

SUBDIVISION & DEVELOPMENT APPEAL BOARD DECISION

CHAIR: B. FARR  
PANEL MEMBER: R. KERBER  
PANEL MEMBER: P. KITTINGHAM

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BETWEEN:

GARY OOSTERHOFF  
Represented by GAYLE A. LANGFORD

Appellant

and

CITY OF RED DEER  
Planning Services, Planning Department  
Represented by ORLANDO TOEWS

Subdivision Authority

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**BASIS OF APPEAL:**

This is an appeal of the denial of a subdivision application by the Subdivision Authority. The Appellant had applied for subdivision of the lot located at 5055 – 45 Avenue, Red Deer, Alberta (Lot 7, Block I, Plan K9).

The Appeal was heard on January 13, 2015, in City Hall at the City of Red Deer, within the Province of Alberta.

**DECISION:**

In determining this appeal, the Board:

- Complied with provincial legislation and land use policies, applicable statutory plans, and, subject to variation by the Board, The City of Red Deer, by-law No 3357/2006, *Land Use Bylaw*, as amended, and all other relevant City of Red Deer Bylaws;
- Had regard to the *Subdivision and Development Regulation*, Alta Reg 43/2002;
- Considered the relevant planning evidence presented at the hearing and the arguments made; and
- Considered the circumstances and merits of the application.

**1. The appeal is denied and the decision of the Subdivision Authority is confirmed.**

**2. The application for subdivision is not approved.**

## **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 Subdivision and Development Appeal Board (SDAB) is established by The City of Red Deer, By-law No 3487/2012, *Appeal Boards Bylaw*. The duty and purpose of the SDAB is to hear and make decisions on appeals for which it is responsible under the MGA and the *Land Use Bylaw*.

## **BACKGROUND**

3. The Appellant applied to the City of Red Deer Subdivision Authority to subdivide a larger parcel lot at 5055 – 45 Avenue Red Deer, Alberta (Lot 7, Block I, Plan K9), within the Woodlea neighborhood, to have two smaller sized lots (757.2 m<sup>2</sup> and 611.9 m<sup>2</sup>) for the future development of a detached dwelling on the subdivided East lot. The subdivision authority for the City of Red Deer is the Municipal Planning Commission (MPC). MPC heard the application on January 22, 2014 and approved the subdivision.
4. Subsequently, the City of Red Deer Planning Department was advised that the adjacent neighbours of the parcel had not been notified of the January 22, 2014 MPC meeting. Notification of adjacent neighbours is required under the MGA, s 653(4). The City of Red Deer Planning Department withdrew the approval of the subdivision at 5055 – 45 Avenue (Lot 7, Block I, Plan K9, Red Deer, Alberta).
5. The Appellant then submitted another application for approval of subdivision of the lot at 5055 – 45 Avenue, Red Deer, Alberta. MPC provided notification to adjacent neighbours and heard the application on December 10, 2014. MPC denied the request for subdivision.
6. The SDAB received an Appeal from the Appellant, Gary Oosterhoff, on December 19, 2014, together with the applicable filing fee, opposing the decision to deny the subdivision.
7. The Planning Department of the City of Red Deer, Alberta was provided with notice of the Appeal and provided a disclosure package to the Appellant on January 8, 2015. This submission is included in the Hearing Materials within Exhibit A1.
8. The Appellant provided a disclosure package to the Planning Department on January 7, 2015. This submission is included in the Hearing Materials within Exhibit A1, but will be referred to as Exhibit B1, as the document was entered as a separate document, at the hearing of the Appeal.
9. The SDAB hearing of the Appeal occurred on January 13, 2015, in City Hall at the City of Red Deer, within the Province of Alberta.

## **PRELIMINARY MATTERS**

10. At the request of the Appellant, the Board dealt with the preliminary issue of whether Board Member, Carol Mah, could hear the appeal. Carol Mah was a member of the City of Red Deer

Municipal Planning Commission on January 22, 2014, when Gary Oosterhoff's original subdivision application was first considered.

