

MGB FILE NO.	17/IMD-003
IN THE MATTER OF	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-7700-2017, OMNI AREA STRUCTURE PLAN
INITIATING MUNICIPALITY	CITY OF CALGARY
RESPONDENT MUNICIPALITY	ROCKY VIEW COUNTY
DOCUMENT	LEGAL SUMMATION OF THE CITY OF CALGARY
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I. INTRODUCTION

1. This legal summation is filed on behalf of the City of Calgary (“**City**”) as directed by the Municipal Government Board (“**Board**”) during the hearing with respect to the Rocky View County (“**County**”) OMNI Area Structure Plan (“**Omni ASP**”) on July 30 to August 3, 2018. This legal summation is submitted in addition to the original Legal and Evidence Submission (**Exhibit 12A and 13A**) and Legal and evidence rebuttal (**Exhibit 20A and 22A**) filed on behalf of the City prior to the commencement of the hearing.

2. As previously stated in the City’s original Legal Submission, the primary duty of the Board in this section 690 appeal is to determine whether the Omni ASP has or will have a detrimental effect on the City. If it does, the Board has the jurisdiction to direct amendments that will prevent that detriment, or to repeal the detrimental provisions entirely.

3. Both the City and the County are in agreement that the Board should consider detriment as it has been defined in *The City of Edmonton, the City of St. Albert, and The Town of Morinville v. County of Sturgeon*, MGB 77/98 (“*Sturgeon*”):

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.” 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.

Sturgeon at 44 [**Tab 2 of the City’s original authorities, Exhibit 12A**]

4. The *Sturgeon* decision also requires that the detriment is reasonably likely to occur and will have a significant impact on the City:

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.

Sturgeon at 48 [**Tab 2 of the City's original authorities, Exhibit 12A**]

5. The City submits that the scale and scope of the Omni ASP could not have been anticipated by the City and the negative impacts on City traffic, City-funded capital costs, and traffic safety are detrimental to the City. In support of this position, the City has provided compelling evidence of probable detriment caused by the Omni ASP, and that such detriment is of a magnitude that warrants Board intervention.

6. It is also worth noting from the outset that the portion of the Omni ASP lands that the developer, Genesis Land Development Corp ("**Genesis**"), intends to develop as soon as possible is only 66 feet away from the City of Calgary (as stated by Mr. Stefaniuk on August 3, 2018 in response to questions from the Board). The testimony of the County and Genesis witnesses throughout the hearing have intensified the City's concerns regarding the detriment to the City stemming from the Omni ASP.

II. HISTORY OF APPEALS INVOLVING THE COUNTY

7. The current appeal is the third appeal filed recently by the City against the County pursuant to section 690. However, the City is not alone in its concerns regarding the manner in which the County has proceeded with development that negatively impacts neighboring municipalities.

8. On January 6, 2016, both the City and the City of Chestermere appealed the County's Conrich Area Structure Plan Bylaw. Ultimately the City and the County reached a settlement agreement that led to a number of amendments to the Area Structure Plan that were ordered by the Board (MGB 020/17).

9. On August 23, 2017, both the City and the Town of Cochrane appealed the County's Glenbow Ranch Area Structure Plan and amendments to the Rocky View County Municipal Development Plan. The Town of Cochrane's appeal was dismissed for not being filed in time, and the City and the County were again able to reach a settlement agreement that led to a number of amendments to the Area Structure Plan (MGB 024/18).

10. It should be noted that in both MGB 020/17 and MGB 024/18, the Board accepted the terms of the settlement on the basis that the County's ASP caused detriment to the City. For example, regarding the Glenbow Ranch ASP, the Board stated at paragraph 24 of MGB 024/18:

Based on the joint submission, the MGB accepts the parties' position that the Glenbow Ranch ASP as initially drafted results in detrimental impacts to Calgary in four general categories – 1) transportation; 2) recreational, community, social, and culture facilities; 3) inconsistency with the Rocky View County Plan; and 4) water supply. The MGB finds that the Agreement illustrates awareness that the actions of one municipality can have detrimental effect on a neighbouring municipality. [emphasis added]

11. Likewise, regarding the Conrich ASP, the Board stated at paragraph 24 of MGB 020/17:

In this case, the parties have reached an agreement following mediation, which is required both under section 690 and by the 2011 IDP – a process adopted by both municipal councils. Based on this agreement, the MGB accepts the policies in the Conrich ASP are inconsistent with policies in the 2011 IDP; further, this inconsistency represents detriment to Calgary. The agreed-to additions and changes will eliminate this inconsistency. [emphasis added]

12. The present appeal, which was filed by the City on October 23, 2017, was initiated as a result of the City's significant concerns about the intensity of development the County continues to approve in close proximity to the City (unlike the Conrich and Glenbow Ranch ASPs, the City is the only municipality that is adjacent to the Omni ASP). The City's council has no interest in being forced to pay for growth in the County.

III. THE TRUE NATURE OF THE OMNI ASP

13. It is the City's submission that the Omni ASP represents a medium to high intensity, urban development that is unusual – and in many ways unprecedented – for the County. The plan provides for significant destination commercial uses including large format retail uses (which the plan expressly acknowledges are sometimes referred to as regional shopping centres or power centres), shopping centres, outlet malls, entertainment, personal services, office parks, and institutional uses within a centralized location that is directly adjacent to the City's eastern border. Mr. Stefaniuk on behalf of the developer that funded the ASP expressly stated in his will say statement and at the hearing that they are currently planning on 850,000 square feet of retail space, 250 hotel rooms, and 4,000 parking stalls [**Transcript, Aug 3, Page 997, lines 15- 22¹, see also Stefaniuk will-say statement, Tab 3 of Exhibit 19L, at para 25**].

¹ The City believes there was an error in the transcript in that the transcript refers to 50,000 square feet of retail space while the City's representatives heard 850,000 square feet. In any event the intended square footage of 850,000 is reflected in Mr. Stefaniuk's will-say statement.

A) Omni is an Urban ASP

14. During the hearing, several witnesses gave evidence about the nature of the Omni ASP and whether it was rural or urban in nature. While the county's planning expert, Ms. Zaluski, equivocated on whether she considered Omni to be a "rural ASP" or an "urban ASP", the evidence of Mr. Wiljamaa was clear. With reference to the Sedulous Report and the County's draft offsite levy bylaw, the County's municipal engineering expert confirmed that the Omni ASP is an urban ASP from the county's perspective [**Transcript, Aug 2, Page 772, lines 4 to 20**].

15. It should also be noted that the distinction between a rural ASP and an urban ASP is not simply a trivial exercise, or one of little consequence. According to section 6 of the Sedulous Report, the County anticipates charging 3x higher offsite levies for the increased costs of development associated with urban ASPs like Omni. The City submits this supports the notion that there are significantly higher impacts and resulting costs associated with commercial urban development versus more typical and lower density rural development.

16. The City also notes that the types of infrastructure being referenced within the Omni ASP – in terms of roads, transit, and other services – are very much urban in nature. And while the County may have significant experience dealing with rural development within its jurisdiction, the same cannot be said for urban, high density commercial developments like Omni.

B) Omni is the Product of Improper Planning by the County

17. The County's evidence regarding the Omni ASP from a planning perspective demonstrates that the significant impacts associated with this proposed urban commercial development could not have been anticipated by City planning, nor could the associated infrastructure costs been anticipated by City transportation. This frustrates the purpose and intent behind statutory documents such as the 2012 Rocky View / Calgary Intermunicipal Development Plan ("**IDP**"), and 2013 Rocky View County Municipal Development Plan ("**County Plan**").

