

Exhibit D.4

Area Land Owner Submissions

Received
Feb 4
@ 5pm.

Letter to the Subdivision and Development Appeal Board – Opposition to Development Permit at 4240 59 Street. SDAB 0262 006 2025

Dear Members of the Subdivision and Development Appeal Board,

I live on 45th Avenue and received a notice of appeal in the mail. I am stating my opposition to the proposed development permit at 4240 59 Street. I fully support and echo the statements submitted by the Waskasoo Community Association (WCA), the Waskasoo Environmental Education Society (WEES), the Gaetz Lakes Sanctuary Committee, Camille J. Lerouge School, and the Red Deer Public School Board.

Additional Concerns

In addition to the WCA's findings, I wish to highlight the following:

1. Weight and Relevance of Letters of Support

Letters of support submitted in relation to this appeal largely originate from individuals who do not reside in the immediate area and rely on considerations that are not relevant planning criteria, such as job creation and municipal tax revenues. Several submissions also appear to misunderstand the nature of the proposed development, which does not provide assisted living, medical, or supportive services for seniors. The City of Red Deer has a demonstrated need for assisted living and subsidized senior housing that includes appropriate on-site services. The proposed development, however, is a 55-plus apartment building with no service component, and it would occupy land designated for Public Service uses—land intended to accommodate facilities providing direct public or community benefit, including fully serviced senior care. While the proposed building may be well designed and potentially appropriate in another location—such as Capstone or Bower Woods — it is not consistent with this historical area or with the intended purpose of PS-zoned land, nor does it align with sound planning principles when assessed in this location.

2. Rezoning History and Prior Council Decision

In 2023, the developer applied to rezone the property from PS (Public Service) to R-H (High Density Residential) and to amend the Waskasoo Area Redevelopment Plan (ARP) to allow a nearly identical development.

This application was unanimously refused by City Council because it did not align with the ARP objectives, which include:

- Ensuring development is sensitive to existing neighbourhood character, lot patterns, and density.
- Maintaining Waskasoo's extensive parks and open space network.
- Preserving environmental, historical, and cultural features.
- Maintaining and enhancing trail and pedestrian connections.
- Encouraging enhancement and upkeep of all neighbourhood properties.

While "Supportive Living Accommodation" was later added as a Use under the PS zone during Phase One of the Bylaw Review, the proposed development still **fails to meet the same ARP and Environmental Character Statement objectives** that led to Council's refusal in 2023.

3. Lack of Public Consultation in the PS Zone Changes

The inclusion of Supportive Living Accommodation in the PS zone occurred without public consultation. Phase One of the Bylaw Review was publicly described as applying only to Residential, Industrial, and Commercial zones. There was no indication or opportunity for public comment regarding modifications to the PS zone.

City Council has recently instructed City administration to review the Supportive Living Accommodations definition to determine what should be permitted on PS-zoned lands before similar applications are submitted.

4. Evaluation of Community Engagement Claims

At the Municipal Planning Commission hearing, counsel for the Appellant asserted that the proponent had consulted with the community and that the revised proposal reflected feedback received through that process. It was further stated that the drawings considered by MPC differed from earlier versions because they had been amended in response to community concerns.

However, no meaningful community engagement occurred in relation to this application. Neither the affected Community Association nor residents within approximately 100 metres of the site were consulted beyond receipt of the statutory 10-day notice of the MPC hearing. Compliance with notification requirements does not constitute community engagement. Based on the revisions presented and statements made at the hearing, the changes to the proposal were limited to bringing parts development into regulatory compliance, including the addition of landscaping to meet bylaw minimum requirements and the provision of a Historical Resources Act approval. There is no evidence that the revisions were informed by, or responsive to, community input.

When asked at the hearing whether the revised plans were subsequently discussed with the community, counsel for the Appellant confirmed that they were not, and indicated that the revisions were made in response to direction from City Administration. Counsel further indicated uncertainty as to whether City Administration had undertaken any community engagement.

Accordingly, the characterization of this process as “community consultation” is not supported by the facts, and the revisions to the proposal appear to reflect regulatory compliance rather than engagement-driven design changes.

5. Scale, Massing, and Location Concerns

While I support thoughtful infill development in mature neighbourhoods, such projects must be scaled appropriately and context-sensitive.

The current three-storey proposal is too large and too close to the street, negatively affecting surrounding homes, schools, and environmental areas.

A one- to two-storey design, comparable in scale and height to the Pines Lodge or Parkvale Lodge, would be far more suitable.

Such a development could be clustered with existing nearby buildings (Gateway School and Parkland CLASS) and still respect right-of-way and landfill setbacks on the east side of the lot.

Summary of WCA Findings

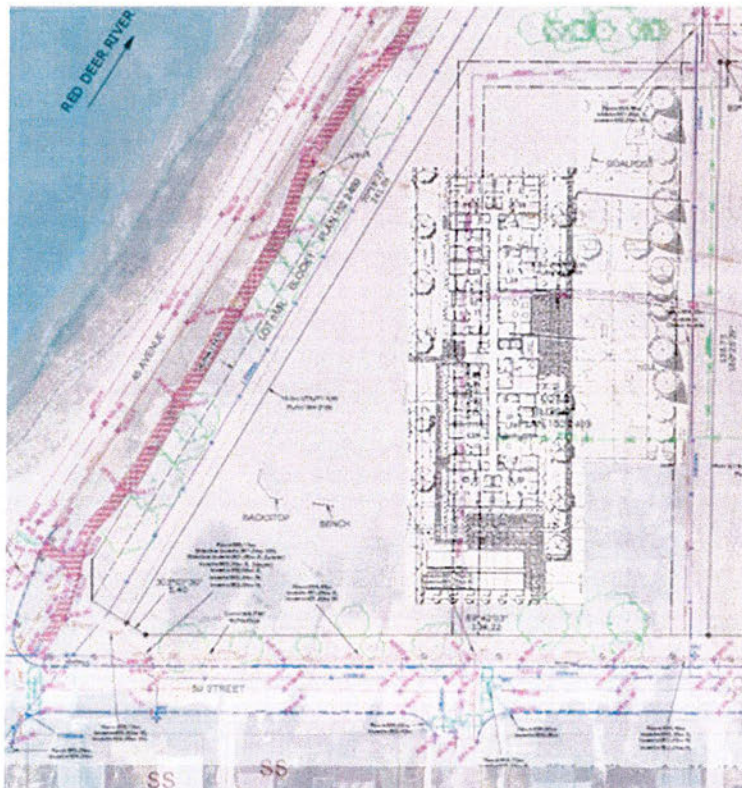
The Waskasoo Community Association’s detailed submission demonstrates that the proposal:

- Contradicts City statutory plans, including the Municipal Development Plan, ARP, and Environmental Character Statement.
- Contradicts the zoning bylaw intent, does not fit the definition of supportive living accommodation and fails to meet zoning requirements for the Public Service (PS) zone.
- Negatively impacts neighbourhood amenities—notably views, vistas, traffic, and trail safety.
- Endangers sensitive hydrological and ecological areas, including wildlife corridors and riparian zones along the Red Deer River.
- Diminishes the enjoyment, privacy, and value of neighbouring properties.

Possible Alternative

I wonder why the following siting and layout was not proposed. See below. In a layout such as this, a one or two storey structure which rotates the building 90 degrees and repositions it further north and east on the lot would:

- Share the existing northern access with Gateway School and Parkland CLASS.
- Reduce paved area, preserve mature trees, and minimize fencing.
- Leave open space along the river for wildlife and hydrological protection.
- Avoid creating new hazards on the South Bank Trail.
- Reduce visual and privacy impacts on nearby residences.
- Cluster new structures with existing facilities for better neighbourhood integration.
- Maintain panoramic and vista views from the roads.



Conclusion

The proposed development at **4240 59 Street**:

1. Does not comply with Red Deer's **Zoning Bylaws, ARP, or Environmental Character Statements**.
2. Will **negatively impact neighbourhood amenities, public safety, and environmental integrity**.
3. Will **unduly affect the use, enjoyment, and value** of surrounding properties.

I respectfully request that the **Subdivision and Development Appeal Board** refuse this development permit appeal.

Sincerely,

[REDACTED]

Waskasoo

February 4, 2026

Re: Development Permit Application for 4240 59 St

To Whom it May Concern,

My name is [REDACTED], and as a resident of Waskasoo and a parent of Gateway School students, I am writing to oppose this development application.

I stand in full agreement with many of the letters already submitted from my community and neighbours who live on the surrounding properties. While I share concerns about traffic, environmental impact, and the integrity of the ARP Character Statements, I would like to highlight several additional issues that I believe warrant serious consideration.

1. Impacts on the enjoyment and use of my property

The proposed building's height and massing—particularly the third-floor units—will directly overlook my backyard. This is not a minor inconvenience. It fundamentally alters how I am able to live in and enjoy my home. If I must keep my curtains closed for privacy, that changes how I experience my living space. If I must plant trees or hedges to shield my yard, that restricts how I can garden and use my property. The sense of safety and comfort that comes from having a private backyard—something that is central to why many of us live in this neighbourhood—would be diminished. These are real, tangible impacts on daily life, not abstract concerns.

2. Complete absence of consultation

I also want to note the complete absence of consultation by the developer throughout this years-long process. At no point has there been outreach to discuss concerns, alternatives, or design changes. There has been no attempt to work collaboratively with the neighbourhood or to explore options that might better respect the surrounding context.

This lack of engagement has been deeply disappointing. We are not opposed to development — but we expect it to be done thoughtfully, with the surrounding community accounted for. That has not occurred here.

3. Neighbourhood involvement should not be dismissed

The sustained level of neighbourhood involvement should not be minimized. Residents have invested countless unpaid hours researching policies, writing letters, attending hearings, and showing up again and again. We are busy individuals who are active in many other parts of the community. Personally, I help facilitate the community gardens, and our neighbourhood association contributes extensively to community-building initiatives. We would much rather

be spending our time and energy on those positive efforts. The fact that so many residents continue to show up over the years speaks to how significant and disruptive this proposal is. This is not a small, single-interest group. This is a neighbourhood that is already stretched thin, repeatedly raising the same concerns because they remain unaddressed. The constant push for a large-capacity development, despite consistent opposition, has been exhausting and, frankly, feels tone-deaf.

4. Housing demand and the mismatch with actual needs

It is true that we are in a housing crisis and that more housing is needed. However, in the realm of seniors' housing, the greatest unmet need is for subsidized or affordable units. The Bridges Community, which operates at least five residences in Red Deer, currently has waitlists ranging from six months to three years. In contrast, several independent senior apartments—such as Three Robins, Victoria Park, and Inglewood—have confirmed vacancies. Some of these facilities indicated they could house new residents within 30 days. The proposed development does not address the affordable housing gap and, based on current supply and demand, is unlikely to be fully utilized.

5. Misleading framing of “assisted living”

Although the building is described as “assisted living,” the developer’s own promotional materials emphasize “independent living.” Services are minimal. Residents will largely be living independently, accessing the same services that any senior in any home can already access—meals, groceries, medical care, prescriptions, and personal services can all be delivered. We should not be led to believe this is something more specialized than it is.

