

SUBDIVISION & DEVELOPMENT APPEAL BOARD DECISION

CHAIR: G. MARKS
PANEL MEMBER: K. HOWLEY
PANEL MEMBER: L. MULDER

BETWEEN:

CITY OF RED DEER
Inspections & Licensing Department
represented by Martin Kvapil and Angie Keibel
Development Authority

and

PAUL GOWANS
represented by Kelsey Lavery
Appellant

and

GROUP2 ARCHITECTURE INTERIOR DESIGN LTD.
represented by Craig Webber
Applicant

This is a Decision of an Appeal to the Red Deer Subdivision and Development Appeal Board in regards to the June 15, 2016 decision of the Municipal Planning Commission, which approved the application by Group2 Architecture Interior Design Ltd. for a development permit for the Discretionary Use of an Assisted Living Facility, on the lands zoned R3 Residential (Multiple Family) District located at 10 Carrington Drive (Lot 116, Block 1, Plan 102 6360).

The Appeal hearing commenced on July 20, 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: Kelsey Lavery

Applicant: Craig Webber

Other Attendees: Brenda Schimke and Paul Gowans

DECISION:

The Red Deer Subdivision and Development Appeal Board denies the Appellant's appeal of the June 15, 2016 decision of the Municipal Planning Commission.

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 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 City of Red Deer, Bylaw No. 3357/2006, *Land Use Bylaw*.

BACKGROUND

3. The subject property is located within the Clearview Ridge neighbourhood at 10 Carrington Drive (Lot 116, Block 1, Plan 1026360), which is zoned R3 Residential (Multiple Family) District in Red Deer, Alberta.
4. On October 12, 2010, the Municipal Planning Commission approved the Discretionary Use of an Assisted Living Facility with 144 units, consisting of 100 units in Phase 1, and 44 units in Phase 2. As approval for Phase 1 had lapsed, an extension had been sought and provided, which ultimately lapsed. The currently proposed Phase 2 development is within the same area of the subject site as the previously approved Phase 2.
5. On June 15, 2016, the Municipal Planning Commission approved the application by Group2 Architecture Interior Design Ltd. (the Applicant), for a development permit for the Discretionary Use of a two-storey, 2207m² addition for 66 beds within an Assisted Living Facility, subject to conditions.
6. An appeal was submitted to the SDAB on July 4, 2016, pertaining to the Municipal Planning Commission’s approval of development permit for the subject property.

PRELIMINARY MATTERS

7. The Chair of the Board confirmed that no Board Member raised any conflicts of interest with regard to this application, and neither party had any objection to the panel proceeding with the appeal.
8. Neither party raised preliminary matters or concerns.
9. The Board confirmed that the main issue before them is the Development Permit for the Discretionary Use of an addition to an Assisted Living Facility on the subject property.

POSITION of the PARTIES

Development Authority Position

10. The Development Authority, represented by Martin Kvapil and Angie Keibel, spoke to Submission B.1, and confirmed that this appeal pertains to the application and subsequent approval of development permit DP075286.
11. The Development Authority confirmed that the subject area is located at 10 Carrington Drive in the city of Red Deer.
12. The Development Authority confirmed that public consultation was undertaken within 100 meters of the subject property. 57 letters were mailed out to landowners, which resulted in 17 responses.
13. The Development Authority summarized the landowner's concerns, and addressed them as follows:

Concerns of Cody Place Homeowners	Development Authority's Response
The initial Development proposed lesser beds in Phase 2.	The initial development permit was approved in October 2010 for Phase 2 to have 44 beds. The approval was later extended in November 2011. The current proposal would result in an increase of 22 beds from the initial development permit approval.
The proposed plan provides minimal green space.	The proposed development provides for 36.8% of landscaped area, which exceeds the required 35% within the Land Use Bylaw.
Neighbourhood property values will depreciate and be adversely impacted economically.	Unable to confirm any claimed future property devaluation.
Building expansion will adversely impact length of daily sun exposure for Cody Place residences.	<ul style="list-style-type: none"> • Provided solar modeling and data that demonstrated the approximate loss of daily sunlight along the subject site's westerly property line. • Provided stop-motion animation clips that display generated sunrise to sunset shadows created by a single-storey expansion, the proposed two-storey expansion, and a maximum-allowed four-storey expansion during equinoxes and solstices. • Similar modeling was also provided for the properties at 9 and 11 Cody Place to illustrate the shadow effects created by the semi-detached dwellings, their deck overhangs and fencing, and the adjacent trees.
Anticipated increase in amount of vehicle traffic and associated noise.	<ul style="list-style-type: none"> • The proposed expansion would use the existing paved lane along the western site boundary and the existing parking areas on the north and south sides of the existing building.

