

RAY BRYANT
MAYOR

Page 1 of 1

FORWARDED: MARCH 22, 2012

A PUBLIC HEARING REGARDING THE BYLAWS OF THE TOWN OF TABER, IN THE PROVINCE OF ALBERTA, TO BE HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, ON MONDAY, MARCH 26, 2012 AT 5:00 PM.

ITEM NO. 1. CALL TO ORDER

The Chair will explain the general procedure for the hearing, which may include:

- i) Informing the public of the 10 minute time limit for a speaker that has been established.
- ii) Informing that anyone speaking shall state their name for the record.

ITEM NO. 2. LAND USE AMENDMENT BYLAW NO. 5-2012

- i) Explanation of Purpose of Proposed Bylaw No. 5-2012

That Bylaw 5-2012 (Land Use Bylaw) be amended to rezone:

**Thelma Street
Plan 7808A1, Block 2 - 3
From Urban Reserve Residential (UR-R) to Direct Control (DC-1)**

- ii) Presentation of Written or Oral Briefs **Against** the Proposed Bylaw No. 5-2012.
- iii) Presentation of Written or Oral Briefs **For** the Proposed Bylaw No. 5-2012.

ITEM NO. 3. CLOSE OF MEETING

The Mayor shall declare the hearing closed and Council will deliberate the merits of the information and opinions provided at the Public Hearing.

TOWN OF TABER
BY-LAW NO. 5-2012

BEING A BY-LAW OF THE TOWN OF TABER, IN THE PROVINCE OF ALBERTA, TO AMEND BY-LAW NO.4-2006, THE LAND USE BY-LAW OF THE TOWN OF TABER

Pursuant to Section 692(1)(f) of the Municipal Government Act, Statutes of Alberta, 2000, Chapter M-26.1, as amended, the Council of the Town of Taber, in the Province of Alberta, duly assembled enacts as follows:

1. By-Law 4-2006 is hereby amended to include the following:
2. That Section 27-1: Direct Control (DC-1) be created:

Direct Control (DC-1) District

In accordance with Section 27.4(d) of By-Law 4-2006, the DC-1 District is hereby given the following unique direct control requirements:

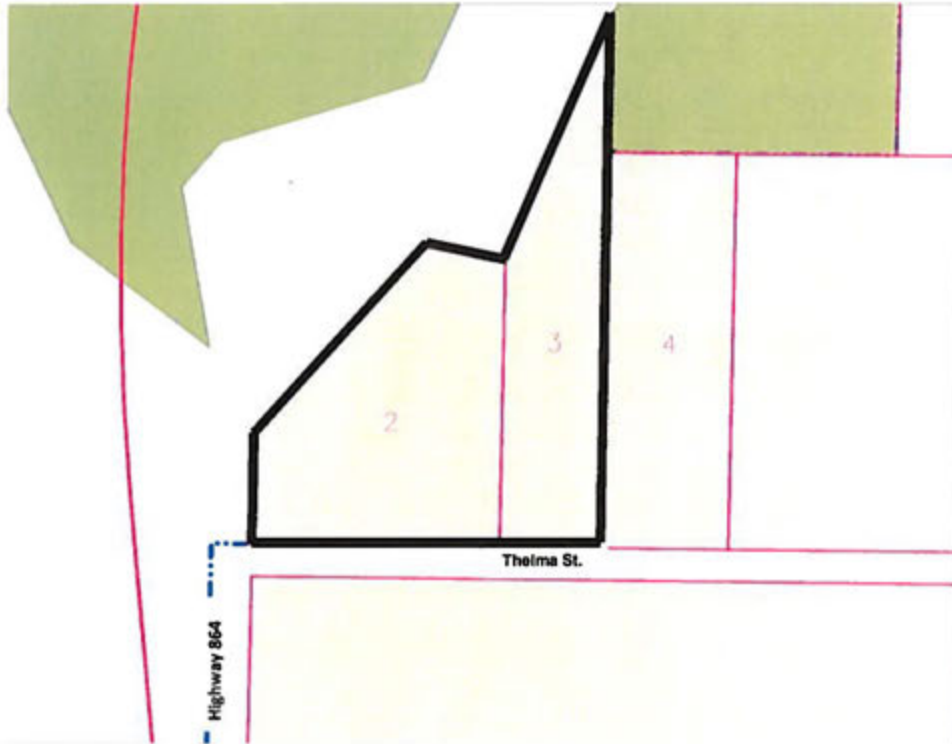
Minimum Lot Area:	1 hectare
Maximum Lot Density:	One house per approved lot
Minimum Setback from Top of Bank:	To be determined after the Town's review and acceptance of a geotechnical engineering report with appropriate technical recommendations prepared by a qualified professional geotechnical engineer. Town council may retain a professional engineer either to conduct a geotechnical report or complete a peer review of an existing report and advise council accordingly, with respect to both top of bank and minimum setback for all buildings from the top of bank.
Maximum Height:	10.5 meters
Minimum Landscaped Area:	All landscaped areas shall be designed and maintained in accordance with the relevant recommendations from the geotechnical report.
Minimum Front Yard:	10 meters (subject to geotechnical study unless recommended otherwise)
Minimum Rear Yard:	20 meters or more (if recommended by the accepted geotechnical study)
Minimum Side Yard:	3 meters

All other district requirements shall be as Council deems necessary.

3. That Schedule "B", District Maps of the said By-Law is hereby amended by re-zoning:

Thelma Street Plan 7808AI Block 2-3

From Urban Reserve Residential (UR-R) to Direct Control (DC-1) as indicated in the sketch below:



4. The remainder of By-Law 4-2006 and its amendments thereof not amended by this By-Law remains in full force and effect.

RES. 38/12 **READ** a first time this 13th day of February , 2012.

RES. ____ **READ** a second time this ____ day of _____, 2012.

RES. ____ **READ** a third time and finally passed this ____ day of _____, 2012.

MAYOR

CHIEF ADMINISTRATIVE OFFICER

Date: March 6, 2012 File: A.01.00
To: John Henricks
From: Henry Vanderpyl, P.Eng
Project: 20103027
Subject: Proposed Land Use Bylaw Amendment

MEMO

March 5, 2012

Re: Proposed Land Use Bylaw Amendment 5-2012 (Thomas and Jean Menard property)

In reference to the Aug 12, 2011 letter from Thomas and Jean Menard addressed to Jim Coughlin, Director of Planning and Economic Development, Town of Taber; (refer to p. 4 of Mr. and Mrs. Menard's letter to the Town has some statements under the sub-heading "Associated Engineering") we provide the following comments:

1. Our preference would be to address the servicing issues prior to rezoning, however the timing/sequence is more of a planning matter.
2. Slope stability setback requirements need to be confirmed by a qualified Geotechnical Engineer. The base contour data from the Town mapping does not appear to be accurate and should be tied into a topographic survey to confirm the actual elevations and slopes on the site.
3. We note that the Associated Engineering (Henry Vanderpyl) letter of December 7, 2010 includes a reference to the 'Record of Meeting' dated May 27, 2010 and statements in these two items of correspondence include some additional notes:
 - a. The AECOM geotechnical report was not reviewed by AE
 - b. The quotation "A sanitary sewer may be feasible to service in the interim with a septic system including caveats on the titles to pay for" Needs to be read in context of the Record of Meeting. The Record of Meeting also states:

"NOTE: We (Associated Engineering) are advisory engineers for the Town, we do not do the approvals, so the use of the wording above is "may". There is a process to follow for approvals, and the Town will make the ultimate decisions." (bold type added for emphasis)

The sanitary sewer system "may" consist of an interim septic tank (closed system) with details to be engineered and approved. At this time, we are not convinced that a septic field system is appropriate for this site. One of the first things that needs to be done is to confirm an engineering design that the sanitary sewer can be serviced by gravity to the Town system. Interim systems should not become permanent unless they meet the Town's full requirements. Gravity servicing to the Menard property may require deeper pipe installations for the offsite sewer mains.



Memo To: John Henricks

March 06, 2012

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4. Sufficient engineering analysis and recommendations that confirm the serviceability of the proposed development need to be done. The Menard's letter has the following statement:

"In his recent letter, Henry van der Pyl said that engineering designs for sewer, water supply, and storm water drainage need to be completed before any houses are built. We agree."

This statement is okay, we seem to be in agreement that the engineering work is required but there are some protocols that need to be followed to get the engineering work done before certain decisions are made.

5. The outstanding items include:
 - a. Slope stability setback limits should be tied to an actual topographic survey.
 - b. The NW Residential Area Structure Plan (ASP) showed the property as being located in a proposed Environmental Reserve area. Utility servicing is typically not planned for in Environmental Reserve areas. The ASP did not indicate any population allocation in the NW ¼ section 7 area. As noted in the 1992 preamble for the North West Area Structure Plan Bylaw, the ASP establishes a framework for future subdivision and development. We would be more comfortable if the ASP was revisited first prior to the Menard's property being rezoned. Inconsistencies in the background planning documents need to be resolved.
 - c. If the property is to be considered for development, then the following items need to be engineered:
 - i. Topographic survey of existing ground contours and Geotechnical evaluation of slope stability/setback requirements related to a topographic survey.
 - ii. Sanitary sewer connection to municipal pipe system. Is there a pump station required? Are offsite mains required to be installed at a deeper depth to enable gravity servicing?
 - iii. Potable Water connection including fire flows, provision of hydrants (Fire protection)
 - iv. Storm water drainage – The developer (the Menards) has a requirement for Storm Water Management to meet the Alberta Environment standards and guidelines. These need to be addressed at the start of the development.
 - v. Access: if the existing trail to SH864 is to be used for access, then Alberta Transportation approval is required for the highway access. No connection directly to SH864 is shown in the ASP for the area north of 64 Avenue.

All onsite and offsite costs required to service the development need to be determined and accounted for (who pays for what and when).



Alberta Health Services

5009 - 56 Street Taber, AB T1G 1M8

Phone Number: 403-223-7230 Fax Number: 403-223-8733

LAND USE INSPECTION REPORT

Mail To: A - 4900 50 Street Taber, AB T1G 1T1	Our File Number: 511-0001087-4 Inspection Date: March 14, 2012 Report Date: March 15, 2012
Facility Inspected: Town of Taber Facility Contact: Town of Taber Site Phone: 403-223-5500 Site Fax: 403-223-5530	Site Address: A - 4900 50 Street Taber, AB T1G 1T1
Facility Category: Land Use, Development Inspection Type: Demand Inspection: Other Action(s) Taken: Objection, Deferred - More Information Required Delivery Method: Hand Delivery	

Plan 7808A1, Block 2 & 3; Within NW1/4 7-10-16 W4M

Alberta Health Services requires additional information regarding setback distances for the private water and septic systems. It is unclear if the proposed lots could sustain private water and septic systems while maintaining required setback distances from the house, road, slope, etc.

It is also recommended that the applicant follow all other pertinent bylaws, regulations and standards for this application.

Should you have any questions regarding this report, please do not hesitate to contact me at 403-223-7230.



Kelli Sparks
Executive Officer

Koroluk, Jillian

From: Belanger, Lorraine
Sent: Wednesday, March 14, 2012 7:37 AM
To: Koroluk, Jillian
Cc: 'john@henricks.ca'
Subject: FW: Scan from a Xerox WorkCentre

Printed and in the file

Lorraine Belanger
Planning and Economic Development Assistant Town of Taber A4900 50 ST.
Taber, AB
T1G 1T1
403 223 5500 ext. 5551
Lorraine.Belanger@taber.ca

-----Original Message-----

From: Darcey.Schwab@atcogas.com [<mailto:Darcey.Schwab@atcogas.com>]
Sent: Tuesday, March 13, 2012 4:40 PM
To: Belanger, Lorraine
Subject: RE: Scan from a Xerox WorkCentre

Afternoon Lorraine,

I have reviewed your information regarding the proposal for re-zoning of Blocks 2 & 3, PLAN 7808 AI within NW 1/4-7-10-16- W4 and have no objections as ATCO Gas currently has no facilities at the above mentioned location.

Thank you,

Darcey Schwab, C.E.T.
Engineering Design Technologist
ATCO Gas Lethbridge
410 Stafford Drive North
Lethbridge, AB T1H 2A9
Phone: (403) 380-5426
Fax: (403) 380-5428
Email: darcey.schwab@atcogas.com

-----Original Message-----

From: Belanger, Lorraine [<mailto:lbelange@taber.ca>]
Sent: Tuesday, March 13, 2012 2:54 PM
To: Schwab, Darcey
Subject: FW: Scan from a Xerox WorkCentre

As discussed on the Menard application.
Thanks

Lorraine Belanger
Planning and Economic Development Assistant Town of Taber A4900 50 ST.