6. Precedent and long-term implications

The Bridges Community residences, Three Robins, Inglewood, and Victoria Park are all built on land zoned R-H to R-M. We have not used PS land in the past for independent senior living facilities. With the recent bylaw change allowing independent living facilities on PS land, we must ask: what distinguishes these buildings from standard high-density residential developments? If the inclusion of a hairdresser or visiting nurse qualifies a building as “independent living,” then the distinction becomes paper-thin. Waskasoo is a unique neighbourhood, and this lot requires nuanced consideration. It is difficult to justify using such a distinctive parcel of land for a development that is oversized, under-demanded, and out of step with the neighbourhood’s values.

This is not a NIMBY issue. The broader question is: if we allow this development here, are we prepared to allow similar large-scale developments on PS land across Red Deer? That is the nature of precedent.

8. A path forward

I believe the neighbourhood would welcome the opportunity to work collaboratively with the developer, the City, and the broader community toward a solution that respects the neighbourhood's character and capacity.

I urge you to deny this application and uphold the refusal of MPC.

Sincerely,



From: [REDACTED]
To: [Appeals; secretary@waskasoo.info](mailto:Appeals;secretary@waskasoo.info)
Subject: [External] Development appeal consideration Waskasoo
Date: February 04, 2026 9:25:52 PM

You don't often get email from a [REDACTED] [Learn why this is important](#)

Hello

My name is [REDACTED] and I'm a parent of a child attending Gateway Christian School. I'm writing this letter to whom it pertains at the Subdivision and Appeal Board.

I was recently informed of the decision to develop the land next to Gateway into a Senior supportive living facility and that this decision was denied but now East Lincoln is appealing that denial.

I am very concerned about this development.

Roads are very congested and it is difficult to find parking. There is also a lot of pedestrian traffic, adding more to this congestion with another development would be unfortunate.

My other concern lies with an entire community being built so close to a school. Will all residents have vulnerable sector checks? I believe there is a real student safety concern with a development so close to a school.

I believe this is going to negatively impact Waskasoo area and Gateway school.

Please reconsider the location of this senior living facility. Please really consider what would be the best kind of development so close to 3 schools and in a very busy neighbourhood. We are so fortunate to live in the second largest country in the world. We have lots of space. Let's not congest our city more.

Thank you for your time.

Kindest regards

[REDACTED]

To: Subdivision and Appeal Board
Appeals@reddeer.ca

Re: East Lincoln Properties Corporation appeal of MPC refusal of development permit for Discretionary Use described as 48-Unit Supportive Living Accommodation at 4240 – 59th Street
SDAB #0262 006 2025

My contact information:

[REDACTED]
[REDACTED]
[REDACTED]

I **oppose** East Lincoln's development application.

I am a homeowner in Waskasoo, within 100 meters of 4240 – 59th Street (the "ELP Lot"). I have lived here for over 15 years. Our [REDACTED] of the ELP Lot on 45th Avenue.

The ELP Lot is zoned PS: Public Service (Institutional or Government).

- Section 9.40.1 of the City of Red Deer Land Use Bylaw ("LUB") states: **This Zone provides land for uses that are public and quasi-public in nature".**
- "Supportive Living Accommodation" is a **discretionary use**.
- For Public Service zoned lands ("PS"), the following are all left to the discretion of the development authority: front yard setbacks, side yard setbacks, the site plan, the relationship between Buildings, structures and Open Space, architectural treatment of Buildings and Parking layout. (LUB s.9.40.4 and s.9.40.5)
- Required parking spaces for Supportive Living Accommodation is 0.4 parking spaces per unit. Since the proposed development is 48 units and characterized as "supportive living" it's only required to have 19 parking stalls. In contrast, the required parking spaces for an "apartment" is: (a) 1 per studio or 1 bedroom unit; (b) 1.5 per 2 bedroom unit and (c) 1.0 space for every 5 units, which must be clearly identified as guest parking. (LUB s.3.240). A building of this size would have to have 68 parking stalls.

Section 4.270. of the LUB states:

- 4.270.3 In a Zone where a Supportive Living Accommodation is listed as a Discretionary Use, the Development Officer may consider factors such as:
 - 4.270.3.1 proximity to other uses that impact traffic and Parking;
 - 4.270.3.2 location on the block and in the neighbourhood; and

4.270.3.3 The Road classification

[“may” is defined as “encouraged” by s.1.40.3.2 of the LUB]

The Waskasoo Area Restructure Plan (ARP) was passed by Council in 2016. The applicant, East Lincoln Properties Corporation, purchased the ELP lot in 2020.

The Waskasoo ARP Objectives and the purpose of these objectives are set out at pg 6 of the ARP:

“These objectives are established to achieve the community vision by forming the basis for the policies contained within. As Waskasoo redevelops and evolves throughout time, the ARP is set out to accomplish the following objectives

1. **Ensure development** and redevelopment of properties **is sensitive to the existing neighbourhood character, and pattern of development created by street design**, lot sizes and distribution, mix of uses and general density of development;
2. **Maintain** Waskasoo’s extensive parks and **open spaces**.
3. **Preserve and maintain environmental features**.
4. **Maintain and enhance trail and pedestrian connections**.
5. **Encourage the enhancement and maintenance of all properties**.

The Waskasoo Character statements are part of the Waskasoo ARP. They were incorporated into and now also form part of the Red Deer *Land Use Bylaws* (“LUB”)

Section 12.150 of the *Land Use Bylaw* states that:

- 12.150.1.1 The areas of Waskasoo and Woodlea have applicable Character Statements that define the character of the area and outline regulations establishing design parameters to which a proposal for redevelopment in the area must adhere.
- 12.150.1.2 The Development Authority will use Character Statements in conjunction with the Zoning Bylaw **to evaluate if an application maintains the character of the affected area**.
- 12.150.1.3 **Where the requirements in the Zoning Bylaw conflict with the Character Statements, the Character Statements prevail.**

Waskasoo is divided into four distinct character areas. The ELP Lot is in the Waskasoo **Environmental Character Area** (“ECA”).

The Environmental Character Area is comprised of only the Kerry Wood Nature Centre, Gaetz Lakes Sanctuary and the ELP Lot.

Recommended Design Elements of the Environmental Character Area (s. 5.6 ECA) include:

1. A **conservation** development pattern which clusters the 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.
2. **Mature street character, scenic Vistas viewable from the road,** and existing natural features of the area **shall be** maintained.
....
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.**
10. Shared driveways are encouraged...
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.
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.

In addition to the Recommended Design Elements, the Waskasoo Character Statements include items listed under the headings "Common Form and Scale of Buildings" and "Other Common Elements". How these are to be applied is set out at page 4 of the Waskasoo Character Area Statements which says:

The Context and History, **Common Forms and Scale of Buildings**, Common Building Materials **and Other Common Elements** sections within each Character Statement **identify various aspects that add to the distinct character and should be considered when evaluating whether a proposed development complements or maintains the character of the area.**

Common Forms and Scale of Buildings in the Environmental Character Area are described (at s.5.3 ECA) as:

- Natural features including native vegetation, mature trees, **and a minimal Building coverage**
- **Buildings are typically 1 storey with flat roof construction**

Other Common Elements of the Environmental Character Area are described (at s.5.5 ECA) as:

- **Rural character** with native, naturalized landscapes, rural road cross sections, **a lack of fencing**; and
- **A wide open sense of space that is not common in other areas of the City**

The *Municipal Government Act* s.687 (3)(a) provides that the SDAB in hearing a development appeal:

- a.2 **Must** ... comply with any **applicable Statutory Plans**
[Area Restructure Plans are Statutory Plans (MGA s.616(dd))].
- d **May** make a decision... or issue 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 land or building in the land use bylaw.

I have read and agree with the letters and written submissions sent by the following, opposing the siting, size, height and repercussions of the proposed development.

- a. The Waskasoo Community Association (the "WCA submissions") (pg 58)
- b. The Waskasoo Environmental Education Society (pg 267)
- c. The Gaetz Lake Sanctuary Committee (pg 39)
- d. The Red Deer River Watershed Alliance (pg 113)
- e. Ron Bjorge, Certified Wildlife Biologist and former Director of Wildlife for the Government of Alberta
- f. Chris Olsen, retired biologist and former instructor for the Department of Environmental Sciences, Lakeland College.
(collectively the "Local Environment Expert Letters")

The proposed development does **not** complement or maintain the distinct character of the Environmental Character Area. It is incompatible.

The unique, special and irreplaceable nature of the area where the parcel in issue is situated, cannot be overstated.

This parcel is designated as *open space – major* by the City of Red Deer Municipal Development Plan.

The lot in issue is next to the Red Deer River, separated from it only by 45th Avenue and a narrow municipal reserve and road allowance which also houses the paved multi-use path of the Waskasoo Trail system. 45th Avenue from 59th street northward has been deliberately and carefully maintained as a “rural character” road. This road serves as a gateway and sole access to the Kerry Wood Nature Centre, Gaetz Lake Sanctuary and the McKenzie Trails Park. The riparian strip along the river at this spot is very narrow, steep and unstable – already too narrow a corridor for protection of the river, the riverbank, wildlife movement, wildlife habitat and the requisite ecosystems.

This location’s natural, open space provides an exceptional view - encompassing the Red Deer River and the trees along its West bank as well as the natural forested area on the escarpment east of Gateway school and above the Gaetz Lake Sanctuary. This view can be seen by trail users and visitors to the Kerry Wood / Gaetz Lake Sanctuary. It can also be seen by users of 59th street and homes on 59th Street, and south of this on 44th Avenue.

What is unique and special about this location is open naturalized lands proximate to the river. The birds and wildlife that are commonly seen and heard here and that this environment sustains are integral to this. Together, these create a peaceful natural oasis in the heart of the City. If inappropriate development is allowed that destroys it, this it will be irreplaceable. The large number of pedestrians, cyclists, runners, dog-walkers and scooters that regularly use the trails immediately adjacent to the proposed development attest to the importance of protecting this view and experience not only for Waskasoo residents but for the entire city.

ARP Interpretation

1. When interpreting the Waskasoo Area Restructure Plan (“ARP”) and Environmental Character Area Statements (“ECA Statements”), please recognize that:
 - a. The Waskasoo ARP (at pg 8) contains a page that sets out its Vision, Plan Objectives, Recommendations (including matters titled “Identify”, “Land Use” and “Implementation”.
 - b. The Environmental Character Area Statements include:
 - i. s. 5.3 titled “Common Forms and Scale of Buildings” and listed items

- ii. s. 5.5 titled “Other Common Elements” with listed items
 - iii. s.5.6 titled Recommended Design Elements” under which are 17 numbered statements.
- 2. Assessing compliance with the ARP and ECA statements, must not be approached as simply tallying how many of the 17 Recommended design elements the development would meet. Not all Character Statements carry the same weight.
- 3. The ARP s.1.4 states that wording of character statements are intentional: (a) character statements that contain “shall” **must** be followed; (b) “should” statements mean **compliance is required** but the Development Authority has **some** discretion based on the circumstances of the case; and (c) “may” indicates the Development Authority determines the level of compliance required.
- 4. The Appellant’s Memorandum of Law (“Legal Memo”)
 - a. (pg 3) Referring to the pg 8 of the ARP which relying on a statement under the heading “Identity – Maintain Character”, argues that the development need not adhere strictly to the applicable Character Statement; it suffices the new development isn’t “contrary to their spirit and intent”.
 - b. (pg 5) discussing ECA Statement.5.6 titled “Recommended Design Elements” comments that these are stated to be “recommended not mandatory”

I disagree. The conclusion on page 3 suggests a meaning of “reflect” that is strained. And (b) in both cases, this would be contrary to the principle of interpretation that the specific (the wording of the actual character statement) over-rides the general (the heading or statement that applies to the ARP in generally). How closely the development must adhere to the character statement (and how much discretion you have in the weight you give to it) depends on how the character statement is worded – does it say “shall”, “must” or “may”?
- 5. The Development Officer’s reports and Appellant’s Legal Memo both make no mention of the ECA Statement s.5.3 (Common Form and Scale of Building) and s.5.6 (Other Common Elements) although the ARP says that these “add to the distinct character and should be considered when evaluating whether a proposed development complements or maintains the character of the area. These also need to therefore be considered – not just the 17 Recommended Design Elements.