11. Carol Mah voluntarily stepped down from sitting as a Board Member, and Petra Kitteringham stepped in.
12. There were no objections to the composition of the remainder of the Board.
13. The Board then identified another preliminary issue of whether any parties other than the adjacent land owners could speak at the Appeal hearing.
14. The SDAB clerk had inadvertently mailed a notice of hearing to all land owners within 100 metres of the Lot. The clerk notified those land owners of the error by mail on January 6, 2015.
15. The Board discovered that many of the people who were in attendance at the Appeal hearing and who wanted to speak to the Appeal, were not adjacent land owners. The Board then needed to decide whether written and/or oral submissions from persons who were non-adjacent land owners, could be admitted into evidence.
16. Materials submitted in advance by parties who were not adjacent property owners were included in the Hearing Materials.
17. In determining the preliminary matter, the Board had regard to the following sections, among others, of the MGA, as amended:

Section 680(1) states, in part:

**Hearing and decision**

680(1) The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) A person or entity that was notified pursuant to section 679(1), and
- (b) Each owner of adjacent land to the land that is the subject of the appeal, or a person acting on any of those persons' behalf

(1.1) ...

**Notice of hearing**

679(1) The board hearing an appeal under section 678 must give at least 5 days' written notice of the hearing to

- (a) the applicant for subdivision approval,
- (b) the subdivision authority that made the decision,
- (c) if land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality,
- (d) any school board to whom the application was referred, and
- (e) repealed 1996 c30 s66,
- (f) every Government department that was given a copy of the application pursuant to the subdivision and development regulations.

- (2) The board hearing an appeal under section 678 must give at least 5 days' notice of the hearing in accordance with subsection (3) to owners of land that is adjacent to land that is the subject of the application.
- (3) A notice under subsection (2) must be given in accordance with section 653(4.2).
- (4) For the purposes of this section, "adjacent land" and "owner" have the same meanings as in section 653.

18. The Board also reviewed Frederick A. Laux, *Planning Law and Practice in Alberta*, loose-leaf (Edmonton: Juriliber, 2002), ch 13 at 13-14:

The Act says little about the procedures to be followed by an appeal board in conducting a hearing. It does say that a board "is not required to hear from any person other than" such person or entity as was notified of the hearing as required by s. 679(1) and an adjacent land owner as defined in s. 653, or their representative....

Subject to its enabling statute an administrative tribunal is master of its own procedure for its hearings, but if it exercises a quasi-judicial function, as does a board hearing subdivision appeals, it is obligated to adhere to a high standard of procedural fairness.

19. The Board decided to hear from all persons in attendance who wished to speak and contribute new information that was not already submitted or expressed verbally, but would consider the weight to be accorded to the submissions of persons who were not adjacent land owners.
20. The Board then continued with the hearing and heard from both parties and other persons who wished to be heard respecting the merits of the Appeal.

## REASONS

21. The Board has regard for the MGA s 680(2), among other legislation and by-laws:

Hearing and decision

680(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

22. The Board takes into consideration the written, verbal, and photographic evidence submitted in this matter. The Board observes that the subject of this Appeal is a lot located at 5055 – 45 Avenue, Red Deer, Alberta, that is located in the Woodlea neighbourhood, and has been designated as R1 Residential (Low Density) District pursuant to the *Land Use Bylaw*.

23. The Board first considers the provisions of *MGA* s 680(2)(a), which states that the board hearing the appeal must act in accordance with any applicable *Alberta Land Stewardship Act (ALSA)* regional plan. There is no *ALSA* regional plan that is applicable to this area.
24. The Board next must have regard to statutory plans, per s 680(2)(a.1), such as Area Structure Plans, Area Redevelopment Plans, and Municipal Development Plans.
25. There are no Area Structure Plans, or Area Redevelopment Plans governing the subject parcel.
26. The City of Red Deer has put in place a Municipal Development Plan (MDP) in City of Red Deer, by-law, No 3404/A-2013, *Municipal Development Plan Bylaw*. The MDP is a statutory plan.
27. The Appellant submits in a written submission that the MDP encourages higher density development, intensification and redevelopment, infill, and efficient use of land for urban purposes.
28. In the brief provided by Michael Keyes, agent for adjacent landowners Peter Slade and Peggy Johnson, the brief also quotes from the MDP, but emphasizes that the MDP is to be applied in a manner that is sensitive to the location, timing and other conditions of the more specific and local context (Exhibit CI at 4).
29. The Board has regard for the MDP and considers it as providing only general direction in this matter. As the MDP itself notes on page 2, “The MDP is intended to provide general direction to be applied in creating other statutory plans such as an Area Structure Plan”. Further in the MDP on page 4, “[the MDP] is not intended to be used as a rule book or regulatory instrument like the *Land Use Bylaw*.”
30. The Board next takes into consideration whether the proposed subdivision conforms with the uses of land in the *Land Use Bylaw*, per s 680(2)(b), of the *MGA*.
31. The *Land Use Bylaw* provides regulation on the RI Residential (Low Density) District in s 4. In s 4.1, it states, “The general purpose of this District is to provide land which will be used for low density residential development” (at 4-3).
32. A detached dwelling unit is a permitted use in the RI Residential (Low Density) District (*Land Use Bylaw*, at 4-3).
33. The RI Residential (Low Density) District Regulations in the *Land Use Bylaw* are as follows:
  - (a) Table 4.1 RI Regulations

