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**Via Email: [mgbmail@gov.ab.ca](mailto:mgbmail@gov.ab.ca)**

July 29, 2016

Municipal Government Board  
15<sup>th</sup> Floor, Commerce Place  
10155 – 102 Street NW  
Edmonton, AB T5J 4L4

**Attention: Cindy Miller Reade**

Dear Ms Miller Reade

**RE: Joint Submissions of the City of Calgary and Rocky View County**  
**MGB File No. 16/IMD/002**

Enclosed please find the signed Joint Submissions of the City of Calgary and Rocky View County.

Yours truly,



David E. Mercer  
Barrister & Solicitor

MLS/eb  
Attachments: 1

Cc: Joanne Klauer  
Richard Jones  
Neil Younger



|                                |   |   |
|--------------------------------|---|---|
| <b>MGB FILE NO.</b>            | <b>16/IMD-002</b>   |   |
| <b>IN THE MATTER OF</b>        | <b>AN INTERMUNICIPAL DISPUTE FILED PURSUANT TO SECTION 690 OF THE <i>MUNICIPAL GOVERNMENT ACT</i>, R.S.A. 2000 CHAPTER M-26 WITH RESPECT TO ROCKY VIEW COUNTY BYLAW NO. C-7468-2015, CONRICH AREA STRUCTURE PLAN</b>  |   |
| <b>INITIATING MUNICIPALITY</b> | <b>CITY OF CALGARY</b>  |   |
| <b>RESPONDENT MUNICIPALITY</b> | <b>ROCKY VIEW COUNTY</b>  |   |
| <b>DOCUMENT</b>                | <b>JOINT SUBMISSIONS OF THE CITY OF CALGARY AND ROCKY VIEW COUNTY</b>   |   |
| <b>FILED BY</b>                | <p><b>THE CITY OF CALGARY</b><br/> David Mercer/Melissa Senek<br/> 12<sup>th</sup> Floor, 800 Macleod Tr SE<br/> Calgary, AB T2G 2M3</p> <p>david.mercer@calgary.ca<br/> melissa.senek@calgary.ca</p> <p>Phone: 403-268-2453<br/> 403-268-2404</p> <p>Fax: 403-268-4634</p> <p>File No. P7463-1</p> | <p>On behalf of:<br/> <b>ROCKY VIEW COUNTY</b></p> <p><b>MLT LLP</b><br/> Barristers &amp; Solicitors<br/> 1600, 520-3<sup>RD</sup> Ave S.W.<br/> Calgary, AB<br/> T2P ORC</p> <p><u>Attention: Joanne M. Klauer</u><br/> jklauer@mlt.com</p> <p>Phone: 403-693-4335<br/> Fax: 403-508-4349</p> <p>File No. 051525-0133</p> |

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## I. INTRODUCTION

1. On January 6, 2016, the City of Calgary (the "**City**") commenced intermunicipal dispute proceedings pursuant to Section 690 of the **Municipal Government Act**, RSA 2000, c M-26 (the "**MGA**") in respect of Bylaw C-7468-2015, the Conrich Area Structure Plan (the "**Conrich ASP**") passed by Rocky View County (the "**County**") Council on December 8, 2015 (the "**Appeal**").

2. These joint submissions are filed by the City and the County in support of their mutual position that the Municipal Government Board (the "**Board**") order that the amendments to the Conrich ASP, as agreed upon by the City and the County, be made without alteration as a full and final resolution of the Appeal pursuant to the Board's authority and jurisdiction under Section 690(5) of the MGA.

## II. FACTS

3. The City and the County are adjacent municipalities and share over 115 kilometers of border in various locations. In recognition of their extensive shared borders and the need for cooperation and coordination in planning, the City and the County passed an intermunicipal development plan in 2011.

**Rocky View/Calgary Intermunicipal Development Plan Bylaw 14P2011/C-7078-2011,  
as amended (the "IDP"), at p. 2 [TAB 1]**

4. The County's Council gave third reading to the Conrich ASP on December 8, 2015. The Conrich ASP, as passed, proposes mostly industrial and commercial development in what is currently a largely agricultural area that borders the City along the Trans Canada Highway (Highway 1) and 84 Street NE. The portions of the Conrich ASP area that border Calgary also fall within the policy area of the IDP.

5. On January 6, 2016, the City filed an appeal of the Conrich ASP with Board pursuant to Section 690 of the MGA on the basis that the Conrich ASP as passed would have detrimental impacts on the City in the following four general categories:

a. Transportation;

- b. Key Focus Area;
- c. Residual Lands; and
- d. Stormwater.

**City of Calgary Notice of Appeal, Schedule "C"**

6. From April 19 through April 22, 2016, the City and the County participated in interest based mediation, and reached agreement on a number of issues, including amendments to the Conrich ASP that would fully cure any possible detrimental effects to the City (the "**Amendments**"). This agreement was formalized in a Memorandum of Agreement between the City and the County dated June 17, 2016 (the "**Agreement**").

**Agreement [TAB 2]**

**III. ISSUES**

7. As the City and the County have reached agreement to wholly resolve the issues raised by the City in the Appeal, the issues to be considered by the Board in this Appeal are as follows:

- a. Does the Board have the jurisdiction to order that the Amendments be made?
- b. Should the Board order that the Amendments be made?

**IV. ARGUMENT**

**A. Does the Board have the Jurisdiction to Order that the Amendments be Made?**

8. In an intermunicipal appeal, the Board's jurisdiction is found in Section 690 of the MGA. Section 690(5) sets out the possible courses of action a Board may take in making a final determination on an intermunicipal appeal:

- (5) If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection 1(a), it must, subject to any applicable ALSA regional plan, decide whether the provision of the statutory plan...is detrimental to the municipality that made the appeal and may
  - (a) dismiss the appeal if it decides that the provision is not detrimental, or
  - (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.

**MGA, s. 690(5) [TAB 3]**

9. While the Board's previous decisions are not binding on it, the Board has previously dealt with an inter-municipal dispute which has been resolved, in whole or in part, through negotiated or mediated agreement reached by the municipalities in two appeals: **Sturgeon (County) Re**, Board Order No. MGB 77/98 and **Sundance Beach (Summer Village), Re**, Board Order No. MGB 065/03. In both decisions, the Board has made it clear that it is a condition precedent that the Board find detriment in order for the Board to have the ability to make an Order pursuant to Section 690(5) implementing the inter-municipal agreement reached.

10. In the **Sundance Beach (Summer Village)** decision, the Board held that where two municipalities have found resolution to the question of detriment through mediation, that serves as proof that parts of the bylaw under appeal as originally adopted were detrimental to the appealing municipality.

**Sundance Beach (Summer Village), Re, Board Order No. MGB 065/03 at p. 3 - 4  
[TAB 4]**

11. The City and the County urge the Board to acknowledge that when an agreement has been reached between municipalities to resolve an inter-municipal dispute, that mediated or negotiated agreement represents a consensus reached between the municipalities in an overall effort to find the proverbial "middle ground" and a resolution that both parties are prepared to live with for the purpose of preserving and facilitating an ongoing positive and constructive inter-municipal relationship rather than a capitulation by either municipality or admission of detriment as originally claimed in the notice of appeal.

12. The nuances of an agreement reached between municipalities to resolve an inter-municipal dispute is well illustrated in the **Sturgeon** matter. In that decision, the Board agreed that:

a proposed settlement of an intermunicipal dispute is not a case of one municipality abdicating its authority in favour of another, but rather an example of intermunicipal cooperation. It is a tacit recognition that the actions of one municipality can affect its neighbour.

**Sturgeon (County) Re, Board Order No. MGB 77/98 at p. 54 [TAB 5]**

13. The Board went on to accept the position of Sturgeon County that:

The agreement reached should not be regarded as anything more than an intimation of what might have happened had negotiations come to a successful conclusion before the appeal. The fact that the agreement is the result of negotiations between equals suggests that the changes recommended are the least intrusive, and reflect what the parties are prepared to live with. Counsel for the County of Sturgeon has made it very clear that the agreement is to be regarded as "without prejudice" with respect to whether the provisions of its MDP and LUB are detrimental. The Board accepts this position. Such an agreement can be given effect only if the Board were to find, firstly, that the provisions it dealt with were in fact detrimental, and, secondly, that the proposed amendments were capable of remedying the detriment. The decision of the Board is therefore a condition precedent to the agreement having any force or effect.

***Sturgeon (County) Re, Board Order No. MGB 77/98 at p. 55 [TAB 5]***

14. The City and the County submit that the fact that they were able to reach a mediated agreement that wholly resolves the issues raised in the Appeal indicates that there was a mutual acceptance and recognition by the parties that the Conrich ASP, as certain provisions were drafted, could negatively impact the City in the manner detailed below. On this basis, the parties submit that the Board may find detriment for the purpose of Section 690(5) and issue an Order implementing the terms of the Agreement which set out agreed upon amendments to the Conrich ASP. As further detailed below, the City and the County submit that the Amendments fully resolve any detrimental impact the Conrich ASP, as passed, may have had on the City.

**B. Should the Board Order that the Amendments be made?**

15. The City and the County submit that adoption of the Amendments, as set out in Section 3.01 of the Agreement, is the ideal resolution of this Appeal, as the Amendments fully resolve each ground of detriment put forward by the City, reflect the least intrusive amendments to the Conrich ASP required to resolve the Appeal issues and give certainty to the municipalities and the affected landowners. If the Board issues an Order pursuant to Section 690(5) of the MGA, the Amendments will be implemented without the requirement for a public hearing pursuant to Section 690(7) of the MGA.

16. The only other mechanism by which the Agreement could be implemented is for the City to withdraw its Appeal and have the County engage in the statutory process to amend the Conrich ASP which, given the requirement for a public hearing and Council's inherent discretion, necessarily involves a level of uncertainty with respect to the ultimate outcome of this



process and may give rise to another Section 690 appeal by either the City or the City of Chestermere.

17. The rationale for the Amendments is set out below:

### **1. Transportation**

18. From a transportation perspective, the City's concerns with the Conrich ASP, as drafted, were that the development of the Conrich ASP area is anticipated to move forward ahead of the City's schedule and budget for seven major City infrastructure projects involving interchanges, flyovers, and roads connecting to Stoney Trail NE (the "**East Stoney Trail Transportation Infrastructure**") and that traffic generated by new development in the Conrich ASP area could overload existing routes between NE Calgary and Conrich; in particular, McKnight Boulevard NE, the Trans Canada Highway (Highway 1), and Country Hills Boulevard NE.

19. If it occurred, the potential transportation infrastructure overload described in Paragraph 18 would be detrimental to the City because Alberta Transportation has indicated that funding Stoney Trail interchanges is a low priority for the Province, and the City would expect pressure from travellers on existing routes to shift City budget priorities away from other high priority transportation infrastructure improvements in the City towards the East Stoney Trail Transportation Infrastructure. It is the City's view that this pressure would be primarily related to development in the Conrich ASP area.

#### **City of Calgary Notice of Appeal, Schedule "C"**

20. The County's position has been and continues to be that if development within its boundaries impacts or benefits from infrastructure in another municipality's boundaries, the County is fully prepared to make appropriate cost contributes to that infrastructure based upon the impact and/or benefit related to that development. The proposed Amendments set out in Sections 3.01(4)-(9) of the Agreement confirm the municipalities' commitment to working together to determine what impact or benefit development in the Conrich ASP area will have on transportation infrastructure within the City's boundaries and deal with cost contributions accordingly.

21. The City and the County submit that the proposed Amendments set out in Sections 3.01(4) to 3.01(9) of the Agreement fully resolve any potential detrimental impact to the City

respecting the transportation infrastructure issue. The addition of Map 8a and the related policy language identifying the East Stoney Trail Transportation Infrastructure clearly identifies for both Conrich ASP area landowners and the general public that there are significant, currently unfunded, infrastructure improvements that will need to be addressed in conjunction with applications in the Conrich ASP area.

**Agreement, Sections 3.01(4), 3.01(5), 3.01(6), and Schedule "B" [TAB 2]**

22. In addition, the commitment to a joint infrastructure needs evaluation and funding strategy will better prepare both the City and the County to make decisions and comments regarding applications within the Conrich ASP area and to recommend future budget priorities to their respective Councils.

**Agreement, Sections 3.01(7) and 3.01(9) [TAB 2]**

23. Finally, confirmation by the County that it will circulate all applications in the Conrich ASP area to the City for transportation review and comment in accordance with the existing IDP circulation protocols ensures that the City can provide appropriate input on potential transportation impacts to the City through all stages of development, and allows the City to identify the need to manage or mitigate impacts in the event significant development is proposed prior to infrastructure construction.

**Agreement, Section 3.01(8) [TAB 2]**

**2. Key Focus Area**

24. The IDP contains policy direction for lands in the Conrich ASP area identified as the "Highway 1 East Corridor Key Focus Area" (the "**Key Focus Area**"). The purpose of the IDP Key Focus Area policies is to create an efficient and attractive gateway between the City and the County that recognize the importance of Highway 1 to both municipalities. The implementation of the IDP policies requires specific inter-municipal coordination.

**IDP, Policies 4.1.2, 4.1.3, 4.1.3(c)(iii), 4.5.1, and 4.5.2 [TAB 1]**

25. While the City recognizes that the IDP policies would apply to development in the Conrich ASP area, in the City's view, the Conrich ASP, as drafted, did not adequately address the need for intermunicipal coordination in the Key Focus Area or the need for compliance with the relevant IDP policies. It is the City's position that this lack of clarity with respect to the Key Focus Area policies in the Conrich ASP was detrimental to the City as the IDP policies would

not be immediately apparent to landowners, which could lead to an increased possibility of land use incompatibility and transportation inefficiencies.

**City of Calgary Notice of Appeal, Schedule "C"**

26. The City and the County submit that the Amendments found in Sections 3.01(1) through 3.01(3) of the Agreement fully resolve any detrimental impact to the City respecting this issue by explicitly incorporating the IDP's Key Focus Area within the Conrich ASP's maps, and by including policy language within the Conrich ASP that explicitly reference the IDP Key Focus Area policies.

**Agreement, Sections 3.01(1), 3.01(2), and 3.01(3) [TAB 2]**

**3. Residual Lands**

27. The IDP identified certain lands within the boundaries of the City as "Residual Long Term Growth Areas" (the "**Residual Lands**"). The Residual Lands are situated between Stoney Trail NE and the boundary between the City and the County, making these parcels functionally isolated from the remainder of the City. The IDP recognizes the isolated nature of these parcels, and contains policies requiring that the Residual Lands be integrated with planning within the County. Until this integrated planning occurs, the Residual Lands are very restricted in their permissible uses.

**IDP, Policies 7.1.1, 7.1.3, 7.1.4 [TAB 1]**

28. The City's position is that the Conrich ASP, as drafted, did not adequately address the need for collaboration between the City and the County with respect to Residual Lands, either on their own or in connection with the IDP's Residual Lands policies. It is the City's view that this was detrimental to the City as the City would be required to undertake additional planning studies on its own to consider how to effectively service, develop, and integrate these isolated parcels in the future, and restricted the ability to implement any long-term planning on the Residual Lands.

**City of Calgary Notice of Appeal, Schedule "C"**

29. The City and the County submit that the Amendments as set out in Sections 3.01(10) through 3.01(16) of the Agreement fully resolve any detrimental impact to the City respecting the Residual Lands. Collectively, the proposed Amendments add policy language that specifically reflects the IDP Residual Lands policies and ensures that further local planning work

occurs on lands adjacent to the Residual Lands and contemplate that collaborative planning between the County and the City is required to address these isolated parcels.

**Agreement, Sections 3.01(10), 3.01(12), 3.01(13), and 3.01(16) [TAB 2]**

30. Further, the agreed-upon collaborative study of access management and right-of-way requirements along 84<sup>th</sup> Street NE, which provides access to both the Residual Lands and the Conrich ASP area, will provide additional certainty to landowners in both the County and the City wishing to develop adjacent to the Residual Lands.

**Agreement, Sections 3.01(11), 3.01(14) and 3.01(16) [TAB 2]**

31. To resolve the detriment of an inability to undertake long-term planning on the Residual Lands, the Amendments contemplated in Section 3.01(15) of the Agreement reflects the commitment by the County and the City to review the IDP with the intention of revising policies limiting development on these parcels, recognizing the changing context associated with the adoption of the Conrich ASP. While not under the jurisdiction of the Board, the City and the County note that the municipalities have also committed to undertaking the IDP review elsewhere in the Agreement.

**Agreement, Sections 2.08(4), 3.01(15) [TAB 2]**

#### **4. Stormwater**

32. The City's position is that the Conrich ASP, as drafted, allowed for phased development which would be detrimental to the City as it had the potential of increasing the risk to existing City stormwater infrastructure and the risk of City liability under existing municipal agreements in effect. Currently, there is no regional stormwater management strategy in place in the Conrich ASP area or the surrounding area.

**City of Calgary Notice of Appeal, Schedule "C"**

33. The City and the County submit that implementation of the Amendments set out in Sections 3.01(17) through 3.01(19) of the Agreement will fully resolve any such detriment to the City related to stormwater. Specifically, the proposed Amendments will mitigate any adverse effects of stormwater on City stormwater infrastructure resulting from development in the Conrich ASP area and satisfy the City's concerns by including additional stormwater policy language that will protect the integrity and use of existing infrastructure in both jurisdictions and will respect existing municipal agreements in effect. In addition, the proposed Amendments will

ensure continued collaboration on a regional stormwater management solution, which is of significant importance to both the City and the County.

**Agreement, Sections 3.01(17), 3.01(18), 3.01(19) [TAB 2]**

**C. Summary**

34. For the reasons set out above, the City and County submit that the implementation of the Amendments will fully satisfy any potential detriment to the City caused by the Conrich ASP, and the Amendments represent the best possible resolution of the Appeal, as they reflect the least intrusive changes to the Conrich ASP required to address the City's concerns and also reflect changes that both municipalities find acceptable. The County and the City submit that the Board has the jurisdiction to and should issue an Order pursuant to Section 690(5) directing that the Amendments be implemented without alteration.

35. This Appeal is to be heard concurrently with the City of Chestermere's appeal of the Conrich ASP, MGB Appeal No. 16/IMD-001. As noted above, if the Board does not issue an Order pursuant to Section 690(5), the only way that the Amendments can be implemented is if the City withdraws its current Appeal and County Council then follows the usual statutory process to amend the Conrich ASP which would necessarily involve a public hearing giving rise to inherent uncertainty for all parties and may result in a new round of Section 690 appeals being filed.

36. The City and the County submit that affected landowners will not be negatively impacted by the Board considering issuing an Order directing that the Amendments be implemented as opposed to the Amendments being considered and decided upon by County Council following as Section 692 public hearing because all affected landowners have the opportunity to make submissions to the Board on this Appeal including the proposed Amendments.

37. While the City and County submit that the Amendments do not impact any of the issues raised by the City of Chestermere in its appeal, the parties submit that the Board is in the best position to ensure that the Amendments can be implemented without alteration taking into consideration the position of the City of Chestermere.


38. On this basis, the County and the City submit that the Amendments should be considered by the Board in the context of the concurrent appeal proceedings. The Board is in


the best position to evaluate the Amendments and order their adoption in the context of all relevant information, all within the Board's mandate as set out in Section 690(5).

V. RELIEF REQUESTED

39. For the reasons set out above, the City and the County respectfully request that the Board issue an Order directing the implementation of the Amendments as set out in Section 3.01 of the Agreement.

All of which is respectfully submitted this 29 day of August, 2016

Per:   
\_\_\_\_\_  
David Mercer  
Counsel for the City of Calgary

Per:   
\_\_\_\_\_  
Joanne M. Klauer  
Counsel for Rocky View County

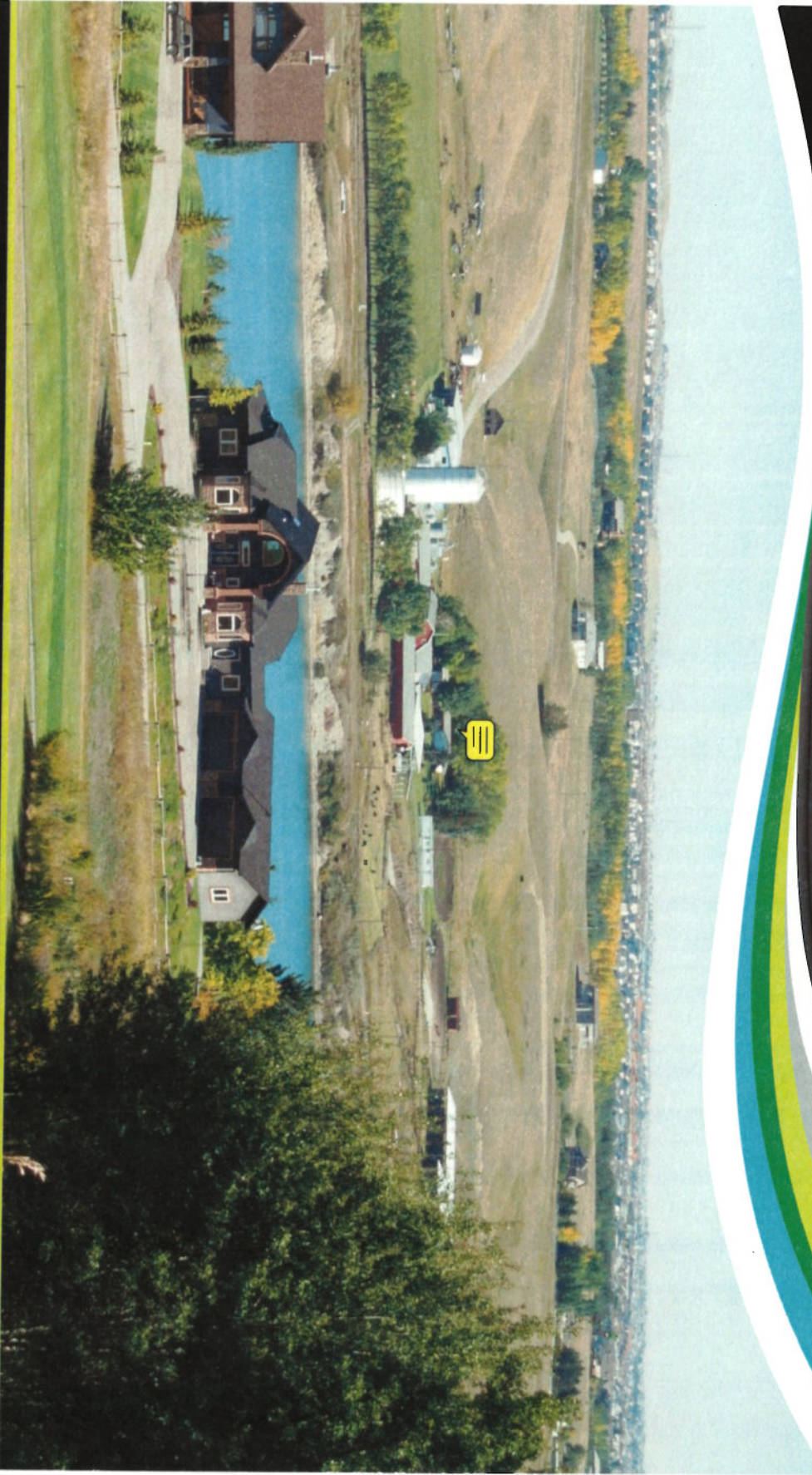
**TAB 1**





Intermunicipal  
Development  
Plan

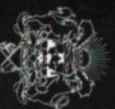
# Rocky View/Calgary



[www.rockyview.ca](http://www.rockyview.ca)  
[www.calgary.ca](http://www.calgary.ca)



ROCKY VIEW COUNTY  
Cultivating Communities



THE CITY OF  
CALGARY  
LAND USE PLANNING & POLICY



Intermunicipal  
Development  
Plan

# Rocky View County/ City of Calgary

## Intermunicipal Development Plan

THE CITY OF CALGARY BYLAW 14P2011 - 2012 JANUARY 9  
ROCKY VIEW COUNTY BYLAW C-7078-2011 - 2012 FEBRUARY 28

**Office Consolidation**  
2012 October 23/November 5  
C-7197-2012/BYLAWS 24P2012

[www.rockyview.ca](http://www.rockyview.ca)  
[www.calgary.ca](http://www.calgary.ca)



ROCKY VIEW COUNTY  
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THE CITY OF  
CALGARY  
LAND USE PLANNING & POLICY

**NOTE:** This office consolidation includes the following amending Bylaws.

| <b>Amendment</b> | <b>Bylaw</b>           | <b>Date</b>                        | <b>Description</b>   |
|------------------|------------------------|------------------------------------|--|
| 1                | 24P2012<br>C-7197-2012 | 2012 November 5<br>2012 October 23 | (a) Delete and replace paragraph 3 of Section 1.0.<br>(b) Delete and replace Section 4.5.1.<br>(c) Delete and replace Section 4.6.1.<br>(d) Delete and replace Section 4.7.1.<br>(e) Delete and replace Section 15.7.<br>(f) Delete and replace Map 1 entitled "Plan Area".<br>(g) Delete and replace Map 2 entitled "Key Focus Areas".<br>(h) Delete and replace Map 3 entitled "Residual Long-Term Growth Areas".<br>(i) Delete and replace Map 4 entitled "Growth Corridors/Areas". |

Note: Map 6 amended by Bylaw C-7197-2012 and administratively by The City of Calgary

Amended portions of the text are printed in *italics* and the specific amending Bylaw is noted.

Persons making use of this consolidation are reminded that it has no legislative sanction, and that amendments have been embodied for ease of reference only. The official Bylaw and amendments thereto are available from City Clerk/Municipal Clerk and should be consulted when interpreting and applying this Bylaw.

**PUBLISHING INFORMATION**

**TITLE:** ROCKY VIEW COUNTY/CITY OF CALGARY INTERMUNICIPAL DEVELOPMENT PLAN

**AUTHOR:** LAND USE PLANNING & POLICY  
PLANNING, DEVELOPMENT & ASSESSMENT  
THE CITY OF CALGARY

**STATUS:** APPROVED BY BYLAW - 2012 JANUARY 9  
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# Rocky View County/City of Calgary

## Intermunicipal Development Plan

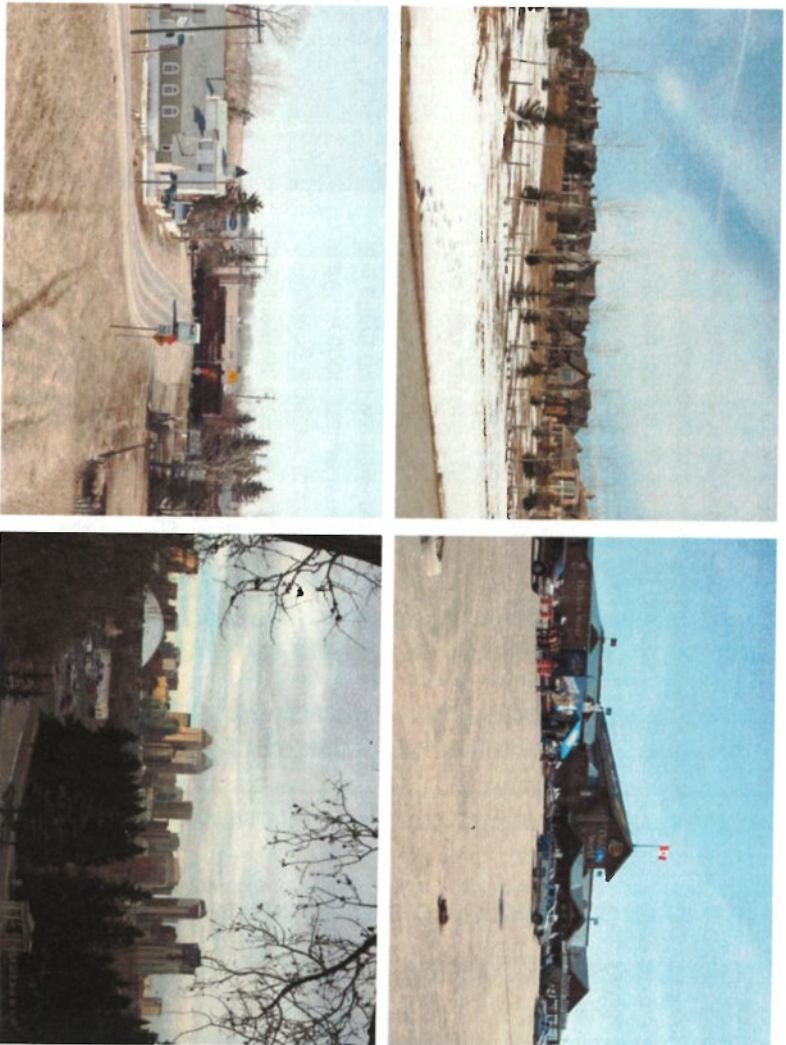
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Intermunicipal  
Development  
Plan

# Introduction



# 1 INTRODUCTION



“Both municipalities are committed to working together to achieve coordination wherever possible so that the effect that we have on one another and our residents is positive.”

## 1.0 Introduction

The City of Calgary and Rocky View County share over 115 kilometres (72 miles) of border. Our activities are inextricably linked and affect one another. Both municipalities are committed to working together to enhance cooperation and achieve coordination wherever possible so that the effect that we have on one another and our residents is positive.

This plan has been developed in accordance with the *Municipal Government Act* and the *Terms of Reference* adopted by both municipalities and dated January 21, 2008. Both The City of Calgary and Rocky View County agree that the *Intermunicipal Development Plan (IDP)* is the preferred means for continuing our cooperative working relationship and addressing intermunicipal issues that may arise in the Plan Area.

*The Plan Area, shown in Map 1, is divided into two parts:*

1. *The Policy Area contains areas immediately adjacent to the shared border. The policies contained in this plan apply in this area, including the circulation and referral process as described in Section 15.1; and*
2. *The second part of the Plan Area is the Notification Zone which is not immediately*

*adjacent to the shared boundary but is an important area for intermunicipal communication. The Notification Zone provides The City of Calgary with the opportunity to comment on land use policies and applications circulated from Rocky View County. Although the policies of this plan do not apply to the Notification Zone, The City of Calgary is encouraged to provide comment with respect to issues affecting the Notification Zone.*

**BYLAW 24P2012  
C-7197-2012**

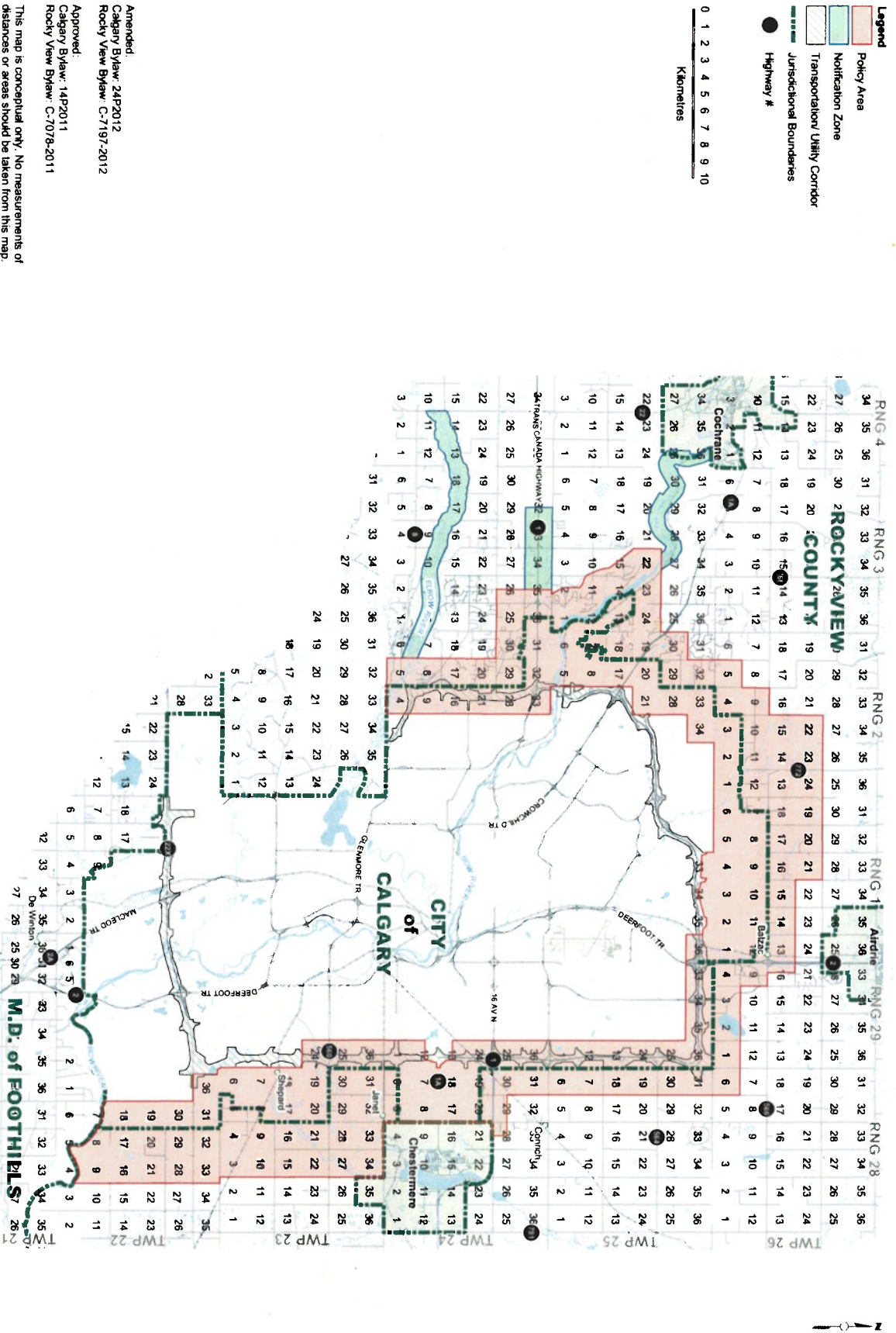
The fundamental purpose of the Rocky View County/City of Calgary IDP is to identify an area of mutual interest, to minimize land use conflicts across municipal borders, provide opportunities for collaboration and communication, and outline processes for the resolution of issues that may arise within the Plan Area. By adoption of this plan, both Municipal Councils solidify a commitment to using a collaborative approach within the Plan Area and establishing a framework for an ongoing positive relationship based on mutual respect and open communication. The City of Calgary and Rocky View County respect that both municipalities will identify their individual municipal visions and priorities through their respective Municipal Development Plans.

# INTRODUCTION



# MAP 1

# PLAN AREA



Amended:  
 Calgary Bylaw: 24P2012  
 Rocky View Bylaw: C-7197-2012

Approved:  
 Calgary Bylaw: 14P2011  
 Rocky View Bylaw: C-7078-2011

This map is conceptual only. No measurements of distances or areas should be taken from this map.

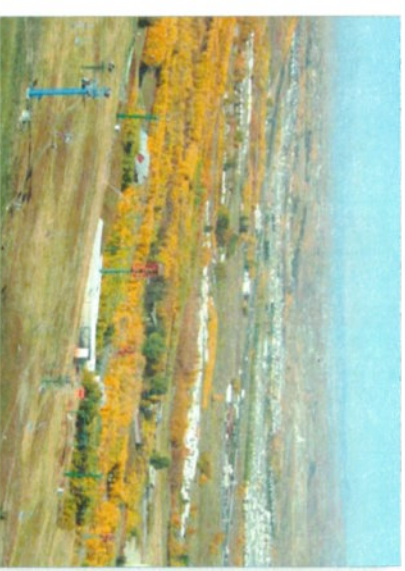
# 1 INTRODUCTION

# INTRODUCTION

## Goals

The following are general goals that apply to all sections of the IDP. Individual sections in the plan also contain a specific goal that applies to that section.

1. To establish the intermunicipal planning process as the preferred means to address planning issues on a mutual basis.
2. To provide more certainty for planning and development decisions within a broad policy framework, through the adoption of a statutory plan by bylaw.
3. To coordinate planning within Key Focus Areas as identified in the 2006 Annexation Agreement between Rocky View County and The City of Calgary.
4. To address development adjacent to the major entranceways and border regions shared by Rocky View County and The City of Calgary.
5. To incorporate The City of Calgary policies for the Residual Long-Term Urban Growth Areas as part of the IDP.
6. To establish each municipality's respective growth corridors, having regard to, and aligning with regional and sub-regional policies (e.g. South Saskatchewan Regional Plan and Calgary Metropolitan Plan) as applicable, the Rocky View 2060 Growth Management Strategy and the Municipal Development Plan for each municipality.
7. To collaborate between the two municipalities, with the goal of coordinating the planning of utilities, transportation and transit infrastructure, open space systems, river and creek systems, and other ecologically sensitive areas.
8. To responsibly manage all sources of drinking water, particularly the Bow and Elbow Rivers, as well as the Western Headworks Canal.
9. To address aggregate extraction.
10. To address *Municipal Government Act* requirements with respect to intermunicipal conflict resolution procedures, plan administration and plan amendment or repeal procedures.
11. To establish public consultation requirements for planning processes that may impact existing landowners in border regions.
12. To establish a communication and circulation process to coordinate land use compatibility.



Intermunicipal  
Development  
Plan

# Working Together



- 2.0 Intermunicipal Cooperation Team
- 3.0 Joint Studies
- 4.0 Key Focus Areas



## 2.0 Intermunicipal Cooperation Team

### Objective

1. To provide a consistent approach for intermunicipal discussion between Administrations.

### 2.1 Policies

2.1.1

Rocky View County and The City of Calgary agree to establish and maintain an Intermunicipal Cooperation Team (ICT) to facilitate discussion between Administrations. The ICT should include all representatives from both municipalities needed to reach consensus on items under consideration.

2.1.3

The ICT should include an ICT administrator from each municipality. The role of the administrator is to:

- (d) Capital project discussions and consultation;
- (e) Intermunicipal entrancesways;
- (f) Joint studies in accordance with Section 3.0 of this Plan;
- (g) Administrative networking; and
- (h) Sharing of information and data, where appropriate.

2.1.2

The ICT should be utilized for intermunicipal coordination and communication relating to all intermunicipal initiatives and issues, including but not limited to:

2.1.4

Following adoption of this Plan, the ICT's first task should be to establish its roles, responsibilities, and protocols and bring them forward to the ILC for their information and feedback.

- (a) Amendments to this Intermunicipal Development Plan;
- (b) Circulation review in accordance with Section 15.1 of this Plan;
- (c) Intermunicipal Committee (IMC) initiatives;

2.1.5

The ICT shall work to prioritize the Action Items as outlined in Appendix A of this Plan.

## Goal

To facilitate ongoing communication and collaboration between Rocky View County and The City of Calgary Administrations.



### 3.0 Joint Studies

#### Objectives

1. Establish a process for studies to be undertaken as a joint project between the two municipalities.
2. Facilitate the sharing of input into the studies, costs incurred to complete the studies, and the information obtained as a result of the studies.
3. Facilitate detailed analysis of issues which span the municipal boundary.

#### 3.1 Policies

- 3.1.1** If agreed to by Rocky View County and The City of Calgary, studies may be undertaken as a joint project for the benefit of both municipalities.
- 3.1.2** To ensure the expectations of both municipalities are clear, the initial steps in a joint study should include (where applicable) a proportional cost-sharing agreement, data exchange agreement, and identification of a geographical study boundary.
- 3.1.3** Joint study topics may include but are not limited to, transportation, open space, stormwater management, environment, or shared institutional development.
- 3.1.4** Results of joint studies shall be shared between both municipalities.

## Goal

To establish a framework for Rocky View and Calgary to partner in studies to inform coordinated planning across the municipal boundary.

## 4 KEY FOCUS AREAS

## WORKING TOGETHER

### Goal

### 4.0 Key Focus Areas

To achieve a greater degree of coordination in the Key Focus Areas with particular attention to interface planning, common highway entranceways, and integration of land use policies.

The 2006 Annexation Agreement identified six geographical areas of particular interest to both municipalities. In these areas, both municipalities expressed a desire to achieve an increased level of collaboration and engagement. Each area has site-specific characteristics that make them unique in the Plan Area. These areas are identified as Key Focus Areas within this Plan and are shown on Map 2.

