

# **SUBDIVISION AND DEVELOPMENT APPEAL BOARD A G E N D A**

**DATE:** Wednesday, December 16, 2020  
**TIME:** 6:30 p.m.  
**LOCATION:** Virtual - Zoom

1. Call to Order

2. 6:30pm

Appeal Hearing – PL20200000440

Appellant: Michael Monaghan

Against the conditional approval of Development Permit PL20200000440 to locate a home occupation offering the retail sales of baked goods at 51 Kensington Close, Development Permit PL20200000440 Plan 142-0028 Block 4 Lot 20. The Development Permit Application was approved on October 30, 2020.

3. Adjournment

## City of Spruce Grove Subdivision and Development Appeal Board

**Appeal:** PL20200000440  
**Appellant:** Michael Monaghan

Civic Address	Legal Description
51 Kensington Close	142-0028-4-20

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### Exhibit List

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## EXHIBIT 1

## **DEVELOPMENT PERMIT No. PL20200000440**

### **TIMELINES**

Development Permit Application Received Incomplete	September 1, 2020
Development Permit Application Received Complete	September 13, 2020
Development Permit Application Decision Issued	October 30, 2020
Development Permit Appeal Period Expiry Date	November 19, 2020
Notice of Appeal Received	November 19, 2020
Notice of Hearing Sent to Appellant	November 24, 2020
Notice of Hearing Sent to Applicant	November 24, 2020
Notice of Hearing Sent to Property Owner	November 24, 2020
Notice of Hearing Sent to Adjacent Property Owners	November 24, 2020
Notice of Hearing Advertised in Newspaper	December 11, 2020
Subdivision and Development Appeal Board Hearing	December 16, 2020



## EXHIBIT 2



Planning and Development  
414 King Street, Spruce Grove, AB  
Phone: 780-962-7582  
Fax: 780-962-1062

## HOME OCCUPATION DEVELOPMENT PERMIT APPLICATION

Page 1 of 2

Business Hours  
M-F: 8:30 a.m. – 4:30 p.m.

PL20200000440

### LOCATION – REQUIRED

Suite: \_\_\_\_\_ Street Address: 51 Street Name: Kensington Close

Legal Description: Unit / Lot / Block / Plan or Quarter / Section / Township / Range / Meridian

142-0028 / 4 / 20 / 1 /

**\*\*If this is for a Family Day Home, Please use the DEVELOPMENT PERMIT Application Form\*\***

### BUSINESS DESCRIPTION - REQUIRED

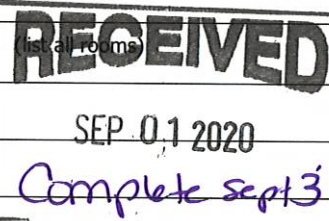
Small home bakery providing online ordering and delivery to the Tri-Municipal area. The business will be operating as a low-risk home-prepared food business with a focus on food safety excellence. There will be no storefront of any kind at the business location. All product will be displayed and sold via the business' website. On occasion, customers may come to the business location for pick up of pre-purchased products only.

### HOME OCCUPATION – REQUIRED

BUILDING PERMIT REQUIRED: ☐ YES ☐ NO CONFIRMED BY: \_\_\_\_\_

Are room alterations involved: ☐ Yes ☒ No Number of Rooms: \_\_\_\_\_ Room Description: \_\_\_\_\_

Detail of Alterations: \_\_\_\_\_



### Detail of materials, equipment and/or vehicles that will be used and where they will be stored – REQUIRED

Equipment: Kitchen Appliances, Baking Pans, Utensils, etc

Storage Location: Kitchen

Vehicle(s)/Utility Trailer(s): Delivery Vehicle

Storage Location: Garage

Material(s): Ingredients, Finished Product

Storage Location: Pantry (Secondary), Fridge/Freezer (Secondary)

### Detail of Operation – REQUIRED

Number of resident employees: 2  
(employees that reside in the home)

Number of non-resident employees: 0  
(employees not residing in the home)

Number of daily visits: 0

Number of onsite parking stalls: 2

Hours of operation: Tues, Thurs, Sat, Sun 8AM-5PM

Number of household vehicles: 2

PAID

Mailing Address  
315 Jespersen Ave  
Spruce Grove, AB T7X 3E8

This information is being collected under the authority of section 33(c) the Freedom of Information and Protection of Privacy (FOIP) Act. It will be used to administer a home occupation development permit. The personal information provided will be protected in accordance with Part 2 of the Act. If you have any questions regarding the collection, use and disclosure of personal information, please contact the FOIP Coordinator at 780-962-2611.

PLANNING & DEVELOPMENT



Planning and Development  
414 King Street, Spruce Grove, AB  
Phone: 780-962-7582  
Fax: 780-962-1062

## HOME OCCUPATION DEVELOPMENT PERMIT APPLICATION

Page 2 of 2

Business Hours  
M-F: 8:30 a.m. – 4:30 p.m.

### OWNER INFORMATION - REQUIRED

If you do not own the dwelling in which you live, please have the owner fill out the following information or provide a letter of approval from the owner (or condominium association).

Owner Name:	Phone no.:	Fax no:
Chantelle Bearchell		
Mailing address:	City:	Province:
Owner's Signature:	Date:	August 31, 2020

### APPLICANT INFORMATION - REQUIRED

Applicant Name:	Phone no.:	Fax no.:
Nicholas Edwards		
Mailing address:	City:	Province:
51 Kensington Close	Spruce Grove	AB
Applicant's signature:	Date:	August 31, 2020

**Mailing Address**  
315 Jespersen Ave  
Spruce Grove, AB T7X 3E8

This information is being collected under the authority of section 33(c) the Freedom of Information and Protection of Privacy (FOIP) Act. It will be used to administer a home occupation development permit. The personal information provided will be protected in accordance with Part 2 of the Act. If you have any questions regarding the collection, use and disclosure of personal information, please contact the FOIP Coordinator at 780-962-2611.



# ALBERTA LAND SURVEYOR'S REAL PROPERTY REPORT

LOT: 20 BLOCK: 4 PLAN: 142 0028 **KAT-3360**  
 CIVIC ADDRESS: N/A  
 SUBDIVISION: KENTON **Puranen/Bairdell**  
 MUNICIPALITY: SPRUCE GROVE  
 PREPARED FOR: BEDROCK HOMES  
 DATE OF SURVEY: MAY 19, 2015  
 SCALE: 1:200

DATE OF TITLE SEARCH: MAY 13, 2015  
 (copy on reverse)

**ALBERTA LAND SURVEYOR'S CERTIFICATION:**  
 I hereby certify that this Report, which includes the attached plan and related survey, was prepared and performed under my personal supervision and in accordance with the Alberta Land Surveyors' Association's Manual of Standard Practice and supplements thereto. Accordingly, within those standards and as of the date of this Report, I am of the opinion that:

1. the plan illustrates the boundaries of the Property, the improvements as defined in Part D, Section 8.5 of the Alberta Land Surveyors' Association's Manual of Standard Practice, and registered easements and rights-of-way affecting the extent of the title to the Property;
2. the improvements are entirely within the boundaries of the Property;
3. no visible encroachments exist on the Property from any improvements situated on an adjoining property;
4. no visible encroachments exist on registered easements or rights-of-way affecting the extent of the Property.