Regulations	Requirements
Floor Area Minimum	Frontage in m x 6.0 m but not less than 72.0 m sq
Site Coverage Maximum	40% (includes garage and accessory buildings)
Building Height Maximum	2 storeys with a maximum of 10.0 m measured from the average of the lot grade
Front Yard Set Back	Minimum 6.0 m...
Side Yard Minimum	Detached dwelling: minimum 1.5 m

Rear Yard Minimum	7.5 m
Lot Depth Minimum	30.0 m
Landscaped Area	35% of site area
Parking Spaces	Subject to sections 3.1 & 3.2
Lot Area Minimum	Detached dwelling 360.0 m <sup>2</sup>
Frontage Minimum	Detached dwelling 12.0 m

34. The Subdivision Authority appeared at the hearing and gave evidence that the proposed subdivision would divide the existing lot into two smaller lots.
35. The Subdivision Authority advises that the proposed West lot complies with *Land Use Bylaw* standards for R1 Residential (Low Density) District, in terms of frontage, depth and overall lot area. However, the proposed East lot does not comply with the *Land Use Bylaw* R1 minimum 30 meters depth requirement. The lot depth would be 18.27 m. If the Board approved this subdivision application, the Board would need to provide a relaxation, or variance of the R1 Residential (Low Density) District Regulations, to the extent of almost 40%.
36. The Subdivision Authority indicated in its written materials that:
- “The proposed relaxation must be viewed in context with the proposed frontage and lot area for the proposed east lot.”
  - The proposed lot provides a “reasonable development area” (Exhibit A1 at 97, emphasis in original).
37. The Board does not accept the proposition that the overall size of the lot would balance the deficient depth requirement. The Board finds that exceeding two standards does not rectify the deficiency under the *Land Use Bylaw*, of the third standard. Moreover, an approximate 40% relaxation is excessive and calls into question why the City would bother establishing standards at all if relaxations of such a magnitude were granted.
38. The Board finds that the *MGA* and the *Land Use Bylaw* provide guidance, along with a legal test, to determine when a variance is acceptable. The Board finds that the proposed subdivision application does not conform with the uses of land referred to in the *Land Use Bylaw*, as the proposed East lot is not in compliance with R1 zoning requirements for lot depth in the R1 Residential (Low Density) District Regulations.
39. Given the Board’s finding that the proposed subdivision does not comply with the *Land Use Bylaw*, the Board must then consider *MGA* s 680(2)(f), which allows the SDAB to “exercise the same power as a subdivision authority is permitted to exercise, pursuant to this Part or the regulations or bylaws.” In accordance with s 680(2)(f), the Board then considered the application for subdivision on its merits.

40. In considering the application for subdivision, the Board has regard to Part 17, Division 7 of the MGA, including, but not limited to the following sections:

**Approval of application**

**654(1)** A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and the regulations under this Part, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

**(2)** A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (b) the proposed subdivision would not
  - (i) unduly interfere with the amenities of the neighbourhood, or
  - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

**(3)** A subdivision authority may approve or refuse an application for subdivision approval.

41. Section 654(1)(b) indicates that the Subdivision Authority must not approve an application for subdivision approval if its land uses do not comply with the *Land Use Bylaw*. The Board found previously that the proposed subdivision's land uses does not comply with the *Land Use Bylaw*. Section 654(1) indicates that an application for subdivision approval must not be approved if it is not compliant with the *Land Use Bylaw*, unless the tests articulated in s 654(2) are met by the applicant. The Board then considered s 654(2), which permits the subdivision authority to approve an application for subdivision, despite its non-compliance with the *Land Use Bylaw*, *where the tests it provides are satisfied*.