3. Provide a process where land use policies and their integration with the adjacent municipality can be discussed for each Key Focus Area.

#### 4.1 General Policies

- 4.1.1 The Intermunicipal Cooperation Team (ICT) should be utilized for intermunicipal coordination and communication relating to all infrastructure and land use planning initiatives within Key Focus Areas, including subsequent amendments to planning documents.
- 4.1.2 Through the ICT, Rocky View County and The City of Calgary should jointly address each intermunicipal entranceway within the Key Focus Areas. Where appropriate, the Province of Alberta should be a stakeholder in this process. The focus of the ICT discussion should include, but not be limited to: highway setbacks; landscaping; form and massing of buildings; design themes; location of municipal signage; and lighting.

Engagement and communication between Rocky View County and The City of Calgary will be of key importance as each of the Key Focus Areas are planned and developed. This will ensure that all opportunities and constraints are identified at an early stage. It will also contribute to the high level of coordination that both municipalities desire in these areas.

#### Objectives

1. Achieve a greater degree of intermunicipal collaboration and involvement in the Key Focus Areas.
2. Collaborate in creating attractive entranceways that showcase each municipality for the benefit of residents and the traveling public.

- 4.1.3 When considering initiatives within Key Focus Areas, the ICT should:

- (a) Determine if any joint studies may be beneficial;
- (b) Meet at the following points in the planning process:
  - (i) Formation of a Terms of Reference, or equivalent, to ensure that:
    - an intermunicipal engagement strategy that considers both the adjacent municipality and their residents is established and agreed upon by both municipalities;
    - opportunities and constraints of an intermunicipal nature are identified at an early stage, and
    - opportunities for intermunicipal partnership and support are explored;
  - (ii) land use and transportation concept formation to demonstrate and discuss ways in which items outlined in (i) have been considered and incorporated as appropriate; and
- (c) Discuss the following topics:
  - (i) Transportation issues, such as:
    - interchange planning,
    - road connections across municipal boundaries,
    - appropriate road standards to allow for ease of movement,
    - transportation studies, which should be exchanged for information or conducted jointly to inform the planning process, and
    - lands for future road right-of-way to facilitate agreed upon highway and roadway upgrades;
  - (ii) Pathways and open spaces, including connections across municipal boundaries and coordination of open spaces and parks; and
- (d) Explore the integration of land use policy, which should include:
  - references to this document for circulation procedures,
  - appropriate textual and visual (e.g. maps) references to lands in the neighbouring jurisdiction,
  - text that conveys the importance of intermunicipal cooperation in this Key Focus Area, and
  - direction that further work that should be completed at subsequent stages of development in order to achieve the desired coordination; and
- (e) Discuss any other topics relevant to the Key Focus Area including recreation, culture and community development.

## 4.2 Section 29-24-2-5

This area within Rocky View County is identified for employment concentration over the longer term. Opportunities include a joint business park for this area with consideration for secondary land uses, Regional transportation, transit planning, and interface planning with lands within The City of Calgary are required.

### Policies

- 4.2.1 Employment feasibility research to help determine the amount and type of employment uses should be conducted by Rocky View County.
- 4.2.2 Future planning in the area should facilitate mobility between the two municipalities.
- 4.2.3 The City of Calgary and Rocky View County may explore the feasibility of coordinated transit service at the time of plan preparation.

## 4.3 Highway 1 West Corridor

Included in the 2006 Annexation Agreement, The City of Calgary identified much of this area for employment growth to better balance jobs and population by locating employment opportunities closer to residential areas on the west side of the City. There is existing rural residential development within Rocky View County that is proximate to this Key Focus Area. Benefits of developing this area include efficient utilization of existing transportation infrastructure and creating employment opportunities close to existing residential areas.

### Policies

- 4.3.1 Employment feasibility research to help determine the amount and type of employment uses should be considered in any City of Calgary Area Structure Plan process.
  - 4.3.2 Consideration of the common boundaries between the highway, The City of Calgary, and Rocky View County should be given to the lands within this Key Focus Area, in accordance with policy documents.
- Rocky View County, through its existing policy documents, has identified this area as a special policy planning area requiring unique consideration of the interface between the highway. The City of Calgary, and Rocky View County. Even though it is important that there is coordination of planning across the municipal boundary within this Key Focus Area, it is not the intent that the look and feel of the final development be identical across the boundary.



#### 4.4 Queen Elizabeth II Highway (Highway 2) North Corridor

Queen Elizabeth II Highway North Corridor is part of an important gateway to both municipalities and is a key provincial highway corridor. Features of this Key Focus Area include Nose Creek, the Canadian Pacific Railway line and the Queen Elizabeth II Highway.

##### Policies

- 4.4.1 Employment feasibility research to help determine the amount and type of employment uses should be conducted by The City of Calgary.
- 4.4.2 A suitable interface between future development and the Hamlet of Balzac should be achieved.
- 4.4.3 In accordance with the Airport Vicinity Protection Area (AVPA), development in the Key Focus Area shall primarily be non-residential employment uses.
- 4.4.4 Development of this area should not compromise the functioning of the Canadian Pacific Railway line.
- 4.4.5 The Nose Creek riparian area should be treated as an important natural feature.
- 4.4.6 Once a functional alignment has been established for the Highway 2 and Highway 566 interchange, Rocky View County and The City of Calgary may explore the possibility of annexing residual land south of the interchange from Rocky View County to The City of Calgary.

#### 4.5 Highway 1 East Corridor

This Key Focus Area is an important entranceway for both municipalities and is a key highway corridor for the Province. Interface planning and coordination of land use policy is required for this area that includes established Rocky View County development. Transportation planning is required for east/west links with the Transportation and Utility Corridor and north/south roadways into development areas within both municipalities.

##### Policies

- 4.5.1 *Rocky View and Calgary should ensure that The Town of Chestermere is engaged as a stakeholder in planning processes that occur within this Key Focus Area and that are adjacent to the Town's boundary.*  
**BYLAW 24P2012**  
**C-7197-2012**
- 4.5.2 Coordination of land use policy and transportation should be carefully considered as future development will be contiguous across the boundary.

## 4 KEY FOCUS AREAS

## WORKING TOGETHER

### 4.6 Peigan Trail Extension

This Key Focus Area will be a new eastern entranceway between Rocky View County and The City of Calgary and will enhance connectivity between the two municipalities.

Within this area, lands to the north of the future roadway alignment will be residential land uses within The City of Calgary and lands to the south of the future roadway alignment will be industrial land uses within Rocky View County.

#### Policies

4.6.1 *Rocky View and Calgary should ensure that The Town of Chestermere is engaged as a stakeholder in planning processes that occur within this Key Focus Area and that are adjacent to the Town's boundary.*

**BYLAW 24P2012  
C-7197-2012**

4.6.2 Intermunicipal coordination regarding the interface between employment uses within Rocky View County and residential uses within The City of Calgary should be pursued to establish a suitable transition.

4.6.3 Once a functional alignment has been established, The City of Calgary should initiate the annexation process requesting that lands lying north of Peigan Trail within this Key Focus Area be annexed into The City of Calgary. Lands south of Peigan Trail shall remain within Rocky View County.

### 4.7 Highway 560/Glenmore Trail

Planning for this area will address the interface and joint infrastructure planning for industrial growth in both municipalities. A key feature in this Key Focus Area is the Shepard Wetland Complex which will serve the stormwater management requirements for Rocky View County and The City of Calgary. This Key Focus Area represents long-term industrial growth corridors for both municipalities.

Planning in this area will involve a variety of stakeholders including Alberta Environment, Western Irrigation District, Canadian National Railway, Canadian Pacific Railway, and the Town of Chestermere.

#### Policies

4.7.1 *Rocky View and Calgary should ensure that The Town of Chestermere is engaged as a stakeholder in planning processes that occur within this Key Focus Area and that are adjacent to the Town's boundary.*

**BYLAW 24P2012  
C-7197-2012**

4.7.2 Other stakeholders should be involved in joint planning processes as necessary. Stakeholders may include but not be limited to Alberta Environment, Western Irrigation District, Canadian National Railway and Canadian Pacific Railway.

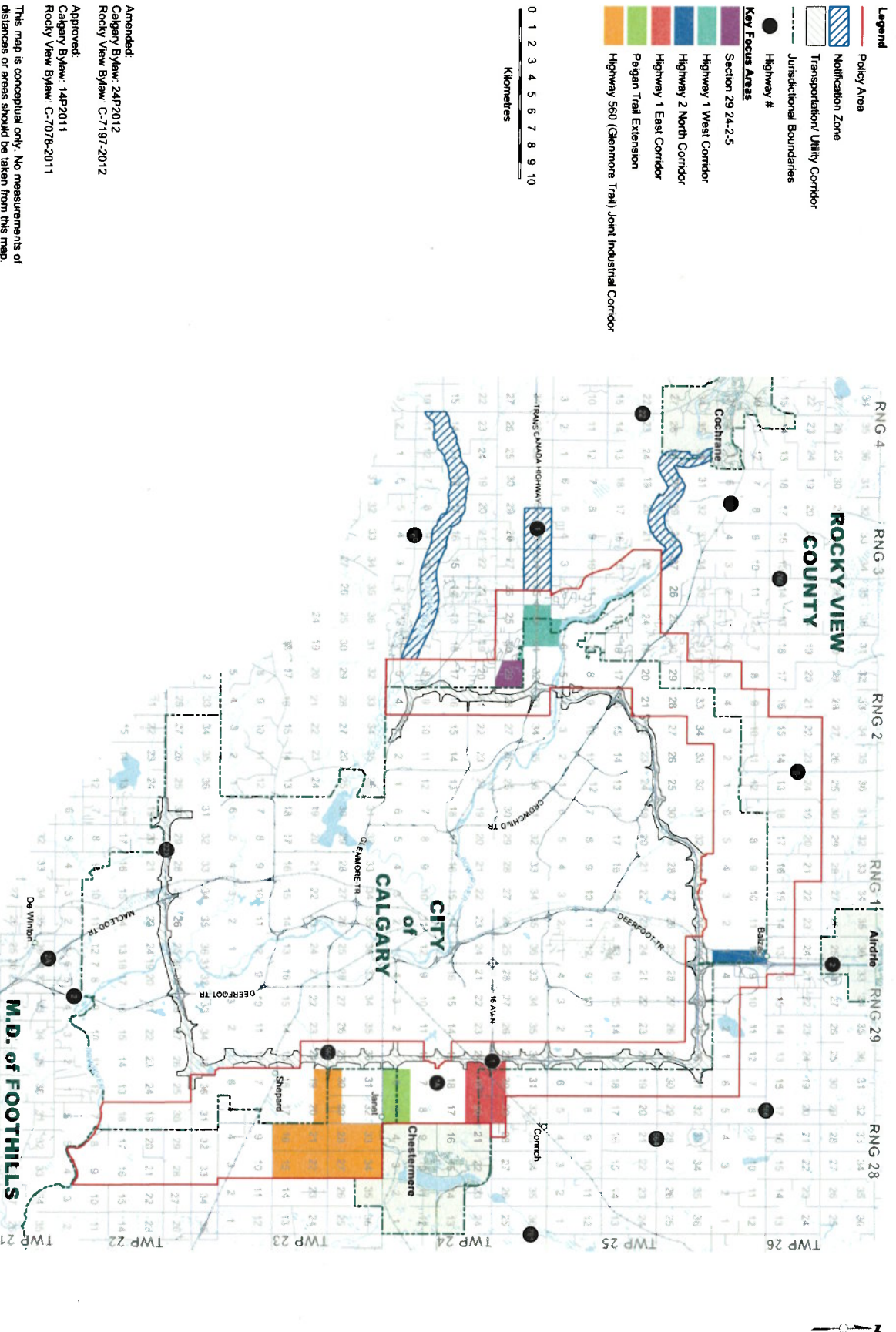
4.7.3 The City of Calgary, Rocky View County and The Town of Chestermere are currently undertaking the Shepard Regional Drainage Plan (SRDP). Any planning done in this area should be in conformity with the SRDP. This should include but not be limited to:

- (a) adherence to release rates identified in the plan;
- (b) protection of drainage corridors for future development of the drainage complex; and
- (c) coordination with neighbouring municipalities as necessary.

4.7.4 Lands within this Key Focus Area identified as being within The City of Calgary's growth corridor on Map 4 should be administered in accordance with Section 8 of this Plan.

# MAP 2

## KEY FOCUS AREAS



Amended:  
 Calgary Bylaw 24P2012  
 Rocky View Bylaw C-7197-2012

Approved:  
 Calgary Bylaw 14P2011  
 Rocky View Bylaw C-7078-2011

This map is conceptual only. No measurements of distances or areas should be taken from this map.



# Growth



- 5.0 Municipal Planning Considerations
- 6.0 Interface Planning
- 7.0 Residual Long-Term Growth Areas
- 8.0 Growth Corridors/Areas and Annexation



## 5.0 Municipal Planning Considerations

### Objective

1. Gain an understanding of the considerations each municipality will undertake when reviewing their respective planning documents, redesignations, subdivision, and development proposals.

### 5.1 Policies

**Goal**  
 Identify each municipality's considerations for reviewing and assessing planning proposals within the Intermunicipal Development Plan area.

- |   |   |  |  |
|---|---|--|--|
| <p>5.1.1 Development proposals should be evaluated against regional and sub-regional plans, as applicable, the Calgary/Rocky View 2006 Annexation Agreement, each municipality's respective Municipal Development Plan (MDP), statutory, and non-statutory plans.</p> | <p>5.1.2 If an Area Structure Plan, or equivalent, is not in place the host municipality should evaluate applications for redesignation, subdivision and development proposals according to all of the following:</p> | <p>5.1.3 Historical resources management in the Plan Area must comply with Provincial regulations.</p> | <p>5.1.4 Any subdivision or development applications for lands identified as having potential historic sites should be referred to Alberta Culture and Community Spirit.</p> |
|---|---|--|--|



## 6.0 Interface Planning

### Objective

1. Identify tools and provide direction to help achieve appropriate transitions across the municipal boundary.

### 6.1 General Policies

#### 6.1.1

Principles outlined in this chapter should be reflected in all subsequent planning processes and included in resulting documents.

#### 6.1.2

Planning processes including applications for redesignation, subdivision, or development should be evaluated with respect to adjacent existing and planned uses across the municipal boundary.

#### 6.1.3

Interface policies should be applied to achieve development that respects existing and planned land uses across the municipal boundary and should mitigate nuisance factors. These policies are intended to be applied to land uses across municipal boundaries. Individual municipal policy should guide land use transitions within a single municipality.

#### 6.1.4

Intermunicipal entranceways are important features for both municipalities. Special consideration should be given to the interface in these areas. Development should be encouraged to align with the entranceway guidelines of each respective municipality.

#### 6.1.5

The use of transition tools should be coordinated with the adjacent municipality to achieve the desired interface.

#### 6.1.6

Transition tools that may be used to mitigate impacts and provide an appropriate transition are listed below. This list is not exhaustive and other methods may be appropriate. These transition tools are intended to be used in combination.

Transition tools include:

- ◆ density
- ◆ intensity
- ◆ land use
- ◆ phasing
- ◆ open space
- ◆ landscaping
- ◆ berming

## Goal

To facilitate compatible land use transitions across the municipal boundary.

## 6.2 Agricultural Interface Policies

- ◆ topography
- ◆ fencing
- ◆ screening
- ◆ stormwater management facilities
- ◆ road alignment/access
- ◆ site/building design, such as:

- building orientation
- floor area ratio or site coverage
- building height
- setbacks
- form and massing
- lighting
- sound attenuation

6.2.1

Transition tools should be applied to new, non-agricultural development to minimize impacts on existing agricultural land uses across a municipal boundary.

6.2.2

Environmental and nuisance impacts of agricultural operations should be mitigated by provisions of the *Agricultural Operations Practices Act*.

6.2.3

Transition provided by new, non-agricultural development should consider the impact non-agricultural traffic and nuisance factors such as litter and pets may have on existing agricultural lands. Negative impacts should be mitigated.

6.2.4

To achieve 6.2.3, transition tools that may be considered for new, non-agricultural development should include fencing, controlled access to agricultural lands, and site design.

## 6.3 Commercial and Residential Interface Policies

6.3.1

Transition tools applied between commercial and residential development should include but not be limited to form and massing of buildings, sound and lighting attenuation, and site design.

6.3.2

Pathway connections between commercial and residential should be of high importance and roadway connections should be planned to limit negative impacts on adjacent residential areas.

6.3.3

Transition provided between commercial and residential should mitigate use specific nuisances.

6.1.7

Transition tools used should depend on the level of impact on the adjacent use and should be evaluated on a site-specific basis.

6.1.8

Environmental and nuisance impacts of developments or uses such as noise, air contaminants, and odorous matter should be mitigated across municipal boundaries where appropriate.

6.1.9

All land uses shall recognize existing provincial legislation requiring management of agricultural related invasive plants, pests, and diseases.

## 6.4 Industrial and Residential Interface Policies

6.4.1

Land uses such as commercial, business industrial, and open space should be considered as buffers between industrial and residential uses.

6.4.2

Scale of transition between industrial and residential should be proportionate to the level of impact between existing and planned land uses to mitigate potential health, safety, and nuisance factors.





## 7.0 Residual Long-Term Growth Areas

### Objectives

1. Accommodate temporary uses within the residual parcels prior to comprehensive development.
2. Integrate planning with adjacent lands within Rocky View County.

### 7.1 Policies

- 7.1.1 Residual Long-Term Growth Areas, as identified in Map 3, should be planned comprehensively through an Area Structure Plan (ASP) and/or Regional Context Study with adjacent lands within Rocky View County.
- 7.1.2 The Residual Long-Term Growth Area shall be deemed removed from Map 3: Residual Long Term Growth Areas, once included within an ASP.
- 7.1.3 Prior to the approval of an ASP, approval of Temporary Uses such as agriculture, open space and recreational uses may be considered.
- 7.1.4 Additional Temporary Uses may be considered on a discretionary basis based on their merits and the degree to which they comply with this plan.
- 7.1.5 Limited service industrial development should not be allowed as a permanent or Temporary Use within residual long term growth areas. Examples of development that should not be considered include salvage yards, pipe storage, and auto wrecking.
- 7.1.6 A high quality form of development is required. Visual screening, including berming, fencing, and/or landscaping, should be used to minimize the impact on adjacent areas to the satisfaction of the Development Authority.
- 7.1.7 Temporary development should incorporate design elements that address the interface with Stoney Trail.

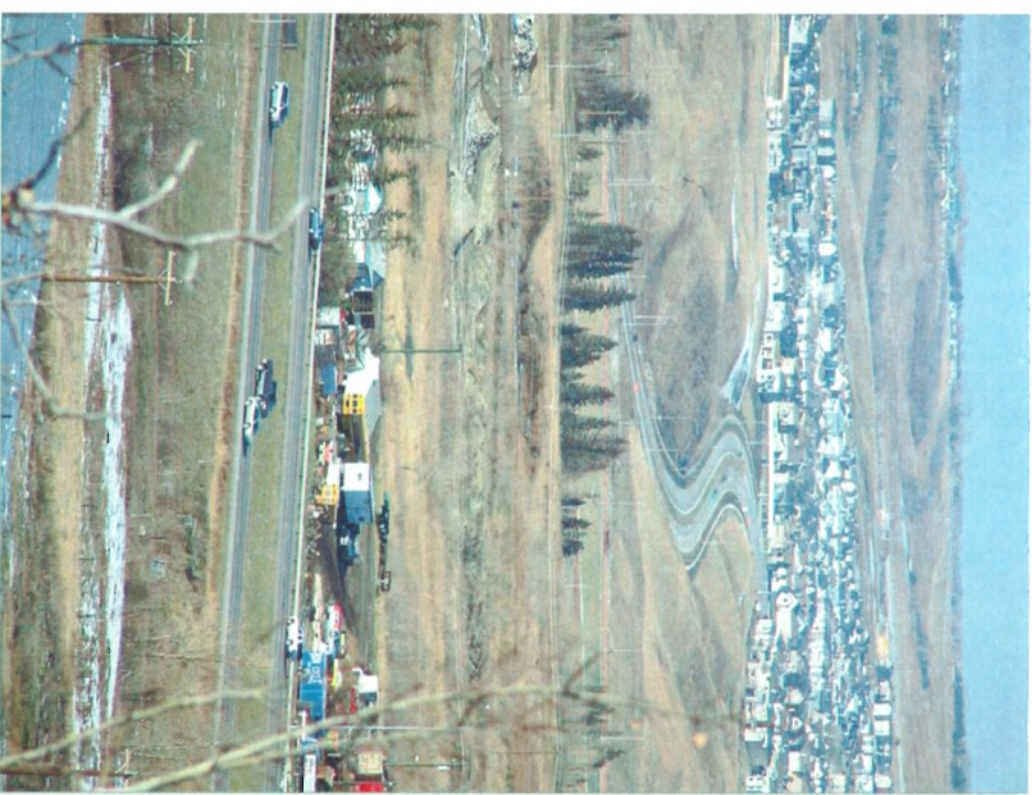
## Goal

To provide policies to address the Residual Long-Term Growth Areas within The City of Calgary.

## 7 RESIDUAL LONG-TERM GROWTH AREAS

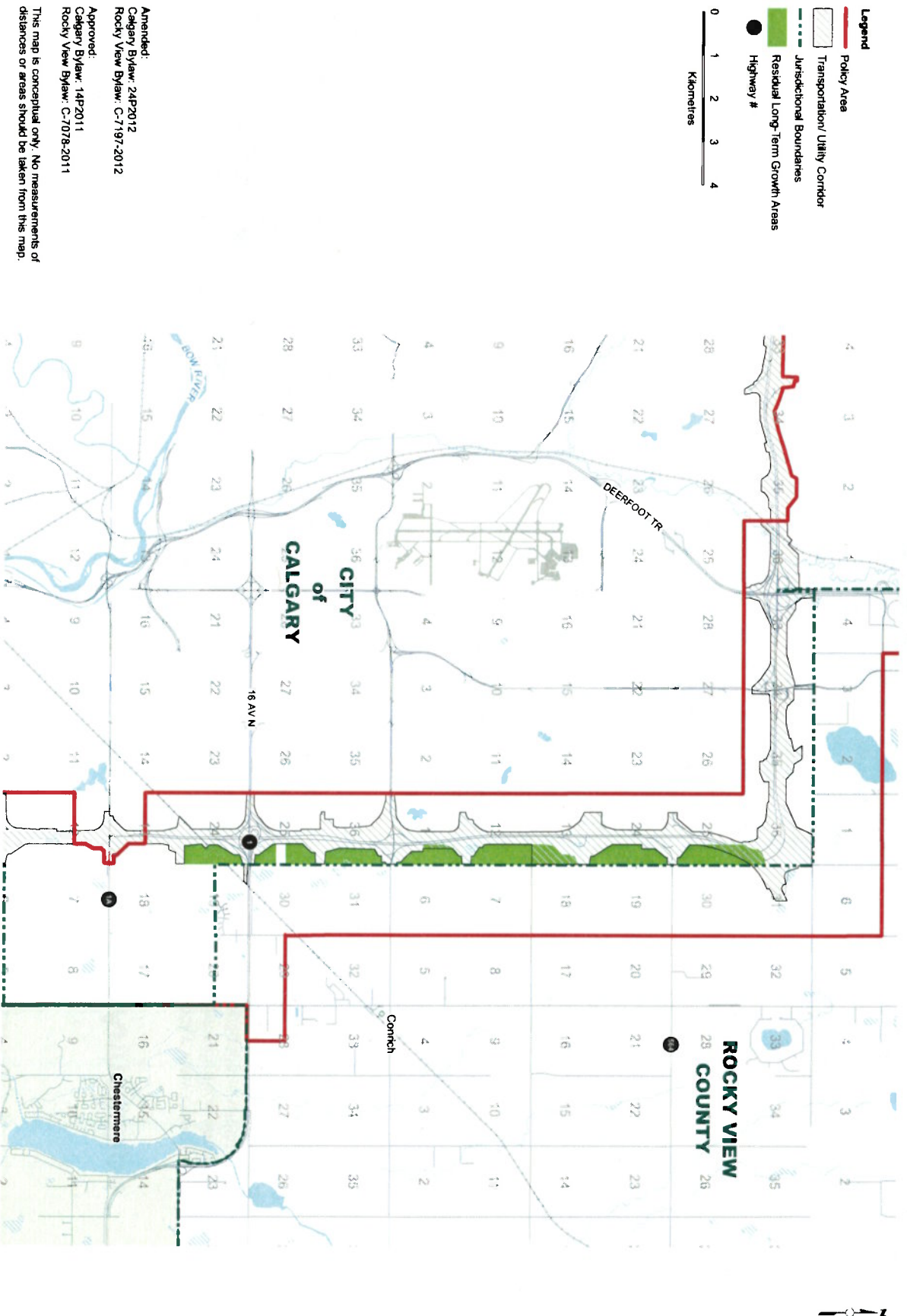
## GROWTH

- 7.1.8 Subdivision of land to facilitate development should be strongly discouraged until full servicing is available, and area structure planning, or equivalent, is complete.
- 7.1.9 Fully serviced non-residential development that is located immediately adjacent to Stoney Trail should:
- be oriented to take advantage of the visibility from Stoney Trail, and
  - incorporate design requirements that ensure a high quality form of development.
- 7.1.10 Applications for redesignation, subdivision, or development should be subject to The City of Calgary guidelines and procedures regarding Transportation Impact Assessments. These will establish the required City of Calgary and/or Rocky View County transportation improvements.
- 7.1.11 Applications for redesignation, subdivision or development should consider the Shepard Regional Drainage Plan, which is currently underway.



# MAP 3

## RESIDUAL LONG-TERM GROWTH AREAS





## 8.0 Growth Corridors/Areas and Annexation

### Objectives

1. Recognize growth corridors/areas for both municipalities.
2. Identify lands for possible future annexation from Rocky View County to The City of Calgary.

8.1.4

Rocky View County Council and Administration should evaluate applications within identified City of Calgary Growth Areas against this Plan, the Rocky View County Municipal Development Plan and the Rocky View County Land Use Bylaw.

### 8.1 Policies

8.1.5

Land use redesignation applications in identified City of Calgary Growth Areas shall be referred to the Intermunicipal Cooperation Team for discussion to gain a greater understanding of the long term intermunicipal interests in the area.

## Goal

To establish growth corridors/areas for Rocky View County and The City of Calgary.

8.1.1

Map 4, Growth Corridors/Areas, identifies Growth Corridors for Rocky View County and Growth Areas for The City of Calgary. These are adapted from the 2006 Annexation Agreement and represent areas for potential future development of the municipalities within the Plan Area.

8.1.6

When planning in identified City of Calgary Residential Growth Areas allows Municipal Reserve to be taken Rocky View County should take all comments from school boards, Rocky View County Municipal Lands and Rocky View County Recreation Boards regarding the Municipal Reserve owing into consideration.

8.1.2

Rocky View County Growth Corridors should be developed in accordance with *Rocky View 2060 Growth Management Plan* and other Rocky View County statutory and local area plans, as they may be updated from time to time.

8.1.7

Should The City of Calgary wish to identify additional Growth Areas beyond those identified in Map 4: Growth Corridors/Areas, the following process shall be pursued to allow for mutually beneficial discussions:

(a) Preliminary administrative discussions;

8.1.3

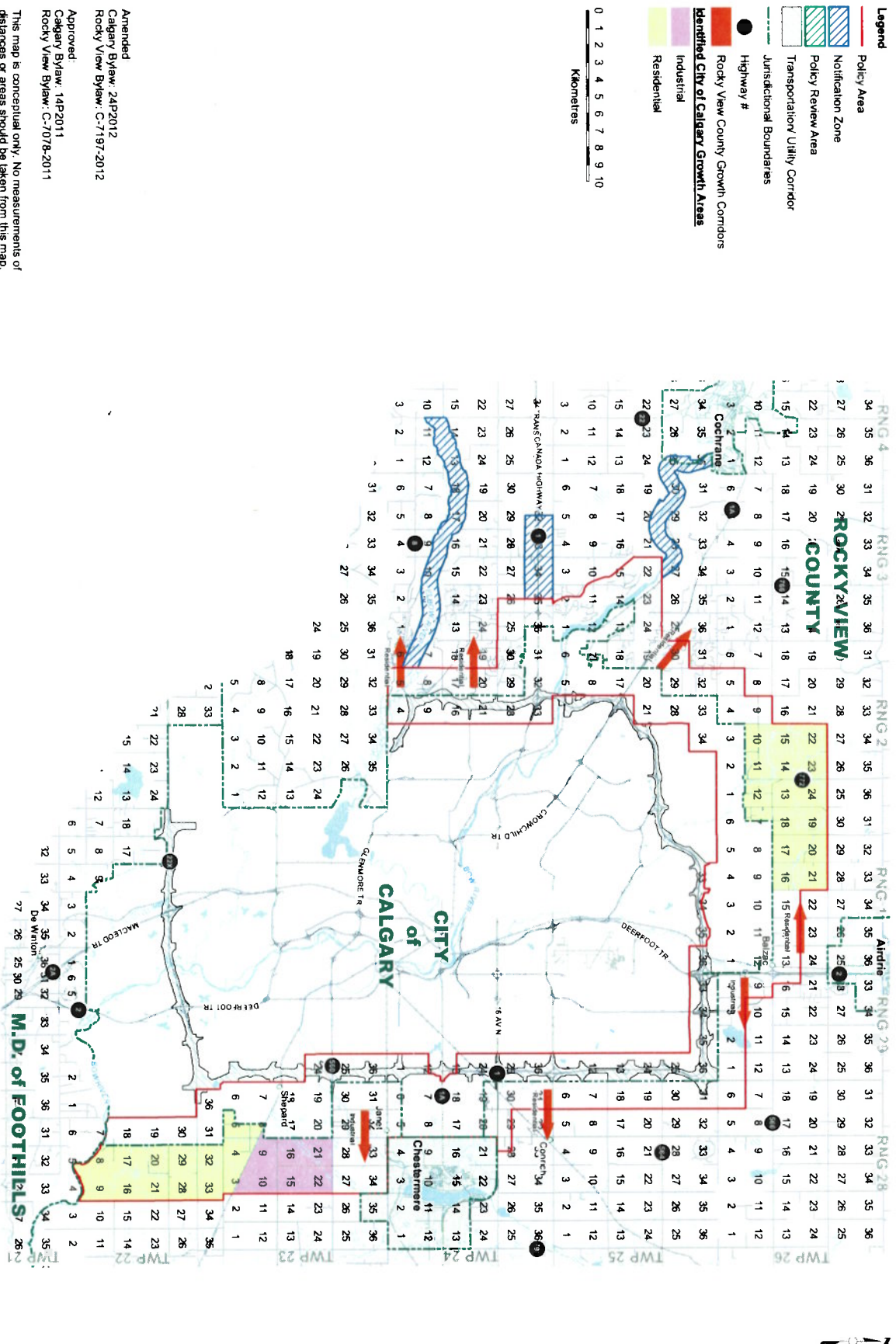
Identified City of Calgary Growth Areas should continue to be governed in accordance with existing Rocky View County policy documents, which may be updated. Should the lands be annexed by The City of Calgary, planning will be conducted as directed by its Municipal Council at that time.

- (b) Intermunicipal Committee discussions and recommendations to both Municipal Councils;
  - (c) Direction from both Municipal Councils to begin negotiations;
  - (d) Best efforts towards mutually beneficial negotiation process;
  - (e) Negotiated recommendation brought forward to both Municipal Councils for consideration; and
  - (f) Intermunicipal Development Plan amendment, if necessary.
- 8.1.8 Future annexation proposals shall proceed in accordance with the process for annexation in the *Municipal Government Act*:



# MAP 4

# GROWTH CORRIDORS/AREAS



# Land and Water



- 9.0 Parks, Open Space  
and Recreation
- 10.0 Flood Hazard Area  
Management
- 11.0 Watershed Protection
- 12.0 Aggregate Extraction



## 9.0 Parks, Open Space and Recreation

### Objectives

1. To facilitate appropriate and logical intermunicipal connections between existing and future parks for active and passive recreation purposes.
  2. To coordinate a contiguous intermunicipal open space system for ecosystem viability and sustainability.
  3. To promote coordination of recreational amenities and services between municipalities.
- (c) Work together on an intermunicipal open space and natural area inventory (including environmentally significant areas) to identify opportunities for cross-boundary connections and intermunicipal open space preservation and enhancement.
- (d) Explore the feasibility of developing an overall intermunicipal recreation master plan.
- (e) Explore the feasibility of entering into joint maintenance agreements for municipal reserve lands in the Policy Area; and
- (f) Cooperate in the exploration of cost-effective ways of delivering recreational services that benefit both municipalities.
- 9.1.1 While recognizing different municipal approaches and priorities with respect to parks, open space and recreation, both municipalities should work together to:
- (a) Identify potential connections and planning between existing and future park sites across municipal boundaries;
  - (b) Work together on an intermunicipal pathway inventory to identify opportunities for cross boundary connections;

## Goal

To coordinate and promote intermunicipal cooperation in the protection, enhancement and development of parks, open space, and recreational facilities.

### 9.1 Policy





## 10.0 Flood Hazard Area Management

### Objectives

1. Ensure that municipal processes support safety, economic, and environmental stewardship within flood hazard areas.
2. Establish communication processes with respect to emergency planning and management of flood hazard areas.
3. Promote planning aligned with provincial policy for flood hazard areas.

### 10.1 Policies

- |   |  |
|---|--|
| <p>10.1.1 Land use and development in the flood hazard areas of the Intermunicipal Development Plan should align with policies, guidelines, requirements or controls adopted by the municipality for their jurisdiction, while having regard for those set out by the Province of Alberta and the Government of Canada.</p> | <p>10.1.4 Through the ICT, both municipalities shall share information regarding:</p> <p>(a) Flood response and flood protection planning elements for lands that may be subject to flooding particularly with respect to utility design and operation, transportation/egress routes and interim flood protection measures; and</p> <p>(b) Tools to mitigate the risks of river flooding, including but not limited to utility design, storage restrictions, building setbacks, and flood-proof building design.</p> |
| <p>10.1.2 Both municipalities should refer to, and have regard for, flood hazard mapping and flood risk area definitions as endorsed by Alberta Environment.</p>  | <p>10.1.5 Both municipalities should utilize management approaches to retain natural morphology of streams where possible.</p>   |
| <p>10.1.3 Potential flood hazard mapping revisions should be brought forward to</p>   | <p>10.1.6 Potential impacts (such as structural, hydrologic, and water quality aspects) on groundwater interactions in flood hazard areas should be addressed as part of planning processes prior to development.</p>  |

## Goal

To appropriately manage lands in flood hazard areas.



## 11.0 Watershed Management

### Objectives

1. While recognizing development will occur in both municipalities, both will manage watersheds for water quality and quantity as they are important for a safe drinking water supply, healthy ecosystems, and the operation of agricultural systems.
2. Work collaboratively to mitigate negative impacts on watersheds within the Policy Area.

11.1.3

The most up-to-date Watershed Management Plans shall be used as guidance documents and decision making tools for activities occurring within watersheds, including recommendations on cumulative effects management and water quality objectives.

11.1.4

Both municipalities should cooperate and support Alberta Health Services and Alberta Environment to mitigate the adverse impact of water quality contaminants.

11.1.5

All development proposed in proximity to water bodies should be carefully evaluated for impacts on water quality of surface water, groundwater, and alluvial aquifers. Negative impacts should be mitigated.

11.1.6

Both municipalities should implement environmental setback guidelines to protect riparian areas and water quality.

## Goal

To responsibly manage watersheds within the Policy Area.

### 11.1 Policies

11.1.1

Both municipalities should manage for the long-term quality and quantity of municipal drinking water supplies including:

- (a) Protection and enhancement of surface water sources, watersheds, and waterways; and
- (b) Protection of groundwater including groundwater recharge areas.

11.1.2

Both municipalities should manage watersheds to support healthy, functional ecosystems.



## 12.0 Aggregate Extraction

### Objective

1. Aggregate resources are important to our municipalities. Both municipalities wish to facilitate intermunicipal communication regarding aggregate extraction operations, and planning and development proposals in the vicinity.

### 12.1.2

When processing applications for new sand and gravel pit operations, each municipality should give consideration to the:

- (a) possible impacts that approval of such applications may have on existing and planned uses in the adjacent municipality; and
- (b) comments received from the adjacent municipality.

### 12.1.3

In the event that existing aggregate extraction operations begin to create negative impacts such as noise, dust and truck traffic on the adjacent municipality, both municipalities should discuss impacts. The host municipality may coordinate enforcement of existing approvals and/or discuss standards of abatement with the applicant and adjacent municipality at the time of development permit renewal.

### 12.1 Policies

#### 12.1.1

In accordance with policy 13.1.1, both municipalities should seek to coordinate the planning of major aggregate haul routes within the Policy Area. In doing this, both the short- and long-term needs of residents and the industry should be taken into consideration.

## Goal

To provide for intermunicipal cooperation with respect to aggregate extraction.



# Infrastructure



13.0 Transportation

14.0 Utilities and Servicing



## 13.0 Transportation

### Objectives

1. Facilitate the coordination and collaboration of current and long term transportation plans of The City of Calgary and Rocky View County.
2. Establish a process for evaluation of intermunicipal transportation infrastructure impacts.

### 13.1 Policies

- 13.1.1 In order to provide for efficient development and reasonable access between the two municipalities, The City of Calgary and Rocky View County should coordinate the planning of major transportation links for all modes of transportation.
- 13.1.2 Both municipalities should jointly consult with Alberta Transportation to coordinate planning and development along provincially administered transportation links.
- 13.1.3 Multi-modal transportation connections between municipalities should be coordinated where appropriate.
- 13.1.4 Both municipalities should communicate regularly on transportation matters through the City of Calgary/Rocky View County Intermunicipal Cooperation Team and Intermunicipal Committee.
- 13.1.5 The host municipality should consider the impact that a proposed development may have on the transportation infrastructure of the adjacent municipality through the development of a Transportation Impact Assessment (TIA) to the standard of the host municipality.
- 13.1.6 If the impact of development exceeds the capacity of the existing transportation infrastructure, upgrades should be coordinated through the following process:
- (a) Circulation of the proposal, in accordance with this Plan;
  - (b) The adjacent municipality detailing required upgrades as a result of the proposed development, in accordance with the TIA; and
  - (c) The host municipality should require appropriate upgrades as conditions of subdivision or development approval.

## Goal

To facilitate the coordination of transportation infrastructure between municipalities.



- 13.1.7 Transportation connections should be compatible across municipal boundaries.
- 13.1.8 Both municipalities should coordinate access from boundary roads.
- 13.1.9 Where the road jurisdiction is discontinuous on a boundary road or a road standard is most efficiently maintained by the adjacent municipality, maintenance agreements should be pursued in accordance with Section 3: Joint Studies.
- 13.1.10 Both municipalities should jointly pursue development of a process for early notification of road bars and closures.



## 14.0 Utilities and Servicing

### Objectives

1. Establish a process for cross-boundary utility planning and right-of-way acquisition.
2. Facilitate the coordination of joint stormwater planning on an intermunicipal and regional basis.

### 14.1 Policies

- |  |   |
|--|---|
| <p>14.1.1 The process for acquiring easements and rights-of-way within the adjacent municipality involves the following steps:</p> <p>(a) Identification of the need for sanitary, water and stormwater easements and rights-of-way,</p> <p>(b) Discussion between the municipalities through the Intermunicipal Cooperation Team (ICT) and other municipal bodies, as deemed necessary,</p> <p>(c) Negotiation of intermunicipal agreements for sanitary, water and stormwater easements and rights-of-way, and</p> | <p>14.1.2 Either municipality may extend sanitary, water and stormwater services to the adjacent municipality according to its applicable policies.</p> <p>14.1.3 Where communal sewage treatment systems are being considered, the proposals shall be brought to the ICT for information.</p> <p>14.1.4 Where appropriate, Master Drainage Plans/Staged Master Drainage Plans should be brought to the ICT for information.</p> <p>14.1.5 Both municipalities should collaborate in the development of Master Drainage Plans/Regional Drainage Plans within the Policy Area, on a drainage basin scale where feasible.</p> <p>14.1.6 Recommendation of present and future Master Drainage Plans/Regional Drainage Plans, approved by both municipalities, within the Policy Area should be followed.</p> |
|--|---|

## Goal

To address sanitary, water and stormwater on an intermunicipal scale.