ARP Analysis

1. The development should not be located at the south west corner of the lot next to the already too-narrow riparian strip, but rather, oriented north-south, along the east side of the property.

ECA s.5.6 titled “Recommended Design Elements” lists (at #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...**”

Note: The issue is simply how much but where it is located, and whether that meets a function, namely **an amenity to the site users including wildlife.**

This is also underscored by ARP objectives, such as:

*Objective #2 - **Maintain** Waskasoo’s extensive parks and **open spaces.***

The Appellant’s Memorandum of Law (“Legal Memo”) argues that the development would not “remove any park or public open space”. This conflates the terms “remove” (take away) and “maintain” (conserve or enable to continue). Secondly, this incorrectly adds a qualifier (“public”) to the term open space. That is not what Objective #2 says.

The ELP lot, although privately owned is part of and subject to the ECA Statements. East Lincoln purchased this lot knowing this.

Objective #3 – Preserve **and maintain environmental, historical and cultural features.**

The Appellant’s Law Memo says the ELP Lot contains no environmental features that might be threatened by the development. The Local Environmental Expert Letter identify important environmental features.

Objective #5 – Encourage the enhancement and maintenance of **all properties**

The proposed development would have serious adverse impacts on property fundamental to what defines Waskasoo (and Red Deer). See the letters from Waskasoo Environmental Education Society and WCA submissions that describe the impact on the Gaetz Lake Sanctuary, river, trails and riparian area.

2. The size of the development fails to maintain the character of the Environmental Character Area.

Section 5.3 of the Environmental Character Area Statements identifying common forms and scale of buildings for the Environmental Character Area, identify a **minimal building coverage** and **“buildings are typically 1-storey”** and common elements s.5.5 include **“rural character”** and **“a wide open sense of space that is not common in other areas of the City”** The Waskasoo ARP and its Character Statements (pg 4) identify that these “should be considered when evaluating whether a proposed development complements or maintains the character of the area”.

The Appellant’s Legal Memo (at pg 9) in its analysis of ECA s.5.6 Recommended Design Elements #15 says “It should be noted that the nearest building in the Environmental Character Area is the Gateway Christian School whose roofline stands at 10.25 meters above grade. The proposed building will stand at 11.665 meters above grade. Given that the height and footprint area of the School Building, the proposed building cannot, in any reasonable sense, be accused of any inappropriate or excessive Massing within the Environmental Character Area”.

The problem with Appellant’s argument is that Gateway School is NOT in the Environmental Character Areas.

The only buildings within the Environmental Character Area are the Kerry Wood Nature Centre, the Allen Bungalow, the small maintenance shop at 6316 45 Avenue, and the new preschool learning building that is being built. (See the pictures in the WCA submissions pg 58)

A 3-storey, 82 m long, 58,000 ft² building (the proposed development) is antithetical.

Second, the comparison flawed because the s.5.3 of the ECA describing common form of building in the Environmental Character Area talks about “stories” (not height). Comparing the development to Gateway School does not consider that a school that operates for the most part only during the daytime hours will have far different repercussions than what is in essence, a 3 storey 48-unit residential apartment occupied by “active independent” residents. Please see the letter from the Waskasoo Environmental Education Society and its discussion of the risk that such intensive use pose (or example the barriers and hazards to nocturnal movement that lighting causes. Dark sky lighting is not enough to mitigate this)

I also disagree with the reasoning in the Appellant's Legal Memo suggesting that the proposed development satisfies Objective #1 by comparing it to the maximum density permitted for an R1 zone. The Environmental Character Area (which the ELP Lot is part of) speaks of "minimal building coverage", "typically one-storey" "a wide open sense of space that is not common in other areas of the City". It isn't supposed to duplicate and shouldn't be defined by densities of other far different, character areas in Waskasoo. This is general objective (applicable to all Waskasoo Character Areas) should not be used to justify development in the Environmental Character Area incongruent with the more specific applicable ECA statements.

3. The Environmental Character Area Statement s.5.6 titled "Recommended Design Elements" states at #2 that "... **scenic Vistas viewable from the road ...SHALL be maintained.**

"Shall" identifies this as being mandatory.

The Character Statements (at pg 27) defines "Vista" to "mean a scenic or panoramic view."

The proposed development would NOT maintain the scenic vistas viewable from 59th Street. See the discussion of the relevant facts (including pictures) and analysis in the WCA submissions (pg 6-10). I agree with them. The proposed 3-storey building would extend for a continuous built form of 81.5 meters (265 feet). It would be set back 7.5 meters from the south property line, which when including the city boulevard and sidewalk would put it about 14.5 meters from the road. As the viewshed analysis in the WCA submissions demonstrates, the building will obscure the Scenic Vista from 59th Street.

The Appellant's Legal Memo (pg 6 and 7) argues that the Vista that ECA s.5.6 protects is not this view. I disagree. In response to his arguments:

- (a) Re the illustration (labelled "Vista") reproduced in the Appellant's brief (pg 6):
The illustration may provide an example, but it doesn't define this term. The text does.
- (b) The Appellant argues (at pg 6) that the view from 59th Street is "restricted by framing of mature tree growth along the boundary of ELP site". The trees along the ELP Lot are deciduous, so lose their leaves in the fall. Further, when they are leafed out, the canopy is above eye level from the road so it does not block the view, and there are wide spaces between the trees.
- (c) The appellant argues (at pg 7) that ECA s.5.6 #2 says Vistas from the Road must be maintained, but does not say "Vistas *through* the Lot" and that because the

ARP contemplates that development on the ELP Lot will occur, this creates a legal absurdity because you could not have development yet also maintain the WCA submission's interpretation of "Vista". I disagree. The ECA statements (at .5.3) identify the common form and scale of building in the ECA to be "a minimal Building Coverage" and "typically one storey" and other common elements are "a wide open sense of space that is not common in other areas of the City". This lot is 1.6 hectares. One of the listed PS uses is a campground. Also, one can also readily envision a development that could be used for a listed discretionary PS uses (including supportive living) that need not be as tall as the proposed development, isn't built as a large continuous "wall" and was sited far back from 59th Street and 45th Ave. For example, see pictures of the current buildings in the ECA (pg 55 WCA submissions). There is still a panoramic view that can be seen behind and around these modest-sized buildings. One doesn't have to have a "perfect" view to maintain a panoramic view.

- (d) The Appellant argues views aren't protected. However, I would distinguish that in this case the Appellant purchased land that was subject to an ARP and Environmental Character Statements that address it.

4. The wording of Environmental Character Area s.5.6 titled "Recommended Design Elements" #15 is cumbersome as it contains many phrases that are separated by "or" that must be teased out. I have highlighted what is relevant:

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.

In other words: New development should not adversely affect the character of the streetscape, as a result of being:

- (i) sited too close to the road...
- (ii) inappropriate or excessive Massing, form or height causing [something other than a negative impact on abutting properties from shadowing, them, privacy or overlook or causing loss of landscape features, so factors other than the aforementioned] which may have a negative effect on the streetscape...

5. Related to this, ECA s.5.6 titled "Recommended Design Elements" states at #2 that "... **mature street character ...SHALL be maintained.**

This is mandatory ("shall").

I agree with the WCA analysis and conclusion that the development does not satisfy ECA s.5.6 Recommended Design Element #2 nor #15. See WCA submissions page 10 – 13 and 15 – 16.

The Appellant's discussion of "streetscape" ignores the residences across from the development on the South side of the street. The development will dwarf these homes. It's height, size and orientation - A 3-storey (12 m) building, with an uninterrupted built length of 81.5 metres extending along 59th Street is excessive massing, form and height for this street context. Compounding this is that it is set back only about 14.5 m from the curb (this includes the 7 meters of the boulevard and sidewalk.)

The character statements applicable to residences across from the ELP Lot reflect a mature neighbourhood whose character statements evidence the care taken to preserve its mature character (ex. avoiding front facing garages, rooflines and elements that create interesting, inviting front facades). A large modern "boxy" apartment will be dissonant with this.

The only building on the North side of the street is Gateway School. It is set back about 30 m from the curb. While the Appellant argues that this is consistent with high-density apartment set back requirements, it is not consistent with this streetscape.

6. The development would add a road that would access the parking lot and front entrance. It would cross the South Bank trail. This trail is heavily used (by walkers, runners, dog-walkers, cyclists, scooters). There are already two crossings that trail users must navigate in the one-block north of 59th street on 45th Avenue: (a) the cross-walk just north of 59th street where trail users coming from the South bank trail through Gaetz Park join the trail North beside the ELP Lot; and (b) the road which crosses the trail while is used to access the staff parking lot for Gateway, and the parking for the Parkland Class East lot and the handicap accessible playground and ball diamonds.

This is contrary to Objective #2 – **Maintain and enhance trail and pedestrian connections**

See the Waskasoo Environmental Education Letter that describes the added risk this also poses to wildlife.

7. Fencing: The location, style and amount of fencing may be counter to the ECA Statement s. 5.6 (Recommended Design Element) #16 which requires

consideration for movement of wildlife and prevention of opportunities for wildlife entrapment. The proponents advised MPC that fencing would be modified and reviewed by City Admin to address this. However, without particulars, there is no way to know if what is proposed will achieve what the ARP requires. Local environmental experts should also have input when specifics are identified.

Land Use Bylaw / Zoning

8 Traffic has been a long-standing problem in Waskasoo.

Where supportive living accommodation is listed as a discretionary use, the development officer is encouraged to consider factors such as: (a) **proximity to other uses that impact traffic and parking**; (b) **location ... in the neighbourhood**. (LUB s.4.270)

(a) I am concerned about the increased traffic the proposed development will create.

See the Waskasoo Community Association (“WCA”) submissions (at pg 40-45) which provide an excellent description of the traffic, parking and attendant safety issues that already exist here and why this is the ELP Lot is the wrong location for the proposed development.

The Appellant’s Legal Memo (at pg 10) argues that *“traffic generation and street parking needs associated with the proposed development are far less impactful than those associated with the neighbouring school site”*. Arguing you are “less bad” begs the question. It does not justify approving a development that will compound.

