

REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

UNIT B 4730 ROSS STREET
RED DEER AB T4N 1X2
403-343-3394

October 4th, 2022

NOTICE OF DECISION

RE: Appeal of Stop Order - The Semi-Detached Dwelling approved under permit number 61/252.65 (16) issued on October 24, 2016, has commenced but has not been completed at 5240 51 Street, Lacombe Alberta, legally described as Plan 4500 R Block 19 Lots 41 and 42.

SUMMARY OF APPEAL

This is an appeal of a Stop Order

The Appellant – Carl Wilson – appealed the Stop Order. The Appellant does not feel the timelines in the Stop Order are reasonable.

Notice of the appeal was provided to interested parties, and a hearing was held on September 27th, 2022

Hearing Panel: Joe Henderson, Chair
 Anita Gillard, Board Member
 Sydney Ducharme, Board Member

SDAB Clerk: Jamie Collins

BACKGROUND OF THE APPLICATION

Development Permit 61/252.65 (16) on October 24, 2016, approves the construction of a duplex dwelling – Main Floor 887.2 sq. ft, Upper Floor 917.9 sq. ft, Front Deck 102 sq. ft. Basement 155.9 sq. ft. per unit. Unit 1 with a loft 233.9 sq. ft. to be located at 5140 51 Street: Lot 41 & 42, Block 19, Plan 4500R; zoned R4 (Residential Light Industrial).

Site Development Conditions:

1. This permit indicates that only the development to which it relates is authorized, with the provisions of the Land Use Bylaw and in no way relieves or excuses the applicant from complying with the Land Use Bylaw and in or any other bylaw, orders and/or regulations affecting such development.
2. This permit is valid for a period of twelve (12) months from the date of issue. If, at the expiry of this period, the development has not been commenced with reasonable diligence, this permit shall be null and void.

3. The exterior of the building, including paints, shall be completed within twelve (12) months from the date of issue of the building permit.
4. The Development Officer may, in accordance with Section 645 of the Municipal Government Act, take such action as is necessary to ensure that the provisions of this bylaw are complied with.
5. The builder must construct within 100mm of the design landscape, elevation and illustrated drainage patterns unless otherwise approved by the Development Officer.
6. Prior to building permit issuance, a grading plan for the property must be submitted by the applicant and approved by the City's Engineering Services.
7. If it is deemed that upgrades are required to the existing water and/or sewer services to accommodate the proposed development, the applicant will be required to apply for and complete any upgrades at their expense, to the satisfaction of the City of Lacombe.
8. Applicant to identify the water servicing required for the development prior to building permit issuance.
9. Curb stop must remain visible and at proper elevation prior to pouring concrete or completing landscape work.
10. Applicant to develop four (4) parking stalls (gravel pad) at rear of lot in accordance with the approved site plan. No front parking stalls are permitted.
11. Applicant to complete minimum front yard landscaping requirements: (a) a minimum of two (2) trees; or (b) two landscape beds, each consisting of a minimum of three (3) shrubs; and (c) placement of sod unless other landscaping material approved by Development Authority.
12. Prior to building permit issuance, the applicant shall submit a development permit deposit in the amount of \$1,000.00.
13. Applicant to apply for and obtain all required electrical, plumbing and gas permits.
14. Applicant to display the assigned civic address at or near the front of the property so that it can be clearly read from the roadway.
15. This lot has been serviced with both Sanitary and Storm lines. To confirm, call Public Works. Applicant must ensure service connections are correct. Any cross connections will be remedied at the applicant's expense.
16. This development requires a party wall agreement. Applicant to have agreement registered on land title and submit a copy to the City within one year of construction completion.
17. This lot requires a bearing certificate. Applicant must submit foundation soil bearing certification from the Geotechnical Engineer (stamped and signed) prior to a foundation inspection. Such certificate shall reference footing design approved with the associated building permit.

HEARING

Summary of the Development Authority's Submissions

The following summary was given by Development Authority Beth McLachlan from the City of Lacombe and included information from the agenda package, pages 1 thru 60.

An additional item was submitted:

Appendix A: Site pictures from September 27th, 2022

The Development Authority stated that the property at 5240 51 Street is currently designated as R4 Residential Mixed District under City of Lacombe Land Use Bylaw #400. It is situated in an established, mature residential area of Lacombe.

The property contained an older detached dwelling which was demolished in 2016 and replaced with a proposed semi-detached dwelling under permit # 61.252.46 (16) issued on October 24, 2016. Building and secondary permits were applied for in late 2016, and construction commenced at the site shortly after and advanced until 2018-19. Between 2019 and the present, the city began to receive complaints that the construction was not complete and that the site appearance was a concern for surrounding properties. Despite building permit extensions issued in 2020 and 2021, the semi-detached dwelling, site landscaping, and parking stalls have not been completed in compliance with the Land Use Bylaw and as required under Development Permit # 61.252.46 (16).