(i) Omni is not a highway business area

18. The evidence of Ms. Zaluski was clear that the Omni ASP area is too large to constitute a highway business area within the County Plan. Specifically, her evidence was that a highway business area, as defined at Policy 14.10 the County Plan, which she was directly involved in preparing, contemplates at most 4 quarter sections [**Transcript, Aug 1, page 604, line 3**].

19. Policy 14.10 of the County Plan states that the highway business areas identified on Map 1 have "limited development area close to one or all of the quadrants of the intersection or interchange". This suggests that the development area could be limited to only one quadrant of the intersection, and therefore could be situated on a quarter section parcel of land or less.

20. In comparison, the lands within the Omni ASP comprise of a full eight quarter sections, which Ms. Zaluski confirmed was too large to constitute a single highway business area. Instead,

her evidence was that the County purported to combine two nearby highway business areas, as identified on Map 1 of the County Plan, into a single highway business area. The City submits that this policy interpretation is highly unusual from a planning perspective. It was never contemplated by the City that the County would in effect “combine” two highway business areas to create a significant regional commercial area as planned for in the Omni ASP. The City could never have realistically foreseen, at the time that the County Plan was adopted in 2013, the scale and level of impact created by the Omni ASP for regional scaled commercial, office and entertainment development.

(ii) Combining business areas concentrates impacts

21. Further, the City’s planning expert, Mr. Palmiere, confirmed that combining two areas of commercial development into one single area – as proposed by the Omni ASP – effectively concentrates the traffic impacts and intensity of land use into one focal area. Where the proposed development includes medium to high density commercial use – then the concentration of such impacts and off-site impacts becomes an increasingly significant issue.

22. The result is that the Omni does not – and cannot – represent a highway business area as outlined in the County Plan. While the mere existence of inconsistency between the Omni ASP and the County Plan is not determinative of whether there is detriment (by virtue of section 690(5.1), which states the Board must disregard section 638), the City submits that inconsistency can still be evidence of detriment that the Board can and should take into account.

(iii) Omni is the County’s attempt to do indirectly what it can’t do directly

23. Based on the contents and restrictions within the County Plan, it becomes clear that the County was faced with an issue when reviewing the Omni ASP. The commercial land use intensity envisioned in the Omni ASP was significantly greater than the direction contained within the County Plan. The intense vision for commercial development in the Omni ASP is more consistent and aligned to the scale of a “Regional Business Centre” not to a “Highway Business Area”.

24. On its face, the County’s solution to combine the two highway business areas – to indirectly create a regional business centre – represents a mutually agreeable solution for both the County and the Developer. However, as is noted at page 61 of the County Plan, “*The Plan does not contemplate developing other regional business centres until the identified [regional business] centres are approaching full buildout.*” Indeed, Ms. Zaluski confirmed on behalf of the County that other regional business centres within the County are not even close to approaching full build-out [**Transcript, Aug 1, page 556, lines 1-7**].

25. Therefore, it is the City’s position that the Omni ASP appears to be an attempt by the County to do indirectly what the County Plan does not allow it to do directly – develop another regional business centre without addressing the County Plan’s more robust requirements relating to Regional Business Centres. Specifically, direction contained on County Plan page 61 under header Regional Business Centres and County Plan policies 14.7 and 14.8.

26. The City further submits that the Omni ASP more closely aligns with the definition of a Regional Business Centre. The Omni ASP allows “regional shopping centres” [Exhibit 17R, County Planning Response, Tab A, page 26, call out box for “Large-format retail uses”] and provides an objective of “growth of regional employment opportunities” [Exhibit 17R, County Planning Response, Tab A, page 25, “Objectives”]. Genesis’s Omni website identifies these lands as a “Regional Commercial Centre” [Exhibit 13A, City Transportation Evidence, Tab A, Tab 2, page 6 map] which further supports the City’s interpretation of the Omni ASP as a Regional Business Centre.

27. As was discussed by Mr. Palmiere and outlined at Table 1 of his report [Exhibit 13A, City Planning Evidence, Tab C, Tab 1, page 7], Regional Business Centres:

- Are large areas of commercial and industrial development;
- Provide regional and national business services, and local and regional employment opportunities;
- Make a “significant” contribution in achieving the County’s fiscal goals.

28. It is also important to note that if the County Plan had originally contemplated a Regional Business Centre in this area the City would have opposed the planning concept during approval of the County Plan. In addition, had the City known the intensity of proposed commercial development in Omni it would have impacted how the City responded to the Conrich ASP. As recently as 2015, the lands within the Omni ASP are identified by the County as agricultural [Transcript, August 2, page 801, lines 23-25]. In addition, the City was not circulated the transportation technical studies which showed the significant transportation impacts related to the ASP until June 14, 2017 [Exhibit 2R, County statutory declaration, Tab A, page 1].

29. Mr. Palmiere also provided evidence regarding the scope and intensity of uses being proposed within the Omni ASP, and how the regional commercial scale and intensity currently envisioned by the developer, but not yet formally requested through land use and development application, will not be restricted by the Omni ASP in its current form. This is because the plan itself does not have any specific policies to prevent a regional scale of commercial, office and entertainment uses from occurring. In fact, the text and language of the plan point to providing regional scale uses and employment. Simply put, Rocky View County and Genesis have proposed a Regional Business Centre and the current wording within the Omni ASP allows for a Regional Business Centre.

30. Mr. Palmiere also provided evidence regarding the scope and intensity of uses being proposed within the Omni ASP, and how the regional commercial scale and intensity currently envisioned by the developer, but not as yet formally requested through land use and development application, would not be limited by the Omni ASP in its current form. This is because the plan itself does not have any specific policies to prevent a regional scale of uses from occurring within it and in fact, the text and language of the plan seems to point in the direction of providing regional scale uses and employment. Simply put, Genesis has proposed a regional business centre and the current wording within the Omni ASP allows for a regional business centre.

C) Omni could not have been anticipated by the City

31. The City submits that the Omni ASP is a significant diversion from the stated policy and intent of the County Plan, and undermines its ability to plan for infrastructure and servicing within its own borders. Indeed, Mr. Palmiere emphasized that it is the scope and intensity of development within Omni that creates such significant and concentrated impacts to the City's infrastructure.

32. The City would like to emphasize that none of the documents found within the County's Statutory Declaration [**Exhibit 2R**] suggest that Omni is the product of "combining" two highway business areas. Specifically, Exhibits B, C and D to the Statutory Declaration refer to Omni being a single "highway business area" as indicated in the County Plan:

- "... Further, Map 1 of the County Plan identifies the subject land as a 'Highway Business Area'." – page 1 of Exhibit B to the Statutory Declaration of Kevin Greig
- "The County Plan was adopted on October 1, 2013... Map 1 – Managing Growth from the County Plan identifies the Plan area as a highway business area, which is defined as follows..." – page 2 of Exhibit C to the Statutory Declaration of Kevin Greig
- "The draft Omni ASP provides a planning framework for the development of a highway business area..." – page 4 of Exhibit D to the Statutory Declaration of Kevin Greig

33. Based on these documents, it becomes apparent that the County's evidence at the hearing – that the Omni ASP represents the combination of two nearby highway business areas into one development – is an eleventh hour attempt to try to justify the size and scope of the Omni ASP vis-à-vis the County Plan. It goes without saying that such actions could not have been anticipated, nor are they justified.