- 14.1.7 Low Impact Development practices and technologies should be implemented wherever feasible to meet stormwater management objectives set out in the Water Management Plans for the Bow Basin, Elbow River, and Nose Creek watersheds, and applicable policies for The City of Calgary and Rocky View County.
- 14.1.8 Best management practices shall be applied to new developments to mitigate adverse impacts on water courses including impacts on water quality, natural hydrology, riparian areas and habitat within the Policy Area.



Intermunicipal  
Development  
Plan

# Plan Implementation





## 15.0 Plan Implementation

### Objectives

1. Establish an intermunicipal referral process.
  2. Establish a process for administration and repeal of this Plan.
  3. Allow for resolution of intermunicipal issues.
  4. Establish the relationship between this Plan and other statutory and non-statutory plans.
- (b) Applications for land use redesignation and subdivision;
  - (c) All applications for development permits, including renewals;
  - (d) Disposition of environmental, municipal and/or school reserves, environmental easements, public utility lots and/or road allowances;
  - (e) Emergency response plans for natural resource extraction activities; and
  - (f) Flood hazard mapping revisions.

## Goal

To identify intermunicipal processes and describe the relationship between plans.

### 15.1 Circulation and Referral Processes

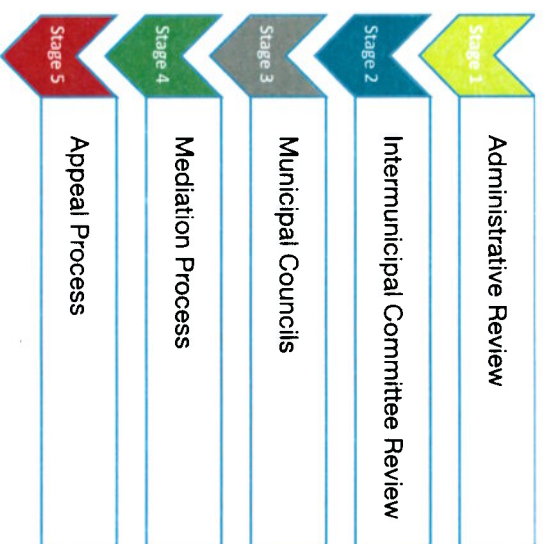
The mutual referral of planning applications, policy plans, studies and other information is essential to the proper administration of the Intermunicipal Development Plan (IDP) and for effective coordination of planning across municipal boundaries.

- 15.1.1 The following that occur partially or wholly within the Plan Area (Map 1) shall be circulated to both municipalities:
- (a) Statutory and non-statutory plans within the Plan Area and proposed amendments to such plans:
- 15.1.2 Subject to written intermunicipal agreement, items may be added to or deleted from the preceding circulation list without the need for an amendment to this Plan.
- 15.1.3 Applications shall be referred to the adjacent municipality prior to consideration by the Development Authority/Subdivision Authority, Calgary Planning Commission or either Municipal Council as applicable.
- 15.1.4 When creating Area Structure Plans (ASPs), or equivalent, for new development areas within the Policy Area, the adjacent municipality and their residents should be included in

- the planning process. This consultation process should include:
- (a) Municipal Administration as a stakeholder in the ASP, or equivalent, preparation and inclusion in stakeholder meetings as appropriate;
  - (b) Invitation to public consultation meetings sponsored by the host municipality to the adjacent municipality and their residents who own property adjacent to the ASP, or equivalent;
  - (c) A mechanism for the adjacent municipality and its residents to provide feedback regarding the draft ASP, or equivalent; and
  - (d) Collaboration between municipal administrations (through the Intermunicipal Cooperation Team, where appropriate) on planning, transportation and servicing matters which are intermunicipal in nature.
- 15.1.5 Municipal processes and timelines shall leave sufficient time for intermunicipal discussion outlined in Section 15.3.
- 15.1.6 Unless otherwise agreed to by both municipalities, the responding municipality shall have twenty (20) days to review development permits and thirty (30) days from date of receipt to reply to all other intermunicipal circulations.
- 15.1.7 In the event that either municipality does not reply within, or request an extension to, the maximum response time for intermunicipal circulations, it will be assumed that the responding municipality has no comment or objection to the referred planning document.
- 15.2 Administration, repeal and amendment processes**
- 15.2.1 Each municipality shall administer provisions of this IDP for lands within its municipal jurisdiction using its own staff resources and will determine what authority should be delegated to the Intermunicipal Committee (IMC) and to staff.
- 15.2.2 The City of Calgary and Rocky View County agree to a minimum five-year period from the date of final approval of this IDP during which the policies will be in effect. During the five-year period, the IDP may be amended as mutually agreed to by both municipalities.
- 15.2.3 After the expiration of five years from the date of final approval of this IDP, either municipality may serve written notice of termination. One year after the service of such notice of termination each Municipal Council shall be at liberty to repeal its bylaw adopting this Plan.
- 15.2.4 After a comprehensive annexation or when deemed required by both municipalities a review of the content of the IDP should take place.
- 15.2.5 The IDP may be amended from time to time subject to the agreement of both Municipal Councils. Amendments could include changes to policy (textual amendments), boundaries, or such other matters as may be determined.

### 15.3 Resolution of Intermunicipal Matters

15.3.1 If there are matters in this Plan on which the two municipalities disagree, they shall be addressed and may be resolved at any of the following stages:



#### Stage 1: Administrative Review

- 15.3.2 The host municipality shall ensure that complete information addressing the application, as outlined in the IDP, is provided to the responding municipality.
- 15.3.3 Upon circulation of a proposal, the Administration of the responding municipality should undertake a technical evaluation of the proposal and provide comments to the Administration of the host municipality.
- 15.3.4 The Administrations of both municipalities shall determine, based on the provisions of the IDP, whether proposals should be referred to the IMC.
- 15.3.5 Notwithstanding 15.3.4 above, either municipality may refer a proposal to the IMC for review.
- 15.3.6 Referrals to the IMC should occur prior to consideration by the Calgary Planning Commission, or first reading of any relevant bylaws and it is recognized that multiple IMC meetings may be required.

Stage 2: Intermunicipal Committee Review

Stage 3: Municipal Councils

- 15.3.7 Where a proposal is referred to the IMC, the perspectives of both municipalities will be presented to the Committee.
- 15.3.8 After consideration of the matter, the IMC may:
  - (a) Provide suggestions with respect to desired courses of action and/or revisions to a proposal to make it more acceptable to both municipalities;
  - (b) Seek additional information and alternate options for consideration at a future meeting of the Committee;
  - (c) Agree on a consensus position relative to conformity with the IDP to assist both Administrations;
  - (d) Conclude that no initial agreement can be reached; or
  - (e) Schedule such further meetings as may be necessary and consult with such technical or other sources as the Committee deems necessary to identify compromises and solutions.
- 15.3.9 Where considered necessary and useful by the IMC and where necessary authorization has been received, a facilitator may be engaged to help the IMC work toward a consensus position.
- 15.3.10 If a consensus cannot be reached following IMC review, then the proposal may be referred to both Municipal Councils.
- 15.3.11 After receiving direction from the IMC and the respective Administrations with respect to a particular proposal, each Municipal Council may establish its position on the proposal.
- 15.3.12 If neither Municipal Council supports the proposal, then no further action shall be required.
- 15.3.13 If the two Municipal Councils cannot agree on a proposal, then both Municipal Councils should consider referring the matter to a mediation process so that a mutually beneficial solution can be found.
- 15.3.14 In the event that the two municipalities agree to mediation, the initiating municipality should not give approval in the form of second or third readings to appropriate bylaws until mediation has been pursued.
- 15.3.15 In the event a Municipal Council gives three readings to the bylaw prior to a mediated solution being reached, the other municipality may appeal to the Municipal Government Board to reserve the right of appeal.

Stage 4: Mediation Process

Stage 5: Appeal Process

- 15.3.16 The following should be required before a mediation process can be established:
- (a) Agreement by both Municipal Councils that mediation is necessary;
  - (b) Appointment by both Municipal Councils of an equal number of representatives to participate in a mediation process;
  - (c) Engagement, at equal cost to both municipalities, of an impartial and independent mediator agreed to by both municipalities; and
  - (d) Approval by both municipalities of a mediation schedule, including the times and locations of meetings and a deadline by which the mediation process is to be completed.
- 15.3.17 If agreed to by both municipalities, members of the IMC or administrative staff from either municipality who are not participating directly in the mediation process may act as information resources either inside or outside the mediation room.
- 15.3.18 All participants in the mediation process should be required to keep the details of the mediation confidential until the conclusion of the mediation.
- 15.3.19 At the conclusion of the mediation, the mediator should submit a report to both municipalities.
- 15.3.20 If a mediated agreement is reached, then it shall be provided to both Municipal Councils for consideration. Any mediated agreement shall not be binding on either municipality and shall be subject to the approval of both Municipal Councils.
- 15.3.21 If no mediated agreement can be reached or if a mediated agreement is not approved by both Municipal Councils, then the appeal process may be initiated.
- 15.3.22 In the event that the mediation process fails, the initiating municipality may give second and third reading to a bylaw to implement the proposal (i.e., a land use bylaw amendment, an Area Structure Plan (ASP) or equivalent, or ASP amendment).
- 15.3.23 If the initiating municipality passes a bylaw to implement the proposal, then the responding municipality may appeal that action to the Municipal Government Board under the provisions of Section 690 of the *Municipal Government Act*.



**15.4 Relationship to Provincial Plans**

15.4.1 This Plan should be in alignment with all provincial-level plans. Any amendments necessary to bring this Plan into alignment with a provincial-level plan or document should be brought forward to both Municipal Councils for consideration.

**15.5 Relationship to the Calgary Metropolitan Plan**

15.5.1 Where a municipality is a member of the Calgary Regional Partnership, this Plan shall be used in conjunction with the Calgary Metropolitan Plan when evaluating development and planning proposals within that municipality.

**15.6 Relationship to Other Municipal Plans**

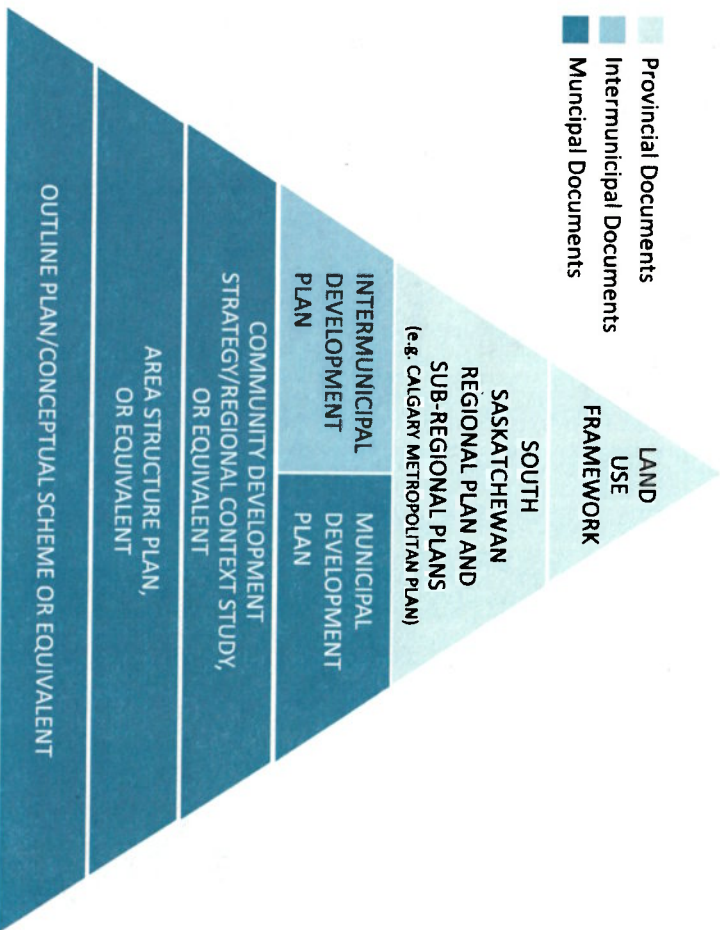
15.6.1 To ensure ongoing relevancy, this Plan shall be used in conjunction with statutory and non-statutory plans to provide direction for intermunicipal collaboration.

15.6.2 Existing plans that pre-date the adoption of this Plan shall prevail where discrepancies occur.

15.6.3 Existing plans within the 2007 annexation territory shall be amended to be in conformity with this Plan if discrepancies exist.

15.6.4 Statutory and non-statutory plans adopted by either municipality after this IDP's adoption date shall be in alignment with this Plan.

15.6.5 Amendments adopted by either municipality after this IDP's adoption date to statutory and non-statutory plans (including plans adopted prior to this Plan) shall be in conformity with this Plan.



### 15.7 Relationship to The Town of Chestermere

- 15.7.1 The City of Calgary and Rocky View County share common borders and common intermunicipal interests with The Town of Chestermere. Issues of intermunicipal interest include principles of communication, local planning initiatives, policy implementation tools, intermunicipal connectivity, regional drainage, transportation, and any other matters as Rocky View and Calgary deem appropriate.
- 15.7.2 To help address these intermunicipal interests, Calgary and Rocky View should:
- (a) ensure The Town of Chestermere is identified as a stakeholder in statutory planning processes for lands within any Key Focus Area adjacent the shared municipal boundary;
  - (b) ensure there is a process requiring the circulation of planning applications to The Town of Chestermere for comments; and
  - (c) provide a forum for intermunicipal discussion through the establishment or maintenance of intermunicipal committees.
- 15.7.3 Should either Rocky View or Calgary undertake an intermunicipal development plan with The Town of Chestermere, this Plan may require amendments or removal of lands to ensure alignment of statutory documents.
- BYLAW 24P2012**  
**C-7197-2012**

# Appendices

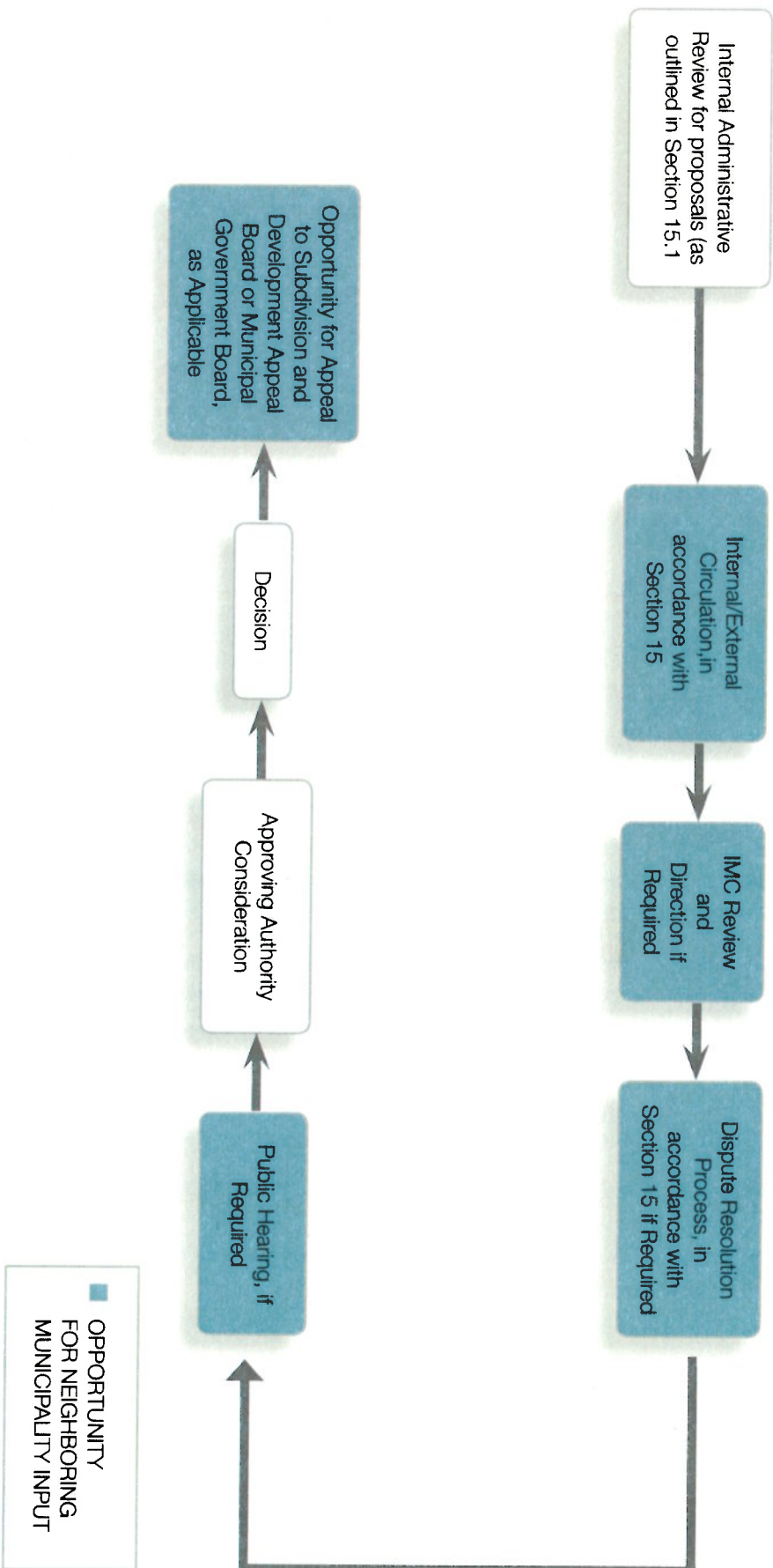


- A. Action Items Identified in the Intermunicipal Development Plan
- B. General Application Process
- C. Flood Hazard Areas Map
- D. Existing Transportation Systems
- E. Glossary

**A. Action items identified in the Intermunicipal Development Plan**

| IDP Action Items |   |
|------------------|---|
| Policy/Section   | Action Item   |
| Section 2        | Formation of an Intermunicipal Cooperation Team and delineation of roles and responsibilities.  |
| 4.4.5            | Once a functional alignment has been established for the Highway 2 and Highway 566 interchange, explore the possibility of annexing residual land south of the interchange from Rocky View County to The City of Calgary. |
| 4.6.3            | Once a function alignment has been established for Peigan Trail, The City of Calgary should initiate the annexation process for lands lying north of Peigan Trail.  |
| 9.1.1 (c)        | A pathway inventory and identification of cross-boundary connection opportunities.  |
| 9.1.1 (d)        | Explore the validity of an overall recreation master plan for the IDP Policy Area.  |
| 9.1.1 (e)        | Exploring the feasibility of entering into joint maintenance agreements for the IDP Policy Area.  |
| 13.1.10          | Development of a process for early notification of road bans and closures.  |
| 15.6.3           | Review of existing plans within the 2007 annexation territory to identify possible discrepancies and amendments.  |

## B. General Application Process



## C FLOOD HAZARD AREAS MAP

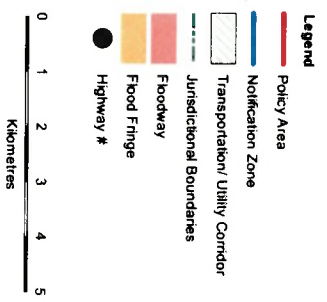
## APPENDICES

### C. Flood Hazard Areas Map

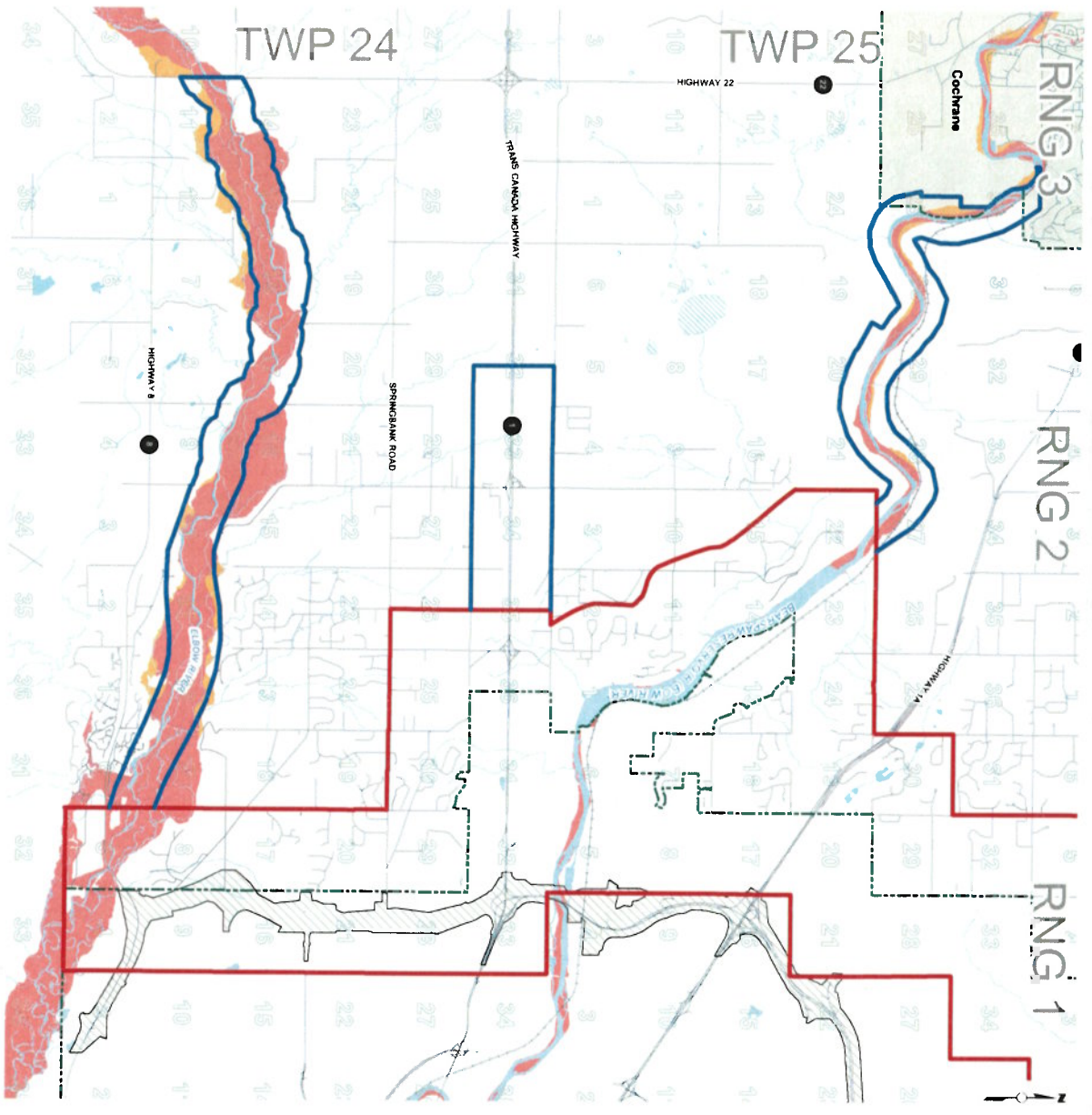
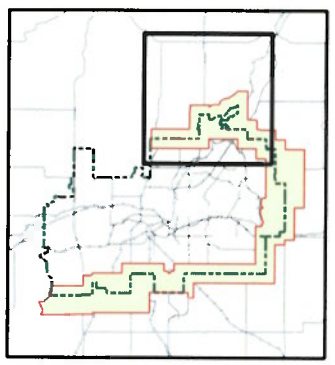


# MAP 5

## FLOOD HAZARD AREAS



Map for reference only. The City of Calgary currently also applies flood hazard management policies to the West Nose Creek and Nose Creek. This map should be further amended to reflect any approved Provincial flood hazard mapping.



Approved:  
Calgary Bylaw: 14P2011  
Rocky View Bylaw C-7078-2011

This map is conceptual only. No measurements of distances or areas should be taken from this map.

## D. Existing Transportation Systems

### Provincial Highway System

The major elements of the existing transportation system can be classified according to the following four major categories (Map 6):

Key components of the Provincial Highway System include:

- ◆ Highway 22X;
- ◆ Highway 1 East and West;
- ◆ Highway 1A East and West;
- ◆ Deerfoot Trail/Highway 2 North; and
- ◆ Highway 8.

### Intermunicipal Road System

In addition to the Provincial Highway System, there are a number of roads which act as key links between Rocky View County and the City of Calgary. These include:

- ◆ 114 Avenue S.E./Township Road 232;
- ◆ Glenmore Trail East/Secondary Highway 560;
- ◆ McKnight Boulevard/Conrich Road/Township Road 250;
- ◆ 80 Avenue N.E./Township Road 252;
- ◆ Country Hills Boulevard/Delacour Road/Secondary Highway 564;
- ◆ Centre Street North/Secondary Highway 782;
- ◆ Symons Valley Road/Secondary Highway 772;
- ◆ 85 Street N.W.;
- ◆ Old Banff Coach Road/Secondary Highway 563;



- ◆ Lower Springbank Road;
- ◆ Bow Trail/Old Banff Coach Road; and
- ◆ 17 Ave S.W./ Township Road 242

### Boundary Roads

A number of boundary roads exist between The City of Calgary and the Rocky View County:

- ◆ Range Road 285
- ◆ Peigan Trail S.E.
- ◆ 146 Avenue S.E.
- ◆ 84/88 Street East;
- ◆ 100 Street East;
- ◆ 116 Street East;
- ◆ 144 Avenue North/Burma Road;
- ◆ 85 Street West;
- ◆ Rocky Ridge Road N.W.;
- ◆ 112 Avenue N.W.;
- ◆ 12 Mille Coulee Road/117 Street N.W.;
- ◆ Highway 2 North;
- ◆ Highway 566; and
- ◆ 101 Street S.W.

These roads are unique in that they are within one jurisdiction but are also significant roads for the neighbouring jurisdiction.

### **Dangerous Goods Routes and Truck Routes**

The City of Calgary requires that vehicles transporting certain quantities of dangerous goods travel on designated dangerous goods routes. When it becomes necessary for such vehicles to leave dangerous goods routes for the purpose of making deliveries or supplying services, carriers must proceed on dangerous goods routes to truck routes that provide the most direct access to and from their destinations.

Refer to Map 6 for details of dangerous goods, high load, and truck routes. (Note: This list may be amended from time to time. See The City of Calgary Transportation of Dangerous Goods Bylaw for the most up-to-date list.)

### **Dangerous Goods Routes**

The following list identifies designated dangerous goods routes within the Intermunicipal Development Plan area:

- ◆ Glenmore Trail S.E.;
- ◆ 17 Avenue S.E.;
- ◆ 16 Avenue/Highway 1 N.E.;
- ◆ 16 Avenue/Highway 1 N.W.;
- ◆ Glenmore Trail/Highway 8 S.W.;
- ◆ Stoney Trail N.W./N.E.;
- ◆ Stoney Trail S.E. (Future); and
- ◆ Deerfoot Trail/Queen Elizabeth II Highway.

## Truck Routes

In addition to dangerous goods routes, The City of Calgary has designated certain roads or areas for use by trucks and has also restricted certain truck routes by the times of day or by the number of axles. The following list identifies designated truck routes within the Intermunicipal Development Plan area (Note: This list may be amended from time to time. See The City of Calgary Truck Route Bylaw for the most up-to-date list):

- ◆ Marquis of Lorne Trail;
- ◆ Country Hills Boulevard;
- ◆ Old Banff Coach Road;
- ◆ Centre Street North;
- ◆ 114 Avenue S.E.;
- ◆ 100 Street East/Garden Road S.E.;
- ◆ 116 Street S.E.;
- ◆ 84/88 Street East/88 Street S.E.;
- ◆ 68 Street between 17 Avenue S.E. and McKnight Boulevard N.E.;
- ◆ Métis Trail N.E.;
- ◆ Airport Trail N.E.;
- ◆ McKnight Boulevard N.E.;
- ◆ Symons Valley Road N.W.;
- ◆ 85 Street N.W.;
- ◆ 112 Avenue N.W., between 85 Street N.W. and Sarcee Trail;
- ◆ Crowchild Trail/Highway 1A N.W.; and
- ◆ 17 Avenue S.W.

## D EXISTING TRANSPORTATION SYSTEMS

## APPENDICES

### Truck Routes identified in the West Regional Context Study (RCS)

- ◆ Nose Hill Drive N.W.

### Truck Routes identified in the North Regional Context Study (RCS)

- ◆ 128 Avenue N.W.;
- ◆ 144 Avenue;
- ◆ 160 Avenue;
- ◆ Sarcee Trail N.W.;
- ◆ Shaganappi Trail N.W.;
- ◆ Panorama Road N.W.;
- ◆ 14 Street N.W.;
- ◆ 6 Street N.E.;
- ◆ 15 Street N.E.;
- ◆ 69 Street N.W.;
- ◆ 101 Street N.W.; and
- ◆ 12 Mile Coulee Road.

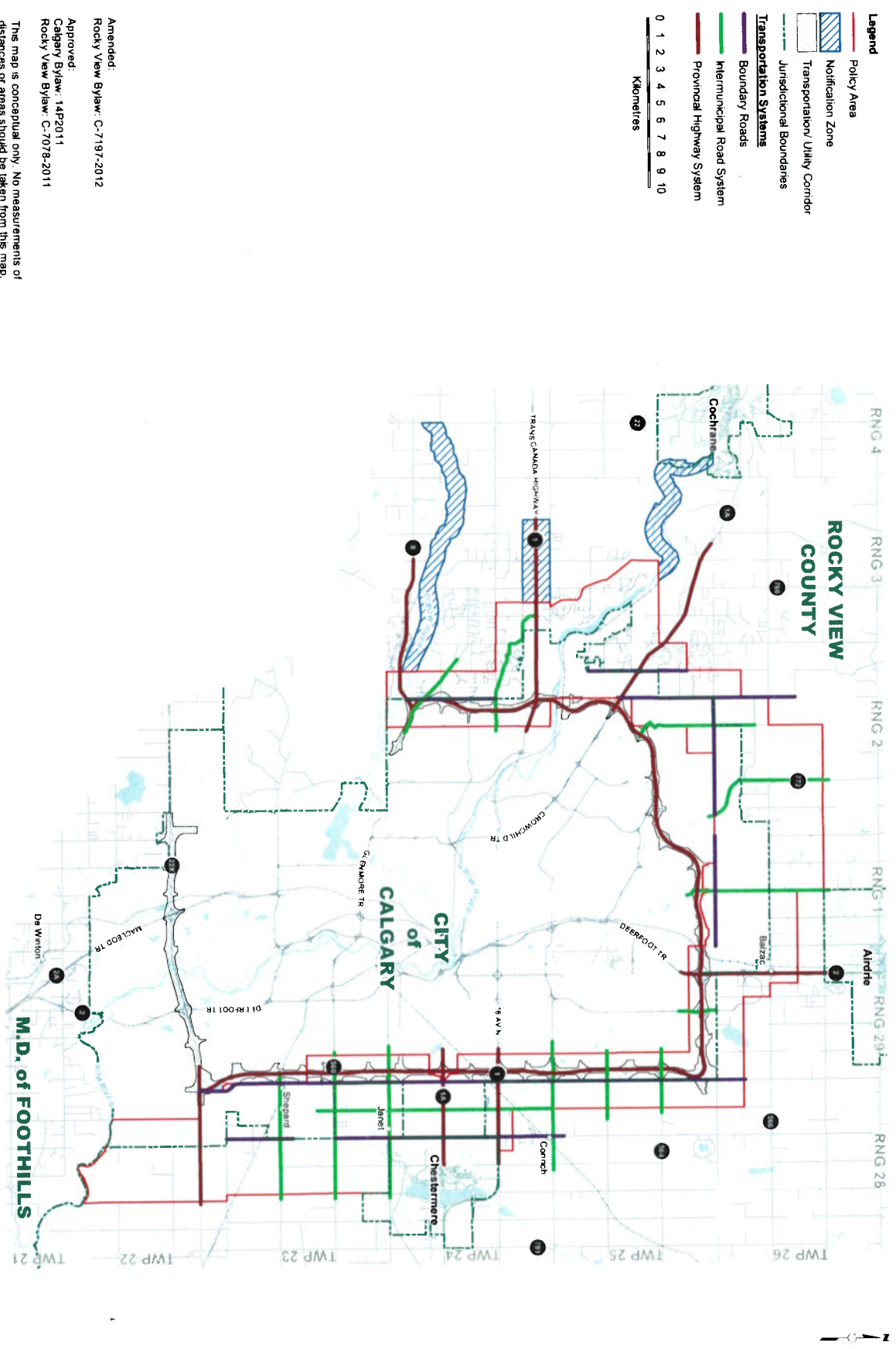
## High Load Corridor

In addition to Truck Routes and Dangerous Goods Routes, The City of Calgary designates certain roads as High Load Corridors. A permit is required for overdimensional loads to travel within the city. The following list identifies designated high load corridors within the IDP area (Note: This list may be amended from time to time. See The City of Calgary Truck Route Bylaw for the most up-to-date list):

- ◆ Marquis of Lorne Trail S.E.;
- ◆ 84 Street/88 Street S.E.;
- ◆ 100 Street (Garden Road) (Recommended High Load Corridor)\*;
- ◆ 114 Avenue S.E.;
- ◆ Glenmore Trail S.E.;
- ◆ 17 Avenue S.E.;
- ◆ McKnight Boulevard N.E.;
- ◆ Country Hills Boulevard;
- ◆ Symons Valley Road N.W.;
- ◆ Crowchild Trail N.W.; and
- ◆ Glenmore Trail S.W.

# MAP 6

# EXISTING TRANSPORTATION SYSTEMS



Amended:  
 Rocky View Bylaw: C-7197-2012

Approved:  
 Calgary Bylaw: 14P2011  
 Rocky View Bylaw: C-7078-2011

This map is conceptual only. No measurements of distances or areas should be taken from this map.

## E. Glossary

### Annexation

The transfer of land from the jurisdiction of one municipal government to another municipal government. The process through which annexation occurs is defined by the *Municipal Government Act*.

### Area Structure Plan

A statutory plan that provides the framework for subdivision and development of an area of undeveloped land. Area structure plans are further outlined in the *Municipal Government Act*.

### Calgary Metropolitan Plan

Sub-regional plan developed by the Calgary Regional Partnership.

### Flood Hazard Area

The area affected by the design flood under encroachment conditions. The flood hazard area is typically divided into floodway and flood fringe zones, and may also include areas of overland flow. *(Source: Alberta Environment)*

### Flood Fringe

The portion of the flood hazard area outside of the floodway. Water in the flood fringe is generally shallower and flows more slowly than in the floodway. New development in the flood fringe may be permitted in some communities and should be floodproofed. *(Source: Alberta Environment)*

### Floodway

The portion of the flood hazard area where flows are deepest, fastest and most destructive. The floodway typically includes the main channel of a stream and a portion of the adjacent overbank area. The floodway is required to convey the 1:100 year flood. New development is discouraged in the floodway and may not be permitted in some communities. *(Source: Alberta Environment)*

### Interface

Location where different land uses meet and interact across the municipal boundary.

### Intermunicipal Development Plan

A statutory plan that is jointly prepared by neighbouring municipalities which includes areas of land lying within the boundaries of the municipalities as they consider necessary. Intermunicipal Development Plans are further defined in the *Municipal Government Act*.

### Intermunicipal Entranceways

Major transportation corridors that create a sense of entry and exit from one municipality to the other.

**Key Focus Areas**

Those areas of mutual interest to both the Rocky View County and The City of Calgary that are specifically identified in this Plan as “Key Focus Areas”.

- (1) Common highway entranceways to both municipalities;
- (2) Areas that Rocky View County and The City of Calgary have determined that the integration of land use policies is desirable; and
- (3) Areas for interface planning between The City of Calgary and Rocky View County.

**Land Use Bylaw**

A bylaw made under Division 5 of the *Municipal Government Act*.

**Land Use District**

A district in a Land Use Bylaw which details regulations established by Council for control over the use and development of an area pursuant to the provisions of the *Municipal Government Act*.

**Low Impact Development (LID)**

A stormwater management approach that uses a variety of practical techniques to manage stormwater runoff close to its source, where rain falls. LID includes design techniques that attempt to maintain or mimic natural (pre-development) hydrologic functions in a watershed. Design practices include green roofs, stormwater capture and re-use and landscape designs that increase the absorption and filtering of rainwater.

**Master Drainage Plan**

A stormwater drainage plan prepared for a large drainage area serviced by one or more outfalls. The plan evaluates existing drainage conditions and provides recommendations for potential location of stormwater ponds, trunk sizes, servicing routes and water quality requirements. The information provided in the plan is used to guide stormwater decisions as the area develops.

**Municipal Development Plan**

A statutory plan under the *Municipal Government Act*. The requirements of a municipal development plan are further defined under the *Municipal Government Act*.

**Notification Zone**

As shown on Map 1, this contains lands which are not immediately adjacent to the shared boundary but is an important area for intermunicipal communication. The notification zone provides the City of Calgary with the opportunity to comment on land use policies and applications circulated from Rocky View County. Although the policies of this Plan do not apply to the Notification Zone, The City of Calgary is encouraged to provide comment with respect to issues affecting the Notification Zone.



**Non-statutory plans**

A guiding document regarding future development that does not meet the definition of Statutory Plan under the *Municipal Government Act*.

**Open Space**

All land and water areas, either publically owned or offering public access, that are not covered by structures. Open space includes current and potential future parks, pathways, roadway greens, land for parks and recreation facilities, golf courses, cemeteries and other types of alternative open space.

**Pathways**

Constructed linear paths typically with a surface constructed of asphalt or aggregate materials and may be located on developed open space or more naturalized areas.

**Plan Area**

The area covered by this Intermunicipal Development Plan as shown on Map 1

**Policy Area**

As shown on Map 1, this contains areas immediately adjacent to the shared border. The policies contained in this plan apply in this area, including the circulation and referral processes as described in Section 15.1.2.

**Public Park**

Public land specifically designed or reserved for the general public for active or passive recreational use and includes all natural and manmade landscaping, facilities, playing fields, buildings, and other structures that are consistent with the general purpose of public park land.

**Recreation**

Means an array of pursuits such as sports, arts and culture, and physical and leisure activities.

**Redesignation**

The reclassification of a land use designation in the Land Use Bylaw as applied to a specific area.

**Right-of-Way**

Land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, landscaping, open space, or other special use.

**Staged Master Drainage Plan**

A stormwater drainage plan that covers a portion of the area included in a Master Drainage Plan which may or may not be serviced by an outfall. The plan evaluates alternatives to provide an acceptable level of service while meeting the objectives of the Master Drainage Plan. Preliminary designs of major ponds are usually included in the plan. This plan may not be required if the Master Drainage Plan contains enough detail.

**Subdivision**

The process of dividing land into smaller parcels. The Subdivision Authority, as defined in the *Municipal Government Act* (Section 623), is authorized to make subdivision decisions on behalf of a municipality.

**Statutory plans**

An Intermunicipal Development Plan, a Municipal Development Plan, an Area Structure Plan, or an Area Redevelopment Plan adopted by a municipality and as defined by the *Municipal Government Act*.

**Temporary Uses**

A temporary use is considered to be one that can be removed within a short period of time (e.g. six months), has no permanent structures, and does not require urban utility services. Development Permits for temporary uses should only be approved for a maximum period of 10 years in duration, with the potential for renewal upon expiration.

**Water Management Plans**

Water Management Plans provide broad guidance for water management, set out clear and strategic directions regarding how water should be managed or result in specific actions as defined by the Alberta *Water Act*.

**Watershed**

A system of water bodies and water courses ultimately draining into one common area (e.g., lake or river).

**Watershed Management Plan**

A comprehensive guidance document that may address many issues in a watershed including water quality, water quantity, point and non-point source pollution and source protection. It may also look at ways to better integrate land/resource management within a watershed.

**TAB 2**



THIS AGREEMENT first written as of the 17<sup>th</sup> day of June, 2016.