42. The Board must first consider whether the proposed subdivision would or would not “unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land (s. 654(2)(a)).”

43. Michael Keyes, agent, appeared at the hearing on behalf of adjacent landowners Peter Slade and Peggy Johnson in opposition to the proposed subdivision. Mr. Keyes also provided a written submission, which was included as Exhibit C1.
44. The Board also considered the Alberta Legislative Assembly, Lieutenant Governor in Council, "Land Use Policies" (November 6, 1996) to be applicable. This document states:
- In carrying out their planning responsibilities, municipalities are expected to respect the rights of individual citizens and landowners and to consider the impact of any policy decision within the context of the overall public interest (at 3).
45. All adjacent land owners that were present opposed the proposed subdivision. None of the adjacent or non-adjacent land owners spoke in favour of the proposed subdivision.
46. The Board acknowledges the written and oral submissions of all parties, including the Appellant, adjacent and non-adjacent neighbours, and the Subdivision Authority. The Board notes that in accordance with the "Land Use Policies," the Board is obliged to consider the impact of this decision on the overall public interest. The Board further reviewed the evidence provided by those in opposition to this subdivision application, including adjacent neighbours, the Community Association, and other area land owners.
47. On the balance of all of the evidence, the Board accepts the evidence of adjacent land owners, and concludes that not only does the proposed subdivision fail to conform with the use prescribed for that land in the Land Use Bylaw, as required by MGA s. 654(1)(b), but approval of the proposed subdivision would unduly interfere with the amenities of the neighbourhood, and would materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, as is prohibited in MGA s. 654(2)(a).
- As a result, the Board upholds the decision of MPC made on December 10, 2014 and denies approval of the application for subdivision.
48. In summary, the Board's reasons are as follows:
- The land is not suitable for development that meets the requirements of the City of Red Deer Land Use Bylaw #3357/2006, due to the excessive amount of the proposed variance of almost 40% to the lot depth.
  - The proposed subdivision does not conform with section 654(1)(a) of the Municipal Government Act as the land is considered unsuitable due to lot depth for the purpose for which the subdivision is intended;
  - The pervasive and convincing objections raised from adjacent property owners regarding the proposed subdivision plan's impact on their privacy, the character of the neighbourhood, their property values, and their use and enjoyment of their yards, decks and gardens, as is applicable to s. 654(2)(a) of the Municipal Government Act;
  - The MDP cannot be interpreted and applied in the manner argued by the Appellant to override the requirements of the applicable provincial legislation, the MGA, and the specific requirements of the Land Use Bylaw.

**CLOSING:**

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.

Dated at the City of Red Deer, in the Province of Alberta, this 28<sup>th</sup> day of January, 2015 and signed by the Chair on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



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B. FARR, Chair  
Subdivision & Development Appeal Board

## **APPENDIX A – Summary of Evidence from the Hearing**

### **Subdivision Authority**

The Subdivision Authority addressed land owner concerns in its oral and written submissions to the Board, as follows.

When this subdivision application came before MPC, an adjacent landowner commented, “The proposal is out of character for Woodlea.” The Subdivision Authority responded as follows:

- Woodlea is made up of a variety of lot sizes and shapes, including other lots on 51 Street that are smaller than the proposed east lot.
- No change in zoning (R1) and intent is to provide for development of detached dwellings, which is what this part of Woodlea has.
- The subject lot, the existing house, and the existing trees on the subject lot have no heritage designation with the Land Use Bylaw (Exhibit A1 at 101).

The Subdivision Authority responded to adjacent land owner’s concerns about privacy impacts as follows:

- Privacy issues, e.g. yards, building height, window placement, screening, can be addressed by the Development Authority (MPC) at the development permit stage.
- Landowners can do much on their own land to create privacy: positioning of accessory structures, fencing, screens, landscaping, etc. (Exhibit A1 at 105).

