

Subdivision and Development Appeal Board

HEARING DATE: April 8, 2024

BOARD ORDER: D01/2024

APPLICANT: HOMETOWN PROPERTIES INC.

APPELLANTS: BARB SAVAGE, represented by Glenn Costello

APPEAL AGAINST: APPROVAL OF DEVELOPMENT PERMIT 001-2024DP FOR THREE (3) DUPLEX DWELLINGS WITH SECONDARY SUITES, THREE (3) FOUR-PLEX DWELLINGS AND TWO (2) ROWHOUSE DWELLINGS (12 UNITS EACH)

SUBJECT PROPERTY: LOT 16, BLOCK 3, PLAN 0811870; 302 GEORGE STREET SW, DIAMOND VALLEY, ALBERTA (THE "PROPERTY")

BEFORE: CHAIR, GAR BEACOM; BOARD MEMBERS, CARL FISHER AND TOM WEBER SR.; AND CLERK, VERA STAPLES.

DECISION

Having been satisfied that notice of this hearing was provided in accordance with the *Municipal Government Act*, R.S.A. 2000, Chapter M-26:

And upon having read the materials provided, and upon having heard the representations from the Appellant, the Gallery, the Applicant and the Development Authority for the Town of Diamond Valley with respect to the appeal filed by the Appellant in accordance with Section 685 of the *Municipal Government Act* against the approval of Development Permit 001-2024DP to allow for three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units, on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, ALBERTA (the "Property").

The Subdivision and Development Appeal Board for the Town of Diamond Valley (the "Board") has decided to:

Uphold the Development Authority's decision to approve Development Permit 001-2024DP to allow for three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units, with an addition to the "Prior to Release" conditions and amendments to the "Permanent Conditions".

The Development Permit is thereby UPHELD, AS AMENDED, to approve three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units, on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, Alberta, with the following amendments to the Conditions:



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- (i) the addition of “Prior to Release” condition 1.e. “The minimum number of parking stalls is to meet the requirements of the Land Use Bylaw 21-1114”; and
- (ii) replace “Permanent Condition” 11.a. with:
“Plans prepared by Phase One Design:
 - 1. Duplex Dwelling sheets A1.0a, A1.1, A2.0, A3.0, A3.1, A3.2, and A3.3, dated December 21, 2023,
 - 2. Four-plex Townhome Building ‘A’ (with garages) sheets A1.1, A1.2, A1.3, A2.0, A3.0, and A3.1, dated January 30, 2024,
 - 3. Four-plex Townhome Buildings “B” and “C” (without garages) sheets A1.1, A1.2, A2.0, A3.0, and A3.1, dated January 30, 2024,
 - 4. Rowhouse Dwelling (12 Dwelling Units) sheets A1.0a, A1.1, A1.2, A2.0, A3.0, A3.1, dated January 30, 2024.”

FINDINGS OF FACT

- (i) The subject property is designated R3 (Residential Multi-Unit District).
- (ii) On February 20, 2024, the Development Authority approved Development Permit 001-2024DP for three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, ALBERTA. The approval granted variances as follows:
 - Secondary suites, s. 6.1.7.2(c) to permit secondary suites on the site to have a gross floor area of 83 m², where the maximum permitted is 41.1 m², a variance of 41.9 m² (102%).
 - Secondary suites s. 6.1.7.2(f) to permit six secondary suites on the site, where the maximum permitted is one secondary suite per parcel of land, a variance of five units (500%).
 - Minimum Limits Front Yard s. 6.4.4.3(b) to permit the NE Rowhouse Dwelling a front yard of 3.93 m, where the minimum required is 5.0 m, a variance of 1.07 m (21%).
 - Minimum Limits Rear Yards. 6.4.4.5(a) to permit the NW Rowhouse Dwelling a rear yard of 4.0 m, where the minimum required is 7.5 m, a variance of 3.5 m (47%).
 - Maximum Limits Height of Buildings s. 6.4.5.1(a) to permit the Rowhouse Dwellings a maximum height of 12.4 m, where the maximum permitted is 10.0 m, a variance of 2.4 m (24%).
 - Maximum Limits Height of Buildings s. 6.4.5.1(a) to permit the Four-plexes a maximum height of 11.4 m, where the maximum permitted is 10.0 m, a variance of 1.4 m (14%).
- (iii) An appeal was received from the Appellant, Barb Savage, on March 12, 2024, against the approval.

