 of Bylaw 3357-2024.

22. The City Authority indicated that the proposed subdivision exceeds all requirements of the ZB and that a proposed dwelling on the proposed east lot would have a setback of 6.09 m based on an average Front Yard Setback in the Immediate Road Context of 51 Street being 7.29 m per section 3.190.4.1.1 of the ZB.
23. The City Authority concluded that a dwelling could be built on the proposed east lot in full compliance with the ZB, in compliance with the requirements of the Developed Area Regulations, and that no variance is required in order to build. While the resulting dwelling would be narrower and shallower than is conventional in the area, variances would remain available at the development permit stage which, if granted, would increase the available building depth.
24. As part of the City Authority’s review, the proposed development was evaluated against the WCS. At the subdivision stage, the matter under assessment is the lot itself, being its width, depth, area, and compatibility within the Immediate Street Context under section 2.3.6. of the WCS. The balance of the character statements apply to the development permit stage.
25. The City Authority’s opinion was that the proposed lots are compatible in width, depth and area with the properties in the Immediate Street Context.
26. The City Authority then reviewed the MPC hearing and decision before proceeding to the matter before the Board.
27. The City Authority explained that the proposed lots meet or exceed the measurable standards of the R-L Zone. The subdivision conforms with the use prescribed for the land in the ZB and the general land use concept of the MDP. Further, no referral agency objected and no municipal reserves are owed.
28. City Administration recommended MPC endorse the proposed subdivision with standard conditions. Administration also recommended that an additional condition be added which required the Appellant to obtain a Development Permit (“DP”) and exhaust all possible appeals before the subdivision is

endorsed to give clarity and confidence that what will be built on the new lot will comply with the WCS and applicable requirements of the ZB. Ultimately, MPC refused the application for the reasons noted above.

29. The City Authority concluded its presentation by reviewing the options available to the Board under section 680(2) of the MGA.
30. In response to questions from the Board, the City Authority provided the following additional information:
 - While a home could be built, it would be a narrow home without variances to the Front and Rear yard setbacks. It was not reviewed extensively as that would be at the DP stage and is not a consideration at this stage.
 - City Administration did not spend much time considering possible variances, just whether it would meet the minimum requirements in order to build a house.
 - If the Board found that the proposed east lot is not compatible with the WCS, the Board could apply additional conditions to address any concerns the Board has regarding the proposed east lot.
 - The map on page 16 of Exhibit B.1 is the maximum building envelope of the proposed east lot in compliance with the ZB without variances.
 - The average Front Yard Setback was determined by evaluating the Front Yard Setbacks of the four lots to the east of the subject property along with all the lots on the north side of 51 Street in the block between 45 Avenue and 44 Avenue.
 - It is possible that the Appellant could get a DP, exhaust the appeals, get the subdivision endorsement, let the DP expire, apply for a new DP, and then build something different than what was originally approved. The risk would exist that the ZB could change in that time and could cause challenges for the Appellant to build some other build form.
 - Without variances, a small but liveable house of unconventional shape could be built.

The Appellant/Applicant

31. The Appellant was present at the hearing and made oral submissions regarding the proposed subdivision. There were no additional written materials from the Appellant beyond what was included in the original notice of appeal.
32. The Appellant stated that a large part of the decision to reject the application was based on information regarding the developability of the new lot being created. This is an overreach or overstepping of the subdivision authority's requirement. The requirement at this stage is simply to determine suitability for subdivision and not to speculate about or prejudice any development. It was clearly demonstrated by the subdivision report that the new lot being created is in total compliance with the R-L zoning requirement and is developable without any variances. It was also clearly demonstrated that the new lot being created is consistent with WCS section 2.3.6 in terms of its width depth and area in the immediate street context.
33. The subdivision report also recommended that the next step in the process rests with the development authority to determine development suitability. This is a safeguard for the subdivision authority and is a very reasonable and rational recommendation to ensure suitability for development before final endorsement of the subdivision.