The Subdivision Authority responded to adjacent land owner’s concerns about ease of enjoyment of natural spaces, and concerns about tree removal, as follows:

- The proposed subdivision does not limit or impede anyone’s access to the natural spaces in the City’s park system (Coronation Park).
- Landowners have the ability to add or remove trees on their own property without a permit (Exhibit A1 at 105).

The Subdivision Authority responded to adjacent land owner’s concerns about impacts on property values, as follows:

- There are many factors that determine property value.
- No empirical evidence has been provided to show that the proposed subdivision will reduce property values.
- How does the development of a detached dwelling next to another detached dwelling, both zone R1, negatively impact the value of either property?
- Redevelopment within an aging neighbourhood may contribute to the vitality and desirability of that neighbourhood (Exhibit A1 at 114).

The City referred to the report contained in its disclosure submission (within Exhibit A1), which summarizes the decision that the application satisfies the requirements of MGA 654, and the relevant matters in SDR s.7, granting the East lot relaxation, and approves the subdivision application.

The subdivision and proposed dwelling is suitable for the R1 zoning, and with variances, the lot will accommodate the developments.

The Subdivision Authority assesses the proposed subdivided lot as a developable area. The proposed dwelling would require a variance to the depth standard to fit the lot; however, the other two requirements exceed the minimum standard. The proposed subdivision is suitable for the intended use, relaxation for lot depth is reasonable given the excessive lot size.

Granting the relaxation to the East lot is reasonable given the size and nature of the lot. The lot is oversized in every aspect apart from the depth requirement.

The Subdivision Authority asserts that there is insufficient evidence provided to indicate that use, enjoyment and property values of neighboring parcels would be affected if the proposed dwelling was approved.

The Subdivision Authority notes that the enjoyment of natural space and the enjoyment of the existing trees that reside on the lot currently can be taken down at any moment without a permit regardless of subdivision approval.

The Subdivision Authority indicates that the proposed development would be located further from the existing neighboring house, extending the distance for privacy; the current existing dwelling is closer in proximity to neighboring dwellings. Privacy issues would stem from the existing house rather than the proposed subdivision.

The Subdivision Authority follows the MDP for guidance, which included public consultation, on (re) development plans where Neighborhood Redevelopment Plans are absent.

Following the Municipal Development Plan (MDP), infilling of the larger lots would ensure efficient utilization of lands and infrastructure and follow R1 density plans.

The Subdivision authority affirms that any resident within the City of Red Deer, who owns land, has the right to be heard by the Subdivision and Development Appeal Board.

### **Appellant**

The Appellant referred to the report contained in their disclosure submission (within Exhibit B1), which summarizes the decision to approve the proposed subdivision.

The Appellant brought forth arguments from the MDP as follows:

- The implementation of infilling would encourage efficient use of land. The potential development would uphold all MDP provisions and the proposed variance of lot depth would support efficient use of the proposed lot.
- Woodlea neighborhood has the ability to increase density following the infill guidelines of the MDP.
- MDP supports revitalization, and takes advantage of existing infrastructure.
- The proposed subdivision would utilize residential areas and minimize urban sprawl.

The Agent of the Appellant, Gayle Langford, states that the subject lot is oversized and underutilized.

Appellant states that there are limited remaining lots, only two out of eleven, within the Woodlea area that have the ability to be developed based on the location and size.

Relaxation for the lot depth is reasonable, pursuant to the fact that the suggested variance is a discretionary issue, which the Board can administer.

Appellant states that subdivision and development can occur on the lot without any variances; the lot would support a long narrow building without any adjustments to the *Land Use Bylaw* standards.

The lot would accommodate infrastructure, transportation and other relevant considerations outlined in the SDR s.7.

The Appellant states that the comments from non-adjacent land owners, concerning adverse effects to the use, enjoyment and value of the neighboring properties, are more relevant to a development hearing. A subdivision appeal must consider relevance such as *Land Use Bylaw*, developable area, and considerations set out in SDR.

The Appellant confirms that a house can be built to comply with all bylaws, regulations, and reflect the unique character of the Woodlea neighborhood.

### **Land Owners**

The Adjacent land owners agent (Michael Keyes) referred to the report contained in their disclosure submission (within Exhibit C1), which summarizes the decision to not approve the proposed subdivision.

