



BEAUMONT  
**Subdivision  
and Development**  
APPEAL BOARD

HEARING DATE: January 17, 2024  
FILE NO.: 24-01  
DEVELOPMENT PERMIT 2023-271

**Notice of Decision of Subdivision and Development Appeal Board**

**INTRODUCTION**

1. The Development Authority of the City of Beaumont (the "Development Authority") issued a development permit for a change of use: Residential to Institutional – Education located at 4203-54 Street, Beaumont, legally described as Plan 922 0552, Block 13, Lot 2 ("the Lands"). The applicant for the Development Permit was Kulwinder Singh (the "Applicant").
2. In total, five appeals were filed against the Development Permit:
  - (a) Wayne Long – filed December 21, 2023
  - (b) Douglas Hurd – filed December 22, 2023
  - (c) Jennifer Newton – filed December 22, 2023
  - (d) Margaret Nishida - filed December 22, 2023
  - (e) Seth Carson – filed December 22, 2023
3. The Subdivision and Development Appeal Board (the "Board") held the appeal hearing on January 17, 2024, in person. The Applicant Kulwinder Singh did not attend the hearing due to a family emergency.

**PRELIMINARY MATTERS**

**A. Board Members**

4. At the outset of the appeal the Chair requested confirmation from all parties in attendance that there was no opposition to the composition of the Board hearing the appeal. None of the persons in attendance had any objection to the members of the Board hearing the appeal.

**B. Exhibits**

5. At the beginning of the hearing the Chair confirmed that everyone in attendance had the hearing package prepared for the hearing. During the hearing the Development Authority referred to a PowerPoint presentation which the Board marked as an exhibit. In addition, Mr. Long submitted a copy of the notes that he used for his verbal presentation, which the Board also marked as an exhibit. All exhibits before the Board are referenced in Appendix "B".

**C. Miscellaneous**

6. There was no request for an adjournment of the hearing.
7. There were no objections to the proposed hearing process.

**DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

8. The Board grants the appeals. The Development Permit is revoked.

**SUMMARY OF HEARING**

9. The following is a brief summary of the oral and written evidence submitted to the Board. At the beginning of the hearing, the Board indicated that it had reviewed all the written submissions filed in advance of the hearing.

**Development Authority**

10. The Lands are legally described as Plan 922 0552, Block 13, Lot 2, and municipally described as 4203-54 Street, Beaumont. The Lands are located within the Conventional Neighbourhood district (CN) (s. 3.3 of the City of Beaumont Land Use Bylaw 944-19 (the "LUB")).
11. The Development Authority provided an overview of the regulations, bylaws and plans which govern the decision making of the Development Authority. The Development Authority gave a high-level overview of the provincial legislation and regulations and indicated that the City has responsibility for the creation of both statutory plans and non-statutory plans as well as the LUB and various other guiding documents such as outline plans, recreation and transportation masterplans. These policies provide direction on built form. The City's LUB provides for seven land use districts within the City, each of which has either permitted, discretionary or not allowed uses. The districts also contain regulations. If there is non-compliance with the regulations found in the LUB, the applicant will require a variance.
12. In the Conventional Neighbourhood District, Institutional Use-Education is a permitted use, as shown on page 31 of the Agenda Package.

