

Appeal No.: SDAB 006 2025  
Hearing Date: February 4 and 5, 2026

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

PRESIDING OFFICER: T. HEGER  
PANEL MEMBER: M. KARTUSCH  
PANEL MEMBER: S. CROOKS

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**BETWEEN:**

EAST LINCOLN PROPERTIES CORPORATION, Property Owner  
Represented by Jim Murphy and Tanya Kure

Appellant/Applicant

and

CITY OF RED DEER  
Represented by Jay Hallett, Senior Development Officer & Erin Stuart, Manager, Inspections and Licensing

Development Authority

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**DECISION**

The Subdivision and Development Appeal Board denies the appeal and CONFIRMS the decision of the Municipal Planning Commission (the “MPC”) which REFUSED the Appellant’s Development Permit (“DP”) application for a proposed Supportive Living Accommodation facility at 4240 59<sup>th</sup> Street, Red Deer. The Development Permit shall not be issued.

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. There were no conflicts identified by the Board Members.
4. The parties did not raise any preliminary issues for the Board to decide.

5. The Hearing was opened on December 15<sup>th</sup>, 2025, and adjourned by mutual consent to February 4<sup>th</sup> and 5<sup>th</sup>, 2026.
6. The Board indicated that it would first hear from the Development Authority, then the Appellant, then anyone else affected by the appeal. Following the submissions from the affected parties, the Board provided the Development Authority and the Appellant an opportunity to respond to anything arising from the affected parties' comments. There was no objection to the process as set out by the Board.

## **BACKGROUND**

7. On June 3, 2025, the Applicant submitted a Development Permit application for a proposed Supportive Living Accommodation facility at 4240 59 Street, Red Deer in the Waskasoo Neighbourhood.
8. The subject lands are zoned PS: Public Service (Institutional or Government) under the ZB. Under the ZB, a Supportive Living Accommodation is a Discretionary Use pursuant to section 9.40.3.20.
9. On October 22, 2025, the application was deemed complete and a full review by the Development Officer commenced.
10. On November 26, 2025, the application was presented to MPC. On the same day, MPC refused the Development application and a letter with reasons was sent to the Applicant.
11. On December 3, 2025, the Appellant filed a Notice of Appeal against the MPC decision.

## **SUMMARY OF EVIDENCE AND ARGUMENT**

### *The Development Authority*

12. On June 3, 2025, the Applicant submitted a Development Permit application for a proposed Supportive Living Accommodation facility at 4240 59 Street, Red Deer in the Waskasoo Neighbourhood. The proposed Development is on lands zoned Public Service (Institutional or Government) Zone.
13. On June 12, 2025, the Development Officer reviewed the application and noted that it needed some additional information before it could proceed. A 'Letter of Incomplete' was sent.
14. On October 22, 2025, additional information was submitted and the application was deemed complete and a full review by the Development Officer commenced.
15. On October 27, 2025, the Development was considered to have an interest to the neighbourhood and, as such, a referral was made to MPC. Letters were also sent to 33 nearby properties.
16. On November 26, 2025, the Application was presented to MPC. MPC refused the Development application and a letter with reasons was sent to the Applicant.
17. On December 3, 2025, the Appellant filed a notice of appeal against the MPC decision. The notice of appeal was filed within the timelines laid out in Sec. 686 of the MGA.

18. The Development Authority (“DA”) reviewed provided excerpts from the MGA, specifically section 687 should the Board have questions.
19. The DA then reviewed excerpts from the ZB, provided as Exhibit C.3, specifically highlighting Sections 9.40.3.20, 12.150.1.1, 12.150.1.2, 12.1250.1.3, 2.10.2, 2.100.1, 2.110.2.
20. The DA then reviewed the background on the Waskasoo Character Statements (Exhibit C.4). The DA specifically discussed the Waskasoo Environmental Character Area within which, the subject site is located. The DA went on to note that “Proposed developments within the Waskasoo Character area must be evaluated based on compliance with the Zoning Bylaw, and relevant Character Statements.” (Exhibit C.1, para. 19).
21. The DA then discussed the Public Input and Mitigation of Impacts for the subject application. Through the public consultation process, significant community concerns were raised regarding the loss of this site as an informal open space along with traffic safety impacts.
22. The DA noted that while this site has historically been used by the community as a park, it is privately owned with the PS zoning which allows for a range of Permitted and Discretionary uses. As the DA stated, the analysis of this application must distinguish between the loss of an informal public amenity and the actual land use impact of the proposed development.
23. The DA addressed the concerns regarding student safety on 59 Street by explaining that the provision of internal walkways and “a surplus of on-site parking” are intended to minimize conflicts between facility operations and school-zone traffic.
24. The DA then reviewed considerations when evaluating a Discretionary Use against the ZB. It stated that a Discretionary Use is a land use that may be appropriate in a specific zone but requires a case-by-case evaluation of the impact on the surrounding area. The DA stated that it must be satisfied that the use is compatible with its context. Conversely, in order for the DA or MPC to refuse an application for a Discretionary Use, it must have a planning reason for doing so.
25. The DA then discussed specific considerations when evaluating a Discretionary Use. Specifically, does the proposed development:
  1. Conform to the general purpose and intent of the Land Use District (in this case, the PS zone).
  2. Comply with all applicable statutory plans (such as the Waskasoo Area Redevelopment Plan).
  3. Have impacts on neighbouring lands which are acceptable/compatible in context, and whether conditions on the DP can reasonably address those impacts.
26. The DA stated that the subject application “[meets] or exceeds all measurable standards of the PS District, and The City of Red Deer Zoning Bylaw, including:
  1. Setbacks,
  2. Building height,
  3. Site coverage,
  4. Amenity space,
  5. Parking,
  - 6 Landscaping requirements, and
  7. Developed Areas regulations.” (Exhibit C.1, para. 30)