	<ul style="list-style-type: none"> • Stated no Traffic Impact Assessment was undertaken, as the paved lane did not generate enough traffic to warrant the Assessment.
Two-storey building expansion will be too close to adjacent rear yards along westerly border.	The proposed building expansion would be setback 12.96 meters from the existing fence along the westerly site boundary. Within the current R3 district, the minimum rear yard requirement is 7.5 m.
A berm with landscaping was to be constructed in the event of any building expansion, which was to be one storey only.	<ul style="list-style-type: none"> • The initial development permit identified Phase 2 to be two storeys, and no berm was proposed or required with the application. • Within the current R3 district, the maximum height allowed for an Assisted Living Facility building is four storeys.

14. The Development Authority confirmed that the proposed development meets all the requirements of the following documents:

- Land Use Bylaw 3357/2006;
- Municipal Development Plan (MDP);
- East Hill Major Area Structure Plan (MASP);
- Neighbourhood Planning & Design Standards (NPDS); and
- Clearview North Neighbourhood Area Structure Plan (NASP).

15. The Development Authority submitted that the materials, architectural style, and finish of the proposed development will complement the existing development. Further, the location and height of the proposed development is compatible and respectful of neighbouring buildings and surrounding developments

16. The Development Authority stated that the options for the Board are to approve the development permit, deny the appeal and uphold the Development Authority's decision with or without conditions, or deny the development permit and allow the appeal.

17. In summary, the Development Authority asks the Board to deny the appeal and uphold the Municipal Planning Commission's decision to approve the development.

Appellant Position

18. The Appellant, represented by Kelsey Lavery, spoke to Submission C.1.

19. The Appellant addressed and responded to three statements, as follows:

- The owner of the Assisted Living Facility has been open with plans, and provided proper notice.

- i. The Appellant submitted that the original development has seen a 50% increase since 2010 and that the concept drawings posted look nothing like the final development proposal. The Appellant stated that there was no depiction of the new laneway or 350 foot wing.
 - ii. The Appellant stated that the proposed courtyard is not accessible to homeowners. The Appellant recognized that locating a gathering space next to a laneway is not ideal, but submitted that this is what the Applicants are asking Cody Place homeowners to live with.
- The development permit meets the requirements of Land Use documents.
 - i. The Appellant submitted that there are many important considerations the Board should take into account when making a decision regarding a discretionary use. The Appellant stated that unlike a church or a daycare, the Assisted Living Facility is large and constantly in use. Residents, guests, staff, delivery trucks, garbage removal, and snow removal will be frequently coming and going.
 - There are no relaxations being sought.
 - i. The Appellant pointed out that this is not in dispute, but also stated that this is not the point of the appeal.
 - ii. The Appellant recognized that the proposed development does meet the Land Use Bylaw and relevant planning documents. The Appellant stated that meeting Land Use Bylaw requirements does not reduce negative impact or undue interference on the amenities and quality of life of the Cody Place homeowners. The Land Use Bylaw does not refer to sun, views, or quality of life.
 - iii. The Appellant submitted that although the proposed development does meet Land Use Bylaw requirements, it is suggested that *MGA* s. 687 be used as a guideline by the Board in making their decision.

20. The Appellant presented the following factors for the Board to consider in regards to the appeal:

Factors to Consider	Appellant's Statements and Submissions Regarding Factors
Privacy	<ul style="list-style-type: none"> • Privacy is a long-standing right in one's own home. • The only windows in the proposed development will face the Cody Place homeowner's backyards, decks, and rear living spaces. Although the Applicant adjusted the layout to not have any main living space next to the windows, in the dark of winter with lights on there will still be a direct view into the homes. This will increase security risks, especially for the single senior women that reside in