(b) I am also very concerned that Insufficient on-site parking will compound traffic problems on 45th Avenue.

i) 45th Avenue is only 10.7 meters wide. Trying to maneuver past oncoming vehicles when there are vehicles parked on both sides of the street is tight. And depending on the size of the parked and approaching vehicles and how tight to the curb the vehicles are parked, it can be impossible.

ii) Parking is not feasible on 59th Street and on 45th Avenue north of 59th Ave as described in the WCA submissions Tenants and visitors to the development will use 45th Avenue south of 59th Street for parking if there isn’t enough parking on-site

iii) Some of the proponent’s materials refer to 59 parking stalls. However, the plans show only 52 parking stalls. If each of the 48 units gets one parking stall, this leaves only 4 parking stalls for staff, visitors, deliveries or tenant couples who may have

more than one vehicle. The LUB would require an apartment this size to have a minimum of 68 parking stalls. In function, this is an apartment.

- iv) Additional parking may be a solution. However, I am hopeful that this issue will be avoided by not permitting a development of this size at the proposed location

- 8. Where supportive living is a discretionary use, the LUB also says the development officer is encouraged to consider location in the neighbourhood.

I agree with the WCA submissions which address this under the headings: Specific Use Regulations (pg 24 – 26). See also the WCA discussions under the headings: the Municipal Government Plan and Environmental Issues (pg 26-33) It is clear from these that this is an unsuitable location for this development.

- 9. The Respondent (Admin)’s report (para 30) states that the development “met or exceeded all “measurable standards” ...”. As discussed, most of the listed matters are at the discretion of the SDAB.

Re the Developed Area Regulations [LUB s.390.4 – 3.190.7]: Developed Area Regulations pertaining to height, requirements to protect overlook / privacy of neighbouring homes, **don’t apply** because there is no neighbouring home. LUB s.3.190.4.1.1 regarding conformity of front-yard set-backs in the Immediate Road Context, would apply if the proposed development front faced the Immediate Road Context. It doesn’t: it is oriented so that its back is to 59th street.

- 10. I also agree with the WCA analysis of the how this development will impact neighbourhood value, use and enjoyment, as well as neighbourhood amenities (pg 36 – 46)

Zoning

- 11. The proponents have not addressed whether the proposed development is “public or quasi-public in nature” (LUB 9.40.1) The LUB does not include a definition for these terms. I note:
 - a. The applicant is a **private for-profit corporation**;
 - b. East Lincoln’s presentation at MPC indicated it would market the units to “seniors” (55 plus?) who are “**independent**” and “**active.**” Notably absent is that tenants must **actually require** in-Site services to assist them to live independently
 - c. There is no evidence of any “nexus” to government - for example by legislation, regulation or oversight of care tenants will receive

- d. Explanations of why this is “supportive living” (rather than just an apartment marketed to age 55+ tenants) seems to rely on the building having: (i) a room a hairdresser and (ii) a room that could be used by Home Care. Why this would be needed is unclear given that Homecare routinely sees its clients who live in apartments in their units.
- e. The application refers to “other services” being **optional**. Further, if provided, these services would be provided by 3rd parties. “Optional” services may never be required, and the operator is under no obligation to provide them. Also, if tenants would be the parties contracting with the 3rd parties to supply services such as meals, housekeeping services, personal care, medical care or transportation.

Note: The Respondent (City Admin)’s report to the SDAB (at para 23) describes the purpose of PS as being to provide for “Institutional and community serving uses”. That is not the term used in LUB s.9.40.1

Conclusion:

I appreciate that the SDAB cannot consider speculation about if further development is likely to be sought for this parcel. At the same time, I urge you to be mindful of the precedent you are setting for future development in the Environmental Character Area, if you “gut” fundamental characteristic by permitting this application.

The Appellant speaks of his client being “able to develop to PS level use”. But there are several listed PS uses. More importantly whatever the PS use, there are a range of scales and what is proposed must be of a size and location on the lot that will maintain the character of the Environmental Character Areas.

I ask that the SDAB deny this appeal. I urge you to NOT allow the proposed development.

To: Subdivision and Appeal Board
Appeals@reddeer.ca

Re: East Lincoln Properties Corporation appeal of MPC refusal of development permit for Discretionary Use described as 48-Unit Supportive Living Accommodation at 4240 – 59th Street
SDAB #0262 006 2025

My contact information:

[REDACTED]
[REDACTED]
[REDACTED]

I **oppose** East Lincoln's development application.

I am a homeowner in Waskasoo, [REDACTED] 4240 – 59th Street (the "ELP Lot"). I have lived here for over 15 years. Our [REDACTED] of the ELP Lot on 45th Avenue.

The ELP Lot is zoned PS: Public Service (Institutional or Government).

- Section 9.40.1 of the City of Red Deer Land Use Bylaw ("LUB") states: **This Zone provides land for uses that are public and quasi-public in nature".**
- "Supportive Living Accommodation" is a **discretionary use**.
- For Public Service zoned lands ("PS"), the following are all left to the discretion of the development authority: front yard setbacks, side yard setbacks, the site plan, the relationship between Buildings, structures and Open Space, architectural treatment of Buildings and Parking layout. (LUB s.9.40.4 and s.9.40.5)
- Required parking spaces for Supportive Living Accommodation is 0.4 parking spaces per unit. Since the proposed development is 48 units and characterized as "supportive living" it's only required to have 19 parking stalls. In contrast, the required parking spaces for an "apartment" is: (a) 1 per studio or 1 bedroom unit; (b) 1.5 per 2 bedroom unit and (c) 1.0 space for every 5 units, which must be clearly identified as guest parking. (LUB s.3.240). A building of this size would have to have 68 parking stalls.

Section 4.270. of the LUB states:

- 4.270.3 In a Zone where a Supportive Living Accommodation is listed as a Discretionary Use, the Development Officer may consider factors such as:
- 4.270.3.1 proximity to other uses that impact traffic and Parking;
 - 4.270.3.2 location on the block and in the neighbourhood; and

4.270.3.3 The Road classification

["may" is defined as "encouraged" by s.1.40.3.2 of the LUB]

The Waskasoo Area Restructure Plan (ARP) was passed by Council in 2016. The applicant, East Lincoln Properties Corporation, purchased the ELP lot in 2020.

The Waskasoo ARP Objectives and the purpose of these objectives are set out at pg 6 of the ARP:

"These objectives are established to achieve the community vision by forming the basis for the policies contained within. As Waskasoo redevelops and evolves throughout time, the ARP is set out to accomplish the following objectives

1. **Ensure development** and redevelopment of properties **is sensitive to the existing neighbourhood character, and pattern of development created by street design**, lot sizes and distribution, mix of uses and general density of development;
2. **Maintain** Waskasoo's extensive parks and **open spaces**.
3. **Preserve and maintain environmental features**.
4. **Maintain and enhance trail and pedestrian connections**.
5. **Encourage the enhancement and maintenance of all properties**.

The Waskasoo Character statements are part of the Waskasoo ARP. They were incorporated into and now also form part of the Red Deer *Land Use Bylaws* ("LUB")

Section 12.150 of the *Land Use Bylaw* states that:

- 12.150.1.1 The areas of Waskasoo and Woodlea have applicable Character Statements that define the character of the area and outline regulations establishing design parameters to which a proposal for redevelopment in the area must adhere.
- 12.150.1.2 The Development Authority will use Character Statements in conjunction with the Zoning Bylaw **to evaluate if an application maintains the character of the affected area**.
- 12.150.1.3 **Where the requirements in the Zoning Bylaw conflict with the Character Statements, the Character Statements prevail.**

Waskasoo is divided into four distinct character areas. The ELP Lot is in the Waskasoo **Environmental Character Area** ("ECA").

The Environmental Character Area is comprised of only the Kerry Wood Nature Centre, Gaetz Lakes Sanctuary and the ELP Lot.

Recommended Design Elements of the Environmental Character Area (s. 5.6 ECA) include:

1. A **conservation** development pattern which clusters the 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.
2. **Mature street character, scenic Vistas viewable from the road,** and existing natural features of the area **shall be** maintained.
....
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.**
10. Shared driveways are encouraged...
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.
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.

In addition to the Recommended Design Elements, the Waskasoo Character Statements include items listed under the headings "Common Form and Scale of Buildings" and "Other Common Elements". How these are to be applied is set out at page 4 of the Waskasoo Character Area Statements which says:

The Context and History, **Common Forms and Scale of Buildings**, Common Building Materials **and Other Common Elements** sections within each Character Statement **identify various aspects that add to the distinct character and should be considered when evaluating whether a proposed development complements or maintains the character of the area.**

Common Forms and Scale of Buildings in the Environmental Character Area are described (at s.5.3 ECA) as:

- Natural features including native vegetation, mature trees, **and a minimal Building coverage**
- **Buildings are typically 1 storey with flat roof construction**

Other Common Elements of the Environmental Character Area are described (at s.5.5 ECA) as:

- **Rural character** with native, naturalized landscapes, rural road cross sections, **a lack of fencing**; and
- **A wide open sense of space that is not common in other areas of the City**

The *Municipal Government Act* s.687 (3)(a) provides that the SDAB in hearing a development appeal:

- a.2 **Must** ... comply with any **applicable Statutory Plans**
[Area Restructure Plans are Statutory Plans (MGA s.616(dd))].
- d **May** make a decision... or issue 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 land or building in the land use bylaw.

I have read and agree with the letters and written submissions sent by the following, opposing the siting, size, height and repercussions of the proposed development.

- a. The Waskasoo Community Association (the “WCA submissions”) (pg 58)
- b. The Waskasoo Environmental Education Society (pg 267)
- c. The Gaetz Lake Sanctuary Committee (pg 39)
- d. The Red Deer River Watershed Alliance (pg 113)
- e. Ron Bjorge, Certified Wildlife Biologist and former Director of Wildlife for the Government of Alberta
- f. Chris Olsen, retired biologist and former instructor for the Department of Environmental Sciences, Lakeland College.
(collectively the “Local Environment Expert Letters”)

The proposed development does **not** complement or maintain the distinct character of the Environmental Character Area. It is incompatible.

The unique, special and irreplaceable nature of the area where the parcel in issue is situated, cannot be overstated.

This parcel is designated as *open space – major* by the City of Red Deer Municipal Development Plan.

The lot in issue is next to the Red Deer River, separated from it only by 45th Avenue and a narrow municipal reserve and road allowance which also houses the paved multi-use path of the Waskasoo Trail system. 45th Avenue from 59th street northward has been deliberately and carefully maintained as a “rural character” road. This road serves as a gateway and sole access to the Kerry Wood Nature Centre, Gaetz Lake Sanctuary and the McKenzie Trails Park. The riparian strip along the river at this spot is very narrow, steep and unstable – already too narrow a corridor for protection of the river, the riverbank, wildlife movement, wildlife habitat and the requisite ecosystems.

This location’s natural, open space provides an exceptional view - encompassing the Red Deer River and the trees along its West bank as well as the natural forested area on the escarpment east of Gateway school and above the Gaetz Lake Sanctuary. This view can be seen by trail users and visitors to the Kerry Wood / Gaetz Lake Sanctuary. It can also be seen by users of 59th street and homes on 59th Street, and south of this on 44th Avenue.

What is unique and special about this location is open naturalized lands proximate to the river. The birds and wildlife that are commonly seen and heard here and that this environment sustains are integral to this. Together, these create a peaceful natural oasis in the heart of the City. If inappropriate development is allowed that destroys it, this it will be irreplaceable. The large number of pedestrians, cyclists, runners, dog-walkers and scooters that regularly use the trails immediately adjacent to the proposed development attest to the importance of protecting this view and experience not only for Waskasoo residents but for the entire city.