34. The City also points to inconsistency with the IDP as further evidence that an urban-style, medium to high density commercial development like the Omni ASP could not have been foreseen or expected by the City directly across from its boundary. As indicated in Map 4 of the IDP, there is no County growth arrow – residential, commercial, or industrial – proposed in the area of the Omni ASP. The entire purpose of this map and the IDP is to allow the City and the County – as municipal neighbors – to be able to anticipate and plan for growth and development across city and county borders. The closest growth arrow in the IDP was illustrated over the Conrich ASP lands and identified as a 'residential' growth corridor.

35. The City further submits that the scope and intensity of an urban development like the Omni ASP is virtually unprecedented for the County, both in terms of planning but also addressing issues such as transportation impacts. Indeed, while the County's studies, including its "rural" traffic analysis, consider rural impacts in and around the County, the City has concerns about the extent their models and data are capable of anticipating the impacts associated with urban development. This is examined in greater detail in the transportation section below.

36. While commercial development in East Balzac, including CrossIron Mills and New Horizons Mall, may be comparable, the representative from Genesis disagreed that they were similar to what has been proposed for Omni.

37. Unfortunately, by the time the impacts of what was being proposed within the Omni ASP became apparent to the City through the technical studies in June of 2017 [**Exhibit 2R, County statutory declaration, Tab A, page 1**] attempts to persuade the County to re-consider and amend the proposed plan were largely unsuccessful. The City would suggest that the County knew that the Omni ASP would cause detriment to the City, which is why County council held back second and third reading to give administration additional time to address the City's transportation concerns [**Exhibit 2R, County Statutory Declaration, Tab D**]. The City recommended some changes to the ASP that it believed would alleviate the City's concerns, but the County unilaterally decided on different changes to the plan and proceeded to second and third reading despite knowing about the City's issues with the plan [**Transcript, August 1, page 600, line 7-18**].

D) Remedies sought by the City to alleviate detriment associated with improper planning

38. Based on the nature of the impacts of the Omni ASP on the City, the City submits that a more invasive remedy may be required, including but not limited to repeal of the ASP itself. The City acknowledges that the latter remedy would be unprecedented in Alberta under section 690. As such, the City also proposes some alternative amendments to the ASP as follows:

Policy	Revision	Rationale
New Policy 21.17 be added in PART III Implementation and Monitoring, under a new header titled "County Plan"	<p>County Plan</p> <p>The Omni ASP represents a combination of the two Highway Business Areas as shown in the County Plan.</p> <p>The County Plan (Bylaw C-7280-2013) shall be amended to reduce the number of Highway Business Area icons in the general vicinity of the Omni ASP location from two to one.</p>	Additional policy language to reflect the County's stated intention to combine the two highway business areas shown in the County Plan in the vicinity of the Omni ASP area into one highway business area. This will discourage the County from adding an additional regionally intensive business area without a County Plan amendment
Map 5: Land Use Scenario, page 24	Replace the Commercial Uses with a "Special Policy Area" designation	By creating a special policy area, an amendment to the ASP will be required to facilitate commercial uses in the special policy area. This

		policy is tied to new policies 8.1 and 8.2 below.
Section 8. Commercial Replace policy 8.1	Commercial development shall be located in the commercial areas identified on Map 5: Land Use Scenario. <i>The Special Policy Area will be applied on lands considered for future commercial use. A plan amendment will be required once transportation improvements, upgrades and funding has been addressed in accordance with Policy 8.3</i>	Tie land use to transportation to ensure impact to the City of Calgary is addressed.
Replace policy 8.2	Development within commercial areas should proceed in an orderly manner, supported by cost-effective improvements and upgrades to the County's infrastructure and transportation networks. <i>Development within commercial areas shall proceed in an orderly manner, supported by cost-efficient improvements, upgrades and funding sources for County, City, and/or provincial infrastructure and transportation networks</i>	Tie land use to transportation to ensure impact to the City of Calgary is addressed.

IV. THE TRANSPORTATION IMPACTS ASSOCIATED WITH OMNI WILL BE SIGNIFICANT

39. A large portion of the hearing was devoted to the anticipated traffic impacts that will result from the scope and intensity of commercial and industrial development within Omni. Specifically, expert witnesses for both the City and the County explored the potential magnitude and implications of these impacts. The City's conclusion when reviewing this evidence is that impacts associated with Omni will be significant from a transportation engineering perspective. Further, the City submits that this conclusion is reached regardless of whether this Board places more weight on the City's expert evidence or that of the County. Indeed, the ultimate issue before the Board is not to determine which study is "better", but instead to evaluate whether there is evidence that the City will suffer detriment. That being said, the City provides its submissions below to support its position that the City's transportation evidence should be considered to provide a more likely indication of expected impacts than the County's.

A) The CIMA+ analysis provides evidence of anticipated traffic impacts

(i) Methodology and assumptions used by CIMA+

40. While various criticisms were leveled at the CIMA+ Report, the County's transportation experts confirmed that the overall methodology utilized by CIMA+ was generally sound. Where they did take issue was (i) some of the underlying assumptions used by CIMA+, particularly as it relates to development density and build out, and (ii) distribution patterns. The City submits that these concerns can be attributed – at least in part – to the differences associated with the CIMA+ study (which was based on “urban” and regional travel patterns obtained from the City's Regional Transportation Model, versus the County's traffic model that was largely limited to rural traffic normally observed within the County).

41. For example, the County's transportation consultants cited the County's “long term experience” in support of their build out assumptions. However, it became clear during cross-examination that such experience was limited to rural development and that the only comparable development within the County's borders was East Balzac. In comparison, the CIMA+ report developed a 100% scenario based on lot and building coverages for approved rural developments in the County and further utilized a 30% scenario to test the sensitivity of the rate and sizes of anticipated development for the purposes of its analysis.

42. The City also disagrees with the County's suggestion that the County's transportation analysis is more reliable because it includes fewer land uses that are “typical for urban areas” **[Exhibit 15R, County Transportation Response, Watt Review, June 29, 2018 page 8]**. In fact, Mr. Stefaniuk, on behalf of Genesis, stated at the hearing that the Omni development is different from anything in the County and would include a comprehensive shopping, entertainment, food experience as well as components for seniors' living, an office campus, and health and wellness facilities that no other developments in the County have **[Transcript, Aug 3, Pages 991 and 999]**. Simply put, the development of the Omni ASP could represent a type of development never before experienced in the County; therefore it is insufficient to rely on the County's “long-term experience” with such development.

43. In comparison, the CIMA+ study was prepared by Ms. Fellows and incorporated her knowledge and experience having worked on the Omni ASP and similar types of urban developments within Calgary. Specifically, the CIMA+ analysis considered the proposed uses within the ASP and the scope and intensity of development that was actually being contemplated for the area. Considering this ASP process was developer-led, developer funded, and necessary to support the County's fiscal goals, the City submits that it is reasonable to use the developer's stated intentions for the lands (as indicated by their website and other materials) to inform the traffic analysis. Further, the Omni ASP contemplates a 10 year build out for the commercial development in the ASP **[Exhibit 17R, County Planning Response, Tab A, Omni ASP, page 25, Commercial, first paragraph]**.