**BETWEEN:**

**ROCKY VIEW COUNTY**

Being a municipal corporation pursuant to the *Municipal Government Act*, R.S.A.  
2000 Chapter M-26

(the "County")

- and -

**THE CITY OF CALGARY**

Being a municipal corporation pursuant to the *Municipal Government Act*, R.S.A.  
2000 Chapter M-26

(the "City")

**MEMORANDUM OF AGREEMENT**

**WHEREAS** the County Council gave third reading to County Bylaw No. C-7468-2015, being the Conrich Area Structure Plan (the "ASP") on December 8, 2015;

**AND WHEREAS** the City filed an appeal with the Municipal Government Board pursuant to Section 690 of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26 with respect to the ASP on January 6, 2016, having Municipal Government Board File Number 16-IMD-02 (the "Appeal");

**AND WHEREAS** the Appeal is scheduled to be heard by the Municipal Government Board commencing on September 21, 2016;

**AND WHEREAS**, as a result of interest-based mediation carried out between the parties from April 19 to April 22, 2016, the County and the City have reached an agreement with respect to amendments to the ASP that, if ordered by the Municipal Government Board, will resolve the issues raised in the Appeal;

**AND WHEREAS** the County and the City have also reached agreement on certain inter-municipal matters that are related to the ASP but which do not require direction from the Municipal Government Board;

**AND WHEREAS** the terms of this Agreement have been ratified by both County Council and City Council on June 14, 2016;

**NOW THEREFORE** in consideration of the mutual obligations and covenants contained herein, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the County and the City hereby agree as follows:

**1. DEFINITIONS**

- 1.01 "84<sup>th</sup> Street Study" means the study to be conducted jointly by the County and the City to determine the ultimate configuration of 84<sup>th</sup> Street, including future alignment, access management, and right of way requirements;
- 1.02 "Agreement" means the within Memorandum of Agreement, including the above Recitals and all Schedules attached hereto;
- 1.03 "Alberta Transportation" means the Government of Alberta's Ministry of Transportation;
- 1.04 "Appeal" means the City's appeal of the ASP, filed pursuant to Section 690 of the **Municipal Government Act**, R.S.A. 2000 Chapter M-26 on January 6, 2016 and identified by MGB File Number 16/IMD-02;
- 1.05 "ASP" means the County Bylaw C-7468-2015, Conrich Area Structure Plan, passed by County Council on December 8, 2015;
- 1.06 "ASP Amendments" means those mutually agreed upon amendments to the ASP set out in Article 3 herein;
- 1.07 "City" means The City of Calgary, a municipal corporation in the Province of Alberta, or the area within the corporate limits of The City of Calgary, as the context requires;
- 1.08 "County" means Rocky View County, a municipal corporation in the Province of Alberta, or the area within the corporate limits of Rocky View County, as the context requires;
- 1.09 "East Stoney Trail" means that portion of the provincial transportation and utility corridor known as Stoney Trail located in the City between Memorial Drive NE and Country Hills Boulevard NE, as described in Schedule "B" attached hereto;
- 1.10 "East Stoney Trail Transportation Infrastructure" means infrastructure located in the City associated with or related to East Stoney Trail, as generally shown in Schedule "B" attached hereto;
- 1.11 "East Stoney Trail Infrastructure Analysis" means that analysis to be conducted jointly by the City and the County to identify transportation infrastructure needs, develop recommendations for transportation priorities and County cost contribution based upon impact and/or benefit related to the

development of the ASP area, all as related to the East Stoney Trail Transportation Infrastructure, the terms of reference for which are attached hereto as Schedule "C" attached hereto;

- 1.12 "IDP" means City bylaw 14P2011 and County bylaw C-7078-2011, the Rocky View/Calgary Intermunicipal Development Plan, as amended or replaced;
- 1.13 "MGB" means the Municipal Government Board of the Province of Alberta established under the ***Municipal Government Act***, and includes any panel of the Board; and
- 1.14 "***Municipal Government Act***" means the ***Municipal Government Act***, R.S.A. 2000, Chapter M-26, as amended from time to time, and all regulations thereunder.

## 2. MUTUAL COOPERATION

- 2.01 In reaching this Agreement, the County and the City worked through an interest-based mediation to create a mutually beneficial arrangement whereby the ASP Amendments were agreed to and joint planning initiatives and studies were identified, and mutual cooperation will form the basis of the ongoing relationship to address planning and development issues in the ASP area and adjacent lands within the City which have inter-municipal significance.
- 2.02 The City and the County agree to use all reasonable efforts and to fully cooperate with one another to ensure that the terms and conditions of this Agreement are fulfilled including, without limitation, the ASP Amendments.
- 2.03 "Reasonable efforts" and "cooperation" referenced in Paragraph 2.02 shall include, but shall not be limited to:
  - (1) the parties' provision of all information reasonably required by the other party with respect to the ASP Amendments for submission to the MGB;
  - (2) the preparation and presentation of joint submissions to the MGB regarding the ASP Amendments in accordance with this Agreement;
  - (3) any further assistance that the parties may reasonably request; and
  - (4) the proper and timely performance of all things required to give effect to this Agreement.
- 2.04 The parties specifically acknowledge and agree that:
  - (1) the ASP Amendments are jointly agreed to by both the County and the City;
  - (2) the contents of this Agreement reflect the results of the mediation between the parties and the approval of the respective Councils; and

- (3) the ASP Amendments and other terms set out in this Agreement shall fully resolve all matters related to the Appeal.
- 2.05 The parties specifically acknowledge and agree that in the event the MGB affects, alters, amends or in any way impacts the terms of this Agreement, this Agreement will continue to govern; however, the parties shall, in good faith, enter into renewed negotiations with respect to the implementation of the Agreement to the extent that it is impacted by order of the MGB.
- 2.06 The County and the City agree that they shall each fully support and recommend to the MGB the matters set forth in this Agreement, and the County and the City shall use reasonable efforts to convince the MGB to order the ASP Amendments without amendment or alteration.
- 2.07 The parties agree that, in their joint submissions to the MGB, they will request that the MGB:
- (a) give the parties prior notice if the MGB intends to alter, amend, or in any way impact the terms of this Agreement in its order, and
  - (b) allow the parties to make submissions to the MGB on any such proposed alterations, amendments, or impacts to this Agreement including, but not limited to, the submission of evidence and oral argument.
- 2.08 The County and the City agree that they shall continue to negotiate in good faith to expeditiously finalize the following agreements or arrangements:
- (1) the development and execution by both parties of a memorandum of agreement on or before December 31, 2016 to facilitate the East Stoney Trail Infrastructure Analysis;
  - (2) execution of a joint letter to Alberta Transportation regarding funding for the East Stoney Trail Transportation Infrastructure within three (3) months of completion of the East Stoney Trail Infrastructure Analysis;
  - (3) the development and execution by both parties of a terms of reference for the 84<sup>th</sup> Street Study on or before December 31, 2016; and
  - (4) the development and execution by both municipalities of a terms of reference for a review of the IDP, in particular to determine appropriate land use, interface policies, and servicing strategies for the residual lands within the City that border the ASP area, on or before December 31, 2016 or such other date as the parties may agree to.
- 2.09 The parties agree that the matters set out in Paragraph 2.08 shall not form a part of the MGB order.



### 3. JOINT SUBMISSIONS TO THE MGB

3.01 In furtherance of attaining the objectives contained within this Agreement, the County and the City agree to jointly request that the MGB order the following ASP Amendments as a full and final resolution and determination of the Appeal. For further clarity, the proposed ASP Amendments are organized by issue in the Appeal, and all Policy numbers herein refer to the Policy in the ASP, as passed, unless the context requires otherwise. The balance of the amended ASP Policy Sections shall be re-numbered as required to accommodate the following amendments:

#### **Key Focus Areas**

- (1) replace Map 6 with the new Map 6 attached hereto as Schedule "A";
- (2) in Policy 15:
  - (a) delete the title "Gateways: Intermunicipal and County", and replace with "Gateways and Highway 1 East Corridor Focus Area";
  - (b) delete the introduction and replace with the following:

"Gateways are important entrances, along major roads, entering and exiting a municipality and a community. They represent a 'community's welcome' and it is important that they are visually attractive and well maintained. Highway 1 forms a gateway between Rocky View County, the City of Calgary, and the City of Chestermere. The Rocky View/Calgary Intermunicipal Development Plan (IDP) identifies the Highway 1 East Corridor, as shown on Map 6, as a Key Focus Area. The objective of the IDP Key Focus Area is to achieve a greater degree of intermunicipal collaboration and involvement in the identified area, particularly with respect to gateways, planning, and transportation.";
  - (c) add a third bullet to the "Objectives" section, as follows: "Ensure Highway 1 East Corridor Key Focus Area development is consistent with the IDP Key Focus Area Policies.";
- (3) delete Policies 15.1 through 15.6 and replace with the following:
  - "15.1 Highway Business and industrial lands adjacent to Highway 1 and Township Road 250 (McKnight Boulevard), as shown on Map 6: Non-residential / Residential Interface, shall be subject to the gateway policies of this Plan.
  - 15.2 Consideration shall be given to a high quality visual appearance when determining appropriate land use, siting,

building design, and landscaping.

- 15.3 *Local plan* design guidelines for gateways should consider such factors as; sight lines, noise attenuation, setbacks, natural land features, innovative building design, and high quality landscaping and signage.
- 15.4 Gateways and lands within the Highway 1 East Corridor Key Focus Area should be developed in accordance with the County's Commercial, Office, and Industrial Design Guidelines.
- 15.5 Planning and development within the Highway 1 East Key Focus Area shall be subject to the policies of the IDP as well as the policies of this Plan.
- 15.6 Rocky View County will collaborate with Alberta Transportation, the City of Calgary, and the City of Chestermere to identify opportunities to create an attractive gateway along Highway 1."

#### **Transportation**

- (4) add a new Map 8a as attached in Schedule "B" hereto;
- (5) delete the introduction to Policy 22 and replace with the following:

"The transportation network must develop in a manner that is safe, functional, and efficient. The network should minimize impacts on major wetlands and natural features, integrate development within the Conrich area, and provide regional opportunities for walking, cycling, and public transportation. Map 8: Transportation Network and Map 8a: East Stoney Trail Transportation Infrastructure show the provincial, regional, and some local transportation networks in the Conrich area, provides information on road classifications, special study areas, railway crossings, and highway interchanges and fly-overs.";
- (6) delete the text of Policy 22.3 and replace with the following text:

"The regional transportation system should be developed in general accordance with Map 8: Transportation Network and Map 8a: East Stoney Trail Transportation Infrastructure. The classifications of the grid road network may be refined through further transportation analysis and / or at the *local plan* stage.";
- (7) add a new preamble and policies after Policy 22.12 as follows:

#### **"East Stoney Trail Transportation Infrastructure**

The County and the City of Calgary recognize that further

transportation planning analysis is required with respect to East Stoney Trail and its related transportation infrastructure and the impact and/or benefit related to the development of the Conrich Area Structure Plan area.

22.13 The County shall collaborate with the City of Calgary and the Province regarding regional road connections and interchange designs with respect to Stoney Trail and related transportation infrastructure as shown on Map 8a.

22.14 The County shall work collaboratively with the City of Calgary to identify transportation infrastructure needs along East Stoney Trail as identified in Map 8a and develop recommendations for transportation priorities and County cost contribution based upon impact and/or benefit related to the development of the Conrich Area Structure Plan area.

22.15 Impacts on East Stoney Trail transportation infrastructure resulting from development within the Conrich Area Structure Plan area shall be evaluated in accordance with the policies of this Plan and Policy 13 of the Rocky View County/City of Calgary Intermunicipal Development Plan."

(8) add new Policy 28.8 after existing Policy 28.6 as follows:

"Planning and Development applications within the entire Conrich Area Structure Plan area shall be circulated to the City of Calgary for transportation review and comment in accordance with the circulation and response timelines as per the Rocky View County/Calgary Intermunicipal Development Plan.";

(9) add an Action Item after Action Item 8 in Section 27 that states "Work with the City of Calgary to prepare the East Stoney Trail and Related Infrastructure Analysis as per Policy 22.14.";

#### **Residual Lands**

(10) Replace Map 12 with the map attached hereto as Schedule "D";

(11) delete the text of Policy 22.25 and replace with the following text:

"Access management and road design requirements for 84<sup>th</sup> Street shall be in accordance with the City of Calgary requirements. Rocky View County shall collaborate with the City of Calgary to develop a joint study for 84<sup>th</sup> Street in accordance with Action Item 2 [See: Section 27 Implementation].";

(12) delete the text of Policy 27.6 and replace with the following text:

"Map 12: *Local Plans* identifies five local plan boundaries that are required based on (i) the existence of major transportation network components, including Highway 1 and the CN rail line (Highway 1), (ii) unique planning conditions associated with the proximity to the CN Rail yards (Township Road 250), and (iii) unique planning conditions associated with location along 84th street, adjacent to residual lands within the City of Calgary, as identified in the Rocky View/Calgary Intermunicipal Development Plan. All other local plan boundaries shall be determined in consultation with the County at the time of application. The preferred minimum planning area is one quarter section (160 acres) in size.";

- (13) add a new Policy 28.6 as follows:

"The County shall implement the policies of this Plan that apply to the interface areas adjacent to the Residual Long-Term Growth Areas along 84th Street, as identified in the Rocky View / Calgary Intermunicipal Development Plan (Actions 2 and 9) [See: Section 27 Implementation]."; and

- (14) add new Action Item 2 in Section 27 as follows:

"Develop a Terms of Reference, with the City of Calgary, to direct a joint study to determine the ultimate configuration of 84<sup>th</sup> Street, including future alignment, access management and right of way requirements (84<sup>th</sup> Street Study).";

- (15) add new Action Item 9 in Section 27 as follows:

"The County shall work with the City of Calgary to amend the Rocky View/Calgary Intermunicipal Development Plan to determine appropriate land use, interface polices, and servicing strategies for the residual lands within Calgary that border the Conrich Area Structure Plan.";

- (16) add a new Policy 28.10 as follows:

"Rocky View County, in collaboration with the City of Calgary, shall ensure that *local plans* and applications for redesignation and subdivision of lands along 84<sup>th</sup> Street, as shown on Map 12, address:

- a) Access management and right of way requirements along 84<sup>th</sup> Street (Action Item 2 in Section 27);
- b) Consideration of adjacent lands within the City of Calgary as identified in the IDP;
- c) If the Terms of Reference for the 84<sup>th</sup> Street Study has been completed (Action Item 2 in Section 27) but the 84<sup>th</sup> Street

Study has not yet been completed by the City and the County prior to the preparation of the *local plan*, then the 84<sup>th</sup> Street Study must be prepared by the development proponent in conjunction with the local plan in accordance with the Terms of Reference; and

- d) Other appropriate policies of this Plan.”;

#### **Storm Water**

- (17) amend Policy 24.1 by adding the words "and reaching agreements where municipal infrastructure in another municipality is intended to be used for stormwater resulting from new development within the County" after the word "management";
- (18) amend Policy 24.2 by adding the words "and the Western Headworks Stormwater Management Agreement (2013)" after the words "Conrich Master Drainage Plan";
- (19) amend Policy 27.17 by adding the sentence "If Phase 1 lands proceed to development, an irrigation or evaporation system under zero discharge conditions shall be constructed as referenced in Policies 24.11 – 24.14, until such time as a regional solution has been chosen and mechanisms to implement the construction of the system have been identified" after the existing sentence; and

#### **Housekeeping**

- (20) renumber all Policies of the ASP accordingly.

### **4. GENERAL PROVISIONS**


- 4.01 All references to legislation contained herein, including without any limitation any references to statutes, regulations or bylaws, shall include amendments thereto, and any legislation in *pari materia* therewith, and any successor legislation enacted in replacement thereof.
- 4.02 Each of the parties hereto shall at all times undertake all such further acts and execute and deliver all such further documents as shall be reasonably required to fully perform the terms and conditions of this Agreement.
- 4.03 The headings and paragraph numbers contained in the Agreement are for convenience and reference only and in no way define or limit the scope or intent of this Agreement or any provision hereof.
- 4.04 This Agreement constitutes the entire Agreement of the parties hereto with respect to the subject matter hereof, and this Agreement shall not be amended, modified or discharged except by an instrument in writing executed under the authority of each of the parties hereto.

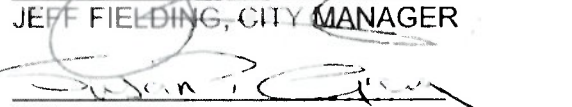
- 4.05 No waiver by or on behalf of either party hereto of any breach of the covenants or conditions herein contained shall take effect or be binding upon that party unless the same be expressed in writing under the authority of that party and any waiver so give shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other breach.
- 4.06 The Recitals and Schedules attached hereto form part of this Agreement.
- 4.07 Nothing in this Agreement shall be construed as fettering or restricting the lawful authority of any board, tribunal, other quasi-judicial entity, or elected municipal Council (or member thereof), in the exercise of jurisdiction vested in it by law.
- 4.08 This Agreement is binding upon both the County and the City and their successors and assigns.
- 4.09 If any provision of this Agreement is found to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have hereunder affixed their respective corporate seals and signatures by duly authorized representatives, as of the date above first written.

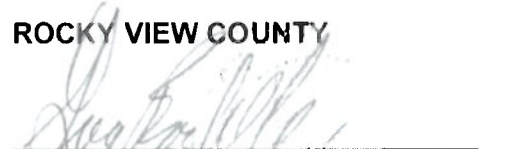
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| <b>As To Form</b>    |    |
| LAW (Solicitors)     |    |
| Melissa Snelk        | rb |

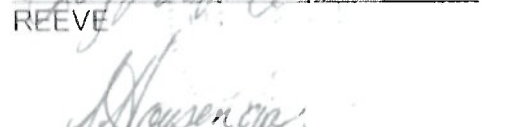
**THE CITY OF CALGARY**

  
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 JEFF FIELDING, CITY MANAGER

  
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 CITY CLERK

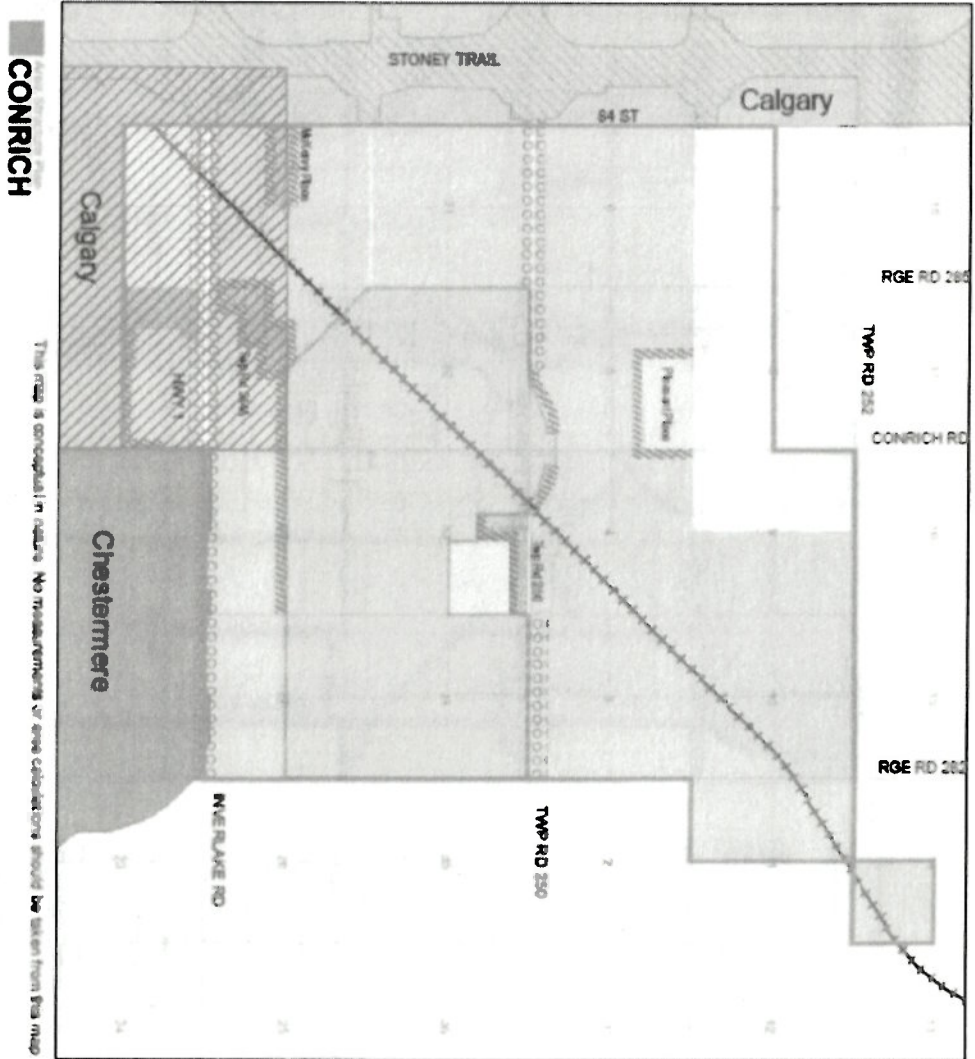
**ROCKY VIEW COUNTY**

  
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 REEVE

  
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 LEGISLATIVE SERVICES MANAGER

# SCHEDULE "A"

## MAP 6



**CONRICH**

This map is conceptual in nature. No measurements or area calculations should be taken from this map.

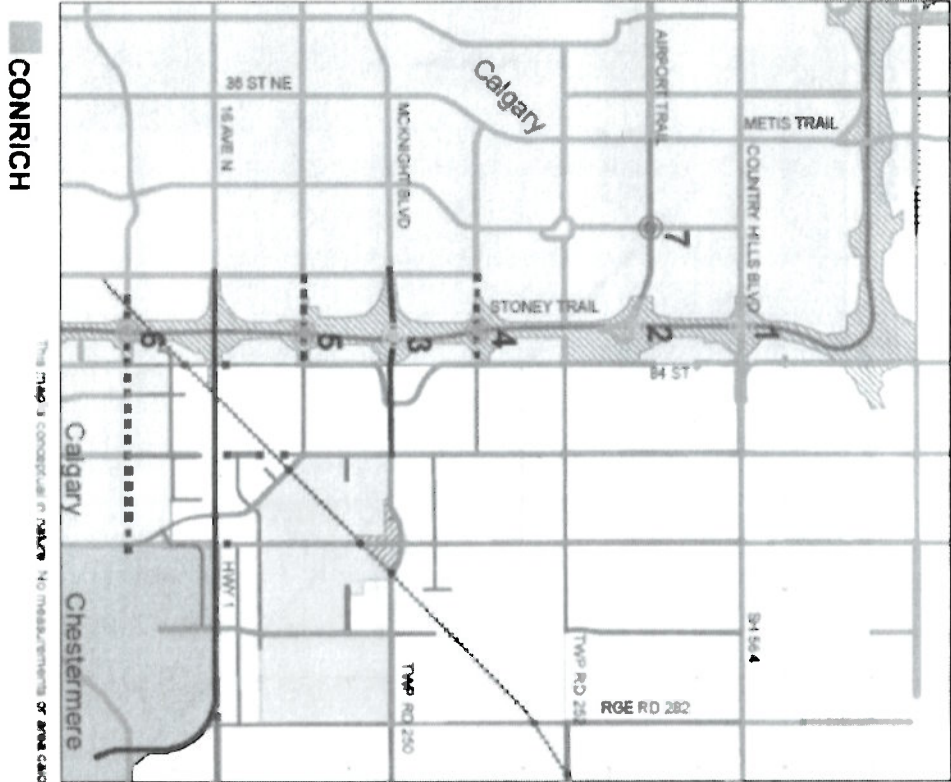
**Map 6:  
Non-Residential/  
Residential  
Interface**

- ASP Boundary
- Future Policy Area
- Residential
- Institutional
- Business
- Transition
- Non-Residential/  
Residential Interface
- Gateways
- Transportation and Utility  
Corridor
- Key Focus Area  
(INVC/Calgary  
International  
Development Plan)
- CN Railway



# SCHEDULE "B"

## MAP 8a



CONRICH

This map is conceptual in nature. No measurements or area calculations should be taken from this map.

### Map 8A: East Stoney Trail Transportation Infrastructure

- ASP Area
  - Fairly Poor Area
  - Transportation and Utility Corridor
  - At Grade Railroad Crossing
  - Termination
  - Expressway-6 Lanes
  - Major-4 Lanes
  - Collector-2 Lanes
  - Classification to be determined
  - C/N Railway
  - Stoney Trail Interchange Upgrades
    - 1) Country Hills Blvd
    - 2) Airport Trail
    - 3) Neighbour Blvd
  - Stoney Trail Flyovers
    - 4) 64th Avenue
    - 5) 32nd Avenue
    - 6) Memorial Drive
  - Construct Inx and inter change
    - 7) Airport Trail between Stoney Trail and Metis Trail
- Regional Roads Network used for the Map-Block by View segments.
- Location of servicing infrastructures and improvements subject to changes and reviews based on Study and use scenarios for the Study Policy Area.





## SCHEDULE "C"

### EAST STONEY TRAIL AND RELATED TRANSPORTATION INFRASTRUCTURE ANALYSIS TERMS OF REFERENCE

1. **The purpose of the Infrastructure Analysis is to address the following issues related to the East Stoney Trail and Related Infrastructure:**

- Risks
- Clarity
- Fairness

2. **The Infrastructure Analysis will include the following rationale and action items:**

***a) Evaluate East Stoney Trail Infrastructure needs and priorities***

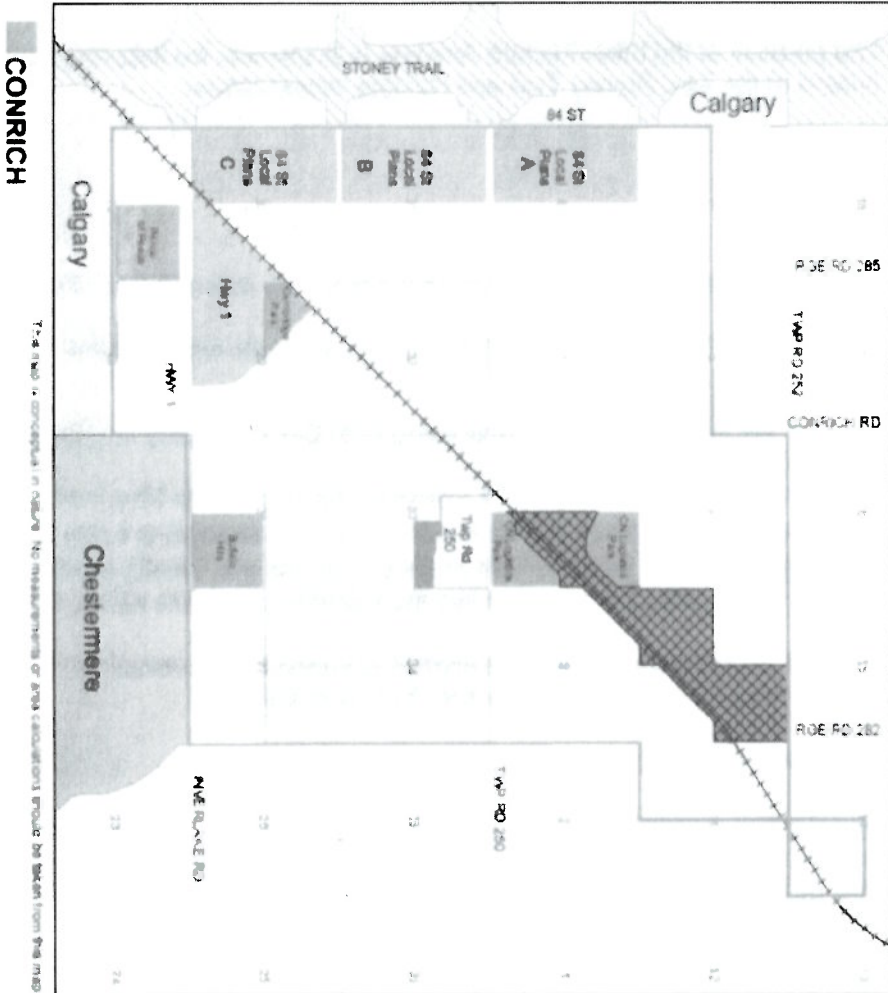
- Conduct the Infrastructure Analysis using both City of Calgary and County transportation models.
- Evaluate multiple horizons (5 year intervals with an ultimate 30 yr horizon).
- Predict what infrastructure will be needed at the corresponding 5 year intervals.
- Inventory and define infrastructure projects required and identify areas which must be coordinated between the two municipalities (ie. Lane sizing, alignment, etc).
- Prioritize infrastructure projects in context of supporting development in both the Conrich Area Structure Plan area and the City of Calgary.

***b) Deliverables***

- Develop joint recommendations on infrastructure needs for 5 year intervals throughout the anticipated cumulative 30 year development period in the Conrich Area Structure Plan and identify fair contribution based upon needs/benefits for each jurisdiction for each of the 5 year intervals.
- Update the Infrastructure Analysis every 5 years, or such other time frame as may be mutually agreed to in writing by the parties, to account for development within the County and the City of Calgary.
- The County and the City of Calgary agree to allocate sufficient staffing resources to have the Infrastructure Analysis and future updates completed in a timely fashion.
- The County and the City of Calgary agree to allocate sufficient staff resources to develop an appropriate funding structure that aligns with anticipated development within both the County and the City of Calgary to support prioritized infrastructure projects as identified in the Infrastructure Analysis corresponding to the Infrastructure Analysis 5 year intervals.

# SCHEDULE "D"

## MAP 12



CONRICH

THIS MAP IS PRELIMINARY IN NATURE. NO MEASUREMENTS OR AREA CALCULATIONS SHOULD BE TAKEN FROM THIS MAP.

Map 12:  
Local Plans

- ASP Boundary
- Future Policy Area
- ▨ Federal Jurisdiction
- ▨ Existing Local Plans
- ▨ Local Plans not required
- ▨ Predetermined Local Plan Boundary
- ▨ Hwy 1
- ▨ Twp Rd 250
- ▨ 84 St Local Plans
- ++++ CN Railway



**TAB 3**



(4) If the Court finds that the only ground for appeal established is a defect in form or technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the Municipal Government Board or a subdivision and development appeal board despite the defect and order that the decision takes effect from the time and on the terms that the Court considers proper.

RSA 2000 cM-26 s689;2014 c13 s35

## Division 11 Intermunicipal Disputes

### Intermunicipal disputes

**690(1)** If a municipality is of the opinion that a statutory plan or amendment or a land use bylaw or amendment adopted by an adjacent municipality has or may have a detrimental effect on it and if it has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, it may, if it is attempting or has attempted to use mediation to resolve the matter, appeal the matter to the Municipal Government Board by

- (a) filing a notice of appeal and statutory declaration described in subsection (2) with the Board, and
- (b) giving a copy of the notice of appeal and statutory declaration described in subsection (2) to the adjacent municipality

within 30 days after the passing of the bylaw to adopt or amend a statutory plan or land use bylaw.

(2) When appealing a matter to the Municipal Government Board, the municipality must state the reasons in the notice of appeal why a provision of the statutory plan or amendment or land use bylaw or amendment has a detrimental effect and provide a statutory declaration stating

- (a) the reasons why mediation was not possible,
- (b) that mediation was undertaken and the reasons why it was not successful, or
- (c) that mediation is ongoing and that the appeal is being filed to preserve the right of appeal.

(3) A municipality, on receipt of a notice of appeal and statutory declaration under subsection (1)(b), must, within 30 days, submit to the Municipal Government Board and the municipality that filed the notice of appeal a statutory declaration stating

- (a) the reasons why mediation was not possible, or

- (b) that mediation was undertaken and the reasons why it was not successful.

**(4)** When the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal is deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date the Board receives the notice of appeal and statutory declaration under subsection (1)(a) until the date it makes a decision under subsection (5).

**(5)** If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, subject to any applicable ALSA regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may

- (a) dismiss the appeal if it decides that the provision is not detrimental, or
- (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.

**(6)** A provision with respect to which the Municipal Government Board has made a decision under subsection (5) is,

- (a) if the Board has decided that the provision is to be amended, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date of the decision until the date on which the plan or bylaw is amended in accordance with the decision, and
- (b) if the Board has decided that the provision is to be repealed, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from and after the date of the decision.

**(6.1)** Any decision made by the Municipal Government Board under this section in respect of a statutory plan or amendment or a land use bylaw or amendment adopted by a municipality must be consistent with any growth plan approved under Part 17.1 pertaining to that municipality.

**(7)** Section 692 does not apply when a statutory plan or a land use bylaw is amended or repealed according to a decision of the Board under this section.

(8) The Municipal Government Board's decision under this section is binding, subject to the rights of either municipality to appeal under section 688.

RSA 2000 cM-26 s690;2009 cA-26.8 s83;2013 c17 s5

#### **Board hearing**

**691(1)** The Municipal Government Board, on receiving a notice of appeal and statutory declaration under section 690(1)(a), must

- (a) commence a hearing within 60 days after receiving the notice of appeal or a later time to which all parties agree, and
- (b) give a written decision within 30 days after concluding the hearing.

(2) The Municipal Government Board is not required to give notice to or hear from any person other than the municipality making the appeal, the municipality against whom the appeal is launched and the owner of the land that is the subject of the appeal.

1995 c24 s95;1999 c11 s45

## **Division 12 Bylaws, Regulations**

#### **Planning bylaws**

**692(1)** Before giving second reading to

- (a) a proposed bylaw to adopt an intermunicipal development plan,
- (b) a proposed bylaw to adopt a municipal development plan,
- (c) a proposed bylaw to adopt an area structure plan,
- (d) a proposed bylaw to adopt an area redevelopment plan,
- (e) a proposed land use bylaw, or
- (f) a proposed bylaw amending a statutory plan or land use bylaw referred to in clauses (a) to (e),

a council must hold a public hearing with respect to the proposed bylaw in accordance with section 230 after giving notice of it in accordance with section 606.

(2) Despite subsection (1), if a proposed development relates to more than one proposed bylaw referred to in subsection (1), the council may hold a single public hearing.





**TAB 4**



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**IN THE MATTER OF THE** *Municipal Government Act* being Chapter M-26 of the Revised Statutes of Alberta 2000 (Act).

**AND IN THE MATTER OF A INTERMUNICIPAL DISPUTE APPEAL** lodged by the Summer Village of Sundance Beach (Summer Village).

**BEFORE:**

Members

H. Kim, Presiding Officer

D. Scotnicki, Member

D. Thomas, Member

Secretariat Advisor

D. Hawthorne

This is an appeal to the Municipal Government Board (MGB) regarding a dispute lodged by the Summer Village pursuant to Section 690 of the Act, respecting the adoption of Area Structure Plan Bylaw 26-02 by Leduc County (County).

Upon notice being given to the interested parties, a hearing commenced in the City of Edmonton on December 9, 2002, and was adjourned pending the outcome of attempts at mediation between the two municipalities. As a result of a mediated settlement, the hearing was closed on May 12, 2003, without the parties in attendance.

**BACKGROUND**

On October 10, 2002, the Summer Village appealed to the MGB claiming that the County had approved an Area Structure Plan Bylaw that has or may have a detrimental effect on the Summer Village. The Bylaw refers to part of the SW 28-47-1-5 in the Moonlight Bay/Kerr Cape vicinity on lands proposed for development by Gregg Properties Ltd.

Prior to the filing of the dispute by the Summer Village, the County conducted a public hearing respecting the Area Structure Plan Bylaw. The hearing commenced on August 13, 2002, and continued on September 10, 2002. The Summer Village gave written notice of its concerns to the County prior to 2<sup>nd</sup> reading of the Bylaw and prior to the public hearing. After the public hearing and despite the

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concerns expressed by the Summer Village, the County decided to adopt Bylaw 26-02 on September 10, 2002.

The Summer Village decided to appeal the decision of the County to pass the Bylaw because it was of the opinion there was potential for detriment in accordance with the following concerns.

- “1. The development provided for by the Area Structure Plan will put additional and undue stress on lake access points within Sundance Beach, which are already being fully utilized by the existing residents.
2. The potential Range Road #14 access point is too steep and narrow for practical lake access, with the result that lake access within Sundance Beach will become the practical default lake access.
3. Two potential access points will disturb shore vegetation, and have the potential to impact fish and fish habitat, to the general detriment of Sundance Beach.
4. Increased traffic on Range Road #14 will exacerbate the already-existing dust control problem in Sundance Beach.
5. The Area Structure Plan does not provide parking facilities to accommodate the increased traffic flow, and over-flow parking will foreseeably spill into Sundance Beach.
6. In general, the privacy and enjoyment of Sundance Beach residents, and their general recreational experience will be disrupted and detrimentally affected by the development.
7. The proposed Area Structure Plan does not adequately address sewage disposal issues, to the general detriment of Sundance Beach.
8. The proposed Area Structure Plan does not adequately address storm drainage, to the general detriment of Sundance Beach.”

On December 9, 2002, the MGB opened the hearing. The County advised that it wished to raise a jurisdictional argument respecting the validity of the appeal since mediation had not been attempted prior to the lodging of the appeal. However, the County indicated it was prepared to enter into the mediation process provided it did not prejudice its jurisdictional argument to the MGB.

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The MGB advised the parties that it was willing to hear expanded arguments on the MGB's jurisdiction at a hearing to be conducted on April 7, 2003. The MGB also ordered that a document exchange process occur prior to the hearing. The document exchange process would then form all the submissions of each party including submissions on jurisdiction and merit. In the meantime, the MGB encouraged the parties to use the mediation process to resolve all the issues.

In March 2003, the municipalities advised the MGB that mediation was scheduled but more time was needed. With the agreement of the landowner, the MGB agreed to delay the hearing to May 15, 2003 and adjusted the document exchange process accordingly.

On April 30, 2003, the municipalities advised the MGB that mediation had been successful and an agreement had satisfactorily resolved the issues between the municipalities. The County, the Summer Village, and the landowner requested the MGB order the County to amend the Area Structure Plan in accordance with the agreement, without reconvening the hearing and without requiring further submissions from the parties. The solicitors for all three parties noted the County would be required to conduct a lengthy public hearing process for the agreed amendments to the Area Structure Plan unless the MGB issued an Order. Section 690(7) of the Act relieves the County from conducting a public hearing if the MGB directs the Area Structure Plan be amended.

## **FINDINGS**

1. Leduc County Bylaw 26/02, as adopted, is detrimental to the Summer Village of Sundance Beach.
2. Amendments to the Bylaw as a result of mediation have resolved the detriment.

In consideration of the mediated agreement and having regard to the provisions of the Act, the MGB makes the following decision for the reasons set out below.

## **DECISION**

Pursuant to Section 690(5) of the Act, the MGB hereby orders Leduc County to amend Area Structure Plan Bylaw 26-02 in accordance with the mediated agreement reached between the Summer Village of Sundance Beach and Leduc County as shown in its entirety in Appendix "C" of this Board Order.

## **REASONS**

By agreeing to amendments to the Area Structure Plan Bylaw, the County and the Summer Village have found a way to resolve their differences and find solutions to the question of detriment through

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mediation. This fact proves to the MGB that parts of Bylaw 26-02 as originally adopted were detrimental to the Summer Village. The MGB accepts the recommendation of all three parties, including the landowner, that the proposed amendments resolve the detriment and do not materially interfere with the plans of the landowner for a proposed development on the subject land.

Section 691(2) of the Act only requires that the MGB notify and hear from the two municipalities and the affected landowner. As a result, the MGB is satisfied that required parties have had sufficient opportunity for input to resolve the disputed matters.

The municipalities represent the best interests of their respective citizens, therefore, the opportunity for general public input was satisfied by the public hearing held by the County on August 13 and September 10, 2002. There are no outstanding issues from the affected landowner, therefore, the MGB is satisfied that further public hearings by the County are not required respecting the amendments proposed in the mediated agreement. Accordingly, the MGB is directing the County to amend Bylaw 26-02 in accordance with the agreement.

DATED at the City of Edmonton, in the Province of Alberta, this 16<sup>th</sup> day of May 2003.

