

# REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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

Feb 12, 2025

## NOTICE OF DECISION

**RE: Appeal of Development Permit for a 38-unit apartment building with variance to minimum parking requirement at 6108 53 street, Olds, Alberta; Medium Density Residential Land Use district.**

### SUMMARY OF APPEAL

This is an appeal of Development Permit for a 38-unit apartment building with variance to minimum parking requirement at 6108 53 street, Olds; Medium Density Residential Land Use district. The Appellant, Mandy Dunber(Condominium Manager, on behalf of the Directors for condominium Corporation No. 071 1572 o/a Westview Apartments Condominium), appealed the decision. The reasons for the appeal are based on:

- (1) inadequate parking allocation,
- (2) The absence of details for Developer plan to relocate underground utility lines essential to existing Buidlings
- (3) The absence of details of plans for construction access to Unit 2,
- (4) Unauthorized relocation or removal of corporation property including trees and storage shed.
- (5) proposed parallel parking obstructs access of emergency services vehicles to Building 200.
- (6) A reduced landscape ratio of the overall property not agreed upon by condominium corporation.

Notice of the appeal was provided to interested parties and a hearing was held on Feb 5, 2025.

Hearing Panel: Joe Henderson, Chair  
Cheri Neitz, Board Member  
Earl Graham, Board Member

SDAB Clerk: Reza Asadi

## **BACKGROUND OF THE APPLICATION**

The Development Authority issued Development Permit DP24-207 on December 20, 2024. The subject site is Block 2, Plan 0711572 located at 6108 53 Street. The subject site is designated R3 – Medium density Residential District under the Town of Olds Land Use Bylaw. The development permit the construction of an apartment building (Six Storey, 38 two-Bedroom units) with an approved variance to minimum quantity of parking stalls.

An appeal was filed with the Regional Subdivision and Development Appeal Board on Jan 7, 2025 by the appellant. Affected parties were notified on Jan 10, 2025, with public notification being distributed on Jan 21, 2025 and Jan 15, 2025.

## **MERIT HEARING**

### **Summary of the Development Authority's Submissions**

In early 2024, a development permit was approved for development on this site constructing a 30-unit apartment building that fully complied with all town regulations, with no variances issued or required for approval. Subsequent to the issuance of this approval, the applicant returned with a revised development plan and applied for a 38-unit apartment building.

This proposed building also complies with all town regulations, except for one: the minimum parking requirement. The change in scope increased the building size from 30 one-bedroom units to 38 two-bedroom units, and two-bedroom units have a higher parking requirement of 1.25 stalls per unit.

The applicant's site plan shows a total of 44 parking stalls, whereas 48 stalls are required. These 44 parking stalls are provided through a combination of:

- 22 underground stalls, and
- The remainder on an existing parking lot shared by the two current buildings and the proposed third building.

As a result, a variance of four parking stalls (an 8% reduction) was required. This variance was approved under Development Permit 24-207, as it falls within the administration's authority to approve.

The proposed building complies with all other regulations, including maximum building height. In the R3 Land Use District, the maximum height allowed is 22 meters, and the building adheres to this requirement.

Although the parking area is technically a separate parcel, it is shared among all three buildings, and the development was assessed as a whole. The only regulation requiring a

variance pertains to the parking spaces; otherwise, the development is a permitted use and complies with all other regulations.

The remaining aspects of the notice of appeal address matters that fall outside the town's bylaws. In the Development Authorities' opinion, these issues are not within the role of the development authority. Therefore, this appeal should focus solely on the four parking stalls and the approved variance.

The site plan demonstrates how the required parking could be accommodated. If the applicant considers reconfiguring the layout or exploring other options, it is their responsibility to coordinate with the relevant parties.

### **Summary of the Appellant/Applicants' Submissions**

The existing condos are not an adjacent property to this proposed development. Instead, the development is being built within the same condominium complex, which presents several challenges, as outlined in the submission.

As part of the process, the developer is required under the current condominium corporation bylaws, to work with the Board of Directors and obtain approval for any development. However, they currently have not done so.