27. The DA then explained that the Waskasoo Character Statements (the “WCS”) are the lens through which the DA evaluates a development and whether it fits within the neighbourhood context. The WCS also contains section 1.4 which lays out the wording “shall”, “should”, and “may” noting that the choice between these words is intentional. “Shall” statements must be followed, “should” statements “mean compliance is required but the Development Authority has some discretion based on the circumstances of the specific case” and “may” statements indicate that the DA determines the level of compliance necessary.
28. In its review of the application, the MPC determined that the application did not meet all the requirements of the WCS and refused the application. The MPC’s reasons were contained in a letter to the applicant and are summarized as follows:
1. The proposed development’s built form and orientation are not conducive or compatible with the existing community including the nearby residences as required by 5.6(1) of the WCS.
  2. The proposed development impacts and negates the current scenic vistas due to block like massing. The building’s rear faces 59<sup>th</sup> Street and is not neighbourly and does not meet the requirements of the Waskasoo Area Redevelopment Plan (“WARP”). The current site orientation and building design impacts the privacy and obstructs the views and character of the street.
  3. New development should not adversely affect the character of the streetscape per 5.6(15) of the WCS. In this case, the proposed development is sited too close to 59<sup>th</sup> Street and the form and height have a negative impact on the neighbourhood which is not aligned with the surrounding residential properties.
  4. “The Municipal Planning Commission gave weight to the Waskasoo Character Statements when determining this decision to reject the development proposal.”
- In point 2, the MPC added some commentary around potential alternatives to the building design and setbacks.
29. The DA summarized MPC’s decision stating it was based on qualitative assessments of the WCS, specifically, 5.6(1) and 5.6(15).
30. The DA then reviewed the possible options for the Board in hearing the appeal. It also reviewed the merits and challenges of the proposed development. Specifically, the development is compliant with the requirements of the ZB, has high alignment with senior housing goals (minimal traffic impact, significant preservation of open space), has more than required parking, and meets all the PS district setbacks and height limits. By contrast, the DA noted that it is less clear whether the proposal fits the aesthetic and historical context of the WCS, including concerns about the perceived incompatibility between a 3-storey massing with single-family residential character, the rear-face of the building looking on to 59<sup>th</sup> Street, and the loss of what is currently an informal community open space/park.
31. In response to a question from the Board, Counsel for the City of Red Deer, Jared McBeth, stated that the City believes that the Waskasoo Area Redevelopment Plan and, by reference, the Waskasoo Character Statements, are binding on the Board’s decision.

*The Appellant*

32. The Appellant provided several documents as part of its written submissions which are noted in Appendix A of this decision. The Appellant started its presentation responding to and clarifying some of the questions asked to the DA.
33. Regarding the building's setback, the property is set 7.5 m from the property line which is in line with the highest density residential zone setback found in the ZB. In addition to this set back, there is a City owned boulevard which adds another 7 m to the distance from the building to the edge of 59<sup>th</sup> Street.
34. To date, the Applicant has not prevented anyone from going on the land or using it as the informal park that it is currently used as. The goal with this project is to continue to welcome in the neighbourhood to the site and invite them to use the remainder of the property as a recreational space. Additionally, the design of the building on the lot is to offer amenities to the neighbours.
35. In response to a comment about the fencing on the west side of the property, the Appellant noted that it is a frost fence which is owned by the City and installed on City owned land. The Appellant has no control over this fence.
36. In response to the question from the Board regarding the impact of Section 687(3)(a.2), the Appellant noted that an ARP is a higher level, aspirational plan and the Character Statements form part of the ARP. The Appellant drew the Board's attention to section 1.1 of the WCS which notes that development "should adhere" to the statements within the WCS. The Appellant further stated that the heading of sec. 5.6 is "Recommended Design Elements" further noting that these are higher level statements. Regarding the proposed development, the Appellant noted that it had not only met all the requirements of the ZB, but it went to the highest standards of the ZB (for example, the setback is that of the highest density residential zone). The Appellant then considered the WARP and made sure the application conforms to the WARP and WCS.
37. The Appellant re-stated that the proposed development complies with the ZB, the WARP, and reflects the WCS which complies with recommendation 1 of the WARP. The Appellant then highlighted that this property is specifically noted in the WARP as planned for development and is part of the distinct Environmental Character area within the WCS.
38. The Appellant then addressed some of the limitations when considering this application and the feedback submitted from the neighbourhood. The first point addressed the notion that this is a public park or a community amenity. The Waskasoo Community Association ("WCA") noted that this park is important to the community. The Appellant re-iterated that this is a privately owned property which it wants to have the community continue to access but with an orderly development process. The goal is for the community to continue to interact with the open space and the outdoor amenities on the site while still allowing for the development of a senior assisted living facility. The second point is the notion of a right to an unrestricted view. Several written comments note that the proposed development will obstruct the existing view through the site. The Appellant stated that there is no right to a view through another property. The development noted in the ARP is incongruent with the idea of a view through the site.
39. The Appellant went on to discuss that the concerns and opposition received by the Board noting that concerns are not evidence. The traffic impact study shows little impact to the surrounding area and this should be given greater consideration than vague concerns when the Board makes its decision.