ISSUES

Summary of the Development Authority’s Position

- (i) The application proposed a comprehensive development consisting of three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each



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containing 12 units to be constructed on the Property, designated R3, on a corner parcel adjacent to George Street SW and Macleod Crescent SW.

- (ii) In 2006, the Council of the (former) Town of Turner Valley designated the property as R3.
- (iii) On February 20, 2024, the Development Authority, in this case, the Municipal Planning Commission, met to review the application for Development Permit 001-2024DP. The information package for that application was attached to the Board's information package, along with the Development Authority's Staff Report to the Board.
- (iv) On February 20, 2024, the Development Authority approved Development Permit 001-2024DP for three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, ALBERTA. The approval granted variances as follows:
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 - Minimum Limits Front Yard s. 6.4.4.3(b) to permit the NE Rowhouse Dwelling a front yard of 3.93 m, where the minimum required is 5.0 m, a variance of 1.07 m (21%).
 - Minimum Limits Rear Yards. 6.4.4.3(a) to permit the NW Rowhouse Dwelling a rear yard of 4.0 m, where the minimum required is 7.5 m, a variance of 3.5 m (47%).
 - Maximum Limits Height of Buildings s. 6.4.5.1(a) to permit the Rowhouse Dwellings a maximum height of 12.4 m, where the maximum permitted is 10.0 m, a variance of 2.4 m (24%).
 - Maximum Limits Height of Buildings s. 6.4.5.1(a) to permit the Four-plexes a maximum height of 11.4 m, where the maximum permitted is 10.0 m, a variance of 1.4 m (14%).
- (iv) Variances were granted in accordance with sections 3.3.2.1 and 3.3.2.2 of the (former) Town of Turner Valley Land Use Bylaw 21-1114, adopted by the Council on May 17, 2021.

Summary of the Grounds for Appeal and Testimony Supporting the Appeal

- (v) The appeal was received against the Development Authority's decision on March 12, 2024. The appellant notified the Clerk that they were being represented at the hearing by a member of the community.
- (vi) The appeal stated the following grounds:
 - Under section 6.1.7.2(f) of Land Use Bylaw 21-1114 the variances being requested by the developer increases the number of the housing units by an additional 5 secondary units in the duplexes which results in a 500% increase in housing development.
 - Under section 6.1.7.2(c) of Land Use Bylaw 21-1114 the variances being requested by the developer increases the square footage of each secondary unit by 41.9 square metres which results in 102% increase for each unit.

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- Under section 6.4.5.1(a) of Land Use Bylaw 21-1114 the variances being requested by the developer increases the height of the rowhouse dwellings by 2.4 metres resulting in a 24% increase.
 - Under section 6.4.4.5(a) of Land Use Bylaw 21-1114 the variance being requested by the developer is 3.5 metres to the NW corner of the NW rowhouse dwelling, and the stairs projecting 0.7 metres into the rear yard which results in a 47% reduction in setback.
 - Under section 6.4.4.3(b) of the Land Use Bylaw 21-1114 the variance being requested by the developer is 1.07 metres to the NE corner of the NE rowhouse dwelling which results in a 21% variance into the front yard.
 - Under section 6.1.7.2(g) of Land Use Bylaw 21-1114 secondary units are not to generate traffic uncharacteristic to the residential area.
 - Under section 6.4.7.3 of Land Use Bylaw 21-1114 this proposed development does not show due regard to the compatibility of the property use with existing uses on or adjacent to the site.
- (vii) The appeal further provided the following opinions of the Appellant:
- The proposed height of the rowhouses will impact the sunlight available to neighbouring properties.
 - The proposed development is not in harmony with the existing neighbourhood design or architecture.
 - The proposed development does not maintain the general character and stability of the existing established residential area and is not a limited amount of higher density.
 - The Town is conceding to a developer to provide affordable housing.
 - The proposed development changes the flow of development for the neighbourhood and has potential to reduce property values for the existing neighbourhood.
 - The proposed development provides inadequate parking.
 - There is one paved entrance/exit to the Everwood Estates development area.
- (viii) The Appellant was represented by Glenn Costello at the hearing.
- (ix) Mr. Costello pointed out that the Notice of Decision did not reference at least one of the drawings provided. Mr. Costello's presentation included information that was presented to the Municipal Planning Commission (the Development Authority), including a Staff Report to MPC. Mr. Costello stated that the report did not contain the sixth variance granted by the final Notice of Decision.
- (x) Mr. Costello cited several points of opposition to the development, including the possible decrease in property values, inadequate site parking, additional street parking congestion, traffic congestion and safety concerns due to one-way in/one-way out road access, and drawings depicting direct access to basements indicating the possibility for more than stated secondary suites.
- (xi) Seven (7) members of the gallery spoke in support of the appeal, citing the following topics:
- city engineering numbers are not appropriate for this subdivision;