	<p>Cody Place.</p> <ul style="list-style-type: none"> The Appellant provided a video that shows a transport truck driving next to a Cody Place homeowner's fence line. The truck driver is able to see the rear living space from his viewpoint.
Views	<ul style="list-style-type: none"> Cody Place homeowners currently have a view of greenspace and a sunrise, as depicted in Submission C.1. The proposed development will reduce the current east facing view to a 350 foot long blue wall. As the sun is setting, a bright reflection from the windows on the proposed development will be a nuisance. This will result in less enjoyment of backyard space during sunset.
Peacefulness	<ul style="list-style-type: none"> The proposed development will result in an increased usage of the laneway by additional staff members and visitors. Snow removal will also take longer, thus disturbing peace and quiet even more. Further, Cody Place homeowners will experience more air pollution, dust, and exhaust from the increased use of the laneway. The service road is for the sole use of the Assisted Living Facility, but only adversely affects the homeowners. The laneway is not monitored for speeding, off-street parking, or nuisances. The Appellant provided the same video of the transport truck driving next to a Cody Place homeowner's fence line. The video was used to depict the noise level of the vehicles using the laneway.
Decrease in Value	<ul style="list-style-type: none"> The purchase price of these homes reflected an expected lifestyle. The proposed development takes away from this lifestyle, and will result in a future property devaluation assessed at 5%-10% of the value of the Cody Place homes, as supported by Submission C.1. The proposed development will take away from the future value of these homes and turns away potential buyers. What was once an appreciating asset can no longer be considered a legacy planning asset.
Sunlight	<ul style="list-style-type: none"> Currently the east-facing decks and interior of Cody Place homes begin to see sunlight as early as 5:20 a.m. The proposed development will cause a loss of 2.5 hours of morning sunlight in the summer, and a 3-4 hour loss of total sunlight in the winter. This lack of sunlight will increase the risk of Seasonal Affective Disorder. The lack of sunlight and increased shade will negatively impact backyard landscaping. Cody Place homeowners have invested in skylights and their backyards, and the increased shade will result in a loss of this investment and access to natural surroundings.
Greenspace	<ul style="list-style-type: none"> There are no alternate outdoor leisure spaces available for the Cody Place homeowners, as the proposed development places the courtyard in the centre of the development. The proposed development has 26% more parking stalls than required. This extra parking space could be utilized by moving the

	courtyard to the west side of the development.
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21. The Appellant submitted that *MGA* s. 617 shows that a balance is required between the rights of property owners and the larger public interest, and that this balance is to be consistent with community values. It is the Cody place homeowner's position that these community values include the features which reflect the quality of life expected in the area.

If the development proceeds there will be no balance that reflects any considerations of the homeowners concerns.

22. In summary, the Appellant asks the Board to approve the appeal and overturn the Municipal Planning Commission's approval of the development permit.

Applicant Position

23. The Applicant, represented by Craig Webber, spoke to Submission D.1.

24. The Applicant referenced the statement that the development is a community amenity. The Applicant does not agree.

25. The Applicant submitted that the initial development permit for the subject property was issued in November of 2010, prior to the development of Cody Place.

26. The Applicant stated that the owner of the Assisted Living Facility has always been open and transparent with the proposed development. The initial development permit showed the full development at the time of submission, and also depicted the intended landscaping.

27. The Applicant submitted that the courtyard was always intended to be between buildings. The courtyard is a space that residents will use to congregate and have programmed activities during the day. By moving this area away from Cody Place, the Applicant was trying to be respectful of homeowner's space.

28. The greenspace on the west side of the property is a statutory protected storm water retention area greenspace, and the rest of the green space is privately owned property, which just happens to be green. The landscaping was intended to be sparse on the privately owned property, as the intention was to develop on that area.

29. The Applicant stated that the owner of the Assisted Living Facility invested in Phase 2 of the proposed development by initially adding additional parking, as it was more economical to add additional parking before Phase 2 was built. The owner invested in the future of the Assisted Living Facility.

30. The Applicant submitted that the proposed development conforms to the Land Use Bylaw and all relevant land planning documents, as described by the Development Authority.

31. The Applicant agreed that the proposed development is a discretionary use, and that it was understood by the Cody Place homeowners at the time of purchase that a facility was to be

constructed. Until this time the homeowners have not complained about the development plans.