ARP Interpretation

1. When interpreting the Waskasoo Area Restructure Plan (“ARP”) and Environmental Character Area Statements (“ECA Statements”), please recognize that:
 - a. The Waskasoo ARP (at pg 8) contains a page that sets out its Vision, Plan Objectives, Recommendations (including matters titled “Identify”, “Land Use” and “Implementation”.
 - b. The Environmental Character Area Statements include:
 - i. s. 5.3 titled “Common Forms and Scale of Buildings” and listed items

- ii. s. 5.5 titled “Other Common Elements” with listed items
 - iii. s.5.6 titled Recommended Design Elements” under which are 17 numbered statements.
- 2. Assessing compliance with the ARP and ECA statements, must not be approached as simply tallying how many of the 17 Recommended design elements the development would meet. Not all Character Statements carry the same weight.
- 3. The ARP s.1.4 states that wording of character statements are intentional: (a) character statements that contain “shall” **must** be followed; (b) “should” statements mean **compliance is required** but the Development Authority has **some** discretion based on the circumstances of the case; and (c) “may” indicates the Development Authority determines the level of compliance required.
- 4. The Appellant’s Memorandum of Law (“Legal Memo”)
 - a. (pg 3) Referring to the pg 8 of the ARP which relying on a statement under the heading “Identity – Maintain Character”, argues that the development need not adhere strictly to the applicable Character Statement; it suffices the new development isn’t “contrary to their spirit and intent”.
 - b. (pg 5) discussing ECA Statement.5.6 titled “Recommended Design Elements” comments that these are stated to be “recommended not mandatory”

I disagree. The conclusion on page 3 suggests a meaning of “reflect” that is strained. And (b) in both cases, this would be contrary to the principle of interpretation that the specific (the wording of the actual character statement) over-rides the general (the heading or statement that applies to the ARP in generally). How closely the development must adhere to the character statement (and how much discretion you have in the weight you give to it) depends on how the character statement is worded – does it say “shall”, “must” or “may”?
- 5. The Development Officer’s reports and Appellant’s Legal Memo both make no mention of the ECA Statement s.5.3 (Common Form and Scale of Building) and s.5.6 (Other Common Elements) although the ARP says that these “add to the distinct character and should be considered when evaluating whether a proposed development complements or maintains the character of the area. These also need to therefore be considered – not just the 17 Recommended Design Elements.

ARP Analysis

1. The development should not be located at the south west corner of the lot next to the already too-narrow riparian strip, but rather, oriented north-south, along the east side of the property.

ECA s.5.6 titled “Recommended Design Elements” lists (at #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...**”

Note: The issue is simply how much but where it is located, and whether that meets a function, namely **an amenity to the site users including wildlife**.

This is also underscored by ARP objectives, such as:

*Objective #2 - **Maintain** Waskasoo’s extensive parks and **open spaces**.*

The Appellant’s Memorandum of Law (“Legal Memo”) argues that the development would not “remove any park or public open space”. This conflates the terms “remove” (take away) and “maintain” (conserve or enable to continue). Secondly, this incorrectly adds a qualifier (“public”) to the term open space. That is not what Objective #2 says.

The ELP lot, although privately owned is part of and subject to the ECA Statements. East Lincoln purchased this lot knowing this.

*Objective #3 – Preserve **and maintain environmental, historical and cultural features**.*

The Appellant’s Law Memo says the ELP Lot contains no environmental features that might be threatened by the development. The Local Environmental Expert Letter identify important environmental features.

*Objective #5 – Encourage the enhancement and maintenance of **all properties***

The proposed development would have serious adverse impacts on property fundamental to what defines Waskasoo (and Red Deer). See the letters from Waskasoo Environmental Education Society and WCA submissions that describe the impact on the Gaetz Lake Sanctuary, river, trails and riparian area.

2. The size of the development fails to maintain the character of the Environmental Character Area.

Section 5.3 of the Environmental Character Area Statements identifying common forms and scale of buildings for the Environmental Character Area, identify a **minimal building coverage** and **“buildings are typically 1-storey”** and common elements s.5.5 include **“rural character”** and **“a wide open sense of space that is not common in other areas of the City”** The Waskasoo ARP and its Character Statements (pg 4) identify that these “should be considered when evaluating whether a proposed development complements or maintains the character of the area”.

The Appellant’s Legal Memo (at pg 9) in its analysis of ECA s.5.6 Recommended Design Elements #15 says “It should be noted that the nearest building in the Environmental Character Area is the Gateway Christian School whose roofline stands at 10.25 meters above grade. The proposed building will stand at 11.665 meters above grade. Given that the height and footprint area of the School Building, the proposed building cannot, in any reasonable sense, be accused of any inappropriate or excessive Massing within the Environmental Character Area”.

The problem with Appellant’s argument is that Gateway School is NOT in the Environmental Character Areas.

The only buildings within the Environmental Character Area are the Kerry Wood Nature Centre, the Allen Bungalow, the small maintenance shop at 6316 45 Avenue, and the new preschool learning building that is being built. (See the pictures in the WCA submissions pg 58)

A 3-storey, 82 m long, 58,000 ft² building (the proposed development) is antithetical.

Second, the comparison flawed because the s.5.3 of the ECA describing common form of building in the Environmental Character Area talks about “stories” (not height). Comparing the development to Gateway School does not consider that a school that operates for the most part only during the daytime hours will have far different repercussions than what is in essence, a 3 storey 48-unit residential apartment occupied by “active independent” residents. Please see the letter from the Waskasoo Environmental Education Society and its discussion of the risk that such intensive use pose (or example the barriers and hazards to nocturnal movement that lighting causes. Dark sky lighting is not enough to mitigate this)

I also disagree with the reasoning in the Appellant's Legal Memo suggesting that the proposed development satisfies Objective #1 by comparing it to the maximum density permitted for an R1 zone. The Environmental Character Area (which the ELP Lot is part of) speaks of "minimal building coverage", "typically one-storey" "a wide open sense of space that is not common in other areas of the City". It isn't supposed to duplicate and shouldn't be defined by densities of other far different, character areas in Waskasoo. This is general objective (applicable to all Waskasoo Character Areas) should not be used to justify development in the Environmental Character Area incongruent with the more specific applicable ECA statements.

3. The Environmental Character Area Statement s.5.6 titled "Recommended Design Elements" states at #2 that "... **scenic Vistas viewable from the road ...SHALL be maintained.**

"Shall" identifies this as being mandatory.

The Character Statements (at pg 27) defines "Vista" to "mean a scenic or panoramic view."

The proposed development would NOT maintain the scenic vistas viewable from 59th Street. See the discussion of the relevant facts (including pictures) and analysis in the WCA submissions (pg 6-10). I agree with them. The proposed 3-storey building would extend for a continuous built form of 81.5 meters (265 feet). It would be set back 7.5 meters from the south property line, which when including the city boulevard and sidewalk would put it about 14.5 meters from the road. As the viewshed analysis in the WCA submissions demonstrates, the building will obscure the Scenic Vista from 59th Street.

The Appellant's Legal Memo (pg 6 and 7) argues that the Vista that ECA s.5.6 protects is not this view. I disagree. In response to his arguments:

- (a) Re the illustration (labelled "Vista") reproduced in the Appellant's brief (pg 6):
The illustration may provide an example, but it doesn't define this term. The text does.
- (b) The Appellant argues (at pg 6) that the view from 59th Street is "restricted by framing of mature tree growth along the boundary of ELP site". The trees along the ELP Lot are deciduous, so lose their leaves in the fall. Further, when they are leafed out, the canopy is above eye level from the road so it does not block the view, and there are wide spaces between the trees.
- (c) The appellant argues (at pg 7) that ECA s.5.6 #2 says Vistas from the Road must be maintained, but does not say "Vistas *through* the Lot" and that because the

ARP contemplates that development on the ELP Lot will occur, this creates a legal absurdity because you could not have development yet also maintain the WCA submission's interpretation of "Vista". I disagree. The ECA statements (at .5.3) identify the common form and scale of building in the ECA to be "a minimal Building Coverage" and "typically one storey" and other common elements are "a wide open sense of space that is not common in other areas of the City". This lot is 1.6 hectares. One of the listed PS uses is a campground. Also, one can also readily envision a development that could be used for a listed discretionary PS uses (including supportive living) that need not be as tall as the proposed development, isn't built as a large continuous "wall" and was sited far back from 59th Street and 45th Ave. For example, see pictures of the current buildings in the ECA (pg 55 WCA submissions). There is still a panoramic view that can be seen behind and around these modest-sized buildings. One doesn't have to have a "perfect" view to maintain a panoramic view.

- (d) The Appellant argues views aren't protected. However, I would distinguish that in this case the Appellant purchased land that was subject to an ARP and Environmental Character Statements that address it.

4. The wording of Environmental Character Area s.5.6 titled "Recommended Design Elements" #15 is cumbersome as it contains many phrases that are separated by "or" that must be teased out. I have highlighted what is relevant:

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.

In other words: New development should not adversely affect the character of the streetscape, as a result of being:

- (i) sited too close to the road...
- (ii) inappropriate or excessive Massing, form or height causing [something other than a negative impact on abutting properties from shadowing, them, privacy or overlook or causing loss of landscape features, so factors other than the aforementioned] which may have a negative effect on the streetscape...

5. Related to this, ECA s.5.6 titled "Recommended Design Elements" states at #2 that "... **mature street character ...SHALL be maintained.**

This is mandatory ("shall").

I agree with the WCA analysis and conclusion that the development does not satisfy ECA s.5.6 Recommended Design Element #2 nor #15. See WCA submissions page 10 – 13 and 15 – 16.

The Appellant's discussion of "streetscape" ignores the residences across from the development on the South side of the street. The development will dwarf these homes. It's height, size and orientation - A 3-storey (12 m) building, with an uninterrupted built length of 81.5 metres extending along 59th Street is excessive massing, form and height for this street context. Compounding this is that it is set back only about 14.5 m from the curb (this includes the 7 meters of the boulevard and sidewalk.)

The character statements applicable to residences across from the ELP Lot reflect a mature neighbourhood whose character statements evidence the care taken to preserve its mature character (ex. avoiding front facing garages, rooflines and elements that create interesting, inviting front facades). A large modern "boxy" apartment will be dissonant with this.

The only building on the North side of the street is Gateway School. It is set back about 30 m from the curb. While the Appellant argues that this is consistent with high-density apartment set back requirements, it is not consistent with this streetscape.

6. The development would add a road that would access the parking lot and front entrance. It would cross the South Bank trail. This trail is heavily used (by walkers, runners, dog-walkers, cyclists, scooters). There are already two crossings that trail users must navigate in the one-block north of 59th street on 45th Avenue: (a) the cross-walk just north of 59th street where trail users coming from the South bank trail through Gaetz Park join the trail North beside the ELP Lot; and (b) the road which crosses the trail while is used to access the staff parking lot for Gateway, and the parking for the Parkland Class East lot and the handicap accessible playground and ball diamonds.

This is contrary to Objective #2 – **Maintain and enhance trail and pedestrian connections**

See the Waskasoo Environmental Education Letter that describes the added risk this also poses to wildlife.

7. Fencing: The location, style and amount of fencing may be counter to the ECA Statement s. 5.6 (Recommended Design Element) #16 which requires

consideration for movement of wildlife and prevention of opportunities for wildlife entrapment. The proponents advised MPC that fencing would be modified and reviewed by City Admin to address this. However, without particulars, there is no way to know if what is proposed will achieve what the ARP requires. Local environmental experts should also have input when specifics are identified.