(ii) Distribution patterns within CIMA+

44. The other criticism raised by the County's transportation consultants was related to the distribution patterns that were incorporated within the CIMA+ study. Much emphasis and explanation was provided by the County's transportation consultants, to differentiate their analysis based on "traffic shifts" that would occur when the system is already "overloaded". From the City's perspective, the fact that such intersections do become overloaded (to the point where failing movements are anticipated) is sufficient to show that transportation impacts are to be expected. Whether the resulting congestion pushes some drivers to seek alternative routes can be further analyzed, but it ultimately remains a secondary question to whether congestion (and failure) will occur in the first place.

45. Further, the assumptions used in the CIMA+ report (approximately 80% distribution to/from the City versus rural areas in the County) when compared to the County's analysis (which predicts about 60%) better reflects what would be anticipated for an urban development like the Omni ASP. Specifically, the County's analysis is too heavily weighted to rural trips. As discussed by Ms. Fellows during questioning, she referenced the "gravity model" of trip distribution, which demonstrates that larger populations near attractions will draw a greater proportion of trips as a result. In the case of the Omni ASP, this will mean a higher percentage of trips to and from Calgary versus those to other rural areas.

46. Furthermore, it is unreasonable for Watt to distribute vehicular trips to Range Road 285 for the purposes of their analysis as Mr. Stefaniuk has stated that this road will not be necessary for initial development of the Genesis lands because initially access from the west will be from 84th Street [**Transcript, Aug 3, page 1014, lines 5-16**].

(iii) Employment forecasting

47. The County has stated in its evidence and through its witnesses Ms. Zaluski and Mr. Wiljamaa that the City's traffic modeling is inaccurate because it relies on employment forecasting from the County and the County has never done employment forecasting and would not have been able to provide the City employment numbers in order to do traffic forecasting. However, Ms. Hofbauer- Spitzer, on behalf of Watt Consulting and the County stated that Watt does generate employment numbers for the County and the County's written evidence shows that employment numbers are part of the Rocky View County model. In the Omni Network Analysis report written by Watt, at section 4.1.1 it states that "the most recent information provided by RVC pertaining to the proposed residential development and employment numbers were introduced into the RVC model. Per the information provided by RVC, the employment numbers in Rocky View County were grown by an annual rate of approximately 3% per year" [**Exhibit 15R, Tab D, page 13**].

(iv) The County's analysis contains unreasonable and unjustified reductions

48. Meanwhile, the City also takes issue with some of the data and methodology used within

the County's analysis. For example, the City submits that it is unreasonable for the County to apply a 20% reduction to its forecasted traffic volumes to account for multi-modal transportation. Specifically, none of the County's witnesses gave evidence that public transportation within the Omni ASP has been committed to or that steps were being taken by the County to offer public transportation. The suggestion that significant numbers of people would walk or bike to Omni – from municipalities like Chestermere and Airdrie no less – was also unsupported.

49. Ms. Hofbauer-Spitzer further postulated that the City's East Stoney transit system could be used for Omni [**Transcript, Aug 2, Page 886, Lines 8-10**] which seriously concerns the City because as stated in the City's original transportation evidence the location of the development immediately adjacent to the City will inevitably result in complaints from the citizens of Calgary to explain why Calgary is not providing service to this commercial and employment hub. Since the County has not made a commitment to provide transit services, the bulk of this responsibility to citizens will fall on the City and will result in a detriment to the City in requiring it to provide transit services or face lower citizen satisfaction and reputational harm [**Exhibit 13A, Transportation Evidence, Tab A, Tab 1, para 16**].

50. In addition, and as is pointed out at page 54 of the CIMA+ report, the ITE Trip Generation rates that both the City and the County rely upon are observed rates for auto trips (and thus implicitly account for some trips being made by transit, cycling, and walking modes).

51. As a result, the City submits that a reduction in trip volumes by 20% -- to account for multi-model activity – is unreasonable and provides some explanation for the significant reduction in peak afternoon trips observed within the County's evidence.

52. A further explanation for the reduction may also be attributed to the underlying data and analysis used within the County's model. As was noted by the County's transportation consultants, their analysis was based on a "rural" traffic model originally developed within the County in 2007 and updated in 2015. In comparison, the CIMA+ study relied on data from the City's regional network model. Because of this difference, the County's consultant, Mr. Kroman, confirmed that the analysis between the City and the County should not be expected to be identical [**Transcript, Aug 2, Page 829, lines 15-23**]. The City does not take issue with this statement, but would suggest that the data within the City's regional transportation model should be given greater weight over the County's "rural" traffic model when considering an urban development such as the Omni ASP.

B) The results of both studies support the existence of anticipated traffic impacts

53. In the end, and notwithstanding the strengths and weaknesses of either analysis, it is important to acknowledge that the forecasted trip generation within the CIMA+ report (conclusion based on 30% scenario) was 4,602 vehicles/hr (PM peak hour), whereas the forecasted trip generation for the County's transportation expert was 10,458 vehicles/hr. In either scenario, the City submits that significant traffic impacts can be expected at several locations.

54. Specifically, the CIMA+ analysis – based on the 30% scenario and 4,602 vehicles/hr during the afternoon peak – results in significant congestion and failure in several areas. Meanwhile, and even when taking into account some of the impacts of distribution, the County’s afternoon peak of 10,458 vehicles/hr would logically and undoubtedly cause similar failure.

55. This conclusion is also supported by the estimated average daily traffic which Mr. Kroman estimated to be 9 to 12 times the afternoon peak hour rate [Transcript, Aug 2, Page 903, Lines 4-5]. Using Rocky View’s estimate of 10,458 vehicles/hr [Transcript, Aug 2, page 875, Line 10], this represents a daily volume of 94,122 to 125,496 cars per day which greatly exceeds the current capacity of 84th Street of approximately 15,000 – 20,000 per day [Exhibit 13A, City Transportation Evidence, Tab A, Tab 1, page 3, para 7]. The County suggested to Mr. Palmiere, Ms. Fellows, and Mr. Hopkins that the improvement of 84th Street will be required by the East Stoney development rather than the Omni ASP and while there were some contradictory statements made by the City’s consultants Mr. Palmiere and Ms. Fellows, the City’s transportation engineer, Mr. Hopkins, confirmed that the full widening and ultimate build out of 84th street is not required by East Stoney [Transcript, July 31, page 332, lines 5-10] and as such will be the City’s burden if the Omni ASP is approved.

56. Again, regardless of whether one study might be given greater weight over the other, there will be traffic impacts that will require capital expenditures on behalf of the City in order to fund infrastructure improvements. The City submits that these additional and unforeseen costs are evidence of clear and significant detriment to the City.

E) Remedies sought by the City to alleviate detriment associated with traffic impacts

57. Based on the anticipated traffic impacts of the Omni ASP on the City, the City proposes the following additional amendments to the ASP as follows:

Policy	Revision	Rationale
8.3	<p>The primary commercial land uses adjacent to Airport Trail extension and along 84th Street NE should be large-format retail centres, shopping centres, outlet malls, entertainment, personal services, office parks, and institutional uses</p> <p>Commercial land uses such as large-format retail centres, shopping centres, outlet malls, entertainment, personal services, office parks, and institutional uses shall be limited to lands adjacent to Airport Trail extension and along 84th Street NE.</p>	Restrict these highly intense commercial uses to lands adjacent to Airport Tr extension and 84 th St NE
8.4	<p>The primary commercial land uses adjacent to Highway 564 and Township Road 252 should shall be highway commercial uses such as banks, restaurants, service stations, truck stops, automotive and recreational vehicle sales, and tourist accommodations that benefit from access to major transporation [sic] routes.</p>	Replace “should” with “shall” to restrict the type of development along Hwy 546 and Twp. Rd 252 to uses that generate less traffic.