Taber, AB
T1G 1T1
403 223 5500 ext. 5551
Lorraine.Belanger@taber.ca

-----Original Message-----

From: Koroluk, Jillian
Sent: Tuesday, March 13, 2012 2:24 PM
To: Belanger, Lorraine
Subject: FW: Scan from a Xerox WorkCentre

Menard package

-----Original Message-----

From: ADM_Xerox5675@taber.ca [mailto:ADM_Xerox5675@taber.ca]
Sent: Tuesday, March 13, 2012 12:41 PM
To: Koroluk, Jillian
Subject: Scan from a Xerox WorkCentre

Please see the attached document. It was scanned and sent to you using the Administration Photocopier.

Attachment File Type: PDF

Device Name: ADM_XRX_5675

Visit the Town of Taber at www.taber.ca.

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Koroluk, Jillian

From: Cressman, Rob
Sent: Tuesday, March 13, 2012 1:14 PM
To: Koroluk, Jillian
Cc: Frank, Gordon; John Henricks
Subject: Fwd: planning department - approval request
Attachments: 2012 Re-zoning Town of Taber Planning Department.pdf; ATT00001.htm

Jill,
Re bylaw amendment 5-2012, I've reviewed my comments from the original land use bylaw amendment application, and have the same comments on the current application to amend the towns land use bylaw. Costs to provide services, to construct local improvements to Towns standards and that if development is to occur on those lands that the owner-developer take measures at their cost to mitigate them using proven design/engineering practices.
My understanding is there have been slope stability/deterioration experienced in recent years by the MD of Taber on the coulee wall(s) in the MD of Taber Park.
Ron Cressman
Director of Public Services

Sent from my iPhone

Municipal District of Taber

Administration Office



March 16, 2012

Mayor Ray Bryant
Town of Taber
4900A – 50 St.
Taber, AB
T1G 1T2



Dear Mayor Bryant,

RE: Intermunicipal Development Plan Committee Comments on Redesignation of Block 2 and 3, Plan 7808A1 NW ¼ 7-10-16-W4 to Direct Control-1

The Intermunicipal Development Plan Committee passed a resolution to forward the letter of March 14, 2012 that was submitted to the Committee from the M.D. of Taber to the Town of Taber Municipal Planning Commission.

Pursuant to that resolution please find attached the letter from the M.D. of Taber.

Sincerely,

Ben Elfring
Chairman
Intermunicipal Development Plan Committee

Municipal District of Taber

Administration Office



March 14, 2012

Town of Taber
4900A – 50th Street
Taber, AB
T1G 1T1

Attention: John Hendricks

Dear John,

RE: Comments on Block 2 and 3, Plan 7808A1
NW¼ 7-10-16-4 Town of Taber
Redesignation to DC-1

Upon review of the Town of Taber's Notice of Public Hearing for Block 2, and 3, Plan 7808A1 in the NW¼ 7-10-16-4, we offer the following comments:

- The proposal involves redesignating the subject property from Urban Reserve to a Direct Control District – DC1. The subject property consists of two separately titled lots containing 5.58 acres (2.26 ha) and 3.98 acres (1.6 ha) respectively.
- The subject property is within the boundaries of the Northwest Residential Area Structure Plan Bylaw A-322. Section 10.3 of the Plan states that "... no subdivision or development will be allowed to occur within the area structure plan boundaries which does not adhere to the plan."
- Based on the information submitted, extension of municipal servicing to the subject property does not appear to be proposed.
- The subject property has frontage on Thelma Street, a 66 foot wide road right-of-way as identified in the 1912 Riverside Park subdivision. An approximately 50 foot (15.24 m) wide transmission right-of-way runs along the southern portion of the subject property.
- The comments provided by the MD of Taber Subdivision and Development Authority in response to previous subdivision and redesignation applications on the subject property regarding the presence of springs, active slumping, consistency with the Northwest Residential Area Structure Plan, septic, proximity of oil and gas wells and pipelines, and access should be reiterated.
- The following additional comments are recommended for consideration:
 - Redesignation of the subject property to Direct Control removes the opportunity for appeal at the time of issuance of a development permit. As such, more clearly defined direct control requirements are desirable.
 - It appears that several of the standards for the Direct Control district are proposed to be established at the time of the Town's review and acceptance of a geotechnical report. As indicated in the Town's planning report, "...there are site servicing and geo-technical issues that warrant further consideration before giving landowners full development rights

for single detached housing" (page 3). The MD of Taber, as an adjacent landowner, should be provided the opportunity to review such issues at the time of the redesignation application to adequately evaluate potential impacts to their interests. As such, recommendation for circulation of the accepted geotechnical study as part of the redesignation application, as well as clearly defined building envelopes, setback requirements, and servicing requirements should be considered.

- o The proposed direct control requirements indicate a minimum lot size of 1 hectare (2.47 acres); given the total area of the subject property, it appears there may be potential for subdivision. Given this potential, it is again recommended that the accepted geotechnical report be provided at the time of the redesignation application so adjacent landowners can adequately evaluate potential impacts to their interest. In addition to the minimum lot size standard, consideration should be given to recommending a minimum developable area standard within the Direct Control district as a measure for establishing adequate building area, including a reserve area for septic.
- o The relationship between the standards for the minimum setback from the top of bank, the rear setback and the front setback warrant clarification. Additionally, the proposed 10 m front setback appears to conflict with the existing transmission right-of-way along the front of the subject property.

Sincerely,



Er: Brian Brewin
Reeve
Municipal District of Taber

c.c.: Intermunicipal Development Committee

Public Notice
Amendment to Land Use Bylaw 4-2006
Proposed Bylaw 5-2012

Take notice that the Town of Taber has received an application to amend Land Use Bylaw 4-2006 by introducing proposed Bylaw 5-2012.

A public hearing and discussion of the proposed amendment will be held on Monday, March 26th, 2012 at 5:00PM in the Town Council Chambers, Administration Building, 4900A – 50 Street, Taber, Alberta.

The bylaw proposes that Schedule "B", the Land Use District Map of Bylaw 4-2006 be amended by rezoning the following lands:

Thelma Street Plan 7808A1 Block 2-3
From Urban Reserve Residential (UR-R) to Direct Control (DC-1) as indicated in the sketch below:



Copies of the proposed amendment to Bylaw 4-2006 will be available at the Town Office, 4900A – 50 Street, Taber, Alberta.

All those who are interested or who may be affected, are invited to attend the Public Hearing. Oral briefs may be put forward at the Public Hearing and those persons attending may ask questions about the proposed amendment to Land Use Bylaw 4-2006 or any other related matters.

Written briefs may be submitted to the Planning and Development Office. Such briefs should reach the Town Office no later than Monday, March 12th, 2012.

Jillann Koroluk
Development Officer
Phone: 223-5500, ext 5527
Email: jkoroluk@taber.ca

**Land Use Bylaw Amendment
FORM F**



Planning Department
4490-30 Street
Taber AB T1G 1T1
ph: (403) 223-5500
fx: (403) 223-5530
email: planning@taber.ca

APPLICATION NO: _____ BYLAW NO: _____
RECEIVED DATE: Aug 22 / 2011 ROLL NO: 7101614 / 7101620
FEE RECEIVED: Aug 22 / 2011

Applicant

I/We hereby make application to amend the Land Use bylaw:

Name: Jean and Thomas Menard Phone: 403 223 0845
Address: 4630 58 Ave TIGIER Cell No: _____
Postal Code

Legal Description of Land Subject to Amendment:

Municipal Address: Phelma Street

Legal Description: Lot: _____

Block: 2+3 Plan: 7808 A1

Amendment Proposed: From: Urban Reserve Residential
To: Low Density Residential

If applying for a text amendment, please provide the proposed text, the relevant Section, if any, and an explanation of the proposed amendment

NA

Reasons in Support of Application (In order to properly evaluate an application for amendment, the Town must be provided with a complete concept for the land. Please indicate everything which is presently built on the land, and any use or development proposed for that land and provide whatever maps, diagrams, and text you feel are needed)

See Attached letter dated August 12, 2011

Date: August 12, 2011

Signed: Thomas Menard

The personal information requested on this form is being collected for the processing of a land use bylaw amendment application, under the authority of the Municipal Government Act (MGA) and is protected by the Freedom of Information and Protection of Privacy (FOIP) Act. If you have any questions about the collection, contact our FOIP Coordinator at (403) 223-5500.

Registered Owner(S) Or Person Acting On Their Behalf

I, Jean and Thomas Menard hereby certify that I/We:

am the registered owner, or
 am authorized to act on behalf of the registered owner(s)

and that the information given on the form is complete and is, to the best of my knowledge, a true statement of the facts relating to this application for approval. I/We hereby give my/our consent to allow Council or a person appointed by it the right to enter the above land with respect to this application only.

Signed Thomas Menard Date _____
Phone (hm): 223 0845 Phone (wk): _____

Authorization From Registered Owner(S) Of Land Subject To Amendment

I/We, _____ the registered owner(s) of the land subject to this amendment, do hereby authorize _____ to act on our behalf with respect to this proposal to amend the Land Use Bylaw.

Registered Owners' Signature _____ Date _____

The personal information requested on this form is being collected for the processing of a land use bylaw amendment application, under the authority of the Municipal Government Act (MGA) and is protected by the Freedom of Information and Protection of Privacy (FOIP) Act. If you have any questions about the collection, contact our FOIP Coordinator at (403) 223-5500.

Thomas and Jean Menard
4630 - 58 Ave
Taber, AB T1G 1E2
August 12, 2011
tmenard@gmail.com
403-223-0845

Jim Coughlin
Director of Planning and Economic Development
Town of Taber

Dear Mr. Coughlin:

This is our second application to rezone two parcels of land we own on Thelma Street. Please accept this letter as the Reasons in Support of the Application component in the Land Use Bylaw Amendment Form F.

The Town committed serious mistakes in handling our first application, as we described in our presentation to the Town Council on July 18, 2011.

We are happy that the Town has recently decided to change the format of public hearings. Now the Town Planner's recommendation will be presented at the beginning, so the applicant and the public will have the opportunity to respond to it.

We ask the Town to give us, for the first time ever, a chance to present our case in a fair and open process.

We ask the Town to waive the second \$600 application fee.

We also ask for expedited handling of our new application.

Put All the Information on the Table

In this, the second time our application is considered, we want the opportunity to put all the information on the table and examine it with the Municipal Planning Commission. This information includes:

The Town's Land-use bylaw, which zones our land for future residential use, and currently allows building a house on our land as a discretionary use.

The Town's Northwest Residential Area Structure Plan, which requires a geotechnical engineering study be done on our land to determine which portions are stable and to establish a new building setback limit. The ASP also recommends building houses on our

land.

Our Professional Geotechnical Engineer's report, which establishes a new building setback limit at a distance from the bottom of the slope of approximately 3X the height of the slope, and concludes that the land is suitable for private septic systems.

Your response to our recent Freedom of Information and Protection of Privacy Act request. At the Town Council meeting on January 20, 2011, you stated your professional opinion that, "Twenty to thirty years from now, houses built on that land will slide down the hill, placing the Town in a position of legal liability, and the Town will have to purchase the property." In your response to our FOIP request, you admitted that you do not have the necessary data to support this professional opinion. Basically, you misled the Council.

The location where you, the Town Planner, think the building setback limit should be on our land, together with the data that support this location. We ask the Town to give us this information.

Provincial recommendations on setbacks from hillsides. The Province recommends that the setback be placed where specified in a geotechnical engineer's report, or at a distance from the toe of the slope equal to 3X the height of the slope (*Sustainable Resource Development Standard Recommendations to Municipal Subdivision Referrals*).

The M. D. of Taber's Land-use bylaw, which requires a building setback distance of 2X the height of the slope, measured from the top of a steep slope.

The City of Lethbridge's Land-use bylaw, which defines how far away from a hillside is far enough to build a house in Lethbridge. It requires a building setback distance of 4X the height of the slope, measured from the bottom of the slope, following the recommendation of Professional Engineers after recent problems there.

We ask the Town to give us any information collected by the Town Councillors that might influence their votes.

