

SUBDIVISION & DEVELOPMENT APPEAL BOARD DECISION

CHAIR: V. HIGHAM  
PANEL MEMBER: K. HOWLEY  
PANEL MEMBER: P. KITTINGHAM  
PANEL MEMBER: G. MARKS  
PANEL MEMBER: L. MULDER

---

BETWEEN:

CITY OF RED DEER  
Development Authority  
and  
PATTISON OUTDOOR ADVERTISING  
Appellant/Applicant

---

This is a decision of an Appeal to the Red Deer Subdivision and Development Appeal Board in regards to the September 21, 2016 decision of the Municipal Planning Commission, which refused the application by Pattison Outdoor Advertising for a development permit for the Discretionary Use of a Billboard Sign.

The Appeal hearing commenced on November 2, 2016 in the Council Chambers of The City of Red Deer, within the Province of Alberta.

**Hearing Attendees:**

City Development Authority: Martin Kvapil, Senior Development Officer and Angie Keibel, Development & Licensing Supervisor

Appellant/Applicant: Pattison Outdoor Advertising represented by legal counsel James Murphy

Other Attendees speaking at Appeal: Area resident Bob Skarra, represented by Brenda Gulka.

**DECISION:**

The Subdivision and Development Appeal Board overturns the decision of the Municipal Planning Commission and approves the application for the proposed Billboard Sign with conditions. Reasons are provided within the decision, including a dissenting opinion.

## **JURISDICTION AND ROLE OF THE BOARD**

1. The legislation governing municipalities in the Province of Alberta is the *Municipal Government Act*, RSA 2000, c M-26 [“MGA”]. Planning and Development is addressed in Part 17 of the MGA, and further in the *Subdivision and Development Regulation*, Alta Reg. 43/2002 [“SDR”].
2. The Board is established by The City of Red Deer, Bylaw No. 3487/2012, *Appeal Boards Bylaw*. The duty and purpose of the Red Deer Subdivision and Development Appeal Board [“SDAB” or “the Board”] is to hear and make decisions on appeals for which it is responsible under the MGA and The City of Red Deer, Bylaw No. 3357/2006, *Land Use Bylaw* [“LUB”].

## **BACKGROUND**

3. The subject property is located on lands zoned I-1 Industrial (Business Service) District, and is located at 6660 Taylor Drive (Lot 13, Block A, Plan 8022635) in Red Deer, Alberta.
4. On September 21, 2016 a decision of the Municipal Planning Commission [“MPC”] refused the application by Pattison Outdoor Advertising for a development permit for the Discretionary Use of a Billboard Sign [the “proposed Billboard Sign”].
5. On October 5, 2016 an Appeal was filed with the SDAB on behalf of the Appellant.
6. Notice of Hearing was sent to the parties on October 11, 2016 with the hearing scheduled for November 2, 2016 commencing at 5:00 pm.

## **PRELIMINARY MATTERS**

7. The Chair of the Board called the hearing to order at 5:08 pm.
8. Neither party raised any objection to the panel proceeding with the Appeal.
9. Neither party raised any preliminary matters or concerns.
10. The Chair confirmed the following Exhibits:
  - A1 – Hearing Materials provided by Clerk (Agenda cover page plus 6 pages)
  - B1 – Development Authority submission (23 pages)
  - C1 – Appellant submission (bound booklet with 7 tabs)
  - C2 – Appellant submission of letter dated July 29 (1 page)
11. The Chair asked attendees who wish to speak at the hearing to identify themselves. Mr. Bob Skarra advised the Board he was in attendance against the Appeal, and advised the Board that Brenda Gulka would speak on his behalf.