13. The LUB was amended in 2019 so that use and form will complement each other and to permit commercial uses within neighbourhoods. The determination of uses occurred after a determination of compatibility with the neighbourhood.
14. In terms of planning practice, the Development Authority evaluates the acts, plans, policies, bylaws and guidelines, and also consults with other departments within the City. The Development Authority considers the site design including both the fit and function of the proposed development. The Development Authority considered parking and traffic flow as well as safety considerations. In addition, the Development Authority considered landscaping and screening, the character of the building in relation to the commercial use, the streetscape, accessibility and the compatibility with other uses in the neighbourhood.
15. When making its decision, the Development Authority was aware of the surrounding transportation network as well as the location of the high school in the neighbourhood.
16. In examining the proposed development, the Development Authority noted that there was the capacity for seven parking stalls on the Lands. The application was to convert the entire structure from a residential dwelling unit to a full-time educational use. There were no previously approved uses, and no uses were revoked. If the proposed development is approved, no one will live at the structure.
17. The Development Authority noted the definition of educational use provided for in the LUB:  
Education: development of public and private places of learning for any age including licensed, childcare facilities and/or research facilities.
18. The uses immediately adjacent to the proposed development are residential dwelling units. The Development Authority looked at the site including the site design and parking, etc. The Development Authority determined that the proposed development complied with site design and parking. There was no change to the residential character of the building. The building itself will remain a lawful non-conforming use if the development is approved.
19. The hours of operation are proposed to be Monday to Friday, 6:30 am – 6:00 pm. The peak times of operation will be between 6:30 am - 8:00 am and 4:30 pm – 6:00 pm. The proposed development will be closed evenings, weekends, and holidays. The Applicant proposes that there will be 40 children, but this will be subject to provincial approval. Therefore, the actual number of children authorized to be in the proposed development is unknown at this time.
20. There will be six on-site employees. The daycare will operate on the main and second floors of the structure. The basement will be used for storage and staff luncheon. At peak hours, there will be a staff member directing traffic and there will be on-site signage.
21. In terms of parking stalls, there will be two in the garage, two at the side of the garage and two in the front yard for a total of six. The LUB requires that parking meet the following size requirements for a stall: 2.8 m x 6 m. There will be six parking stalls on site and one loading zone. There is a parking space for six bicycles on the Lands.

22. 54<sup>th</sup> street is 10 m wide. Assuming that there is parking on both sides of the street, there remains 4.4 m for vehicle traffic.
23. There is a high school to the west that operates between 8:30 am – 3:00 pm.
24. The Development Authority showed the Board photos taken at 8:26 am on January 17, 2024. The Development Authority noted that there were no vehicles parked along the street. The photo taken at 8:26 am shows the tail end of the peak drop off period. The second photograph was at 4:43 pm which is within the afternoon peak. The photograph showed that there was minimal parking on the street.
25. In reviewing the proposed development against the LUB, the Development Authority noted that the proposed use is a permitted use under s. 3.3.2 of the LUB.
26. The primary building complies with the regulations found in s. 3.3.6.a.i-vi. The safety screening also complied with the regulations. The profile of the street and the height complied with the regulations. The frontage complied with the regulations except the width of the driveway which is lawfully non-conforming for the width. The landscaping and screening complied with s. 3.3.9. The parking stalls complied with the minimum required under s. 3.3.10.a.vii. A minimum of four parking stalls are required and the Applicant has provided six. The access also complies.
27. The Development Authority noted that there were three variances which had been requested. The first was a variance of s. 3.3.10.b.i which relates to perimeter planting. This section requires a parking area having four or more parking stalls which are visible from an adjoining site or from a thoroughfare other than a lane to have perimeter planting. Given the configuration of the Lands, it was not possible to have perimeter planting around the parking area. The Development Authority granted the variance noting that the intention of the section had been met by the fence between the adjacent property and the Lands.
28. The second variance granted is relation to the parking lot. Section 3.3.10.b.ii provides that a parking lot shall not be located in the principal frontage. In this case, there is no rear access and therefore, the parking lot is located within the principal frontage to the Lands.
29. The third variance requested by the Applicant is in relation to the loading zone. Section 3.3.10.e.v provides that loading areas must be located to the side or rear of a lot. In the configuration proposed by the applicant, the loading zone is in the parking stall closest to the front entrance to the house. The Development Authority granted the variance on the basis that it was appropriate to put the loading zone close to the front entrance.
30. The application was received June 24, 2023. It was deemed complete August 8, 2023. On December 5, 2023, the Development Permit was approved subject to conditions. On December 21, 2023, the Notice of Appeal was issued. On December 28, 2023, the appeal period expired.