32. The Applicant referred to the Re Clarendone Development Ltd. case, found in Submission D.1, that supports the reason for appeal. The case provided by the Appellant speaks to rezoning from R2 to R3. The Applicant states this case has some relevance, but actually supports their contention that they are acting within their rights to develop as proposed.
33. The Applicant stated that the subject property meets or exceeds every one of requirements set out in the Land Use Bylaw. No relaxations or variances are being sought.
34. The Applicant stated that they met with the Cody Place homeowners three times to gather feedback on the proposed development. The Applicant stated that as a result of this meeting, several actions were taken, as follows:
 - An extra tie in point was implemented to increase privacy for the Cody Place residents. The two tie in points keep operational density to the east of the existing facility.
 - The owner of the Assisted Living Facility increased on site storage to minimize deliveries.
 - Significant landscaping was implemented between Cody Place and the proposed development to increase privacy and attenuate sound from vehicles operating on the rear access. The Appellant stated that only 17 trees and 33 shrubs are required, but that they have provided 34 trees and 107 shrubs. As well, coniferous trees were used in order to provide year round privacy, and were also used to reduce the amount of leaves Cody Place residents would need to clean.
 - The basement layout was revised for exiting.
 - The owner of the facility replaced the decks.
 - The owner of the facility revised mechanical distribution.
35. The Applicant stated that the Appellant's submission regarding "Privacy of a person's home is one of our most cherished values and should not be intruded upon," is a quote from a criminal case, as seen in Submission D.1. The Applicant submitted that the criminal case is not related to outdoor areas, and is therefore not relevant as it does not relate to urban planning issues.
36. The Applicant stated that the proposed 350 foot wall visible from Cody Place homes is not a solely a solid blue wall. The wall has different elevations, different materials, and a variety of stone. The wall conforms to the design guidelines of the community.

37. The Applicant submitted that R3 zoning allows for a four-storey building to be erected. As four storeys are allowed but only a two-storey building is being proposed, the Applicant submits that they are actually improving upon R3 zoning allowances.
38. The Applicant responded to the Appellant's contention that some of the Cody Place properties are more affected by the proposed development than others. The Applicant stated that all times reflect when the sun clears the furthest east point of the Cody Place property fence line. Further, the Applicant stated they rounded up to the nearest hour to show the worst possible scenario.
39. The Applicant further stated that the sun only rises at 5:20 am for some Cody Place homeowners, as the current Assisted Living Facility casts a shadow on a portion of the homes until 7:00 am. Depending on where trees and the current building is, there is already an impact to homeowners.
40. The Applicant responded to the Appellant's contention the proposed development impacts Cody Place property values. The Applicant stated that they are unable to speak with great certainty on the impact the development will have on property values, but referred to a case in Submission D.1. This case does reflect some change for a property value, but the amount that was contributed to the sun shadow was a devaluation of only 2.4%, which is different from the 5%-10% devaluation claimed by the Appellant.
41. The Applicant responded to the Appellant's contention that the Provincial government was forcing the Applicant to build the facility. The Applicant stated that the Provincial government is not forcing them to build the facility, but that the owner wanted to build a larger development, as there is a need in the Red Deer area for long term care beds. The Provincial government supported the proposed development by providing a grant for the beds.
42. In summary, the Applicant submitted that the proposed development is orderly, efficient, and economical. The Applicant stated that there is a balance between the Cody Place homeowner's and Assisted Living Facility owner's needs, and they are not infringing upon anyone's rights. The Applicant submits that the Appellant's appeal be denied, and the development permit be upheld.

Residents Opposing Development

43. Brenda Schimke, the owner of #7 Cody Place, spoke to Submission E.1.
44. Brenda Schimke provided background on the purchase of her home in 2012 for \$480,000. Since putting her home on the market on March 24th, 2016 for \$479,000, the property has not sold, as those interested were unsure about the east side of the residence.
45. Brenda Schimke stated the following:
 - Her realtor's original market evaluation suggested the property should sell between \$445,000 and \$467,000. The second market evaluation on July 18, 2016 stated that on average, the sold status comparable listings sold in 57 days for \$464,400.