**Purpose of Report:** This Report and attached plan have been prepared for the benefit of the Property owner, subsequent owners, and any of their agents for the purpose of (a land conveyance, support of a subdivision application, a mortgage application, a submittal to the municipality for a compliance certificate, etc.). Copying is permitted only for the benefit of these parties, and only if the plan remains attached. Where applicable, registered easements and utility rights-of-way affecting the extent of the Property have been shown on the attached plan. Unless shown otherwise, property corner markers have not been placed during the survey for this Report. The attached plan should not be used to establish boundaries because of the risk of misinterpretation or measurement error by the user.

The information shown on this Report reflects the status of this Property as of the date of survey only. Users are encouraged to have the Real Property Report updated for future requirements.

**This document is not valid unless it bears an original signature (in blue ink) and a Pals Geomatics Corp. permit stamp (in red ink).**

<b>LEGEND:</b>	CONCRETE	I. OH	IRON POST
Ø	DIAMETER	OH	OVERHANG
DIST.	DISTURBED	R/W	PILLAR
DEST.	DESTROYED	R	RIGHT OF WAY
Fd.	FOUND	REF.	RADIUS
G	FENCELINE	RES.	REFERENCE
INACC.	GARAGE	UTL.	RESTORED
	INACCESSIBLE		UNABLE TO LOCATE
			WOOD

Lawrence M. Pals, A.L.S. May 21, 2015  
 Pals Geomatics Corp.  
 Gated at: Edmonton, AB  
 May 21, 2015

- NOTES:**
1. DIMENSIONS ARE SHOWN IN METERS AND DECIMALS THEREOF.
  2. DISTANCES ON CURVED BOUNDARIES ARE ARC DISTANCES.
  3. EAVES ARE MEASURED TO THE LINE OF THE FASCIA.
  4. DIMENSIONS ARE TO FOUNDATION WALLS.
  5. BUILDING HAS CLADDING.

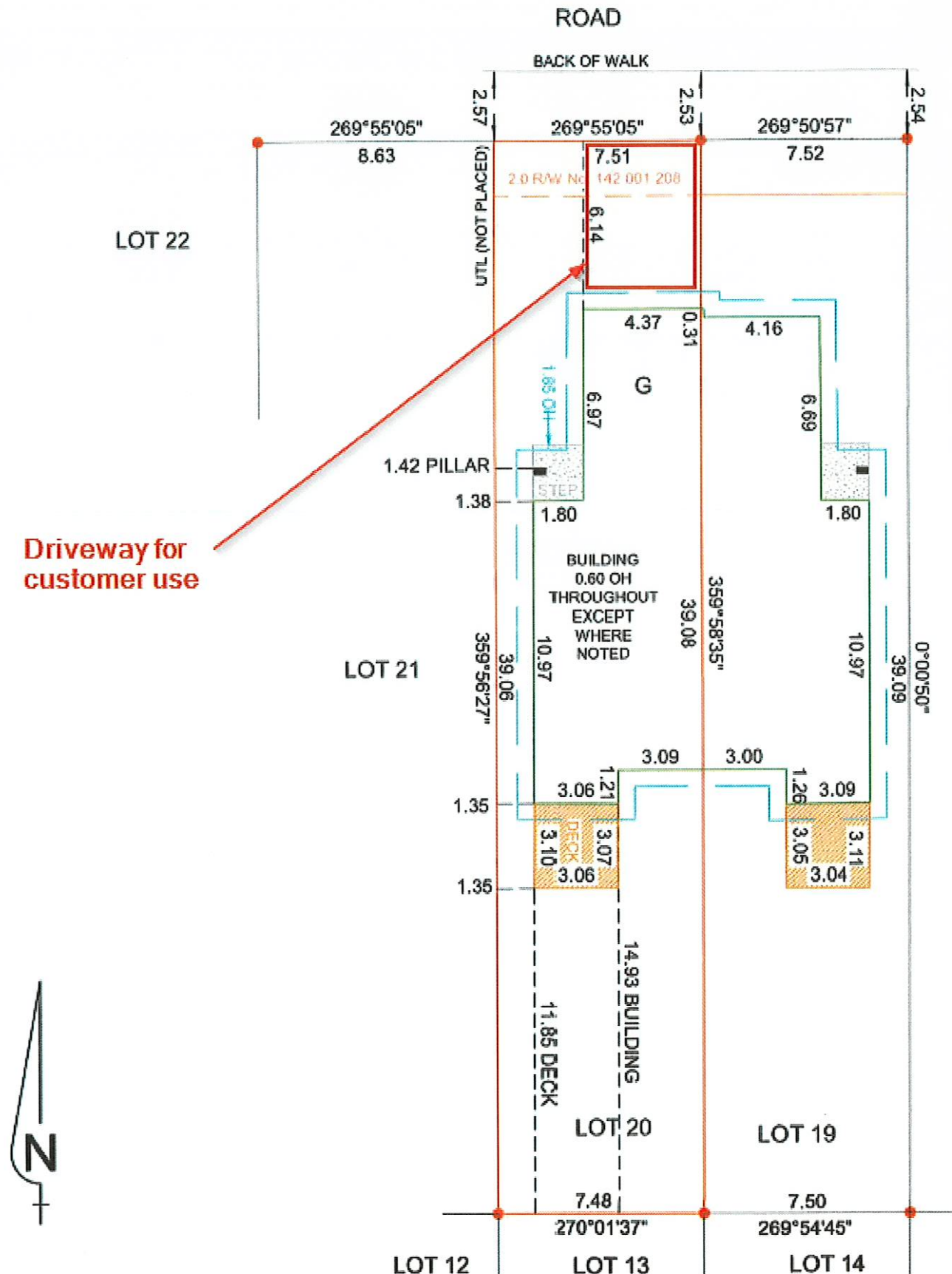
**Pals Geomatics Corp.**  
 EMAIL: RPR@PALSGEOMATICS.COM  
 PHONE: 780-455-3177  
 FAX: 780-481-1301  
 10704 - 178TH STREET NW  
 EDMONTON, ALBERTA T5S 1G7  
 DRAFTER: CN

## COMPLIANCE CERTIFICATE

This is to certify that the property is districted Residential  
Mixed Low to Medium Density Residential District  
 under the City of Spruce Grove Land Use Bylaw No. C-82412. A review of the Real Property Report dated 21-May-15 with an amendment date of N/A shows that the building(s) is/are located in accordance with the setback regulations of the district and the appropriate Development Permit(s) was/were issued. The Development Officer has not conducted an inspection of the site. This compliance certificate makes no representation as to compliance with the Alberta Safety Codes Act, the requirements of any federal, provincial or municipal legislation or to the terms or conditions of any easement, covenant, building scheme, agreement or other document affecting the building(s) or land.  
 Note: This compliance certificate precludes any structure(s) or a part thereof, that are not shown.