Land Use Bylaw / Zoning

8 Traffic has been a long-standing problem in Waskasoo.

Where supportive living accommodation is listed as a discretionary use, the development officer is encouraged to consider factors such as: (a) **proximity to other uses that impact traffic and parking**; (b) **location ... in the neighbourhood**. (LUB s.4.270)

(a) I am concerned about the increased traffic the proposed development will create.

See the Waskasoo Community Association (“WCA”) submissions (at pg 40-45) which provide an excellent description of the traffic, parking and attendant safety issues that already exist here and why this is the ELP Lot is the wrong location for the proposed development.

The Appellant’s Legal Memo (at pg 10) argues that *“traffic generation and street parking needs associated with the proposed development are far less impactful than those associated with the neighbouring school site”*. Arguing you are “less bad” begs the question. It does not justify approving a development that will compound.

(b) I am also very concerned that Insufficient on-site parking will compound traffic problems on 45th Avenue.

i) 45th Avenue is only 10.7 meters wide. Trying to maneuver past oncoming vehicles when there are vehicles parked on both sides of the street is tight. And depending on the size of the parked and approaching vehicles and how tight to the curb the vehicles are parked, it can be impossible.

ii) Parking is not feasible on 59th Street and on 45th Avenue north of 59th Ave as described in the WCA submissions Tenants and visitors to the development will use 45th Avenue south of 59th Street for parking if there isn’t enough parking on-site

iii) Some of the proponent’s materials refer to 59 parking stalls. However, the plans show only 52 parking stalls. If each of the 48 units gets one parking stall, this leaves only 4 parking stalls for staff, visitors, deliveries or tenant couples who may have

more than one vehicle. The LUB would require an apartment this size to have a minimum of 68 parking stalls. In function, this is an apartment.

- iv) Additional parking may be a solution. However, I am hopeful that this issue will be avoided by not permitting a development of this size at the proposed location

- 8. Where supportive living is a discretionary use, the LUB also says the development officer is encouraged to consider location in the neighbourhood.

I agree with the WCA submissions which address this under the headings: Specific Use Regulations (pg 24 – 26). See also the WCA discussions under the headings: the Municipal Government Plan and Environmental Issues (pg 26-33) It is clear from these that this is an unsuitable location for this development.

- 9. The Respondent (Admin)'s report (para 30) states that the development "met or exceeded all "measurable standards ...". As discussed, most of the listed matters are at the discretion of the SDAB.

Re the Developed Area Regulations [LUB s.390.4 – 3.190.7]: Developed Area Regulations pertaining to height, requirements to protect overlook / privacy of neighbouring homes, **don't apply** because there is no neighbouring home. LUB s.3.190.4.1.1 regarding conformity of front-yard set-backs in the Immediate Road Context, would apply if the proposed development front faced the Immediate Road Context. It doesn't: it is oriented so that its back is to 59th street.

- 10. I also agree with the WCA analysis of the how this development will impact neighbourhood value, use and enjoyment, as well as neighbourhood amenities (pg 36 – 46)

Zoning

- 11. The proponents have not addressed whether the proposed development is "public or quasi-public in nature" (LUB 9.40.1) The LUB does not include a definition for these terms. I note:
 - a. The applicant is a **private for-profit corporation**;
 - b. East Lincoln's presentation at MPC indicated it would market the units to "seniors" (55 plus?) who are "**independent**" and "**active.**" Notably absent is that tenants must **actually require** in-Site services to assist them to live independently
 - c. There is no evidence of any "nexus" to government - for example by legislation, regulation or oversight of care tenants will receive

- d. Explanations of why this is “supportive living” (rather than just an apartment marketed to age 55+ tenants) seems to rely on the building having: (i) a room a hairdresser and (ii) a room that could be used by Home Care. Why this would be needed is unclear given that Homecare routinely sees its clients who live in apartments in their units.
- e. The application refers to “other services” being **optional**. Further, if provided, these services would be provided by 3rd parties. “Optional” services may never be required, and the operator is under no obligation to provide them. Also, if tenants would be the parties contracting with the 3rd parties to supply services such as meals, housekeeping services, personal care, medical care or transportation.

Note: The Respondent (City Admin)’s report to the SDAB (at para 23) describes the purpose of PS as being to provide for “Institutional and community serving uses”. That is not the term used in LUB s.9.40.1

Conclusion:

I appreciate that the SDAB cannot consider speculation about if further development is likely to be sought for this parcel. At the same time, I urge you to be mindful of the precedent you are setting for future development in the Environmental Character Area, if you “gut” fundamental characteristic by permitting this application.

The Appellant speaks of his client being “able to develop to PS level use”. But there are several listed PS uses. More importantly whatever the PS use, there are a range of scales and what is proposed must be of a size and location on the lot that will maintain the character of the Environmental Character Areas.

I ask that the SDAB deny this appeal. I urge you to NOT allow the proposed development.

February 4, 2026

To: Members of the Subdivision and Appeal Board

[REDACTED]

Re: SDAB-0262-006-2025

RESPONSE TO THE MEMORADUM OF LAW

I live on 45th Ave within 200 m of the subject site and will be impacted by the development.

I am responding to the Appellant's Memorandum of Law. This letter should be read alongside that memorandum. For easy reference, I use the same headings and numbers as the memorandum.

Proposed Development and Applicable Zoning:

Please see the Waskasoo Community Association's Summary of Concerns pages 20-23 where the WCA addresses how the application cannot yet meet and exceed the bylaw regulations, does not fit the intent of the PS Zone, and how it does not fit the Supportive Living Accommodation use definition.

Also, please see SDAB Appendix A, Page 348, bottom paragraph of the Hearing Materials. The City explains that Supportive Living Accommodation as a Use was developed "to better align the defined uses in the bylaw with **provincial definitions of supportive living**." Further, they write that "the Supportive Living Use now allows the use to include independent care homes where supportive living services are being provided." This change will "better accommodate housing for people who do not require dependent care, but **may require services such as food services, housekeeping, health, or accommodation services** to maintain independence."

The explanation of the definition clearly shows that development proposed for 4240 59 St, which provides no service just rooms where services might occur, not only does not fit the written definition as it appears in the Zoning Bylaw but also does not fit the intention of the definition. I also direct you to the Provincial website that outlines supportive living standards (2024) to see whether the development aligns in any way other than offering rooms where services might be available at some point in the future
<https://open.alberta.ca/publications/accommodation-standards-supportive-living-accommodation>

During the appellant's presentation, I heard multiple times that services *might* be added, that they will *learn* from their renters and adjust, that there *may be* options for third part services, that they are *investigating* a clinic, even that this development is a "gateway to supportive living" but NONE of this fills the requirements of the Use definition. Further, how will any of those claims be enforced?

I also repeatedly heard the word "private:" that the building is privately owned and privately funded. How then can it fit the intent of the Public Service Zone to provide land for public and quasi-public uses?

I note that the community would have addressed how the private development does not fit the public and quasi public PS Zoning intent earlier. However, on Feb. 28, 2020, I and two other community members met with Emily Damberger, Planning Manager at the time, and asked her specifically about the purpose as stated in the bylaws. Ms. Damberger replied that the purpose statement is not really part of the bylaw and implied it has no relevance. It was not until I read the SDAB Training Manual in preparation for this hearing that I realized that what we were told was inaccurate.

About the PS Zone regulations: all setbacks, heights etc are up to the discretion of the development authority and yet the appellant repeatedly claims to meet and exceed them. MPC as the development authority thought the application did not meet setbacks and now it is up to SDAB to decide. To make the argument that the development meets the standards, the developer continually slides from PS zone regulations to multi-family high density (R-H) zone regulations and argues incongruently that the PS zone development should be accepted because it fits the RH regulations. That's not the zone it needs to fit.

Waskasoo Area Redevelopment Plan:

Objective 1

The memorandum dismisses the homes that form the streetscape on the south side of 59th St. Instead, it states that "institutional land uses ... tend to dominate the adjacent streetscape" and the proposed building will fit seamlessly into that context. Please see the discussion of the streetscape in the WCA submission pages 10 – 12.

Further, the Zoning Bylaws state that where Supportive Living is a discretionary use, SDAB may consider "proximity to other uses that impact traffic and parking; location on the block and in the neighbourhood; and the Road classification" (s 4.270.3). These "institutional land uses" located at the back of the neighbourhood bring 3600 students and staff through Waskasoo's narrow streets daily. Softball diamonds, city parks to the north, a busy arts centre and hall only add to that traffic. Any development at 4240 59 St should not compound the issues this creates.

Also, the neighbourhood character and pattern of development referred to in ARP objective 1 refer to more than lot size. I note the lack of discussion of the large setbacks or staggered heights that make Gateway school appear to be a very low single storey building from the street. I also note that independent measurements based on blueprints place the height of the school at 8.5 m, not the 10.25 m stated by the applicant.

If the intention of the Area Redevelopment Plan and the Council that passed it was for development on 4240 59th St to match or compliment the character of these large structures, the site would have been omitted from any character area (as some areas are) or included in a character area with those structures. Instead, after two years of consultation and careful deliberations, 4240 59 St was included in the Environmental Character Area with the Gaetz Lakes Sanctuary, Kerry Wood Nature Centre, a playschool, and a Craftsman-Style heritage home. These smaller structures and the open space of the area form the character to which development on 4240 59 St has a primary obligation to maintain.

As for density, the memorandum states that the development is 28.2 units per hectare and that because the RL zoning to the south could support a density of 30.9 single family residential units per hectare, this development meets the requirements of objective one which is to be sensitive to existing character and pattern of development created, in part, by the general density. Bringing these streets up to 30.9 dwellings per hectare would require flattening the area, adding a street, and rebuilding. It would also overtax area roads and other infrastructure that was designed circa 1910. Further, while new neighbourhoods in the City may be zoning compliant at 30.9 du/h they aim for 17 units per hectare.

The homes south of the development have a density of 12 dwelling units per hectare. The density of the Environmental Character Area less than 1 unit per hectare. The proposed development's 28.2 du/h is 235% more than the surrounding density and 2800% more than the rest of its character area.

Objective 2:

The memorandum states that nothing in the development seeks to remove any “public open space” but will rather enhance the Municipal Reserve right of way to the west.

The ARP objective is to “Maintain Waskasoo’s extensive parks and open space.” The goal is not just to maintain publicly owned open space but the sense of open space in general. Hence, there are character statements that require larger than the minimum bylaw regulations’ setbacks. See for example Character Statement sections 3.6.3, 3.6.5, 4.6.4, 4.6.5. These larger setbacks are also privately owned land, but the ARP deems it important

that the sense of open space of the area be maintained *particularly when the use is discretionary*.

I am unsure how the development will enhance the municipal reserve when it plans to run an access road through it and across the South Bank Trail. Note that the drawings incorrectly show the road flare ending on the west side of the trail and never reaching 45th Avenue, and the 3D video shows the access road mysteriously ending at the fenceline, not at 45th Avenue where it would have showed how much of the MR and the natural edges of 45th Ave will be disturbed. I'm confident that is not what was meant by enhancing Waskasoo's open space.