**POSITION of the PARTIES****Development Authority Position**

12. The Development Authority, represented by Mr. Kvapil, proceeded with a PowerPoint presentation as a summary of the written submissions in Exhibit B1. The application for Development Permit DP075930 was refused by the MPC on September 21, 2016 for the following reasons:
  - i. The massing and intent of the Billboard Sign structure does not contribute to providing an acceptable land use transition between the existing Industrial/Residential Districts.
  - ii. The Billboard Sign is not compatible with the scale and architectural character of the existing surrounding land use developments.
  - iii. The Billboard Sign construction, materials, and siting are not aesthetically compatible with the existing site development and landscaping.
13. Mr. Kvapil explained that the proposed Billboard Sign is located in the Golden West Business Park near the intersection of Taylor Drive and Overdown Drive, and is located on an industrial land parcel that is west of St. Patrick's Community School and north of the Oriole Park residential area. Another residential area, Highland Green, is located southeast of the proposed site. Mr. Kvapil referred to photographs and site drawings showing the location of the proposed Billboard Sign in relation to the surrounding industrial, school, and residential areas.
14. Mr. Kvapil further explained that a site inspection had been conducted in the summer of 2016, and that the proposed Billboard Sign meets the standard development requirements of LUB section 3.4(4) for billboard signs, in terms of size and setback requirements. However, the proposed Billboard Sign is located within land that has been deemed an Affected Parcel due to its proximity to a Major Entry Overlay District. Mr. Kvapil referred to LUB Figure 7F which identifies the boundaries of the Major Entry Area Overlay District and highlights the "Affected Parcels." Mr. Kvapil quoted from s.7.15(8)(b) *Major Entry Areas Regulations for Signs*, as follows:

"The design, placement and scale of Signs shall be to the satisfaction of the Development Authority so as to ensure that the signs do not detract from the overall appearance of the development or the Major Entry Areas, and is not obtrusive."  
(Exhibit B1, page 4, point #21)
15. Although the proposed Billboard Sign meets the standard *LUB* requirements, Mr. Kvapil stated that it is considered to be a Discretionary Use for the subject property, which requires a case-by-case analysis of the proposed development. When considering a Discretionary Use, due consideration must be given to the impact on neighbouring lands, other lands in the city, amenities, and the use and enjoyment of the surrounding neighbourhood.
16. The subject site, in addition to being near some residential areas, is across from a Municipal Reserve (MR) parcel, zoned P1, Parks and Recreation District. Typically MR parcels have a berm to provide a buffer between incompatible uses, but Mr. Kvapil stated that this is not an option for the subject site due to buried utilities in the area.

17. Mr. Kvapil noted that there are a few trees that provide some screening between the industrial area where the proposed Billboard Sign would be located and the residential areas to the south. However, the proposed Billboard Sign would be located within a paved parking area and some enhanced landscaping would be recommended to soften the transition from industrial to MR and residential areas.
18. Mr. Kvapil stated that the height of the proposed Billboard Sign with a height of 6.048 m would exceed adjacent single-storey residential dwellings (approximate height 4.9 m) and would be shorter than the existing industrial building (height 6.8 m).
19. Mr. Kvapil explained that the proposed Billboard Sign is not similar to the surrounding developments and further explained that there are no other free-standing signs in the immediate area. The nearest signs are located within industrial areas and are advertising on-site businesses, not third-party advertising such as the proposed Billboard Sign is intended for. Further, other nearby free-standing signs are located 16-18 m from the curb of Taylor Drive while the proposed Billboard Sign would be approximately 14.9 m from the curb of Taylor Drive.
20. Mr. Kvapil confirmed that City staff conducted public consultation within 100 meters of the subject site, with 26 letters mailed out to landowners within 100 m of the site. Three resident responses were received by the City. These resident responses are included in Exhibit B1 at pp. 19-23, and reflect the following concerns:
  - i. the view to the north from residential properties will be obstructed;
  - ii. the sign is located too close to an intersection and crosswalk;
  - iii. distraction of drivers and pedestrians could lead to serious injury.
21. In closing, the Development Authority submitted that the proposed Billboard Sign unduly interfere with amenities and would materially affect the use and enjoyment of neighbouring land parcels, and provided the following reasons:
  - i. the proposed Billboard Sign, based on height, scale, massing, and lighting would create an overwhelming and obtrusive presence over adjacent land uses;
  - ii. the setback of the proposed Billboard Sign is not in keeping with other free-standing signs that are located on Taylor Drive and adjacent to residential neighbourhoods;
  - iii. the design and siting of the proposed Billboard Sign in a paved parking area and without landscaping at the base does not complement existing site development;
  - iv. the proposed Billboard Sign would be more suitable for a non-Major Entry Area on commercial or industrial lands that would allow for similar developments in close proximity.
22. Upon questioning, Mr. Kvapil explained that due to its height and location in a parking lot with no landscaping features, the proposed Billboard Sign does not transition well between the different uses of surrounding areas. Mr. Kvapil explained that transitioning is determined on a case-by-case basis, but generally it may include softening of harder industrial features to blend with warmer residential features. Mr. Kvapil also stated that the lighting and changing display on the proposed Billboard Sign would be obtrusive to surrounding uses.