8.10 (new)	i. Add additional requirement 8.10 i as follows: provide a transportation impact analysis to confirm required transportation improvements whether in the County or the City of Calgary that may be required.	Clarify that a transportation impact analysis to confirm required transportation improvements whether in the County or the City will be required as part of the local plan
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V. THE TIMING AND COST OF TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS ARE DETRIMENTAL TO THE CITY

58. It is the City’s position that both the County’s Watt traffic analysis and the City’s CIMA + traffic analysis, along with the Omni ASP itself [Maps 7 and 7A] demonstrate that the Omni ASP will require significant transportation infrastructure upgrades within the City. These will come at a significant cost the City, particularly where the timing of such expenditures does not align with the City’s short and long term budgeting.

59. The County’s evidence includes an Alberta Transportation and Infrastructure policy [Exhibit 21R County Surrebuttal, Tab K], which states that the Province will not be funding highway improvements triggered by new developments. As a result, these improvements are generally paid for by the City. The City respectfully submits that the fact that there will be significant transportation impacts on the City as a result of the Omni ASP – which will necessitate substantial transportation improvements – is sufficient to meet the test of detriment under section 690.

60. Meanwhile, the County’s own written and oral evidence acknowledges that there will be transportation impacts imposed on the City as a result of the Omni ASP, as referenced in the County’s expert reports [Appendix “A” of this submission] as well as Maps 7 and 7A of the Omni ASP. These documents identify and confirm the various significant infrastructure improvements within the City that will be needed to accommodate the Omni ASP.

A) Both the City and the County identify infrastructure upgrades needed for Omni

61. As noted above, the anticipated traffic impacts associated with Omni will ultimately force the City to proceed with significant infrastructure upgrades. These upgrades, which have been identified in the CIMA+ analysis, largely mirror what is contemplated within the County’s analysis. In other words, there is apparent agreement on both sides that the following improvements will be needed within the City as a result of the Omni ASP:

- Stoney Trail and Country Hills interchange upgrade-widening/twinning structure
- Stoney Trail & Airport Trail interchange – crossing & east ramps
- Stoney Trail & 64 Avenue NE – construct flyover

- Stoney Trail & McKnight Boulevard interchange – upgrade to ultimate
- 84 Street NE paving, widening, alignment changes to accommodate interchange upgrades and flyovers.

62. Therefore, even if the Board relies on Watt’s transportation analysis, the City submits that detriment will occur. A summary of the infrastructure contemplated in the City’s evidence along with that of the County is attached at **Appendix “A”** to this submission. In addition, the necessary infrastructure upgrades within the City of Calgary are identified in Maps 7 and 7A of the Omni ASP itself. Again, the unforeseen costs of the transportation upgrades necessary within the City of Calgary – on a timeline that is not within the City’s control – represents a substantial and highly probable detriment to the City.

63. While the major infrastructure projects required for the Omni ASP are being planned for by the City, they are not required for over 60 years to support the growth of the City. The substantial detriment to the City is that it could be forced to advance infrastructure spending to support growth in the County at a time entirely controlled by County development approvals. In addition, there are \$57 million of improvements that are not being planned for by the City that will likely also be required to support the Omni ASP.

64. Despite the County’s assurances that the County’s developers will be required to pay for infrastructure in the City that is required as a result of the Omni ASP including front-ending the major infrastructure improvements [**Transcript, July 31, page 223, lines 17-3 and Transcript, Aug 2, page 749, lines 15-16 and Transcript, Aug 1, page 652, lines 17-22**] it was evident from Mr. Stefaniak’s oral testimony on August 3 that Genesis did not intend to pay for infrastructure within the City except perhaps they would “investigate the possibility of front ending... expecting to be paid back by whatever means” speaking only of the Airport Trail/ Stoney Trail interchange [**Transcript, Aug 3, page 1100 lines 14-21**].

B) The Omni ASP should reflect the County’s stated intentions in order to mitigate potential detriment

65. Mr. Wiljamaa and Ms. Zaluski both admitted in their oral evidence that the policies related to utility services in the ASP are robust because of the importance to the County that the developer pay the costs for the extension and expansion of services. Here, the ASP policies are clear that land use applications shall not be supported until the developer enters into an agreement with the County and that the costs associated with the extension and expansion of services shall be the responsibility of the developer. The City merely asks that the County include similarly robust language with respect to City transportation infrastructure.

66. In light of the oral evidence of the County during the hearing, the City submits that the Board should consider amendments to the Omni ASP that reflect the County’s stated intentions:

- County council shall withhold subdivision and local plan approvals for the Omni ASP until

agreements regarding transportation infrastructure in the City are in place [**Transcript, Aug 2, page 795, lines 13-14**];

- Policy 21.8 is intended to require the developer commit to funding infrastructure in the City or that the developer and the City enter into an agreement for the construction if the City chose [**Transcript, Aug 2, pages 807-808**];
- Genesis or any other landowner shall cover the costs of infrastructure in the City [**Transcript, Aug 2, page 749, lines 15-16**];
- Policy 16.11 is intended to require the County collaborate with the Province and the City to ensure connections with streets as well as pedestrian and bicycle networks [**Transcript, Aug 2, page 757, lines 6-10**];
- The City's infrastructure concerns will be satisfied through the County's regional offsite levies and developer front-ending [**Transcript, Aug 1, page 652, lines 17-22**];
- The East Stoney Infrastructure Analysis will help address some of the City's concerns as far as a funding mechanism [**Transcript, Aug 1, Page 670, Lines 19-24**];
- The 84th Street Study should be finalised to address utility placements [**Transcript, Aug 2, page 734, line 3-9**], and jurisdiction of 84th Street should be resolved [**Transcript, Aug 2, page 734, lines 21-22**]; and
- An interchange at 84th Street and McKnight is intended, amongst other things, to address the City's concerns regarding that intersection [**Transcript, Aug 1, page 682, lines 3-9 and Aug 2, pages 737, 738, and 797**].

67. Mr. Wiljamaa confirmed at the hearing that there are policies in the ASP that allow council to hold up subdivision and local plan approvals until agreements between the County and developer are in place with respect to water and sewer infrastructure. Mr. Wiljamaa also stated that his interpretation of the policies in the ASP was that transportation upgrades that include a neighbour municipality would be treated in the same way [**Transcript, Aug 2, page 795, lines 13-14**]. Mr. Wiljamaa further stated that the County would expect Genesis or any other landowner to cover the costs of infrastructure outside of the County including the City's portion of any infrastructure outside of the County [**Transcript, Aug 2, page 749, lines 15-16**].

68. It should also be noted that even though policy 16.11 of the Omni ASP says that "The County should collaborate with the government of Alberta and The City to ensure connections with streets as well as pedestrian and bicycle networks", Mr. Wiljamaa confirmed that notwithstanding the word "should" it is a given that the County will collaborate [**Transcript, Aug 2, Page 757, lines 6-10**]. He also stated in response to a question by County counsel about how policy 21.8 of the ASP requiring off-site improvements external to the plan area including provincial or City of Calgary infrastructure would actually operate that he would expect that there would be a funding commitment by the developer to the City or the City could require the developer enter into an agreement for the construction if it chose [**Transcript, Aug 1, page 652, lines 17-22**].