Further, the photos of the traffic concerns are a limited view and only focus on the busiest times of the day (before the school day starts and just after it ends).

40. The Appellant then proceeded with its presentation beginning with submissions of Shilo Brauer, a Senior Ecologist, Vegetation and Wetland Service with Montrose Environmental. Ms. Brauer explained that the Red Deer River is not directly impacted by the proposed development. She also noted that the three trees on site which will be removed during construction will be replaced once construction is completed. She also noted that the plan for the site is that low maintenance vegetation will be planted along with native and ornamental plant species. The plan also incorporates bark mulch to limit watering requirements.
41. Ms. Brauer stated that the current site is not a natural area but through the development of the site, the diversity of vegetation will be increased.
42. Ms. Brauer explained how the plan specifically complies with WCS statements 5.6(2), 5.6(4), 5.6(9), 5.6(11), and 5.6(14) which all tie to the landscaping, watering requirements, and vegetation diversity of the site.
43. Delanie Player, Principal Wildlife Biologist with Montrose Environmental continued the Appellant's presentation focusing on the impact to wildlife. Ms. Player specifically discussed the project's impact in the context of WCS statements 5.6(1), 5.6(9), and 5.6(16).
44. Regarding 5.6(1), Ms. Player stated that this proposed development will not directly impact the riparian zone along the Red Deer River. Currently, there is fencing on site, and low-quality habitat for the local wildlife populations. In the end state, there will be more trees and shrubs which will provide better habitat in the area.
45. As it pertains to statements 5.6(9) and 5.6(16), the fencing on site is set to change. The plan is for a lower fence with various breaks to reduce the potential for entrapment of wildlife. This will also open up the potential for more habitat.
46. The Appellant's presentation continued with Cory Leniuk, the Architect for the proposed development.
47. Mr. Leniuk talked over a video which showed a virtual mock-up of the proposed development and the surrounding area. The video went along 59<sup>th</sup> Street, up 45<sup>th</sup> Avenue, and showed some aerial views of the proposed development.
48. Mr. Leniuk's presentation continued by discussing the need for housing development and how crucial it is for the city at large. He also discussed potential changes that could be made to the project, if so desired by the Board. For example, the fencing at the south edge of the property could be removed. The fencing along the east edge of the property was at the adjacent school's request.
49. Regarding concerns about the rear of the building facing 59<sup>th</sup> Street, Mr. Leniuk said that the building could be flipped. However, the parking would remain on the north side of the building with all the traffic there.
50. In terms of shadowing, Mr. Leniuk stated that any shadows would fall on the school grounds or the school playground. The property is located north of the nearby residential so shadowing on those

properties (the houses on the south side of 59<sup>th</sup> Street) would not be impacted by shadows from the proposed development.