Development Officer: T. Ouellette Date: 18 June-15  
 Affidavit: \_\_\_\_\_

**NOTE:**  
 BEARINGS ASSUMED FROM SUBJECT PLAN.  
 BUILDING CORNERS ARE WITHIN 0.10 OF COMMON PROPERTY LINE UNLESS OTHERWISE SHOWN.  
 UNABLE TO GAIN ACCESS TO DETERMINE COMMON WALL LOCATION.  
 DECK IS 0.71 ABOVE GRADE  
 RAIL IS 1.07 ABOVE DECK  
 PROPERTY NOT PROTECTED BY PARTY WALL AGREEMENT.



THE CITY OF SPRUCE GROVE  
**EXAMINED**  
 Tanya Ouellette  
 P.L. 2020-0000440  
 30-Oct-2020

ALBERTA LAND SURVEYORS' ASSOCIATION  
 PERMIT NUMBER  
 P 073  
 20-04-1420028-0000  
 PALS GEOMATICS CORP.



**From:** Nicholas Edwards [REDACTED]  
**Sent:** October 29, 2020 4:52 PM  
**To:** Tanya Ouellette  
**Subject:** RE: Home occupation

**NOTICE:** This email originated from outside the organization. Use caution when clicking links or opening attachments.

Hi Tanya,

Thanks for getting back to me. I apologize for the delay in response to you on this, somehow it ended up in my spam.

I am home during the day on weekdays to accommodate pickups while my wife is at work with one of the vehicles. During the other times, we will be offering delivery of our products only. We do plan to sell one of our vehicles in the next few weeks, which would allow for fulltime customer use of our parking pad.

Let me know if that answers your question and if you have any further inquiries. I will diligently check my spam going forward to ensure nothing gets missed.

Regards,

Nick Edwards

----- Original message -----

**From:** Tanya Ouellette <touellette@sprucegrove.org>  
**Date:** 2020-10-08 2:02 p.m. (GMT-07:00)  
**To:** [REDACTED]  
**Subject:** Home occupation

Good afternoon Nicholas –

On your application you have noted that you have 2 parking stalls and 2 household vehicles. Can you provide details on the parking arrangements for your clients? For example, In order to accommodate on-site parking for your customers, are your pick up times arranged for when the second occupant of your dwelling is away at work? Thanks.

Best regards,

*Tanya Ouellette* | Development Officer | Planning & Development | City of Spruce Grove

**Office address:** 414 King Street

**Mailing address:** 315 Jespersen Avenue | Spruce Grove, AB | T7X 3E8  
Tel: 780-962-7634 ext. 173 | Fax: 780-962-1062 | [www.sprucegrove.org](http://www.sprucegrove.org)

**NOTICE:** The Planning and Engineering office located at 414 King Street is temporarily closed to walk-in traffic in response to Covid-19. At this time, we can assist you by phone (780-962-7582 main office) or email ([permits@sprucegrove.org](mailto:permits@sprucegrove.org)).

**Find us on** [facebook](#) and [twitter](#)

## EXHIBIT 3





## Development Permit Decision

Planning and Development, Office Location  
414 King Street  
Spruce Grove, AB  
Phone: (780) 962-7582 Fax: (780) 962-1062

Planning and Development, Mailing Address  
315 Jespersen Avenue  
Spruce Grove, Alberta T7X 3E8

Development Permit Decision No: PL20200000440  
Municipal Address: 51 Kensington Close  
File No/Legal (PI-Blk-Lt): 142-0028-4-20  
Land Use District: R1

☐ Approved  
☐ Permitted Use

☒ **Conditionally Approved**  
☒ **Discretionary Use**

☐ Refused  
☐ Variance Granted

**The application for a development permit for a home occupation offering the retails sales of baked goods is approved subject to the following conditions:**

1. The home occupation shall be operated as a secondary use only and shall not change the principal character or external appearance of the dwelling involved. The home occupation shall not be visible from the exterior of the dwelling. Therefore, there shall be no signage in relation to the business, no products on display through windows or any other such visible means of determining that a business is operating from this location.
2. There shall be no outside storage of materials, commodities or finished products.
3. No commodity other than the product or service of the home occupation shall be sold on the premises.
4. No employee of a Home Occupation, other than a resident of the Dwelling, shall undertake any work at the Dwelling, including parking their motor vehicle.
5. Not more than one business related vehicle, no heavier than 5,000 kg, shall be parked on the property at any time.
6. A utility trailer parked on the property associated with the business shall not exceed 6.0m in length.
7. Any vehicles parked on street or off street, as a result of a home occupation shall, in the opinion of the Development Officer, not be a source of inconvenience to adjacent landowners or tenants.
8. If, at any time, any of the requirements for the home occupation has not been complied with, the Development Officer may suspend or cancel this development permit.
9. A site containing a home occupation shall not contain a Secondary Suite, Garage Suite or Garden Suite.
10. A home occupation that attracts clients, customers or students to the premises shall be limited to a maximum of **one** in attendance at any one time, as determined by the available parking on site.

# CONDITIONALLY APPROVED

Tanya Ouellette

30-October-2020

Development Officer

Signature

Date

APPEAL PERIOD EXPIRY DATE:

NOV 19 2020

### Important Notices

- This is not a building permit (must be obtained separately). A Building Permit may be required, please contact the Planning and Development Department for more information.
- A person applying for, or in possession of a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement, bylaw, regulation (municipal or provincial) or instrument affecting a building or land.
- Any development carried out prior to the appeal expiry date is at the sole risk of the applicant.
- If you wish to appeal the decision of the Development Officer, you may do so by completing a form available from the:

City of Spruce Grove  
Planning and Development Department, Office Location  
414 King Street, Spruce Grove, Alberta

OR

On the City's website at <https://www.sprucegrove.org/services/building-and-development-permits/development-permits/>





## Development Permit Decision

Planning and Development, Office Location  
414 King Street  
Spruce Grove, AB  
Phone: (780) 962-7582 Fax: (780) 962-1062

Planning and Development, Mailing Address  
315 Jespersen Avenue  
Spruce Grove, Alberta T7X 3E8

Development Permit Decision No: PL202000004

Municipal Address: 51 Kensington Close

File No/Legal (PI-Blk-Lt): 142-0028-4-20

Land Use District: R1

The completed form along with the appeal fee can be submitted in the following manner:

Mailing:  
City of Spruce Grove  
Planning and Development Department  
315 Jespersen Avenue  
Spruce Grove, Alberta T7X 3E8

In Person:  
City of Spruce Grove  
Planning and Development Department  
414 King Street  
Spruce Grove, Alberta

OR

Email:  
[permits@sprucegrove.org](mailto:permits@sprucegrove.org)

The request for appeal shall be submitted within the appeal expiry date.

### For Information Purposes

- (1) **THIS IS NOT A BUILDING PERMIT.** Such permits must be obtained separately.  
(2) **POSTING OF DEVELOPMENT OFFICER'S DECISION**

Where there is a right of appeal, by anyone other than the applicant, from a decision on an application, posting on the site may be required. Such a posting must be on the site as may be required by the Development Officer, describing the proposed development and the Development Officer's decision, and advising of the right of appeal to the Subdivision and Development Appeal Board. The notice shall be of durable material, and shall be at least one (1) foot by two (2) feet in size.