MUNICIPAL GOVERNMENT BOARD

(SGD.) D. Thomas, Member

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**APPENDIX "A"**

PERSONS WHO MADE SUBMISSIONS TO THE MGB

| <b>NAME</b>        | <b>CAPACITY</b>                                |
|--------------------|--|
| Grace Garcia Cooke | Leduc County Solicitor                         |
| Barry Sjolie       | Leduc County Solicitor                         |
| Sheila McNaughton  | Summer Village of Sundance Beach Solicitor     |
| Anita Blais        | Summer Village of Sundance Beach Administrator |
| Bob Riddett        | Summer Village of Sundance Beach Planner       |
| Brian J. Evans     | Solicitor for Gregg Properties, Landowner      |

**APPENDIX "B"**

DOCUMENTS RECEIVED DURING THE HEARING ADJOURNMENT AND CONSIDERED BY THE MGB.

| <b>NO.</b> | <b>ITEM</b>                                    |
|------------|--|
| 1          | Letter dated April 30, 2003 from B.J. Evans    |
| 2          | Letter dated April 30, 2003 from S. McNaughton |
| 3          | Letter dated April 30, 2003 from B. Sjolie     |

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**APPENDIX "C"**

THE MEDIATED AGREEMENT BETWEEN THE SUMMER VILLAGE OF SUNDANCE  
BEACH AND LEDUC COUNTY



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**LEDUC COUNTY**  
and the  
**SUMMER VILLAGE OF SUNDANCE BEACH**

The parties to this agreement are the Summer Village of Sundance Beach and Leduc County.

This document sets out the recommendations of the Mediation Committee. It is understood that these recommendations will only be binding if ratified by both Councils.

The members of the Mediation Committee are confident that these recommendations meet the needs of both municipalities in resolving the concerns of the Summer Village of Sundance Beach in relation to their appeal to the Municipal Government Board of Leduc County's S.W. 28-47-1-W5M Area Structure Plan, as adopted by Bylaw No. 26-02.

|                        |                          |
|------------------------|--------------------------|
| <u>S.G. Kelly</u>      | <u>Don A. Masnick</u>    |
| <u>[Signature]</u>     | <u>Edward Chuback</u>    |
| <u>John G. Jungman</u> | <u>[Signature]</u>       |
| <u>[Signature]</u>     | <u>[Signature]</u>       |
| <u>A. Blaso</u>        | <u>Kevin [Signature]</u> |

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**THE PARTIES AGREE AS FOLLOWS:**

The Summer Village of Sundance Beach agrees, immediately upon ratification by both Councils of these recommendations, to withdraw its appeal to the Municipal Government Board of Leduc County's S.W. 28 47-1-WSM Area Structure Plan.

The recommended amendments to the Area Structure Plan are:

**Sewage**

Leduc County will replace the wording on Page 11, paragraph 5.3, "In the interim, however, it is recommended that holding tanks be utilized by all lots." with the following wording:

In the interim, however, Leduc County has indicated that holding tanks will be mandatory.

**Parking**

Leduc County will note in the ASP that there is limited parking in the area and that purchasers should plan accordingly to meet their parking needs on their respective lots.

Leduc County may explore the option of including a requirement for a minimum number of parking spaces for each of the proposed lots in the ASP.

**Storm Water Management**

Leduc County will require in the ASP that discharge rates of storm water from the ASP area into the Summer Village of Sundance Beach will be limited to pro-development rates.

**Roads**

In relation to that portion of Range Roads 14 and 15 south of Highway 616X, the parties agree to jointly review the standards for maintenance and upgrades and the basis of cost sharing between the parties.

**Lake Access**

Leduc County will amend Figure 4.3 by removing the area west of Range Road 14 from the map.

"The Summer Village of Sundance Beach" will be added to the parties to be consulted with respect to any construction within Range Road 14 right of way south of Lakeshore Drive, at the end of paragraph 5 in Section 4.3 of the ASP.

**Future Discussions**

The parties agree to hold further discussions with respect to planning and the environment as noted in the document, Topics for Discussion.

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#### TOPICS FOR DISCUSSION

This list was prepared by the members of the Mediation Committee. Some topics have already been addressed; others are still to be discussed and new topics may be added by the parties by mutual agreement.

##### Storm Water Management

- Storm water management within proposed subdivision and management of runoff through summer village drainage system

##### Lake Access

- Lake access through Sundance Beach
- Limited lake access specified within asp along lakeshore east/south of Sundance Beach – not an open-ended possibility for more currently referenced in asp
- Future development of RR14 as a lake access, lake access terrain, control RR14
- Public advertising of Sundance easements

##### Sewage and Environment

- Environmental concerns re: too much development around the lake
- Pollution
- Mandatory use of holding tanks for domestic waste water (sewage and gray water) prior to hook up to sewer line if, as and when constructed
- Oceans and Fisheries should test every system around lake for leakage
- Trees
- Public services (police, fire, ambulance)

##### Planning

- Jurisdiction
- Limit effects of county development on people of Sundance Beach
- Infrastructure plans
- Lake management plans
- Planning for today and tomorrow
- What aspects of the proposed development will adversely affect the village
- Full impact of ASP on Moonlight Bay

##### Road and Parking

- Dust control
- Parking restrictions within summer village and assurances of quiet, enjoyment of property by Sundance Beach property owners
- Parking in subdivision
- On-site parking within proposed subdivision



**TAB 5**



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**Sturgeon County Disputes  
with Edmonton, St. Albert and Morinville**

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## **SECTION I - BACKGROUND TO THE APPEALS**

**IN THE MATTER OF THE** *Municipal Government Act*, S.A. 1994, c.M-26, as amended (“the *Act*”);

**AND IN THE MATTER OF** an appeal pursuant to Section 690 of the *Act* by the City of Edmonton, the City of St. Albert, and the Town of Morinville, respecting a Land Use Bylaw (LUB) and Municipal Development Plan (MDP) adopted by the County of Sturgeon (Sturgeon) on February 11, 1997.

### **BEFORE:**

T. T. Helgeson, Presiding officer  
W. Morgan, Member  
V. Chatten, Member

This appeal is with respect to certain provisions in the MDP and LUB of the County of Sturgeon, being Bylaws 818/96 and 819/96, respectively, that have or may have a detrimental effect on the City of Edmonton, the City of St. Albert, and the Town of Morinville.

Upon notice being given to the interested parties, a hearing was commenced in the City of Edmonton, in the Province of Alberta, on May 2, 1997, which was then recessed and reconvened on June 18, and on July 24, then reconvened for the substantive hearing on September 8, 9, 10, 11, and 12, 1997, and finally closed on March 3, 1998.

### **BACKGROUND**

On November 26, 1996, County of Sturgeon (County) gave first reading to Bylaw 818/96, adopting a new MDP, and Bylaw 819/96, its new LUB, both of which had been prepared pursuant to the provisions of the *Act*. In accordance with s.690(1) of the *Act*, the City of Edmonton (Edmonton) submitted comments in writing to the County on December 9, 1996, expressing its concerns regarding the new bylaws. On December 10, the County held a public hearing in connection with the bylaws. The City of St. Albert (St. Albert) then gave several written notices of its concerns to the County, on the 10 and 17 of December, 1996 and on January 17, 1997. The Town of Morinville (Morinville) provided notice of its concerns to the County on January 15, 1997. All three municipalities notified the County of their concerns prior to second reading of the bylaws, as required by s.690(1). The bylaws were given second and third reading by the County on February 11, 1997 and adopted on that date.

St. Albert filed an appeal with the Municipal Government Board, with notice to the County, on March 11, 1997, indicating the provisions of the MDP and LUB that might be detrimental to St.



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Albert, and describing efforts made to resolve matters with the County. Edmonton and Morinville each filed their appeals with the Board with notice to the County on March 12, 1997, specifying those provisions of the bylaws they considered detrimental to them, and setting out the efforts they had made to resolve their concerns with the County. All three appellant municipalities filed their notices of appeal within the 30 day time limit under s.690(1), and in accordance with s.690(2) of the *Act*.

Pursuant to s.691 of the *Act*, the Board set the initial hearing date for May 2, 1997, to comply with the 60 day time period specified in s.690(1)(a). To ensure those parties entitled to be heard under s.691(2) were made aware of the appeal and the pending hearing, the Board published notices in the *Edmonton Journal* on April 16 and 17, 1997, in the *St. Albert Gazette* on April 16 and 23, 1997, and in the *Morinville Mirror* on April 15 and 22, 1997. Prior to the hearing on the substantive issues held September 8 through September 12, 1997, the Board convened for administrative purposes on May 2, June 18, and July 24, 1997. During the course of these administrative sessions, certain preliminary questions respecting procedures, exchange of documentation, and legal interpretation were considered and ruled on by the Board.

### **LEGISLATION CONSIDERED**

The Municipal Government Board considered the following legislation in making its decision in this appeal:

Sections 5, 617, 622 (1), 622 (3), 632 (3), 690, and 691 of *Act*;

Section 11 of the *Subdivision and Development Regulation*, A.R. 212/95;

Section 44 of the *Planning Act*, R.S.A. 1980, c.P-9, as amended (since repealed)

Section 10 of the *Interpretation Act*, R.S.A. c.I-7, as amended.

### **SUBMISSIONS OF THE APPELLANTS**

#### **The City of Edmonton**

##### 1. Status of Discussions, City of Edmonton and the County of Sturgeon

From the time Edmonton filed an appeal in this matter, Edmonton staff and staff from the County have had numerous meetings in an effort to find a way by which Edmonton's concerns about the detrimental effects the Sturgeon MDP and LUB might have on Edmonton could be alleviated. On June 3, 1997, Edmonton Council approved the principles of an accord for intermunicipal

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planning which, if implemented through changes to the County's LUB and MDP, would alleviate some of the Edmonton's concerns.

On June 17, 1997, these principles were considered by the County Council, who expressed concerns about one of the principles, which was that there should be an interMDP for the Sturgeon Valley area. When it was clear that this was the only issue that remained unresolved, Edmonton staff took a subsequent report to Edmonton Council asking that Council support a proposal for an area structure plan for Sturgeon Valley. Council gave its support for this alternative on July 29, 1997. Subsequently, on August 12, 1997, County Council indicated support for the full set of principles.

Efforts were then made to translate the principles of the accord into specific amendments to the MDP and LUB. On August 13, 1997, the County provided Edmonton with revised copies of the MDP and LUB for review. Edmonton had not, by the close of business on August 16, 1997, received any maps from the County to assist in analyzing the proposed amendments to the LUB and MDP. This fact, combined with a lack of time, prevented Edmonton from completing its review of the amendments. Consequently, Edmonton was unable to discuss any concerns arising from it with the County prior to the submission of arguments before the Board. Despite the fact that Edmonton and the County reached an accord on intermunicipal planning, the County refused to admit that appealed sections of its MDP and LUB have or might have a detrimental effect on Edmonton. Therefore, Edmonton submits the following argument for consideration by the Board.

## 2. New Planning Regime

When the *Planning Act* was repealed, the statutory requirements for regional plans vanished. Regional planning commissions, the watchdogs who ensured that regional planning was implemented and maintained, became extinct. As a consequence, regional planning became the responsibility of individual municipalities. This implied a high degree of intermunicipal cooperation and coordination. In this new planning regime, the Board has been given the role of arbitrator, and must ensure that municipalities recognize and respect their respective regional planning responsibilities.

The Board's predecessor, the Alberta Planning Board, took a narrow view of "detrimental effect" under s.44 of the *Planning Act*. This view was justified because the potential impact of a municipality's planning bylaws on its neighbours was limited by the regional plan, which protected the general interests of all municipalities in the region. In light of the recent changes to the planning legislation, and the spirit of cooperation the new legislation relies on, a narrow interpretation of detrimental effect is no longer appropriate. Bylaws that fail to recognize the regional context must be found to be detrimental to adjacent municipalities.

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This new context must be recognized by the Board in defining detrimental effect. Under s.44 of the *Planning Act*, a municipality was able to appeal a statutory plan or LUB of an adjacent municipality if the council believed the bylaw “has or may have a detrimental effect within the boundaries of the first municipality.” Only where the Planning Board found detrimental effect within the boundaries of the appellant municipality could it order the offending provision repealed or amended. The phrase “within the boundaries of the (appellant) municipality” does not appear in s.690 of the *Act*. The only words in s.690 that qualify the nature of the detrimental effect are the words “on it.” It is submitted detrimental effect is not confined to a specific, concrete impact within the boundaries of the appellant municipality. Because of the difference in wording, the Board can direct the County to amend or repeal its bylaws if it finds there is detriment in a general sense.

### 3. General Detrimental Effects

#### (i) Lack of Consultation

A review of the interaction between the County and Edmonton during the period leading up to the adoption of the MDP and LUB will reveal that the County failed to engage in the kind of consultative process that is now a cornerstone of land use planning in the province. Virtually no consultation occurred during plan preparation. Once the County gave first reading to the plan and bylaw, Edmonton had only a short time to review and comment on them. This violated the spirit of s.636(1)(d) of the *Act*.

The County failed to respond to Edmonton’s comments, and there was no meaningful discussion between the two municipalities. Edmonton’s request to delay second and third readings of the bylaws so that concerns could be addressed was ignored. Edmonton was not sent a copy of the Policy Directions Discussion Paper containing information of the County’s proposed directions, an oversight acknowledged by the County. There was only one meeting with Edmonton, although there were 31 meetings for ratepayers and interest groups.

The only opportunity for consultation between the two municipalities occurred late in the process. Once first reading is given to a planning bylaw, policies are set, and land use patterns established. Not allowing an adjacent municipality to participate at this stage is tantamount to denying it an opportunity to participate at all. This kind of approach is certain to result in a detrimental impact on all municipalities in a region. Neighbouring municipalities have a responsibility to each other to participate in the preparation of their respective MDPs so that their obligations under s.632(30(a)(iii) and (iv) of the *Act* can be fulfilled.

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(ii) Non-Compliance with the *Municipal Government Act*

Section 622(3) of the *Act* requires that every statutory plan, LUB and action undertaken by a municipality must be consistent with the provincial Land Use Policies. The County failed to consider policies 2 and 3, requiring coordination, cooperation and communication between municipalities. By failing to make a meaningful effort to involve Edmonton in its deliberations, or even informing Edmonton of its direction on the new MDP and LUB, the County ignored the spirit and intent of the Land Use Policies, that is, to encourage the development of a new and collaborative era of intermunicipal planning.

Neither was Edmonton given an opportunity to discuss differences in interpretation of the Land Use Policies with the County prior to enactment of the bylaws, contrary to s.1.2 of the Land Use Policies, which provides that:

“Municipalities and provincial departments and agencies are encouraged to consult with one another where questions on the spirit and intent of these policies arise during implementation.”

This lack of communication is a lost opportunity by which Edmonton has suffered detriment.

Sections 632(3)(a)(i) through (iv) of the *Act* require that MDPs address future land use and the manner of and proposals for future development. The County’s MDP fails to do this; it does not identify areas for future country residential, highway commercial, or new industrial parks, nor does it address coordination of land use, future growth patterns, infrastructure, and transportation with Edmonton. These deficiencies in the MDP have a detrimental effect on Edmonton.

4. Specific Detrimental Effects

(i) Defining An Appropriate Scope for Intermunicipal Planning

[Provisions that have a detrimental effect on Edmonton: MDP s.15, Policies 15.1 and 15.2; LUB, s. 2.5.1]

Under the aegis of the Edmonton Metropolitan Regional Planning Commission, there was a forum in which municipalities were able to explore regional and intermunicipal concerns. The elimination of regional plans and regional planning commissions should not be taken to mean that regional issues are to be ignored. It is now up to the municipalities to collaborate in finding a way to implement an effective substitute for regional planning. After the demise of the Edmonton Metropolitan Regional Planning Commission, the Alberta Capital Forum Ltd. was established as a vehicle for those municipalities in the Edmonton region who wished to discuss regional issues for their mutual benefit. The County does not participate in the Forum, hence the

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County and Edmonton must develop other means to ensure intermunicipal cooperation. It is detrimental to both municipalities not to have these intermunicipal processes defined.

Simply defining a fringe area between the two municipalities, as suggested in the County's MDP, ignores intermunicipal concerns that extend beyond the fringe. Sound intermunicipal planning involves four key components: a "ribbon" of land along shared borders; transportation, service and other corridors; blocks of land which due to regional significance may extend beyond the ribbon, and regional assets whose maintenance and preservation concerns everyone in the region. The County's MDP and LUB have failed to consider these components and this will have a detrimental effect on Edmonton.

The fringe area policies in s.15 of the MDP fail to provide a means for Edmonton to have input with respect to proposed development in close proximity to Edmonton. Policy 15.1 provides for a 1/2 mile primary zone adjacent to urban municipalities, and a secondary zone extending a further 1 1/2 miles beyond the primary zone, but only in the secondary zone will proposals for subdivision, development and statutory plans and plan amendments be referred to neighbouring municipalities. The inability to review and comment on proposals in the primary zone will be detrimental to Edmonton. Policy 15.1(i)(b) seems to create an option for adjacent municipalities to have input by providing for a meeting on subdivision or development applications in the primary zone if the developer elects to rely on the option. However, the purpose of the meeting is not stated. The silence of the Policy on this issue is detrimental to Edmonton.

Finally, there is no mention of referring applications for land use redesignations to adjacent municipalities. A redesignation in proximity to Edmonton could have a significant impact on the City. The need for consultation with respect to redesignations is particularly important in view of the County's practice of not redesignating land in advance of development proposals. A case in point is Sturgeon Valley, an area under pressure to expand country residential development. The only lands presently designated for country residential use in Sturgeon Valley are those already developed for that purpose. Edmonton will not even be notified in future of applications for redesignating lands in Sturgeon Valley unless Policy 15.1 is amended. Not being able to comment on such proposals would be detrimental to Edmonton.

These detrimental effects can be reduced or eliminated if the MDP and LUB are amended to provide for meaningful consultation between the County and Edmonton, and to deal with land uses in the Edmonton fringe area including the Sturgeon Valley Study Area, the South Sturgeon Study Area and a one mile strip along the boundary between Edmonton and the County. Amendments suggested for Policy 15 will help to obviate the detrimental effect. The proposed amendments will facilitate good communication and coordination of activities, thereby preventing many detrimental effects.

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(ii) Cumulative Impacts of Country Residential Use

[Provisions that have a detrimental effect on Edmonton: MDP s.3, Multi-lot Country Residential Subdivisions, Policies 3.1, 3.2 and 3.3; LUB Ss. 6.24.1, 8,5,4(f) and (h), 8.6.4(e), 6.21.2(b), 6.21.3, 6.21.4, 6.21.5, and 6.21.6]

The sections cited above are detrimental because they lack the detail and specificity that would allow Edmonton to plan for the impacts of intensified country residential use on its boundaries. The MDP contains no projections on growth nor any policy for the amount, timing, or location of future country residential development. This absence of information is a detriment to Edmonton because there is nothing by which Edmonton can estimate the magnitude of impacts it will be subject to as a result of development in the Sturgeon Valley area. While an interMDP involving both the County and Edmonton would be preferable, an area structure plan that addresses the key issues and indicates the extent and pace of anticipated development would be better than the current vacuum of information. *Ad hoc* development in this area is no longer acceptable to Edmonton.

Although Policy 3.1 of the MDP requires an area structure plan be submitted prior to application for subdivision, the Policy fails to specify the region the area structure plan is to encompass. If the region included in the area structure plan is confined only to the area of the subdivision, the opportunity to plan comprehensively is lost. The likelihood of meaningful intermunicipal planning arising from a proposal for multi-lot country residential subdivision is limited given the fragmented ownership of land in Sturgeon Valley. The County should therefore take the lead in preparing an area structure plan for the Valley, involving both Edmonton and St. Albert, so that issues of regional concern can be coordinated. Without an area structure plan for the Sturgeon Valley, Edmonton will be detrimentally affected because it will be unable to plan effectively for development in areas of Edmonton adjacent to Sturgeon Valley. The potential for detriment will increase upon the expiry of Section 11, *Subdivision and Development Regulation* A.R. 212/95 (as amended), when Edmonton will have no protection from the impact of multi-lot country residential development on its borders.

These detrimental effects can be reduced or eliminated by amending the MDP to provide for consideration of the impact that further multi-lot country residential development might have on Edmonton, and preparation of a comprehensive area structure plan for the Sturgeon Valley area that addresses Edmonton's concerns related to ongoing piecemeal subdivision.

(iii) Protecting the Integrity of Major Transportation Corridors and Facilities

[Provisions that have a detrimental effect on Edmonton: MDP s.12, Transportation and Utilities, Policy 12.6; Section 7, Industrial, Policies 7.3, 7.7(iii) and 7.10(iii); and s.8, Commercial, Policy 8.1. Also the map of Future Land Use showing CFB Edmonton as a Special Area. LUB s.8.9,

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Highway Commercial District; s.8.10, Industrial-Heavy District; and s.8.11, Industrial-Rural District]

The sections cited are detrimental to Edmonton because they lack the detail and specificity that would allow Edmonton to plan its major transportation corridors and facilities, taking into account the potential impacts on Edmonton of transportation corridors and facilities within the County, or potential demands on Edmonton's transportation corridors and facilities arising out of development within the County. There is a high degree of interaction between land use patterns and the nature of land uses, and the kind of transportation services required to serve such uses.

Roads in Edmonton do not end at the corporate limits, therefore transportation planning issues must be dealt with on a regional basis to protect rights-of-way for future expansion, development of truck routes to serve industrial areas, and ensure the free flow of heavy traffic. The *Municipal Government Act* requires, in Section 632(3)(iv), that MDPs address required transportation systems within the municipality and in relation to adjacent municipalities. The failure of the County's MDP to provide for this in a meaningful way is a detriment to Edmonton. The only way transportation systems in the County can be planned effectively is through consultation between the County and Edmonton. To date, no such consultation has occurred and there is nothing in the MDP that would indicate consultation will occur in the future. This is a detriment to Edmonton.

There is limited government funding for transportation, and it makes no sense for Edmonton to plan and budget for arterial extensions into the County if development in the County makes construction costs prohibitive. Timing and standards for the extension of arterial roadways such as 127 Street must be coordinated so that these roads are not built to serve a demand that does not exist. Conversely, if a road is built to carry commuter traffic and instead becomes a truck route, it will require more and earlier maintenance than if built to the appropriate standard to start with.

Edmonton submits that these detrimental effects can be reduced or eliminated if the MDP is amended to provide for policies that will encourage coordination of roadway and land use plans between the County and Edmonton. In lieu of a regional transportation plan, suggested amendments to MDP Policy 12, and the suggested change to Policy 15 will ensure that Edmonton is kept informed and has an opportunity to participate in land use decisions that may impact on Edmonton's transportation planning and the functioning of its transportation system.

(iv) Location of Industrial and Commercial Land Uses

[Provisions that have a detrimental effect of Edmonton: MDP, Section 7, Industrial, Policies 7.3, 7.7(iii), 7.10 and 7.11; Section 8, Commercial, Policy 8.1. LUB Ss. 6.20.5, 8.9.1, 8.9.3, 8.9.4(g) and (j)]

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It is submitted that the provisions noted above are detrimental to Edmonton because they lack the detail and specificity to allow Edmonton to plan for the impact of intensified industrial or commercial land uses on its boundaries. The MDP sets out some general policies concerning characteristics of potential industrial sites but does not specify where new commercial or industrial development is going to be encouraged. The resulting uncertainty is detrimental to Edmonton.

Major industrial and commercial land uses serve regional markets, not small local markets. Municipalities within a region must recognize and plan for commercial and industrial development together for the economic well-being of the region rather than the economic interests of individual municipalities. Large scale development requires a regional perspective. If Edmonton and the County established industrial or commercial nodes situated just across the municipal boundary from one another, the result could be detrimental to both municipalities if there was not enough demand to support both nodes in an economically viable condition. Eventually, both nodes might fail. Edmonton therefore suffers detriment if it is not consulted through the area structure plan process for the South Sturgeon Study Area. If both municipalities coordinated their efforts in a complementary way, successful and sustainable development might result on both sides of the boundary.

Policy 7 of the MDP is detrimental because of its lack of specificity. Because isolated heavy industrial activity appears to be supported by the County, Edmonton cannot plan within its boundaries to ensure that there will be adequate separation between potential heavy industrial development and possible incompatible land uses such as residential or institutional development. A 1,500 foot separation distance may not be sufficient. Edmonton has no assurance that if residential or institutional development takes place within its boundaries before development occurs in the County, that the County will consider the existing development in Edmonton in planning for future industrial development. The MDP does not deal with heavy industrial separation distances in a way that will protect land uses in Edmonton from the noxious qualities of heavy industry. This is a detriment to Edmonton.

These detrimental effects can be eliminated or reduced or eliminated if the MDP is amended to provide for preparation of a comprehensive area structure plan for the South Sturgeon Study Area. No specific amendments to the LUB, to deal with this issue are being requested at this time.

The detrimental effect to Edmonton arising from the silence of the MDP on the need to separate heavy industry from other uses can be obviated by an amendment to Policy 7 of the MDP to prescribe a minimum separation distance from nearby industrial uses in the County and the boundary of an urban municipality.



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(v) Environmental Protection

[Provisions that have a detrimental effect on Edmonton: MDP, s.11, Environmental Protection, Policies 11.5, 11.7, 11.9 and 11.10; s.14, Natural Resources, Policies 14.3 and 14.6. LUB: Ss. 6.9.9, 6.9.11, 6.15.1, 6.15.5 and 8.3.1, 8.3.2, 8.3.3, 8.3.4(a), (h) and (I)]

Environmentally sensitive areas of regional, provincial or national significance are, by definition, of intermunicipal interest. Environmentally sensitive areas of local significance may be of intermunicipal interest if the area lies within more than one municipality or near a shared boundary. There are a number of environmentally sensitive areas within the County that have been identified but whose recognition has not been mentioned in either the MDP or LUB. Until this is done there is a potential that these areas will be destroyed, to the detriment of all Albertans.

Environmentally sensitive areas have been inventoried and identified within the County as a first step in the protection process. The MDP and LUB should contain policies to ensure that when development pressures impinge on environmentally sensitive areas, studies will be undertaken to ensure an appropriate form of protection is implemented. Otherwise, important and unique areas may be lost "by accident." Policy 11.5 of the MDP provides that an environmental impact assessment will be required for multi-lot residential developments where an area is considered "particularly environmentally significant" but it is not clear if the assessment will be required before an application for subdivision or development can be processed, nor does the plan indicate which areas might be considered "particularly environmentally significant." The plan fails to explain why other uses which might have at least as great an impact on environmentally sensitive area as multi-lot country residential will not be required to conduct an environmental impact assessment.

Edmonton submits that even where the MDP or LUB recognizes an environmentally sensitive area, the measures proposed for protection and preservation of the environmentally sensitive area are not sufficiently detailed to allow Edmonton to be certain that an important and unique area of the province will not be lost by accident. The County's MDP and LUB should be amended to deal comprehensively with the recognition, protection and preservation of environmentally sensitive areas.

The detrimental effects to Edmonton which arise from the failure of the MDP to follow through with protection and preservation of environmentally sensitive areas can be obviated by amendments to Policy 11 and Policy 14 of the MDP. Suggested amendments are intended to provide greater opportunity for good stewardship of environmental resources of value to the region as a whole by increasing the number of events that will trigger an environmental impact assessment. Edmonton's concerns with LUB Ss. 6.9.9 and 6.9.11, dealing with Natural Resource Extraction, will be obviated through the proposed amendment to Policy 14.6. Concerns with

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LUB Ss. 6.15.1 and 6.15.5 (Bed and Breakfasts and Guest Ranches) are addressed through proposed amendment to Policy 11.5 and the new sub-policy proposed within MDP Policy 11. The proposed change to Policy 11.5 will help alleviate concerns with LUB s.8.3 (Agriculture-Nature Conservation District)

(vi) Fragmentation of Agricultural Land and Protection of the Agricultural Industry

[Provisions that have a detrimental effect on Edmonton: MDP, s.2, Agriculture, Policies 2.1, 2.2, 2.4, 2.5, 2.6; LUB, Sections 6.23.1, 8.2.2, 8.2.3, 8.2.4(a), 8.3.2, 8.3.3, and 8.3.4 (a) (Also sections 6.21.4, 6.21.5, 6.21.6 referred to previously)]

The provisions of the MDP and LUB are detrimental as they are not directed towards the prevention of the fragmentation of agricultural land. Although the goal of the MDP is stated as "To protect and allow for the enhancement of the valuable agricultural land resource, the agri-based economy and the rural life style", the policies of the MDP seem to contradict the goal by allowing multiple subdivisions in a quarter section, with parcels as small as 2.47 acres (1 hectare). In addition, there are 29 permitted and discretionary uses within the district suggesting that it is not reserved for agricultural activities and is not intended to truly protect the agriculture industry, but to function as more of a holding district.

Edmonton's policies with respect to preservation of agricultural land are much more restrictive. The different approaches of the two municipalities will lead to confusion for land owners who own land in both municipalities. The need for Edmonton and the County to work together to ensure a consistent approach for areas close to shared municipal boundaries should be addressed in the MDP.

The possibility of an intensive livestock operation being allowed in close proximity to an urban boundary may result in detriment to Edmonton. While the LUB and the MDP both suggest that intensive livestock operations within a 1/2 mile distance of an urban boundary will not be permitted, the Animal/Bird Regulations and the Intensive Livestock Operation Regulations in the LUB would permit a sizable concentration of animals to be kept on lands within the 1/2 mile distance. This apparent contradiction is a detriment to Edmonton.

The MDP policy that allows two residential lots to be subdivided from each quarter section will, over time, result in fewer and fewer locations and expansion opportunities for intensive agriculture, especially livestock operations. Livestock production and associated value-added processing industries are major growth sectors in the regional economy. Policies which limit the realization of this potential are detrimental to Edmonton. No specific amendments are suggested for Policy 2 of the MDP.

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(vii) Determining a Process for Effective Intermunicipal Planning

[Provisions that have a detrimental effect on Edmonton: MDP, s.16]

Section 16 of the MDP is detrimental because it fails to recognize that implementation and amendment of the MDP will require consultation not only with residents of the County but with Edmonton and the rest of the County's neighbours as well. Unless s.16 is amended to include a commitment by the County to consult with its neighbours, amendments to the MDP or LUB may suffer the same fate as the bylaws adopting the LUB and MDP. If consultation occurs early in the process, input will be more effective and may provide the foundation for a relationship that will enable the County and its neighbouring municipalities to act collaboratively and proactively.

The lack of initiative on the part of the County in communicating with its neighbours in the past causes concern that the County may not share the same level of commitment to intermunicipal planning as Edmonton. Formal recognition of its commitment by the County would ameliorate Edmonton's concerns. The silence of the MDP on the issue of non-adversarial resolution of conflicts between the County and its neighbours is a detriment to Edmonton. Providing a policy dealing with conflict resolution in the MDP would help the County and its neighbours avoid loss of time and money in complex appeals before the Board.

A concern regarding the adequacy of the intermunicipal consultation process between Edmonton and the County is at the heart of Edmonton's appeal of the provisions of the County's MDP and LUB. Amendments proposed to Policy 15 (Fringe Areas) will alleviate detriment to Edmonton, and if Policy 16 is amended as suggested, detriment will be further alleviated. These amendments will lay the foundation for more productive intermunicipal planning.

## **The City of St. Albert**

### 1. The Factual Background

St. Albert has a population of approximately 47,000. The areas of St. Albert slated for residential development are adjacent to the boundary of the County. St. Albert is a comprehensively planned community with a general municipal plan, area structure plans (required for new subdivisions) a LUB, and engineering standards for storm and sanitary sewers, water mains, roads, curbs and sidewalks. Managing growth is critical for a well planned community, and in St. Albert new residential development is required to be contiguous with other development.

The County, on the other hand, is a rural community, with agriculture as its dominant land use and economic base. The County surrounds St. Albert on its western, northern and eastern boundaries. The County used to have policies that discouraged country residential development, but over time the County has been under pressure to permit country residential development in

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proximity to St. Albert. Recently a number of institutional uses have also been approved on St. Albert's boundary.

In 1994, St. Albert and the County began working toward a joint planning process with appointment of a Joint Planning Committee. Committee discussions continued through June 1996 and included consideration of an inter-municipally planned fringe zone. Efforts at joint planning were terminated by the County in September of 1996. At the same time, the County was working on its new MDP. Background discussion papers contemplated more intensive industrial, commercial and country residential use in proximity to St. Albert. In the public hearings and in submissions to the County, St. Albert strenuously supported effective urban fringe planning to ensure coordination and prevent land use conflicts.

The County Council disregarded its consultant's recommendation and the entreaties of St. Albert, and adopted the MDP with no effective mechanism for coordination of land use, future growth patterns and infrastructure with St. Albert and other adjacent municipalities. The absence of an effective fringe policy was reflected in the County's new LUB, which has no urban fringe zone to mitigate or prevent land use conflicts, thus setting the stage for this appeal. St. Albert filed its notice of appeal before the Municipal Government Board on March 11, 1997.

From the first scheduled hearing date before the Board, St. Albert and the County have worked to negotiate a form of order that will alleviate the concerns of St. Albert with respect to detrimental effects. The County's MDP may have a detrimental effect on St. Albert because it creates the potential for intensification of subdivision and development in the fringe zone along the boundary between the two municipalities without coordination of land uses, future growth and infrastructure.

## 2. Analysis of MDP Policies

### (i) Agriculture

[Provisions that have a detrimental effect on St. Albert: MDP, Policy 2.8]

The sole concern St. Albert has with the County's agricultural policy is that it fails to recognize that specially tailored fringe policies are needed to minimize land use conflicts between intensive agriculture and urban residential communities.

### (ii) Multi-Lot Country Residential

[Provisions that have a detrimental effect on St. Albert: MDP, Policy 3.2]

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While the County's old general municipal plan gave rural and agricultural uses pre-eminence, the new MDP expressly recognizes the right to create and develop residential subdivisions. One of the objectives set out s.3, "Multi-lot Residential Subdivisions," is to "provide a diversity of residential land use options, in locations proximate to service and employment centres." As a service and employment centre, St. Albert now faces the prospect of expanded multi-lot country residential and residential uses along its boundary. In fact, the County's Policy Directions Discussion Paper specifically acknowledged that the St. Albert fringe is the prime candidate for country residential growth.

Multi-lot country residential development that is not coordinated with St. Albert's planning scheme will cause traffic problems, sanitary sewer problems; risks of ground water contamination, fragmented parcels (making integration into the urban fabric difficult, if not impossible), and problems integrating rural servicing patterns, development standards and infrastructure.

(iii) Industrial Land Uses

[Provisions that have a detrimental effect on St. Albert: MDP, Policies 7.3 and 7.12; LUB, s.8.2.3]

The provisions of the MDP in conjunction with the LUB operate to allow development of "agricultural industrial" development in close proximity to St. Albert. Policy 7.3 provides that new industrial parks will be located adjacent to significant provincial highways, notably Highway 2. Section 8.2.3 of the LUB provides for "Agricultural Industrial Use" as a discretionary use immediately adjacent to St. Albert. Agricultural industrial uses in close proximity to St. Albert that are not coordinated with the St. Albert planning scheme will cause the following forms of detriment: traffic problems; environmental problems, including noise, odor, dust and ground water contamination; land use incompatibility with urban residential neighbourhoods, and rural development standards that are incompatible with urban development standards.

(iv) Commercial Land Use

[Provision that has a detrimental effect on St. Albert: MDP, 8.1]

The Commercial Policy of the MDP contemplates broadening the County's economic base through the encouragement of "new large retail format stores" with "different locational requirements". St. Albert is concerned that this is a precursor to "big box retail" on its boundary. The MDP Background Report specifically contemplates "big box" retail in proximity to urban centres. Big box retail located on or close to Highway 2 access to St. Albert will detrimentally affect traffic flows into and within St. Albert unless its planning is coordinated with St. Albert and the costs of additional traffic control borne by the County.

(v) Fringe Areas

[Provisions that have a detrimental on St. Albert; MDP, Policies: 15.1 and 15.6.]

The fringe zone contemplated by Part 15 of the MDP is deficient in the following respects:

- It contemplates “interim measures,” whereas the *Municipal Government Act* requires measures to effectively “coordinate land uses, future growth patterns and other infrastructure”. This is dangerous as permanent uses and subdivisions with long term consequences will result from interim measures in land use planning.
- Within the half mile primary zone “future intensified land use and land use patterns” are contemplated. When coupled with the policies on country residential, industrial and commercial development, this is particularly ominous for St. Albert.
- There is no effective mechanism for land use coordination with St. Albert if the County chooses to proceed under Policy 15.1(1)(a) of the MDP. The County is able to unilaterally determine whether a subdivision or development can proceed without the necessary information to analyze the impact on affected urban landowners and without taking St. Albert’s concerns into account. If the County decides to proceed under 15.1(1)(b), the most St. Albert can expect is an opportunity to meet with representatives of the County and the proponent. There is no obligation to consider or mitigate detrimental effects with St. Albert.
- There is no obligation in the “primary zone” to refer statutory plans and statutory plan amendments to adjacent urban municipalities for review and comment (there is such an obligation in the “secondary zone”).
- There is no opportunity to review and comment on amendments to the LUB.

There is no effective mechanism for land use coordination in the MDP. Uncoordinated subdivisions and intensified land use on St. Albert’s boundary will cause the following detrimental effects:

- The City of St. Albert strives through its planning process to achieve a well planned community. *Ad hoc* urban development detracts from the creation of an internally cohesive community.
- St. Albert bars “leap frog development” and requires new residential development to be contiguous or close to existing development. Short-term development beyond the fringe of St. Albert that is incapable of being integrated into its planning process detracts from the establishment of a solid urban fabric.

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- St. Albert imposes urban infrastructure standards on all subdivision and development through the City of St. Albert Municipal Engineering Standards. It would be incongruous to allow adjacent land to be developed at intensities approaching urban densities on the immediate boundary of the urban area, but under less stringent rural development standards. This will lead to conflicts with respect to dust, increased traffic, disputes over sewage handling, and aesthetic concerns regarding water towers.

3. Analysis of the LUB:

The provisions of the LUB that have a detrimental on St. Albert:

(i) Absence of Urban Fringe, and Incompatible Land Use

St. Albert's key concern with the LUB is that it does not provide an urban fringe to assist in preventing land use conflict and intensified development on the County's shared boundary with St. Albert. The main land use zoning adjacent to the St. Albert is AG (agricultural), which allows a significant number of permitted and discretionary uses that may conflict with urban residential land uses if located in close proximity. Although the A-NC (agricultural-nature conservation) District affects a smaller area of the boundary, it contains many of the same conflicting uses such as intensive livestock operations.

(ii) Scope for Country Residential Subdivision

St. Albert is concerned that the permitted forms of dwelling - single detached dwelling and mobile home units - could form the basis for a country residential subdivision if either the parcel density regulations were ineffective, or were waived in the subdivision or development process.

(iii) Fragmentation of Parcels

With respect to the parcel density regulations, there is concern about a "drafting gap" that could render them ineffective. The regulations restrict the number of parcels that can be subdivided out of an "unsubdivided quarter". It does not deal with what happens to land once it is subdivided. This gap may allow a greater subdivision density to be achieved than was intended. Effective long term municipal planning cannot be achieved when there is premature fragmentation of land. Parcels must be maintained in large blocks until ripe for development. At worst, fragmented ownership can result in sterilization of land.

4. Discussion of Selected Detrimental Effects

(i) Groundwater Contamination

The part of the fringe area north of Villeneuve Road has an extremely high water table. Groundwater flowing into St. Albert's Red Deer subdivision is charged from this water table. The groundwater poses a problem for the subdivision, requiring sump pumps that discharge the water into the streets. Because of this problem, the use of rural-standard sewage disposal techniques in the area poses a risk of groundwater contamination. Other uses, such as intensive livestock operations, institutional uses and gas processing plants also pose a risk.

(ii) Traffic Problems

The intensification of institutional, residential and other uses on the St. Albert fringe will result in increased traffic into and through St. Albert, especially on St. Albert Trail, which was not designed to handle increased traffic from this area.. St. Albert trail is presently operating above capacity at several intersections. Increased traffic cannot be accommodated without increased congestion that can be alleviated only with increased capital expenditure.

(iii) Economic Impacts

Failure to plan for the long term ultimately results in the need either to overleap scattered country residential and institutional development, or to retrofit it with urban-standard services at significant cost. Alternatively, if development proceeds based on the expectation it will have access to St. Albert's infrastructure, St. Albert will suffer economic detriment unless there is coordination, with an appropriate share of costs being borne by the new development.

