

MUNICIPALITY OF CROWSNEST PASS

NOTICE OF DECISION OF THE CHINOOK INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING NO. DP2025-016

BOARD MEMBERS:

Evert Van Essen
(Chair)

Bjorn Berg

Glen Girhiny

Rupert Hewison

Don Hill

In the matter of an Appeal of the Decision of the Development Authority of the Municipality of Crowsnest Pass, whereby a development permit application (DP2025-016) for six “Apartment Buildings not exceeding 3 storeys or 14.0m (45.9 ft)” (permitted use) with a 13% variance to the parking requirement on land designated High Density Residential (R-3), legally known as a portion of NW¼ 21-7-3-W5M (3001 214 Street, Bellevue), was approved with conditions.

And in the matter of the Appeal in accordance with Section 686 of the Municipal Government Act by:

APPELLANTS: Christopher Davis, Legal Counsel on behalf of 82 Appellants as listed in appeal submission

And in the matter of an Appeal held under the authority of Sections 627 and 629 of the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended (MGA).

THE PUBLIC PORTION OF THE HEARING WAS DOCUMENTED AS A RECORD OF PROCEEDINGS

And upon hearing the evidence from and submissions made by the person(s) shown on Appendix B attached hereto, and upon considering the documents shown on a list attached to Appendix A, as being the documents produced and marked as exhibits at the Hearing, and having regard to the South Saskatchewan Regional Plan, the MGA, and the Municipality of Crowsnest Pass Land Use Bylaw No. 1165, 2023 and amendments thereto, the Board has rendered a Decision.

The Decision and reasons for the Decision of the Chinook Intermunicipal Subdivision and Development Appeal Board (the Board) after a Hearing duly convened in accordance with Sections 685 and 686 of the MGA on June 9, 2025, at 2:30 p.m. are as follows:

DECISION:

The Board has decided the **Appeal be UPHELD** and the decision of the Development Authority be **Overtured**. DP2025-016 is **REFUSED** with reasons.

Date: June 20, 2025

Signed:


Evert Van Essen - Chair of the Subdivision and Development Appeal Board

FACTS:

Upon having heard what was alleged by the Appellants and **upon hearing** others listed in Appendix B of this Decision and **upon having read** the Exhibits noted in Appendix A of this Decision, the Board finds the facts to be as follows:

1. The land subject of the appeal [subject property] is legally known as a portion of NW¼ 21-7-3-W5M with a civic address of 3001 214 Street, Bellevue.
2. The subject property is currently designated High Density Residential – R-3 within the Municipality of Crowsnest Pass Land Use Bylaw No. 1165, 2023 (LUB 1165, 2023).
3. Council for the Municipality of Crowsnest Pass held a Public Hearing for Bylaw 1221, 2025 on March 11th, 2025, to redesignate the subject property to High Density Residential R-3. On April 15, 2025, Council gave second and third reading to Bylaw 1221, 2025 to approve the redesignation to High Density Residential R-3.
4. The purpose of the High Density Residential – R-3 land use district, as stated in Schedule 2 of LUB 1165, 2023, is “To provide for high density residential environments by accommodating the development of predominantly Apartments and Multi-unit Residential Buildings integrated into either existing or proposed residential neighbourhoods in accordance with Schedule 5.”
5. An “Apartment Building not exceeding 3 storeys or 14.0m (45.9ft)” is classified as a Permitted Use within the High Density Residential – R-3 land use district in Schedule 2 of LUB 1165, 2023.
6. A development permit application (DP2025-016) to construct six “Apartment Buildings not exceeding 3 storeys or 14.0m (45.9ft)” on the subject property with a request to vary the parking requirements and fence height was submitted by the Applicant, Arise Developments Inc., to the Municipality of Crowsnest Pass on February 7, 2025 (Exhibit E).
7. DP2025-016 was approved by the Municipal Planning Commission on April 24, 2025, with conditions, and the parking requirements were reduced by 16 spaces from 126, a variance of 13% (Exhibit D). The Applicant’s request for a fence height variance was not granted.
8. On May 15, 2025, an Appeal with reasons (Exhibit C) was submitted by Christopher Davis, Legal Counsel on behalf of 82 appellants as listed in the appeal submission (Appellants), with the reasons as follow:

“The approval of the DP by the Development Authority (through its Municipal Planning Commission) was in error for one or more of the following matters:

- a. The MPC failed to take into account one or more of the following factors pursuant to section 13.2 of the Land Use Bylaw (LUB 1165,2023):
 - i. Access, transportation and servicing requirements;
 - ii. The Subdivision and Development Regulation;
 - iii. Stormwater management and site grading;
 - iv. The land use definitions, the purpose statement of the applicable “High Density Residential – R-3” Land Use District, the development standards of the said district and the applicable Schedules (in particular Schedules 5 and 6) of the LUB.