(3) **GROUND'S FOR APPEAL**

Section 685 of the Municipal Government Act states:

- "(1) If a Development Authority
- (a) refuses or fails to issue a development permit to a person,
  - (b) issues a development permit subject to conditions, or
  - (c) issues an order under section 645
- the person applying for the permit or affected by the order under section 645 may appeal to the Subdivision and Development Appeal Board."
- (2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the Subdivision and Development Appeal Board.
- (3) Notwithstanding subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the Land Use Bylaw were relaxed, varied or misinterpreted."

Section 686 of the Municipal Government Act states in part:

- "(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board
- (a) in the case of an appeal made by a person referred to in section 685(1)
    - (i) with respect to an application for a development permit,
      - A. within 21 days after the date on which the decision is made under section 642, or
      - B. if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (b) In the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.
- (2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.
- (3) The subdivision and development appeal board must give at least 5 days' notice in writing of the Hearing
- (a) to the appellant,
  - (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
  - (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified."

Section 687 of the Municipal Government Act states in part:

- "(1) At a hearing under section 686, the Subdivision and Development Appeal Board must hear
- (a) the appellant or any person acting on behalf of the appellant,
  - (b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,
  - (c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of the person, and
  - (d) any other person who claims to be affected by the order, decision or permit and that the Subdivision and Development Appeal Board agrees to hear, or a person acting on behalf of that person.



## Development Permit Decision

Planning and Development, Office Location  
414 King Street  
Spruce Grove, AB  
Phone: (780) 962-7582 Fax: (780) 962-1062

Planning and Development, Mailing Address  
315 Jespersen Avenue  
Spruce Grove, Alberta T7X 3E8

Development Permit Decision No: PL20200000440

Municipal Address: 51 Kensington Close

File No/Legal (PI-Blk-Lt): 142-0028-4-20

Land Use District: R1

- (2) The Subdivision and Development Appeal Board must give its decision in writing together with reasons for the decision within 15 days of concluding the hearing."

(4)

### PERMIT VALIDITY

- (a) A development permit is effective for a period of one year unless specified otherwise in the permit conditions. If the development permit cannot be fulfilled within the one year period an extension may be granted, by a Development Officer, if requested in writing prior to the expiry date and if substantial development has occurred on the site, in the opinion of the Development Officer.
- (b) A development once commenced is not to be discontinued or suspended for a period or periods totalling more than six months unless the Development Officer has notified the developer in writing that such discontinuance or suspension may be continued. If the notification of extension has not been obtained the development permit shall be considered to have lapsed.
- (c) In the case of an appeal the decision of the Subdivision and Development Appeal Board, to approve the development permit or amend any conditions, is effective for a period of one year from the date of the written notification. If the decision of the Subdivision and Development Appeal Board cannot be fulfilled within the one year period an extension may be granted, by a Development Officer, if requested in writing prior to the expiry date.

## EXHIBIT 4





414 King Street, Spruce Grove, AB

Phone: 780-962-7582

Fax: 780-962-1062

M-F: 8:30 a.m. – 4:30 p.m.

## NOTICE OF APPEAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

# RECEIVED

NOV 19 2020

CITY OF SPRUCE GROVE

1:05 AM

Development Permit Application No.: 142-0028-4-20

Stop Order Dated: \_\_\_\_\_

Appeal of the

- ☐ Approval  
☒ Conditional of approval  
☐ Refusal

☐ Representing group

☐ List of names attached

### APPELLANT – REQUIRED

Appellant Name:

Michael Monaghan

Home Phone No.:

[REDACTED]

Work Phone No.:

N/A

Mailing address:

48 Kensington Close

City:

Spruce Grove

Province:

AB

Postal Code:

T7X 0S9

Signature:

Date:

2020-11-18

Email

[REDACTED]

### APPELLANT'S REPRESENTATIVE – REQUIRED

Appellant Name:

N/A

Home Phone No.:

N/A

Work Phone No.:

N/A

Mailing address:

N/A

City:

N/A

Province:

N/A

Postal Code:

N/A

Email

N/A

### ADDRESS OF SUBJECT SITE – REQUIRED

Suite:

Street Address:

51

Street Name:

Kensington Close

Legal Description: Unit / Lot / Block / Plan or Quarter / Section / Township / Range / Meridian

N/A

/ N/A

/ N/A

/ N/A

/ N/A

### REASON FOR APPEAL - REQUIRED

Appeal of your file: 142-0028-4-20

Please refer to Addendum attached.

Note also that the legal description of the proposed development was not provided by your office in your letter of notice dated October 30, 2020.

[REDACTED]

November 18, 2020.

### OFFICE USE ONLY

Appeal Period Expiry Date:

Date Appeal Received:

Receipt No.:

November 19/2020

November 19/2020

1684405

November 18, 2020

**Bylaw C-824-12 (Bylaw)**

RE: Development Permit Decision file #142-0028-4-20. The development permit in question grants the occupant of the property located at, 51 Kensington Close, a permit for home occupation offering retail sales of baked goods.

Attention:

It is my opinion that the development officer, Tanya Ouellette, erred in her decision to approve the above noted application for a development permit for a home occupation offering the retail sales of baked goods. Specifically, she failed to show that the following conditions have been met or could be met.

*7) Any vehicle parked on street or off street, as a result of a home occupation shall, in the opinion of the Development Officer, not be a source of inconvenience to adjacent landowners or tenants.*

*10) A home occupation that attracts clients, customers or students to the premises shall be limited to a maximum of one in attendance at any one time, as determined by the available parking on site.*

The property in question is a Duplex located at 51 Kensington Close in Spruce Grove Alberta. It is my understanding from my telephone conversation with Ms. Ouellette, that the property is zoned for residential use and currently conforms to Subclause 85(2) of the bylaw. In that it has two parking stalls in tandem.

In her decisions, Ms. Ouellette fails to state how conditions 7 & 10 of her decision will be met. Specifically, she fails to explain why she is of the opinion that any vehicles parked on the street as result of the development will not be a source of inconvenience to adjacent landowners or tenants. She also fails to explain how the number of clients, customers, or students will be limited to a maximum of one in attendance at any one time as determined by the available parking on site.

- I. First, I'd like to draw your attention to the commercial section of the table included in Subsection 85(2). It lists several types of commercial undertakings and the minimum required number of parking stalls. I reviewed the table and could not find "Retail Sales Bakery". Consequently, it seems that the following applies:

*Any commercial use not listed separately in this section*

*For the first 1000.00 m2 one parking Stall per 30.0 m2 Gross Floor Area (GFA). For the next 3000.00 m2 one stall per 25.0 m2s of GFA; for the remaining floor area, one stall per 20.0 m2 of GF A*

## Addendum: Notice of Appeal

I don't have access to the actual size of the building, but I will attempt to provide an estimate of the number of parking spaces required for a commercial building of the same size and use:

- If the building, located at 51 Kensington Close, were 1,000 ft<sup>2</sup> then it would require at least 3 parking spots =  $1000 \text{ ft}^2 / 322.917 \text{ ft}^2 = 3.09$ .
  - It seems to me upon casual observation, that the building is probably at least 1,300 ft<sup>2</sup>. Consequently, it would require 4 parking stalls not 3:  $1300 \text{ ft}^2 / 322.917 \text{ ft}^2 = 4.03$ .
  - I think it's important to note that there doesn't appear to be any allowance for tandem parking stalls in Subsection 85(2).
2. Condition 5 of her decision states the following: *"Not more than one business related vehicle, no heavier than 5,000 kg shall be parked on the property at any time."*

The property has only two tandem parking stalls. If there is a business-related vehicle parked there then there will only be one parking stall available to clients not two.