31. The Development Authority noted that there is a minor error on the Development Permit decision. It lists the variance as a discretionary use. This should be a permitted use with a variance. The Development Authority stated that whether it was a permitted or discretionary use, the same criteria would be applied and that the proposed development met all regulations. The three variances triggered public notices. However, the Development Authority's position is that there was no change to the residential character of the neighbourhood and that safety, parking, snow removal and waste have been considered in the determination of the proposed development. The Development Authority's position was that there is no negative impact which would cause the Development Authority to decide the application other than as it had done so.
32. In accordance with the process outlined by the Chair, the Development Authority was asked questions by Appellants as well as the Board. In response to questions, the Development Authority provided the responses set out in the paragraphs below.
33. The parking standards of the LUB require a minimum of four parking stalls for a development greater than 75 metres<sup>2</sup>. In this case, the Applicant was able to provide six parking stalls on the Lands, exceeding the LUB requirements.
34. The photos were taken on January 17, 2024. The photos were taken for the purposes of the power point presentation. During questioning of the Development Authority, the Board was advised that January 17 was the last day of semester at the high school. If the photographs were taken on a different day which was not exam break or semester break, they would reflect a significant amount of parking occurring on the streets because students going to the high school park in this neighbourhood.
35. The Development Authority advised that the decision to change the residential nature of the dwelling unit to commercial was conducted as part of the City's LUB revisions in 2019 and was done to provide compatible land uses in an area so that services can be provided. The LUB was changed after 18 months of public engagement and 18 months of public engagement on the City's Municipal Development Plan. The intention for the wide mix of uses was to allow neighbourhoods to change over time without having to seek redistricting.
36. Market value is not a planning issue nor had it been considered by the Development Authority. The Development Authority does not consider the impact to taxes when making a decision.
37. The six employees are not residents of the structure. No one will be living in the residence. It will solely be for business use.
38. The six parking stalls could be for employees or clients. The proposed development also has space for bicycle parking.
39. The hours of operation will be 6:30 am – 6:00 pm, Monday to Friday.
40. In determining the number of children who may attend the proposed development, the provincial Childcare Licensing Act regulates the number of children allowed. The Applicant

would like to have 40 children, but this number could be decreased by the Province based upon factors contained within that legislation, such as the amount of outdoor space.

41. It will be up to the Applicant to address tandem parking in the event an employee must leave during the day. The LUB does not address whether the parking is tandem or side by side.
42. The Development Authority looked at the application to determine whether it complied with the Land Use Bylaw. The Applicant must also meet the provincial regulations. However, compliance with the provincial regulations is outside the purview of the Development Authority.
43. Garbage is to be located in the side yard. It is for the owner to dispose of it and to determine how he will move the bin from its location in the rear side yard to the front for collection.
44. In relation to whether the garbage of the neighbourhood residences will be affected, the Development Authority stated that it should be business as usual and no impact arising from the proposed development. The same regulations should apply. The bins will have to be away from parked cars, etc.
45. The Brookside neighbourhood is a mature neighbourhood.
46. The Development Authority did not look at the age of the neighbourhood or whether residents in the neighbourhood are older or require childcare facilities. The Development Authority looked at the uses in the neighbourhood and noted that they are allowed to change over time. The Development Authority is not aware of who will buy a house in future and who might need this service.
47. In relation to the question of whether the infrastructure is capable of accommodating the sanitary needs for 40 children, the Development Authority consulted the City's Building Inspection group. After a development permit is issued, the Applicant must apply for a building permit and must meet the Building Code. The development permit was circulated to the operations team responsible for water and wastewater who expressed no concerns.
48. In relation to a question of whether the Development Authority considered a commercial dumpster and the impact of odours, the Development Authority advised that it is up to the Applicant to address the manner of waste disposal and to address specific concerns. If there are complaints about odours, the City's Community Standards Bylaw contains provisions to deal with that.
49. There are no regulations that the City has in relation to waste bins or how often commercial waste bins are emptied.
50. The Development Authority takes the parking in question seriously and would consider an offsite parking study. There are no plans for further studies about traffic or parking. The neighbourhood could request a parking study which the City would consider. The Development Authority was of the view that at peak times traffic would be going in and

out and would not cause an issue. If there is illegal parking, Enforcement Services will address those concerns.