- b. The MPC failed to discharge its obligation to determine if the “variance test” pursuant to section 13.4 of the Land Use Bylaw (LUB 1165,2023) was satisfied in the case of the relaxation of parking standards;
 - c. The MPC failed to discharge its obligation to determine if the “variance test” pursuant to section 13.4 of the Land Use Bylaw (LUB 1165,2023) was satisfied in the case of the relaxation of the fence height standard;
 - d. The MPC erred in failing to address the matter of public access to the adjacent Municipal Reserve parcel (Lot 15 MR, Block 5, Plan 8311587), despite the approved plans clearly indicating there to be access through the development site, thereby failing to discharge its duties pursuant to section 650(1)(b) of the MGA and section 19.2(d) of the LUB;
 - e. The MPC erred In failing to require further mitigation responses for the parking variance, pursuant to section 19.2(c) of the LUB;
 - f. The MPC erred in failing to require the preparation of and /or compliance with recommendations in relevant engineering reports or other professional studies (section 19.2(e) LUB);
 - g. The MPC erred in failing to require there to be an adequate on-site pedestrian access plan for the subject development, again pursuant to section 19.2(d) of the LUB;
 - h. The MPC erred in failing to ensure that sufficient communal amenity space ($4.6 \text{ m}^2 / 50 \text{ ft}^2$ per unit) was provided pursuant to Schedule 5, section 4.2 of the LUB and in consideration that dwelling units in the project are all 2 or more bedrooms (i.e. the minimum amenity requirement may be insufficient in the circumstances);
 - i. The MPC erred to the extent it may have considered the municipally owned adjacent reserve parcel (Lot 15 MR) to be an “exclusive use” area to the development, and thereby in compliance with Schedule 5, section 4.2 of the LUB;
 - j. The MPC erred in failing to consider the impact of the restrictive covenant registered on title under the Historic Resources Act on the subject parcel(s);
 - k. The MPC erred in approving the Development Permit without conditioning that valid and sufficient legal access and utility servicing easements be provided for either or both subject parcels by either:
 - v. requiring that the municipal parcel that was formerly 30th Avenue be dedicated as a road pursuant to section 16.1 of the MGA; or
 - vi. requiring that sufficient and necessary access easements and / or general utility right of way easements be provided in favour of the subject parcels;
 - l. The MPC erred in failing to provide reasons for its decision; and
 - m. Such further and other matters or grounds as may be raised at the appeal hearing.”
9. The subject property is located north of Highway 3 in the community of Bellevue and is situated north of 4 single-detached residences, separated from those properties by an east-to-west back lane leading to a field to the west of the subject property that is part of the MDM Centre (former school) site. To the immediate north is a parcel of dedicated Municipal Reserve land owned by the Municipality of Crowsnest Pass.