3. The tandem nature of the existing parking stalls precludes the use of the second stall for clients (i.e. if one client is in attendance at the business and another client visits at the same time or a few minutes later then he/she would have to double park effectively boxing the first client in.

Ms. Ouellette's decision appears to circumvent this issue by having the following condition: *"A home occupation that attracts clients, customers or students to the premises shall be limited to a maximum of one in attendance at any one time, as determined by the available parking on site."*

I agree with her that limiting the number of customers parking to one in attendance at any one time is necessary given the nature of the parking (tandem stalls) and neighbourhood (a residential neighbourhood with front facing garages). However, it would be impossible to enforce. The only way it would be enforceable is if the city had a bylaw officer standing outside of the property which is unrealistic. Perhaps she is expecting adjacent property owners to call the city to complain whenever parking becomes an issue? Expecting property owners to call in complaints is setting the business and the community up for failure and seems patently unfair.

4. There is no evidence that Ms. Ouellette took into account the following factors.
- All of the properties in Kensington Close have front facing garages, consequently, street parking is very limited.
  - All of the properties on the south side of Kensington Close (including 51 Kensington close) are duplex's rather than single detached homes. Which further exacerbates the lack of street parking.
  - There is no mention in the decision of what the bakeries operating hours will be.
    - There is no mention of what days of the week will it be open.
    - There is no mention of whether it will be open on the weekends.
    - There is no mention of the hours it will operate.
5. Administrative Fairness -It is my opinion that Ms. Ouellette's decision does not adhere to the Administrative Fairness guidelines of the Alberta Ombudsman. Specifically, it does not adhere to



Addendum: Notice of Appeal

the following: duty of Fairness, adequate reasons, exercising discretionary power; and finally, it is not reasonable.

In summary, while the Development officer has the authority to allow variances under Section 14 of the Bylaw. Her decision has to be supported by the legislation. It must also be fair and reasonable. Ms. Ouellette's decision is neither reasonable or fair. Moreover, it is not supported by the evidence presented.

Sincerely,

[Redacted signature block]

M Monaghan

[Redacted contact information]

[Redacted contact information]

## EXHIBIT 5



November 25, 2020

Dear Property Owner

**RE: NOTICE OF HEARING – SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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An appeal has been filed against the conditional approval of Development Permit PL20200000440 to locate a home occupation offering the retail sales of baked goods at 51 Kensington Close, Development Permit PL20200000440 Plan 142-0028 Block 4 Lot 20. The Development Permit Application was approved on October 30, 2020.

The Subdivision and Development Appeal Board (SDAB) will hold an appeal hearing as follows:

DATE: Wednesday, December 16, 2020  
TIME: 6:30 p.m.  
LOCATION: Virtual - Zoom

When an appeal is filed with the Subdivision and Development Appeal Board (SDAB), all persons who own property within 30 meters of the development are notified of the hearing by way of this letter. In addition, the owner of the property, the applicant of the development permit, and the person(s) who filed the appeal will also receive a copy of this letter.

Persons mentioned above and affected by this development have the right to submit a verbal or written submission to the Board. When making a submission, keep in mind that in accordance with the legislation that governs the SDAB, the Board can only consider relevant planning matters when rendering its decision.

If you wish to make a verbal submission to address the Board, you must pre-register by **Wednesday, December 16, 2020 at 12 noon** by email, at [permits@sprucegrove.org](mailto:permits@sprucegrove.org), or by telephone at 780-962-7582. Once registered you will be provided with the information necessary to access the meeting by virtual means.

If you wish to submit written material to the Board for inclusion in the hearing agenda package, it must be received by **Wednesday, December 9, 2020 at 12 noon** by email, at [permits@sprucegrove.org](mailto:permits@sprucegrove.org), or by mail, 315 Jespersen Avenue, Spruce Grove, Alberta, T7X 3E8. Visuals such as PowerPoint presentations, photos, or graphics are considered to be a written submission in accordance with the City's Virtual Procedures Bylaw. Any written submissions received will be made available to the public.

We will be pleased to answer any questions you may have regarding the appeal and can also provide information or advice on Board procedures and how to make presentations

to the Board. Please feel free to contact me at 780-962-7634 ext. 195 should you have any questions.