We heard rumours that some houses in the M. D. north of the Town cemetery slid down the hill towards the river. We tried to confirm these rumours, but could find no evidence of any houses sliding down hills. Instead, there seems to be a correlation of false rumours with the timing of land nearby being offered for sale. Last year there was another false rumour, this one involving Ryan Torrie's new house next door to our land, while our land was for sale. We ask the Town to give us: the dates that houses slid down the hill in the M. D., the land owners' names, addresses, a description of the damage, and the cost in dollars to the M. D.

Recent actions by the M. D. of Taber, which in the last two years has approved two new houses built by Ryan Torrie and Kenny Just, along the tops of the coulee.

Letters from the internal and external circulation that were presented at the first public hearing, and our response to those letters (included below).

We also recommend Fred Laux's book, *Planning Practice and Law in Alberta*, and the Provincial guidelines on good government, described in the *Subdivision and Appeal Board Training Manual*.

Response to Internal and External Circulation

The replies by various agencies and people to the Town concerning our application to rezone our land were presented at the public hearing on December 20, 2010. We subsequently gathered information to answer these questions and concerns.

M. D. of Taber

The M. D. of Taber raised the question of whether the proposed rezoning is consistent with the meaning and intent of the Town's Northwest Area Structure Plan.

As we discussed in the Public Hearing, the Northwest Area Structure Plan presents a plan for what to do with land along the coulee tops that has building potential. It requires a geotechnical engineering study be done on our land to identify which portions are stable, it requires a building setback limit be established, and it recommends locating houses on our land to take advantage of the views up and down the river valley (p. A1 and A3).

The M. D. of Taber identified two significant engineering questions that need to be addressed as part of our rezoning application: is the land suitable for building houses on, and is the land suitable for building private septic systems? They identified these questions but did not answer them.

Our Geotechnical Engineer conducted a detailed study of our land and concluded that most of the land is safe for building houses and for building private septic systems. He established a new building setback limit, which will prevent people from building too close to the hillside.

The M. D. of Taber recommended that building setback limits from nearby oil wells and pipelines be observed. We agree, and note that our 5-acre lots have plenty of room for houses.

The M. D. of Taber raised the question of whether a deceleration lane is required on Hwy 864 at the intersection of Thelma Street. Alberta Transportation did not mention a requirement for a deceleration lane in their letter to the Town. So we called Alberta Transportation to clarify their position and talked to Leah Olsen (403-381-5426), whose initials are on the letter. She said that they do not require a deceleration lane at the intersection. She also said that there is more traffic going down the road into the M. D. Park than there will be on Thelma Street with two houses.

The M. D. of Taber stated that they prefer a small number of houses on large lots, instead of many houses on half-acre lots. We agree.

Associated Engineering

The Town's engineering consultant had the opportunity to provide the Town Council with advice on the two significant engineering questions: slope stability and suitability for private septic systems. Henry van der Pyl chose not to address the two engineering questions in his letter of December 7, 2010.

However, in a previous letter to us and the Town Planners (May 27, 2010), the engineering consultants said:

A sanitary sewer may be feasible to service in the interim with a septic system including caveats on the titles to pay for sanitary sewer hook-up in the future to the extension of Town pipe system. Water will likely consist of cisterns [and hauled water] until the Town pipe system is extended through neighbouring lands.

Whenever Town water and sewer pipes finally reach our land, the owners of the houses will pay for and tie into the Town services because they are easier to maintain.

When we talked to the engineers in May, 2010, we discussed the possibility of closed septic systems that do not release anything to the environment. The engineers replied that there are variety of well-known engineering solutions, and that one or more will fit the situation. They also said that the technology for septic systems has improved in the last 20 years, so new systems are safer than the old ones.

In his recent letter, Henry van der Pyl said that engineering designs for sewer, water supply, and storm water drainage need to be completed before any houses are built. We agree.

In preparing our application, we followed the Town's Land-Use Bylaw, which specifies what is needed in an application to amend the Bylaw. It requires engineering details be provided for private septic systems (if used) in order to amend the Bylaw for a subdivision of 4 or more lots, but not for fewer (4-2006, section 19 C ix d). The Bylaw also requires details be provided for potable water and storm water management for a subdivision of 4 or more lots, but not for fewer (4-2006, section 19 C ix b and c). The details of the storm water management plan, of course, will depend on where each house will be located on the 5 acres of land, which has not yet been decided.

Our application concerns two lots, and it is appropriate to provide these engineering details together with the building permit applications, at some time in the future. According to the Land-Use Bylaw, our rezoning application is not premature.

Alberta Health Department

The Health Inspector visited our land and concluded that it was unsuitable for private septic

systems because the land slopes to the north. He actually said this in his letter to the Town.

Our Professional Engineer also noted that the land slopes to the north. In his professional opinion, the slope of the surface does not affect the suitability of the land for septic systems.

The Alberta Health Department has a policy of not recommending private septic systems on any land "surrounded by urban confines," even if the land is geologically ideal. We agree with their policy. For example, if someone were to purchase one of the small neighbourhood parks in Town, there would certainly be enough land and the ground might have perfect conditions for a septic field. But these neighbourhood parks are surrounded by urban development and are unsuitable for a private septic system.

In sharp contrast, our land is surrounded by a 440-acre farm (they grew corn last year), the M. D.'s park and campground, and a rural house on 10 acres. This is fine example of land that is not surrounded by urban development.

The Town Land-Use Bylaw allows new private septic systems in Town (4-2006, section 19 C ix d). We think that our land is one of the few locations in Town where private septic systems are appropriate.

Taz Urano, Tom Urano, and Hink Urano

The Urano brothers own the farmland south of Thelma Street.

Taz Urano submitted a letter to the Town Council in support of our rezoning application.

Hink Urano submitted a letter claiming that he owns part of Thelma Street. His claim is false. It is contradicted by his brother Taz Urano and by Alberta Land Titles.

Thelma Street has been continuously used as a public roadway for 100 years. Therefore, the Town has the power to take back ownership of Thelma Street in order to reestablish public road access to our land. Happily, this drastic action is unnecessary because Thelma Street is already publicly owned.

Taber Fire Department

The Taber Fire Department said that it would take them about the same length of time to get to a house on our land as it would take them to get to Ryan Torrie's house next door. We thank them for responding to and containing a grass fire on our land two winters ago.

Taber Public Services

Taber Public Services said that they do not want to collect the trash or plow snow on Thelma Street because doing so would be expensive. There is a commonly used solution to their concerns, namely an understanding that the Town will not collect the trash or plow snow on Thelma Street. That would be fine with us, and we will require anybody who buys the land from us to also agree. Thelma Street is being maintained by Canadian Natural Resources Ltd. (Kevin

Jensen, 403-634-2446), and could be maintained in the future by CNRL and the owners of the new houses.

We know that there is a danger to the Town if the Town agrees to spend no money maintaining Thelma Street. There is a risk that ten years from now that the second owner of one of the houses will ask, "Can the Town plow the snow on Thelma Street?" At that point, the Town will have to recalculate the cost of plowing, compare it to the property taxes being paid, and answer either "Yes, we can," or "No, we cannot."

We are also not asking the Town to pay for paving Thelma Street. The Town does not pay to pave new streets in Town built by land developers. We expect the same treatment.

Money

The people who will live in the two new houses to be built on our land will pay a lot of money to the Town in property taxes. Wayne Lamb at Benchmark Appraisal (403-381-0535) estimates that the combined property taxes on the two houses will total approximately \$15,000 per year. These people will consume some Town services (library, parks, schools, landfill, etc.), but approximately as much as two other families living in two other houses in Town, who pay a combined property tax of, say, \$5,000 per year.

There is a difference here of \$10,000 per year of additional property taxes. The obvious question is what services should the Town provide to these people? Remember, that if they cannot build houses in Town, they will build expensive houses out in the M. D., and will pay property taxes to the M. D., instead.

Consider how much it would cost the Town to plow the snow on Thelma Street. The road will need plowing maybe 10 times every winter, and plowing will take 15 to 30 minutes each time. According to Brian Kambeitz, running a snow plow costs the Town \$120 - \$145/hour depending on the machine. Multiplying the numbers gives a cost of approximately \$300 - \$700/year. Compared to the revenues of \$15,000/year in property tax, this is not a scary amount.

People of the Town

We talked to many people in Town about our project and found an overwhelming level of support. We could easily have obtained many more signatures, but stopped when we found that (with one exception) everybody had the same reaction, "You have an engineering study that concludes the land is safe to build on. It is your land, you should be able to build on it."

Summary

We request a land use amendment for Blocks 2 and 3 within Plan 7808 A1, to change the zoning from Urban Reserve Residential to Low-Density Residential.

Taber's Land Use bylaw currently designates this land as Urban Reserve Residential, which states, "The purpose of this District is to regulate the subdivision and development of land in

anticipation of eventual development for urban residential uses.”

The urban design objectives in the Northwest ASP indicate the plan will provide a range of housing for various income groups and take advantage of the scenic vistas provided by the Oldman River Valley. The plan contemplates this by incorporating “estate style” lots along the coulee edge where geotechnical considerations allow for such development.

Although the land is shown in the Northwest ASP within a zone labelled environmental reserve, this designation holds no legal implication in this instance. It was labelled this way as a holding designation until geotechnical work was completed, ensuring that it was appropriate for development.

While these lots are not contiguous with the established urban fabric of the town, it is important to remember that estate-style dwellings rarely are. This type of dwelling appeals to purchasers who can afford and desire to live in unique and attractive surroundings separated from typical urban densities. We ask Taber's approval authority to provide this type of development within the Town's urban boundaries instead of compelling house builders to go into the surrounding Municipal District.

The M. D. of Taber allows country residential, estate-styled developments within their boundaries, including new houses along the tops of coulees. Therefore, if the Town does not accept this development on our land, more houses will be built in the M. D., and the M. D. will collect the property taxes.

Also, agricultural land in the M. D. must be taken out of production to facilitate this type of growth. By contrast, our land is sitting vacant and unused. Its use could be improved by allowing houses to be built on it.

Since 1911, Thelma Street has provided legal public access from these parcels to Highway #864. Upon the issuance of development permits, Thelma Street can be upgraded to a suitable standard.

A recent geotechnical engineering study concluded that these lots are suitable for building houses and the houses can be serviced through private septic systems.

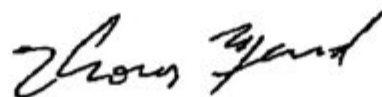
The requirement for sufficient land for private septic systems means that the land cannot currently be subdivided into parcels smaller than 2.5 acres, regardless of the zoning. This will remain true for a long time to come: until the Town's sewer pipes are extended to this part of Town. At that time, 75 or 100 years from now, the land could be subdivided into smaller parcels to facilitate additional development, which will help pay for the construction of the sewer line.