23. Upon questioning, Mr. Kvapil confirmed that the concern about billboards not being allowed on major corridors relates more to aesthetic reasons than to driver distraction.
24. In closing remarks, the Development Authority submitted Exhibit B2, asking the board to consider adding the following five conditions, were the Board to approve the proposed application:
- i. The Applicant to submit a revised site plan with reconfigured landscaped area to the satisfaction of the Development Officer.
  - ii. No additional Billboard or Free-Standing Signs permitted along the Taylor Drive frontage of the subject land parcel.
  - iii. The Applicant remove any proposed lamp(s) directed at the south-facing advertising panel of the Billboard Sign.
  - iv. The Applicant propose revised elevation plan drawings that any additional signage on the Billboard Sign would identify the sign provider.
  - v. The Applicant to be responsible for any property damage caused by the development.
25. In summary, the Development Authority asked the SDAB to deny the appeal and uphold the MPC's decision to refuse the development.

### **Appellant Position**

26. The Appellant, represented by Mr. James Murphy, spoke to Exhibit C1. The Appellant spoke to each of the issues raised by the Development Authority and provided reasons why the Appellant asks the SDAB to approve the proposed Billboard Sign.
27. On the issue of height, scale, massing of the proposed Billboard Sign, Mr. Murphy referred the Board to the *LUB* s. 3.3, which describes a billboard and sign area as follows:
- "Billboard** means a sign to which advertising copy is pasted, glued, painted or otherwise fastened to permit its periodic replacement and includes poster panels and painted structures. A billboard displays third party advertising."  
(*LUB* definitions, page 3-10)
- "Sign Area** means the entire surface area of a sign on which advertising copy could be placed and includes any frame or embellishment which forms an integral part of the display, but does not include landscaping and in the case of a double-face or multi-face sign, the average of the total area of all sign faces."  
(*LUB* definitions, page 3-14)
28. Mr. Murphy further pointed to *LUB* s.3.4 (sign regulation by type), and specifically pointed to (4)(a) which lists maximum size, height and setback requirements. Mr. Murphy noted that the proposed Billboard Sign meets all 5 of these requirements.
29. Mr. Murphy further referred the Board to *LUB* s.3.3(3)(c), which speaks to sign permit and requirements. Mr. Murphy stressed that the proposed Billboard Sign meets all the *LUB* requirements and noted that (3)(c) states, "The Development officer shall issue a sign permit

if the sign complies with the provisions of the *LUB*.” Mr. Murphy stated that a permit for the proposed Billboard Sign should have been issued in accordance with the *LUB*.