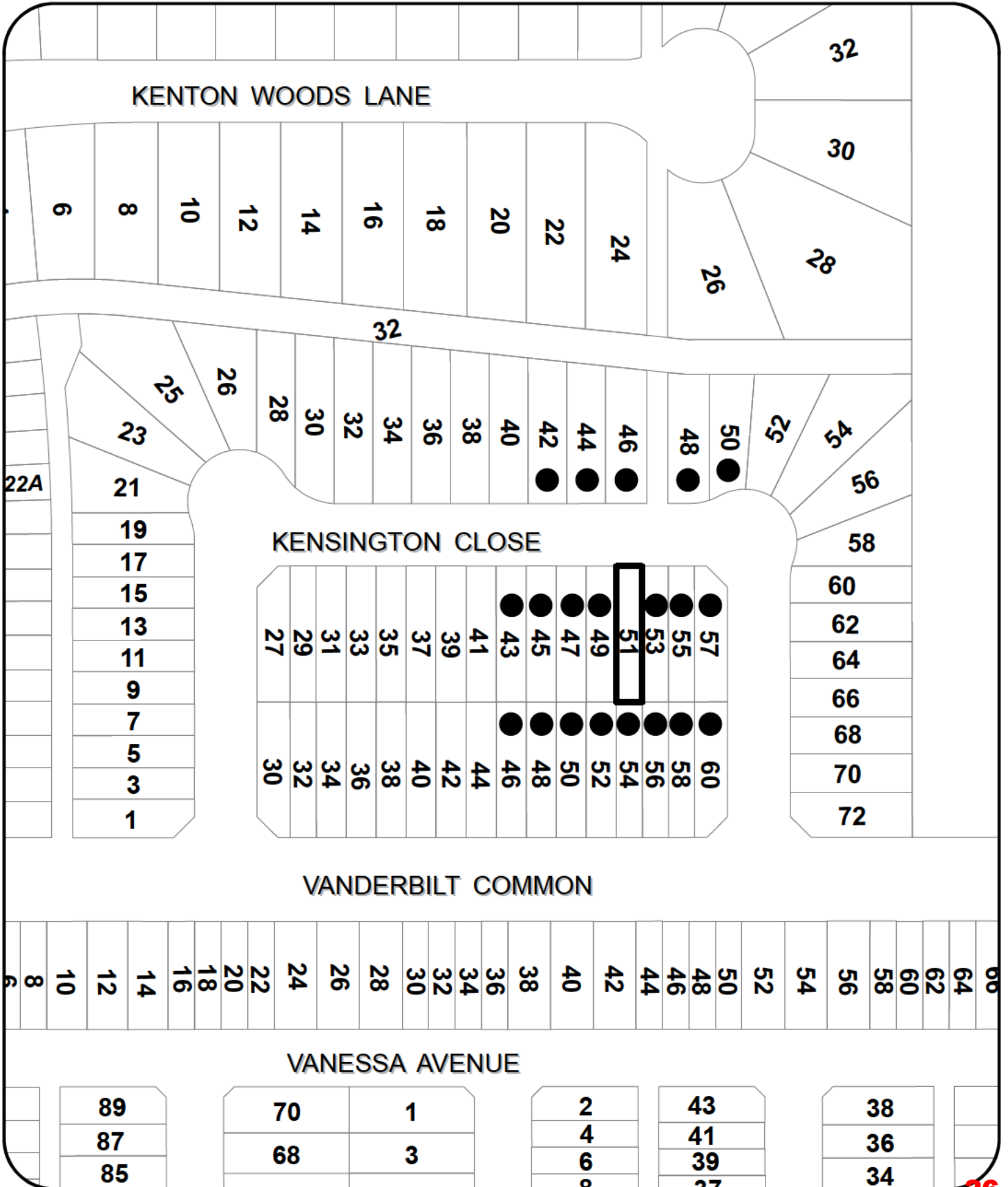
Yours truly,

Carolynn Grey  
Clerk, Subdivision and Development Appeal Board  
Email: [cgrey@sprucegrove.org](mailto:cgrey@sprucegrove.org)  
Phone: 780-962-7634 ext. 195

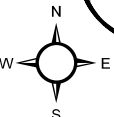
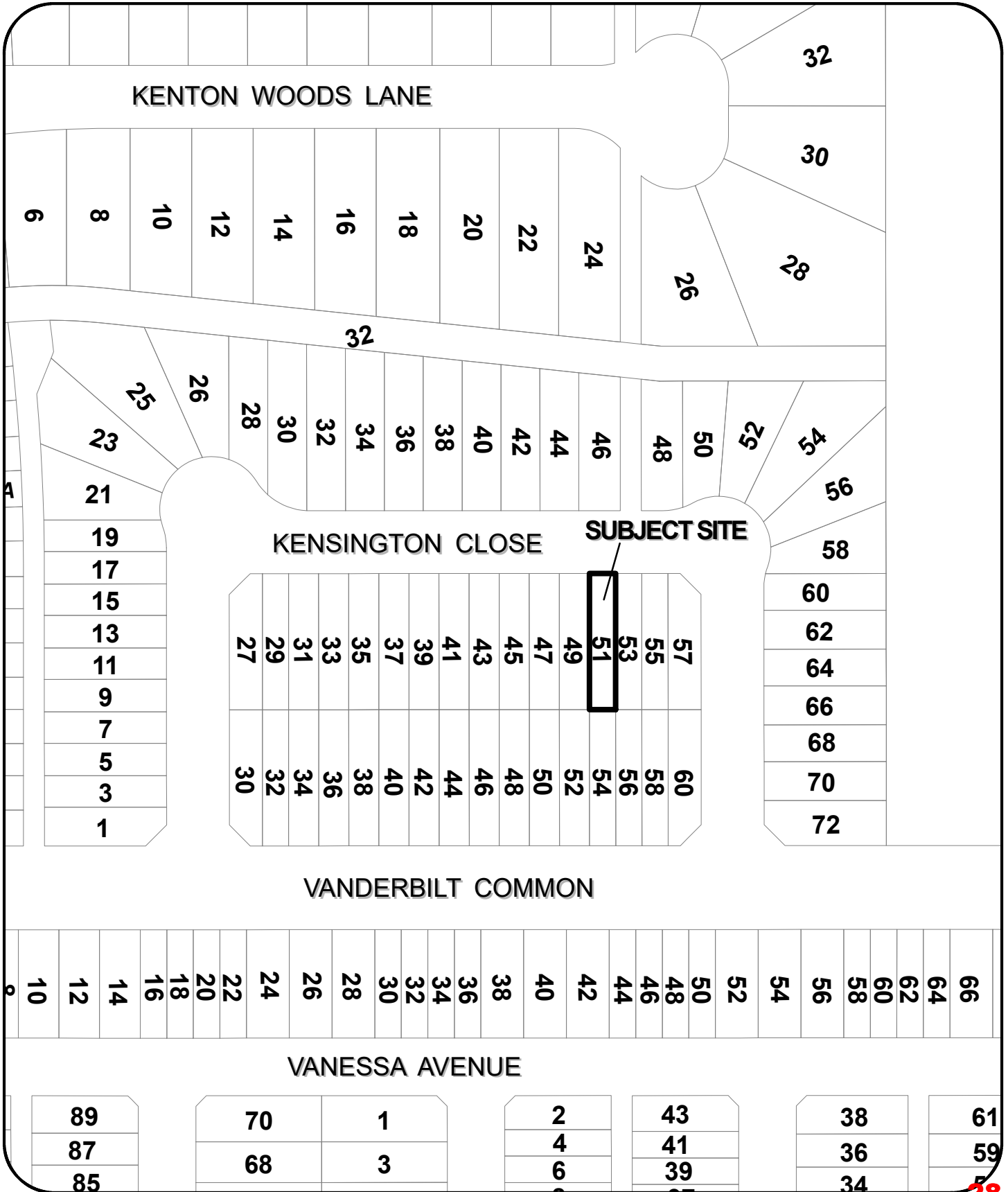
## EXHIBIT 6