If St. Albert's infrastructure is used by County residents, it will reach capacity sooner and require expansion and upgrading sooner. Unless there are intermunicipal agreements in place, St. Albert will bear an inordinate share of the costs. Intensification of development on the urban fringe gives rise to expectations of access to urban services. The cost of delivering these services includes not only the marginal cost of actually delivering the service, but the costs of maintaining an adequate capacity for total and peak demands, as well as the capability to respond to increased demand. No approval for such development should be given in the absence of integrated planning and cost sharing.

(iv) Social Detriments

St. Albert is designed to be a cohesive community. Unless adjacent communities are planned in coordination with St. Albert, the cohesion will tend to break down. Unless fringe development is integrated with St. Albert's land use pattern, there is a risk of social polarization and division.



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“Ex-urban” growth is often lacking in a sense of community, causing friction when non-residents use services and infrastructure they do not pay for.

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(v) Failure to Plan Intermunicipally as Detrimental *Per Se*

Under Part 17 of the *Act*, municipalities directly control intermunicipal planning. In the absence of an intermunicipal development plan, the MDP becomes the instrument that coordinates land use, future growth patterns and infrastructure with an adjacent municipality. S. 632(3) of the *Act* establishes intermunicipal planning as a mandatory component of a MDP:

A municipal development plan

a) *must address*

iii) *the coordination of land use, future growth patterns and other infrastructure with adjacent municipalities* if there is no intermunicipal plan with respect to those matters in those municipalities;

iv) the provision of the required transportation systems either generally or specifically within the municipality *and in relation to adjacent municipalities*.

(Italics added)

This obligation to coordinate intermunicipal planning is reinforced by the Land Use Policies adopted by Cabinet under s.622(3) of the *Act*. Under s.622(3), all statutory plans and LUBs must be consistent with the policies. These provide, *inter alia*:

It is therefore important that municipal and provincial planning efforts utilize consistent approaches and pursue a high level of cooperation and coordination. (p.1) ...

### 3.0 PLANNING COOPERATION

#### Goals

To foster cooperation and coordination between neighbouring municipalities and between municipalities and provincial departments and other jurisdictions in addressing planning issues and in implementing planning strategies.

#### Policies

1. Municipalities are encouraged to expand intermunicipal planning efforts to address common planning issues, especially where valued natural features are of interest to more than one municipality and where the possible effect of development transcends municipal boundaries.

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2. In particular, adjoining municipalities are encouraged to cooperate in the planning of future land uses in the vicinity of their joining municipal boundaries (fringe areas) respecting the interest of both municipalities and in a manner which does not inhibit or preclude appropriate long term use nor unduly interfere with the continuation of existing uses. Adjoining municipalities are encouraged to jointly prepare and adopt intermunicipal development plans for critical fringe areas. These plans may involve land which are in both of the adjoining municipalities.” (p.4)

#### 4.0 LAND USE PATTERNS

##### Goal

To foster the establishment of land use patterns which *make efficient use of land, infrastructure, public services and public facilities;* which promote resource conservation, which enhance economic development activities; which minimize environmental impact; which protects significant natural environment; and which contribute to the development of healthy, safe and viable communities.(Italics added)

##### Policies

1. municipalities are encouraged to establish, on a municipal *and on an intermunicipal basis,* land use patterns which provide and appropriate mix of agricultural, residential, commercial, industrial, institutional, public and recreational land uses *developed in an orderly, efficient, compatible, safe and economical manner“.* . (p.6) (Italics added)

In the old planning regime under the *Planning Act*, general plans did not deal with intermunicipal matters; they were the responsibility of the Regional Planning Commissions. Regional plans provided planning control on a regional level, including fringe area planning. In the context of the obligation in s.630(3) of the *Act* to provide for intermunicipal coordination of planning matters, it is detrimental *per se* for the County’s MDP to be without an effective mechanism for coordinating land uses, future growth patterns and infrastructure.

#### 5. Suggestion for an Order That Will Mitigate the Detriment

The Board should make an order directing the County to amend its MDP and LUB in a way that will ameliorate detriment to St. Albert as follows:

Proposed MDP amendments:

- Agriculture, s.2.8: to recognize that in some circumstances intensive livestock operations should be located further than the minimum separation distance from an urban community.

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- Multi-Lot Country Residential, s.3.2: to recognize that if there is to be new multi-lot residential subdivisions they must take place in the context of intermunicipal planning in the fringe zones.
- Industrial, ss. 7.3 and 7.12: to recognize that location of industrial zones in the fringe should reflect the intermunicipal planning process contemplated by s.15.
- Fringe Areas, s.15.6: to recognize that intermunicipal coordination is necessary in the fringe area.
- Sections 15.6(i) through (v): to reiterate the subdivision restrictions set out in the agricultural zone, to prevent excess fragmentation of agricultural lands in the fringe zone.
- Sections 15.6(vi) through (ix): to require referrals to St. Albert of for proposed subdivisions, discretionary use development applications, land use reclassifications and LUB amendments and area structure plans.
- Sections 15.6(x) and (xi): to work in conjunction with the obligations in Policies 3.1 and 7.5 requiring area structure plans for the development of multi-lot country residential subdivisions and industrial parks.
- Sections 15.6(xii) and (xiii): to ensure cooperation regarding municipal boundary changes in case St. Albert proceeds with a new major arterial on its west boundary.

Proposed LUB amendments:

Amendments to the LUB are intended to achieve the following objectives:

- To reduce risk of land use conflict. The St. Albert fringe provides an area tailored to deal with the coordination of land uses and future growth, in which the range of permitted and discretionary uses allowed in the general agricultural district has been appropriately adjusted, thereby mitigating potential land use conflicts relating to major home businesses, airports, intensive livestock operations, kennels, agricultural industrial uses, institutional uses and gas processing plants. Through the use of definitions that excluded “grouped country residential” development, groups of residential dwellings (approved as a permitted use) cannot be converted into country residential subdivisions through variance of lot density regulations. Existing institutional and intensive livestock operations in the St. Albert fringe are “grandfathered” through “S-DC” zoning.

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- To prevent unanticipated fragmentation of large parcels of land. The wording in the LUB leaves a question as to whether there would be any restrictions on further subdivision once a parcel was subdivided. The restrictions in s.8.2.4 speak only of limitations on “unsubdivided parcels,” apparently without consideration of standards for subdivided parcels.
- To ensure that appropriate referrals are made. The provisions dealing with referrals in ss. 2.5.1, 2.8.3 and 3.3(b) will be amended to ensure that appropriate notice is provided to adjoining municipalities. In addition, a number of consequential amendments are to be made throughout the LUB to recognize landowners’ rights and obligations in the Ag zone also apply to the fringe zone.

### **The Town of Morinville**

#### 1. Detrimental Effects Generally

##### Section 690 of the *Municipal Government Act*

Critical to the interpretation of s.690 is the meaning of the word “detriment.” This was addressed by the Alberta Court of Appeal in *City of Lloydminster v. Alberta Planning Board et al.* Although the case arose under s.44 of the old *Planning Act*, that provision was substantially the same as s.690 of the present *Act*. In their decision in *Lloydminster*, the Court of Appeal concluded that detrimental effects were not limited to land use planning matters, i.e., it was sufficient that the action complained of “may have some detrimental effect.” It is submitted that the conclusion to be drawn from the *Lloydminster* case is that any detrimental effect comes within the scope of s. 690.

An Appellant need not demonstrate an actual “detrimental effect.” Section 690(1) allows for an appeal where a statutory plan or land-use bylaw “has or may have” a detrimental effect. The scope of the provision therefore goes beyond actual detrimental effects. Statutory plans and land-use bylaws, addressing as they do future uses, give rise to “potential” detrimental effects. Because of this, any detrimental effects would almost inevitably be prospective in nature, otherwise s.690 would be ineffectual.

Morinville acknowledges that potential detrimental effects should not be too speculative in nature. It is submitted that it is those detrimental effects that are reasonably possible that come within the purview of s.690. Consequently, one must examine the consequences or effects arising from a particular bylaw. It is obvious that s.690 is intended to provide a remedy where a planning bylaw has an actual or potential adverse impact on an adjoining municipality. This is clearly the reason for s.690, and if the section is to be given any meaning, the imputed bylaw must be examined in terms of its potential consequences. It is further submitted that the

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consequences of a bylaw must be examined in terms of both its specific provisions and its omissions, for the simple fact that consequences flow from omissions as well as provisions.

The test under s.690 is whether the “bylaw” has or may have a detrimental effect. The reference to a bylaw establishes the scope for detriment effect in that all of s.690 must be read in the context of s.690(1), including the word “provisions” in s.690(5). Further, it is submitted that the authority of the Board to direct remedies must be interpreted in this context.

## 2. Specific Detrimental Effects

### (i) Industrial Development

{Provisions that have a detrimental effect on Morinville: MDP, Policies 7.2, 7.3, 7.7 7.8 and 7.10; LUB, Part 6.0, (General Regulations), s.6.20 (Industrial Uses), Part 8.0 (Land Use Districts), s.8.10 (Industrial - Heavy District)}

With provisions for the approval of new rural industrial parks and isolated rural industrial developments throughout the rural area, the distinctive roles of “urban” and “rural” municipalities will be eroded. Morinville is concerned that its important role as an agricultural service centre within the region will be diminished and that future opportunities for economic development within Morinville will be adversely affected. There will also be additional strain upon urban services by this type of development within close proximity to Morinville’s boundary.

The visual impact of the development of new industrial parks along Highway 2 and Secondary Highway 642 will detract from the aesthetic value of these important transportation corridors, and adversely affect the efficient and safe flow of traffic. There is no requirement in the LUB for an area structure plan for industrial development near primary or secondary highways.

According to the LUB, heavy industrial uses may be separated by only 1,500 feet from the boundaries of an urban centre. Approval of Heavy Industrial uses outside the area zoned for it in the LUB creates potential for excessive and unnecessary costs that will have to be borne by Morinville in resolving future land use conflicts. Such costs could be avoided or minimized if these uses were located in areas appropriately zoned for them.

### (ii) Commercial

{Provisions that have a detrimental effect on Morinville: MDP, Policy 8.1; LUB, Part 8 (Land Use Districts), s.8.9 (Highway Commercial District)}

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No direction is given as to where these kind of uses may locate in the County, whether under the Highway Commercial Land Use District or any other District in the MDP. "Warehouse sales" is listed as a discretionary use. Morinville's concerns are therefore the same as its concerns respecting the location of new rural industrial parks and isolated rural industrial developments.

(iii) Fringe Area

[Provisions that have a detrimental effect on Morinville: MDP, Policies 15.1(i) and (ii), and 15.2].

These policies provide for a 0.5 mile "primary zone" adjacent to the boundary of urban municipalities in which subdivision and development will be somewhat restricted and a further 1.5 mile "secondary zone" which will be used as the limit within which all subdivision, development and planning proposals will be referred to respective urban municipalities for review and comment. Policy 15.2 provides for cooperation between the County and its urban neighbours in negotiating intermunicipal agreements.

The limitations on the extent of the urban fringe surrounding Morinville will hamper Morinville's ability to plan for long term growth. Consequently, Morinville will be unable to plan effectively for and coordinate future land use or provide for infrastructure on lands adjacent to its boundary with the County. Rural residents adjacent to Morinville will use and come to rely upon urban services. Without being able to provide meaningful input with respect to rural development adjacent to its boundaries, Morinville will be restricted in its ability to plan for and maintain transportation and other services within its boundaries.

The interim nature of the MDP's Fringe Areas Policies results in uncertainty respecting fringe development over the short term, and substantially limits Morinville's ability to cooperate with the County in providing input into the planning and approval process. Short term decisions will result in the establishment of precedents in response to unplanned development pressures, unwarranted fragmentation of land, and the approval of development that will be premature in light of future agreements that may be put into place.

(iv) Intensive Livestock Operations

[Provisions that have a detrimental effect: LUB, Part 6 (general regulations), s.6.23 (intensive livestock operations)]

These provisions permit intensive livestock operation to locate as close as 1/2 mile from the boundary of an urban municipality. This proximity will lead to unnecessary and excessive costs arising from the resolution of future land use conflicts.

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3. Remedy Requested

Morinville respectfully requests that the Municipal Government Board:

(i) make a finding that Bylaws 818/96 and 819/96, as originally passed by the County, have or may have a detrimental effect on Morinville; and

(ii) order the County to amend Bylaws 818/96 and 819/96 to incorporate the proposed settlement reached between Morinville and the County.

**SUBMISSIONS OF THE LANDOWNERS**

**Dale Maynard Industries Inc. and 702602 Alberta Ltd.**

1. General

(i) Position of the Landowners

The goal of the landowners is to ensure that the County bylaws do not prejudice development proposals or preclude timely consideration of them, but rather allow them to be considered on their merits. It is the position of the landowners that, with few exceptions, the County's bylaws are not detrimental. They may not have been completed to urban standards, but only because they were not intended to regulate an urban region. Admittedly, the bylaws could be improved, but the fact they could be improved does not mean they are detrimental. Any amendments to the bylaws that the Board may direct should be kept to a minimum and address only those specific provisions that will clearly result in detriment. The Board has not been given a general mandate to re-write the Bylaws but is limited to amending or repealing provisions of the Bylaw found to be detrimental.

(ii) Agreements with Adjoining (Appellant) Municipalities

A municipal council should not act in a way that is contrary to its bylaws. It cannot enter into agreements that are contrary to its bylaws, and cannot in its corporate capacity amend its bylaws. Where it is appropriate for a municipality to amend its bylaws, the amendment should be done following proper procedures. The County agreed to the amendments on the understanding that they would be implemented only if the Board found detriment. It is submitted that a finding of detriment is essential.

The fact that the County has negotiated agreements with the adjoining municipalities is irrelevant to the determination of detriment. The County has not admitted that its bylaws are detrimental, but merely decided that if detriment is found, the County might be amenable to having its bylaws



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amended in accordance with the agreements. It is, in our view, premature for the County to have negotiated such agreements before it knew what the detriment might be. For the Board to regard the agreements as evidence would be an error of law that would jeopardize the validity of these proceedings: *Dallinga v. Council of City of Calgary* [1976] 1 W.W.R. 319 (Alta. S.C.).

(iii) Interrelationship of Municipalities

Generally, all municipalities have been created equal. They have equal legislative authority to adopt those policies and bylaws that they deem to be in the best interests of their residents. Such rights are exercised subject to the protection afforded to adjoining municipalities of having the Municipal Government Board review and remedy planning bylaws that the Board finds to be detrimental to an adjoining municipality. If a municipality does not believe that s.690 of the *Act* affords adequate protection to its long term interests and desires to have greater control over certain geographic areas, it may apply to annex those lands, thereby assuming full legislative control over them. In that way, political accountability is vested in the municipality that exercises control.

One municipality should not be in a position to dictate to another what may or may not be done within the boundaries of the other municipality unless the first municipality is prepared to accept political responsibility for its actions. Any effort that would segregate political control from political responsibility must be resisted. If the County retains jurisdiction over the subject lands, it should be at liberty to make decisions affecting those lands subject only to the over-riding jurisdiction of the Board with respect to provisions of its planning bylaws that are detrimental.

2. Legislative Scheme

(i) Fundamental Principles

There are a number of fundamental principles which must guide the Board in its assessment of the submissions made by the appellants in determining whether or not a provision of the bylaw is detrimental. Absent a finding of the Board that the bylaw has (or potentially has) a detrimental effect upon the appellants, the appeal must be dismissed. Absent evidence in that respect, the Board cannot make a finding that a bylaw is detrimental.

(ii) Burden of Proof

The onus of proof to establish that the bylaws have a detrimental effect is on the appellants. The burden of proof lies upon the party who asserts the affirmative of the issue: *Re CN/CP Telecommunications and Canadian Association of Communications and Allied Workers* (1985) 18 L.A.C. (3d) 78. It is not the duty of the County or the landowners to show that the bylaws do not have a detrimental affect.

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(iii) Only Provisions of a Bylaw can be Detrimental

It is the bylaw *per se* that must create the potentially detrimental effect. S.690(5) of the Act states: "The Municipal Government Board must decide whether *the provision of the . . . bylaw* is detrimental". The present investigation must therefore be centred on the provisions of the County's bylaws. The issue is not whether the process which led to the adoption of the bylaw was deemed to be satisfactory to the appellants, nor is it what the bylaw fails to provide. It is on "the provision" of the bylaw alleged to cause detriment that the Board must focus.

(iv) Development Potential

Whether or not a provision of a bylaw is detrimental must be assessed in relation to the development or potential development which may flow from the bylaw. It is trite to suggest that it is the development itself and not the bylaw which results in a detrimental effect. The issue is therefore whether or not the provisions of the bylaw will permit development that could have a detrimental effect on the appellant municipalities. The intent of s.690 is to ensure that development initiatives in one municipality address regional concerns and that any detrimental effects of the development are remedied by amendments to the offending bylaw.

(v) Specific Use and Location

It is submitted that if a bylaw does not designate a specific use for a specific location, the potential for the bylaw to have a detrimental effect is remote. A particular use may be considered beneficial or detrimental depending upon its location. Without knowledge as to the specific use and its intended location, the ability to determine whether detriment exists is virtually non-existent. An area structure plan, an area redevelopment plan and a LUB all designate specific land uses upon specific parcels. The MDP does not specify uses for specific parcels, but contains broad policy statements that can be implemented only through another bylaw and accordingly, in and of itself, the MDP cannot have a detrimental effect on an adjoining municipality.

(vi) Threshold of Detriment

To be detrimental, a provision of a bylaw must "unduly" affect the adjoining municipality. It is not simply any inconvenience or adversity which warrants intervention by the Board in the enactment of otherwise valid legislation by a duly elected body. In the context of combines legislation, the Supreme Court of British Columbia in *Valley Salvage Ltd. et al v. Molson Brewery B.C. Ltd. et al* (1975) 64 D.L.R. 734 @ 748 states: "The meaning of 'detriment' has been discussed in a number of authorities. It has been held that the word 'detriment' has the same meaning as the word 'unduly' as used in Section 32 of the Act." Clearly, the prejudice or harm to the adjacent municipality must be serious enough to warrant intervention in the legislation of a duly elected municipal council.

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(vii) Amendments and the Board's Jurisdiction

If the Board finds provisions of a bylaw to be detrimental, it may remedy the detriment by ordering the provision to be amended, or it may order the repeal of the provision [s.690(5)(b) of the *Act*]. There must be a provision. The Board can neither repeal nor amend that which does not exist. It is submitted that the Board should keep the amendments it directs to a minimum, confining them specifically to detrimental effects. The Board has no mandate to re-write the County's MDP or LUB, or to create new land use districts. To do so would not constitute an amendment to the provision causing the detriment and would introduce new policies with which County council might not agree.

3. Response to the City of Edmonton

(i) General Comment

While Edmonton's submission may provide evidence of the need for discussions between municipalities to address matters of regional concern, for the most part Edmonton's submission fails to establish that any provision of the bylaws is detrimental. The submission is predicated on the basic premise that the bylaws of the County fail to address a number of items that the bylaws could otherwise have addressed. This view disregards the requirement that the Board, in making a determination of detriment, must identify the specific provision in the bylaw which it finds to be detrimental. Having found detriment, the Board may respond appropriately. The Board is not given the legislative mandate to incorporate new concepts into the bylaws to cover perceived deficiencies.

(ii) New Planning Regime

Edmonton submits that with the elimination of regional plans, the Board's jurisdiction in addressing and resolving intermunicipal disputes has been expanded commensurately over the scope of the jurisdiction exercised by its predecessor, the Alberta Planning Board. Such a conclusion does not follow. The jurisdiction of the Board must be found within the *Act*. The language of s. 690 is more definitive, both with respect to the assessment the Board must make and the remedies it may apply, than was s.44 of the *Planning Act*.

The legislature is presumed to avoid "stylist" variation in drafting statutes. Once a particular way of expressing a meaning has been used, it will be used again and again wherever the same meaning is intended. Therefore, when a different form of expression is used, the presumption is that a different meaning is intended. Had the legislature intended to expand the scope of the Board's jurisdiction over that enjoyed by the Alberta Planning Board, it would have said so clearly and unambiguously.

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Edmonton has argued that by deleting the words “within the boundaries of the first municipality” and replacing them with the words “on it”, the legislature has expanded the Board’s jurisdiction from that of the Planning Board. This ignores the fact that a municipality has no existence beyond its boundaries. Since the new legislation has been written in “plain English”, the words “on it” can have no meaning other than “within the boundaries of the first municipality”. Therefore the Board’s authority has not been expanded to allow it to find detriment outside the boundaries of the subject municipality.

Edmonton further argues that general, as opposed to specific, detriment is sufficient to warrant intervention. They assert that because the bylaw could be enhanced to better Edmonton’s position, the failure to do so is detrimental. They invite the Board to re-write the legislation on behalf of the Municipal Council of the County, notwithstanding that specific provisions within the bylaw are not detrimental.

(iii) General Detrimental Effects

Edmonton’s position is that there has not been adequate consultation leading up to the adoption of the County’s bylaws and that this has caused detriment to Edmonton. But lack of consultation cannot be a detrimental effect as it does not appear within any specific provision of the bylaw.

It is suggested that the bylaws and actions must be consistent with provincial Land Use Policies, but s.1.2 of the Land Use Policies states: “Policies are presented in a general manner which allows municipal interpretation and application in a locally meaningful and appropriate fashion.” Policy statements do not receive the same strict interpretation as do bylaws and legislation: *Harvie v. R. in Right of Alberta* (1981) 16 A.L.R. (2d) 223 (Alta. C.A.). The general nature of the policies permits each municipality to prioritize its objectives to achieve that which it believes is in the best interest of the municipality, subject to the right of the Board to modify any legislative action taken by it found to have a detrimental effect on the adjoining municipality.

Section 4 of the Land Use Policies, dealing with land use patterns, states that municipalities are “encouraged to establish land use patterns which contribute to the provision of a wide range of economic development opportunities thereby enhancing local employment opportunities and promoting a healthy and stable economy.” Municipalities are therefore to complement and support economic development initiatives.

There is no specific provision of the MDP or the LUB which the City has identified as contravening any specific policy. Edmonton says that the MDP fails to address future land uses and it is acknowledged that it does not do so to the extent that an urban MDP might, but to force urban planning standards on rural municipalities would impose a burden not readily achieved.

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(iv) Specific Detrimental Effects.

If MDP policy 15.1.a or 15.1.b is detrimental, it is only to the extent that proposed LUB amendments are not required to be referred to the adjoining municipalities in the same way that statutory plans or amendments to statutory plans are referred and an amendment to policy 15.1.a to that effect is warranted.

It is acknowledged that there are municipal and regional issues which require communication, but a legislative requirement for it is not necessary and will not necessarily cure the problem. The County's MDP does not preclude communication. Therefore, it cannot be said to be detrimental. The landowners would not object to an amendment to the MDP which would require development applications and amendments to statutory plans and LUBs to be referred to Edmonton and St. Albert where the land affected was within the primary zone, the secondary zone, the Sturgeon Valley study Area, or South Sturgeon Study Area. . But Edmonton seeks an amendment whereby it would receive referrals for "comment and concurrence," which implies a bias in favour of Edmonton.

Any undeveloped lands in the County intended for country residential development in future will require reclassification to one of the country residential land use districts in the LUB, necessitating an amendment to the land use map. The amending bylaw, if considered detrimental by an adjacent municipality, could be referred to the Board for a determination of detriment.

An area structure plan can be prepared for those areas within the County that are referred to in the Edmonton's submission without a specific requirement in the MDP. Dale-Maynard Industries Inc. supports the preparation of an area structure plan for the Sturgeon Valley Study Area. Edmonton seeks to impose a higher standard and more detail for the MDP and LUB than is warranted.

Edmonton argues that sections of the MDP and the LUB lack detail and specificity and that this uncertainty is detrimental to Edmonton. However, the kinds of industrial and commercial development contemplated by the MDP would require amendments to the LUB that Edmonton would be able to appeal. Edmonton also claims to be concerned about a perceived lack of provisions with respect to environmental protection, but here again the complaint is about what the bylaw fails to provide, rather than what it does provide.

Edmonton submits that because there are a significant number of uses which are either permitted or discretionary in the agricultural zone that it appears to be more or a holding district than a district reserved for agricultural activities. Edmonton also submits that if its policies and those of the County differ, confusion will result, causing detriment to Edmonton. Neither of these concerns reveal detriment that will "unduly affect" Edmonton.

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Edmonton argues that section 16 of the MDP is detrimental because the section fails to specifically recognize that implementation and amendment of the MDP will require consultation. Again, it is not what the bylaw provides, but what it fails to provide that Edmonton argues is detrimental, and requests the Board to rewrite the MDP and LUB to accommodate their concerns. No detriment has been shown relative to the provisions of these documents.

#### 4. Response to the City of St. Albert's Submissions

##### (i) General Comments

The premise that underlies the submission of St. Albert is that St. Albert is a sophisticated urban centre, well suited to industrial, commercial and intensive residential development, whereas the County is a rural municipality, best suited to agricultural development which does not conflict with the urbanization of St. Albert. Therefore the intensification of land uses in the County must be detrimental. This fails to recognize that the County is equal to St. Albert in almost all respects.

St. Albert's concern that the MDP has or may have a detrimental effect on St. Albert because it fails to deal adequately with the coordination of land uses, future growth patterns and other infrastructure, and specifically, the potential for intensification of subdivision and development in the St. Albert fringe zone, is premature. At present it is speculative whether the adverse effects will ever materialize.

##### (ii) Analysis of MDP

The landowners deny that the MDP contains no effective mechanism to coordinate land use, future growth and infrastructure with St. Albert and other adjoining municipalities. Part 15 of the MDP contemplates intermunicipal development agreements, municipal agreements or development plans.

It is speculative and premature on the part of St. Albert to conclude that multi-lot residential development will result in traffic, sanitary sewer problems, risk of ground water contamination or fragmented parcels which cannot be integrated with economic servicing patterns. Country residential development in the County will require a redistricting by amending bylaw, permitting St. Albert to again argue detriment before the Board.

It is appropriate to assess traffic problems and environmental problems relative to industrial development in the fringe zone. Section 15 of the MDP addresses integration of land use and land use patterns and to the extent that the MDP does permit industrial uses in the agricultural zone in the fringe area, it might be amended so as to require an LUB amendment for such uses, so that if detriment were perceived to arise, an appeal would lie to the Board.

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Clearly, no commercial development can occur in the fringe areas absent an amendment to the LUB. Such an amendment would allow St. Albert to appeal to the Board. Until the specific location of commercial development is identified and its nature and magnitude disclosed, it is not possible to determine if detriment will arise.

Development in the primary fringe zone may be beneficial to St. Albert and it is premature to suggest that it may be “ominous.” It is not what the MDP provides but what it fails to provide that St. Albert argues is detrimental. As suggested by St. Albert, it is appropriate to refer amendments to the MDP to St. Albert for comment, prior to adoption, but not before first reading.

(iii) Analysis of the LUB

St. Albert argues for the establishment of an “Urban Fringe” land use district, something the bylaw does not provide. The establishment of such a zone is inappropriate and is not authorized by s.690(5) of the *MGA*. For the most part it is premature, absent specific development proposals for specific lands, to conclude that smaller parcels result in any of the detrimental affects alleged.

Respecting economic impact, absent a specific development proposal, it is premature to assess whether or not there would be any adverse economic impact or social detriment.

The obligation for intermunicipal planning is reciprocal. Cooperation and coordination between neighbouring municipalities can occur only with both municipalities fully participating in the process and proceeding in the recognition that each municipality is equal, that each municipality is entitled to exercise legislative control over land within its boundaries, and that each therefore controls land use planning issues. It must be understood that it is inappropriate for a municipality to visit its wants, desires and objectives upon an adjoining municipality. Each must work together to achieve their respective objectives and to mitigate any detrimental effects which may result.

(iv) Conclusion

The landowners suggest limited amendments to the County’s bylaws. The landowners agree that:

- Referral to adjoining municipalities of LUB amendments within the applicable fringe zone should be required under Section 15.1. provided response to such referrals are completed in a timely manner.
- Some discretionary uses in the Agricultural District of the LUB should not be discretionary in fringe areas and should require rezoning.

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- The landowners do not take issue with modification to the fringe area boundaries as suggested by Edmonton.
- The landowners have taken no position relative to the amendments respecting Morinville.
- The landowners have no objection to the requirement for an area structure plan for Sturgeon Valley.

In all other the landowners request that the appeals be dismissed.

**Walter K. Mis**

The provisions of the MDP and the LUB are not detrimental and therefore the appeal should be dismissed for the following reasons:

1. General

The onus is on the appellants to show that the MDP and the LUB are detrimental in accordance with the requirements of the *Act*. There is no reverse onus on the respondent to show that the MDP and the LUB are not detrimental.

In the determination of detriment the *Act* provides two options to the MGB: either dismiss the appeal or order the adjacent municipality to amend or repeal the provision. In both instances the Board is required to identify a provision and determine if it is or is not detrimental.

The lack of a provision is not what is to be addressed by the Board, yet this is substantially what the appellants are objecting to in their appeals. The appellants have not met the onus of showing that a particular provision is detrimental.

2. The Fringe Areas

Policy 15 of the MDP introduces the concept of urban fringe area, a policy not found in previous development plans. The complaint of the appellants is not that the policy is detrimental, but that the new policy does not encompass all that they want. The St. Albert proposal is a massive extension of jurisdiction. For example, proposed Policy 15.6 would give St. Albert a veto over developments in the fringe area. Edmonton wants the proposed fringe surrounding its boundary expanded, yet at the same time acknowledging that it can have no jurisdiction over lands in an adjacent municipality.

The appellants must provide some evidence of a specific detriment, and identify the land in question. The appellants have not identified any specific land except in a general way, referring



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to lands adjacent to their boundaries. Landowners in the fringe would be subject to control not only by the County, but by Edmonton and St. Albert as well. This is completely untenable and extremely detrimental to the affected landowners.

Another reason why specific lands must be identified is that there are different planning considerations with respect to different parcels. Maintaining blanket control in a fringe area into which an adjacent city has no intention to expand is clearly and unreasonably detrimental to the owners of land in the fringe. Without identifying specific land uses for specific parcels, it is impossible to determine whether or not a use is detrimental to adjacent property owners or municipalities. The fringe area as proposed by St. Albert would effectively double the size of its control area without annexation.

The LUB as passed contains no provision respecting fringe areas. Again, lack of a provision is not the same as a specific provision found to be detrimental. It is not the provisions of the LUB that are detrimental to the landowners but the changes that are requested by the appellants. The proposed permitted uses in the fringe are considerably reduced from the original LUB, as adopted by the County. The effect is to sterilize the lands in the fringe, limiting them to activities that are not economic.

### 3. Country Residential

Section 11 of the *Subdivision and Development Regulation* provides for restrictions on country residential uses within a certain distance from the boundary of a city or town. If the appellants are correct, then the lack of any other restriction would mean that the regulation is detrimental. This is clearly not the case. Further, the regulation only addresses country residential uses, indicating that other uses were not considered important enough to warrant the wholesale intrusion of a city or town into the jurisdiction of a rural municipality.

### 4. Agricultural

It has been acknowledged that the County has not changed the agricultural land use designation in the fringe area from its previous designation. The mere act of implementing what was in the old bylaw into a new bylaw cannot change what was previously acceptable to something detrimental.

### 5. Consultation

The MDP and the LUB were drafted as a result of lengthy consultations. There were numerous meetings held at which interested landowners were given an opportunity to voice their concerns. The passing of another bylaw by the County, acquiescing to changes in the MDP and the LUB

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without first going through the public hearing process, is a contravention of the *Act*, in particular Part 7, even if passage of the bylaw is qualified.

6. The Appeal is Ultra Vires

The County is delegated the power to govern in its geographical area by the *Act*. Delegated power cannot be redelegated. The power to veto virtually any development in the fringe amounts to annexation in fact, if not in law. Municipalities are equal and one municipality is not to be given precedence over another. The appellants are not prepared to give an equivalent veto to the County with respect to development in a fringe area within the boundaries of Edmonton and St. Albert. For this and the reasons already set forth, the appeal should be dismissed.

**James Sillito**

It is submitted that Edmonton and St. Albert had insufficient argument and evidence to justify their position that the bylaws create a detriment or may create a detriment. It is illogical to suggest that urban development can occur only within urban boundaries. Further, the provisions of the disputed bylaws are sufficient to address the issue of compatibility problems with the expansion of the urban centres. All that is needed is intermunicipal cooperation. The large concentration of country residential development in the Sturgeon Valley, as well as hamlets and industrial development in the area, have not demonstrated that such uses have created severe detriment to the urban centres.

The appellants are asking the County to plan for the long term growth of the urban centres, yet the urban centres have not provided details of their long term growth plans. The arguments of the urban centres are economic and are an attempt to limit competition for growth opportunities. This is an unacceptable and unfair approach to demonstrating detriment. Economic protectionism is neither a legitimate planning goal, nor a legitimate rationale for these appeals.

The impact of the proposed changes suggested by the appellants on landowner in Sturgeon have not been presented. The proposed changes would be detrimental to the landowners. The appealed bylaws are the end result of an exhaustive democratic public participation process and the Board should not disturb this process. One municipality should not be allowed to control or amend the statutory plans and bylaws of another municipality in the absence of a clear and compelling justification for doing so.

In the past the County has been a good municipal neighbour and it should not be expected that this will change in the future.

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**R. W. McCulloch**

The Board must not consider the agreements reached by the parties regarding the proposed amendments to the County's bylaws until the Board has determined that the appealed provisions have or may have a detriment effect. Municipalities have the right to annex adjacent lands if they want to control development in a fringe area. Although consultation and cooperation are important, municipalities should be the final decision making authority within their boundaries and development should not be restricted if full agreement with neighbouring municipalities is not achieved. Municipalities make choices regarding the level of services and standards provided, just as residents make choices about the municipality they live in. The Board must respect those choices. There is no legislative requirement that a municipality provide services for residents outside their boundaries, and, in fact, the Province provides some of the basic services like transportation, water and sewer. It is submitted that the Board should dismiss the appeals, or if detriment is found, amend the bylaws as minimally as possible.

**Ms. Christine Harrold**

Public hearings have been held during which interested persons made submissions and the bylaws subsequently passed by the County's elected officials in a democratic process should be respected. It is submitted that the Board should dismiss the appeals.

**Mr. R. Swist**

It is submitted to the Board that the consultative process provided an opportunity for the appellants to make their concerns known to the County and that they should have taken advantage of that opportunity at the time. If St. Albert is not willing to annex the Villeneuve fringe area, then the landowners in that area should be able to develop their land in the same manner as other landowners throughout the County and not be limited by the St. Albert fringe restrictions.

**Mr. Ed Sinclair**

The Board should dismiss the appeals because the appellants are monetarily motivated and because the arguments are not based in fact, there is no detrimental effect.

**Mr. Terry Bokenforh**

It is submitted that the Board must dismiss the appeals. The consultative process was the place for the appellants to raise issues and that process had been performed in a satisfactory manner. The proposed amendments have not had to undergo the scrutiny of the landowners as is required in the bylaw adoption process. There is concern that the effect of the proposed amendments will

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be to create a veto over the County's actions, while the County and its landowners will have no recourse regarding decisions made within the appellants' boundaries. In particular, the proposed treatment of intensive agriculture, recreational uses and country residential in the fringe will limit development options for landowners in that area.

**Mr. D. Savich, on behalf of Mr. Joe Dauphinais**

It is submitted that the Board should dismiss the appeals. Mr. Dauphinais' land is located in the fringe area one mile north of St. Albert. The bylaw provisions do not have a detrimental effect, and, given the MDP's goal of fostering cooperation and coordination, it would be speculative to assume that there would not be an agreement between the municipalities. It is submitted that the municipality where an individual's land is located should have the ultimate responsibility over the use of the land.

**Mr. Graeme McKay**

It is requested that the Board dismiss the appeals.

**Karl, Edwin, Walter and Gary Tappauf**

It is requested that the Board dismiss the appeals because the proposed amendments would effectively freeze development of their lands. In addition, neighbouring urban municipalities should not be able to dictate what happens inside the County and what landowners could do with their land.

**RESPONSE OF STURGEON COUNTY**

1. General

The County takes the position that Bylaws 818/96 and 819/96 do not cause any detriment to the appealing municipalities. If the Board does find detriment, the County has submitted a suggested solution to the detriment in its original submission. County's position is not one of neutrality. The County takes the position that the Board must weigh the evidence and determine if it has jurisdiction to act pursuant to the provisions of the legislation, that is, to determine if there is any detriment caused to the appealing municipalities by the passage of the bylaws.

2. Response to the City of St. Albert

It must be pointed out that efforts at joint planning were not terminated by the County in September, 1996. The joint planning process was halted in the fall of 1995 due to the municipal election and the request of the Mayor of St. Albert. Following the election in early 1996 a joint

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committee was struck. The joint committee recommended a two mile fringe area. in the fall of 1996. St. Albert proposed a five mile fringe. At this point, the joint planning process came to an end.

St. Albert's concerns rest largely with development in the fringe, particularly with proposed development near or on the common boundary. The County would point out to the Board that the policy in section 15 of the MDP requires that proposed uses be compatible in accordance with generally accepted planning practices, that utility services be provided, and if those services were only available from the adjacent municipality, then agreement between the proponent and the adjoining municipality would be required before any approval was granted. This should be sufficient to address any of the concerns of St. Albert.

The policy adopted by the County with regard to multi-lot residential development is supported by Alberta Agriculture. Alberta Agriculture supports the clustering of country residential development.

With regard to item 33(b) in St. Albert's submission, the County is unclear as to what type of kennels are referred to.

### 3. Response to the City of Edmonton

#### (i) Lack of Consultation

The issue of consultation with neighbouring municipalities with respect to Bylaws 818/96 and 818/96 is not a matter before the Board on this appeal. Notwithstanding that the matter is not before the Board, the County disputes the statements made by Edmonton with regard to consultation. The County embarked upon extensive consultation in the process of preparing its MDP and LUB.

The County was of the opinion that it was unreasonable for Edmonton to expect the County to delay its plan process until Edmonton was finished the preparation of its MDP and LUB.

The County also provided numerous opportunities for input from the city. The County extended the timeline for comments to Jan. 15, 1997. As well, the County participates in a Senior Administrators and Planning Committee with adjacent municipalities which meet on three month regular intervals.

#### (ii) Provincial Land Use Policies

The County submits that the MDP and the LUB are consistent with the policies.

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(iii) *Municipal Government Act*

Edmonton feels there is detriment incurred under Policy 15.1 because it does not make mention of referring redistricting applications to adjacent municipalities. The County made no mention of these referrals. This was not included in the wording of policy 15 as s.692(5) of the Act specifically does not require that such notice must be given.

(iv) Redistricting Land

Edmonton states that the County's practice is to not redistrict lands in advance of a particular development. This statement is incorrect. The County does refuse development and subdivision that is not in compliance with the districting. It should be noted that the Alberta Planning Board sometimes permitted subdivisions even where existing districting was not appropriate.

(v) Multi-lot Country Residential

Edmonton questions the policy of allowing multi-lot country residential subdivisions adjacent to existing subdivisions, but this policy of the County is consistent with the policy of Alberta Agriculture. A letter of support from Alberta Agriculture was attached as evidence.

(vi) Separation Distance

Edmonton suggests that the County has no policy respecting the separation distance to be applied between heavy industrial uses and residential uses. This is incorrect. The County employs a separation distance of 457 meters. The County understands that Edmonton does not have a separation distance in its bylaws.

(vii) Miscellaneous Comments

The County supports referral of proposals to expand the boundaries of the Hamlet of Nameo for comment. The County does not support a referral system which requires concurrence from the appealing municipalities. There is no legislative authority for such a provision.

The County does not support any revisions to Policies 3.1, 3.2 or 3.3 of the MDP, since no detriment has been shown that would support these amendments.