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- traffic and safety concerns related to one (1) entry/exit road;
- the north side of the parcel is inappropriate for a 12-plex;
- sustainability concerns - water supply concerns, sun-blockage concerns related to gardening;
- traffic and road safety concerns resulting from one road in/one road out access;
- emergency evacuation safety concerns;
- flaws in this development permit process; and
- property values

Summary of Testimony Submitted in Opposition to the Appeals

- (xii) Representatives of Hometown Properties Inc. (representing the Applicant), Jason Melhoff and Blair Hann, stated that the appeal is based on the variances granted in Development Permit 001-2024DP. The development was planned with a goal of working with the town to provide housing options during the housing crisis, and considering the Westwinds Communities Housing Needs Assessment for the area.
- (xiii) The Applicant's goal is to work with the Town to provide needed housing options and to help people who want to live in a smaller home in a small, welcoming community.
- (xiv) The Applicant noted that changes come with complexities. If the 12-plex buildings' height variance is removed, the building would drop a storey and remove the accessibility feature of eight (8) units.

REASONS FOR DECISION

The Board is upholding the Development Authority's decision to approve three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units, on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, Alberta, with the following amendments to the Conditions:

- (iii) the addition of "Prior to Release" condition 1.e. "The minimum number of parking stalls is to meet the requirements of the Land Use Bylaw 21-1114"; and
- (iv) replace "Permanent Condition" 11.a. with:
"Plans prepared by Phase One Design:
 1. Duplex Dwelling sheets A1.0a, A1.1, A2.0, A3.0, A3.1, A3.2, and A3.3, dated December 21, 2023,
 2. Four-plex Townhome Building 'A' (with garages) sheets A1.1, A1.2, A1.3, A2.0, A3.0, and A3.1, dated January 30, 2024,
 3. Four-plex Townhome Buildings "B" and "C" (without garages) sheets A1.1, A1.2, A2.0, A3.0, and A3.1, dated January 30, 2024,
 4. Rowhouse Dwelling (12 Dwelling Units) sheets A1.0a, A1.1, A1.2, A2.0, A3.0, A3.1, dated January 30, 2024."

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1. The Board considered the numerous traffic and road safety concerns raised through written submissions and presentations from the gallery. Although the Board felt that this was a substantial concern, the roadway design was approved as part of the 2006 subdivision and the Board has no jurisdiction to direct change or to provide direction for potential connectivity of any future roads that may or may not be built in the area.
2. The Board considered each of the six variances granted by the Development Authority, and has upheld all six variances, as granted. The Board agreed that the variances were granted in accordance with the Land Use Bylaw 21-1114.
 - i) Secondary suites, s. 6.1.7.2(c) to permit secondary suites on the site to have a gross floor area of 83 m², where the maximum permitted is 41.1 m², a variance of 41.9 m² (102%)
The Board determined that the increase in the secondary suites' footprint was reasonable and provided a more appealing housing option, while not affecting the units' exterior footprints.
 - ii) Secondary suites s. 6.1.7.2 (f) to permit six secondary suites on the site, where the maximum permitted is one secondary suite per parcel of land, a variance of five units (500%).
The Board considered that section 6.1.7.2 (f) of the Land Use Bylaw 21-1114 states Secondary suites shall "not exceed one (1) secondary suite per parcel of land". The Board felt that the intent of the bylaw was to allow one secondary suite on a parcel of land containing a single-family dwelling, and as such, the premise would be applicable to this application, assuming the minimum parking requirements, as calculated by the Development Authority, are met. The impact of parking for both the main occupants and the suite occupants was discussed. The Board agreed that the Land Use Bylaw 21-1114 provides a minimum parking standard for the application, and therefore added the Prior to Release Condition 1.e. "The minimum number of parking stalls is to meet the requirements of the Land Use Bylaw 21-1114" to the Development Permit. While the Board gave credence to the submissions outlining parking as a concern for the neighbourhood, the Board has no jurisdiction to limit the number of vehicles that may be owned by any occupant. In the case of a secondary suite, that may be a consideration of a lease, but it is not within the authority of this Board.
 - iii) Minimum Limits Front Yard s.6.4.4.3(b) to permit the NE Rowhouse Dwelling a front yard of 3.93 m, where the minimum required is 5.0 m, a variance of 1.07 m (21%).
The Board considered the difference between the minimum requirement and the variance and found the variance would not affect occupants in a 12-unit rowhouse, which provides a shared outdoor space for the occupants, in the same manner as a similar variance might more significantly affect a dwelling with its own independent outdoor space. The Board also considered the Development Authority's statement that the variances were granted to ensure better landscaping. The Board agreed that this variance did not directly affect the adjacent properties; however, providing an aesthetically pleasing development would have a positive impact on the neighbourhood.
 - iv) Minimum Limits Rear Yard s.6.4.4.5(a) to permit the NW Rowhouse Dwelling a front yard of 4.0 m, where the minimum required is 7.5 m, a variance of 3.5 m (47%).
The Board considered the Rear Yard variance for the NW Rowhouse Dwelling in the same manner as the Front Yard variance for the NE Rowhouse Dwelling. Although the