51. In relation to noise, the Community Standards Bylaw addresses noise issues. The Development Authority does not consider the types and duration of noise. Enforcement Services will look at specific issues, similar to what they would do in the event of a loud party.
52. The Development Authority advised that, in its view, the pictures provided are sufficient. Site visits had been done on other days. Based upon the photographs, the Development Authority was of the view that for a regular weekday at the potential peak time, parking was sufficient. There were no more pictures taken during high school hours.
53. When asked whether the proposed development would be able to expand business hours or to rent to a third party, the Development Authority advised that if the Applicant wished to expand business hours, he would need a new development permit which would be evaluated against the LUB.
54. In relation to the staff directing traffic, the Development Authority was not aware whether that staff member would have training. It would be up to the owner of the property and outside the scope of the Development Authority in relation to that concern.
55. The Development Authority confirmed that the use is permitted and not discretionary. In relation to s. 3.3.7.c.i, the Development Authority advised that despite the wording contained, the institutional use does not need to have a residential form. However, because this building is currently a dwelling, the proposed development will have a residential form and will therefore keep that residential form.

## **APPELLANTS**

### **Doug Hurd**

56. Mr. Hurd lives in close proximity to the proposed development. He stated that his comments had been covered by the questions asked of the Development Authority. He indicated that he disputed the assertion that 4.4 m of road width was sufficient for traffic. In his view, it was not sufficient for two-way traffic. The Applicant will require two people at each end of the street to address traffic.
57. He wanted clarity on the drop off and whether it is on the street or on the property. If it is on the driveway, he has concerns about safety due to backing up and being dangerous both for the people backing up as well as others on the street.
58. In his view, the proposed development will change the character of the neighbourhood visually and his specific concern is odour from the garbage.

## **Wayne Long**

59. Mr. Long lives immediately adjacent to the proposed development on the side of the building where the waste bins are to be located. He disagrees with the changes to the LUB which authorized a commercial use in a residential area. He noted that there is a petition of the 100% of the residents in proximity to the proposed development in opposition to it. He is concerned about the variances. The inadequate perimeter screening will cause significant impact to him. He stated that the concrete pad has been poured on the property line requiring staff to trespass on his property. He is concerned about street congestion and the noise at all hours. The overflow parking in front of the Lands will affect the delivery of packages for other residents in the neighbourhood and affect the ability of visitors to the neighbourhood.
60. He is specifically concerned about the commercial dumpster which will be 10 feet from his deck. It will be unsanitary and will smell due to the contents. He questioned whether this proposed development should be located in a commercial area. He specifically requested that the City change the regulations and provide more consultation. He requested that there be input from residents before a development permit of this nature is issued. He asked that there be regard for the decrease in property values which will be suffered if this proposed development is granted. He stated that others will not want to live next to this and they should not have to either.

## **Jennifer Newton**

61. Ms. Newton lives in close proximity to the proposed development. She agreed with the comments made during the questioning. In her view, the parking flow of traffic in the street has not been properly taken into account. The pictures are not indicative of what happens on a daily basis. There are lots of parking issues already due to the high school. It is unreasonable not to consider taxes in the market value impact of the proposed development. The street is already very busy. She objected to one person's ability to make an income which would affect the neighbourhood.