The County does not support any amendments to policy 7.3, 7.10, or 8.1, or the addition of a sub-policy to policy 7, Policy 11 or Policy 14.6. The County does not support the second proposed amendment to s.12 as this amendment would apply everywhere in the County. It is not appropriate to make this mandatory in the general policy because the matter is dealt with in the fringe areas. With respect to Section 7.10, the section as passed requires proposed uses to be

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“evaluated on the merits”. Therefore compatibility with area land uses will be addressed. The proposed change to Policy 8.1 was not referred to in the accord and so it is not appropriate to impose this as a general requirement. If the proposed use is in a fringe area or on identified highway corridor, it will be referred to Edmonton for comment and concurrence.

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Edmonton has shown no detriment with respect to Policy 11.5. With respect to Policy 11.9, it is inappropriate to include Gladu Lake in this policy as the sub-policy deals with the preservation of shores. This is not an issue with Gladu Lake. With respect to Policy 11, it was not the intention of the accord that these areas be redistricted to Agriculture Nature Conservation District.

In conclusion, it is the position of Sturgeon County that none of the allegations by the appealing municipalities that the disputed bylaws will result in detriment are supportable.



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## **SECTION II - THE KEY JURISDICTIONAL ISSUES**

The following are the questions which the Board found to be fundamental to a decision in the Sturgeon Intermunicipal Dispute. Most, if not all of these issues were raised by counsel for the corporate landowners. These issues deal with fundamental aspects of the relationship between MDPs and LUBs, the definition of detriment in the planning context, the rights of landowners, and the jurisdiction of the Board itself.

- What is the meaning of “detriment” as it is used in s.690 of the *Municipal Government Act*?
- Have the provincial Land Use Policies changed the status of Alberta municipalities in a way that qualifies the meaning of detriment?
- Has a change in language from s.44 of the former *Planning Act* broadened or narrowed the jurisdiction of the Board under s.690 of the *Municipal Government Act*?
- Is there a “threshold” of detriment that must be present before the Board can act?
- If the new *Municipal Government Act* has made all municipalities equal, both urban and rural, has this affected the threshold?
- Does failure of a municipal development plan to conform to the provisions of the *Municipal Government Act* and the provincial Land Use Policies automatically result in detriment to adjacent municipalities, or are the provisions of a plan too remote to cause detriment?
- Does s.690 confine the Board to a consideration of the effect of each provision of a municipal development plan or land use bylaw in isolation, or may the Board examine the offending provisions in relation to other provisions, in the context of the spirit and intent of the document as a whole?
- Is the Board limited to amending only those provisions of a municipal development plan or land use bylaw that have been complained of, or may the Board amend other provisions, or even add new provisions where necessary, to remedy detriment?
- What is the effect of the relationship between the land use bylaw and the municipal development plan, and how should it be dealt with in finding and directing a remedy for detriment?

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- Is failure by a municipality to engage in meaningful negotiations with an adjacent municipality a factor that should be considered by the Board in finding detriment or in directing a remedy if detriment is found?
- What is the effect of an agreement by a respondent municipality to amend its municipal development plan or land use bylaw so as to obviate the detriment complained of?
- Must the Board find detriment before it can make an order directing the respondent to amend its municipal development plan and land use bylaw in accordance with the agreement?
- What is the role of the landowners, and what weight should the Board give to their concerns?

## **FINDINGS OF THE BOARD ON THE JURISDICTIONAL ISSUES**

### 1. The Meaning of "Detriment"

The dictionary definition is straightforward enough. According to *Webster's New World Dictionary*, "detriment" means "damage, injury or harm" (or) "anything that causes damage or injury." This basic definition or something very similar to it seems to have been generally accepted by the parties involved in this dispute. Clearly, detriment portends serious results. In the context of land use, detriment may be caused by activities that produce noxious odours, excessive noise, air pollution or groundwater contamination that affects other lands far from the site of the offending use. For example, the smoke plume from a refinery stack may drift many miles on the prevailing winds, producing noxious effects over a wide area. Intensive development near the shore of a lake might affect the waters in a way that results in detriment to a summer village miles away on the far shore. These are examples of detriment caused by physical influences that are both causally direct and tangible, some of which are referred to as "nuisance" factors.

But detriment may be less tangible and more remote, such as that arising from haphazard development and fragmentation of land on the outskirts of a city or town, making future redevelopment at urban densities both difficult and costly. According to Professor F. Laux, the adverse impact "could also be social or economic, as when a major residential development in one municipality puts undue stress on recreational or other facilities provided by another."<sup>1</sup> Similarly, the actions of one municipality in planning for its own development may create the potential for interference with the ability of a neighbouring municipality to plan effectively for future growth. In the present dispute before the Board, Edmonton and St. Albert have claimed that mere uncertainty arising from deficiencies in the County's MDP will result in detriment to them.

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<sup>1</sup> F. Laux, *Planning Law*, Oct. 1996, p.5-40

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Another instance where detriment might be claimed is where there is a clearly defined difference in the nature, purpose and function of two municipalities. An attempt by one of them to appropriate to itself the kind of land use and development customarily accommodated by the other will likely be perceived as detrimental by the other. In Alberta, the predominant difference is that between urban and rural municipalities, and detriment is often said to arise from the migration of traditionally urban land uses into the countryside. This phenomenon is driven by lower land costs and less stringent development standards in rural municipalities. Urban municipalities naturally fear an erosion of their tax base as a result of out-migration of commercial and industrial businesses. In the past, regional planning commissions attempted to resist this tendency to "urban sprawl" by emphasizing the differences in function between urban and rural municipalities, and endeavoring to maintain a clearly defined geographic boundary between the two.

Finally, the meaning of detriment must be determined in the context of probability, causality and effect, then weighed in the balance of municipal autonomy and individual rights. This process raises complex issues. As counsel for the Town of Morinville has so aptly put it: "Regional planning under the previous legislation never got into all of the types of issues contemplated by Section 690."<sup>2</sup>

## 2. The Effect of the Provincial Land Use Policies

In November of 1996, the provincial Land Use Policies were adopted by Order in Council pursuant to s.622 of the *Municipal Government Act*. Section 4.0 of the Land Use Policies deals with the establishment of land use patterns. Policies 1 and 3 of Part 4.0 are set out below:

1. Municipalities are encouraged to establish, on a municipal and on an intermunicipal basis, land use patterns which provide an appropriate mix of agricultural, residential, commercial, industrial, institutional, public and recreational uses developed in an orderly, efficient, compatible, safe and economical manner in keeping in keeping with the general policies of this section and the more specific policies found in sections 5.0 to 8.0.

. . .

3. Municipalities are encouraged to establish land use patterns which contribute to the provision of a wide range of economic development opportunities, thereby enhancing local employment possibilities and promoting a healthy and stable economy. In carrying out land use planning, municipalities are encouraged to complement and support provincial economic development initiatives.

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<sup>2</sup> *Summary of Position of Town of Morinville*, p.4

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There is no mention of a distinction between urban and rural in these policies, and it appears the intent is to allow all municipalities to participate on an equal footing in securing for themselves a wide variety of residential, commercial and industrial uses. In the view of the Board, the effect of the policies is to diminish the importance of traditional distinctions between urban and rural land use. A necessary corollary is that the location of commercial or industrial uses in rural municipalities will not ground an appeal where a complaint is based solely on anticipated erosion of an urban municipality's tax base.

### 3. The Scope of the Board's Jurisdiction

Planning has been described as an attempt to bring rationality to decision making regarding future physical development. Because planning is by nature prospective in outlook, it seems only reasonable to conclude that the detriment contemplated by s.690 of the *Act* and its precursor, s.44 of the *Planning Act*, is the kind that is likely to arise in the future from a condition or set of conditions in the present. In the Board's view, this means that identifying the potential for detriment is the essence of the jurisdiction conferred on the Board by s.690.

In *Lloydminster v. Alberta Planning Board et al.*, the Alberta Court of Appeal in dealing with the application of s.44 of the *Planning Act*, found that:

Section 44 is a broad power. It was conceded that a municipal council using it need not necessarily point to any conflict with planning within its area: it is enough that the action complained of may have some detrimental effect. That may be an effect on the planning processes; it may be an effect on the use and enjoyment of property within the complaining municipality.<sup>3</sup>

Section 44 of the *Planning Act* enabled a municipality to appeal if it was of the opinion that a statutory plan or LUB of an adjacent municipality might have a detrimental effect "within" its boundaries. Section 690 of the *Act* confers a right of appeal where a municipality believes that the statutory plan or LUB of an adjacent municipality "has or may have a detrimental effect on it." In the Board's view, this change in language can only mean that detriment is no longer confined to effects on lands within the boundaries of the appellant municipality. This interpretation finds support in the fact that general plans often deal with lands beyond existing municipal boundaries, but which are likely to be brought within the municipality in future, usually within the five to ten year time horizon of the general plan.

Clearly, the scope of appeal, broad to begin with under s.44 of the *Planning Act*, has been further broadened by s.690, in both geography and time. This enhancement of the jurisdiction of the Board, enabling it to look beyond municipal boundaries for detrimental effect, would appear to

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<sup>3</sup> *City of Lloydminster v. Alberta Planning Board, County of Vermillion River No. 24, and Totran Services Ltd.* (1982) 39 A.R. (Alta C.A.) 402@405

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be an appropriate adjustment to the legislation, commensurate with the phasing out of regional planning in the province.

#### 4. The Threshold of Detriment

It was submitted by counsel on behalf of the corporate landowners that the effect of recent sweeping changes in the province's municipal and planning legislation has been to "emancipate" municipalities, particularly rural ones. All municipalities have now been "created equal" by the *Act*, so the argument goes, and with this new regime has some freedom to do as they wish. This philosophy is reflected in the introduction to the MDP:

Two fundamental principles have been applied to the Sturgeon MDP. The first principle is embodied in the *Act*.

"In carrying out its planning responsibilities, the Municipal District of Sturgeon will not lose sight of the rights of individual citizens and landowners."

The second principle embodies the basic rationale behind the recent changes to planning legislation in Alberta. *The rationale is to encourage and support municipal autonomy.* (Board's emphasis)

The Municipal District of Sturgeon will establish land use patterns which make efficient use of land, infrastructure, public services and public facilities; and which contribute to the development of healthy, safe, and viable communities by encouraging appropriate mixes of all land use types, and a wide range of economic opportunities.

Anyone reading the above could scarcely avoid the conclusion that the County is "open for business." Nothing, however, is said about intermunicipal cooperation, one of the cornerstones of the province's Land Use Policies. Apparently, as far as the County's MDP is concerned, the mantle of municipal autonomy may be worn free of any obligation to one's neighbours.

It was further submitted that this new freedom implies a stringent test, or threshold, for detriment that must be satisfied before the Board can act. According to this argument, the sovereignty of a municipality must not be lightly interfered with; therefore the complainant municipality must be "unduly" affected before detriment can be found. According to this view, detriment may be found only where a provision of the County's MDP or LUB is virtually certain to cause significant harm in the immediate future. According to counsel for the corporate landowners, the test should be "whether or not the prohibited act imposes improper, inordinate, excessive or oppressive restrictions upon competition the benefit of which is the right of everyone."<sup>4</sup> If the

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<sup>4</sup> *Response of Dale Maynard Industries Inc. and 702602 Alberta Ltd. to Written Submissions, p.2*

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appellants wish to control land use beyond their boundaries, so the argument goes, they should annex it.

The Board must reject this argument. If the legislature had intended to limit the scope of the Board's jurisdiction under s.690, it could have done so expressly. Instead, as the Board has found its powers have been broadened. With freedom from the dictates of regional planning comes greater responsibility to neighbouring municipalities. Where freedom is abused, the Board has the power to implement appropriate measures to restore a balance. Finally, annexation is hardly an appropriate tool for land use control, involving as it does a variety of other considerations, including issues of assessment and taxation, serviceability, and growth projections.

The Board is, however, keenly aware of the gravity of its powers under s. 690 of the *Act*. A municipality's lawfully adopted planning documents must be respected, reflecting as they do the hopes and aspirations of a community and its citizens, expressed and defined through the grass-roots democracy of meetings and public hearings. If the Board is to exercise its power to reach into municipal bylaws and perform what amounts to legislative surgery by amending or repealing parts of them, it must be satisfied that the harm to be forestalled by so invasive a remedy is both reasonably likely to occur, and to have a significant impact on the appellant municipality should it occur. The remedy must then be finely tuned so that the bylaw is modified only to the extent necessary to prevent the harm.

There is also a functional or evidentiary component to the Board's ability to direct an effective remedy under s.690. Simply put, the Board must have enough information before it, and of sufficient quality, to establish a reasonable likelihood of detriment. Where the condition complained of appears to raise only a mere possibility rather than a probability of detriment, or if the harm is impossible to identify with a reasonable degree of certainty, or may occur only in some far future, the detriment complained of may be said to be too remote.

Finally, the nature of the Board itself must be taken into account. The Board is not a regional planning commission. It does not have a staff of planners and technicians to study a matter and make recommendations, nor does it keep a library of reports, studies and plans of the area in question. Its approach to the matters that come before it is quasi-judicial, rather than investigative or directed toward policy. The detriment complained of must therefore be of a nature that raises issues that are capable of adjudication in the context of an adversarial hearing. This means that issues for which detriment cannot be readily established, or which would require further study before an effective remedy can be developed, will fall outside the ambit of matters that can be effectively dealt with by the Board.

5. The Effect of Non-Conformity with the Municipal Government Act and the Provincial Land Use Policies

Both Edmonton and St. Albert have submitted that the County's MDP does not conform to the requirements of s.622(3) and s.632(3) of the *Act*. Section 622(3) provides as follows:

- (3) Every statutory plan, land use bylaw and action undertaken pursuant to this part by a municipality, municipal planning commission, subdivision authority, development authority or subdivision and development appeal Board or the Municipal Government Board *must be consistent with the land use policies.* (Board's emphasis)

Edmonton argues that the County failed to act in consideration of provincial Land Use Policies 2.0 and 3.0, which describe, in a very broad and general way, the kind of participation and cooperation between municipalities that the province wishes to encourage as part of the planning process. Edmonton has alleged that the County made insufficient efforts to involve Edmonton in its deliberations, or to inform Edmonton of its activities and directions with respect to its MDP or LUB. This, it is said, has resulted in detriment to Edmonton.

Edmonton also alleges that the County has acted contrary to s.1.2 of the Land Use Policies, which encourages municipalities, provincial departments and agencies to consult with one another "where questions on the spirit and intent of these policies arise during implementation." Edmonton's position is that there was no meaningful communication between the two municipalities regarding the interpretation of the provisions of the Land Use Policies. This loss of an opportunity to consult with the County has allegedly resulted in detriment to Edmonton.

St. Albert submits that the County not only failed to meet the requirements of s.3.0 of the Land Use Policies, but completely ignored s.4.0 of the Land Use Policies, and that the lack of a mechanism for coordinating land use, further growth, and infrastructure in the MDP is contrary to the requirements of s.632(3) of the *Act*. Section 632(3) provides as follows:

- (3) A municipal development plan
  - (a) must address
    - (i) the future land use within the municipality,
    - (ii) the manner of and the proposals for future development in the municipality,
    - (iii) the coordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is no intermunicipal development plan with respect to those matters in those municipalities,
    - (iv) the provision of the required transportation systems either generally or specifically within the municipality and in relation to adjacent municipalities, and
    - (v) the provision of municipal services either generally or specifically . . .

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St. Albert's position is that the absence of an effective mechanism for coordinating land uses, future growth patterns and other infrastructure in the County's MDP is in and of itself detrimental to St. Albert, and urges the Board to find accordingly.

The Board does not agree with the proposition that simply because a MDP does not conform with the requirements of the *Act* or the Land Use Policies, detriment must necessarily result. Instead, the question the Board must address is whether the MDP will cause detriment, and if it is found that it will, the Board must then decide whether the detriment can be remedied by amending the plan to bring it into conformity with the legislation.

Finally, it should be noted that the requirement is merely that the MDP "address" items (i) through (v) of s.632(3). Had the legislature meant that the MDP was to effectively provide for these matters, it could have expressed that intention clearly and unambiguously. The Board finds that the County has in fact addressed these items in its general municipal plan, although perhaps not in as thorough a manner as adjoining municipalities may have wished.

6. Are the Provisions of a MDP "Too Remote" to Cause Detriment?

Counsel for the corporate landowners has submitted that any finding of detriment must be tied to a specific provision of the County's MDP or LUB. Therefore, it is said, the issue before the Board is simply whether or not the impugned provision permits any development which could have a detrimental effect on the appellant municipalities. The argument is summed up in the following quotation:

In our submission, if a bylaw does not designate a specific use for a specific location, the potential for the bylaw to have a detrimental effect is remote. Any particular use may be deemed to be beneficial or detrimental pending (*sic*) upon its specific location. Without specific knowledge as to the use and without specific knowledge as to the location, the ability of the Board to determine detriment is virtually non-existent. An Area Structure Plan, an Area Redevelopment Plan and the LUB all designate specific land uses upon specific parcels. *The MDP does not specify uses for specific lands. It contains broad policy statements which can be implemented only through further bylaw and accordingly, of itself, cannot have a detrimental effect on an adjoining municipality* (Board's emphasis)<sup>5</sup>

The Board takes issue with the statement that MDPs do not specify uses for specific lands. This may be true of some MDPs, but it is certainly not true of the County of Sturgeon's, which provides for a number of specific land uses including agriculture, industrial, commercial and country residential uses. This fact has been recognized by counsel for the corporate landowners

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<sup>5</sup> *Response of the Landowners Dale Maynard Industries Inc. and 702602 Alberta Ltd.*, pp. 4, 5



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in his response to the argument of the City of Edmonton that a MDP that does not set out specific uses for specific lands is incapable of being appealed:

In response, the MDP of the County does contain a map that designates specific uses for specific lands and designates the urban fringeland as Agricultural.<sup>6</sup>

While the Board concedes that detriment arising from the provisions of a MDP may, by the very nature of the document, be more distant in time and perhaps less certain in point of origin, this should not be taken to mean that the potential for detriment can be dismissed out of hand as too remote. Such an interpretation flies in the face of the *Act*, which contemplates detriment arising from statutory plans, which by definition include general municipal plans:

S.616(dd) "statutory plan" means an intermunicipal development plan, a municipal development plan, an area structure plan and an area redevelopment plan adopted by a municipality under Division 4 . .

If the Board were to accept the analysis offered by counsel for the corporate landowners, it would limit the Board's jurisdiction under s.690 to *ad hoc* decisions based on piecemeal applications for land-use redesignation. This would confine the Board to a reactive role, tantamount to the former Alberta Planning Board's jurisdiction to adjudicate subdivision appeals. In the Board's view, this is not what was intended by the legislature.

The purpose of a plan is to guide municipal decision making in a comprehensive way. In this way the plan prevents *ad hoc* decision-making. It has been said that the most common effect of plans is to restrain the municipality in the exercise of its powers rather than to directly control land use:

. . . plans can be so vague and nebulous as to have little effect on municipal decision-making. Such plans not only run counter to the traditional rationale for municipal plans in that they do not prevent *ad hoc* decision-making but they also run contrary to the view that the plan is a "quasi-constitutional" document which is to protect the citizens of the municipality, particularly property owners from unwarranted and poorly considered or rapid changes. The plan, therefore, should be seen as a stabilizing device but it may not always fulfill that function.<sup>7</sup>

In the context of the new regime of regional planning through intermunicipal cooperation and interdependence, it is not unreasonable to suggest that the role of the MDP also includes protection of neighbouring municipalities from rapid or poorly considered change. This certainly

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<sup>6</sup> *Response of Dale Maynard Industries Inc. and 702602 Alberta Ltd. to Written Submissions*, p.4

<sup>7</sup> S. M. Makuch, *Canadian Municipal and Planning Law*, Carswell, Toronto, 1983, p.185

seems to have been the intent of the legislature in prescribing the matters that a MDP is to address pursuant to s.632(3)(a)(iii) and (iv).

The MDP is the “guidance system” for the LUB. Whether or not a particular land use redesignation will be approved will depend to a large extent on what is provided for in the MDP’s policies and future land use map. The plan therefore plays a significant role in land use regulation, only a little removed from the more “direct” effect of the LUB. The MDP is often determinative in deciding whether or not to approve a discretionary use. It also manifests itself pursuant to certain provisions of the *Act* by preventing the approval of a subdivision that does not conform to its provisions [s.654(1)(b)]; ensuring that its provisions are taken into account in subdivision appeals [s.680(2)(a)], or forcing subdivision and development appeal Boards to comply with it [s.687(a)]. This illustrates the restraining effect of the plan, operating through the LUB.

In the view of the Board, the MDP is clearly capable of causing detriment in a number of ways that are far from being too remote. The fact that the plan is implemented over time through the vehicle of the LUB does not change this.

7. Is it Open to the Board to Read the MDP or LUB as a Whole in Finding Detriment?

Counsel for the corporate landowners submits that a finding of detriment must be tied to a particular provision of the plan or bylaw:

... it is evident that it is that which is expressed that is a provision, and not that which is not expressed. The question then arises as to whether or not such provision may cause a detrimental effect. That the bylaw could be improved upon or enhanced or made less objectionable by additions does not render it detrimental. Morinville argues . . . that the word “provisions” which appear throughout s.690 must be read in the context of subsection 1 (page 2) and should therefore be given a broad general interpretation. In fact, the converse is true. With respect, unless the appellants can point to a specific provision that causes detriment, the bylaw cannot be seen to be detrimental.<sup>8</sup>

In the Board’s view, this analysis might be appropriate where only one or two of the provisions of a plan or bylaw have been complained of, but certainly not where many or most of them have, as in the present case. The Board agrees with counsel for Morinville that the test to be applied is the one set forth under s.690(1), i.e., whether or not a statutory plan or bylaw has or may have a detrimental effect on an adjacent municipality. It is a rule of legal interpretation that an enactment must be read as a whole, so that each provision may be understood in the context of all the other provisions. Where a number of the provisions of a plan or bylaw have been appealed, it is axiomatic that they be read together, rather than in isolation. The use of the word

<sup>8</sup> *Response of Dale Maynard Industries Inc. and 702602 Alberta Ltd. to Written Submissions*, pp. 6, 7

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“provision” or “provisions” in the subsections that follow s.690(1) is, in the view of the Board, due primarily to the fact that a plan or bylaw is made up of provisions, and it seems only reasonable that the detriment complained of should be with reference to them as a whole or individually.

8. Is the Board Limited to Amending or Repealing Only the Provisions That Have Been Appealed in Order to Remedy Detriment?

Where detriment is found, certain of the provisions of a MDP or LUB will be subject to amendment or repeal. Should this be taken to mean that the Board is confined to repealing an offending provision in entirety when the problem could be remedied by a minor amendment to another provision that might not be detrimental in and of itself? Counsel for the corporate landowners has addressed this issue in his written response:

What the bylaws fail to prohibit is not allowed. No development permit will issue unless the development is specifically authorized by a “provision” of the bylaws. If however, a bylaw specifically authorizes a development but fails to provide adequate separation space, the failure to provide adequate separation space may be seen to be detrimental and is in the nature (of) an amendment which the Board could direct be made. *If by a minor amendment, the detriment can be eliminated, the Board is authorized to make such amendment.*(Board’s emphasis)<sup>9</sup>

Clearly, counsel has recognized that provisions work together. An otherwise innocent provision, for example, a development standard like a minimum separation distance, can result in detriment when coupled with a potentially offensive provision such as an industrial land use. This understanding is the nub of the matter, and it is central to the issues before the Board. If an adjustment can be made to a part of the plan or bylaw that is not in itself detrimental, but which would if amended obviate the need to radically alter or even repeal the offending provision, it would be preferable to the more intrusive remedy.

But this begs the question: what would the situation be if the bylaw failed to provide a separation distance at all, or, taking things a step further, if it failed to designate a location where potentially noxious uses could be safely accommodated? Could the Board nevertheless add a provision to the bylaw if it would prevent detriment? Counsel for Morinville has submitted that consequences flow from omissions as well as provisions, a view with which the Board agrees. It seems only reasonable that if the detriment can be expunged by amending the plan or bylaw through adding a new provision rather than repealing existing provisions, then that remedy is one the Board should have recourse to. This would accord to s.690 “the fair, large and liberal construction and interpretation that best ensures the attainment of its object” required by s.10 of

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<sup>9</sup> *Response of Dale Maynard Industries Inc. and 702602 Alberta Inc. to Written Submissions, p.7*

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the *Interpretation Act*. In the view of the Board, it would allow s.690 to be used with precision, rather than in “shotgun” fashion.

9. How Should the Relationship between the LUB and the MDP be Approached in Remediating Detriment?

In the view of the Board, it is trite to suggest that the MDP and the LUB must be read together to understand their effect. They are intended to work together; the plan as the guiding policy document giving direction to the bylaw, and the bylaw implementing its policies. With respect to a finding of detriment, an amendment to the plan may either obviate or create the need for an amendment to the bylaw, and vice-versa. It is therefore imperative that the plan and bylaw be read together, just as provisions of the same document must be read together.

10. Should the Board Take into Account the Failure of a Municipality to Engage in Meaningful Negotiations in Finding Detriment or in Directing a Remedy?

Failure to negotiate in good faith will not necessarily result in detriment, but it will likely result in a LUB or MDP that at worst will be detrimental, and at best will be distrusted by neighbouring municipalities. However, the Board is loath to assign blame to a party where negotiations either failed to produce a result satisfactory to an appellant, or broke down entirely. Each side will tend to blame the other where this occurs, and it will often be exceedingly difficult to determine which side was at fault, even assuming fault can be found. Negotiations often break down despite the best efforts of all concerned.

However, where there is clear evidence that negotiations failed due to an entrenched attitude of the part of a respondent that brooked no consideration of reasonable compromise, the Board might be justified in taking into account the probability that that same attitude will result in conflicts between the parties in future. This might have an effect on the nature of the remedy that the Board directs. For example, the remedy might be made more stringent than where both parties seemed generally able to work together successfully. Alternatively, a mediation clause might be found to be an appropriate remedy.

11. What is the Effect of an Agreement between an Appellant and a Respondent to Amend the Plan or Bylaw in a Way that would Obviate Detriment? Is it Necessary for the Board to find Detriment before it Can Implement the Agreement?

The Board agrees with counsel for Morinville that a proposed settlement of an intermunicipal dispute is not a case of one municipality abdicating its authority in favour of another, but rather an example of intermunicipal cooperation. It is a tacit recognition that the actions of one municipality can affect its neighbour. To accept the argument of counsel for the corporate landowners that such agreements are by nature beyond the legislative authority of council of the

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respondent municipality would deny both appellant and respondent the right to engage in a mediation style process whose result would be virtually certain to be preferable to an order imposed on them unilaterally by the Board.

The effect of launching an appeal under s.690 is both unusual and oppressive. The provisions of the plan or bylaw of the respondent municipality are frozen in time as of the date the appeal arrived at the offices of the Municipal Government Board. Where a substantial number of provisions have been appealed, the entire municipal planning system may be rendered inoperable. The fate of the appealed provisions is entirely in the hands of the Board. When the Board reaches its decision, the parts of the plan or bylaw that the Board has directed be repealed simply disappear, while provisions that are to be amended have no force or effect until they are enacted in their new form. Clearly, no agreement by a municipality to amend its planning documents can have any effect while the documents themselves are in limbo pursuant to s.690.

The agreement reached should not be regarded as anything more than an intimation of what might have happened had negotiations come to a successful conclusion before the appeal. The fact that the agreement is the result of negotiations between equals suggests that the changes recommended are the least intrusive, and reflect what the parties are prepared to live with. Counsel for the County of Sturgeon has made it very clear that the agreement is to be regarded as "without prejudice" with respect to whether the provisions of its MDP and LUB are detrimental. The Board accepts this position. Such an agreement can be given effect only if the Board were to find, firstly, that the provisions it dealt with were in fact detrimental, and secondly, that the proposed amendments were capable of remedying the detriment. The decision of the Board is therefore a condition precedent to the agreement having any force or effect.

12. What is the Role of the Landowners, and What Weight Should the Board Give to Their Concerns?

When all has been said and done, what is central to the landowners' concerns is their ability to use their property as they see fit. It has even been suggested by one of the landowners that implementation of the proposed settlement would require zoning so restrictive that it would amount to expropriation without compensation. The right of this Board to direct amendments to lawfully adopted municipal development plans and land use bylaws has also been challenged.

Persons who may be affected by the outcome of a hearing have a right to be heard. It is a part of the democratic process specifically included in s.690. Nevertheless, the primary duty of the Board in a s.690 hearing is to determine whether the appellants will suffer detriment, and if the Board decides that they will, to direct amendments that will prevent it. In the Board's view, this is an instance where the legislature has decided that the greater public interest lies in protecting the rights of communities over the rights of private landowners. Counsel for Morinville has stated it as follows:

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As we have pointed out . . . in the land use planning process, there are inevitably conflicts between the rights of individuals and the rights of the community as a whole. This is inherent in the system and will never be eliminated. Land-use planning will always be a balancing act between the general public benefit and the rights of individuals. This is recognized in Section 617 of the MGA.

However, it is submitted that the public good must be measured by different means in different contexts. At the local level, there are restrictions, for the public benefit, on the use of land by individuals. Similarly, in a broader context, Section 690 places restrictions on the actions of individual municipalities for the greater public benefit. Section 690 recognizes that this must be done to achieve another aspect of the public benefit.<sup>10</sup>

The bottom line is that s.690 mandates unusual and invasive measures. It gives the Board the power to alter municipal bylaws that are otherwise within the exclusive preserve of the municipality itself. Some landowners have questioned the constitutionality of such an enactment, but that is not an issue resolvable within the jurisdiction of this Board.

However, this does not mean that the effect on landowners is to be disregarded. S.617 of the *Act* requires that preparation and adoption of plans and related matters must be accomplished “without infringing on the rights of individuals for any public purpose except to the extent that it is necessary for the overall greater public interest”. In the Board’s view, this means that amendments directed under s.690 must be tailored to achieve the goal of preventing detriment without infringing on private interests more than is strictly necessary.

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<sup>10</sup> Summary of Position of Town of Morinville, pp. 6, 7

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### **SECTION III - THE BOARD'S DECISION**

#### **Summary of the Decision**

The Board dismisses the appeal of Morinville with respect to the provisions of the County's LUB and MDP as they affect lands within the County that lie outside the urban fringe area surrounding Morinville and identified (in dark yellow as primary urban fringe and light yellow as secondary urban fringe) on the MDP Future Land Use Map. For the purposes of this Order, the described area shall be referred to as the Morinville intermunicipal fringe.

The Board dismisses the appeals of Edmonton and St. Albert respecting the provisions of the MDP and LUB as they relate to or affect lands within the County but lying outside the primary and secondary urban fringe areas adjacent to Edmonton and St. Albert as identified on the MDP Future Land Use Map. For the purpose of this Order, the St. Albert intermunicipal fringe includes the lands which lie north of Big Lake between the watercourse known as Riviere Qui Barre and St. Albert and shown on the MDP Future Land Use Map in light and dark green as Recreation and Environmental Protection Areas.

For the purpose of this Order, portions of the Sturgeon Valley Study Area and the South Sturgeon Study Area are included in the fringe shown as light yellow and dark yellow on the MDP Future Land Use Map.

When referred to collectively in this Order, these fringe areas are termed "the intermunicipal fringe."

The appeals have been allowed with respect to certain provisions of the MDP and the LUB in relation to the intermunicipal fringe. In the context of the Board's findings regarding the definition and threshold of detriment, the Board has determined that detriment is sufficiently probable or significant enough to warrant repealing or amending certain provisions of the MDP and LUB as they apply within the intermunicipal fringe.

A number of appeals have been allowed respecting the entire areas of the Sturgeon Valley Study Area and the South Sturgeon Study Area as shown on the MDP Future Land Use Map. The changes only apply to the MDP. There are no alterations to the LUB respecting the areas lying outside the intermunicipal fringe. The provisions which have been added to the MDP regard the adoption of area structure plans because the Board felt that these areas are significant in relation to Edmonton and St. Albert and that further unplanned development in these areas would be detrimental to the appellant cities. The Board has included these provisions as there was general consensus on the need for area structure plans for these locations.

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In arriving at a definition of the intermunicipal fringe, the Board felt that in view of the fact that the urban fringe areas in the MDP represent an initiative by the County toward intermunicipal consultation, they should not be interfered with more than strictly necessary. Also, the Board noted that the boundaries of the urban fringe as specified in the MDP seemed acceptable to the appellants. The Board has not distinguished between the Primary Urban Fringe and the Secondary Urban Fringes as defined in the MDP because, in the view of the Board, the same detrimental effects can arise in both and therefore both should be subject to the same policies. The Board foresees that in the course of detailed studies and discussions, the municipalities themselves may decide to adjust the intermunicipal fringe boundaries as appropriate.

### **Context for the Decision**

The purpose of this section is to provide a brief overview of the context in which the Board reached its decision. More detail is provided in Section II, The Key Jurisdictional Issues. The Board heard considerable argument from the parties respecting the legislative framework, and reached the conclusions outlined in the following text.

Before the Board can take action pursuant to s.690 of the *Act*, it must be satisfied that the appealed provisions have, or may have, a detrimental effect on an appellant municipality. In the Board's opinion, the detriment complained of must be significant enough to justify the Board's intervention in the local legislative process. The Board does not accept the that any finding of detriment, no matter how minor or remote, warrants intervention.

The Board rejects the argument of certain landowners that, in determining detriment pursuant to s.690, the Board must confine itself to consideration of each appealed provision of a bylaw in isolation, that is, without reference to other provisions of the bylaw, whether appealed or not. Instead, the Board found that individual provisions of a bylaw can be properly understood only in the context of all other provisions. A municipal development plan and a land use bylaw are, of necessity, closely linked, since they are intended to function together. It follows therefore, that a municipal development plan and a land use bylaw must be read and understood in relation to one other. Similarly, the fact that a municipal development plan manifests itself directly through the mechanism of a land use bylaw, negates the argument of the landowners that the provisions of a municipal development plan are "too remote" to cause detriment.

The role of the Board pursuant to s.690 is limited to finding detriment and if found, to repealing or amending the offending provision. The Board's mandate does not include acting as a "regional planning commission," or to taking on the duties and functions of a planning authority. Accordingly, the Board rejects the argument that it should act as a planning authority and set ideal intermunicipal planning policies. The current legislation requires municipalities to do this through their own initiatives in intermunicipal cooperation and communication. In the Board's



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opinion, the appellants have demonstrated detriment only in a limited number of areas. Consequently, the Board is prepared to intervene only in those areas.

The Board accepts the appellant's argument that the provincial Land Use Policies serve as a backdrop to the decision of the Board. However, the Board does not accept that mere non-compliance with the Land Use Policies is detrimental in and of itself. Actual detriment must be shown. The Board also accepts the appellants' argument that under the current legislative scheme and the provincial Land Use Policies, municipalities are to be treated as full equals.

The Board heard arguments of detriment from all three municipalities, Morinville, Edmonton and St. Albert, and found common themes relating to their respective fringe areas. The Board acknowledges that the size and growth rates of the three municipalities differ significantly and recognizes the impact of these differences on the fringe areas.

A finding of detriment is a condition precedent to the Board's authority to repeal or amend a municipal bylaw under s.690. The fact that the appellants and the respondent had negotiated possible amendments to the bylaws does not enable the Board to circumvent its responsibility under s.690 of the *Act*. Although the agreements provide indications of consensus on what is considered detrimental as well as potential remedies, the Board accepts the argument of the landowners that the tentative agreements between the municipalities cannot be implemented without first finding detriment.

The Board heard argument from the respondent and the landowners that if the Board found a level of detriment that warranted intervention, and subsequently ordered amendments to the Bylaws, the amendments should not have the effect of sterilizing land or infringing on individual rights to an extent that offends s.617 of the *Act*. Land use change must be accommodated in an orderly fashion within the context of Section 617. Evidence presented at the hearing indicated that expansion by the appellant municipalities into the fringe would occur in most areas at a relatively slow and gradual pace.

Under s. 691(2), the Board is required to hear from owners of "the land that is the subject of the appeal." The Board accepts that the role of the landowners is to ensure that their rights as provided for in s.617 are not overlooked. The Board carefully reviewed its decision in light of this section.

### **Reasons for the Decision**

Generally, the Board has accepted the appellants' evidence and arguments regarding detriment in the fringe areas, the Sturgeon Valley Study Area, and the South Sturgeon Study Area. In particular, the Board accepts the appellants' position that certain provisions of the bylaws have or may have a detrimental effect because they are deficient in regulations regarding the location of

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incompatible land uses, in detail regarding planning coordination and specific policies, and in appropriate mechanisms for intermunicipal consultation. These deficiencies are detrimental in view of certain policies in the MDP, for example “providing a diversity of residential land use options in locations proximate to service and employment centres.” While the Board might obviate detriment by repealing such a provision, that in itself would not prevent country residential and other development from concentrating near urban centres. Such development concentrating near urban centres may be a positive activity provided the development is properly planned with intermunicipal communication being key.

Although it may be true that all municipalities have been “created equal,” experience and practicality have shown that urban style municipalities offer more services than the more rural style municipalities, and tend to expand outward into rural style municipalities. Unplanned, piecemeal development on land near urban boundaries can cause significant detriment in a number of ways, most of which have been dealt with exhaustively by the appellants. For these reasons the Board is ordering certain amendments to the MDP and LUB as they apply in the intermunicipal fringe areas, as well as MDP amendments for the Sturgeon Valley Study Area and the South Sturgeon Area. Outside these areas, the Board concluded that generally, the effect of the impugned provisions did not achieve a threshold of detriment that would justify the Board’s intervention.

### **In the Municipal Development Plan**

#### 1. Detriment Not Found

##### (i) General Remarks

In the Board’s view, the appellants’ arguments comprise four main themes: location, economic impact, servicing, and transportation. The Board found that, with respect to the operation of the appealed provisions of the bylaws outside the fringe areas, there was not sufficient evidence that significant detriment would result. Development outside the fringe will not only be more distant from municipal boundaries, but more dispersed as well. Then too, most of the land in the County has been designated for agricultural use, both in the MDP and the LUB. Other kinds of development will require a redesignation by amendment to the LUB’s land use map, and arguably the MDP’s Future Land Use Map as well. Such redesignations would be appealable to the Board. In general, the Board found that the appellants’ arguments relating to the issues of agriculture, the environment, country residential, industrial and commercial development, and resource extraction, to be speculative with respect to land outside the urban fringe, and a potential for detriment was not established. Appeals were therefore dismissed with respect to the application of these provisions outside the fringe.

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(ii) Fragmentation of Agricultural Land

The Board concluded that the agricultural policies of the MDP are substantially consistent with the provincial Land Use Policies. Although fragmentation of agricultural land may be a concern to the residents of Alberta as a whole, arguments and evidence adduced to the effect that the bylaws create a detrimental impact on adjacent municipalities was not compelling. The Land Use Policies do not appear to anticipate that each municipality will address the conservation of agricultural land in the same manner, but rather that each municipality is encouraged to design mechanisms suitable to its individual needs. Therefore, the Board dismissed the appeals with respect to the policies in Part 2 of the MDP.

(iii) Country Residential

The Board is of a similar view regarding country residential development as it may occur outside the fringe area. Argument heard by the Board was not sufficient to show that the growth patterns of the appellant municipalities would be impeded, that incompatible land uses would locate adjacent to the appellants, or that the provision of cost effective servicing would be compromised. The Board accepts that the locational criteria for country residential development outside the fringe, including the proximity of these uses to agricultural uses, are land use planning matters solely within the purview of the County. The Board also finds that the MDP and LUB do in fact deal with issues of compatibility. The Board does not accept the appellants' contention that they are affected detrimentally by patterns of country residential development outside the fringe. Because of the County's extensive use of agricultural zoning, further country residential development cannot occur without over most of the area of the County without rezonings. Therefore, the Board dismisses the appeals with respect to the policies in Part 3 of the MDP, relative to the area outside the fringe.

(iv) Industrial and Commercial Uses

The Board found that location of industrial and commercial uses outside the fringe minimizes the potential for incompatibility with uses within the appellant municipalities. Municipal growth patterns are not compromised by uses outside the fringe, and servicing of remote uses is not dependent on service extensions from urban municipalities. Due to the vast area of Sturgeon County, the Board finds it would be unreasonable to expect the County to use the same planning approach as that employed by the appellant municipalities, who are required to regulate concentrated land use patterns associated with urban densities. Many rural industrial uses are well suited to isolated locations. The appellants can gauge and respond to the impact of location and transportation issues outside the fringe area by means other than direct intervention in the respondent's planning bylaws.

