



CITY OF  
*Lethbridge*

Office of the City Clerk

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION**

August 10, 2023

Re: Appeal of Subdivision Refusal  
Appellant: Brown Okamura and Associates Ltd.  
Land Use: Low Density Residential (R-L)

UPON HEARING representations made by the Subdivision Planner, the Appellant, and other interested parties on Thursday, July 27, 2023, it is the decision of the Subdivision and Development Appeal Board that the appeal is **ALLOWED** and the decision of the Subdivision Planner regarding Subdivision Application on May 12, 2023 to refuse the subdivision of one parcel located at 661 – 17 Street North is hereby **OVERTURNED**. The subdivision is hereby approved as described below.

The following submissions were received:

1. Brown Okamura and Associates Ltd, appellant (both oral and written)
2. Maggie Yount, against the subdivision (written)
3. Matthew Scott, against the subdivision (written)
4. Jeanette Somerville, against the subdivision (written)
5. Lance Seberg, against the subdivision (written)
6. Jeanette Somerville, against the subdivision (both oral and written)
7. Darlene McLean, against the subdivision (both oral and written)
8. Jen Waterworth, against the subdivision (oral)
9. Janet Gutsell, Subdivision Planner (both oral and written)
10. Genesis Hevia Orio, Community Planner (oral)
11. Jason Price, Planning Manager (oral)

AND UPON CONSIDERING the relevant provisions of the South Saskatchewan Regional Plan, Municipal Government Act, the Municipal Development Plan, the Land Use By-law, the Westminister Area Redevelopment Plan, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows:

1. The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on key evidence and arguments in outlining its reasons.
2. The current Westminister Area Redevelopment Plan was adopted by City Council on June 29, 2021.
3. The current Municipal Development Plan was also adopted by City Council on June 29, 2021.
4. The Westminister Area Redevelopment Plan utilized the prior Municipal Development Plan (Bylaw 5650) that was adopted in 2010 as the guiding document.

5. The Westminster Area Redevelopment Plan states under section 3.1.2 Future Development Direction "*Proposals involving the subdivision of residential parcels in the inner neighbourhood shall only be supported on corner parcels.*" The Municipal Development Plan (2021) does not have any comparable stipulation. It does state "*to promote increasing residential densities in existing areas in a manner that respects built form and character by encouraging support for additional units in parcels that have not reached their maximum allowable density.*" (Policy 66).
6. The Board found that the proposed subdivision was in compliance with Land Use Bylaw 6300 and is consistent in size with the adjacent parcels.
7. The proposed subdivision does not require any waivers.
8. Concerns with infrastructure and utilities were listed by some of the adjacent landowners.
9. The Board finds that the *Municipal Government Act* states,  
638(2)(b) "*An area structure plan and an area redevelopment plan must be consistent with any municipal development plan.*" and  
638(4) "*A municipal development plan prevails to the extent of any conflict or inconsistency between an area structure plan or an area redevelopment plan, and the municipal development plan.*"
10. The Board finds that the requirements of a Municipal Development Plan prevail over the requirements of an Area Redevelopment Plan.
11. The Board finds concerns regarding the infrastructure and utilities can be addressed at the development application stage.
12. The Board is of the opinion that the subdivision is not expected to have negative impacts on the surrounding community and that it is compatible with the community in which it is located, and that it warrants approval.
13. Having regard to the merits of the application and sound planning considerations, the Board, based on the evidence and aforementioned factors, finds that the subdivision from a planning perspective is appropriate for the site.
14. In reviewing and weighing all the evidence, the Board therefore finds that the application does merit approval.

## **CONCLUSION:**

For the reasons set out above, the appeal is allowed and the decision of the Subdivision Planner is overturned. The subdivision of 616 17 Street North is approved as outlined in Application SBD00780. Conditions of the approval are as outlined below:

1. That the owners enter into a service agreement with the City of Lethbridge to install or pay for the installation of all utilities necessary to serve the subdivision. Each lot shall have separate connections to sewer and water mains.

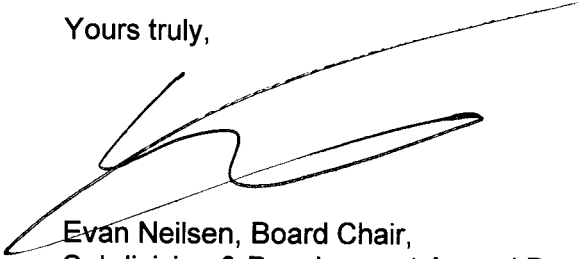
Informative:

- a) Justification for this decision is that the intended use conforms to the uses prescribed in the present zoning and should not have a negative impact on the existing neighbourhood.
- b) Changes made to the approved tentative plan at final endorsement, may require a new application.
- c) Any relocation of existing utilities shall be at the developer's expense.
- d) The South Saskatchewan Regional Plan and applicable municipal statutory plans were considered in rendering this decision.
- e) The Westminster Area Redevelopment Plan supports the protection and preservation of public trees.
- f) That the fence along the rear of the property must be removed as it is encroaching into the lane.

An appeal against this decision may be made to the Alberta Court of Appeal on a question of law or jurisdiction only. Should you wish to do so, it is recommended that you retain legal counsel.

Please contact this Office if you have any questions regarding the decision. A copy of this decision has been mailed to the owner of the property, and the persons who filed the appeal.

Yours truly,

A handwritten signature in black ink, appearing to read 'Evan Neilsen', written over a horizontal line.

Evan Neilsen, Board Chair,  
Subdivision & Development Appeal Board

cc Subdivision Planner  
Appellants/Neighbouring Property Owners