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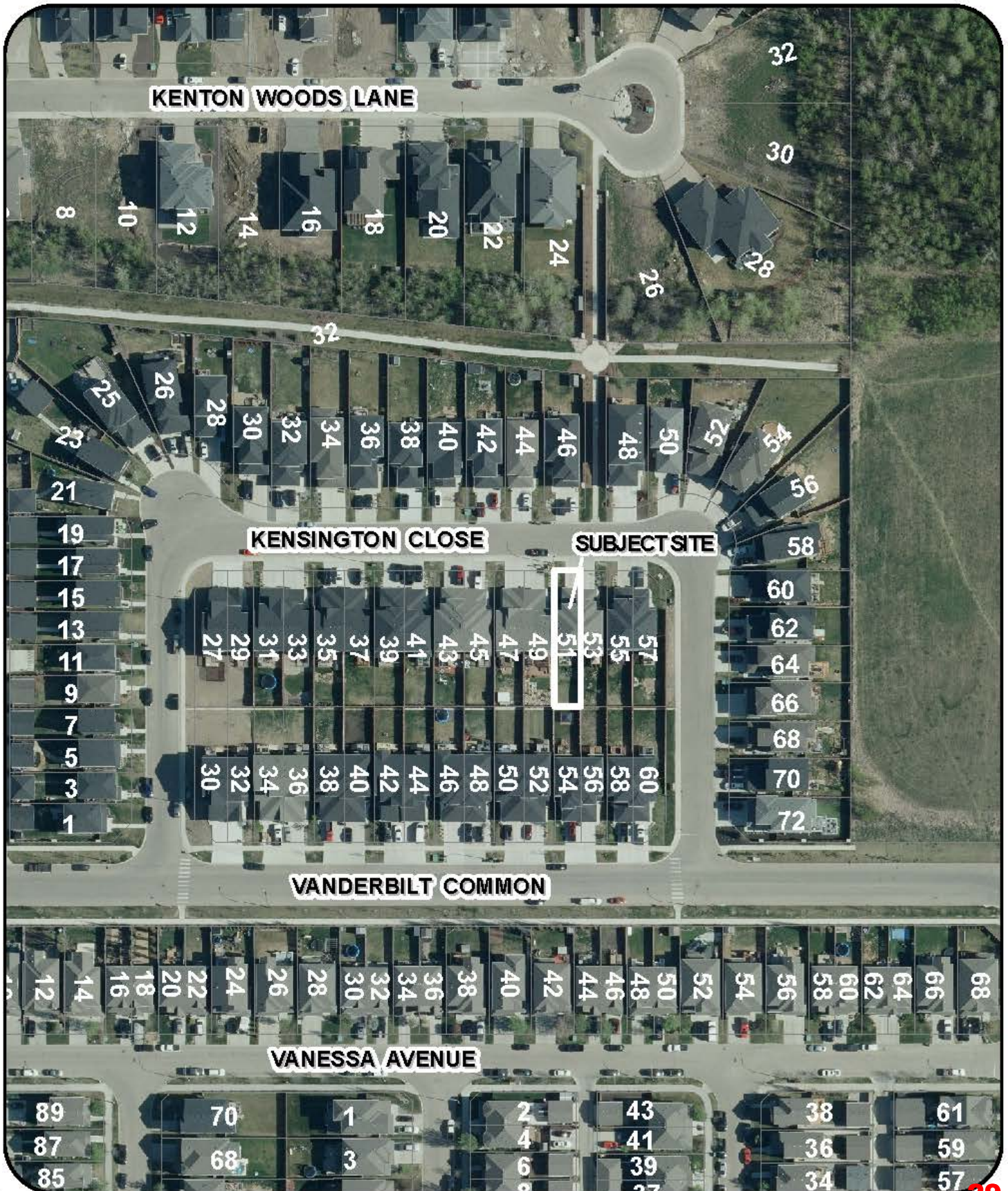
## EXHIBIT 7



## EXHIBIT 8







## EXHIBIT 9



## PLANNING STAFF REPORT TO: Subdivision & Development Appeal Board

ITEM: 1

<b>File No:</b>	142-0028-4-20	<b>Subject:</b>	An appeal against the conditional approval of a development permit application for a home occupation offering the retail sale of baked goods.
<b>Date of Report:</b>	November 20, 2020		
<b>Date of Meeting:</b>	December 16, 2020		

The following is a summary of information relevant to the application:

**Development Permit: PL20200000440**

**Date of Decision: October 30, 2020**

**Date Appeal Received: November 19, 2020**

**Relevant Sections of the  
Land Use Bylaw:**

**Section 7 Definitions  
Section 70 Home Occupations  
Section 85 Number of On Site Parking Stalls Required**

**Land Use District: R1 – Mixed Low to Medium Density Residential District**

**Proposed Use: Home Occupation**

**Municipal Address: 51 Kensington Close**

**Legal Description: Plan 142-0028, Block 4, Lot 20**

### **I. BACKGROUND INFORMATION**

September 1, 2020 – The occupant and applicant, Nicholas Edwards with authorization from the property owner of 51 Kensington Close, submitted a development permit application to operate a home occupation offering the retail sale of baked goods.

October 30, 2020 – The development officer conditionally approved the application for the home occupation under development permit PL20200000440.

November 6, 2020 – A telephone conversation took place between the appellant and development officer for further information relating to the home occupation.

November 19, 2020 – The adjacent property owner, within the 30m buffer area, and appellant, Michael Monaghan of 48 Kensington Close, submitted an appeal against the conditional approval of development permit PL20200000440.

### **II. LAND USE BYLAW C-824-12**

**Section 7 - Definitions:** The definition under this section that applies to this appeal is as follows:



**Home Occupation:** A business venture carried on within a Dwelling which is not visible in any manner from the outside of the Dwelling. Such an operation is secondary to the residential Use of the Dwelling and does not change the character thereof. This Use does not include Family Day Homes.

**Section 70 - Home Occupation:** The regulations under this section that apply to this appeal are as follows:

- (1) A Home Occupation shall not be allowed in a residence if, in the opinion of the Development Officer, it would be more appropriately located in a Commercial or Industrial District.
- (2) A resident who intends to carry out a Home Occupation, where allowed as a Discretionary Use, shall make application for a Development Permit and shall, if given approval, comply with the following provisions:
  - (f) If, at any time, any of the requirements for Home Occupations have not been complied with, the Development Officer may suspend or cancel the Development Permit.
  - (g) A Home Occupation that attracts clients, customers, or students to the premises shall be limited to a maximum of six persons in attendance at any one time.
  - (i) Not more than one business related vehicle, no heavier than 5,000 kg. shall be parked on the property at any time.

**Section 85 - Number of On Site Parking Stalls Required:** The regulations under this section that apply to this appeal are as follows:

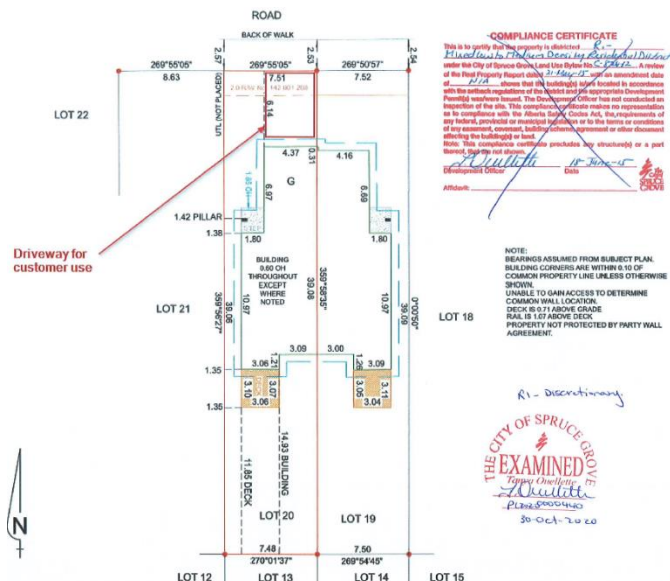
- (2) The minimum number of On Site Parking Stalls required for each Use of Building or Development shall be as follows:
  - **Semi-Detached Dwelling:** Two
  - **Home Occupation:** As required by the Development Officer

### III. STAFF COMMENTS

The property in question, 51 Kensington Close, is located within the R1 – Mixed Low to Medium Density Residential District.

A home occupation is a discretionary use within the R1 district. For discretionary uses, a development officer may add additional conditions to establish a more stringent standard and through the review, shall approve the use if, in the opinion of the development officer, the applicant can comply with the conditions of approval. However, if the conditions of approval are not complied with, the development officer may suspend or cancel the development permit.

A home occupation is a use within most residential districts within the City of Spruce Grove. Home occupations allow for the consideration of part-time, small and/or the start-up of a new business where being located in a commercial space is not feasible. During the review of the home occupation use, the development officer considers whether or not the proposed use is better suited in a commercial district versus a residential district.