## **Margaret Nishida**

62. Ms. Nishida lives adjacent to the proposed development on the side opposite Mr. Long. She noted that they had been disadvantaged due to an error on the notice about what could be appealed. She stated that there is no evidence that people in the area require a daycare. In her view, it will be people driving into the community and dropping off their children. The petition provided notes that the people petitioned do not need an unwanted business. The Applicant will not live in the property. There are varying numbers of children within the application. The Applicant's written submission notes 30-35 children but the application notes 40-45. There is a significant difference based upon the change of numbers. Ms. Nishida noted that practical issues have not been addressed. The nearest school is the high school. There is significant concern about traffic safety and the staff who will be directing traffic. She questioned whether there was any authority under the Traffic Safety Act to have a person direct traffic.



63. She noted that there are months of darkness and that the pickup in darkness will not be safe for anyone.
64. She stated that the City has no recent traffic count and that 40-45 more vehicles at more or less the same time will cause a safety issue.
65. She is also concerned about the impact that the proposed development will have on garbage pick up for the residents. She noted that the Community Standards Bylaw speaks of the timing for the pickup of garbage which will be concurrent with the operations. She stated that having to move the vehicles to the street to allow for parking will cause changes and was concerned about security.
66. She stated that it is not necessary to have the business in the area.

### **Seth Carson**

67. He lives immediately behind the proposed development.
68. He purchased in the area because it was quiet. If the proposed development goes through, he believes that he will be robbed of what he sought in the community.

### **Affected Persons**

#### **Joseph Wright**

69. Mr. Wright stated that he recently bought into the neighbourhood. He has small children and there are only five or six other small children. None of them need the daycare. He is strongly opposed to the proposed development.

#### **Katherine MacKinnon**

70. Ms. MacKinnon lives in the vicinity of the proposed development. She works from home and is concerned about noise arising from the proposed development. Her job requires her to be able to pay attention and have high focus. She is concerned that there will be too much noise which will negatively affect her ability to do her job.

#### **Fred Kisser**

71. He disagrees with the proposed development. In his view, the restrictive scope of authority noted by the Development Authority in terms of matters being outside the Development Authority's jurisdiction was not appropriate.

### **FINDINGS OF FACT**

72. In addition to the specific facts set out under the Board's reasons, the Board finds the following as facts.

73. The Lands are located at 4203-54 Street, Beaumont, legally described as plan 922 0552, Block 13, Lot 2.
74. The Lands are zoned Conventional Neighbourhood District (CN).
75. The proposed development is a change of use: Residential to Institutional – Education.
76. The proposed development is permitted use in the Conventional Neighbourhood (CN) District.
77. The proposed development requires a variance of three regulations: s. 3.3.10.b.i (perimeter planting), s. 3.3.10.b.ii (parking in rear), and s. 3.3.10.e.v (loading area in rear).
78. The variances will materially interfere with or affect the use and enjoyment of neighbouring parcels of land.
79. The appeals were filed on December 21 and 22, 2023 and were filed on time.
80. The Appellants are affected persons. Those speaking in favour of the appeals are affected persons.

## **REASONS**

### **Affected Persons**

81. The Board must determine whether those appearing and speaking before the Board are affected persons. The Board notes that there was no objection made to those making submissions to the Board; however, the Board wishes to review this issue for completeness.
82. The Appellants are neighbours in close proximity to the Lands. Due to the proximity to the proposed development, the Board finds that the Appellants are affected by the proposed development.
83. Those speaking in favour of the appeals also live in close proximity to the proposed development and are therefore affected by the proposed development.
84. The Applicant did not attend the appeal. For purposes of completeness the Board notes that since his permit is appealed, he is affected. The Board has considered his written submissions.

### **Jurisdiction and Issues to be Decided**

85. The Board's jurisdiction is found in s. 687(3) of the MGA.

**687(3)** In determining an appeal, the board hearing the appeal referred to in subsection (1)  
(a) repealed 2020 c39 s10(52);

- (a.1) must comply with any applicable land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) . . .
- (b) . . .
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
  - and
  - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

86. In its decision, the Board must determine:

- (a) What is the use?
- (b) Is the use authorized within the Conventional Neighbourhood District?
- (c) Are any variances to the regulations under the LUB required?
- (d) Should the Board exercise its discretion to grant the variances?
- (e) If the Board does exercise its discretion to grant the variances, does the proposed development comply with the relevant statutory plans?