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variance for the NW Rowhouse Dwelling is greater than that granted for the NE Rowhouse Dwelling, the Board agreed that the same considerations applied to both dwellings, and to the neighbourhood.

- v) Maximum Limits Height of Buildings s. 6.4.5.1(a) to permit the Rowhouse Dwellings a maximum height of 12.4 m, where the maximum permitted is 10.0 m, a variance of 2.4 m (24%)

The Board heard submissions from the public regarding the height variance but agreed that no evidence to refute the Shadow Study submitted by the Development Authority had been provided. The Board further agreed that the Shadow Study provided no evidence of concern for adjacent residents. The Applicant and the Development Authority both provided statements that the application provides for eight (8) accessible suites, which would not be accessible without the height variance as granted.

- vi) Maximum Limits Height of Buildings s.6.4.5.1(a) to permit the Four-plexes a maximum height of 11.4 m, where the maximum permitted is 10.0 m, a variance of 1.4 m (14%).

The Board noted that this variance was added to the Notice of Decision by the Municipal Planning Commission at its February 20, 2024 meeting, in accordance with the Land Use Bylaw 21-1114. Although still a concern, this height variance was less of a concern for the adjacent residents than the Rowhouse Dwelling height variance. The Board agreed that no evidence to refute the Shadow Study had been submitted, and that the Shadow Study provided no evidence of concern for adjacent residents.

3. The Appellant presented several errors in section 11 of the Conditions set out in the Notice of Decision. The Board recognized those errors and agreed that the list of drawings should be corrected, therefore, the Board amends the Notice of Decision by replacing "Permanent Condition" 11.a. with:

"Plans prepared by Phase One Design:

1. Duplex Dwelling sheets A1.0a, A1.1, A2.0, A3.0, A3.1, A3.2, and A3.3, dated December 21, 2023,
2. Four-plex Townhome Building 'A' (with garages) sheets A1.1, A1.2, A1.3, A2.0, A3.0, and A3.1, dated January 30, 2024,
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4. Rowhouse Dwelling (12 Dwelling Units) sheets A1.0a, A1.1, A1.2, A2.0, A3.0, A3.1, dated January 30, 2024."

4. The Board recognizes that the proposed development is a permitted use, and has been since 2006; therefore, without the variances granted by the Development Authority, the development could potentially proceed without a right of appeal. The elimination of the variances would remove the accessible housing options and the secondary suite options and potentially reduce the aesthetic value of the proposal. Further, the density would not likely be reduced by a factor large enough to allay the traffic concerns of the neighbourhood.
5. While the Board acknowledged and appreciated the neighbourhood's active participation through written and verbal presentations, very little evidence was provided, and many of the opinions expressed related to matters the Board agreed were not material planning matters.

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For the reasons set out above, the Appeal is denied and the Development Permit is UPHeld, AS AMENDED, to approve three (3) duplex dwellings with secondary suites, three (3) four-plex dwellings and two (2) rowhouse dwellings, each containing 12 units, on Lot 16, Block 3, Plan 0811870; 302 George Street SW, Diamond Valley, Alberta, with the following amendments to the Conditions:

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 - 4. Rowhouse Dwelling (12 Dwelling Units) sheets A1.0a, A1.1, A1.2, A2.0, A3.0, A3.1, dated January 30, 2024."

All other conditions and requirements set forth by the Development Authority remain in place. The issuance of a development permit by the Town of Diamond Valley does not relieve the permit holder of the responsibility of complying with all other relevant municipal bylaws and requirements, nor excuse violation of any regulation or act, which may affect this project.