Lastly, allowing residential development in this area would lead to a decrease in mischief, which is currently taking place on the parcels in the form of garbage dumping, trespassing, and uncontrolled burning. The concept of having “eyes on the street” is a contemporary planning

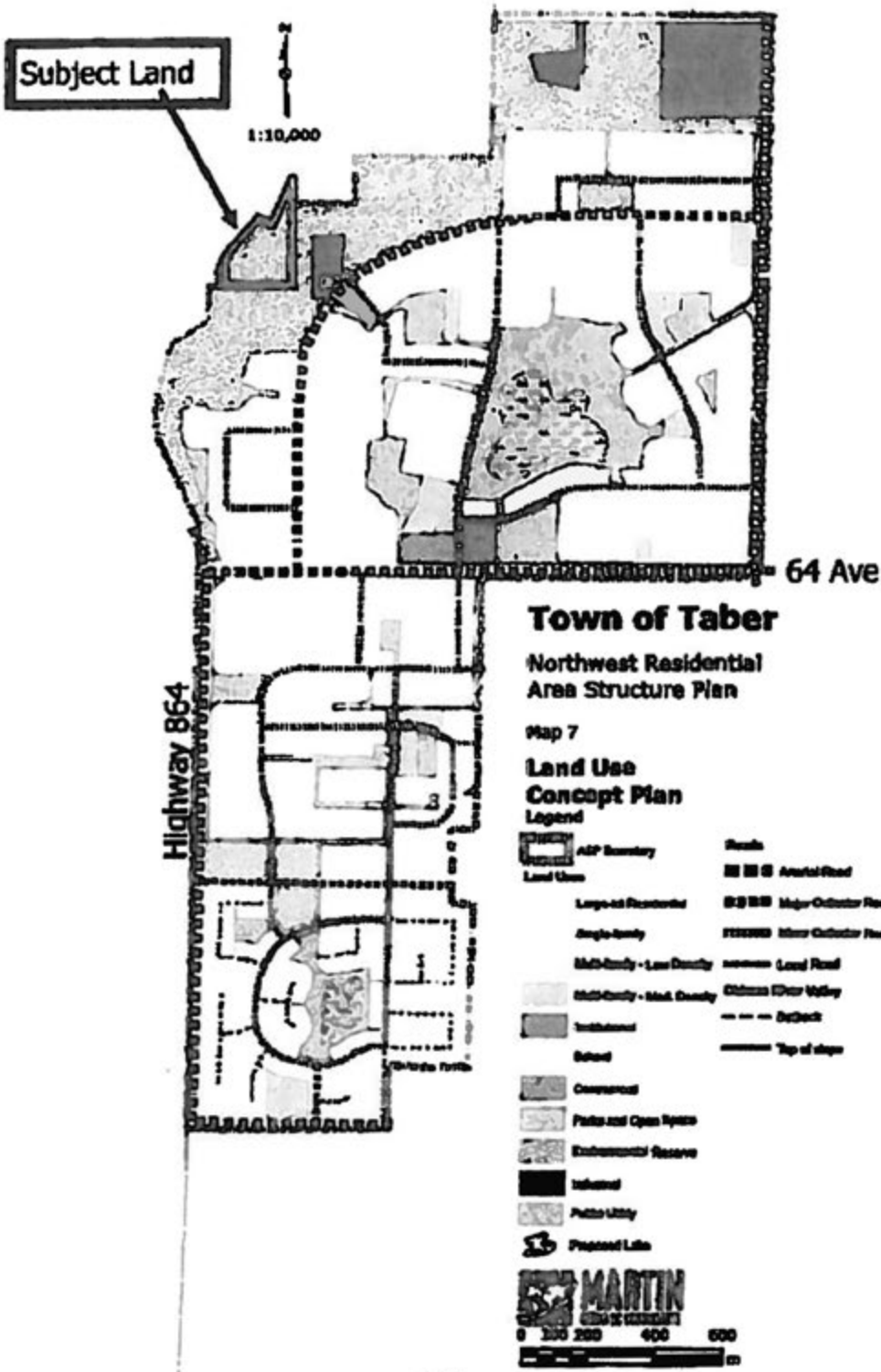
principle to reduce these problems.

We think that allowing houses to be built on these parcels will provide a positive benefit to the Town.

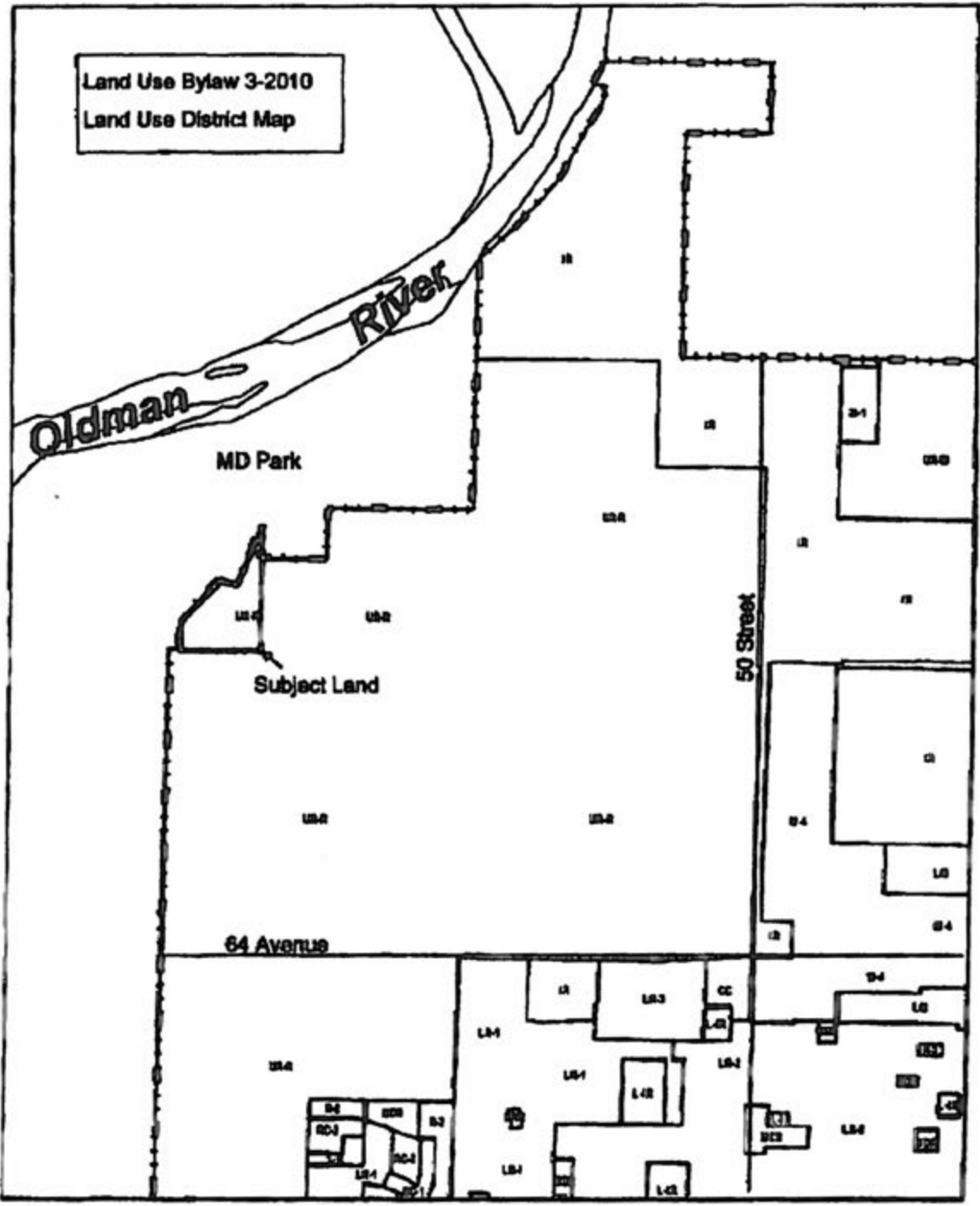
Sincerely,

A handwritten signature in black ink, appearing to read "Jean and Thomas Menard". The signature is written in a cursive, flowing style.

Jean and Thomas Menard



Land Use Bylaw 3-2010
Land Use District Map



Air Photo of subject lands for Land Use Bylaw Amendment 3-2010



Koroluk, Jillian

From: Thomas Menard [tmenard@gmail.com]
Sent: Monday, March 19, 2012 7:08 PM
To: Koroluk, Jillian
Subject: Re: IMDP
Attachments: Menard March 19.pdf; Report title and plot.pdf; Consent Order.pdf

Hi Jillian,

Attached are three pdf files that I want added to my rezoning application.

Thanks,
Thomas

Thomas Menard
4630 – 58 Ave
Taber, AB T1G 1E2
tmenard@gmail.com
March 19, 2012

Jillian Koroluk
Development Officer
Town of Taber

Hi Jillian,

I have received a copy of the agenda for the Municipal Planning Commission meeting today.

Attached are two documents that I want added to my application to rezone my land.

Excerpts from the geotechnical engineering report

I submitted a copy of this report to the Town a long time ago. I want it to be perfectly clear that this report is part of my application. This report fulfills the requirement in the Town's Northwest ASP that a geotechnical engineer must conduct a slope stability study on my land and establish a new building setback limit.

Please note that the building setback limit established by my engineer (see attached figure) is presented on a topographic map, drawn by surveyors who worked with my engineer. Thus, the diagram fulfills the requirement made recently by the Town's civil engineering consultant for just this sort of diagram. The Town's consultant failed to notice that this figure was included in my engineer's report.

By the way, the Town's engineer has requested notification of the cost, in advance, that a private developer will pay to install a private septic system on private land. That is none of his business.

I also disagree with the Town engineer's request that I provide engineering drawings and prices for tying my land to the Town's sewer pipes. I do not know in what year such work will be done and I do not know what technological changes there will be in the next 50 – 100 years.

Consent Order from the Alberta Professional Planners Association

This Consent Order describes mistakes that the Town staff committed last year in

handling my previous application to rezone my land. The APPI declared that Jim Coughlin's actions were unprofessional, they fined him, and suspended his professional registration.

The Consent Order is the documentation to support my request that the Town Council waive the second \$600 application fee. I had to pay the fee a second time to start the rezoning process again so that I would finally get a fair and legal process.

Sincerely,

Thomas Menard

Thomas Menard

Geotechnical Evaluation of Lot 1, Block 2 & 3, Plan 07808, Taber, AB


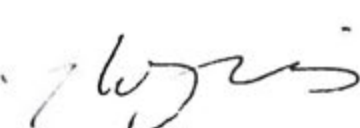
Prepared by:


UMA Engineering Ltd. doing business as AECOM
514 Stafford Drive North
Lethbridge, AB T1H 2B2

Date: December 15, 2008

File #: G273-001-00\RPT-08-060

Signature Page

Report Prepared By:	Report Reviewed By:
	
Zan Gullickson, B.Sc., AIT	Jiejun Zhao, B.Eng

Report Reviewed By:

W.R. (Bill) Macmillan, P. Eng., P. Ag., M.Sc. <i>Dec 16/08</i>

PERMIT TO PRACTICE	
UMA ENGINEERING LTD.	
Signature	<i>A. Helgath</i>
Date	<i>Dec 16, 2008</i>
PERMIT NUMBER: P329	
The Association of Professional Engineers, Geologists and Geophysicists of Alberta.	

Executive Summary

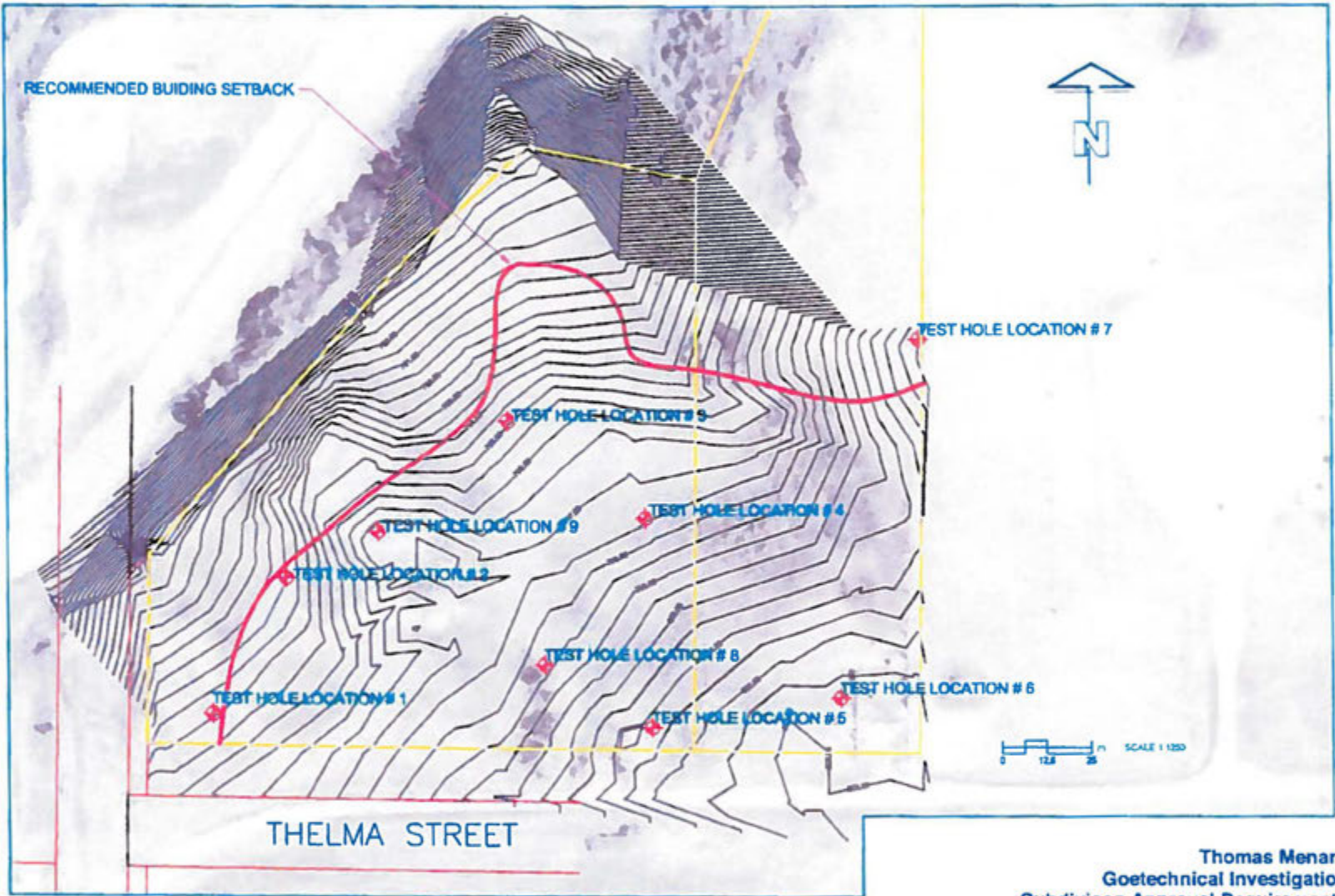
AECOM has used careful investigation, rigorous analytical techniques, and leading edge technology to provide safe, reasonable recommendations as required for this project to proceed. The location of this development offers features that make it a desirable site to live on. The spectacular view of the Oldman River valley and the ample size of the building lots will support the development of an attractive country living experience. However, the proximity of the building sites to the slopes descending to the valley floor, the complex nature of the soil strata and the subsurface moisture conditions have resulted in complexities that needed to be addressed within the geotechnical investigation. AECOM's responsibility for this type of project is to identify safe building locations pertaining to their foundation and infrastructure requirements. In order to do so, it is important that AECOM investigate and understand the subsurface soil and water conditions.