69. Further, Mr. Wiljamaa stated that the infrastructure funding for the infrastructure required for the area is anticipated to come from the County's regional offsite levies and developer front ending costs recovered through endeavours to assist and potential grants [**Transcript, Aug 1,**

page 652, lines 17-22] and emphasized the importance of the completion of the East Stoney Infrastructure Analysis and that it could help address some of the City’s concerns as far as funding mechanism [Transcript, Aug 1, page 670, lines 12-24]. Mr. Wiljamaa also agreed that there was issues related to the 84th Street Study that need to be finalised, specifically utility placement and the jurisdiction of the road [Transcript, Aug 2, page 734, lines 3-24]

C) Remedies sought by the City to alleviate detriment associated with timing and cost of transportation infrastructure improvements

70. In consideration of the County’s stated intentions regarding the policy language in the ASP, the City respectfully requests the following amendments to the ASP to alleviate the detriment imposed by the ASP:

Policy	Revision	Rationale
16.2	Any costs associated with transportation improvements identified through a Transportation Impact Assessment whether in the County or the City of Calgary shall be the developer’s responsibility.	Clarify to include City costs as intended by the County [Transcript, Aug 2, page 749, lines 15-16]
16.6	<p>The County shall collaborate with the Government of Alberta and the City of Calgary regarding regional road connections and the design of interchanges with respect to Stoney Trail, Airport Trail and Highway 564 as shown on Map 7A: East Stoney Trail Transportation Infrastructure.</p> <p>Full build out of the plan area will require major transportation infrastructure projects. These include projects under the jurisdiction of Alberta Transportation, Rocky View County and The City of Calgary, and decisions regarding the regional transportation network shall be made in consultation with these jurisdictions as appropriate. The need for major transportation infrastructure projects shall be reviewed at the local plan/land use amendment stages for each proposal/application in the plan area.</p> <p>If the infrastructure projects shown on Map 7A of this plan are not funded or constructed, the developer may be required to pay for or construct the necessary transportation improvements whether in the County or the City including excess capacity to be re-paid by subsequent developers. County council shall withhold subdivision and local plan approvals for the Omni ASP until agreements regarding transportation infrastructure in the City are in place.</p>	<p>Clarify that the full build out of the plan may require major transportation infrastructure and that the developer may be required to front-end transportation improvements in the City as intended by the County [Transcript, Aug 1, page 652, lines 17-22] [Transcript, Aug 2, pages 807-808]</p> <p>Clarifies County’s intent that County council will withhold subdivision and local plan approvals for the Omni ASP until agreements regarding transportation infrastructure in the City are in place [Transcript, Aug 2, page 795, lines 13-14];</p>

<p>16.7</p>	<p>16.7 <i>Local plans</i> must be designed to accommodate approved and/or potential changes in access to the Provincial transportation network, as identified on Map 7: Transportation and Map 7A: East Stoney Trail Transportation Infrastructure. <i>Local plans and land use amendments shall not be supported until the 84th Street Study and East Stoney Infrastructure Analysis are complete.</i></p>	<p>Clarify County’s intent that the East Stoney Infrastructure Analysis will help address some of the City’s concerns as far as a funding mechanism [Transcript, Aug 1, Page 670, Lines 19-24]; and the 84th Street Study should be finalised to address utility placements [Transcript, Aug 2, page 734, line 3-9], and jurisdiction of 84th Street should be resolved [Transcript, Aug 2, page 734, lines 21-22].</p>
<p>16.11</p>	<p>The County should <i>shall</i> collaborate with the Government of Alberta and The City to ensure connections of streets, as well as pedestrian and bicycle networks, align and transition smoothly across municipal boundaries and through the Transportation and Utility Corridor</p>	<p>Clarifies requirement to collaborate as intended by the County [Transcript, Aug 2, page 757, lines 6-10]</p>
<p>16.13</p>	<p>Impacts on the East Stoney Trail transportation infrastructure resulting from development within the Omni Area Structure Plan area shall be evaluated in accordance with the policies of this Plan and Policy 13 of the Rocky View County/Calgary Intermunicipal Development Plan. <i>The County shall consider the impact that development within the plan area will have on the City and Alberta Transportation’s transportation infrastructure through the transportation impact assessments. If the impact of development exceeds the capacity of existing transportation infrastructure in the City or on provincial infrastructure, upgrades shall be coordinated through appropriate conditions of subdivision or development approval.</i></p>	<p>Policy 13 of the IDP is not directive and only includes “should” language – The City requests stronger language in the Omni ASP</p>
<p>Map 7A</p>	<p><i>Amend Map 7A to add the McKnight and 84th Street Interchange and McKnight and 68th Street interchange</i></p>	<p>Update Map 7A to reflect County’s stated intention for interchange at 84th Street and McKnight [Transcript, Aug 1, page 682, lines 3-9 and Aug 2, pages 737, 738, and 797]</p> <p>And as a result of the interchange at 84th and McKnight, the City’s position is that an interchange 68th Street and McKnight will be required [Transcript, July 31, page 236, lines 4-11]</p>

VI. THE CITY'S EMERGENCY SERVICES CONCERNS SHOULD NOT BE IGNORED

71. Within its evidence disclosure, the City raised two primary concerns in relation to whether the Omni ASP creates detriment from an emergency services perspective. The first relates to whether emergency services from the City would be required for Omni, given that northeast Calgary is already the City's busiest quadrant. The second focuses on the expected impacts surrounding shopping centres and other medium to high density commercial developments, as is being proposed for Omni.

A) The safety of Calgarians is of paramount importance

72. The City acknowledges the evidence of the County that their current intention is to not rely on or otherwise utilize the City's emergency response services for the Omni ASP. The City nevertheless expects that it could be called out to an incident within the Omni area – especially if it involves a hazardous materials response. The fact that the two nearest fire stations to the Omni ASP – Station 32 in Saddleridge and Station 38 in Skyview – are both within the City's limits suggests that any major incident within the Omni ASP is likely to require City intervention.

73. What is otherwise clear from the nature of the Omni ASP – as a high density commercial development – is that a significant number of Calgarians would be drawn outside of City limits and into the County. And while City council's mandated response times are 7 minutes for the first in unit, the lesser standard in the County is 10 minutes. Further, the evidence of the County is that based on existing infrastructure, response times to the *northern* portion of the Omni lands would be almost 10 minutes (8 minutes of travel time, plus 90 seconds of call response - turn out- time). As such, it is unlikely that the initial development within Omni – which will occur on the southern half of the Omni lands – would meet even the County's mandated response time.

74. The City further submits that while a few minutes in response times may not appear significant on its face, Deputy Chief Uzeloc's testified that fires "tend to double in size every 30 seconds" [Transcript, Aug 1, page 466, lines 7-14], and thus minutes and seconds do matter.

75. As such, the City's concerns should not be minimized or otherwise diminished in light of the County's stated intentions.

B) An increase in MVC's is expected

76. The City's MVC study was intended to analyze – using a spatial analysis – the possibility of increased MVC's in areas involving commercial shopping centres. The conclusions of the study was that the number of MVC's could increase by 146%, with a quarter of reported incidents located in very close proximity to the shopping centre. This study was criticized by the

County, who raised a number of questions that were subsequently addressed in the City's rebuttal evidence.

77. What the Board should ultimately draw from this evidence is that an increase in MVC's should be expected as vehicles in Calgary travel to and from Omni. While establishing a direct causal link may require further analysis and study, it is clear that an increase in both traffic and MVC's would be anticipated. Mr. Baumgartener, the County's expert in transportation systems planning, road safety, and traffic engineering, himself admitted that there is a relationship between vehicle exposure, which is the amount of vehicles and the time they spend on the roadway to the road network and the probability of collisions occurring [Transcript, Aug 1, page 622, lines 11-16] and that more vehicles over time would introduce higher collisions [Transcript, Aug 1, page 634, lines 9-13].