10. A closed road parcel is located adjacent to the subject property on the east side. Access to the site is proposed from the closed road parcel adjacent to the subject property. The Municipality of Crowsnest Pass is in the process of re-registering this parcel as a road for public use as an extension to 30 Ave and will serve as the primary and only access to the subject property.
11. A restrictive covenant is registered on the subject property under s. 25 of the *Historical Resources Act*, which establishes *Historical Resources Act* requirements, as the proposed development falls within the area designated as Area A, Zone 2 of archaeological site DjPo-25 (Exhibit G). The municipality obtained the OPAC clearance (Exhibit H) which was issued subject to conditions including that an archaeologist be hired to fulfil the requirements of the OPAC clearance, including that a Historic Resources Impact Assessment be conducted (Exhibit I) and subsequent *Historical Resources Act* approval granted before development proceeds, either in relation to geotechnical testing or project construction (Exhibit I).
12. The DP2025-016 application site plan (Exhibit E4) illustrates that the subject property is proposed to be developed with 6 individual apartment buildings with each containing 12 units for a total of 72 rental units. There will be three rows of buildings with each row consisting of two side-by-side apartment buildings separated by a strip of open space. To the south of the southern row of buildings will be a single aisle of parking providing 19 parking spaces, south of the middle row of buildings will be a double aisle providing 46 parking spaces, and south of the northernmost row of buildings will be a double aisle providing 47 parking spaces. The approved site plan in Exhibit D8 identifies snow storage on two parking spaces, reducing the total number of off-street parking spaces to 110 from 112.
13. The Off-street Parking and Loading Area Standards in Schedule 6, section 2, subsection 2.4, Table 1 of LUB 1165, 2023, require Apartment and Multi-Unit Residential Buildings to provide 1.75 off-street parking spaces per dwelling unit containing two or more bedrooms.
14. All 72 rental units proposed in DP2025-016 contain two or more bedrooms. The proposed development does not comply with the off-street parking standards in Schedule 6, section 2 of LUB 1165, 2023.
15. In accordance with Schedule 6, section 2 of LUB 1165, 2023, an Apartment Building with 72 rental units containing two or more bedroom requires a total of 126 off-street parking spaces. DP2025-016 proposes 110 off-street parking spaces for full time use, which constitutes a 13% variance (i.e., shortfall of 16 parking spaces) to the parking requirements. Two additional parking spaces are identified on the site plan but are marked for use as snow storage and, therefore, are not counted toward the total number of off-street parking spaces provided.
16. The Applicant, Greg Beekman of Arise Developments Inc., submitted that the proposed site and building layout of three rows of buildings with each row consisting of two side-by-side low sloped roof apartment buildings was intentionally designed on the basis of enabling a 20 foot separation space between the buildings to help provide an improved quality of life for everyone, including neighbours. This design resulted in the need for the 13% variance to the parking space requirements.
17. The Municipality of Crowsnest Pass is comprised of five communities located within a mountain valley along a transportation corridor, including Highway 3 and the CPKC rail line. The Appellants emphasized the linearity of the community resulting in the dispersal of services and amenities, and the need for individual vehicular transportation to access those services and amenities, which will require adequate parking, likely in excess of the standard required by the land use bylaw, to support the proposed development and avoid impacts to the neighbourhood. The Manager of Development and

Trades for the Municipality of Crowsnest Pass confirmed that the CNP is a linear valley and it is a fact of life that people need to commute for services.

18. The Manager of Development and Trades for the Municipality of Crowsnest Pass submitted that the municipality's off-street parking and loading area standards in Schedule 6 are current as adopted in LUB 1165, 2023.
19. Schedule 18A of LUB 1165, 2023 defines "Apartment Building" as "a residential building, which contains three or more attached dwelling units and where access to each unit is provided through a shared entryway. This use does not include Multi-Unit Residential Building, Mixed-Use Building, boarding house, Hotel, Motel or Hostel".
20. Schedule 18B of LUB 1165, 2023 defines "Off-street parking space" as "a lot or portion thereof, excluding a public roadway, which is used or intended to be used as a parking area for motor vehicles."
21. Schedule 6, section 1, subsection 1.4 of LUB 1165, 2023 states, "A required parking or loading facility shall be located on the same lot as the development for which it is required unless, in the opinion of the Development Authority, it is impractical to provide all of the required facilities on the same lot. In such a situation the Development Authority may: (a) allow for some or all of the required parking spaces to be provided on an alternative lot located within 50 metres (164 ft) of the development, provided a parking agreement or other suitable instrument registrable onto a certificate of title, to which the Municipality is a Third-Party, is registered against the alternative lot concerned; or (b) allow limited sharing of parking spaces between two uses where the *normal* hours of operation will not conflict, e.g., a church and a commercial use."
22. Schedule 4, section 12, subsection 12.2 of LUB 1165, 2023 states, "The Development Authority shall require that a development permit application for infill development in a mature neighbourhood or area of historic significance is compatible with existing mature development, with regard to building height, mass and style, yard setbacks, roof slopes, slope-adaptive building and site design considerations, density, and other standards as may be deemed applicable. The Development Authority may impose development permit conditions to ensure that an infill development complies with this standard."
23. Schedule 4, section 22, subsection 22.1 of LUB 1165, 2023 states, "In addition to the standards established in this Bylaw, the Development Authority may require additional standards as a condition of a development permit, in order to improve the quality of any proposed development such as, but not limited to, hard-surfaced parking areas, exterior finishes to buildings, landscaping, yard setbacks, slope-adaptive building and site design considerations, and the impact on existing development in mature neighbourhoods or areas of historic significance."
24. Section 687(3) of the MGA states in part:
 - (3) *In determining an appeal, the board hearing the appeal referred to in subsection (1)*
 - (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.*

HAVING REGARD TO THE FINDINGS OF FACT; and having regard for statutory plans, the South Saskatchewan Regional Plan, Land Use Bylaw No. 1165, 2023, and the MGA, the Board makes the decision to **UPHOLD** the appeal and **OVERTURN** the decision of the Municipality of Crowsnest Pass Development Authority. Development Permit Application DP2025-016 is refused for the **following REASONS:**