Due to the history of this site and the impact that is being experienced on the surrounding neighbourhood, the City of Lacombe issued a stop order on August 4, 2022, requiring that the development be completed to the standards and specifications in the Development Permit. Because the development has not demonstrated recent progress and because a series of extensions have been previously granted, Lacombe felt it necessary to clearly identify dates upon which the owners of 5240 – 51 Street were expected to complete the development. The three-staged approach was seen as a way to allow the developer to focus on the critical outstanding aspects in the priority sequence but also recognizing that the construction and landscaping work would need to advance during with the autumn weather season (e.g. before snowfall).

The first timeline set in the Stop Order was for the most critical element; the finishing of the building to ensure that the siding and railings and remaining exterior building features were finished as soon as possible. This timeline was set for September 1st. It remains incomplete.

The second timeline was for front and side yard landscaping to meet Bylaw #400, which requires grass seed or sod and planting of trees and/or shrubs. This timeline was set for October 1st to complete prior to the winter weather and to ensure that the landscaping would be established before spring.

The third timeline was for the rear parking stalls. The developer was given until November 1st to complete the parking area, as this element is the least visible to surrounding neighbours and the least impactful element given that the residences are not yet occupied. However, in order to accommodate future residents, the parking pads still need to be properly installed. The materials stored in the rear yard and the weeds that have grown up do not meet the Land Use Bylaw. Off-street parking stalls are required, as noted in the Development Permit.

The goal of the City of Lacombe is to see a completed development as approved under Permit 61/252.65 (16). While several past extensions to building permits have been granted to the property owner(s) and applicant(s), these extensions have not resulted in seeing the project exterior finished to meet the Development Permit. It is now nearly seven years since construction commenced. In order to: a) meet the requirements of the Land Use Bylaw, and b)

ensure that the neighbourhood does not continue to face negative impacts which they have filed complaints; the City of Lacombe would like to see the development completed as soon as possible.

Summary of the Appellants' Submissions

The Appellant (Carl Wilson) gave a verbal submission which is summarized below. He referred to submissions in the Agenda Package on page 79.

He stated that he did recognize this project had taken a long time, and he made note of personal issues, including medical and financial, that caused many delays. He stated the timelines in the Stop Order were not realistic. Getting material on site was a challenge. He noted he has done what he can, removed a large tree, and tidied up the landscaping, including removing a large dirt pile and seeding grass. The gravel for the parking pad will be delivered this week. He apologized to everyone for the situation and indicated his desire was to get this property back on track too. He needs a better timeline. November 1st is a good timeline, except for the rock portions, the rock will not be delivered until mid-November.

Summary of Other Parties' Submissions

Thalia Hibbs

Read a written statement:

Appendix B: Statement read by Thalia Hibbs

51st is a lovely street of good neighbours, a mix of heritage homes and rebuilds, with a long vacant disaster in slow motion on it.

You've seen the photos. Read the timeline. Both the neighbours and the City has been very accommodating and with little reward. In the past few years there has been virtually no attendance at the property by the owner or developer. No interest in condition. No attempt at improvements. No consideration of neighbours.

Windows and patio doors left in an unsecured position through all weather and all seasons make the building a safety risk and show the lack interest by the owner. Beyond not completing the build, the property has been allowed to deteriorate.

Any 'minuscule' amount of work done has only been done in response to pressure from the city, such as the dirt pile and the tree. A tree that had broken.

It is my belief that complaints were driven not only by extreme unsightliness or nuisance but also general concern about the safety of a long vacant and becoming derelict building.

Promises have been made and broken, repeatedly. There is no confidence in these pronouncements. The presentation today has done nothing to add to that confidence. I hear unsubstantiated claims from appellant. The neighbours deserve better. I ask the Board to deny the appeal and allow the process of enforced compliance to action without further delay.

Maureen Mackenzie

Referred to submissions in the agenda package on pages 61 to 70

Gave an oral statement summarized below.

Thalia has expressed my views clearly. I have concerns that the property isn't secure. It has been too long; my property value has declined. I'm tired of the excuses, this should have been done in 2019. Please do not allow this to continue.

Pete Walls

Referred to submissions in the agenda package on pages 71 to 78

Gave an oral statement summarized below.

Echo what Thalia said. We built on the south side of this property. I completed it within the timelines. My property value has also declined. I'm a builder, this project wasn't done right from the start. There is no reason to believe an extension will see this job done. There has been damage to my building from construction material blowing around. It's an eyesore and a danger, and I urge the panel to deny The Appellant's request.