- Her asking price for #7 Cody Place is not over-priced, as she still has consistent showings of her home. She stated that there is a large interest for villas of this type, but the location of the home, next to the proposed development, is the issue for selling.
 - There are no comparable sales in Red Deer. No equivalent homes have faced or will likely face the complete elimination of all direct sunlight in all living areas of their home.
 - She compared the sale of her current home to a home she sold in 2011 in Edmonton. Brenda Schimke stated that the location of the Edmonton home was not ideal, but still sold at a profit, as there was plenty of the sunlight in the home. In her experience, sunlight is more important than location.
 - She talked with Melcor, Trueline, and the Planning Department at City Hall, where she also checked the plans and zoning. She submitted that she was unaware that a paved laneway for industrial traffic would be constructed within 4 feet of her fence. Brenda Schimke stated that the owner of the Assisted Living Facility has planted trees within that 4 foot space, which are now impacting her back yard.
 - Cody Place homeowner's were there first, and that the Applicant's had their opportunity to be good neighbours by building Phase 1 of the Assisted Living Facility lengthwise and closer to 30th Avenue. By building the facility this way, the residential homes would have limited obstruction of the sun, and the width end of the building without windows facing them, opposed to a solid blue wall with windows.
46. In summary, Brenda Schimke stated that the financial impacts and the loss of sunlight, and privacy created by the Applicant's proposed development should not be borne by the owners of Cody Place. She stated that the Applicants and the City Planning Department erred by allowing a paved laneway so close to her yard.
47. Paul Gowans, the owner of #18 Cody Place, expressed his concerns.
48. Paul Gowans suggested the Applicant's create a four-storey Assisted Living Facility as opposed to a two-storey building, as it will take up less ground space and pose fewer problems for the homeowners.
49. Paul Gowans submitted that Trueline always believed that the Assisted Living Facility would only be a one-storey building. He stated that there must have been some confusion and lack of communication in terms of what Phase 2 would involve.
50. Paul Gowans addressed the Development Authority's statement that a Traffic Impact Assessment was not warranted. Paul Gowans stated that the road is 411 feet long, and will have additional usage when there is snowfall and frontend loaders and trucks are required to haul out the snow. Further, there will be 11 additional staff members needing to commute to work, and will use this road. Paul Gowans submitted that there will be an increased amount of noise.

51. Paul Gowans stated that the proposed development will include 19 windows on the second floor. These windows will be used to view the yards and decks of the Cody Place homes, and allow people to see into the homes of Cody Place and view the master bedrooms, living rooms, and dining rooms.
52. Paul Gowans stated he appreciated the meetings with the Applicant, and but that the Cody Place homeowners requested these meetings, not the owner of the Assisted Living Facility. These meetings would not have happened without the request of the homeowners.
53. In summary, Paul Gowans submitted that the issues which the Applicant tried to deal with still exist, as there will still be a loss of privacy and sunlight, and an increase in noise.

Appellant Summary

54. The Appellant addressed the Applicant's comments on the quote "Privacy of a person's home is one of our most cherished values and should not be intruded upon". The Appellant clarified that the quote meant that privacy is a respected value for all, and that the remaining parts of the case were not relevant.
55. The Appellant submitted that the colour of the 350 foot proposed wall is not the point. The point is that there will be a big wall facing Cody Place residents if the development proceeds as designed.
56. The Appellant stated that she was not saying the Provincial government was forcing the Assisted Living Facility to be built, but that the Provincial government funding was dependent on the grant proposal approved by the Provincial government. The Appellant further stated that there was no evidence provided by the Applicant or Development Authority of the grant proposal, nor was there evidence of the need for 22 additional beds.
57. The Appellant suggested that the proposed development could potentially be a one-storey building with 33 beds, but that this option was not presented and that it is not known what this option would look like.

Applicant Summary

58. The Applicant stated that the Land Use planning guidelines apply to more than just individuals, and will often times also apply to organizations. It would be inconceivable that all properties would be owned by individuals. The Applicant submitted that all property owners should be afforded the same rights, and requested that such rights be considered and balanced accordingly.
59. The Applicant addressed Brenda Schimke's and Paul Gowan's comment that they were "there first." The Applicant stated that the Assisted Living Facility's initial development permit was actually issued first, and although changes have been made to the initial development permit, great care was taken to minimize any negative impact on the homeowners.

60. The Applicant addressed Brenda Schimke's statement that Trueline believed the Assisted Living Facility would only be a one-storey building. The Applicant submitted that the plans on file at The City in 2010 did not support this, as the design incorporated in the development permit always depicted a two-storey development. The Applicant stated that it was not their responsibility to further inform every property owner, as the development permit information was available at City Hall.
61. The Applicant addressed Brenda Schimke's statements on selling her home. The Applicant stated that any shortcomings in this regard should not fall on them, and that although they would have liked to find a resolution where Cody Place residents were satisfied, that was just not possible.