30. Mr. Murphy then pointed the Board to *LUB* s.3.3(3)(e) which states, “Provided the sign is erected within 12 months of the date of issue of the permit, the permit shall continue in force from year to year.” Mr. Murphy suggested this may be included in the *LUB* to allow for changes over time, but recommended that a five-year review is followed in other municipalities and is more reasonable.
31. On the issue of sign illumination, Mr. Murphy referred the Board to *LUB* s.3.3(8)(a) which states, “No person shall place flashing signs at locations closer than 23.0 m to any dwelling in a residential district.” Mr. Murphy acknowledged that some residents may be worried about what may happen, but there is no evidence to support concerns about the lighting. The Appellant proposed to under-light the sign to angle the light in a way that reduces glare or reflection. Mr. Murphy pointed out that (8)(a) speaks to setbacks for a flashing sign, and stressed that the proposed Billboard Sign is not flashing and is located 52 m away from the nearest property line and well beyond 23.0 m from the nearest residence. Mr. Murphy submitted that the proposed Billboard Sign is intended to be seen without negatively impacting others in the neighbourhood. The under-lighting of the sign is designed to allow for the sign to be seen without any light reflecting or projecting out to any residents in close proximity.
32. On the issue of the proposed Billboard Sign being dissimilar with other free-standing signs that are located on Taylor Drive and adjacent to residential neighbourhoods, Mr. Murphy referred to *LUB* s. 6.1, and noted that the sign is located within Industrial Business Service District zoning. In this zoning, permitted uses include local and general (third party) advertising on free-standing signs. Mr. Murphy acknowledged that the proposed Billboard Sign is considered a Discretionary Use and as such, the Development Authority may approve it or not.
33. On the issue of impacting neighbourhood amenities or materially interfering with the use, enjoyment, or value of neighbouring parcels, Mr. Murphy referred to Exhibit B1 submitted by the Development Authority, and suggested that the words on page 2, referencing *MGA* 687(3)(d), represent the test that applies to granting a variance, which the Appellant is not asking for. Mr. Murphy submitted that although the proposed Billboard Sign is considered a Discretionary Use and additional conditions may be applied, since the proposed Billboard Sign meets all the *LUB* requirements without asking for any variance, it should be approved.
34. Mr. Murphy argued that the test for Discretionary Use is how close the subject comes to meeting the requirements and what impact it may cause. Mr. Murphy also noted that the surrounding uses take a variety of forms including industrial, residential, and green areas. At Tabs 5 and 6 of Exhibit C1, Mr. Murphy referred to Google photos providing a visual representation of the area, and noted that the proposed Billboard Sign would be located at the south end of a commercial building with mature fir trees between the sign and the residential area to the south of the sign.
35. In response to the concerns raised in three letters received from residents, Mr. Murphy provided the following responses:

- i. The sign does not add to obstruction in the area as it is located between a commercial building that is taller than the sign to the north and trees to the south that provide a buffering effect.
  - ii. No concerns were raised by engineering services regarding safety at the crosswalk. The sign is no more distracting than what already exists on the commercial building, which the proposed Billboard Sign is adjacent to.
  - iii. The proposed Billboard Sign is not digital or moving, nor will it appear as depicted in the modelling submitted in the photos within the Development Authority's PowerPoint presentation.
36. On the issue of the design and siting of the proposed Billboard Sign within a paved parking area and without landscaping at the base, Mr. Murphy referred to the reasons provided by MPC for refusing the permit for the proposed Billboard Sign. These reasons are provided in a letter dated September 21, 2016, and were also contained in the Development Authority's submission. Mr. Murphy argued that these are vague statements or conclusions and not reasons that lead to remedies which may be considered. In response to the MPC reasons, Mr. Murphy provided the following statements:
  - i. Transitioning from industrial to residential is provided by the location of the sign between the commercial building and the trees that offer a buffering effect.
  - ii. It is not reasonable to expect a sign to be compatible with a building or other very different land use developments in the surrounding area, including industrial, schools, residential and greenspace. The proposed Billboard Sign is located on a land parcel zoned I-1 Industrial and it meets all the *LUB* requirements for a Billboard Sign within this zoning, without asking for any variance.
  - iii. The Appellant does not agree that the sign materials and siting are not compatible or aesthetically pleasing. Some screening and transition are provided by the trees and green area south of the subject site, between the proposed Billboard Sign and the nearest residential area.
37. On the issue of the proposed Billboard Sign being within an Affected Parcel that is near a Major Entry Area Overlay District, Mr. Murphy directed the Board to *LUB* s.7.15.
  - 2.(a) “**Major Entry Areas**” means those areas adjacent to Major Corridors which are highly visible to motorists and include an area of at least 20m measured from the Site Boundary that is adjacent to the Major Corridor.”
  - 3.(b) “Notwithstanding any other provision of this Bylaw, no Billboard Signs and no Dynamic Signs shall be allowed within the Major Entry Areas.”  
(*LUB* page 7- 47)
38. Referring to the map identified as Figure 7F of the *LUB* (page 7-56, Exhibit C1, Tab 4), Mr. Murphy directed the Board to the wording that indicates the Major Entry Overlay District is identified as being “20 metres adjacent to the streetscape of concern.” Mr. Murphy noted that the proposed Billboard Sign is not within the Major Overlay District, nor is it within 20 m from the site boundary of 67<sup>th</sup> Street that is identified as the streetscape of concern. Mr. Murphy further pointed out that the Affected Parcels are highlighted grey because part of the

land parcel is affected by the Major Entry Overlay Area, but this does not apply to the entire land parcel.