AECOM has developed the location of a setback line that delineates the location closest to the crest of the slopes within which any building envelope should be considered. This setback line should be considered when designing the shape and size of the building lots, and represents the absolute limit for building construction. These slope stability limitations have a profound impact on the size of the available property that is suitable for building development, but still allow for building lots that would approximate the initial site layout sketches supplied by the client.

Care should be taken on this property to preserve, as much as possible, the native vegetation that exists down slope from the setback line. Other considerations such as slope grading around buildings and providing good, positive drainage away from buildings should be provided.

Some mitigation measure as outlined in this report will be required in order to build septic fields, but these limitations do not preclude the installation of on-site sewage treatment facilities where required.

The recommendations in this report will provide information to facilitate the development of a physically stable and sustainable country living subdivision. Adhering to the recommendations should allow this project to proceed, as all government policies and regulations and common engineering factors of safety will be met.



IN THE MATTER OF A HEARING PURSUANT TO THE PROFESSIONS AND OCCUPATIONAL REGISTRATION ACT, R.S.A. 2000, c. P-26, AS AMENDED;

AND IN THE MATTER OF A HEARING INTO THE CONDUCT OF JAMES COUGHLIN, ALBERTA PROFESSIONAL PLANNER, PURSUANT TO THE PROFESSIONS AND OCCUPATIONAL REGISTRATION ACT, *supra*;

AND IN THE MATTER OF A HEARING INTO THE CONDUCT OF JAMES COUGHLIN PURSUANT TO A COMPLAINT BY THOMAS AND JEAN MENARD REGARDING PROFESSIONAL MISCONDUCT;

CONSENT ORDER

AGREED STATEMENT OF FACTS

1. At all material times Mr. James Coughlin ("Mr. Coughlin") was employed as Director, Planning and Economic Development, with the Town of Taber, in the Province of Alberta.
2. At all material times, Thomas and Jean Menard ("the Menards") were the owners of 3 legal lots composed of 14 acres in the Town of Taber ("Town"), in the Province of Alberta ("the Menard Lands"). The Menard Lands bordered a provincial road.
3. The Menard Lands located in the Town's northwest corner, just east of Highway 864, were designated Urban Reserve residential.
4. At all material times there has been a question of the slope stability of the Menard Lands. As a result, the Northwest Residential Area Structure Plan ("NASP") for the Town required a geotechnical engineering study to be completed before any determination was to be made as to the suitability of the Menard Lands for building houses.
5. The Menards applied to the Town for re-subdivision of the 3 lots to move the interior lot boundaries for the purpose creating three building sites ("Subdivision Application").
6. Mr. Bill MacMillan, P. Eng. ("Mr. MacMillan") prepared an August 28, 2008 geotechnical engineering study based on investigation of the subsurface conditions of the Menard Lands to provide geotechnical recommendations for construction of houses on the lands ("MacMillan Report").

7. The MacMillan Report was subject to the normal qualifications and considerations, and also stated:
 - a. "the location of this development offers features that make it a desirable site to live on. The spectacular view of the Oldman River valley and the ample size of the building lots will support development...;"
 - b. "the location of a setback line...delineates a location closest to the crest of the slopes within which any building envelope should be considered;"
 - c. "The recommendations in this report will provide information to facilitate the development of a physically stable and sustainable country living subdivision.;" and
 - d. "It is important to recognize that the intention of the developmental setback is not to prevent future slope failures. Rather, it merely provides information so that buildings can be positioned so that they are not immediately affected by slope failures. Furthermore, while the stability of the slopes within the confines of the recommended setback line is considered acceptable for normally expected natural events such as wind, rainfall, snowfall, etc, instability may occur during more extreme events. "
8. On January 11, 2010, the subdivision authority of the Town met to consider the Subdivision Application. Mr. Coughlin provided a written background document which included a recommendation to the subdivision authority. He also made a verbal presentation at the meeting where he summarized his conclusions with respect to the Subdivision Application, as follows:
 - (i) The Environmental Reserve ("ER") designation of the land was to keep land that was not developable due to its physical nature as open space;
 - (ii) The creation of 3 new lots in the area would be fragmented and isolated;
 - (iii) The cost for infrastructure would be very high due to the isolated location of the site;
 - (iv) The physical nature of the lots could cause slumping or erosion;
 - (v) The septic system proposed could create long-term problems.
9. Some of the summary provided by Mr. Coughlin at the January 11, 2010, meeting was not accompanied by appropriate information in the summary or in the background information provided. Specifically:
 - a. the designation of the proposed subdivision site as ER as noted in the NASP was not pursuant to the provisions of the *Municipal Government Act* ("MGA") and this information and the potential implications of designation as an ER under the MGA should have been provided;

- b. information in the MacMillan Report with respect to suitability of the land and setback recommendations should have been provided; and
 - c. the concerns of the Municipal District of Taber ("MD of Taber") with respect to the McMillan Report and the location of percolation tests and accompanying implications on determining septic suitability within the building envelope should have been described with more clarity in the background document.
10. Mr. Coughlin did not properly consider the applicable Provincial Sustainable Resources Development guidelines regarding the environmental sensitivity of the lands involved.
11. Mr. Coughlin's summary that "The physical nature of the lots could cause slumping or erosion" was beyond his expertise as a Planner. The basis for his opinion, including the fact that he had considered no geotechnical engineering report other than the McMillan Report should have been stated.
12. On December 20, 2010, the Town held a public hearing to discuss an application to rezone the Menard Lands ("Rezoning Application"). The Menards were not provided with internal memoranda and third party materials submitted to the Town in respect of the application. Mr. Coughlin did not take steps to ensure that interested parties, including the Menards were provided with the internal memoranda and third party materials prior to the public hearing.
13. It is acknowledged that the Menards have a subsequent subdivision application before the Town.

AGREED FINDINGS

1. That, with respect to the land use and subdivision applications by the Menards, Mr. Coughlin provided incomplete information in relation to the geotechnical conditions of the Menard Lands, including the implications of designating the land as Environmental Reserve and the potential implications of purchasing the Lands pursuant to the *Municipal Government Act* and the specific concerns of the MD of Taber regarding the methodology upon which the geotechnical study was based.
2. That Mr. Coughlin provided an opinion regarding slope stability that is beyond his expertise.
3. That Mr. Coughlin did not properly consider the applicable Provincial Sustainable Resources Development recommendations nor specific requirements for designating Environmental Reserve in Alberta in that he failed to consider current requirements of the Land Use Bylaw and the Northwest Residential Area Structure Plan regarding the development of environmentally sensitive land.
4. That Mr. Coughlin did not provide his recommendations regarding the Rezoning Application to the Menards and their advisors prior to the December 20, 2010 public hearing and did not provide copies of responses from referral agencies that were filed

at the hearing.

ACKNOWLEDGMENT OF RESPONSIBILITY

It is acknowledged by Mr. Coughlin and the APPI that Mr. Coughlin's conduct constitutes professional misconduct by Mr. Coughlin.

NO RIGHT TO REVIEW OR APPEAL

The APPI and Mr. Coughlin agree that there shall be no review or appeal from this Order notwithstanding ss. 35 and 37 of the *Professional and Occupational Associations Registration Act*, R.S.A 2000, c.P-26.

ORDERS AS TO SANCTIONS

The Hearing Tribunal orders that the appropriate sanctions in the circumstances of this matter are as follows:

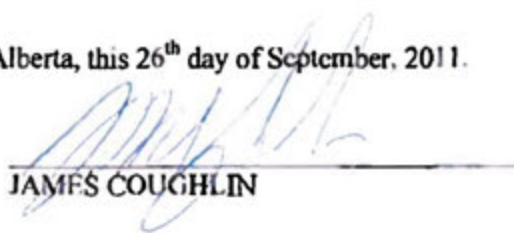
1. A Reprimand shall issue as against Mr. Coughlin.
2. Mr. Coughlin shall be suspended from the use of the title of Registered Professional Planner for a period of two (2) years.
3. Mr. Coughlin shall pay costs representing 50% of the costs of the investigation and hearing into this matter up to a maximum of Five Thousand (\$5,000.00) Dollars within six months of the date of this Order.
4. There shall be a publication of these findings and the orders on a "with names" basis.

DATED at the City of Calgary, in the Province of Alberta, this 26th day of September, 2011.

Witness



JAMES COUGHLIN



DATED at the City of Calgary, in the Province of Alberta, this 26 day of September, 2011.

Alberta Professional Planners Institute

Per: *M. Palumbo*

DATED at the City of Calgary, in the Province of Alberta, this 26th day of September, 2011.

**Hearing Tribunal of the
Alberta Professional Planners Institute**

Per:

Leo Kylo
Leo Kylo, Chair

Connie Gourley
Connie Gourley

Greg Birch
Greg Birch

SECTION 25: Urban Reserve Residential (UR-R) DISTRICT

1. Purpose

The purpose of this District is to regulate the subdivision and development of land in anticipation of eventual development for urban residential uses.

2. Uses

No person shall use any lot or erect, alter or use any building or structure for any purpose except one or more of the following:

Permitted Uses

- (a) Existing Agricultural Operations

Discretionary Uses

- (a) Accessory Building, Structure or Use
- (b) Single Detached Dwelling
- (c) Dugouts
- (d) Home Occupation
- (e) Kennel
- (f) Manufactured Home
- (g) Modular Home
- (h) Public Use
- (i) Utilities
- (j) Sign
- (k) Sod Farming
- (l) Stripping of Topsoil

3. District Requirements

In addition to the General Land Use Provisions contained in Section 3, the following regulations shall apply to every development in this district.

Minimum Lot Area:	Discretion of the Development Authority
Maximum Lot Density Per Quarter Section:	1 residential lot plus the balance
Minimum Lot Width:	30 metres
Minimum Front Yard:	30 metres
Minimum Rear Yard:	7.5 metres
Minimum Side Yard:	7.5 metres

SECTION 4: Low Density Residential (LR) DISTRICT

1. PURPOSE

This District provides for larger single detached dwelling units.

2. USES

No person shall use any lot or erect, alter or use any building or structure for any purpose except one or more of the following:

Permitted Uses

- (a) Garage (attached)
- (b) Park
- (c) Utilities
- (d) Single Detached Dwelling Unit

Discretionary Uses

- (a) Accessory Building, Structure, or Use
- (b) Garage (detached)
- (c) Home Occupation
- (d) Public Use
- (e) Sign

3. DISTRICT REQUIREMENTS

In addition to the General Land Use Provisions contained in Section 3, the following regulations shall apply to every development in this district.