- There are concerns about parking, as more stalls than required are already allocated to current residents. The removal of these stalls for the new development is a significant issue.
- Since the condo unit owner has the right to use some of the existing parking stalls, the Board wants to ensure current access is maintained.
- The proposed development removes five existing parking spaces to create space for additional parking.
- The plan also suggests adding parallel parking along the entrances, which would require widening the roadway. However, the Board is concerned that this would be difficult to manage, as it would require enforcement to ensure emergency access remains unobstructed.
- While communication with the developer occurred in 2024, including an on-site meeting with representatives of the developer, we only verbally expressed concerns.
- At that time, we suggested they consult a lawyer specializing in condominium law to better understand the legal implications. However, after that meeting, we were only notified about the development moving forward, without further engagement.

- We requested confirmation regarding underground utility lines between the two buildings. Some of these lines may need to be relocated, and we have requested confirmation via email and in person, but we have not received a clear response.
- When the 30-unit development was submitted, the Board had not approved it, as we were still waiting for more information. However, we never received the requested details and were unaware they planned to proceed.

Q: The main issue seems to be that the developer should be consulting the Board of Directors and obtaining approval, which has not happened. Can you clarify who actually owns the land?

The property is designated as a bare land condominium, meaning that it was originally an apartment building that was converted into a condo. The land was divided into three sections, with existing buildings on some of them, while the center section was designated for future redevelopment into condo units. The developer owns that specific parcel of land, but it remains part of the condominium corporation, just like any other unit in the building.

### **Summary of Other Party Presentations**

Presentations were made by four property owners in the condominium corporation. The following is a summary of the main concerns raised:

- Concerning the removal of visitor parking and the unloading of parking spaces. There are no bylaw requirements for visitor parking, but one loading zone is required, which can also count as a parking space.
- Alternative access to the development hasn't been discussed. The proposal would also remove existing parking stalls and relocate garbage and bicycle storage areas.
- A property owner voiced strong objections, citing increased density, traffic, and disruption to the established neighborhood. They emphasized that while development is legally possible, it may not be desirable or wise in the long term.
- Concerns were raised about the lack of communication between the developer and the condo board, despite previous acknowledgments that changes would require board approval.
- The town's development authority explained that if the project meets land use Bylaws (except for a requested variance), it must be approved. If the variance is denied, the developer could modify the project to comply and still proceed.
- A question was asked about whether condo bylaws have any influence over municipal approvals, particularly regarding shared spaces and maintenance responsibilities. The Development Authority responded that considerations such as condo bylaws and restrictive covenants are not planning matters. They only look at the proposed development complying with Land Use Bylaws. They also clarified

that there is a public notice requirement for developments that are for discretionary uses. Feedback is sought before approval, while for permitted uses, it occurs afterward, particularly in cases of variances.

- The discussion revolves around a nearly 50-year-old building with a complex history, including past financial struggles such as foreclosure and bankruptcy. Community members invested money, formed a board, and worked to improve the property. One unit, Unit 2, had a history of unpaid condo fees, leading to bylaw changes that eventually exempted it from fees.
- Concerns arise about community impact, parking availability, and maintaining a collaborative approach.

## **KEY FINDINGS OF FACT**

The Board makes the following key findings:

1. The subject site is located in the R3 District of the Town of Olds Land Use Bylaw.
2. Apartments are permitted use in the Medium Density Residential District (R3).
3. The only variance required and approved in the issuance of the development permit is a parking variance of 8% which is within the 15% allowance provided to the Development Authority.
4. The minimum parking requirement for apartments with two-bedroom units is 1.25 stalls per dwelling.
5. The total required parking space for the apartment is 48 stalls.

## **DECISION**

For the reasons detailed below, the Appeal is upheld, and the Development Permit 24-207 is revoked.

## **REASONS FOR DECISION**

1. The requirements outlined in the condo board's bylaws are outside the scope of the Board's review. These are separate considerations and were not addressed by this Board.

2. The decision of the Board pertains to whether the variance to the parking requirements should be granted.
3. The Board feels that the variance is not warranted. While the development authority has the power to grant variances, and its decision is legally correct, the Board believes such a variance is not warranted in this case. It is the opinion of the Board that granting this variance will lead to excessive congestion on the site and that the granting of this variance would negatively impact the use and enjoyment of the site by the other residents.

**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 17<sup>th</sup> day of February 2025 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.

  
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Joe Henderson

SDAB Chair

February 17, 2025  
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Date