CLOSING

This Decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this Decision, you must follow the procedure found in Section 688 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 which requires an application for leave to appeal to be filed and served within 30 days of this Decision.

Dated at the Town of Diamond Valley, in the Province of Alberta this 23 day of April, 2024, and signed by the Clerk of the Subdivision and Development Appeal Board, following review by the Chair, who agrees that the content of this document adequately reflects the appeal hearing, deliberations and Decision of the Subdivision and Development Appeal Board.


Verna Staples, Clerk

APPENDIX “A”

RELEVANT LEGISLATION

Turner Valley Land Use Bylaw 21-1114

3.3.3 ISSUANCE & NOTIFICATION OF DEVELOPMENT PERMIT

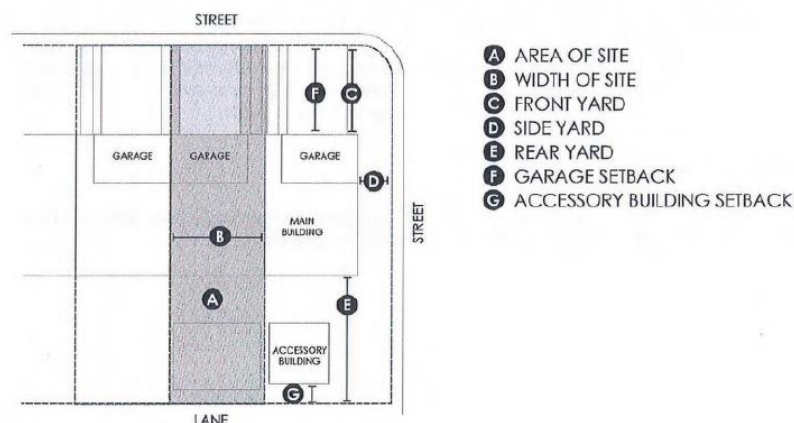
- 3.3.3.1 A development permit issued pursuant to this Bylaw is not a building permit and, notwithstanding that plans and specifications for buildings may have been submitted as part of an application for a development permit, work or construction shall neither commence nor proceed until a building permit has been issued pursuant to applicable bylaws and regulations.
- 3.3.3.2 When an application for a development permit is approved for a permitted or discretionary use with or without conditions, the Notice of Decision shall be sent by ordinary mail to the applicant and a notice shall be posted where highly visible on the property for which the application has been made.
- 3.3.3.3 In addition to Section 3.3.3.2 and at the discretion of the Development Authority a Notice of Decision may be:
 - a) Sent by ordinary mail to all owners of land on record at the municipal office within 60 m (196.85 ft.) of the site.
 - b) Published in a newspaper circulating in the Municipality. Such notice shall indicate the legal description, municipal address, the nature of the development, the right of appeal and to whom appeal should be served.
- 3.3.3.4 When an application for a development permit is refused, the Notice of Decision shall be sent by ordinary mail to the applicant.
- 3.3.3.5 For purposes of this Bylaw, Notice of Decision of the Development Authority on an application for a development permit is deemed to have been given and to have been received:
 - a) In the case of a decision of refusal on an application for a development permit, the date that Notice of Decision is sent by ordinary mail to the applicant;
 - b) All other cases, when the Notice of Decision is posted on the property for which the application has been made.
- 3.3.3.6 A development permit shall not be issued until twenty one (21) days after the Notice of Decision has been given pursuant to Section 3.3.3.2.

6.1 GENERAL RULES FOR RESIDENTIAL DISTRICTS

6.1.7.2 Secondary suites shall:

- a) Comply with all Alberta Building Code standards, fire regulations and all municipal and provincial regulations;
- b) Have minimal structural changes to the front outside of the building and shall appear as a single dwelling unit;
- c) Not exceed 40% of gross floor area of existing principal dwelling;
- d) Be a minimum of 30 m² (323 sq. ft.)
- e) Provide parking in accordance with Section 11.0 of this Bylaw, located where accessible for the user of the suite, on site with a rear laneway, the secondary suite should be located in the rear yard from the laneway. All parking spaces provided for the suite should at minimum be graded and graveled to the satisfaction of the Development Authority;
- f) Not exceed one (1) secondary suite per parcel of land;
- g) Not generate traffic uncharacteristic to the residential area;
- h) Not disturb the quiet enjoyment of the residential environment;

6.4 RESIDENTIAL MULTI-UNIT DISTRICT (R3) LAND USE RULES



6.4.1 PURPOSE & INTENT

- 6.4.1.1 The purpose and intent of this District is to provide for a mixture of housing forms primarily accommodating duplex dwellings, rowhouse dwellings, four-plexes, apartments and comprehensive residential development.