87. In making this decision, the Board has examined the provisions of the MGA and has considered the oral and written submissions made by and on behalf of those who provided evidence: the Development Authority and the Appellants, the Applicant and affected persons.

**a. What is the use?**

88. The Applicant has applied for change of use to Institutional – Education. The Applicant advises it wishes to operate a daycare. In examining the definition of Institutional Use-Education, the Board notes that there is no specific definition for daycare. However, a daycare use fits within the definition of Education. This definition specifically references a licensed childcare facility which this proposed development will be. Therefore, the Board finds that the proposed development is an Institutional Use – Education.

**b. Is the use authorized within the Conventional Neighbourhood District?**

89. Section 3.3. of the LUB provides that Institutional Use - Education is a permitted use within the Conventional Neighbourhood District. The Board notes that under s. 642(1) of the MGA, if a person applies for a development permit for a permitted use and the application conforms to the LUB, the Development Authority must issue a development permit with or without conditions.

**c. Are any variances to the regulations under the LUB required?**

90. In this case, the Board notes that the development permit application does not comply in all regards. The Applicant has requested a variance of three items:

- (a) Perimeter planting (s. 3.3.10.b.i);
- (b) Parking in the principal front yard (s. 3.3.10.b.ii); and
- (c) The loading zone in the principal front yard (s. 3.3.10.e.v).

91. Since three variances were requested and granted, the Applicant is not entitled to the development permit as of right. The Board must examine whether it will exercise its authority found under s. 687(3)(d) to grant the variances required for the approval.

**d. Should the Board exercise its discretion to grant the variances?**

92. Under s. 687(3)(d), the Board may grant a variance to the regulations found within the LUB if it is of the opinion that the proposed development would not:
- a. unduly interfere with the amenities of the neighbourhood, or
  - b. materially interfere with or affect the use, enjoyment or value of the neighbouring parcels of land.

## Purpose of the Variances

93. As the initial part of the Board's determination of whether to grant the variance, the Board wishes to examine the purpose of the regulations. The Board did not receive specific submissions on the purpose of the regulations but infers that there might be a number of reasons for these regulations. The reason for the perimeter planning is likely utilitarian – to reduce the impact on use, enjoyment and value. This regulation also enhances privacy and is also serves an aesthetic purpose – to maintain the character and integrity of the neighbourhood. Locating the parking and loading area outside of the principal front yard likely serves the same purposes and may also have a safety component – to prevent vehicles coming in proximity to where customers may access the doors.

## Section 3.3.10.b.i – Perimeter Planting

94. The evidence received from Mr. Long, the immediately adjacent neighbour to the proposed development, was that his deck overlooks the parking as well as the solid waste area. This is reflected in the photograph at page 90 of the Agenda Package. The evidence