Minimum Lot Area:	595 m ²
Minimum Lot Width:	17 metres
Minimum Front Yard:	7.0 metres
Minimum Rear Yard:	7.0 metres
Minimum Interior Side Yard:	
a) Rear Lane:	1.5 metres
b) Laneless:	1.5 metres if garage attached; 3 metres on one side and 1.5 metres on the other if no attached garage
Minimum Exterior Side Yard:	3.0 metres
Maximum Building Height:	10.5 metres

SECTION 4: Low Density Residential (LR) DISTRICT

Maximum Coverage:	40%
Minimum Landscaped Area:	30%
Minimum Floor Area (excludes basement):	130 m ²

4. SPECIAL REQUIREMENTS: ACCESSORY BUILDINGS

No accessory building or structure shall be erected in any yard other than the interior side yard or rear yard and shall be no closer to any lot line than 1.5 metres (5 feet). This special requirement shall not be applied to garages.

SECTION 27: Direct Control (DC) DISTRICT

1. Purpose

This district is intended to allow flexibility for approval of uses on suitable sites which have potential for a variety of different uses. On sites designated as Direct Control, Council is willing to consider proposals that do not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use or enjoyment or value of neighbouring properties.

2. Uses

No person shall use any lot or erect, alter or use any building or structure for any purpose except one or more of the following:

Permitted Uses

- (a) Any use Council considers appropriate

Discretionary Uses

- (a) Accessory Buildings and Structures
- (b) Public Uses
- (c) Utilities

3. District Requirements

In addition to the General Land Use Provisions contained in Section 3, the following regulations shall apply to every development in this district.

Minimum Lot Area and Lot Width:	As Council deems necessary having regard to the nature of the use.
Maximum Lot Density:	As Council deems necessary.
Minimum Setbacks:	As Council deems necessary.
Maximum Height:	As Council deems necessary.
Minimum Landscaped Area:	As Council deems necessary.
Signage:	As Council deems necessary.

4. Approval Procedures

- (a) Before Council considers an application for a use in the Direct Control district, they shall:

SECTION 27: Direct Control (DC) DISTRICT

- (i) cause notice to be issued by the Development Officer in accordance with the notification procedures of Section 2 of this by-law to all those located within 100 metres of the boundaries of the property subject to the application.
 - (ii) hear any persons that claim to be affected by the decision on the application.
- (b) Council may then approve the application with or without conditions or refuse the application.
- (c) Council hereby delegates to the Development Officer decision-making authority for all discretionary uses listed for this district, including district requirements.
- (d) Each site to which Direct Control is applied shall be given its own unique Direct Control requirements or provisions. In order to distinguish one Direct Control site from another, each site shall be identified on the Land Use maps by its own unique DC suffix number. For example, the first time Direct Control is applied under the provisions of this Land Use by-law, that Direct Control district will be identified as DC-1.

Belanger, Lorraine

From: Henricks, John
Sent: Tuesday, October 11, 2011 12:43 PM
To: arwar.majid@aecom.com
Co: tmenard@gmail.com; Belanger, Lorraine
Subject: GeoTech Evaluation Taber (report from Dec 08)

Mr. Majid, Tom Menard has advised that we are welcome to forward questions regarding the geo-technical report prepared by AECOM on December 25, 2008. Although a phone call may be of assistance ultimately, I thought it best to offer my questions in writing so you have an opportunity to consider your responses. Our primary goal is to ensure that any houses (any development in fact), if approved for construction on these lands, will be safe from slope instability for at least 100 years. My initial read of this report has not given me that assurance but if you are able to address my questions below, perhaps it is possible to get that assurance. Perhaps the development setbacks will have to be re-defined and we may need more clarity on soils structure and impacts of groundwater and urban irrigation practices on slope stability in this area but let's start at least with my questions and see where this takes us. Your willingness to assist is greatly appreciated!

Questions:

- 1) Please clarify how "top of bank" and "bottom of slope" were selected. Perhaps defining these terms for the purposes of this report, using accepted industry definitions would be helpful.
- 2) Please clarify the report's term: "undeveloped areas". If "developed areas" is defined, could we assume all other areas are "undeveloped" for the purposes of this report? If so, defining "developed areas" may also assist the reader.
- 3) Clarification is required with respect to "groundwater" and the link between "excess groundwater" referenced in Section 4.2 and the points in Section 7.4 wherein it is noted that excess water may result in movement or instability.
If existing conditions already indicate there is excess groundwater (Section 4.2) and if excess groundwater could lead to soil movement and/or slope instability, how is it possible to ensure any structure could even be protected from "immediate" impacts let alone longer term impacts due to soil instability? Perhaps a clarification for Sections 4.2 and 7.4 will address this question.
- 4) Given the recommendations contained in Section 7.4 requiring that "landscaping around the structure should be limited to low maintenance, native vegetation that can survive under ambient climatic conditions", is there any way that development can be allowed while accommodating a more traditional landscaping approach, with a focus perhaps on hardscaping and emphasis on drip irrigation? Our concern relates to the fact that the report's recommendation as drafted is not likely to be followed by future residents and will be difficult to enforce. However, perhaps if the report can offer a different approach that recognizes the reality of our climate and culture, that may prove to be helpful.
- 5) With regard to getting a sense for a 100 year (or "long term") stable slope line, regardless of how one calculates safety factors, the intent of our question is to get a reasonable sense of predictable rates of erosion/sloughing for the slopes impacting this site. When identified, this can then guide decision making on where homes can be built safely for a long period of time. The safety factor we're trying to achieve will account for a time period that assures the property owner their investment is safe for a reasonable planning period. 100 years is commonly understood although often used as a probability (i.e. 1: 100 year storm). However a higher level of safety and protection is desirable and we are open to better ways of confirming our intent. For example, if a 1.5 safety factor gives a higher level of assurance than 100 years, please note this in your report as your professional advice and opinion. What we are ultimately trying to avoid is a report that recommends a site is safe today but may not in fact be safe tomorrow depending on changing conditions. Property owners need better guidance as will the Development Authority.

Thanks!

Belanger, Lorraine

From: Henricks, John
Sent: Wednesday, November 09, 2011 11:39 AM
To: Schmidtke, Rudy
Cc: thomas.menard@gmail.com; Belanger, Lorraine
Subject: RE: Menard Property

This is intended to acknowledge receipt of your responses. It's helpful and greatly appreciated. We'll ensure these responses/recommendations are included in future reports to MPC and/or Council.

From: Schmidtke, Rudy [<mailto:Rudy.Schmidtke@aecom.com>]
Sent: November-09-11 5:38 PM
To: Henricks, John
Cc: thomas.menard@gmail.com
Subject: Menard Property

John

Response to your questions attached. Thank you for the discussion the other day it helped with the response.

Rudy Schmidtke, M.Sc., P. Eng
Associate Vice President
Alberta North District, Environment
D 780.488.7922 C 780-874-8181
rudy.schmidtke@aecom.com

AECOM
17007-107 Ave.
Edmonton, AB T5B 1G3
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www.aecom.com

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Question 1: Top of Bank (same as the crest) is defined in this report as the break between the steep valley portion and the gently sloping upland portions of the site. It is located at distance 120 m on Section P1, at distance 100m on Section P2 and at distance 100m on Section P4. "bottom of the hill" is defined for this report as the up-gradient side of the up-gradient ditch of the Taber Municipal Park access road.

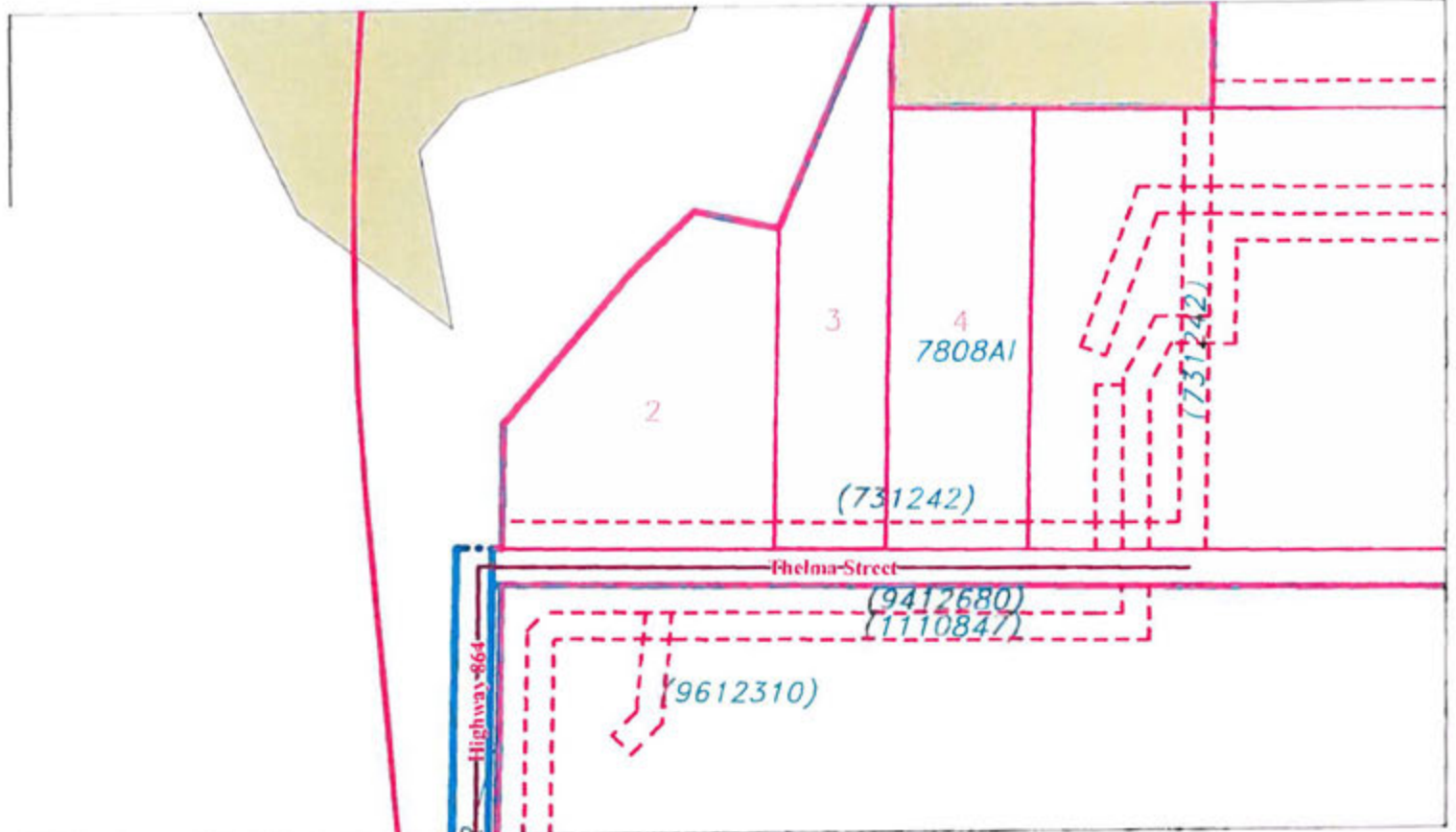
Question 2: "Undeveloped areas" are defined in this report as those areas that are left unstripped of vegetation and no material placed or removed. A minimum 30 m buffer zone from the top of bank should be left undeveloped to protect against erosion.

Question 3: Section 4.2 discusses the conditions on the neighbouring property and how it could affect this property – excess water refers to the water applied to the ground from irrigation. The term "excess water" in Section 7.4 is not directly related to the term in Section 4.2. The intent of Section 7.4 is to indicate that the addition of water can affect building foundations and slope stability and must be managed. The slope stability analysis indicates that the possibility of slope instability increases with water levels at 0.5 m, 1.0 m and 1.5 m higher than measured but the slope is still stable. This section was not intended to indicate that the current situation is unstable.

Question 4: One of the ways to enforce these sorts of restrictions is to register a caveat or restrictive covenant on the title(s). The continuous addition of water to the ground within the setback area will reduce the overall stability – as indicated by the analysis with rising water levels. Both xeriscaping and the use of native plants are good solutions. In addition, the developer is open to a sewage pump-out system rather than a septic field system. Septic fields can be developed but should be at least 50 m from the Top of Bank. Swimming pools, ornamental ponds and underground sprinkler/irrigation systems should not be permitted within 75 m of the Top of Bank unless they are designed to eliminate leaks and the design is reviewed by a professional geotechnical engineer.