39. Mr. Murphy explained that the proposed Billboard Sign is located well back from the zone in question, that being the portion of the land parcel affected by the restriction. Mr. Murphy urged the Board not to be confused by the reference to Affected Parcel. Upon questioning, Mr. Murphy further explained that the sign could not be placed on the north boundary of the subject land parcel (which would be a preferable location) because that would place it in the streetscape of concern, but it can be placed on the south boundary, where it is proposed.
40. In response to the conditions proposed by the Development Authority in the event that the SDAB may approve the proposed Billboard Sign, the Appellant stated that these suggestions should have been proposed prior to coming before the Board, but provided the following responses:
- i. Landscaping within a paved area is problematic, but the Appellant suggests a planter box could accomplish the same purpose.
  - ii. As a leasing tenant, the Appellant is not a property owner, and cannot control the permitting of other signs on Taylor Drive frontage. The Appellant is not opposed to restricting signs but they have no legal authority in this regard.
  - iii. The Appellant is not willing to remove any of the upward lighting as it would defeat the purpose of the visibility of the sign in evenings and winter months. The upward lighting was designed to cause minimal impact to nearby residents.
  - iv. The Appellant has no issue with adding their logo to the proposed Billboard Sign for identification purposes.
  - v. The reference to being responsible for development related to the sign appears to be a standard clause and the Appellant does not take any issue with this.
  - vi. In addition to the conditions proposed by the Development Authority, the Appellant suggests a timeline for review as per *LUB* page 3-16 item (3)(e) be extended from a 12 month period to a five-year period.
41. In closing, the Appellant submits that the conditions should be to the satisfaction of the SDAB, not the Development Officer.
42. In summary, the Appellant asked the SDAB to overturn the Municipal Planning Commission's denial of the Development Permit, and to approve the proposed Billboard Sign with conditions as recommended by the Appellant.

### **Presentation by Affected Residents**

43. In opposition to the proposed Billboard Sign, Mr. Skarra submitted concerns about the proposed development. Brenda Gulka read the concerns of Mr. Skarra to the Board on his behalf. Mr. Skarra lives directly across from the proposed location of the proposed Billboard Sign. He was concerned that taxes are collected by The City to ensure quiet enjoyment and beautification of Red Deer and, in his view, the sign does not add any beautification.
44. Mr. Skarra was concerned that his view northward up Taylor Drive to 67<sup>th</sup> Street will be blocked by the sign. He agreed that there are some trees between the industrial and

residential areas, but the trees do not extend all the way to the corner to block the proposed Billboard Sign. He would prefer the sign was moved to the north end of the subject land parcel.

45. Mr. Skarra was further concerned regarding safety at the crosswalk between Oriole Park and the opposite side of Taylor Drive where there is a school and other recreational facilities. There are many children crossing at this location. The intersection may be controlled, but he noted that you cannot control children. A distracted driver could cause the loss of a citizen. If the sign is approved, there is a risk of this happening.