KEY FINDINGS OF FACT

The Board makes the following key findings of fact:

This appeal concerns the issuance of a Stop Order by the Development Authority in relation to the subject lands.

The Development Authority proved that the Appellant has failed to complete the development, (Development Permit 61/252.65 (16) issued October 24, 2016), contrary to The City of Lacombe Land Use Bylaw Section 4.11.

Specifically, the Appellant has breached the following conditions of the Development Permit

“3. The exterior of the building, including paints, shall be completed within 12 months from the date of issue of the building permit.

10. Applicant to develop four (4) parking stalls (gravel pad) at rear of lot in accordance with the approved site plan. No front parking stalls are permitted.

11. Applicant to complete minimum of two (2) trees; or (b) two landscape beds, each consisting of a minimum of three (3) shrubs; and (c) placement of sod unless other landscaping material is approved by the Development Authority....”

The Stop Order was delivered and issued in accordance with the authority given to the Development Authority in; Section 645 of the Municipal Government Act, R.S.A. 2000, c.M-26 as amended and Section 616 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended.

The Appellant is requesting an amendment to the timelines given in the Stop Order.

DECISION

For the reasons detailed below, this appeal is denied, and the Stop Order with amended timelines is upheld.

REASONS FOR DECISION

The Board finds that the process of issuing the Stop Order was in order.

On considering the issue of the breach of conditions of the Development Permit, the Board was satisfied with the evidence presented by the Development Authority that a breach of the following conditions of Development Authority 61/252.65(16) occurred.

“3. The exterior of the building, including paints, shall be completed within 12 months from the date of issue of the building permit.

10. Applicant to develop four (4) parking stalls (gravel pad) at rear of lot in accordance with the approved site plan. No front parking stalls are permitted.

11. Applicant to complete minimum of two (2) trees; or (b) two landscape beds, each consisting of a minimum of three (3) shrubs; and (c) placement of sod unless other landscaping material is approved by the Development Authority....”

The Stop Order is upheld with an adjustment to the timelines contained therein.

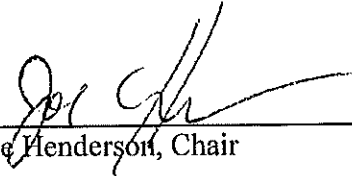
1. On or before November 1st, 2022, complete the exterior of the semi-detached dwellings in compliance with the materials as shown on the plans provided to the City of Lacombe as part of the development permit application 61/252.65 (16). Completion shall include, but is not limited to, installing to a finished state:
 - i. Porch railings
 - ii. Siding
 - iii. Soffit and flashing
 - iv. Roofing shingles

2. On or before November 1st, 2022, complete landscaping of the front and side yard to comply with Land Use Bylaw #400. This shall include a landscaped area (for instance sod or grass) with a minimum of 1 tree or 3 shrubs in the front yard of each semi-detached dwelling.
3. On or before November 1st, 2022, complete the rear gravel parking area on each side of the semi-detached dwelling.
4. On or before November 30th, 2022, the rock work on the front of the exterior of the building be completed.

CLOSING

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision, 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 the date of this decision.

Dated at Ponoka County, in the Province of Alberta this 7th day of October, 2022 and signed by the Chair on behalf of all three panel members who agree that the content of this decision adequately reflects the hearing, deliberations, and decision of the Board.



Joe Henderson, Chair

October 7, 2022
Date

Hearing Package Documents

Development Authority Submissions

Page 1 – 10	Signed Stop Order
Pages 11 – 13	Approved DP Drawings 2016 Copy
Page 14	Street Map of Subject Site
Pages 15 - 16	2016 Development Permit
Pages 17 - 18	Background
Pages 19 – 24	Complaint Filed
Pages 25 - 26	Timeline for Planning and Development
Pages 27 - 31	Site Inspection June 12, 2018
Pages 32 – 34	Site Inspection April 2021
Pages 35 – 43	Site Photos July 15, 2022
Page 44	Site Inspection Report July & August 2022
Page 45 – 51	August 2 nd Site Photos
Pages 52 – 56	August 4 th Site Photos
Pages 57 – 60	Delivery of Stop Order

Other Submissions

Pages 61 – 70	Maureen Mackenzie Submission
Pages 71 - 78	Pete Walls Submission

Appellant Submissions

Pages 79	Notice of Appeal
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APPENDIXES

DOCUMENTS RECEIVED AT THE SEPTEMBER 27th, 2022, AT THE HEARING

Appendix A. Site Pictures September 27th, 2022

Appendix B. Written presentation Thalia Hibbs