51. To close his portion of the presentation, Mr. Leniuk stated that this proposal incorporates substantial greenspace into its design. The landscaping further supports the environmental sensitivity of the area.
52. The Appellant's presentation continued with Tanya Kure, the Director of Property Development for East Lincoln Properties Corporation ("East Lincoln"), the property owner.
53. Ms. Kure stated that this project will provide supportive living for the community which is needed. The proposed development is not seeking any relaxations as it fully complies with the ZB. Ms. Kure discussed the extensive public engagement undertaken by East Lincoln. She also discussed how the plan reflects the changing needs of seniors in the community. She stated that seniors are not moving into a lodge type setting until their 80s. Therefore, this proposal, which is a step between independent, single family home living and a lodge, allows for a gentler transition and promotes healthier living. Red Deer is expected to have a deficit of 89 units of senior living by 2031. This proposed 48-unit complex will help fill the gap, provide options to them, and allow a transition for those needing more support but who are not ready for intensive care.
54. Mr. Murphy continued the Appellant's presentation by first addressing the MPC hearing, decision, and process. He stated that the MPC process was very political in nature and that the MPC did not apply the ZB, ARP, or WCS. As a result, the MPC was unable to point to anything wrong with the application.
55. In response to questions from the Board, the Appellant provided the following information.
  - i. There should be no noise pollution concerns as all air handling units will be roof mounted and removed from the ground.
  - ii. All trees will be planted to City standards. They will not be mature trees but also will not be saplings.
  - iii. The public engagement involved two online sessions (which were each attended by about 30 people), there were seven one-on-one meetings, East Lincoln met with the schools/school board twice, two meetings with the Red Deer River Watershed Alliance, and one meeting with the Gaetz Lakes Sanctuary Committee.
  - iv. The setback is in line with the highest density residential zone at 7.5 m.
  - v. There will be no nurses on staff, but the plan is to have a clinic space for home care or another third-party provider.
  - vi. There is a community room with a larger kitchen for the purposes of hosting a family gathering.
  - vii. This is not multi-family housing. This is supportive living and meets the definition of the ZB which is somewhat vague.
  - viii. The roof materials will be non-toxic as the water run-off is going to be collected in rain barrels.
  - ix. The amenities in the site include large social rooms, one of which will have a large kitchen for hosting, an exam care room (for a nurse or other medical provider to use), a barber/salon, and a management office.
  - x. The parking lot is not planned to be paved with a permeable material as it would lead to increased cost and does not stand up as well over time within the Red Deer climate.

- xi. The proposed development will have an impact on drainage but it is not a negative impact. The water in the parking lot will be collected in an oil and grit separator before being discharged into the storm sewer.

56. The Appellant stated that the application has gone on since 2019. In that time the proposed development has gone from two buildings to one, from 120 units to the current 48, and from a pitched roof to a flat roof. East Lincoln has acquiesced to public concerns throughout this project and it should now proceed.

#### *Public Submissions*

57. The Board received numerous submissions from the public related to this appeal. There were numerous submissions both in favour of the appeal and against it. Several of the written submissions failed to identify how they were affected by this appeal so the Board placed no weight on those submissions. Given the substantial duplication among the submissions, there are summaries below of the general themes.
58. Of those submissions in favour of the appeal, the common themes include the need for housing (and specifically senior's housing), the cost-of-living increases, the jobs that would be created by this project, the use of the site for something needed by the community, the support for the development from City Administration.
59. From the submissions in opposition to the appeal, common themes include the increase in traffic in the area, the massing of the proposed development not complying with the WARP and WCS, the height of the proposed building being about 2 m taller than the neighbouring school, the poorly defined definition of Supportive Living Accommodation and whether this serves the community, impacts on the Red Deer River, impacts on wildlife from increased noise and light, a loss of permeable surfaces, privacy concerns of the balconies on the south side of the building overlooking into the yards and houses on the south side of 59<sup>th</sup> Street, other sites being better suited to this type of development, a loss of views and scenic vistas, and an existing supply of seniors housing in the area (this is distinguished from affordable or subsidized seniors housing).
60. The majority of submissions received by the Board were opposed to the proposed development for varying reasons as discussed above.

#### *Rebuttal Submissions*

#### *Procedural Matter*

61. During the rebuttal presentations, in between the DA's presentation and the Appellant's presentation, the Board provided both parties with copies of two additional documents for review which were entered at Exhibits D.4 and D.5. Both were received late in the day and while D.4 was uploaded to the online database where the parties were pulling documents from, neither was aware it had been uploaded. Both parties were given 20 minutes to prepare for their rebuttals, but this time did not contain time to review the additional documents. Both parties were asked whether they needed time to review Exhibits D.4 and D.5 before proceeding. Both parties confirmed that they were prepared to proceed at that time without additional time to review or consider the additional documents.

*Development Authority Rebuttal*

62. The DA presented their rebuttal starting with Russ Watts, the Engineering Services Manager for the City of Red Deer. Mr. Watts commented on concerns about a loss of permeable surfaces noting that the run off from the site would be minimal as roof water would be collected in rain barrels. Similarly, runoff from the parking lot would be collected and passed through an oil/grit separator and then the water would be discharged into the storm sewer. Site drainage would be minimal.
63. Mr. Watts gave some background on the licencing of Professional Engineers and noted that the 2019 Geotechnical Report for the area indicated the suitability of the site for development. It also commented that there was riverbank stability along the river. Ultimately, Mr. Watts noted that the report seemed sound to him and his colleagues. The report also noted that the riverbank is relatively straight and there is limited evidence of bank change over time. While a high-water event, like the 2005 and 2013 floods could affect stability, the report did not note a significant impact to the subject site.
64. Regarding comments about the roadways in the area, Mr. Watts explained how roads are classified both by the Alberta Government Transportation Ministry and the City of Red Deer. Mr. Watts stated that Alberta Transportation is predominantly a rural ministry and looking more at rural roads. By contrast, the City of Red Deer has a roadway design guide. In his experience, Mr. Watts stated that road width has limited impact on volume or speed. In Red Deer, the standard cross section of a road is 20 m wide. The 85<sup>th</sup> Percentile speed on a collector road in Red Deer is 53 km/h while on 45<sup>th</sup> Avenue, the 85<sup>th</sup> Percentile speed is 39 km/h. 45<sup>th</sup> Avenue is narrower than new roads.
65. Mr. Hallett continued the DA's rebuttal clarifying that there are 52 parking spaces planned for the site. The Applicant is only required to provide 19 parking spaces which is calculated on the formula of 0.4 stalls per unit with a minimum of 3 for a development like this proposal.