6.4.2 LIST OF PERMITTED & DISCRETIONARY USES

6.4.2.1 Permitted Uses:

- Accessory Buildings
- Apartments
- Four-plexes
- Home Occupations - Minor
- Public Parks

- Rowhouse Dwellings
- Special Events

6.4.2.2 Discretionary Uses:

- Bed and Breakfast Accommodations
- Duplex Dwellings
- Home Occupations - Major
- Lodging Houses
- Private Swimming Pools
- Public and Quasi Public Installations and Facilities
- Secondary Suite

6.4.3 GENERAL REQUIREMENTS

In addition to the general land use provisions contained in Sections 4.0, 6.I and 11.0, the following provisions as contained within this section shall apply to every development in this District.

6.4.3.1 Comprehensive Residential Development shall comply with the Comprehensive Residential Development Requirements as outlined in Section 6.1.3.

6.4.4 MINIMUM REQUIREMENTS

6.4.4.1 Area of Site:

- a) Apartment buildings (this includes unit, parking, recreation and landscaping):
 - Bachelor Unit: 100 m² (1,076 sq. ft.)
 - 1 Bedroom Unit: 124 m² (1,334 sq. ft.)
 - 2 Bedroom Unit: 179 m² (1,927 sq. ft.)
 - 3 Bedroom Unit: 204 m² (2,196 sq. ft.)
 - 4 Bedroom Unit: 204 m² (2,196 sq. ft.)
- b) Rowhouse Dwellings:
 - For each internal dwelling unit: 279 m² (3,003 sq. ft.)
 - For each end dwelling unit: 279 m² (3,003 sq. ft.)
 - For each dwelling unit with a side yard abutting a street: 326 m² (3,509 sq. ft.)
- c) Duplex Dwellings:
 - Each dwelling unit with a side yard abutting a street: 372 m² (4,004 sq. ft.)
 - All other dwelling units: 320m² (3,445 sq. ft.)
- d) Four-plexes: 186 m² (2,002 sq. ft.) for each dwelling unit
- e) All other uses: at the discretion of the Development Authority

6.4.4.2 Width of Site:

- a) Rowhouse Dwellings:
 - For each internal dwelling unit: 9 m (29.53 ft.)
 - Each end dwelling unit: 9 m (29.53 ft.)
 - Each end dwelling unit with a side yard abutting a street: 10.5 m (34.45 ft.)
- b) Duplex Dwellings:
 - For each dwelling unit; except as in (c) below: 9 m (29.53 ft.)
 - Dwelling unit with a side yard abutting a street: 10.5 m (34.45 ft.)
- c) Duplex Dwellings: 15 m (49.21 ft.);
- d) Four-plexes: 24 m (78.74 ft.);
- e) All other uses: at the discretion of the Development Authority.

6.4.4.3 Front Yard:

- a) On sites fronting a collector street: 6 m (19.68 ft.)
- b) All other sites: 5 m (16.40 ft.)

6.4.4.4 Side Yards:

- a) Principal Buildings:
 - i) Street side of corner site: 3 m (9.84 ft.)
 - ii) Laneless site without attached garage: One side 3 m (9.84 ft.) and the other 1.5 m (4.92 ft.)
 - iii) All other: 1.5 m (4.92 ft.)
- b) New Accessory Buildings containing a Secondary Suite:
 - i) Street side of corner site: 3 m (9.84 ft.)
 - ii) Other: 1.5 m (4.92 ft.)
- c) Other Accessory Buildings including conversions of existing garages to a Secondary Suite:
 - i) Street side of a corner site: 3 m (9.84 ft.)
 - ii) All other: 0.61 m (2.00 ft.)

6.4.4.5 Rear Yard:

- a) Principal Buildings: 7.5 m (24.60 ft.)
- b) New Accessory Buildings containing a Secondary Suite: 1.5 m (4.92 ft.)
- c) Other Accessory Buildings including conversions of existing garages to a Secondary Suite: 1 m (3.28 ft.)

6.4.4.6 Habitable Floor Area Per Unit:

- a) Rowhouse Dwellings: 74 m² (797 sq. ft.)
- b) Apartments: 46 m² (495 sq. ft.)