- of Mr. Long is that he entertains on his deck and barbeques on the side of his property that will be immediately adjacent to the storage of the solid waste as well as the parking area.
95. The Board notes that the assessment by the Development Authority is that the intention of the perimeter planting regulation had been met due to the placement of fencing along the property line.
  96. The Board notes that the Applicant indicated that he was seeking approval for 40-45 children to be cared for at the lands. Although the Board notes that the exact number will be determined by the province after the province assesses the facilities against the provincial requirements, the Board can only assess based upon the information provided. The evidence before the Board is that there might be anywhere between 30 to a maximum of 45 children on the Lands. In evaluating the impact on the neighbours, the Board is of the view that it should assess the impact if there are 45 children (the highest number applied for), because this will be the only opportunity the Board will have to consider the impact of the proposed development on the neighbourhood.
  97. In considering the impact of the proposed development on Mr. Long, the Board notes that the variance negatively affects Mr. Long's use and enjoyment of his property. The Board is of the view that the garbage from 45 children, which will include diapers and other waste products, will be stored immediately adjacent to Mr. Long's property (see site plan on page 66 of the Agenda Package).
  98. The requirement of perimeter planting would screen the visual impact of the waste as well as the parking from Mr. Long's property. The absence of perimeter planting means the full impact of the proposed development, including the waste as well as the parking will be borne by Mr. Long. Mr. Long will have the garbage bin next to his patio where he barbeques. He will be subject to the smell and possibly to insects if the garbage bin is not properly secured shut. Depending on the size of the bin, he might be able to view the bin. Mr. Long's privacy will be affected. So will the aesthetics from his property.
  99. His view and enjoyment from his rear yard will be significantly negatively affected. This will particularly be so in the summer months when he will do more barbequing and when he will use his back patio to hold outdoor events.
  100. The Board is of the view that this impact is a material interference or material effect with Mr. Long's use and enjoyment of his parcel. This is not passing or minor interference or effect. This effect will occur all spring, summer and when the fall is warm. Particularly since the summers are short, having such an impact is a material one.
  101. Mr. Long's comments were echoed by other persons who spoke at the hearing. However, the effect of this particular variance will be felt most directly by Mr. Long, whose use and enjoyment will be materially affected by the variance.
  102. The Board is of the view that the variance ought not to be granted for the reasons set out above. The Board refuses to grant this variance to the Applicant.

## Section 3.3.10.b.iii – Parking Location

103. The Development Authority noted that it granted the variance of the parking location from the rear or side of the building to the principal front yard because there is no rear lane on the lands. The Development Authority noted that it had gone out on other occasions (aside from January 17, 2024, the date of the photos) but had not provided photographs of the parking on those occasions.
104. Those who spoke at the hearing, including the Appellants and affected persons, noted that the Lands and the neighbourhood are in close proximity to the high school. The uncontradicted evidence before the Board is that high school students park along the roads in the neighbourhood. The evidence before the Board, which was uncontradicted by the Development Authority, was that January 17 was a day that students were writing exams, and therefore a number of the students were not in school. The neighbours, who experience a high volume of parking on the street on a daily basis, advised that parking in the neighbourhood is always a challenge given the high school students parking their vehicles.
105. The Board notes the contradiction in the evidence and is prepared to accept the evidence of the neighbours. The neighbours see the impact of parking on a daily basis. The Development Authority's photographs reflect a point in time and on a day when a significant number of students were not in school. Given the evidence that January 17 was not reflective of a normal parking day, the Board prefers the evidence of the neighbours in relation to the impact on parking.
106. The purpose of having parking in the rear of the property is to prevent an impact on use and enjoyment, as well as safety.
107. The Board received significant evidence about the impact of parking and the impact of having more vehicles on the road. The Board notes that although the Lands can accommodate six parking stalls, having those parking stalls in the front of the Lands in the principal front yard will have an interference with the neighbouring properties.
108. As raised by a number of speakers, if garbage bins need to be moved or if employees of the proposed development must leave during the day, six more vehicles will need to find a spot on the streets which would already be crowded. The Board is of the view that the increase will cause a material interference with the neighbours' use and enjoyment of their lands.

## Section 3.3.10.e.v – Loading Areas

109. The Development Authority noted that due to the absence of a back lane, the Development Authority granted the variance to allow the loading zone to be in the principal front yard as in the spot nearest to the front door.
110. A number of persons speaking to the Board commented upon the safety considerations of having a loading zone in that spot.