C) Remedies sought by the City to alleviate detriment associated with emergency services

Policy	Revision	Rationale
15.2	Fire services in the Plan area will be provided from existing and/or proposed County emergency service facilities, and where appropriate, by contract from adjacent municipalities. The County acknowledges that the Calgary Fire Department has expressed significant concerns about servicing the Omni ASP area and it is unlikely that the Calgary Fire Department will respond to calls from the Omni ASP area.	Clarify that the County acknowledges that the City does not want to respond to calls from Omni
Page 15 – Physical Constraints and Attributes #7	Intermunicipal Interface: The Plan area abuts Calgary along 84th St NE. The City recently approved an Area Structure Plan for residential uses on the lands west of 84th St and east of the Transportation Utility Corridor. Intermunicipal planning co-ordination will be required in this area. As a result of the intermunicipal interface, additional vehicles on the road as a result of the Omni ASP may result in increased motor vehicle collisions within the City which will require City emergency response and as such it is of critical importance that the transportation network for developments within the Omni ASP are designed appropriately.	The City seeks acknowledgement by the County of the importance of appropriate transportation network design because of the potential for increased MVCs within the City.

VII. SUMMARY OF THE CITY'S REQUESTED RELIEF

78. For a complete summary of the City's requested amendments to the ASP, please see Appendix B.

VIII. ADDITIONAL CONTEXT AND FINAL CONCLUSION

79. The City understands from the testimony of Mr. Stefaniuk that Genesis is extremely eager to proceed with their Omni Project and that Genesis had originally planned for residential development but was required by the County to consider retail commercial. Ms. Zaluski also confirmed on behalf of the County that the Growth and Fiscal Sustainability of the County is the number one principle of the County Plan. Ms. Zaluski also mentioned during her examination in chief that growing the County's business assessment is essential for growth. Lastly, Mr. Wiljmaa stated that the Omni development is important for the County because the County requires a water line to be looped back to Balzac. He stated that without it, the County is exposed because it only has one dedicated line that supplies water and if that line were to be severed it would cut off water service for those downstream – the developer of the Omni ASP is required to build and pay for the looped water line. It is clear to the City that the County is very motivated to proceed with development in the Omni ASP.

80. The City respectfully submits that the County's fiscal goals may conflict with the City's interests in ensuring the City has a manageable transportation network, whereas the County is not as motivated as the City to protect that network. As such, the City is not confident that it will be able to come to an agreement with the County regarding having the developer pay for improvements, the content of off-site levies, and other agreements that may be necessary to mitigate the detrimental impacts of the Omni ASP on the City.

81. In conclusion, the City respectfully asks the Board to acknowledge the detriment that the Omni ASP will cause to the City, given the significant impacts that are anticipated. In particular, the City is concerned that this is the third section 690 appeal it has had to file against the County, in order to address concerns relating to planning, transportation and emergency services.

82. Meanwhile, the County appears to acknowledge that development immediately adjacent to existing development can have negative implications – specifically as it relates to planning, roads and servicing. While in response to a specific question regarding Policy 14.19 of the Omni ASP (prohibiting other business development near the boundaries of an identified business area), the County's planning expert noted the following:

Often times in the County when we identify areas or we have area structure plan areas there is a demand for land just on the immediate boundary outside that is typically cheaper, and people want to develop there.

But it's not within the comprehensively planned area.

So the idea of that policy is that if you're doing any business, it should be in the business area and not right next to the business area...

...

So that was intended to deal with those one-offs, but what we didn't want to see was development directly adjacent to an existing area. (emphasis added) [Transcript, Aug 1, Page 559, line 3 to page 560, line 6]

83. The County's planning expert further stated:

So if I purchased this piece of land right outside of the OMNI ASP and said I want to do a retail shopping mall. That would not -- and I applied to that -- that would not be recommended for approval to council because it is directly adjacent to the area where we have planned for those types of uses and done it in a compressive manner so we can understand how this would impact the roads and the utility servicing and everything.


...

It doesn't allow proper planning, and it also is unfair to the people that are inside the area structure plan that are following the proper processes and paying the levies and the fees to develop, and then the lands outside try to take advantage of that and not contribute the way that people inside the plan contributed. (emphasis added) [Transcript, Aug 1, Page 601, Line 7 to Page 602, Line 11]

84. The City submits these comments are also instructive in the context of this appeal and the Omni ASP, which is located immediately adjacent to the City's municipal boundaries.

All of which is respectfully submitted this 8th day of August, 2018

Per:


Henry Chan / Hanna Oh / David Mercer
Legal counsel for the City of Calgary

Airport Trail west of 60 Street NE to Métis Trail - construct road connection	Not analyzed	Not Analyzed	Not Analyzed	Not Analyzed	Not Analyzed	Not Analyzed
Stoney Trail & 64 Avenue NE – construct flyover	Yes; see Note (1)	Yes	Yes	Yes; see Note (3)	Yes	Yes
Stoney Trail & McKnight Boulevard interchange - upgrade to ultimate	Yes	Yes	Yes	Yes	Yes	Yes
McKnight Boulevard & 68 Street NE - upgrade intersection to interchange	Not analyzed	Not analyzed	Not analyzed	Not analyzed	Not analyzed	Not analyzed
84 Street NE paving, widening, alignment changes to accommodate	Yes	Yes	Yes	Yes	Yes	Yes

interchange
upgrades and
flyovers

McKnight Trail &
84 Street NE
Intersection -
partially grade
separated
intersection
(configuration to
be determined)

Yes; see Note (2)

Yes

Yes (topic of
study)

Yes; see Note (3)

Yes; see Note (4)

Yes; see Note (5)

Notes (1) intersection performance measures (Page 156) for Airport & 84 and McKnight & 84 indicate several failing movements, which would be improved by 64th Ave fly over, inferring that this improvement would be required

(2) intersection performance measures (Page 156) for McKnight & 84 indicates several seriously failing movements, which infers that this improvement is required (substantiated by subsequent Watt / County reports)

(3) Intersection performance measures (Page 5) for McKnight & 84 and Airport & 84th show movements with volume to capacity ratios >1.00 and long queues, inferring that these improvements are required (substantiated by subsequent Watt / County reports)

(4) intersection performance measures (Page 15) for McKnight & 84 show volume to capacity ratios > 1.00 and long queues, inferring that this improvement is required (substantiated by subsequent Watt / County reports)

(5) intersection performance measures (Page 11) for McKnight & 84 show volume to capacity ratios >1.00 and long queues, inferring that this improvement is required (substantiated by subsequent Watt / County reports)