- 6.4.4.7 Principal buildings within a Comprehensive Residential Development shall be separated by 3 m (9.84 ft.). All other setbacks are at the discretion of the Development Authority.

6.4.5 MAXIMUM LIMITS**6.4.5.1 Height of Buildings:**

- a) Principal Buildings: 10 m (32.80 ft.)
- b) Accessory Buildings containing a Secondary Suite: 9 m (29.53 ft.)
- c) Accessory buildings: 6 m (19.68 ft.) provided roof design and pitch is similar to roof design and pitch on the principal building.

6.4.5.2 Coverage of Site:

- a) Principal Buildings: 45% of site area
- b) All Accessory Buildings: 15% of site area

6.4.6 LANDSCAPING REQUIREMENTS

6.4.6.1 Dwelling units must be landscaped, including screening in accordance with the plan approved by the Development Authority.

6.4.6.2 In determining the recreational amenity area, facilities such as balconies, patios, private swimming pools or games rooms shall be used. Landscaping shall not include walkways to and from the principal or accessory buildings.

6.4.7 CONTROLLED APPEARANCE

6.4.7.1 On sites developed for apartments, and Comprehensive Residential Developments, the facade of the building, the location of recreational facilities and the quality of landscaped areas shall be provided to the satisfaction of the Development Authority.

6.4.7.2 All development in this District must be designed to maximize the development potential and design in accordance with adopted Municipal Statutory Plans.

6.4.7.3 In examining any proposed use for this District, due regard shall be paid to the compatibility of the proposed use with existing uses on or adjacent to the site.

6.4.7.4 The facade of building in this District shall be maintained to the standards as shown on the site plan approved by the Development Authority.

6.4.8 OTHER REQUIREMENTS

6.4.8.1 The maximum density allowable on the land legally described as Ptn of Lot 2, Block 24, Plan 9210468, a Ptn of Road Plan 9311984 and a Ptn of SE ¼ -12-20-3 W5M shall be 68 dwelling units comprised of no more than fifty (50) apartment units and eighteen (18) duplex units.

Municipal Government Act**Hearing and decision**

- 687(1)** At a hearing under section 686, the board hearing the appeal 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 that 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.
- (2)** The board hearing the appeal referred to in subsection (1) must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.
- (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) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
 - (b) must have regard to but is not bound by the subdivision and development regulations;
 - (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.

APPENDIX “B”

PERSONS WHO MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING

- | | | |
|-----|-----------------|---|
| 1. | Judy Mackenzie | Development Officer – Town of Diamond Valley |
| 2. | Kari Florizone | Planning & Development Manager – Town of Diamond Valley |
| 3. | Glenn Costello | Representing Appellant (Barb Savage, absent) |
| 4. | Jason Melhoff | Hometown Properties Inc. (representing Applicant) |
| 5. | Blair Hann | Hometown Properties Inc. (representing Applicant) |
| 6. | Gretta Costello | Neighbouring Landowner |
| 7. | Kevin Moore | Neighbouring Landowner |
| 8. | Beth Carter | Neighbouring Landowner |
| 9. | Mykayla Bergie | Neighbouring Landowner |
| 10. | Edith Morlidge | Neighbouring Landowner |
| 11. | Les Antoniuk | Neighbouring Landowner |
| 12. | Greg Pyra | Neighbouring Landowner |

APPENDIX “C”

DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

A	1	Notice of Decision: 001-2024DP
A	2	Development Officer Staff Report, March 27, 2024
A	3	Summary of General Information (response to questions during the hearing)
B	1 - A	Appellant: Barb Savage, submitted appeal documents
B	1 - B	Authorization to Represent Appellant – Glenn Costello
B	1 – C	Glenn Costello’s Board Submission (included in Package)
B	1 - D	Glenn Costello’s Everwood Estates Appeal Hearing Presentation Notes (submitted at the hearing)
B	1 - E	Everwood Phase 1 Drawing (large hard-mounted map brought into the hearing for visual aid – photo taken for the record)
B	1 - F	Hometown Phase 1 Drawing (visual aid brought into the hearing showing proposed development, location of duplexes, 4-plexes and 12 plexes), colour-coded (photo taken for the record)
C	1 - A	OPPOSED-Andy & Janice MacIndoe, 331 McLeod Crescent
C	1 - B	OPPOSED-Bethann & Edward Carter
C	1 - C	OPPOSED-Edward Carter, 303 McLeod Crescent SW
C	1 – D	OPPOSED-Bethann Carter, 303 McLeod Crescent SW
C	1 - E	OPPOSED-Sharon Packard, 347 McLeod Crescent
C	1 - F	OPPOSED-Sharon Packard, 347 McLeod Crescent
C	1 - G	OPPOSED-Mike Packard, 347 McLeod Crescent
C	1 - H	OPPOSED-Mike Packard, 347 McLeod Crescent
C	1 - I	OPPOSED-Barb Savage, 203 George Street SW
C	1 - J	OPPOSED-Wayne Savage, 203 George Street SW
C	1 - K	OPPOSED-Joanne Shwetz, 217 Regent Road
C	1 - L	OPPOSED-Joanne Shwetz, 217 Regent Road
C	1 - M	OPPOSED-Steve Buckingham