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34. The Appellant was misquoted as saying any development would require significant variances or setbacks, when in fact the Appellant stated “a very suitable and adequate development could be achieved with a modest or moderate variance” but again developability and or variances in determining suitable development should be considered by and rest with the development authority.
35. On page 15 of Exhibit A of B.1, the four lots to the east are very narrow themselves so this would not be inconsistent with the area. Further, the lots around the subject are all fairly unique and there isn’t much in the way of consistency. Additionally, the lot directly north of the proposed east lot has similar frontage to the proposed east lot further indicating that it’s not inconsistent with the area. Any statement saying that the proposed lots would be inconsistent with the area is without merit.
36. The Appellant went on to assure his immediate neighbours that a development on the new lot would be less intrusive, invasive, and impactful than a new development on the existing lot could be while still complying with the ZB.
37. The Appellant also stated that it would be better to build two modest homes on the subdivided lots rather than a large home on the existing, unsubdivided lot.
38. In response to questions from the Board, the Appellant provided the following statements:
- The new lot would be a wide shallow lot and comparable with the house on the corner of 45 Avenue and 51 Street (5105 45 Avenue).
 - Wide shallow lots, like the one at 5105 45 Avenue, have lots of positive attributes despite being a newer housing design.
 - Any concerns about compliance with the WCS would be worked out at the DP stage but the Appellant is quite sure the proposed development would be in compliance with the ZB.
 - Even if no variances are granted, a house could still be built in the envelope shown on page 16 of B.1.
 - The Appellant’s intent is to oversee development of the proposed east lot.

Public Submissions

39. The Board received several written submissions from the local community association and owners in the area. The Board also received written submissions from the Waskasoo Community Association. At the hearing, the Board also heard from nearby landowners and the Woodlea Community Association who were notified under the DNP discussed at para. 4 of this decision. The nearby landowners were Amanda Hegge, Peter Slade, and Sheila Bannerman. Grant McFadden was present at the hearing on behalf of Woodlea Community Association. Brenda Garrett, representing the Waskasoo Community Association was also present at the hearing.
40. All public members present at the hearing opposed the proposed subdivision. Amanda Hegge clarified that her house, on the north side of 51 Street across from the existing lot, is not a wide shallow lot but rather setback on the lot from 45 Avenue. She explained that her front door faces 45 Avenue and the house has a very large front yard. Despite comments from the Appellant, her house is not a wide shallow and should not be used to justify approving the proposed subdivision.

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41. Peter Slade is the adjacent homeowner to the south. His concerns centred on the relevant planning considerations and the impact to value of approving the proposed subdivision. The houses are generally in line with each and a new house toward the back of his yard would impact his ability to use the yard and garden without someone looking into his yard. He noted that he asked AI programs about the impact to value of something like this and was told that it would be somewhere between \$10,000 and \$80,000 which is certainly a material impact.
42. Grant McFadden provided a brief history of the WCS before explaining that it is very unlikely a liveable house could be built on the proposed east lot without variances. If the Board were to approve this application, it would signal to Administration that variances should be expected to be approved should a DP for the site come before the Board. MPC was not convinced the property was suitable and the Board should deny the appeal.
43. Sheila Bannerman continued the discussion on the WCS from Mr. McFadden's presentation stating that she was involved with their original creation. The three distinct areas laid out in section 1.1 of the WCS are unique in Red Deer. Specifically, the Central Character Area is meant to protect the Garden City design which informed development of the area. The lots are longer than other areas and that should be protected.
44. With regard to Brenda Garrett on behalf of the Waskasoo Community Association, the Board confirmed that they were not notified as part of the DNP. The Board recessed briefly and decided to hear out Ms. Garrett but to place the appropriate weight on her submissions in its deliberations. The Appellant objected, stating the Waskasoo Character Statements are different than the WCS applicable to the subject, the communities are different, and there is no reason to hear from the Waskasoo Community Association. As discussed in greater detail in the Board's Findings and Reasons below, the Board considered the objection at the outset of its deliberations and finds that it should not have heard from the Waskasoo Community Association, substantially for the reasons of the Appellant's objections. Therefore, the Board placed no weight on the oral or written submissions of the Waskasoo Community Association and did not consider it in any way as part of the Board's decision.