Throughout the City of Spruce Grove, lack of street parking is a common concern. Therefore, the total number of on-site parking stalls are largely considered when reviewing a development permit application for a home occupation. In a residential district, there are a minimum of two on-site parking stalls required for the residential use of a dwelling and as required by the development officer for a home occupation. In this case, there are two on-site parking stalls and two household vehicles. The development officer requested additional information from the applicant to ensure they have parking arrangements for their customers so it does not negatively impact the street parking. As per the information included as part of the application and in response to the request, the development officer

was assured there would be no negative impact to street parking as the majority of the orders would be delivered to their customers and the occasional pick up would be scheduled around the hours the applicant's wife was away at work leaving her parking stall in the driveway available. As there would only be one on-site parking stall available, the development officer included the condition of having only one customer at a time.

The appellant indicated that the parking may not have been properly calculated as he felt the commercial district parking regulations applied. The development officer used the home occupation section of the parking regulations where it states the minimum required on-site parking stalls are as required by the Development Officer. The commercial district parking regulations require one parking stall per 30.0m<sup>2</sup> for the first 1000.0m<sup>2</sup> of gross floor area. As the home occupation is an accessory use to the principal use being residential, the area of the proposed accessory use would be calculated solely by using the area of the kitchen. As per the City's property file for 51 Kensington Close, the area of the kitchen is 116.42ft<sup>2</sup> (10.82m<sup>2</sup>), therefore, approximately 1/3 of a parking stall would be required. Again, commercial parking regulations do not apply for home occupations.

Being a discretionary use, adjacent property owners receive a letter notifying them of the decision. If additional information is required, they may contact the development officer. Additional information may include, but is not limited to:

- Proposed hours of operation,
- Proposed parking arrangements,
- Proposed intensity of the accessory use, etc.

A telephone conversation between the appellant and the development officer did take place on November 6, 2020 which focused on the development officer's review process and decision.

In conclusion, as the development officer determined the home occupation regulations were clearly considered by the applicant and had no reason to doubt the conditions would be complied with, the development officer conditionally approved the application.

## EXHIBIT 10

November 18, 2020

**Bylaw C-824-12 (Bylaw)**

RE: Development Permit Decision file #142-0028-4-20. The development permit in question grants the occupant of the property located at, 51 Kensington Close, a permit for home occupation offering retail sales of baked goods.

Attention:

It is my opinion that the development officer, Tanya Ouellette, erred in her decision to approve the above noted application for a development permit for a home occupation offering the retail sales of baked goods. Specifically, she failed to show that the following conditions have been met or could be met.

*7) Any vehicle parked on street or off street, as a result of a home occupation shall, in the opinion of the Development Officer, not be a source of inconvenience to adjacent landowners or tenants.*

*10) A home occupation that attracts clients, customers or students to the premises shall be limited to a maximum of one in attendance at any one time, as determined by the available parking on site.*

The property in question is a Duplex located at 51 Kensington Close in Spruce Grove Alberta. It is my understanding from my telephone conversation with Ms. Ouellette, that the property is zoned for residential use and currently conforms to Subclause 85(2) of the bylaw. In that it has two parking stalls in tandem.

In her decisions, Ms. Ouellette fails to state how conditions 7 & 10 of her decision will be met. Specifically, she fails to explain why she is of the opinion that any vehicles parked on the street as result of the development will not be a source of inconvenience to adjacent landowners or tenants. She also fails to explain how the number of clients, customers, or students will be limited to a maximum of one in attendance at any one time as determined by the available parking on site.

- I. First, I'd like to draw your attention to the commercial section of the table included in Subsection 85(2). It lists several types of commercial undertakings and the minimum required number of parking stalls. I reviewed the table and could not find "Retail Sales Bakery". Consequently, it seems that the following applies:

*Any commercial use not listed separately in this section*

*For the first 1000.00 m2 one parking Stall per 30.0 m2 Gross Floor Area (GFA). For the next 3000.00 m2 one stall per 25.0 m2s of GFA; for the remaining floor area, one stall per 20.0 m2 of GF A*



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I don't have access to the actual size of the building, but I will attempt to provide an estimate of the number of parking spaces required for a commercial building of the same size and use:

- If the building, located at 51 Kensington Close, were 1,000 ft<sup>2</sup> then it would require at least 3 parking spots =  $1000 \text{ ft}^2 / 322.917 \text{ ft}^2 = 3.09$ .
  - It seems to me upon casual observation, that the building is probably at least 1,300 ft<sup>2</sup>. Consequently, it would require 4 parking stalls not 3:  $1300 \text{ ft}^2 / 322.917 \text{ ft}^2 = 4.03$ .
  - I think it's important to note that there doesn't appear to be any allowance for tandem parking stalls in Subsection 85(2).
2. Condition 5 of her decision states the following: *"Not more than one business related vehicle, no heavier than 5,000 kg shall be parked on the property at any time."*

The property has only two tandem parking stalls. If there is a business-related vehicle parked there then there will only be one parking stall available to clients not two.

3. The tandem nature of the existing parking stalls precludes the use of the second stall for clients (i.e. if one client is in attendance at the business and another client visits at the same time or a few minutes later then he/she would have to double park effectively boxing the first client in.

Ms. Ouellette's decision appears to circumvent this issue by having the following condition: *"A home occupation that attracts clients, customers or students to the premises shall be limited to a maximum of one in attendance at any one time, as determined by the available parking on site."*

I agree with her that limiting the number of customers parking to one in attendance at any one time is necessary given the nature of the parking (tandem stalls) and neighbourhood (a residential neighbourhood with front facing garages). However, it would be impossible to enforce. The only way it would be enforceable is if the city had a bylaw officer standing outside of the property which is unrealistic. Perhaps she is expecting adjacent property owners to call the city to complain whenever parking becomes an issue? Expecting property owners to call in complaints is setting the business and the community up for failure and seems patently unfair.

4. There is no evidence that Ms. Ouellette took into account the following factors.
- All of the properties in Kensington Close have front facing garages, consequently, street parking is very limited.
  - All of the properties on the south side of Kensington Close (including 51 Kensington close) are duplex's rather than single detached homes. Which further exacerbates the lack of street parking.
  - There is no mention in the decision of what the bakeries operating hours will be.
    - There is no mention of what days of the week will it be open.
    - There is no mention of whether it will be open on the weekends.
    - There is no mention of the hours it will operate.
5. Administrative Fairness -It is my opinion that Ms. Ouellette's decision does not adhere to the Administrative Fairness guidelines of the Alberta Ombudsman. Specifically, it does not adhere to



Addendum: Notice of Appeal

the following: duty of Fairness, adequate reasons, exercising discretionary power; and finally, it is not reasonable.

In summary, while the Development officer has the authority to allow variances under Section 14 of the Bylaw. Her decision has to be supported by the legislation. It must also be fair and reasonable. Ms. Ouellette's decision is neither reasonable or fair. Moreover, it is not supported by the evidence presented.

Sincerely,

[Redacted signature block]

M Monaghan

[Redacted text block]

[Redacted text block]