Objective 3:

In response to the ARPs objective to “Preserve and maintain environmental ... features” the memorandum states that “the subject site contains no environmental...features.”

For a discussion of environmental features, see the WCA Response pgs 28-36, the response from the Gaetz Lakes Sanctuary Committee, and the response from the Waskasoo Environmental Education Society. The point of the Waskasoo ARP is to contextualize individual sites into a cohesive whole so the character of the area can be maintained. Over and over, the developer wants to look only at the site and ignore what surrounds it, and the environmental arguments are a clear example. Looking at how the development fits within the larger context, the environmental vision of the ARP and character statements, and the Municipal Development Plan's vision of the site as part of the Open Space – Major land use is particularly important for a discretionary use.

To achieve Objective 3, any buildings on this lot should be set back from the river and 45th Ave (which is a City designated wildlife corridor as stated in the Gaetz Lakes Sanctuary Management Plan) as far as possible.

Objective 4:

In response to the ARP's goal to “maintain and enhance trail and pedestrian connections,” the memorandum states that the development will not impact any trail or pedestrian connections because the development is on its own site and the MR will remain publicly accessible.

First, I should hope the MR remains accessible since it was not sold to the developer. Second, the application is proposing an unnecessary access road across the MR and the very busy South Bank Trail. See pg 39 of the WCA response where they point out that according to the City's own city-wide design standards, developers should restrict driveways from crossing the multi-use trail. Any access to development on this site should

come from the shared drive to the north so there is only one road crossing the trail. In fact, earlier iterations of this development included the shared north access road. (See WCA response pg. 47 for an earlier conceptual drawing.) The access does not maintain the trail, and it certainly doesn't enhance it.

The memorandum then moves on to discuss the policies in the ARP. It implies that because the heading for these policies on the ARP poster is "Recommendations," the ARP Policies are mere suggestions. These are policies, however, as they are referred to in section 1.2 of the ARP where it states that "*Policy* statements that contain 'shall' are those which must be followed..." To read the policies as recommended would create a regulatory quagmire. For example, the policy that "4240 59 St shall remain PS" becomes "We *recommend* that you *must* develop 4240 59 St as a PS parcel."

Identity

1. Maintain Character

The memorandum argues that because this ARP policy states development must "reflect" the character statements and Redevelopment Design Guidelines, development applications must not adhere strictly to "the character statements for Design Guidelines" and once again refers to the policy as a recommendation.

First, the Redevelopment Design Guidelines referred to in this policy are an old version of the Zoning Bylaw's Developed Areas Guidelines, not the "Design Elements" laid out in each character statement.

Second, the word "reflect" means to represent something faithfully. Once again, because the character statements, like the ARP, also use "shall, should, and may" to register the level of compliance, the argument that they do not need to be complied with is absurd. As an example, the statement that vistas must be maintained from the road would become "We recommend you reflect in spirit that you must maintain vistas from the road."

The memorandum uses the following statement in the Introduction to the Character Statements to support the argument that the ARP design elements are mere suggestions: "The intent of the Character Statements is to define some design parameters to which a new proposal for redevelopment within a defined area should adhere." It implies that the word "should" refers to its regulatory definition of being required but has some discretion.

There are two issues with this argument. One, the regulatory definitions of "should," "shall," and "may" are clearly stated to refer to the ARP policies and the character statements, not the wording in the introduction to these policies and statements. Second, words like

“reflect” and “should” in the introductions to the policies and statements are appropriate since the policies and statements themselves have levels of compliance.

Finally, the character statements are not only appended to the statutory ARP but were also incorporated into the regulatory Land Use Bylaw when the new Bylaw was passed in 2024. The Zoning Bylaw states:

The areas of Waskasoo and Woodlea have applicable Character Statements that define the character of the area and outline regulations establishing the design parameters to which a proposal for redevelopment in the area must adhere. (12.150.1).

The design parameters in the character statements are clearly not suggestions and must be adhered to.

2. Maintain Tree Cover

See the Waskasoo Community Association submission page 13.

Land Use

3. 4240 59 Street

The memorandum states that this policy demonstrates that the site’s PS zoning complies with the ARP and that the subject site is open to redevelopment. I think, like me, most Waskasoo residents agree with both these points. However, PS zoning is for uses that are public and quasi public in nature and this rental apartment owned by a private company for its sole benefit and with no ties to any government body of board is not public or quasi public. The Appellant’s presentation at the SDAB hearing on Feb. 4 repeatedly used the word “private” to refer to their business, the building, and the business model. See WCA submission pgs 20 -22.

Also, while the lot can be developed as a PS site, there is a spectrum of options between leaving the lot undeveloped and this multi-family development. This is not an either-or situation.

Note that a Traffic Impact Assessment shall be required to support an application on this lot. All the developer has provided is a Traffic Memorandum that states they did not do a TIA because the number of trips expected would not normally trigger one. Again, the TIA is required because of the unique characteristics of and problems in Waskasoo. If City of Red Deer standards and policies were all that were needed to guide development here, why would the City spend two years and \$100,000 developing an ARP. This is yet another example of the developer looking solely at the site and ignoring the context.

Movement

7. Missing Links

The memorandum misreads the “Missing Links” section which is meant to add formalizing “desire trails” to the public works schedule. Again, the memorandum tries to say that the access road won’t impact the trail system that it clearly must cross, creating a safety hazard.

8. Parks and Trail Network

Agreed that that no part of this development is in Waskasoo Park, the GLS, KWNC, and the McKenzie Trails Recreation Area since these are still public lands.

WASKASOO CHARACTER STATEMENTS

The memorandum states that the character statements are appended to the ARP and must be governed by the rules of interpretation governing statutory plans. I’m not a lawyer and take their word for it, but I do know that when looking at an application for a discretionary use, SDAB may give more weight to statutory plans since they outline the vision of the area to which a discretionary use must fit now and into the future (unlike a permitted use to which a landowner is entitled if a proposal fits within the regulations.)

Further, as stated above, the Character Statements were created as part of the statutory ARP in 2016 but were incorporated into the Zoning Bylaw in 2024 giving them the regulatory power needed to reach the ARPs objectives. They are located in both places for a reason, and their existence in both places is cross-referenced in both documents. As stated in both the ARP and the Zoning Bylaw, they are PART OF THE ZONING BYLAW and prevail over the bylaws in the case of conflict.

In outlining the Environmental Character Area, the memorandum again tries to discount the residential properties on the south side of the street from the streetscape by stating they are not in the Environmental Character Area. They are guided by the A-20 Army Camp Character Statement. This is true. However, Gateway school and the other institutions that the memorandum is attempting to use for area compatibility are also not in the Environmental Character Area.

Development on 4240 59 St is primarily expected to fit the character of its Environmental Character Area, which includes the Nature Centre, a craftsman heritage home, a playschool that is under construction, two shops, and rural open space. Secondarily to

that, as laid out in the design elements, it must also not negatively impact the streetscape of 59th St. which includes the homes abutting the street.

And, once again, we get the statement that the design elements are simply “recommended” because the heading in the character statement is “Recommended Design Elements.” Again, as with the ARP policies, wording in the four character statements uses specific definitions of the terms “shall,” “should,” and “may.” See section “1.4 Interpretation” in the Character Statement document:

Character Statements that contain ‘shall’ are those which must be followed, ‘Should’ statements mean compliance is required but the Development Authority has some discretion based on the circumstances of the specific case. ‘May’ statements indicate that the Development Authority determines the level of compliance that is required.

It is absurd to think that because the heading is “recommended design elements” that a statement that must be complied with is a mere suggestion. Again, this would result in statements such as “We recommend that you must maintain the mature street character.”

The memorandum then goes through the 17 design guidelines in the applicable character statement. To save time, I respond below to the memorandum’s interpretation of the guidelines that the development application does not fit.

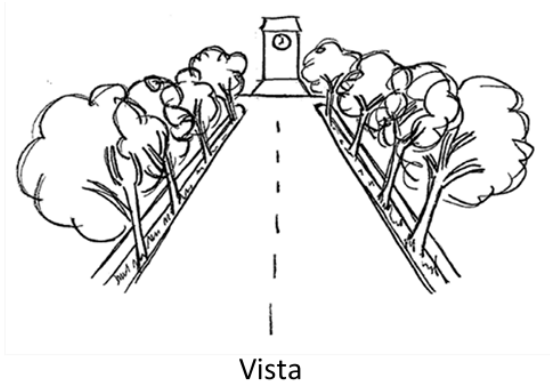
1. See pg 18 of the WCA response where the WCA argues that which 26% of the lot is covered is vital to the intent of this statement which is to leave open space for wildlife corridors and as an amenity to site users, including users of the view amenity.

The Montrose Biologist stated that the City fence on the property is already a barrier to wildlife. The chain link fence currently on the river side of the property is there to keep school children off of 45th Ave. It is recognized by the City as a wildlife barrier but the safety of school children and the lack of the developer building a fence on the east side of the parcel next to the school to protect students has meant the chain link fence has had to stay. It is also not as much of a barrier as a building, traffic, light, and noise from the development will be.

2. Please see pages 6-13 of the WCA response for an explanation of how street character, existing natural features *of the area* not the parcel, and “Vistas viewable

from the road” are not maintained by this proposal. Here, I will only rebut the argument concerning vistas.

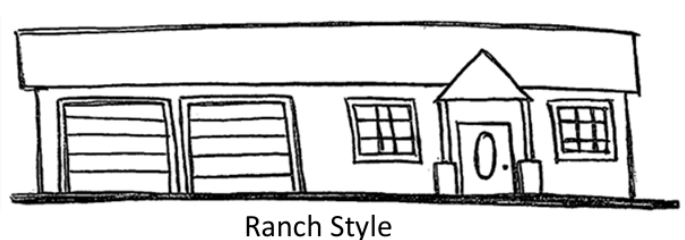
The memorandum argues that vistas will not be disturbed because the graphic illustration accompanying the definition in the ARP is this:



First, typically sketches and explanatory text boxes are not considered part of or limiters to the text of regulations. For example, the Red Deer Zoning Bylaw states the following twice: “Where examples or graphics are used in definitions, they are meant to explain the definition and are not meant to limit the scope of the definition in any way (s. 1.70.1 & 1.50.1). Also, “Text boxes are for convenience,

clarification, and reference only; they do not form part of this Bylaw and must not be used in the interpretation of this Bylaw” (S. 1.40.6).

It’s true that the ARP definitions do not have such a disclaimer; however, using the graphics to limit the definitions is absurd. To follow this to its logical conclusion, all ranch-style bungalows and A-20 camp houses in Waskasoo would have to look like this:



Second, the ARP’s definition of Vista is “a scenic or panoramic view.” There are two types of views, and the graphic is clearly an example of a scenic view since “panoramic” means a wide, sweeping view and the illustration is very clearly not that. This broader definition of Vista is supported by the wording of the design element, which, as the memorandum itself highlights, is a view “from the road,” not “down” or “of” the road. Further, I note that the vista “down” 44th Avenue would be blocked by the development.

Then the memorandum states that “Objective 3”¹ of the ARP acknowledges that the site will be developed; that views through the site are not referenced in this character statement; therefore, “any argument suggesting that nothing can be built on the subject Site in pursuit of the preservation of what detractors call a Vista leads to a legal absurdity.”