Rebuttal

45. In rebuttal to the oral submissions of the public members, the City Authority explained that Immediate Road Context appears in the ZB and the WCS. The definition in the WCS is slightly narrower when considering developments. The Front Yard Setback as calculated complies with both definitions.
46. Additionally, on pages 27 – 31 of Exhibit A in B.1, there are a number of photos which may assist the Board in making its decision. As well, on slide 12 of the presentation in Exhibit C of B.1, there is another image of the front side of the street.
47. In terms of the oral submissions, anecdotal comments from a Realtor who is not present should not be given any weight. Similarly, an AI response may incorporate different considerations than a planner and should again be given limited weight.
48. In response to an earlier question from the Board, the City Authority clarified that if a house on the east lot were built with eaves, that would push back the building envelope.

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49. The Appellant stated Nobody is denying that 5105 is a corner lot but it functions as a wide shallow lot and it looks like a wide shallow lot.
50. The Appellant also stated that he is not denying that he would ask for variances at the development stage, but they would be minor variances. Minor variances would produce a buildable envelope that it is as shallow as some neighbouring properties are narrow.
51. In response to the arguments of Peter Slade, the Appellant noted that he can currently see into Mr. Slade's backyard. There is no exclusive right to never have any potential overlook. Many backyards see into their neighbour's backyards. The value argument is also very subjective.
52. Regarding the argument that the proposed east lot should be set back to be in line with the four lots to the east should not be considered. Without subdividing, the current lot could be built to 1.5m of the north and south property lines as that is the current side yard. A 6.09m setback far exceeds what could be built currently without a DP.

Closing Arguments

53. The City Authority closed by stating that it had nothing further to add.
54. The Appellant closed by stating the application was initially recommended by Administration but the decision ultimately rests with the Board. He stated that he trusts the Board will weigh the merits accordingly.
55. The Board asked both parties to confirm they had been given the opportunity to present their arguments and evidence in a full and complete manner, and both confirmed they had.

FINDINGS AND REASONS

56. As mentioned previously, the Board originally heard from the Waskasoo Community Association during the hearing. However, upon further consideration of the Appellant's objection, the Board finds that it should not place any weight on the arguments of the Waskasoo Community Association. The Board further finds that the Parties (the City Authority and the Appellant) agreed with the DNP which was far broader than required under the MGA. This agreement already opened up the public comments to a much larger subset than would have otherwise been notified. To expand this even further, by hearing from the Waskasoo Community Association (who was not notified of the Appeal) or anyone else not notified, would be unfair to the Parties and further expand the already long notification list. Therefore, the Board finds that only submissions from the notified individuals (the 31 property owners within 100m of the subject and the Woodlea Community Association) would be considered in the Board's deliberations. Any other submissions would be disregarded in their entirety.
57. The Board reviewed all the materials and oral presentations from the City Authority, the Appellant, and the parties noted in the above paragraph, along with the relevant sections of the ZB, MGA, and the SDR.
58. The Board finds that the MPC was within its authority to Refuse subdivision application.
59. The Board reviewed the reasons of MPC but considered the arguments and materials before it afresh.