### **ISSUES and BOARD FINDINGS**

46. The Board considered the position of the parties and determined the following issues to be addressed with this decision:
- i. Does the proposed development unreasonably detract from the amenities of the neighbourhood or interfere with the use and enjoyment of neighbouring properties?
  - ii. Does the proposed development raise safety concerns at the identified crosswalk?
  - iii. Is the Development Authority bound to issue a permit for the proposed Discretionary Use if the development complies with the requirements of *LUB*?
  - iv. Is the site of the proposed Billboard Sign restricted by its inclusion in the Affected Area of a Major Entry Overlay District?
47. The Board acknowledges the concerns of the residents as presented by Mr. Skarra (as presented by Ms. Gulka and included in Exhibit B1). The Board considered all of the concerns raised, including obstruction of view to the north for adjacent residents directly south of the proposed Billboard Sign site, proximity to the nearby crosswalk, and the possibility of distracted drivers. The Board finds there is no conclusive evidence that amenities or nearby residents would be materially impacted or have in their enjoyment and use of the area restricted.
48. The Board finds that the Appellant is not asking for a variance outside the standard requirements, of the *LUB*.
49. The Board finds that while a Discretionary Use allows for a site specific analysis of the application, the proposed Billboard Sign, given the specific circumstances before it, is reasonably compatible with neighbouring uses and does not unreasonably detract from the amenities of the neighbourhood nor does it interfere with the ongoing quiet enjoyment, use, and value of the neighbouring properties.
50. The Board finds there is no compelling evidence to substantiate concerns about safety at the crosswalk. The Board further finds there is no mention of safety concerns among the reasons provided by MPC in the denial of the application.
51. The Board finds that the development meets the technical requirements of the *LUB* in terms of height, size, and setbacks. The Board further finds that the Appellants sufficiently addressed concerns about illumination with the provision of an upward lighting design. The

Board accepts that the existing trees and the proposed planter box at the base of the sign offer sufficient buffering and transition from industrial to other uses in the area.

52. The Board accepts the Appellant's contention that the MPC letter does not provide compelling enough reasons for the denial of the Development Permit. The Board finds that where a proposal meets the requirements of the *LUB* and where Discretionary Use impacts have been considered and addressed, the Development Authority can issue a permit and may include reasonable conditions to mitigate potential impacts.
53. The Board notes that the conditions proposed by the Development Authority in closing remarks should have been included with their presentation to allow the Appellant sufficient time to consider and respond to them.
54. The Board accepts the Appellant's argument that the Affected Parcel does not restrict the entire subject parcel, but only the 20 m area adjacent to a streetscape of concern. The Board finds the proposed Billboard Sign is within an affected parcel, but is not within the 20 m area of concern related to the Major Entry Overlay District that applies to 67<sup>th</sup> Street.
55. For the reasons detailed above, the proposed Billboard Sign is approved with the following three conditions:
  - 1) The Appellant will provide and maintain suitable landscaping in the form of an aesthetically pleasing planter box at the base of the proposed Billboard Sign to the satisfaction of the Development Officer.
  - 2) The Appellant to provide revised elevation plan drawings indicating any additional signage on the Billboard Sign that would identify the sign provider.
  - 3) The Appellant shall repair or reinstate, or pay for the repair or reinstatement, to original condition, any public property, street furniture, curbing, boulevard landscaping and tree planting or any other property owned by The City which is damaged, destroyed, or otherwise harmed by development or construction on the site. Repairs shall be done to the satisfaction of the Development Officer. In the event that The City undertakes the repairs, the Appellant shall pay the costs incurred by The City.

## DECISION SUMMARY

The Red Deer Subdivision and Development Appeal Board overturns the MPC denial of Development Permit application DP075930, and grants approval for the proposed Billboard sign, subject to the conditions noted above.

## CLOSING:

Dated at the city of Red Deer, in the Province of Alberta, this 18<sup>th</sup> day of November, 2016.



Petra Kitteringham, Vice-Chair  
Subdivision and Development Appeal Board

## DISSENTING OPINION

With respect, I find that the subject appeal should be denied and the original decision of the Red Deer Municipal Planning Commission on September 21, 2016 to refuse the Appellant's application for a development permit relative to granting a Discretionary Use of a Billboard Sign, should be upheld. I offer the following reasons in support of this dissenting position:

### Discretionary Use

1. The governing *Land Use Bylaw (LUB)* sets out two tables of Permitted and Discretionary Uses contemplated for the subject I1 district. I find that the intent of these clauses is to ascribe to the Development Authority broad discretion in determining if a proposed Discretionary Use is "compatible" with the stated objectives of the General Purpose specifically, and the overall objectives of the entire *LUB* generally: to uphold sound planning principles.
2. I find that unlike the seven other type of signs included in the "Permitted Uses" table for I1 (awning and canopy, under canopy, fascia, freestanding, painted wall, projecting, and A-Board), Billboard signs were placed in the "Discretionary Uses" table for a purpose, since by their comparative size and massing they pose a greater risk for potential negative impact to existing uses. For example, freestanding signs in the subject I1 district have a maximum allowable area of 12.0m<sup>2</sup> – compared to the subject's proposed total area of 37m<sup>2</sup> [section 3.4(6)(h) of the *LUB*].
3. Section 7.15(3)(b) of the *LUB* states: "Notwithstanding any other provision of this Bylaw, no Billboard Signs and no Dynamic Signs shall be allowed within the Major Entry Areas." These areas are defined in section 7.15(2)(a) as: "those areas adjacent to Major Corridors which are highly visible to motorists and include an area of *at least* 20 m measured from the Site Boundary that is adjacent to the Major Corridor (emphasis added)."
4. I also note the title "Major Entry Area Affected Parcels (67 St)" prominent in Figure 7F of *LUB 3357/2006* [Exhibit B1, p.9], which identifies gray-shaded parcels along the Major Entry Areas that are "Subject to Landscaping Requirements & Restrictions on Billboards & Dynamic Signs."
5. Although the proposed Billboard sign would not be located directly within the 20m corridor considered a Major Entry Area, it is proposed to be located in a "Major Entry Area Affected Parcel."
6. Since Billboards are specifically *prohibited* in Major Entry Areas, I find that the Board ought to have regard for the *rationale* contemplated by the drafters of the *LUB* in specifically including the following concepts:
  - a. The "Major Entry Area Affected Parcels" designation in Figure 7F; and
  - b. The phrase "*at least* 20m measured from the Site Boundary that is adjacent to the Major Corridor" to define a Major Entry Area (emphasis added).

7. I find that a collaborative interpretation of these two concepts empowers the Development Authority to consider the potential impact of a proposed Billboard *beyond* the specified 20m, to include the entire Major Entry Area Affected Parcel as warranted. I find this to be a reasonable reading of the intent of the *LUB* for adding the *specific limitation* – “Subject to Landscaping Requirements & *Restrictions* on Billboards & Dynamic Signs” – to Major Entry Area Affected Parcels (emphasis added).
8. I am satisfied that the inclusion of the phrase “at least” 20m (which implies potentially “more than”), together with the “Major Entry Area Affected Parcels” limitation in the Figure 7F, ascribe to the Development Authority reasonable discretion to warrant denying the proposed Billboard.

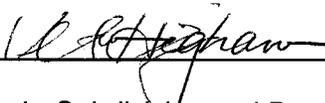
### Neighbouring Residential Use

9. Further, I find the proposed Billboard sign to be incompatible with general sound planning principles which typically call for the inclusion of a transition *buffer* between residential and industrial uses – be it natural (trees, hills, green space) or man-made (berm, fence, landscaping).
10. While there exists a berm and row of trees to the west of the proposed Billboard sign, the proposed application provides for no transition buffer between the proposed sign and the neighbouring residential area *directly across the street*.
11. I find the height, massing, area, and lighting associated with the proposed application to be incompatible with the amenities of the existing residential neighbourhood in the absence of a sufficient transition buffer between these two uses.

### Conclusion

12. Thus, I am satisfied that the Development Authority had sufficient legislative and discretionary justification to deny the proposed sign, on the basis that it fails to meet both the *LUB* guidelines referenced herein, and general sound planning principles as they relate to the existing low density residential neighbourhood directly adjacent to the proposed application.

Dated, this 18<sup>th</sup> day of November, 2016 at the city of Red Deer, Alberta.

  
\_\_\_\_\_  
Vesna Higham  
Chair, Subdivision and Development Appeal Board

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

## **APPENDIX A**

Documents presented at the Hearing and considered by the Board.

### HEARING SUBMISSIONS

- A1 Hearing Materials provided by Clerk (Agenda cover page plus 6 pages)
- B1 Development Authority submission (23 pages)
- B2 Development Authority proposed conditions (1 page)
- C1 Appellant submission (bound booklet with 7 tabs)
- C2 Appellant submission of letter dated July 29 for a previous denial of application for the same sign (1 page)