Appendix B – Summary of the City’s Requested Amendments

Policy	Revision	Rationale
New Policy 21.17 be added in PART III Implementation and Monitoring, under a new header titled “County Plan”	<p>County Plan</p> <p>The Omni ASP represents a combination of the two Highway Business Areas as shown in the County Plan.</p> <p>The County Plan (Bylaw C-7280-2013) shall be amended to reduce the number of Highway Business Area icons in the general vicinity of the Omni ASP location from two to one.</p>	Additional policy language to reflect the County’s stated intention to combine the two highway business areas shown in the County Plan in the vicinity of the Omni ASP area into one highway business area. This will discourage the County from adding an additional regionally intensive business area without a County Plan amendment
Map 5: Land Use Scenario, page 24	<i>Replace the Commercial Uses with a “Special Policy Area” designation</i>	By creating a special policy area, an amendment to the ASP will be required to facilitate commercial uses in the special policy area. This policy is tied to new policies 8.1 and 8.2 below.
Section 8. Commercial Replace policy 8.1	Commercial development shall be located in the commercial areas identified on Map 5: Land Use Scenario. <i>The Special Policy Area will be applied on lands considered for future commercial use. A plan amendment will be required once transportation improvements, upgrades and funding has been addressed in accordance with Policy 8.3</i>	Tie land use to transportation to ensure impact to the City of Calgary is addressed.
Replace policy 8.2	Development within commercial areas should proceed in an orderly manner, supported by cost-effective improvements and upgrades to the County’s infrastructure and transportation networks. <i>Development within commercial areas shall proceed in an orderly manner, supported by cost-efficient improvements, upgrades and funding sources for County, City, and/or provincial infrastructure and transportation networks</i>	Tie land use to transportation to ensure impact to the City of Calgary is addressed.
8.3	The primary commercial land uses adjacent to Airport Trail extension and along 84th Street NE should be large-format retail centres, shopping centres, outlet malls, entertainment, personal services, office parks, and institutional uses	Restrict these highly intense commercial uses to lands adjacent to Airport Tr extension and 84th St NE

	Commercial land uses such as large-format retail centres, shopping centres, outlet malls, entertainment, personal services, office parks, and institutional uses shall be limited to lands adjacent to Airport Trail extension and along 84th Street NE.	
8.4	The primary commercial land uses adjacent to Highway 564 and Township Road 252 should shall be highway commercial uses such as banks, restaurants, service stations, truck stops, automotive and recreational vehicle sales, and tourist accommodations that benefit from access to major transportation [sic] routes.	Replace “should” with “shall” to restrict the type of development along Hwy 546 and Twp. Rd 252 to uses that generate less traffic.
8.10 i. (new)	Add additional requirement 8.10 i as follows: provide a transportation impact analysis to confirm required transportation improvements whether in the County or the City of Calgary that may be required.	Clarify that a transportation impact analysis to confirm required transportation improvements whether in the County or the City will be required as part of the local plan
16.2	Any costs associated with transportation improvements identified through a Transportation Impact Assessment whether in the County or the City of Calgary shall be the developer’s responsibility.	Clarify to include City costs as intended by the County [Transcript, Aug 2, page 749, lines 15-16]
16.6	The County shall collaborate with the Government of Alberta and the City of Calgary regarding regional road connections and the design of interchanges with respect to Stoney Trail, Airport Trail and Highway 564 as shown on Map 7A: East Stoney Trail Transportation Infrastructure. Full build out of the plan area will require major transportation infrastructure projects. These include projects under the jurisdiction of Alberta Transportation, Rocky View County and The City of Calgary, and decisions regarding the regional transportation network shall be made in consultation with these jurisdictions as appropriate. The need for major transportation infrastructure projects shall be reviewed at the local plan/land use amendment stages for each proposal/application in the plan area.	Clarify that the full build out of the plan may require major transportation infrastructure and that the developer may be required to front-end transportation improvements in the City as intended by the County [Transcript, Aug 1, page 652, lines 17-22] [Transcript, Aug 2, pages 807-808] Clarifies County’s intent that County council will withhold subdivision and local plan approvals for the Omni ASP until agreements regarding transportation infrastructure in the City are in place [Transcript,

	<p>If the infrastructure projects shown on Map 7A of this plan are not funded or constructed, the developer may be required to pay for or construct the necessary transportation improvements whether in the County or the City including excess capacity to be re-paid by subsequent developers. County council shall withhold subdivision and local plan approvals for the Omni ASP until agreements regarding transportation infrastructure in the City are in place.</p>	<p>Aug 2, page 795, lines 13-14];</p>
<p>16.7</p>	<p>16.7 <i>Local plans</i> must be designed to accommodate approved and/or potential changes in access to the Provincial transportation network, as identified on Map 7: Transportation and Map 7A: East Stoney Trail Transportation Infrastructure. <i>Local plans</i> and land use amendments shall not be supported until the 84th Street Study and East Stoney Infrastructure Analysis are complete.</p>	<p>Clarify County’s intent that the East Stoney Infrastructure Analysis will help address some of the City’s concerns as far as a funding mechanism [Transcript, Aug 1, Page 670, Lines 19-24]; and the 84th Street Study should be finalised to address utility placements [Transcript, Aug 2, page 734, line 3-9], and jurisdiction of 84th Street should be resolved [Transcript, Aug 2, page 734, lines 21-22].</p>
<p>16.11</p>	<p>The County should shall collaborate with the Government of Alberta and The City to ensure connections of streets, as well as pedestrian and bicycle networks, align and transition smoothly across municipal boundaries and through the Transportation and Utility Corridor</p>	<p>Clarifies requirement to collaborate as intended by the County [Transcript, Aug 2, page 757, lines 6-10]</p>
<p>16.13</p>	<p>Impacts on the East Stoney Trail transportation infrastructure resulting from development within the Omni Area Structure Plan area shall be evaluated in accordance with the policies of this Plan and Policy 13 of the Rocky View County/Calgary Intermunicipal Development Plan.</p> <p>The County shall consider the impact that development within the plan area will have on</p>	<p>Policy 13 of the IDP is not directive and only includes “should” language – The City requests stronger language in the Omni ASP</p>

	<p>the City and Alberta Transportation's transportation infrastructure through the transportation impact assessments. If the impact of development exceeds the capacity of existing transportation infrastructure in the City or on provincial infrastructure, upgrades shall be coordinated through appropriate conditions of subdivision or development approval.</p>	
<p>Map 7A</p>	<p><i>Amend Map 7A to add the McKnight and 84th Street Interchange and McKnight and 68th Street interchange</i></p>	<p>Update Map 7A to reflect County's stated intention for interchange at 84th Street and McKnight [Transcript, Aug 1, page 682, lines 3-9 and Aug 2, pages 737, 738, and 797]</p> <p>And as a result of the interchange at 84th and McKnight, the City's position is that an interchange 68th Street and McKnight will be required [Transcript, July 31, page 236, lines 4-11]</p>
<p>15.2</p>	<p>Fire services in the Plan area will be provided from existing and/or proposed County emergency service facilities, and where appropriate, by contract from adjacent municipalities. The County acknowledges that the Calgary Fire Department has expressed significant concerns about servicing the Omni ASP area and it is unlikely that the Calgary Fire Department will respond to calls from the Omni ASP area.</p>	<p>Clarify that the County acknowledges that the City does not want to respond to calls from Omni</p>
<p>Page 15 – Physical Constraints and Attributes #7</p>	<p>Intermunicipal Interface: The Plan area abuts Calgary along 84th St NE. The City recently approved an Area Structure Plan for residential uses on the lands west of 84th St and east of the Transportation Utility Corridor. Intermunicipal planning co-ordination will be required in this area. As a result of the intermunicipal interface, additional vehicles on the road as a result of the Omni ASP may result in increased motor vehicle collisions within the City which will require City emergency response and as such it is of critical importance that the transportation network for</p>	<p>The City seeks acknowledgement by the County of the importance of appropriate transportation network design because of the potential for increased MVCs within the City.</p>

	developments within the Omni ASP are designed appropriately.	
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