111. In considering whether to grant the variance, the Board notes that the purpose of having a loading zone in the rear or side yard is likely to be for the reasons of both safety as well as utilitarian and aesthetic.
112. As noted above, the Board has assumed there will be 45 children attending this daycare. This number means that as many as 45 cars could be attempting to drop off children during the morning peak. The Board notes that if the children are young enough to need daycare, they may need assistance getting out of the car and gathering their belongings. This will impact how much time the car will have to be in the loading zone. If one car is in the loading zone and other cars are queuing to get into that loading zone, then there may well be cars queuing down the street. This impact is likely to be significant. Even if the Board were to assume that it would require 5 minutes to unload each child (which is a very conservative estimate), it would take 225 minutes (3 hours 45 minutes) for all the children to unload. Particularly in the morning, this time coincides with the neighbours leaving for work. Having cars queuing in the street or pulling in and out of the loading spot will create a significant negative impact in the area, particularly given the configuration of the streets in this area and the number of keyhole crescents (see page 146 of the Agenda Package). The Board is of the view that there would be a significant negative impact on the neighbouring properties to have vehicles waiting along the street to access the loading zone to drop off children or to pick them up.
113. In light of the evidence about neighbourhood parking and about the number of vehicles, the Board is of the view that putting the loading zone into the principal front yard will materially interfere with and materially affect the use and enjoyment of the neighbouring parcels of land. As a result, the Board is not prepared to grant the variance to the loading zone to the front yard.
114. Having considered the evidence and for the reasons set out above, the Board is not prepared to grant the three variances finding that they would materially interfere with the neighbours' use and enjoyment of their property.

#### Other Comments

115. The Board notes that there were a number of comments made in relation to the Appellants' disagreement with the LUB and the ability of the Applicant to apply for a commercial use in what they determined to be a residential neighbourhood. The Board notes their concerns but is mindful of the fact that it must accept the LUB as it finds it. The Board cannot disregard it or overlook what City Council has approved as a permitted use within the Conventional Neighbourhood District.
116. The Board notes that a number of persons spoke about the impact on value if the proposed development was approved. The Board notes that no actual evidence of impact on value had been provided to it. Rather, the statements were assertions made by individuals who did not indicate that they were appraisers or otherwise qualified to make those statements. Therefore, the Board did not place any weight on the assertions of an impact on value.

**e. If the Board does exercise its discretion to grant the variances, does the proposed development comply with the relevant statutory plans?**


117. Since the proposed development does not comply with the LUB and the Board has determined it will not grant the variances, the Board does not need to answer the question of whether the proposed development complies with the relevant statutory plans.

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## Conclusion

118. Although the use is a permitted use, it does not comply in all regards with the regulations of the Land Use Bylaw. As indicated above, the Board is not prepared to grant the three variances which are required by the Applicant in order for the proposed development to be approved. Therefore, the Board grants the appeals and revokes the development permit.
119. Issued this 29<sup>th</sup> day of January, 2024 for the City of Beaumont Subdivision and Development Appeal Board.



M. Stout, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

This decision may be appealed to the Court of Appeal of Alberta on a question of law or jurisdiction, pursuant to Section 688 of the Municipal Government Act, RSA 2000, c M-26.

## APPENDIX "A" REPRESENTATIONS

### PERSON APPEARING

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Aleshia Ingram, Development Authority  
Kendra Raymond, Development Authority  
Wayne Long  
Doug Hurd  
Jennifer Newton  
Margaret Nishida  
Seth Carson  
Joseph Wright  
Katherine MacKinnon

**APPENDIX "B"**  
**DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

<b>January 17, 2024, Agenda Package - Revised</b>		
Exhibit	Description	Pages
1.	Application	1 15
2.	Decision of the Development Authority	16-17
3.	Notice of Appeals	18-23
4.	Notice of Hearing	24-25
5.	Development Officer Submission <ul style="list-style-type: none"> <li>• PowerPoint Presentation Addition</li> </ul>	26-152
6.	Submissions from the Applicant	153
7.	Appellant Submissions <ul style="list-style-type: none"> <li>• Wayne Long Written Submission Addition</li> </ul>	154-172
8.	Other Submissions	173