Question 5: The analysis and recommendations undertaken for this report follow standard engineering practice. This is considered a low risk site as there is no toe erosion due to streams and rivers, the slope is less than 30 degrees and there are no signs of current slope instability. The developer is open to increasing the setback recommended by AECOM by 10 m further upslope. This setback increases the factor of safety and further protects building development.

Overhead Maps Showing Utility Right of Ways



2

3

4

7808A1

(731242)

(731242)

Phelma-Street

(9412680)

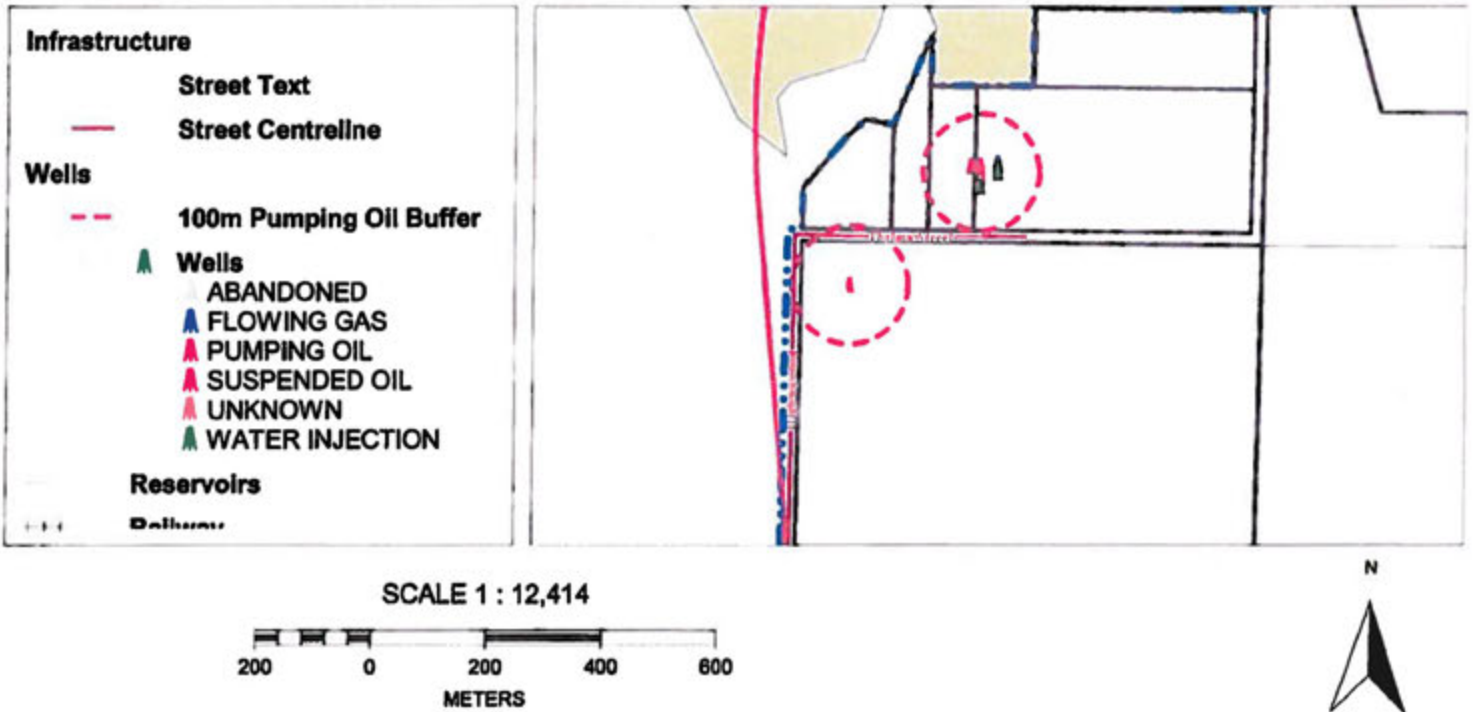
(1110847)

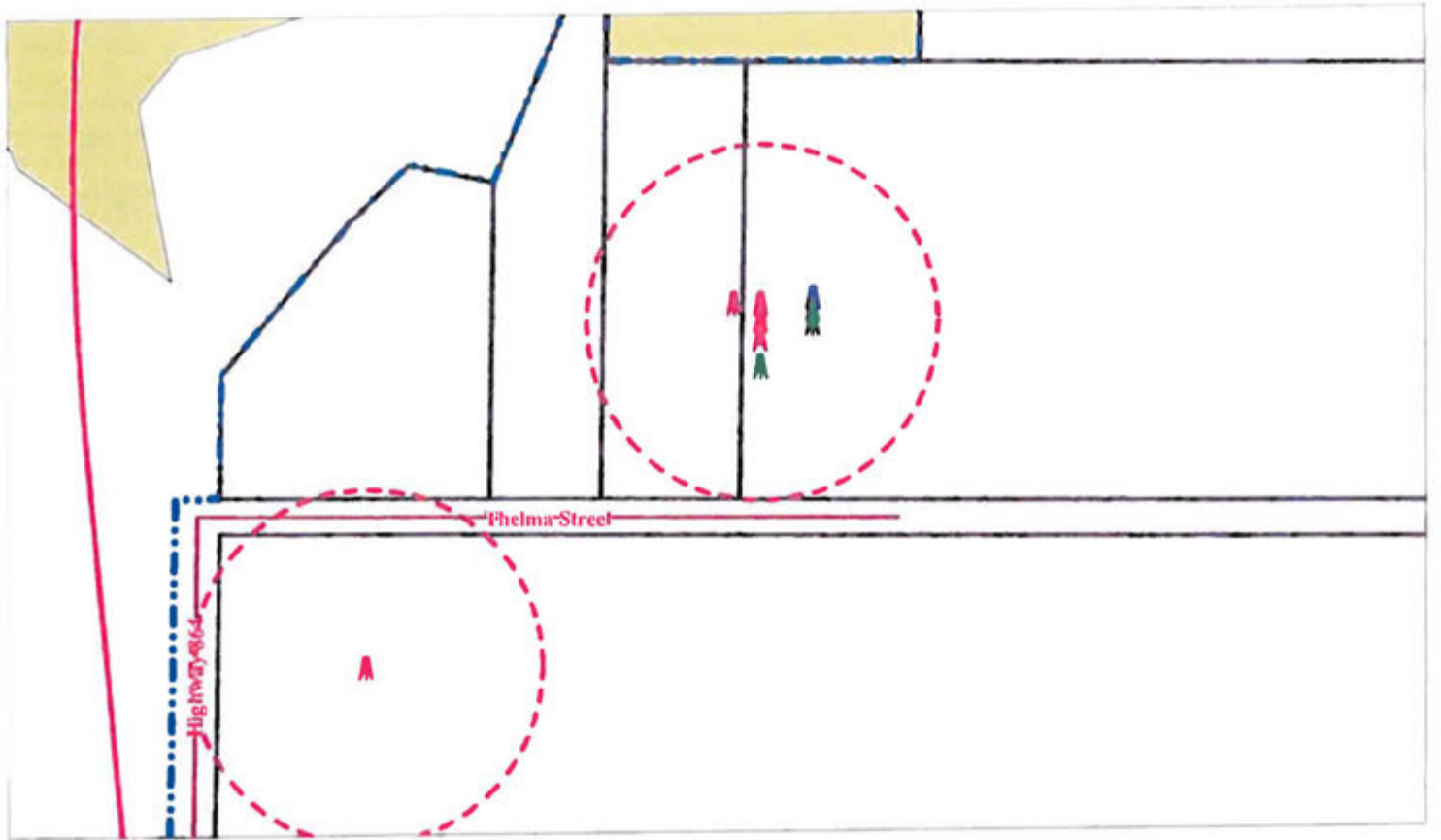
Highway-864

(9612310)

100m Perimeter – Pumping Oil Buffer

Town of Taber





Section 641 – Municipal Government Act

may not be made by the same or any other applicant until the time stated in the land use bylaw has expired.

(6) A land use bylaw may authorize a development authority to decide on an application for a development permit even though the proposed development does not comply with the land use bylaw or is a non-conforming building if, in the opinion of the development authority,

- (a) the proposed development would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

1995 c24 s95;1996 c30 s58

Designation of direct control districts

641(1) The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development

authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

1995 c24 s95;1996 c30 s59

Permitted and discretionary uses

642(1) When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw, issue a development permit with or without conditions as provided for in the land use bylaw.

(2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may issue a development permit with or without conditions as provided for in the land use bylaw.

(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of it must be given to the applicant.

(4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

1995 c24 s95

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no

**RFD for Municipal Planning
Commission**

March 19, 2012



TOWN OF TABER
MUNICIPAL PLANNING COMMISSION REQUEST FOR DECISION

Subject: Advice to Council Regarding Bylaw 5-2012	Date of March 19 th , 2012 Agenda:
Prepared By: Jillian Koroluk, Development Officer	
Attachments: Document Package for Council – 1 st Reading Overhead Maps Showing Utility Right of Ways Section 641 – Municipal Government Act Comments Received Regarding Bylaw No. 5-2012 Intermunicipal Development Planning (IDP) Committee Meeting Package Intermunicipal Development Planning (IDP) Committee Comments	
Topic: Tom and Jean Menard Thelma Street: Block 2 and 3; Plan 7808A1 Amendment to Bylaw 4-2006 Re-zoning of land from Urban Reserve Residential (UR-R) to Direct Control (DC)	
Background:	<p>The Town of Taber received an application (August 22, 2011) to re-designate the above noted parcel. The proposed re-designation is intended to facilitate development of two homes on existing parcels (see drawings included with application) in an area located just south of the MD park at the north edge of the Town limits. No municipal services are in the immediate area. Surrounding properties are zoned UR-R. The proposed re-designation would re-zone the land from Urban Reserve Residential (UR-R) to Direct Control (DC) (see attached definitions). Council gave first reading to this proposed amendment to the Land Use By-law on February 13, 2012.</p>
	<p>This application has been referred to the Municipal Planning Commission for advice to Council. This can be a good forum for ensuring that a number of important issues are identified and considered in advance of the public hearing before Council. Any and all issues raised at MPC can still be raised at the public hearing but all parties may be better prepared to ensure that Council hears all pertinent facts and arguments for or against the proposal.</p>
	<p>Although the applicant applied for a Low Density Residential District, Council refused to consider that proposal but instead gave first reading to an amendment to a Direct Control District. This ensures that future development proposals for this property are considered first by Council and their decision is final. There is no appeal.</p>
Cont'd	

The report prepared for Council at first reading is attached as background to this report. The North-West Residential Area Structure Plan designates these lands as Environmental Reserve due to slope stability concerns but it is intended that prior to development, more detailed geo-technical evaluations can be completed that more accurately define the limits for safe residential development. The applicant retained a geo-technical consultant who advised that safe limits can be defined on these properties for single family homes, subject to their oversight of construction and other conditions and qualifications.

If this zoning proposal is approved, more detailed work is required by the developer to more precisely define and survey the precise limits for development. Without that additional information, it isn't appropriate to approve any development on these sites. However, before embarking on this more detailed assessment, the developer wants an indication from Council as to whether or not Council is prepared to allow any new housing on these lots at this time. Approval of a DC District would provide that indication, subject to the regulations contained in the site-specific designation (see proposed bylaw attached).

Other relevant considerations include public access to each site, proximity to existing oil wells and pipelines, as well as the need to extend municipal services, or if development can be allowed on private (i.e. septic and water well) services.

In addition, this proposal could be considered "leap frog" development based on current municipal priorities. At the same time, it is important to acknowledge the fact that these lots exist and that the owners have a right to pursue any and all options available for development.

Typically the issues associated with slope stability would be managed at the time of subdivision but in this case, the lots have existed for approximately 100 years so that approach is not available to the municipality. This is an instance where other tools in the planning toolbox need to be used; in this case, Direct Control allows for a balance to be observed between potentially competing interests. However, Council is under no obligation to approve the zoning proposal.

Adjacent property owners, as well as affected agencies have been notified in accordance with Section 606 of the Municipal Government Act. The attached comments were received in regards to this application.

This application has been referred to the Intermunicipal Development Planning Committee, for comment on March 15th, 2012. The comments arising from the meeting will be included as an attachment on Monday, March 19th.

Options:

1. That Municipal Planning Commission recommends that council give 2nd and 3rd Reading to Bylaw 5-2012.
2. That Municipal Planning Commission not recommend that council give 2nd and 3rd Reading to Bylaw 5-2012.