*Appellant Rebuttal*

66. Mr. Murphy then continued the Appellant's rebuttal noting a person cannot acquire a right to a view as noted in the Law of Property Act. While power regulations may require view assessments, that is not in play for the subject development. Ultimately, no matter how one slices it, there is no right to a view through someone else's property.
67. In response to comments about density noted by the Waskasoo Community Association, in the residential area of Waskasoo, the density is 30.9 units/hectare for single family homes, 43.1 units/hectare for duplexes, which are higher than the development's proposed density at 28.2 units/hectare.
68. The proposed development falls within the definition of Supportive Living Accommodation found in the ZB. The Applicant is to provide or arrange for some on site services. That is what East Lincoln is doing. As one Councillor on MPC stated, the Applicant 'complied with everything to a T'. MPC asked Council to consider changing the definition so that the proposed development would no longer comply. The Appellant stated that MPC seemed predisposed to reject the application.
69. The Appellant then returned to the purpose of the PS zone in the ZB. It is to provide land for uses which are public or quasi-public in nature. Quasi-public is not defined but, if the definition of public is 'not private', then the presumption is that quasi-public is the opposite of quasi-private. Two aspects to

consider here are that the owner would be unable to subdivide into condominiums due to restrictions that the land be used for quasi-public purposes. The other aspect is that the services proposed for this site would all be provided by publicly regulated bodies. Ultimately, this proposed development would be privately owned but subject to public regulation.

70. The Appellant reiterated that they have complied with the ZB requirements by meeting or exceeding all applicable requirements. Further, this proposal falls well below the density caps for the area. As for the WARP, the Appellant called it a quirky little document which is very explanatory in nature. Ultimately, the Appellant stated that they had complied with the requirements of the WARP and the WCS. By contrast, the WCA has not stated how the proposed development has not complied with the WARP objectives.
71. The WARP sets out recommendations. Of these recommendations, the Appellant stated that recommendations 1, 3, and 7 apply to this proposal. Recommendation 1 states that development shall conform to the ZB and reflect the WCS [emphasis added]. The WARP will give guidance on how to apply the Character Statements. The Appellant has no objections to the Character Statements prevailing as laid out in the ZB. However, in order for that to kick in, there must be a conflict in law where two things cannot happen at once.
72. The Appellant then argued that it is wrong to apply the Character Statements with no nuance based on the commentary in section 1.1 of the WCS which uses the word should.
73. In terms of specific response, the WCA showed a picture through the subject site in relation to WCS 5.6(2) arguing that this vista would be lost. The photo in the WCS shows a vista as down a street to a target at the end of the street, not through a property. The WARP specifically identifies this parcel for redevelopment and the Appellant argued that it is impossible to maintain an open view and develop a site at the same time.
74. In response to comments about WCS 5.6(6) about permeable and semi-permeable surfaces being provided, the Appellant argued that the term used is “should”. As discussed, the semi-permeable material that could be used for the parking lot is not a durable material, especially when considering the size and use of a parking lot. It is susceptible to the temperature swings common to Red Deer throughout the year. Additionally, the term “should” requires consideration of the application. On a 4-acre site with a lot of new landscaping, a semi-permeable parking lot is not likely to have much impact. The Appellant stated that given the size of the site, this application is doing yeoman’s work to handle run-off.
75. The Appellant stated that this project has been in the works for 8 years. A prominent issue that has been identified is that there is already too much traffic in the area. While it is true that any development will result in some additional traffic, the proposed development is expected to generate only a minimal increase in traffic. A reference made to an 850 sq.ft. daycare is simply not financially feasible for this site. Similarly, all the videos shown through the public submissions are related to the schools to the east. The schools are the source of the traffic.
76. The Appellant touched on what he called “doomsday arguments”. In the opinion of the Appellant, the proposed development would not wipe out the river valley or the ecosystem, it would not impact the riparian zone, and it will not cause damage to the wildlife corridor along 45th Avenue. The riparian zone ends at 45th Avenue, then there is a municipal reserve lot, and then there is the subject parcel. To accept the arguments about the riparian zone would mean that this site could not be developed.

The MGA at section 617 specifically talks about how a Land Use Bylaw is to allow for the orderly development of land. This site should be developed as noted in the WARP.