C	1 - N	OPPOSED-E. Morlidge, 339 McLeod Crescent
C	1 - O	OPPOSED-Colin Young, 210 Regent Road
C	1 - P	OPPOSED-Kim Meadows, 211 George Street SW
C	1 - Q	OPPOSED-Marie Anne Sauriel, 326 B McLeod Crescent
C	1 - R	OPPOSED-Lane Mortimer, 326 B McLeod Crescent
C	1 - S	OPPOSED-Jim Yurchevich, 230 Regent Road
C	1 - T	OPPOSED-Kevin & JoAnne Moore
C	1 - U	OPPOSED-Andrii Stelmakh, 209 George Street
C	1 - V	OPPOSED-Ben Myers, 209 George Street
C	1 - W	OPPOSED-James & Leona Gibbs, 305 McLeod Crescent
C	1 - X	OPPOSED-Randy Mercer, 216 Regent Road
C	1 - Y	OPPOSED-Tyson & Trina Garvey, 311 McLeod Crescent
C	1 - Z	OPPOSED-Joyce Walkerdine, 207 George Street
C	1 - AA	OPPOSED-Bill Jackson
C	1 - BB	OPPOSED-Donna Gould, Todd Hodgson & Tony Hodgson, 323 McLeod Crescent SW
C	1 - CC	OPPOSED-Robert & Nancy Rudolph, 315 McLeod Crescent
C	1 - DD	OPPOSED-Kelly Culbet
C	1 - EE	OPPOSED-David & Nadine Whidden
C	1 - FF	OPPOSED-Dennis Roy, 312 McLeod Crescent
C	1 - GG	OPPOSED-Kelsey & Branden Huziak
C	1 - HH	OPPOSED-K. Obrigewitsch
C	1 - II	OPPOSED-Emily & Trevor Price, 329 McLeod Crescent
C	1 - JJ	OPPOSED-Kara Myers, 209 George Street SW
C	1 - KK	OPPOSED-Elizabeth Mercer, 216 Regent Road
C	1 - LL	OPPOSED-Donald Grose
C	1 - MM	OPPOSED-Shane Young
C	1 - NN	OPPOSED-Les & Diane Antoniuk, 215 Regent Road
C	1 - OO	OPPOSED-Glenn Costello

C	2	No submissions IN FAVOUR were received
C	3 - A	OPPOSED - Letter from Leah Kylo (submitted at the hearing)
C	3 - B	OPPOSED - Letter from Robert and Nancy Rudolph (submitted at the hearing)
D	1	Hometown Properties Inc. - Letter dated April 1, 2024 (included in Package)
E		Public Package, published to website on April 3, 2024
		Clerks Documentation Clerk's Report to Board Notice of Hearing (Western Wheel ad) Notice of Hearing (website) Notice to Adjacent Property Owners Sign in sheets

APPENDIX “D”

EXHIBITS MADE AVAILABLE AT THE HEARING

A	3	Summary of General Information (response to questions during the hearing)
B	1 - D	Glenn Costello’s Everwood Estates Appeal Hearing Presentation Notes (submitted at the hearing)
B	1 - E	Everwood Phase 1 Drawing (large hard-mounted map brought into the hearing for visual aid – photo taken for the record)
B	1 - F	Hometown Phase 1 Drawing (visual aid brought into the hearing showing proposed development, location of duplexes, 4-plexes and 12 plexes), colour-coded (photo taken for the record)
C	3 - A	OPPOSED - Letter from Leah Kylo (submitted at the hearing)
C	3 - B	OPPOSED - Letter from Robert and Nancy Rudolph (submitted at the hearing)