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The Board found that the potential economic impact of commercial/industrial uses locating in the County, rather than in the appellant municipalities, was not detrimental *per se*. The *Act* and the Provincial Land Use Policies no longer make a distinction between urban and rural municipalities in regard to land use. The Board would not intervene if a business located in Morinville rather than St. Albert or Edmonton; consequently, the Board could see no reason why intervention would be warranted if it were to locate in the County. Part 7 of the MDP contains provisions for assessing the environmental of industrial uses, and sets minimum separation standards. These minimums can be increased by the approving authority, based on the merits of a particular proposal and its relation to adjacent land uses. Therefore the Board finds that detriment does not arise from the provisions of Part 7 or 8 as they apply outside the urban fringe.

The appellant municipalities argued that the Board should find detriment in the fact that residents or business locating in the County may use “soft” services within the appellant municipalities. The Board has concluded that the MDP sufficiently addresses this matter in Part 15, and that the arguments and evidence of the appellants are not sufficiently compelling to warrant intervention. Residents in all municipalities are very mobile, and the Board is not prepared to intervene in the methods of allocating servicing costs and revenue sharing. This is a matter to be negotiated by the municipalities themselves.

(v) Transportation

In the Board’s opinion, Edmonton did not present convincing evidence that provisions in the bylaws with respect to traffic safety and visual impact of development adjacent to highways outside the fringe would result in a reasonable likelihood of detriment. Although Part 12 of the MDP does not address the issues raised to the degree requested by the appellant, the Board is not of the view that amendments to Part 12 are warranted. Policy 12.7 of the MDP addresses traffic safety related to accessing highways and secondary highways. In addition, key portions of the highway corridors leading into the appellant municipalities are within the fringe and will be dealt with through the amendments directed in relation to the fringe.

(vi) Environmental and Natural Resources

The appellant Edmonton raised concerns about the adequacy of the MDP policies regarding environmental and natural resources in environmentally significant areas. The Board was unable to find detrimental effect on Edmonton based on the evidence of the appellant that a number of its residents make occasional use of these areas. The concern of the appellant seemed to be that the MDP failed to deal with the areas in the same manner as the appellant would have done had they been situated within its municipal boundaries. The MDP does address key environmentally sensitive areas such as the Coronado Sand Dune Area, Big Lake, and Manawan Lake. It contains policies for lands adjacent to lakes, requires environmental impact assessments for multi-lot country residential and industrial development, and recognizes a special gravel extraction area

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outside the fringe. The Board does not accept that the treatment of resource extraction and environmentally sensitive areas is a cause of detriment. The appeals are therefore dismissed with respect to Parts 11 and 14 of the MDP.

(vii) Consultation and Plan Implementation and Amendment

In the Board's opinion, the consultation provisions in the MDP are insufficient in relation to the fringe areas. Outside the fringe areas, the implementation and amendment provisions of the Bylaws provide adequate mechanisms for intermunicipal consultation.

2. A Reasonable Likelihood of Detriment

(i) General Remarks

The Board finds that the potential for detriment of a degree significant enough to warrant the Board's intervention is to be found in the fringe areas. Urban municipalities are centres of gravity for a variety of land uses and development tends to concentrate in these areas. The Board therefore accepts the arguments of the appellants that lack of coordinated, detailed planning and consultative mechanisms, combined with a variety of land uses, many of them incompatible, can result in this degree of detriment. The Board heard convincing argument in relation to the Sturgeon Valley and South Sturgeon Study Areas and areas in both the primary and secondary fringe of the County's MDP.

The Board accepts the argument that certain land uses may be inappropriate in the fringe due to incompatibility of existing or proposed uses. Potential land use conflicts may be avoided or minimized if appropriate planning mechanisms are in place and opportunities to evaluate the application of use and development standards are provided for in the planning process. The Board accepts that certain uses proposed for the fringe that are associated with potential air or water pollution, excessive noise, odour or other nuisance factors, should receive special attention prior to receiving planning approval.

The appellants presented argument and evidence about the land use conflicts created by the location of intensive livestock, large dog kennels and other intensive agricultural uses, air strips and major home based businesses and heavy industrial development in proximity to their boundaries. The Board accepts that these land uses may be incompatible due to odour, noise, other nuisance factors, as well as traffic generation, especially in areas where residential uses are located nearby. The Board agrees that if the County does not seek input from neighbouring municipalities when such uses are proposed within the fringe, conflicts among land uses are likely to result in detriment to urban municipalities.

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The fringe is an area in transition from less intensive development to more intensive development. Lack of sufficient detail in the provisions of the MDP and LUB may result in land use conflicts and inefficient patterns of servicing as the fringe areas change from semi-rural to more intensified uses. The Board agrees with the appellant municipalities that the lack of detailed planning mechanisms in the fringe areas may cause detriment of a degree warranting intervention. In addition, the provisions dealing with the coordination of land use and future growth patterns in the fringe area, as set out in Policy 15 of the MDP, are somewhat vague and thus have the potential of creating uncertainty that may result in incompatible land uses, inefficiencies in extension of hard services, uncoordinated transportation corridors, and curtailment of options for growth.

The Board acknowledges that references to generally accepted planning principles are not definitive in that they may mean different things to different planners. The appellants expressed concern that the County's Fringe Policy is described as an interim measure until intermunicipal agreements are reached. The Board accepts their argument that if an intermunicipal agreement is not reached, or if permanent uses with long term consequences are approved prior to the completion of an intermunicipal agreement, detriment may result.

The appellants presented compelling argument and evidence regarding the location of multi-lot country residential development, institutional, commercial, and industrial uses within the fringe areas. The Board is not convinced that the mere existence of these uses in the fringe may cause detriment, but agrees that a lack of detailed planning and direction with respect to the location and the intensity of these uses may be detrimental, for example where incompatible residential, commercial and industrial uses are situated adjacent to one another. This is a particular concern where growth directions for intensive residential, commercial or industrial uses are well established. The Board recognizes that there will be a transition in land use intensity over time, and agrees with the appellants that a lack of detail in future land use planning and policies may result in land use conflicts and the inefficient and costly provision of hard servicing. In the Board's opinion, the likelihood of significant detriment warrants intervention in the fringe areas.

The appellants presented compelling argument and evidence that the lack of detailed transportation policies and planning in the fringe areas could result in the duplication of transportation resources, inefficient development of roadways, and costly "retro-fit" expenditures on roadways that become over or under design capacity. The Board heard evidence in relation to 127 Street in Edmonton and St. Albert Trail in St. Albert. The Board accepts that there is a direct relationship between land use and transportation needs that manifests itself in appropriate locations for major arterials, the function and capacities of the roadways and the timing of improvements and financial capacity to meet changing needs. The Board recognizes that the lack of detailed planning for allocation of land uses combined with somewhat scanty transportation policies meets the threshold of detriment in the urban fringe. Similar arguments with respect to the extension of hard services is accepted by the Board.

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The provincial Land Use Policies place considerable emphasis on intermunicipal coordination and cooperation. The Board heard compelling evidence and argument that a lack of consultation at key points in the preparation of subdivision or development plans, or amendments to statutory plans or LUBs having effect in fringe areas, is likely to result in significant detriment to adjacent urban municipalities. The Board agrees that certain provisions of the County's bylaws lack sufficient detail and direction to ensure that adjacent municipalities have an opportunity for input in preparation of these plans and amendments in the fringe areas and the Sturgeon Valley Study Area.

When adjacent municipalities are left out of the information loop concerning the types, intensity and magnitude of development that may occur in the fringe, they are deprived of the opportunity to comment on and make suggestions for the resolution of land use incompatibility, servicing and transition problems. Nor are they able to make such modifications to their own planning, development, transportation and servicing plans as may be necessary to ensure compatibility of land uses and cost effective servicing. This is especially so for the Sturgeon Valley Study Area and the South Sturgeon Study Area because development in these areas may result in a large population, or the relocation of heavy industry that may impact the development and effectiveness of transportation routes in the County, St. Albert and Edmonton.

Without detailed plans and substantial consultation between municipalities, the Board finds a high potential for detriment in the urban fringe areas and the two Study Areas. Policy 15 of the MDP does not go far enough in providing locational criteria for specific land use proposals and other detailed planning requirements, nor does it establish a complete and effective referral system between the subject municipalities. This uncertainty with respect to possible location of these uses creates a significant potential for detriment in the intermunicipal fringe. The provisions of the County's MDP which the Board found to be detrimental in the intermunicipal fringe areas and the South Sturgeon and Sturgeon Valley Study Areas are set out below.

(ii) Multi-lot Country Residential Subdivision (Part 3)

The location of multi-lot country residential subdivision may have a detrimental impact on the adjacent municipality. Without an area structure plan or an agreement between municipalities, a country residential subdivision could occur in an area adjacent to an industrial plant or similar operation causing the limitation for expansion of the plant or causing complaints about heavy traffic or dangerous activities in or near residential settlements. Of particular concern is the Sturgeon Valley Study Area where servicing, subdivision design, and transportation need to be planned in order to avoid detrimental effects to both Edmonton and St. Albert.

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(iii) Industrial (Part 7)

The location of industrial land uses may have a detrimental impact on an adjacent municipality. Without an area structure plan or an agreement between municipalities, an industrial use could locate adjacent or near urban residential, parks or similar uses, resulting in heavy traffic, noise, odour or dangerous activities, all of which are clearly incompatible with residential uses. Further, the expansion of residential uses may be limited in an urban centre thereby causing uneconomic construction of urban infrastructure. Of particular concern is the South Sturgeon Study Area which is generally planned for rural industrial development.

(iv) Commercial (Part 8)

The location of commercial land uses may have a detrimental impact of the adjacent municipality. The locations need to be clearly defined and planned in order to avoid the creation of a hazardous and cumbersome transportation network in the fringe. Further, there is a need to buffer commercial activity from adjacent residential land uses in order to avoid problems with heavy traffic and noisy activity.

(v) Environmental Protection (Part 11)

Inside the intermunicipal fringe area and the Study Areas, the lack of identification, protection and development of environmentally significant areas may have a detrimental impact on adjacent municipalities. The issues surrounding the identification and development of environmental areas rarely respect municipal boundaries. Rivers, park systems, historical sites, other water bodies and similar features need the benefit of protection from at least two municipalities. A good plan and sharing of information in fringe areas can provide protection to environmental areas without compromising the rights of either municipality.

(vi) Transportation and Utilities (Part 12)

The location and status of transportation routes and the location and type of utility servicing may be detrimental to the adjacent municipalities. It is crucial that the design and location of such facilities address the needs of all municipalities in order to avoid uneconomical construction and dangerous traffic movements. In the fringe areas, benefit to both municipalities can be attained provided detailed plans and consultation are prevalent between the municipalities involved.

(vii) Natural Resources (Part 14)

The location of natural resources and the subsequent extraction of the resources may have a detrimental impact on the adjacent municipalities. For example, a gravel extraction operation adjacent to an urban style residential subdivision may not only be annoying but may be



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dangerous to the residents. A detailed plan and consultation in the fringe area will not only identify the location of such resources but may address means to mitigate severe impacts to neighbours.

(viii) Fringe Areas (Part 15)

Inside the identified fringe areas, the lack of information respecting the location of future land uses and the lack of adequate measures to provide for detailed plans or agreements and the lack of complete referral systems on applications, may be detrimental to the adjacent municipalities. Intermunicipal fringe areas require special treatment to acknowledge the rights of neighbours without infringing on the rights of landowners except to the benefit of the greater public interest. Fringe areas represent significant public interest in both municipalities.

**In the Land Use Bylaw**

Most of the land in the intermunicipal fringe is designated “Agricultural” (“AG”) or “Agricultural - Nature Conservation” (“A-NC”) in the LUB. The Board finds that certain use provisions of these land use districts have significant potential for detriment within the intermunicipal fringe of the appellant municipalities. Outside the intermunicipal fringe, these provisions will have little or no detrimental effect on the appellants. The remaining provisions that have been appealed are not, in the view of the Board, detrimental, either within or outside the intermunicipal fringe for the same reasons as given *supra*.

The provisions of the AG and A-NC Districts that the Board has found to be potentially detrimental in the intermunicipal fringe are as follows: intensive agriculture, intensive livestock operations, kennels, major home based business, agriculture industrial use, and airstrip. The Board notes that the only future land use categories shown on the Future Land Use Map of the County’s MDP that are not reflected as Land Use Districts in the LUB are the Primary and Secondary Urban Fringe Categories. Consequently, the Board is directing amendments that will reduce the potential for detriment by expunging certain uses such as intensive livestock operation from the list of permitted uses and moving some permitted uses into the discretionary category. These amendments will affect the AG and A-NC Districts. These are relatively minor changes, but an incidental effect of the amendments will be the creation of two new land use districts. As mentioned, these changes to the AG and A-NC District will result in a redesignation directed only to lands within the intermunicipal fringe. Where a parcel of land designated AG or A-NC is only partially within the intermunicipal fringe as defined by this Order, the redesignation will apply to the total area of land within the titled parcel.

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## **Remedies**

### General Remarks

Where the Board finds detriment, it must direct amendments to the County's planning bylaws pursuant to s.690(5) of the *Act*. The Board is satisfied that the following amendments will remedy the detriment the Board has found without infringing on the rights of individual landowners except as necessary in the overall greater public interest. The Board is of the view that individual rights will be enhanced by these amendments because certain of the amendments encourage and require further public input into planning matters in the fringe.

The amendments will create an intermunicipal fringe district only around those municipalities that were parties to the appeal. They do not apply to create fringe districts around municipalities that were not appellants, such as Fort Saskatchewan, Bon Accord, and Legal. Similarly, the amendments the Board has directed to the policies of the MDP will apply only within the intermunicipal fringe areas around the appellant municipalities. It is hoped that the County will consider applying the fringe policies directed by the Board to the municipalities that did not appeal. These additions would be negotiated outside this appeal process and would be the subject to the public hearing process outlined in s.692 of the *Act*.

The amendments related to the Sturgeon Valley Study Area and South Sturgeon Study Area deal with detriment found by the Board. Primarily, this detriment arises from provisions that do not provide adequate processes for consultation with neighbouring municipalities. The Board notes that the corporate landowners supported the preparation of an Area Structure Plan for the Sturgeon Valley Study Area. The ordered amendments will enhance opportunities for input from landowners.

The Board also notes that for the consultative process to be effective, comments on referrals of subdivision proposals, development permits, and statutory plan amendments must be returned in a timely fashion. Failure to do so would impose an undue burden on the County's planning process. Further, the ordered amendments provide for referral to and comments by the appellant municipalities, but do not grant a "veto power" to them. S.690 does not, in the Board's view, confer authority on the Board to direct amendments of a kind that would delegate a municipality's decision-making power to adjacent municipalities.

In ordering amendments to the LUB with respect to certain uses such as intensive livestock operations, the Board is not ordering the prohibition of these uses in the intermunicipal fringe. Instead, the Board's intention is to ensure that the approval of new intensive agricultural operations or expansion of existing intensive livestock operations in the intermunicipal fringe require an amendment to the County's LUB, which will be referable to adjacent municipalities for comment, as well as appealable to this Board.

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The provincial Land Use Policies place considerable emphasis on intermunicipal cooperation and coordination. The Board was convinced by the argument of the appellants that the bylaws did not provide sufficient opportunities for consultation with adjacent municipalities and this lack may result in development that causes detriment to the County's neighbours. The following amendments ordered by the Board address these deficiencies within the intermunicipal fringe and in part, within the Sturgeon Valley Study Area and the South Sturgeon Study Area. Again, the Board wishes to stress that consultation means a full, fair and formal opportunity for input, but does not mean a "veto".

The Board heard arguments of detriment in the intermunicipal fringe from Morinville, St. Albert and Edmonton and found common themes related to the kinds of detriment complained of. The Board acknowledges that the ideal boundaries of the intermunicipal fringe and its associated provisions might differ from what has been ordered due to variables such as population size, growth rates, land use and growth patterns, geography, geological or topographic features, transportation routes and patterns, servicing capacities and extensions, and many other community features. The Board, however, is a quasi-judicial appeal tribunal and not a regional planning authority. Therefore, the ordered amendments are more generic in nature, based on the argument and evidence submitted at the hearings to demonstrate detriment. The Board is convinced that the appellant municipalities and the respondent municipality, with input from affected landowners, can develop more precise and detailed intermunicipal fringe plans with provisions that comprehensively meet the future needs of the parties. The objective of the ordered amendments is to prevent detriment as the Board has found it, not to enhance the County's planning bylaws.

**IT IS ORDERED THAT the Sturgeon County MDP be amended as follows:**

In Part 3, Multi-lot Residential Subdivisions, by adding the following after Policy 3.4:

3.5 For the purpose of developing an Area Structure Plan, the Sturgeon Valley Study Area shall be the area shown as such on the Future Land Use Map, and more particularly described as that area bounded on the west by the road allowance one mile east of Highway 2; on the north by Highway 37; on the east by Highway 28, and by the shared boundary with Edmonton and St. Albert on the south.

3.6 In addition to the provisions of Policies 3.1 and 3.3, the following provisions apply to the Sturgeon Valley Study Area:

- (i) within six months of the date of this Order of the Municipal Government Board, development of an area structure plan for the whole of the Sturgeon Valley Study Area shall be commenced, and shall be completed and ready for adoption within 18 months of the commencement date;

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- (ii) preparation of the area structure plan shall be guided by a steering committee composed of representatives from Sturgeon County, the City of Edmonton, the City of St. Albert, Alberta Transportation and Utilities, and any other persons who may be reasonably regarded as having an interest in the Sturgeon Valley Study Area;

3.7 The area structure plan shall address questions of supply and demand, and provide for the following matters:

- (i) the amount, location, phasing and density of future country residential subdivisions
- (ii) utility servicing
- (iii) demands for educational, recreational and social services;
- (iv) transportation issues and impacts;
- (v) impacts on nearby urban centres;
- (vi) other land uses such as trails, open space, agriculture; and
- (vii) procedural matters for dealing with the plan process and plan implementation matters, such as referrals, plan amendment and repeal.

In Part 7, Industrial, by adding the following after Policy 7.6:

7.6.1 In addition to the provisions of 7.5, an Area Structure Plan shall be adopted for all of the South Sturgeon Study Area which will

- (i) be guided by a steering committee with representatives from Sturgeon County, City of Edmonton, Alberta Transportation and Utilities, residents/landowners in the study area and other key stakeholders;
- (ii) consider the integration of future land uses and infrastructure in North East Edmonton;
- (iii) through the approval of a detailed terms of reference, address such matters as:
  - (a) the type, amount, location, phasing and density of future land uses;
  - (b) utility servicing;
  - (c) demands, if any, for educational, recreational and social services;
  - (d) transportation issues and impacts;
  - (e) impacts on nearby urban centres;
  - (f) other land uses such as trails, open space, agriculture;
  - (g) procedural matters for dealing with the plan process; and
  - (h) plan implementation matters, such as referrals, plan amendment and repeal.

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## 15 Fringe Areas

### Morinville, St. Albert and Edmonton Intermunicipal Fringe

15.6 Notwithstanding Section 15.1 and notwithstanding any other provision of the MDP, the following provisions apply to the intermunicipal fringe for Morinville, St. Albert and Edmonton.

1. The intermunicipal fringe for St. Albert, Edmonton and Morinville shall be the combined area of the primary and secondary fringe as illustrated on the Future Land Use Map near St. Albert, the area north of Big Lake and east of the Riviere Qui Barre.
2. The purpose of the intermunicipal fringe is to ensure that orderly planning and development occurs. The purpose is not to prohibit development but to ensure that intensive development has growth options, locational acceptance, and that development in the fringe can be absorbed into a more intensive development pattern in a cost effective manner.
3. The LUB shall provide for the following:
  - (a) an Intermunicipal Fringe District (IMF) for Morinville, St. Albert and Edmonton based on the boundary of the fringe. The district may be in the form a single district for all three municipalities or separate districts;
  - (b) subdivision standards in the IMF District based on the guidance outlined in Section 2.3 to 2.7 inclusive within this plan;
  - (c) uses which may generate heavy traffic, odour, excessive noise, air or water pollution or nuisances shall be considered only as discretionary uses;
  - (d) a referral system to the respective urban municipality for subdivision applications, development permits for discretionary uses, and LUB amendments in the urban fringe;
  - (e) a referral system in the St. Albert and Edmonton fringe overlap that shall result in referrals being sent to both adjacent municipalities.
4. An area structure plan shall be required for any subdivision or development which exceeds the subdivision density standard in the IMF District.
5. Any statutory plan preparation, adoption or amendment or LUB adoption or amendment within the fringe shall require participation and referral, with the intent of giving meaningful comment by the urban municipality adjacent to that fringe. Responses to referrals shall be completed in a timely fashion.

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6. The above system of referrals may be eliminated after the adoption of an Inter-MDP or a system of area structure plans, the preparation of which provided the respective municipalities with an opportunity for input and participation.
7. Within one year of the adoption of the amendments in this order, Sturgeon County, with the participation of the respective municipalities, shall develop a mechanism to resolve disputes. Any resolution developed through this mechanism regarding a policy matter that affects the MDP or LUB shall subsequently be subject to the public hearing process required by Section 692 of the *Municipal Government Act*.
8. Sturgeon County expects that St. Albert, Morinville and Edmonton will reciprocate with similar provisions for cooperation and coordination in their planning bylaws.
9. The other provisions of this plan are subject to this provision where the subject land is within the intermunicipal fringe as described on the Future Land Use map.

**IT IS ORDERED THAT the Sturgeon County LUB be amended as follows:**

Sturgeon County is directed to amend LUB 819/96 by adding two new districts known as the Intermunicipal Fringe District (A) (*IMF-A*) and Intermunicipal Fringe District B (*IMF-B*). These new districts apply to all land designated Agricultural District (becomes IMF-A) and Agricultural - Nature Conservation District (becomes IMF-B) in Bylaw 819/96 which are located within the defined fringe of Edmonton, St. Albert and Morinville, and the intermunicipal fringe portions of the Sturgeon Valley Study Area and the South Sturgeon Study Area, all as shown on the Future Land Use Map in the MDP. The new districts do not apply to other lands in the intermunicipal fringe areas of Morinville, Edmonton and St. Albert which have been designated for other uses by Bylaw 819/96.

1. The Intermunicipal Fringe District -A (IMF-A) shall contain all the provisions of the Agricultural District in Bylaw 819/96 with the following additions or deletions:

Delete from the Permitted Uses Section:

- (i) Intensive agriculture with farmstead
- (ii) Intensive livestock operation with farmstead on a lot located a minimum of 1.0 miles from the boundary of an urban centre or Hamlet.
- (iii) Kennels, Boarding and breeding use on a pre-existing lot located more than 1000 feet from a dwelling on an adjacent lot.
- (iv) Major home based business on a pre-existing lot.

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Delete from the Discretionary Use Section:

- (i) Agricultural industrial use
- (ii) Airstrip
- (iii) Intensive livestock operation with farmstead on a lot located between 0.5 miles and 1.0 miles from the boundary of an urban centre or hamlet
- (iv) Kennels, Boarding and breeding use on a pre-existing lot located less than 1000 feet from a dwelling on an adjacent lot

Add to discretionary uses:

- (i) Kennels, Board and breeding use on a pre-existing lot located more or less than 1000 feet from a dwelling on an adjacent lot or the boundary of an urban municipality
- (ii) Major home based business on a pre-existing lot.

Add the following provision:

- (i) All applications for a development permit for a permitted or discretionary use shall be referred to Edmonton, St. Albert or Morinville, as appropriate, for review and comment prior to a decision by the County.
- (ii) All applications for redesignation and subdivision shall be referred to Edmonton, St. Albert or Morinville, as appropriate, for review and comment prior to a decision by the County
- (iii) Alterations to the boundary of the Hamlet of Namao shall be referred to Edmonton for review and comment prior to a decision by the County
- (iv) The processes to initiate the preparation of Area Structure Plans for Sturgeon Valley Study Area and the South Sturgeon Study Area shall be referred to Edmonton and St. Albert for review and comment in accordance with the provisions of the MDP and prior to any public hearing being held to consider the adoption of an Area Structure Plan.

2. The Intermunicipal Fringe District-B (IMF-B) shall contain all the provisions of the Agricultural - Nature Conservation district in Bylaw 819-96 with the following additions or deletions:

Delete from the Permitted Uses Section

- (i) Intensive livestock operation with farmstead on a lot located a minimum of 1.0 miles from the boundary of an urban centre or hamlet.
- (ii) Kennels, Boarding, breeding use on a pre-existing lot located more than 1000 feet from a dwelling on an adjacent lot.

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(iii) Major home business on a pre-existing lot.

Delete from the Discretionary Uses Section

- (i) Intensive livestock operation with farmstead on a lot located between 0.5 miles and 1.0 mile from the boundary of an urban centre or hamlet.
- (ii) Kennels, Boarding, breeding use on a pre-existing lot located less than 1000 feet from a dwelling on an adjacent lot

Add to Discretionary Uses

- (i) Kennels, Boarding and breeding use on a pre-existing lot located more or less than 1000 feet from a dwelling on an adjacent lot or the boundary of an urban municipality.
- (ii) Major home based business on a pre-existing lot.

Add the following provision:

- (i) All applications for a development permit for a permitted or discretionary use shall be referred to Edmonton, St. Albert or Morinville, as appropriate, for review and comment prior to a decision by the County.
- (ii) All applications for redesignation and subdivision shall be referred to Edmonton, St. Albert or Morinville, as appropriate, for review and comment prior to a decision by the County.
- (iii) The processes to initiate the preparation of area structure plans for Sturgeon Valley Study Area and the South Sturgeon Study Area shall be referred to Edmonton and St. Albert for review and comment in accordance with the provisions of the MDP and prior to any public hearing being held to consider the adoption of an area structure plan.

#### Observations

The following are observations of the Board which are not binding on the parties, but which the parties may wish to give consideration to in future endeavors. In the Board's opinion, the best planning solutions are developed with the full cooperation of the parties involved, in an environment of mutual respect for each other's autonomy, and within the context of inter-municipal cooperation and land use coordination. The Board expects that many of the amendments made in this order will be considered by the appellant municipalities as they prepare their MDPs and LUBs. The intermunicipal fringe works in both directions. Municipalities must also realize that planning decisions must be accomplished within the context of individual rights as referred to in Section 617 of the *Act*.



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Although the MDP and the LUB of the appealing municipalities were not before the Board, it is not unreasonable to expect that many of the mechanisms to resolve detriment discussed with respect to the subject bylaws should be considered in a reciprocal effort because the inter-municipal fringe works both ways. Within the context of the new provincial Land Use Policies, municipal boundaries should not be seen as a “Chinese wall” separating one municipal authority from another. Globalization is removing boundaries internationally and urbanization of Alberta generally is making municipal boundaries, especially in metropolitan settings, less important. Intermunicipal cooperation and coordination are the new watchwords.

Throughout the hearing, the Board was told about problems with vagueness and lack of detail in the plans and policies for the fringe. The Board appreciates that land use planning outside the fringe in the vast rural area can only reasonably be done with broad policy statements. However, the advantages of increasing detail in the fringe of large municipalities, or municipalities experiencing rapid growth, or in a fringe area with distinctive and unique features or land uses should not be discounted to quickly for the sake of flexibility. The fringe, an area going through transition from low intensity uses to higher intensity uses over perhaps a number of generations, requires that land owners and neighbouring municipalities have the right to a greater degree of clarity and detail respecting future land uses and policies.

Dated at the City of Edmonton, in the Province of Alberta, this 2nd day of April, 1998.

**MUNICIPAL GOVERNMENT BOARD**

T. Helgeson, Presiding Officer

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SECTION IV

APPENDIX "A"

PERSONS IN ATTENDANCE, MAKING SUBMISSIONS OR GIVING EVIDENCE  
(List of landowners and observers may not be complete)

| <u>NAME</u>   | <u>CAPACITY</u>   |
|---|---|
| Sheila McNaughton,<br><i>Reynolds Mirth Richards &amp; Farmer</i>   | Solicitor representing Sturgeon County  |
| Gilbert Boddez  | Witness, Sturgeon County  |
| Ken Gwozdz  | Witness, Sturgeon County  |
| Leo Burgess, Barry Sjolie<br><i>Brownlee Fryett</i>                 | Solicitors representing Morinville  |
| Randy Leal  | Witness, Morinville   |
| William Shores, David Jarome<br><i>Shores Belzil</i>                | Solicitors representing the City of St. Albert  |
| Jeff Greene   | Witness, City of St. Albert   |
| Dwayne Kalynchuk  | Witness, City of St. Albert   |
| Darryl Howery   | Witness, City of St. Albert   |
| Charlotte St. Dennis,<br>Marlene Exner,<br>Gwendolyn Stewart-Palmer | Solicitor, City of Edmonton<br>Witness, City of Edmonton<br>Witness, City of Edmonton |
| Lorne Mc Master<br>L. Stephenson                                    | Witness, City of Edmonton<br>Witness, City of Edmonton                                |
| Richard Haldane<br><i>Parlee McLaws</i>                             | Solicitor representing County Landowner Dale<br>Maynard Industries                    |
| Ronald Swist  | Landowner   |
| Christine Harrold   | Landowner   |
| James Sillito   | Landowner   |
| Ken Fisher  | Morinville Mirror   |
| Terry Bokenfohr   | Landowner   |
| H. Shuttleworth   | Landowner   |
| David Klippenstein  | UMA Engineering Ltd.  |

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|                   |                          |
|-------------------|--------------------------|
| Sheila McDonald   | Landowner                |
| Shannon Wyatt     | Student, Brownlee Fryett |
| Don Savich        | Landowner                |
| Bob McCulloch     | Dale Maynard Industries  |
| Walter Mis        | Landowner                |
| Peter Mis         | Landowner                |
| Dorothy Chartrand | Landowner                |
| Richard Priest    | UMA Engineering Ltd.     |
| Ernest Parc       | Landowner                |
| Drina Culo        | Observer                 |
| Edward Sinclair   | Landowner                |
| Hal Morris        | Observer                 |
| Ann Parc          | Landowner                |
| Graeme MacKay     | Landowner                |

#### **APPENDIX "B"**

#### DOCUMENTS RECEIVED DURING THE HEARINGS

1. Sturgeon County Legal Submission
2. Sturgeon County Response Brief
3. City of Edmonton Legal Submission
4. City of Edmonton Response Brief
5. City of St. Albert Legal Submission
6. Letter from RL Planning Associates to Brownlee Fryett respecting submissions to be made on behalf of the Town of Morinville along with the curriculum vitae of Randy Leal.
7. Response brief on behalf of Dale-Maynard Industries Inc. (County landowner)
8. Letter from Terry Bokenfohr (County Landowner)
9. Letter dated Sept. 2, 1997 from Edward Sinclair (County Landowner)
10. Letter dated September 4, 1997, from Karl, Edwin, Walter and Gary Tappauf (County Landowners)
11. Certified copy of resolution made by Morinville Town Council on August 26, 1997.
12. City of St. Albert errata sheet
13. City of St. Albert map - 1979 Annexation
14. City of St. Albert Land Use Map
15. AM Peak Traffic Counts
16. PM Peak Traffic Counts
17. Future Land Use Map
18. Water Supply and Reservoir
19. Hydraulic Capacity Rating Wet Weather Flow
20. City of St. Albert Council Motion - August 11, 1997

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21. Chart comparing existing land use and proposed land uses, (LUB)
22. Chart proposing new policies for the MDP, along with comments
23. July 21, 1997 letter from Sturgeon to Edmonton
24. July 30, 1997 letter from Edmonton to Sturgeon
25. Comparison Chart between land uses
26. "Will Say" statement of Ken Gwozdz (Sturgeon Development Officer)
27. Statement of R. W. McCulloch dated September 11, 1997
28. Section 250, Edmonton LUB RR - Rural Residential District
29. Letter from D.M. Savich to the MGB and dated September 11, 1997.
30. Bokenfohr Brief
31. Sturgeon County Council Resolution of August 12, 1997
32. Lac Ste. Anne County letter to Sturgeon dated April 9, 1996
33. Sturgeon Annual Report for Open House held April 10, 1997
34. Excerpts from the Alberta Subdivision and Development Regulation
35. Letter dated Sept. 30, 1996 from Sturgeon to St. Albert regarding fringe planning.
36. Alberta Court of Appeal Decision - Lloydminster v. Alberta Planning Board
37. Alberta Planning Board Order 419-M-91/92 - City of Red Deer vs. County of Red Deer
38. Excerpt from the 1963 Alberta Planning Act - Sec. 93
39. Supreme Court of Canada Decision - 1984 - Hartel Holdings vs. City of Calgary
40. Excerpt from the Alberta Interpretation Act
41. Letter dated October 14, 1997 along with summary brief and reply submissions from St. Albert to the Municipal Government Board
42. Summary argument of James Sillito sent to the Municipal Government Board on September 30, 1997.
43. Summary position of Walter K. Mis to the Municipal Government Board received on September 30, 1997.
44. Summary position of the Town of Morinville to the Municipal Government Board
45. Summary argument of the City of Edmonton to the Municipal Government Board received on September 30, 1997.
46. Letter dated September 25, 1997 from Reeve Frank Shoenberger to the Municipal Government Board.
47. Final position and argument submitted by Sturgeon County to the Municipal Government Board on September 30, 1998
48. Letter dated November 7, 1997 from the solicitor for Sturgeon County to the Municipal Government Board.
49. Response of Dale-Maynard Industries Inc. and 702602 Alberta Ltd., submitted to the Municipal Government Board on October 14, 1997.

**APPENDIX "C" LEGISLATION REFERENCES**

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**Municipal Government Act**

Powers, duties and functions

5 A municipality

- (a) has the powers given to it by this and other enactments,
- (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
- (c) has the functions that are described in this and other enactments.

617 The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,

without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

1995 c24 s95

Division 2

Land Use Policies

Land use policies

622(1) The Lieutenant Governor in Council may by order, on the recommendation of the Minister, establish land use policies.

(2) The Regulations Act does not apply to an order under subsection (1).

(3) Every statutory plan, land use bylaw and action undertaken pursuant to this Part by a municipality, municipal planning commission, subdivision authority, development authority or subdivision and development appeal board or the Municipal Government Board must be consistent with the land use policies.

1995 c24 s95

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Division 3  
Planning Authorities

Subdivision authority

623(1) A council must by bylaw provide for a subdivision authority to exercise subdivision powers and duties on behalf of the municipality.

(2) A subdivision authority may include one or more of the following:

- (a) any or all members of council;
- (b) a designated officer;
- (c) a municipal planning commission;
- (d) any other person or organization.

1995 c24 s95

Division 4  
Statutory Plans

Intermunicipal Development Plans

631(1) Two or more councils may, by each passing a bylaw in accordance with this Part or in accordance with sections 12 and 692, adopt an intermunicipal development plan to include those areas of land lying within the boundaries of the municipalities as they consider necessary.

(2) An intermunicipal development plan

- (a) may provide for
  - (i) the future land use within the area,
  - (ii) the manner of and the proposals for future development in the area, and
  - (iii) any other matter relating to the physical, social or economic development of the area that the councils consider necessary,

and

- (b) must include
  - (i) a procedure to be used to resolve or attempt to resolve any conflict between the municipalities that have adopted the plan,
  - (ii) a procedure to be used, by one or more municipalities, to amend or repeal the plan, and
  - (iii) provisions relating to the administration of the plan.

1995 c24 s95

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**Municipal Development Plans**

632(1) A council of a municipality with a population of 3500 or more must, by bylaw, adopt a municipal development plan.

(2) A council of a municipality with a population of less than 3500 may adopt a municipal development plan.

(3) A Municipal Development Plan

(a) must address

- (i) the future land use within the municipality,
- (ii) the manner of and the proposals for future development in the municipality,
- (iii) the co-ordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is no intermunicipal development plan with respect to those matters in those municipalities,
- (iv) the provision of the required transportation systems either generally or specifically within the municipality and in relation to adjacent municipalities, and
- (v) the provision of municipal services and facilities either generally or specifically,

(b) may address

- (i) proposals for the financing and programming of municipal infrastructure,
- (ii) the co-ordination of municipal programs relating to the physical, social and economic development of the municipality,
- (iii) environmental matters within the municipality,
- (iv) the financial resources of the municipality,
- (v) the economic development of the municipality, and
- (vi) any other matter relating to the physical, social or economic development of the municipality,

(c) may contain statements regarding the municipalities development constraints, including the results of any development studies and impact analysis, and goals, objectives, targets, planning policies and corporate strategies,

(d) must contain policies compatible with the subdivision and development regulations to provide guidance on the type and location of land uses adjacent to sour gas facilities, and

(e) must contain policies respecting the provision of municipal, school or municipal and school reserves, including but not limited to the need for, amount of and allocation of those reserves and the identification of school requirements in consultation with affected school authorities.

1995 c24 s95; 1996 c30 s56

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Division 11  
Intermunicipal Disputes

690(1) If a municipality is of the opinion that a statutory plan or amendment or a land use bylaw or amendment adopted by an adjacent municipality has or may have a detrimental effect on it and if it has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, it may appeal the matter to the Municipal Government Board by

- (a) filing a notice of appeal with the Board, and
- (b) giving a copy of the notice of appeal to the adjacent municipality

within 30 days of the passing of the bylaw to adopt or amend a statutory plan or land use bylaw.

(2) When appealing a matter to the Municipal Government Board, the municipality must state the reasons in the notice of appeal why a provision of the statutory plan or amendment or land use bylaw or amendment has a detrimental effect and the efforts it has made to resolve matters with the municipality that adopted it.

(3) A municipality, on receipt of a notice of appeal under subsection (1)( b), must, within 30 days, submit to the Municipal Government Board and the municipality that filed the notice of appeal a statement setting out the actions it has taken and the efforts it has made to resolve matters with that municipality.

(4) When the Municipal Government Board receives a notice of appeal under this section, the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal is deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date the Board receives the notice of appeal until the date it makes a decision under subsection (5).

(5) If the Municipal Government Board receives a notice of appeal under this section, it must decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may

- (a) dismiss the appeal if it decides that the provision is not detrimental, or
- (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.



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(6) A provision with respect to which the Municipal Government Board has made a decision under subsection (5) is,

- (a) if the Board has decided that the provision is to be amended, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date of the decision until the date on which the plan or bylaw is amended in accordance with the decision, and
- (b) if the Board has decided that the provision is to be repealed, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from and after the date of the decision.

(7) Section 692 does not apply when a statutory plan or a land use bylaw is amended or repealed according to a decision of the Board under this section.

(8) The Municipal Government Boards decision under this section is binding, subject to the rights of either municipality to appeal under section 688.

1995 c24 s95

### **Subdivision and Development Regulation**

#### **Restrictions**

11(1) On or before March 31, 1998, a subdivision authority must not approve an application for subdivision for country residential use unless the land that is the subject of an application

- (a) is 8 kilometres or more from the boundaries of a city or town having a population of 5000 or more persons,
- (b) is 3.2 kilometres or more from the boundaries of a city, town or village having a population of 1000 or more but less than 5000 persons, and
- (c) is 1.6 kilometres or more from the boundaries of a town, village or summer village having a population of less than 1000 persons.

(2) If an urban fringe boundary was established and existed on August 31, 1995 under a regional plan adopted pursuant to the Planning Act RSA 1980 cP-9, that boundary applies in place of the distances established under subsection (1).

(3) Notwithstanding subsection (1) or (2), a subdivision authority may approve an application for subdivision for country residential use if

- (a) the affected city, town, village or summer village gives its consent in writing to the application,
- (b) the use is permitted under the applicable intermunicipal development plan, or

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- (c) the use is permitted under an agreement entered into between the affected city, town, village or summer village and the municipality in which the land that is the subject of an application is located.

(4) This section does not apply

- (a) to a subdivision adjusting the boundary of an existing parcel,
- (b) to the subdivision of a fragmented parcel from a titled area, or
- (c) to the subdivision of the first parcel from a previously unsubdivided quarter section

if it is permitted in the applicable land use bylaw.

(5) In this section, country residential use means the use of land in a rural municipality for residential purposes, other than in a hamlet established under section 59 of the Act.

AR 212/95 s11;122/97