77. The Appellant then touched on the “shall”, “should”, and “may” statements stating that “shall” is mandatory, “should” is a strong suggestion, and “may” is optional.

### *Closing Arguments*

78. The DA closed by reading through its Conclusion which is found on page 8 of Exhibit C.1. In summary, the DA noted why MPC rejected the subject development permit application. It went on to state the central question for the SDAB is the alignment of the proposed development to the WCS, as required by section 12.150 of the ZB. In determining the appeal, the Board may confirm the MPC decision, revoke the MPC decision, vary MPC’s decision, or substitute its own decision.
79. The Appellant started its closing arguments by thanking Administration for their work on this file. He then argued that the Board owes zero deference or respect to the MPC decision. He argued that this hearing was *de novo* and everything is fresh to the Board. He reviewed the Alberta Court of Appeal decision *Landry v Rocky View County (Subdivision and Development Appeal Board), 2025 ABCA 34* which supported his statements about a new consideration of the application by the Board. The Appellant argued that a discretionary use is prima facie acceptable but that there may be reasons why it does not fit in a certain place. The MPC ultimately did not consider planning principles. The City’s appendix A (Exhibit C.2) explains how the application complies with the relevant planning principles and why it should go ahead. There is no legitimate planning reason to deny the application.
80. The Appellant/Applicant would like to end the 8-year odyssey and would like to build this project, as proposed. Their hope is to end the “never-ending eddy” of reducing more and more until there is nothing there. What’s currently proposed can be done economically and is a feasible design. It complies with the ZB, the WARP, and the WCS. The goal of this proposal is to integrate with the community to use the space. They don’t want to keep the community out of the site but rather invite them in.
81. The Board asked the parties if they believed they had the opportunity to present their submissions in a full and complete manner and both confirmed they did. The Board asked the members of the public in attendance a similar question. Two audience members had questions about whether their written submissions were received by the Board. Both had been received. No other questions or objections were raised.

### **FINDINGS AND REASONS**

82. The Board reviewed the materials, oral presentations, relevant sections of the ZB, MGA, WARP, WCS, and the letters received in favour and in opposition to the appeal.
83. The Board finds that MPC was within its authority to refuse the development permit application for the subject property. The Board reviewed the reasons of MPC when it (MPC) refused the DP application. However, the Board considered all the materials and planning considerations before it and made its decision independent of MPC’s decision.
84. The Board first considered the Waskasoo Area Redevelopment Plan (“WARP”) and finds that it is an Area Redevelopment Plan as contemplated in sections 635, 638, and 687(3)(a.2) of the MGA.

85. The Board finds that the Waskasoo Character Statements (“WCS”) form part of the WARP by reference as Appendix 1 to the WARP and as noted in Plan Recommendation 1 of the WARP.
86. The Board finds that its decision must comply with the WARP and WCS per section 687(3)(a.2) of the MGA.
87. In reviewing the WARP and WCS, the Board finds the following key points relevant to its deliberations and decision:
- i. The subject property is specifically discussed at WARP Plan Recommendation 3 where it is noted that this property shall retain its PS zoning and “Additional studies, such as a Geotechnical Assessment, Traffic Impact Assessment and a Servicing Study shall be required to support an application for development or redevelopment.”  
The Board finds that the additional studies noted above have been completed.
  - ii. The WCS divides the Waskasoo neighbourhood into four distinct Character Areas. Each of these Character Areas have their own context and history, and their own Character Statements.  
The Board finds that the subject property falls within the Environmental Character Area which is covered under section 5 of the WCS.
  - iii. The Environmental Character Area contains the Kerry Wood Nature Centre, Gaetz Lakes Sanctuary, and the subject property.
  - iv. Section 5.3 of the WCS notes that that Common Forms and Scale of Buildings include:
    - i. Natural features including native vegetation, mature trees, and a minimal Building coverage.
    - ii. Buildings are typically 1 storey with flat roof construction.
    - iii. Gravel or asphalt parking areas with native naturalized Landscaping.
  - v. Section 5.5 of the WCS notes Other Common Elements and states:
    - i. Rural character with native, naturalized landscapes, rural road cross sections, a lack of fencing.
    - ii. A wide open sense of space that is not common in other areas of the City.
88. The Board considered section 1.4 of the WCS which lays out the use of the words “shall”, “should”, and “may”. This section also notes that wording choices are intentional. The Board finds that statements containing “shall” are mandatory, statements containing “should” indicate requirements with limited discretion, and statements containing “may” are optional in nature where the approving authority determines the level of compliance that is required.
89. The Board then considered each of the applicable WCS as written and the commentary provided by the DA and the Appellant in their respective reports/briefs. The Board finds that the Character Statements which apply to the subject property are found in section 5.6 of the WCS. This agrees with both parties and numerous public submissions.

The Board further finds that if the proposed development does not comply with a mandatory statement, or one where the Board declines to allow discretion, this would be determinative of the appeal per section 687(3)(a.2) of the MGA.