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60. The Board finds that the requested Front Yard Setback would not, on its own, be so significant to deny the variance. The portion of the deck which impinges on the required setback is relatively minor and would not materially impact the neighbouring properties when considered on its own. However, when taken with the other variances, it would contribute to a greater impact on the neighbouring properties.
61. The Board reviewed section 680 of the MGA and finds that under 680(2)(f), the Board has the same powers as the subdivision authority.
62. The Board then considered the requirements in section 654 of the MGA. The Board finds that the land proposed to be subdivided is suitable for the purpose for which the subdivision is intended in compliance with section 654(1)(a). The intent is to build a home and the Board is satisfied that a home could be built on the proposed east lot.
63. Pursuant to 654(1)(b), the Board finds that the proposed subdivision conforms to the applicable statutory plan (the MDP). The Board then considered whether the proposed subdivision conforms to the land use bylaw in effect for the land, in this case the ZB.
64. The Board finds that the analysis of the City Authority is correct and the proposed subdivision conforms to the R-L Zone requirements. The Board finds that the WCS form part of the ZB as they are specifically given power in section 12.150 of the ZB. Section 12.150.1.3 states that "Where the requirements in the Zoning Bylaw conflict with the Character Statements, the Character Statements prevail."
65. The Board finds that the Central Woodlea Character Area ("CWCA") applies to the subject property. The Board finds that section 2 of the WCS applies to the entire Woodlea neighbourhood while section 3 applies specifically to the CWCA.
66. The Board finds that the section 3.2 gives a history of the area and states "The layout of parcels were atypical to what was already existing in Red Deer; the parcels were much larger and longer in size and varied from the standard rectangular pattern (53 Street Crescent) emphasizing the Garden City and the City Beautiful movements. As a result, the subdivision proved to be well accepted with parcels selling promptly." Section 3.5 notes that Other Common Elements contain "Large well Landscaped, maintained yards complete with mature vegetation." The Board then considered the map included in section 3.1 of the WCS and finds that the vast majority of the lots in the CWCA are large and much longer/deeper than they are wide as described in sections 3.2 and 3.5.
67. The Board finds that the subject property is on the edge of the CWCA and the four lots to the east are outside the CWCA and therefore not subject to the same requirements as the subject.
68. The Board finds that the requirement in section 654(1)(b) of the MGA states the proposed subdivision must conform with the land use bylaw. The Board finds the word "conform" indicates that the proposed subdivision is to follow the same standards as laid out in the land use bylaw. The Board finds the standard for the CWCA is to maintain large parcels which are not typical of the rest of Red Deer. As proposed, the Board finds the proposed subdivision does not conform to the WCS which are given the same force and effect as the land use bylaw by virtue of section 12.150 of the ZB. Consequently, the proposed subdivision "must not" be approved due to it failing the requirement of section 654(1)(b).

69. The Board then considered the powers within section 654(2) which explicitly state that a subdivision authority “may approve an application for subdivision approval even though the proposed subdivision **does not comply with the land use bylaw**” (emphasis added) if the proposed subdivision 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 and the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.
70. The Board finds that the proposed subdivision would not unduly interfere with the amenities of the neighbourhood, materially affect the use or enjoyment of the neighbouring parcels of land, and that it conforms with the use prescribed in the land use bylaw for that land.
71. However, the Board finds that the proposed subdivision would have a material impact on the value of the neighbouring parcels of land. As noted above, this area is characterized by large, typically longer than they are wide lots which are not common in Red Deer. The Board finds that the proposed subdivision would take an existing lot which conforms with the area and the CWCA and split it into two smaller parcels which are not the norm for the CWCA. The Board finds that the proposed smaller lots would have a negative effect on the value of the surrounding area and neighbouring parcels as it would change the character along 51 Street from the Garden City motif that currently exists to a more standard area that could be found in many areas around Red Deer. The Board believes the nature and layout of the vast majority of lots in the CWCA was intended to be protected by section 3.5 of the WCS and the proposed subdivision falls short of that standard.
72. Consequently, the Board declines to approve the proposed subdivision pursuant to section 654(2).
73. The Board finds that the issues noted above cannot be rectified through conditions since the size and shape of the proposed lots is the fundamental issue. The Board also considered the proposed condition that was before MPC that the Appellant needs to obtain a DP and exhaust all appeals before the subdivision is endorsed. Given the Board’s findings above, the Board finds that this need not be considered as the issue does not concern the developability of the parcel.

CLOSING:

74. For these reasons, the Board denies the appeal and CONFIRMS the decision of the Municipal Planning Commission, which REFUSED the Subdivision application for the property at 5055 45 Avenue, Red Deer.

Dated at the City of Red Deer, in the Province of Alberta, this 29th day of September, 2026 and signed by the Presiding Officer on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations, and decision of the Board.



Tim Heger, Presiding Officer
Subdivision and Development Appeal Board

APPENDIX A

Exhibit A.1:	Hearing Materials	15 pages
Exhibit B.1:	City Authority Submission	136 pages
Exhibit C.1:	Landowner Submissions	19 pages
Exhibit C.2:	Landowner Submission	1 page