Municipal Planning Commission denied the Appellants application because there lacks a suitable area to develop a house of value that would fit without some development standard relaxations.

The Woodlea area could be rezoned to RIWS, then this property could be considered, however that action should occur after public consultation and not at a subdivision & development hearing.

The Appellants subdivision application does not pass the legal tests pursuant to MGA s. 654.

The proposed house, submitted in the documents by the Subdivision Authority and the Appellant, is a development that would require variances.

Woodlea neighborhood does not have an approved Area Structure Plan (ASP) in place, and subdivision applications should not be approved until an ASP is implemented.

Adjacent property owners state that the Planning Department has minimized the concerns of residents within the Woodlea area.

Every development must conform to the *Land Use Bylaw*, unless unusual circumstances are present to justify a variance action. The Appellant lacks unusual circumstances that may give reason to allow such a variance.

Peter Slade states that the lack of a setback from the proposed dwelling would not allow for an adequate buffer to their properties' backyard, and subsequently deprive them of privacy.

Adjacent land owner, Peggy Johnson, advised that she considers her backyard as an extension of the home. The proposed East lot would allow for another house to be built, which would be very close to her backyard. As a result, Ms. Johnson submitted that the proposed subdivision has the potential to impact on the privacy of her yard.

Bruce Buckley, a resident of Woodlea, but not an adjacent land-owner, spoke on the historic nature of the property. Mr. Buckley indicated that the property is not designated as historic right now, but it does meet the criteria for a designation according to the law. He indicated that Woodlea contains a lot of “weird little lots,” which were compliant with the law at the time of subdivision, but would not be compliant now. If the Board accepts the proposed subdivision, it would create another “weird little lot.”

Adjacent land owner, Jordan Hindbo, submitted that he bought a 100 year old home and renovated it to suit the Woodlea neighbourhood. If the subdivision is allowed it will increase the density of the neighbourhood, and would negatively affect the value of his property. He submits that he would not have bought his house had there been higher density at the time of his purchase.

The non-adjacent land owners addressed their concerns in their oral and written submissions (Exhibit D1 & E1) to the Board.

Rebecca Benedict, a local realtor who is not an adjacent land owner, advised that she polled five purchasers with regard to recent purchases in the Woodlea area. She asked them whether the proposed subdivision would have affected their decision to purchase in Woodlea. All indicated they would not have purchased in that area, or would only purchase at a lower price. The highlight and attraction of Woodlea is the privacy and large lot sizes.

Laura Turner spoke on behalf of the Woodlea Community Association. The Board recognized that the Community Association is not considered an adjacent landowner, but allowed their submission with the understanding that any evidence provided would be considered of lesser weight than that accorded to adjacent land owners. Ms. Turner advised that the community is excited to begin working on a Community Plan and an associated Area Redevelopment Plan (ARP), such as that which was developed by West Park, and the one that is currently in process in Waskasoo. Ms. Turner provided a letter on behalf of the Board of Directors of the Woodlea Community Association that states, in part:

In the absence of a Community Plan/ARP, residents say they are concerned about piecemeal development that has not been congruent with principled consideration for the natural and built environment or the strong attachment Woodlea residents have for key features of the neighbourhood, both of which form parts of a developing neighbourhood vision.

Other ‘affected parties’ also spoke and expressed concern over the loss of privacy with the proposed house so close in proximity, the loss of enjoyment from the mature trees that reside on the yard that would be torn down, and the loss of the quiet, private atmosphere of the Woodlea neighborhood.

A general statement from all adjacent property owners is that the large lots and large trees are significant characteristics of the Woodlea neighborhood, which contributes to private lots. The Appellant’s proposed development would take away those defining characteristics and compromise the integrity of the initial planning of the Woodlea area.

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#### EXHIBIT LIST

Exhibit A1 ..... Hearing Materials (pages 1-139)

..... Subdivision Authority (pages 39-131)  
Exhibit B1 ..... Appellant Submission (pages 1-16)  
Exhibit C1 ..... Adjacent Land Owners Submission (pages 1-17)  
Exhibit D1 ..... Woodlea Community Association (pages 1)  
Exhibit E1..... Benedict Devlin Real Estate Services (pages 1-6)