ISSUES and BOARD FINDINGS

62. The Board considered the written, verbal, video and photographic evidence submitted, and notes that the appeal pertains to the approval of a development permit for the subject property.
63. The Board finds the main issues brought forward by the Appellant are those relating to potential property value decreases and the proposed developments perceived interference with sunlight, privacy, view, and peace of the Cody Place homeowners.
64. The Board notes that the subject site is currently greenspace. Any development on this site beyond greenspace will have an effect on the sunlight, views, privacy and peace of the surrounding properties. The Board is not convinced that there is an unlimited right to sunlight, views, privacy and peace in these circumstances, and the impacts on the surrounding properties must be balanced against the Applicant's right to make use of its land.
65. The Board acknowledges that there will be an unavoidable reduction in sunlight, but the Appellants have not satisfied the Board that this reduction is undue or excessive in these circumstances.
66. The Board appreciates the submissions by area land owners regarding sunlight, particularly that of Brenda Schimke.
67. The Board accepts that the increased landscaping and addition of trees and shrubs may address the privacy concerns brought forward by the Appellant. In the Board's opinion the proposed development has been designed to be respectful of adjacent neighbour's privacy and does not lead to an excessive loss of privacy.
68. The Board finds that the service road is a private driveway for the sole benefit of the Assisted Living Facility. The Appellant and surrounding landowners have not satisfied the Board that this service road will unduly impact their properties. The Board acknowledges that the Applicant made modifications to increase storage areas on the subject property, thereby reducing the need for a potential increase in the volume of transport trucks on the service laneway. With these proposed changes, the Board is satisfied that the volume of traffic on the service road will not have an undue negative impact on the neighbourhood.

69. The Board appreciates that although there is currently a green space east of the residences; the Board finds that the 2010 design plans for Phase 1 and 2 of the Assisted Living Facility were available for review at that time, and prior to the construction of the adjacent neighbour's property. It is the Board's opinion that this green space was marked for development prior to the construction of the adjacent neighbouring properties and could not have been considered as a green space for the enjoyment of the adjacent neighbouring properties moving forward.
70. The Board accepts that the increased landscaping and addition of trees and shrubs will aid in attenuating the echoing and noise disturbances created by the Assisted Living Facility.
71. The Board finds the Appellant and neighbours' concerns about the increase in noise to be speculative, and the Board is not satisfied that the proposed development will result in a sufficient increase in noise that a development of this nature would not be appropriate at the subject site.
72. The Board finds that any decrease in value to neighbouring properties is highly speculative, and cannot be quantified in value based on the evidence and information presented. The evidence submitted with respect to this issue was inadequate, including because it seemed to assume that the subject site would otherwise remain as green-space and serve as an amenity space for the neighbourhood, which does not acknowledge the Applicant's rights to use its land.
73. The Board acknowledges the submissions of the parties stating that they had been misled regarding the nature of the development being proposed at the time they purchased their homes.
74. The Board finds through oral presentation and written submission made by the Applicant that the design for the initial development permit of Phase 1 and 2 of the Assisted Living Facility was in place and available for public review in late 2010.
75. The Board finds that the proposed development is not significantly different from the design that was submitted and approved in 2010, and that the majority of the modifications to accommodate the 22 additional rooms are being developed easterly, away from the adjacent homeowner's properties.
76. In any event, nothing turns on this. The Board's decision was based on the application as it currently stands, not on any past representations which may have been made.
77. The Board finds that the development meets all the requirements of the Land Use Bylaw, and conforms to the requirements of the Municipal Development Plan (MDP), the East Hill Major Area Structure Plan (MASP), the Neighbourhood Planning & Design Standards (NPDS), and the Clearview North Neighbourhood Area Structure Plan (NASP).
78. The Board finds that the case law provided in support of the Appellant's position was not persuasive in relation to the subject matter of the Appeal.

79. The Board finds that a balance between the rights of property owners and the larger public interest was considered by the Planning Department, and that this balance is consistent with community values.

For the reasons detailed above, the Board denies the appeal and upholds the June 15, 2016 decision of the Municipal Planning Commission.

DECISION SUMMARY

The Red Deer Subdivision and Development Appeal Board denies the appeal in regard to the June 15, 2016 decision of the Municipal Planning Commission, which approved the application by Group2 Architecture Interior Design Ltd. for a development permit for the Discretionary Use of an Assisted Living Facility, on the lands zoned R3 Residential (Multiple Family) District located at 10 Carrington Drive (Lot 116, Block 1, Plan 102 6360).

CLOSING:

Dated at the City of Red Deer, in the Province of Alberta, this 04 day of August, 2016 and signed by the Chair on behalf of all panel members who agree that the content of this document adequately reflects the hearing, deliberations, and decision of the Board.



Garfield Marks, Chair
Subdivision & 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

- A.1 Hearing Materials with Agenda, Appeal Form and attachments, Notices of Hearing, and Municipal Planning Commission approval letter
(13 pages)
- B.1 Development Authority Submission
(57 pages)
- C.1 Appellant's Submissions
(24 pages and 33 pages)
- D.1 Applicant's Submissions
(6 pages and 21 pages)
- E.1 Resident submission – Brenda Schimke
(15 pages - resident did appear at the hearing)