90. Character Statement 5.6(1): A conservation development pattern which clusters a development's built form together into a portion of the overall area allowing the open space of the development to contribute to the existing adjacent open space and be an amenity to the site users including wildlife. For Public Service uses with a residential component like Assisted Living, concepts such as Pocket Neighbourhoods may be considered.

The Board finds that this statement is optional given the use of the word "may". The Board also finds that the northern portion of the site is open space and the proposed development generally complies with this statement.

91. Character Statement 5.6(2): "Mature street character, scenic Vistas viewable from the road, and existing natural features of the area shall be maintained."

The Board finds that this is a mandatory statement. The definition of a vista is found in section 6 of the WCS which states that a "Vista means a scenic or panoramic view". A drawing is also provided which shows a view down a street toward a clock tower at the end of the street.

While the Board finds that this is a vague term, its interpretation of vista within the WCS is that it is not looking through properties but rather in public spaces. As a result, the proposal complies with this Character Statement as it maintains trees along 59<sup>th</sup> Street and 45<sup>th</sup> Avenue.

92. Character Statement 5.6(3): Buildings should be designed to include environmentally sustainable design features by incorporating the use of green technologies, Ecological Design, water conservation measures.

The Board finds that the proposed development as presented complies with this Character Statement.

93. Character Statement 5.6(4): Low maintenance Landscaping with native non-invasive plant material shall be required and the incorporation of both Xeriscaping and Naturescaping is encouraged. The use of herbicides and pesticides is strongly discouraged.

The Board finds that the proposed development as presented complies with this Character Statement.

94. Character Statement 5.6(5): Landscaped areas and islands throughout parking and storage areas shall be provided to intercept precipitation, reduce surface heating, provide canopy shading, and enhance the appearance.

The Board finds that the proposed development as presented complies with this Character Statement.

95. Character Statement 5.6(6): Permeable and semi-permeable paving surfaces should be provided to improve ground water recharge and reduce storm water runoff.

The Board finds that the proposed development as presented does not comply with this Character Statement. The Appellant has planned to provide systems which collect rainwater from the parking lot, and remove oil and grit before discharging the water to the storm sewer. While this system addresses storm water runoff from the site, it fails to achieve the goal of ground water recharge.

The Board finds that the reasoning given by the Appellant is not sufficient for the Board to waive this requirement, despite it having discretion as indicated by the word should.

96. Character Statement 5.6(7): A system to capture and recycle roof runoff and rainwater should be provided for landscape watering. If this system is proposed, the use of roofing materials that do not yield contaminants is recommended.

The Board finds that the proposed development as presented complies with this Character Statement.

97. Character Statement 5.6(8): Adaptive reuse of existing Buildings and structures is encouraged.

The Board finds this is not applicable to the subject appeal as there are no existing buildings on the site.

98. Character Statement 5.6(9): All roads north of 59th Street within the character area should maintain their natural boundaries and native vegetation to preserve and enhance the wildlife corridor through this critical area adjacent to the Red Deer River.

The Board finds that the access to the proposed development coming off of 45<sup>th</sup> Avenue does not change the natural boundaries of the road nor does it appreciably impact the native vegetation of the area. The Board finds that the proposed development as presented complies with this Character Statement.

99. Character Statement 5.6(10): Shared driveways are encouraged. Other reductions in impervious surfaces may be achieved through the elimination of curbing and the use of decorative pervious surfaces for sidewalks, driveways, and trails.

The Board finds this is not applicable to the subject appeal as there is no other driveway nearby.

100. Character Statement 5.6(11): Disruption of any open space proposed to be disturbed during construction or otherwise not preserved in its natural state shall be shown on development plans and shall be restored with vegetation that is compatible with the natural characteristics of the site.

The Board finds that the proposed development as presented complies with this Character Statement.

101. Character Statement 5.6(12): Excavated material may be used for the creation of berms or to provide a low fertility soil for the creation of wild flower meadows or similar semi-natural habitats to blend with the more naturalized character of the area.

The Board finds this is an optional statement by the use of the word “may”. The Appellant noted that it could build a snow hill on the eastern edge of the property for use by the students at the neighbouring school.

The Board finds that the proposed development as presented complies with this Character Statement.

102. Character Statement 5.6(13): Existing specimen conifer and deciduous trees shall be identified on a site plan and protected during site construction activities and after by ensuring Buildings, services or Hard Surface areas are not sited too close.

The Board finds that the project as presented complies with this statement. If the appeal is granted

and the application approved, the Board would impose the DA's proposed condition which reads:  
"Tree protection must be provided for all trees on the site not removed for construction."

103. Character Statement 5.6(14): New trees planted should be of a similar species than what is currently found in the Waskasoo Environmental Character Area. Edible vegetation such as fruit trees and berry bushes should be included in Landscaping.

The Board finds that the landscaping plan lays out numerous species of trees and bushes and thus, the proposed development as presented complies with this Character Statement.