Recommendation: Staff recommendation may be provided on March 19th, 2012

Approval Date:

Director of
Planning and
Development:



**Comments Received Regarding Bylaw
No. 5-2012**

**Excerpts from the Intermunicipal
Development Planning Committee
Meeting Package**



TOWN OF
TABER

NOTICE OF PUBLIC HEARING

March 26, 2012 at 5:00PM at the Town of Taber Council Chambers

Regarding a proposal for Re-zoning of Land

**BLOCK 2 & 3, PLAN 7808 AJ
WITHIN NW ¼-7-10-16 W 4TH M**

Proposed Land Use Bylaw Amendment 5-2012
Rezoning from Urban Reserve – Residential (UR-R) to Direct Control (DC-1)

February 24, 2012

The Town of Taber Department of Planning & Economic Development is in receipt of an application for re-zoning a property located at the northwest boundary of the Town of Taber. The proposal is to re-zone land currently designated Urban Reserve – Residential (UR-R) to Direct Control (DC-1). The Land Use re-designation proposed, if approved, is intended to allow for single detached housing on two existing lots, with private (i.e. not municipal) services. These lots, created in 1911, back onto nearby coulees. The re-zoning bylaw amendment is designated by Bylaw 5-2012.

The Town of Taber Council gave First Reading to Bylaw 5-2012 on Monday, February 13, 2012.

As per the requirement of the Municipal Government Act (Sections 692.1 and 692.4), the owner of the subject property and owners of adjacent properties are hereby notified that a Public Hearing will be held on **March 26, 2012, at 5:00P.M.** at Town of Taber Council Chambers at A-4900 – 50th St. Taber, Alberta.

Please return comments to the Town of Taber: Department of Planning and Economic Development by March 12, 2012.

Sincerely,

*Silvann Koroluk, Development Officer
on behalf of John Henricks*

John Henricks, MCIP, RPP
Town of Taber
Acting Director of Planning and Economic Development
/jk
Attachments

**RECEIVED
M.D. OF TABER**

FEB 28 2012

REEVE	_____	COUNCIL	_____
AGENDA	_____	FINANCE	_____
D.P.O.	_____	GIS	_____
AG	_____	ASSESSOR	_____
OFFICE	_____	D.P.I.	_____
DEV	_____	FILE	_____

*Email - Bonnie/Jack/
John/Jon H.*

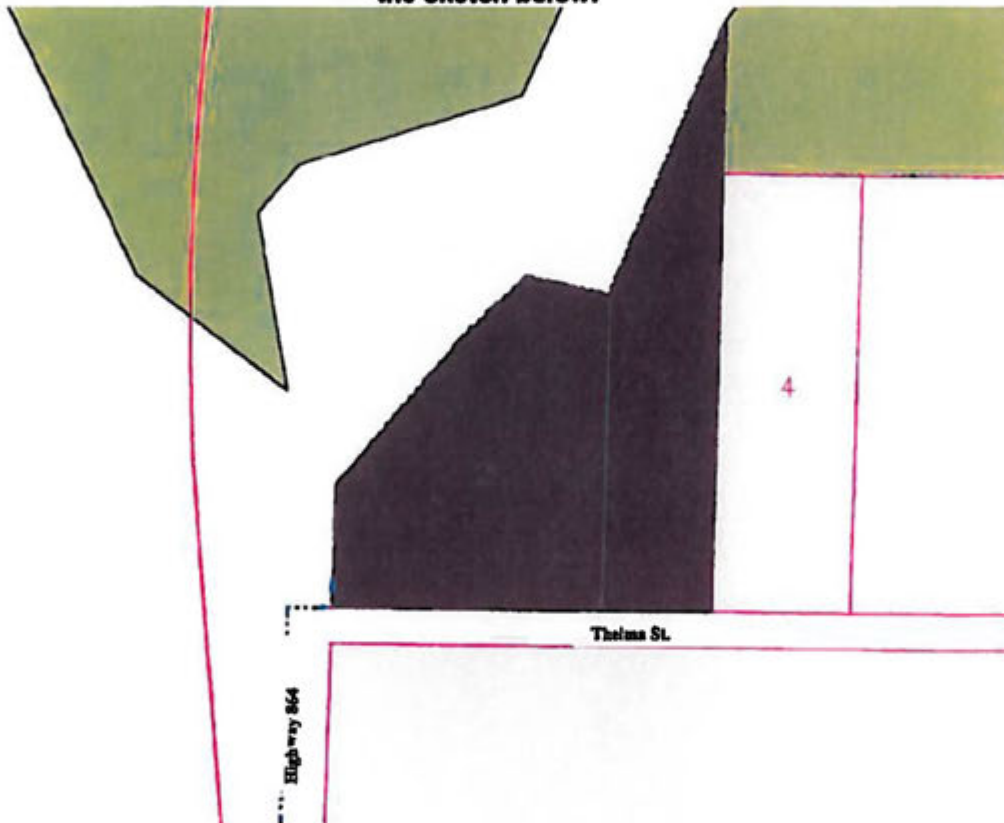
**Public Notice
Amendment to Land Use Bylaw 4-2006
Proposed Bylaw 5-2012**

Take notice that the Town of Taber has received an application to amend Land Use Bylaw 4-2006 by introducing proposed Bylaw 5-2012.

A public hearing and discussion of the proposed amendment will be held on Monday, March 26th, 2012 at 5:00PM in the Town Council Chambers, Administration Building, 4900A – 50 Street, Taber, Alberta.

The bylaw proposes that Schedule "B", the Land Use District Map of Bylaw 4-2006 be amended by rezoning the following lands:

**Theima Street Plan 7808A1 Block 2-3
From Urban Reserve Residential (UR-R) to Direct Control (DC-1) as indicated in
the sketch below:**



Copies of the proposed amendment to Bylaw 4-2006 will be available at the Town Office, 4900A – 50 Street, Taber, Alberta.

All those who are interested or who may be affected, are invited to attend the Public Hearing. Oral briefs may be put forward at the Public Hearing and those persons attending may ask questions about the proposed amendment to Land Use Bylaw 4-2006 or any other related matters.


Written briefs may be submitted to the Planning and Development Office. Such briefs should reach the Town Office no later than Monday, March 12th, 2012.

Jilliann Koroluk
Development Officer
Phone: 223-5500, ext 5527
Email: jkoroluk@taber.ca



Agenda Item No. 4.B)

**TOWN OF TABER
COUNCIL REQUEST FOR DECISION**

Subject: Regular Minutes of Council		Date of February 27, 2012
		Agenda:
Prepared By: Kerry Van Ham, Council & CAO Assistant		
Attachments: Minutes		
Topic: Minutes of the Regular Meeting of Council, February 13, 2012		
Background:		
Options:	1. That Council adopts the minutes of the Regular Meeting of Council held on February 13, 2012, as presented.	
	2. That Council adopts the minutes of the Regular Meeting of Council held on February 13, 2012, as amended	
Recommendation:	Option #1 - That Council adopts the minutes of the Regular Meeting of Council held on February 13, 2012, as presented.	
Approval Date:	February 23, 2012	Acting CAO: 

BYLAWS – CONT'D

C) Proposed Land Use Re-zoning Bylaw No. 4-2012, 5-2012

J. Henricks, Acting Director of Planning, detailed the application for the Bylaw Amendment to re-designate Thelma Street: Block 2 and 3; Plan 7808AI from Urban Reserve Residential (UR-R) to Low Density Residential (LR). This re-designation is intended to facilitate development of two homes on existing parcels in an area located just south of the MD park at the north edge of the Town limits. No municipal services are in the immediate area. Surrounding properties are zoned UR-R.

J. Henricks, Acting Director of Planning, stated that this application, as submitted cannot be recommended. A tool available to address this application is to propose a specific direct control district, but further issues would need to be addressed by the Municipal Planning Commission.

Council discussed the proposed Bylaw at this time.

MOVED by Councillor Bekkering that Council not proceed with a bylaw in consideration of a land use amendment from Urban Reserve Residential (UR-R) to Low Density Residential (LR).

WITHDRAWN

RES.37/12 MOVED by Councillor Sparks that Council not give first reading to Bylaw No. 4-2012.

CARRIED

MOVED by Councillor Tams that Council gives first reading to Bylaw No. 5-2012, and that a public hearing be held on March 26, 2012 at 5:00PM in the Council Chambers.

Councillor Rochelle requested a friendly amendment to include this item being presented to the Municipal Planning Commission for their recommendation prior to the Public Hearing.

Councillor Tams accepted the friendly amendment.

BYLAWS – CONT'D

C) Proposed Land Use Re-zoning Bylaw No. 4-2012, 5-2012 – Cont'd

RES.38/12 MOVED by Councillor Tams that Council gives first reading to Bylaw No. 5-2012, and that this Item is presented to the Municipal Planning Commission for their recommendation prior to the Public Hearing to be held on March 12, 2012 at 6:00PM in the Council Chambers.

CARRIED UNANIMOUSLY

ACTION ITEMS

A) Taber Viper Swim Club

G. Frank, CLGM, Chief Administrative Officer, introduced the Club's request for a 3% facility rental fee reduction, based on the Club's agreement in principle to applying for the CFEP grant funding.

Council discussed the requested rental fee reduction at this time.

MOVED by Councillor Rochelle that Council approves the 3% rental fee reduction requested by the Taber Viper Swim Club for their 2012 pool bookings and directs Administration to assist with preparation of the CFEP application for their review.

Mayor Bryant requested a friendly amendment to include the rental fee reduction if the CFEP grant application is successful.

Councillor Rochelle accepted the friendly amendment.

RES.39/12 MOVED by Councillor Rochelle that Council approves the 3% rental fee reduction requested by the Taber Viper Swim Club for their 2012 pool bookings if the CFEP grant application is successful, and directs Administration to assist with preparation of the CFEP application for their review.

CARRIED

MEDIA INQUIRIES - NONE

Thomas Menard
4630 – 58 Ave
Taber, AB T1G 1F2
403-223-0845
tmenard@gmail.com
February 16, 2012

Derrick Krizsan
Administrator
MD of Taber
Taber, AB

Dear Mr. Krizsan:

One of the members of the Taber Town Council told me that he remembered stories of a series of houses in the MD of Taber sliding down hills. He was referring specifically to those houses north of the Taber cemetery. I have looked into the matter and have been unable to verify it. I expect that if the stories were true, then those houses would have been widely discussed in Town and the MD. However, after talking to many people, I have not found anybody who remembers going to see such a house after it slid down a hill, and nobody who remembers seeing pictures of the houses in the paper.

Another member of the Taber Town Council told me that there were stories circulating in the Town Council that Dr. Ryan Torrie's new house (off Highway 864 near the Town dump) was sliding down the hill. I called Dr. Torrie and he told me that his house was doing fine. I imagine that he and other people in the MD who own houses with a view would be concerned about such stories, especially if the stories are false.

As you may know, I own land in Taber overlooking the MD Park. Last year I asked the Town to rezone the land to allow houses to be built there, in accordance with the Town's Northwest Area Structure Plan, which recommends building houses on my land. Unfortunately, the Town made serious mistakes in handling my application. Among other problems, the former Town Planner Jim Coughlin told the Council that "In twenty to thirty years, houses built on the land would slide down the hill, placing the Town in a position of legal liability."

If his statement on slope stability is true, that would be a serious concern. But Jim Coughlin later admitted to his Professional Association that he did not have any data to support this opinion; that he ignored the geotechnical engineering report done by my Professional Engineer (the same one that Ryan Torrie used); and that he did not have the necessary qualifications to even have a professional opinion on a question of geotechnical engineering. As a result of this and other violations of his professional ethics, his Professional Association disciplined him, he is no longer a Professional Planner, and he no longer works for the Town.

Also as a result of his unprofessional actions, the Town is now reconsidering my application to rezone my land. I figure that you will have some useful input for the Town, since the MD has hills and has long experience in permitting houses to be built near the tops of hills.

Do houses in the MD slide down hills?

If so, please give me a list of the houses, the years in which they slid, and the resulting cost to the MD in dollars. Approximations will be fine.

Please call me or email me, and I can stop by the MD office and pick up your response.

Thanks for your help.

Yours,

A handwritten signature in cursive script that reads "Thomas Menard". The signature is written in black ink and is positioned below the word "Yours,".

Thomas Menard

**Intermunicipal Development Planning
Committee Meeting Comments**