First, as shown above, panoramic view amenities clearly are part of this character statement design element. Second, the development, which is a privately owned, for-profit rental apartment does not fit the public and quasi-public intent of the PS zone. (See WCA submission pgs. 20 -22.) As the applicant’s lawyer stated at the MPC hearing in November: “In terms of the bylaw ... the law states unequivocally that you must accept the bylaw as written.”

Third most people who oppose the development, particularly the Waskasoo Community Association and residents of Waskasoo, recognize that the site can be developed, but just because the lot is developable does not mean any development permit application must be passed. There is a spectrum of possibility between “undeveloped” and this development. There are also other PS Land Uses including outdoor recreation facility, which would likely maintain the Vistas, and other discretionary uses that would allow for smaller buildings. Even a true supportive living facility that has government funding could be significantly smaller and



impinge less on the views, e.g. Harmony Homes in Inglewood or the child addiction treatment centre on Michener Hill. Further, the regulations are obviously not stopping development since development is currently happening in the Environmental Character Area. The building here is the new playschool at the Kerry

Wood Nature Centre. It’s in the same character area and fits all the regulations. See point 15 below.

The argument that “the ARP demands development” but preserving the “Vistas prevents it” is a false dichotomy. Maintaining Vistas does not prevent any development; it prevents this high-density rental apartment sited as is it on the lot.

¹ Objective 3 of the ARP is “Preserve and maintain environmental ... features.” From the context. I assume they mean ARP Policy 3, which the memorandum uses to establish that the lot is open to development.

The proposed development as it stands does not fit the regulations, as has been decided by City Council in 2023 and by MPC in 2025 (and even by City staff in 2022 – see Waskasoo Community Association response pages 19-20).

At the 2025 MPC hearing, the appellant's lawyer stated that the community vision is that the site stay as it is, and "that's all I've heard." Then he hasn't been listening. The Waskasoo Community Association has clearly stated they understand the lot may be developed and have laid out what may be acceptable to the community multiple times since 2019 when the developer met with our past president before purchasing the lot.

Further, of the 83 letters of opposition submitted for the 2025 MPC hearing, only 15 were against any development whatsoever. Many instead asked for meaningful consultation with the community, others offered critiques including how to make future development applications better, and two even went to the trouble of supplying drawings of how a development such as the one being proposed might work in a future application. Let me add one more:



Here, I've rotated the proposed building 90 degrees, sited it closer to the setback for the school, added the minimum required parking (0.4 stalls per unit) between the building and the school (more parking could be added along the north side of the building or possibly underground if necessary), and moved the gazebo, gardens, and lawn bowling courts to the west side. Now the building has only 6 balconies and 18 windows overlooking 59th Street, no mature trees need to be removed, the access is shared reducing the amount of impervious surfacing and eliminating the trail hazard, there is significantly less impact on views from 59th Street and almost no impact on views from 45th Avenue and the trail, the building sides 59th St echoing the the siting of the homes on the south side of 59th Street, the open space surrounds the building leaving room on three sides for wildlife corridors, and it preserves the two hydrologically significant areas on the site.

While this does not answer questions about whether a rental apartment owned by a private company for their own profit and without any ties to a public body fits the intent of the PS (Institutional and Government) land district, whether the proposal fits the definition of supportive living accommodation, about the architectural design being too modern, about traffic increases, and about whether a building of this size fits the character of the Environmental Character Area, it is certainly a significant improvement and **could be a starting point for real and meaningful engagement with the community.**

None of this means that the ARP and character statement sanitize the lot from development. It just means that this specific development should be refused.

3. See WCA response page 16 which points out that the development does not follow the principles of Ecological Design.
6. See WCA response page 14. There are no permeable or semi-permeable paving surfaces and while ground water run-off is eliminated, so is any chance of ground water recharge.
9. See WCA Response pg 15. The memorandum states the proposal does not contemplate changes to 45th Ave. Again, concerns are dismissed because of a myopic focus on the boundaries of the site and ignoring the larger context. While they may not be building on or moving the road, they are disturbing 45th Avenue's "natural boundaries" by paving over at least 16 m of it with the flared access road. Again, this flare is misplaced on the engineering drawings (it dumps traffic onto the MR. not the road) and is absent on the 3D video where the access road mysteriously ends at the property line.

Further the ARP implementation section states the City of Red Deer will determine “the most beneficial road cross section for 45th Ave north of 59th St aiming to retain its rural character within the riparian area and the gateway to the Gaetz Lakes Sanctuary/Kerry Wood Nature Centre. Long range options should be considered to improve the long-term health of the riverbank.” The ARP clearly sets out to maintain the rural character of 45th Avenue past 59th Street which does not include adding access points and high-density residential traffic. (Note it also designates the road as part of the “riparian area” that is environmentally critical.)

10. Even as a single user site, shared driveways with Parkland CLASS and Gateway School can be encouraged with the intent of reducing impermeable surfaces. Again, this access was part of previous iterations of the developer’s plan for the site. A standard such as this is also not limited to the Waskasoo Character Statements but is a city-wide best practice for developers. Section 7 of the Neighbourhood Planning and Design Standards includes the following:

Seek out and create partnerships with adjacent buildings (e.g. co-locate complimentary uses to share parking, service areas, outdoor employee amenity space, signage, etc.)” (7.16).

Plan and design the neighbourhood to minimize hard surface infrastructure requirements, optimize the use of infrastructure, and avoid duplication where possible. (7.1)

Encourage low impact development (green roofs, rain garden, permeable surfaces, etc.) to help absorb stormwater, reduce heat gain, provide outdoor amenity space, and provide urban wildlife habitat. (7.11)

12. See Waskasoo Community Association Summary pg. 18.
13. This character statement is about “existing specimen conifer and deciduous trees” being protected, not Public trees. This reading is supported by ARP Objective 3: to preserve and maintain environmental features, ARP Policy 2 “maintain tree cover,” Character Statements section 1.4 which states that “Tree preservation is important to the community consequently ... Policy 2 – Maintain Tree Cover applies to all character areas,” and the following recommended design elements: 2.1, 2.6.2, 3.6.1, 3.6.4, and 5.6.13.
15. This Design Element is particularly complex, so I break it down into its component parts below:

New development should not adversely affect the character of the streetscape, as a result:

- a. Of being sited too close to the road,*
- b. Of inappropriate or excessive Massing, form or height having a negative impact*
 - i. on abutting properties in terms of shadows and privacy/overlook,*
 - ii. or causing the loss of landscape features or other factors which may have a negative effect on*
 - 1. the streetscape or*
 - 2. abutting properties.*

I agree there will be no shadow casting onto the school or area residences. However, that is a very small portion of what this design element regulates.

Again, the memorandum attempts to disregard the homes along the south side of 59th Street as part of the character of the streetscape.

Concerning setbacks, to maintain street character the front setback of any development here should be at least equal to that of Gateway School. Consistent setbacks are part of the character of Waskasoo and part of the “open space” that the ARP’s second objective wants to maintain. Therefore, character statement sections 2.6.1, 3.6.3, 3.6.5, 4.6.4, 4.6.5, 4.6.7, all protect the sense of open space with regulations around setbacks, and in the Environmental Character Statement, since there are so few buildings to align with, the sense of open space is protected by section 5.6.1, 5.6.2, and this design element.

Besides distance from the road, this regulation is also concerned with the impact of excessive massing, form, or height on “landscape features” and “other factors” in the streetscape. See the Waskasoo Summary of Concern pages 10-12 for how the massing, form, and height have negative impacts on the streetscape by dwarfing nearby buildings, an overly urban and modern design, and siting the rear of the building to the neighbourhood. **I find it interesting that the appellant is open to “flipping the building 180 degrees to present the front to the street and wonder whether they would also be open to “flipping” the building 90 degrees as seen in the drawing above. I would guess they won’t be because doing so would omit the option of adding a second building on the site.**

Finally, in this section, the memorandum attempts to justify the height and massing of the development by comparing it to Gateway School, which it states is 10.25 m at

its highest point. Other measurements, however, place the height at 8.2 m which means the proposed development is a full 3 m taller than the even the stepped back portion of the school. It also calls Gateway “the nearest building in the Environmental Character Area” and goes on to say, “Given the height and footprint area of the school building, the proposed building cannot, in any reasonable sense, be accused of any inappropriate or excessive massing within the Environmental Character Area.” However, **Gateway School is not in the Environmental Character Area.**

If the intention of the Area Redevelopment Plan and the Council that passed it was for development on 4240 59th St to match or compliment the character of the schools to the east, the site would have been in a character area with those structures.

Instead, after two years of consultation and careful deliberations, 4240 59 St was purposefully included in the Environmental Character Area with the Gaetz Lakes Sanctuary, Kerry Wood Nature Centre, and a Craftsman-Style heritage home. These are pictured below:

Kerry Wood Nature Centre and Shop



New KWNC Playschool, ¹ Allen Bungalow, and shop



And note that the bottom left building is under construction. A playschool operated by the Waskasoo Environmental Education Society, it is a quasi-public discretionary use, conservative in size, clustered with the Kerry Wood Nature

Centre, shares a drive and parking, has setbacks appropriate to its size, uses green technologies, and did not require the removal of any trees.

The regulations clearly do not sanitize the parcel at 4240 59 St. Development can and is happening in the Environmental Character Area.

16. See Waskasoo Report page 13. No gap points are indicated on the submitted drawings.

CONCLUSION:

The conclusion returns to density and argues that the site is of a substantial size and will “per force, support a more intense level of development.” While the ARP does say the lot can be developed as a PS site, it clearly does not say 4240 59 St should be developed with an “intense level of development.” This is a direct conflict with Objective 1 which states that the ARPs goal is to ensure development is sensitive to the existing neighbourhood character created by among other things the general density of development. I repeat, this development is 235% more dense than the A-20 homes to the south which the memorandum elsewhere attempts to exclude from consideration, and 2800+% denser than the rest of the Environmental Character Area.

Further the fact that this building’s traffic will be less impactful than the 3600 students and staff travelling to and from the area schools is not reassuring. Again, we see the myopic focus of the developer and the memorandum. I live near 59th St on 45th Avenue and experience the traffic jams daily during the school year when traffic backs up all the way from 55th St and around the corner onto 59th St. I even installed very expensive windows to block the noise and exhaust, something not everyone has the economic ability to do.

The memorandum also states that “the current hearing Must be undertaken only on a basis of relevant, land use planning considerations.” I have yet to hear any relevant planning reasons for why this discretionary development needs to be sized, designed, and sited on the lot in the way it is proposed.

It is the proposed development itself that does not meet the requirements of the Zoning Bylaw (including the embedded character statements), does not fit the full contextual interpretation of the ARP, and does not match the intention of the Council that passed the ARP in 2016 or the Zoning Bylaw in 2024. Many of the arguments given in the Memorandum of Law that attempt to make it appear that the development application meets or exceeds all the requirements rely on interpretations, to use the memorandum’s own words, of “the

provisions of the ARP that are inconsistent with the Plan's stated objectives" and "must, *per force*, be rejected."

Finally, words fail me as I try to describe my reaction to the accusation that MPC's decision was "highly influenced by political considerations as might be expected from a decision-making authority dominated by elected officials." I sincerely hope the City of Red Deer takes note of this statement and its potential impact on citizen's trust in legal processes. I know those who have served on MPC over many years (and it is a service) and it has not been "influenced" or "dominated" by political considerations or elected officials.