104. Character Statement 5.6(15): New development should not adversely affect the character of the streetscape, as a result of being sited too close to the road, of inappropriate or excessive Massing, form or height having a negative impact on abutting properties in terms of shadows and privacy/overlook, or causing the loss of landscape features or other factors which may have a negative effect on the streetscape or abutting properties.

The Board was again reminded of the statements in section 1.4 of the WCS which notes that wording is intentional. The Board finds that the term "should" indicates a requirement where discretion may be applied, if appropriate. The Board then reviewed the Character Statement in context.

The Board finds that the proposed development would adversely affect the character of the area since it is designed to be a modern building in the Environmental Character Area of the WCS.

The Board finds that WCS 5.3 states that Common Forms and Scale of Buildings in this area incorporate natural features and are typically 1 storey tall with flat roof construction. The proposed development is shown to be a large, block design which is 11.665 m tall.

The Board finds that the design as presented is an imposing three storeys tall, and is excessive in mass, form and height for the Environmental Character Area.

Additionally, the Board finds this building, being sited along the southern edge of the property near 59<sup>th</sup> Street, will adversely affect the character of the streetscape.

The Board considered the arguments of the Appellant and finds that the term 'abut' or 'abutting' are properties which physically touch the subject property. As a result, the Board does not find that the houses on the south side of 59<sup>th</sup> Street fall into its consideration since those properties would be 'adjacent' as defined in the ZB.

The Board finds that the proposed development as presented will adversely affect the character of the streetscape to such a degree that conditions cannot rectify this deficiency.

Therefore, the Board finds that the proposed development as presented does not comply with this Character Statement.

105. Character Statement 5.6(16): Location, style, and amount of fencing proposed around and/or adjacent to open space areas shall have consideration for the movement of wildlife and the prevention of opportunities for wildlife entrapment.

106. The Board heard from the Appellant's Biologists that the fencing selected would be lower in height to allow for larger animals to jump over it and would contain break points at various intervals for smaller animals to escape. The Board finds that the proposed development as presented complies with this Character Statement.
107. Character Statement 5.6(17): In order to reduce ambient light levels which will reduce the impact of light on nocturnal environments, exterior lighting on Buildings or within yards should be pointed down particularly near the Sanctuary.
- The Board finds that the proposed development incorporates DarkSky standards in exterior lighting and therefore complies with this Character Statement.
108. The Board finds that the proposed development does not comply with Character Statements 5.6(6) and 5.6(15) which is required by point 1 of the Waskasoo Area Redevelopment Plan 'Plan Recommendations'.
109. Having reviewed all the materials submitted and presented, the Board finds that the appeal must be denied in accordance with section 687(3)(a.2) of the MGA for failing to comply with the Area Redevelopment Plan in effect for the subject property.

**CLOSING:**

110. For these reasons, the Board denies the appeal and CONFIRMS the decision of MPC, which REFUSED the Development Permit application submitted by East Lincoln Properties Corporation for a proposed Supportive Living Accommodation facility located at 4240 59 Street, Red Deer.

Dated at the City of Red Deer, in the Province of Alberta, this 20<sup>th</sup> day of February, 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.



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Tim Heger, Presiding Officer  
Subdivision and Development Appeal Board

This decision can be appealed to the Court of Appeal on question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of this decision.

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**APPENDIX A**

Exhibit A.1:	Hearing Materials	11 pages
Exhibit B.1:	Appellant Submission	16 pages
Exhibit B.2:	Appellant Submission – Alberta Historical Resources Act Approval	1 page
Exhibit B.3:	Appellant Submission – Appellant’s Legal Brief	11 pages
Exhibit B.4:	Appellant Submission – Delanie Player Resume	7 pages
Exhibit B.5:	Appellant Submission – Montrose Environmental Report	6 pages
Exhibit B.6:	Appellant Submission – Shilo Brauer Resume	5 pages
Exhibit B.7:	Appellant Submission – Stantec Traffic Report	2 pages
Exhibit B.8:	Appellant Submission – Video Walkthrough	N/A
Exhibit C.1:	City Authority Submission	15 pages
Exhibit C.2:	City Authority Submission – Exhibit A – Development Permit Application	349 pages
Exhibit C.3:	City Authority Submission – Exhibit B – Zoning Bylaw Excerpts	6 pages
Exhibit C.4:	City Authority Submission – Exhibit C – Waskasoo Character Statements	27 pages
Exhibit C.5:	City Authority Submission – Exhibit D – MPC Refusal Letter	2 pages
Exhibit C.6:	City Authority Submission – Exhibit E – Notice of Appeal	2 pages
Exhibit D.1:	Public Submissions to the Board	322 pages
Exhibit D.2:	Public Submissions to the Board	9 pages
Exhibit D.3:	Public Submissions to the Board	48 pages
Exhibit D.4:	Public Submissions to the Board	54 pages
Exhibit D.5:	Public Submissions to the Board	8 pages