REASONS:

1. The Board confirms the proposed use is a permitted use within the R-3 land use district, but the development does not comply with all the applicable standards of LUB 1165, 2023. The Board carefully considered the requirements prescribed in section 687(3)(d) of the MGA for issuing a development permit when a proposed development does not comply with the land use bylaw. The Board is of the opinion that there was not sufficient evidence to make a determination that the requested variance to the parking standards in Schedule 6, section 2, subsection 2.4 of LUB 1165, 2023 would not affect the surrounding neighbourhood.
2. The Board has determined that a variance to the prescribed parking standard for the development is not warranted given:
 - a. the information presented regarding the linear nature of the Municipality of Crowsnest Pass where services and amenities are spread out between the communities necessitating individual vehicular transportation, and the absence of public transportation; and
 - b. finding that the parking requirement of 1.75 spaces per dwelling unit containing 2 or more bedrooms established in Schedule 6, section 2, subsection 2.4 of LUB 1165, 2023 is not unreasonable given the evidence presented in Exhibit U which indicates that the Municipality of Crowsnest Pass standard is within the range of those applied by other comparable municipalities; and
 - c. finding the required off-street parking standards in Schedule 6, section 2, subsection 2.4 of LUB 1165, 2023 to be current and reflective of parking requirements within the municipality given the parking standards were reviewed with the adoption of LUB 1165, 2023.
3. Given that the development has only one street frontage and presently no opportunity for additional parking on-site, the Board is of the opinion the requested variance is likely to result in parking spillover effects on the adjacent roadway and has the potential to create traffic and parking impacts to the neighbourhood. In accordance with Schedule 6, section 1, subsection 1.4 and the definition for “Off-street parking space” in Schedule 18B of LUB 1165, 2023, the off-street parking standards prescribed

within Schedule 6, section 2, subsection 2.4 of LUB 1165, 2023 are to be satisfied on-site and cannot include parking within a public roadway.

4. The Board is of the opinion that there are no constraints or restrictions specific to the subject property that would preclude the development from complying with the parking standards prescribed in LUB 1165, 2023 and that compliance with the prescribed parking standards could be achieved with changes to the proposed design.

INFORMATIVE:

1. The Board considered the information presented by the Appellants regarding the process undertaken by the Municipality of Crowsnest Pass in designating the subject property as High Density Residential – R-3 and has found this information to be irrelevant. The Board concluded it is the authority and sole discretion of a council to determine the designation of land use for parcels of land within the municipality. The Council of the Municipality of Crowsnest Pass has designated the subject property R-3 and, as such, development of the property is subject to the applicable district standards as prescribed in LUB 1165, 2023.
2. The argument and evidence provided by the Development Authority and Appellants made it abundantly clear that the Municipality of Crowsnest Pass is a linear community which relies on individuals to provide their own transportation. This suggests greater parking requirements rather than equivalencies with other communities may be necessary. Unless there is a commitment to invest in community public transportation, the Municipality of Crowsnest Pass should consider higher than average parking requirements for parking in multi-unit developments and some neighbourhoods.

APPENDIX A

Documentary Material Submitted to the Board:

EXHIBIT	ITEM
	A. Notice of Hearing and Location Sketch Map
	B. List of Persons Notified
	C. Notice of Appeal with Reasons dated May 15, 2025
	D. Notice of Decision DP2025-016 dated April 24, 2025
	E. Development Permit Application DP2025-016 – received February 7, 2025
	F. Development Permit Application Review for Completeness
	G. Certificate of Title and Registrations
	H. Referral OPAC - Historic Resources Act Application
	I. Historic Resources Act Requirements
	J. Municipal Planning Commission Report - Request for a Decision dated April 23, 2025
	K. Draft Municipal Planning Commission Minutes (unapproved)
	L. Municipal Policies used by Development Authority in Making a Decision
	M. Excerpts from Municipality of Crowsnest Pass Municipal Development Plan Bylaw 1059, 2020
	N. Excerpts from Municipality of Crowsnest Pass Land Use Bylaw 1165, 2023
	O. Appellant Submission
	O-1 Appellant Submission
	O-2 G. Gallant – SDAB Intro & Overview
	O-3 K. Snyder – Impact on Market Value
	O-4 V. Harrison – Parking
	O-5 K. Snyder – MPC Inconsistencies
	O-6A R. Tiegen – Submission
	O-6B A. & M. Capron – Letter
	O-6C M. & M. & B. Swann – Letter
	O-7A Excerpts from Municipality of Crowsnest Pass Land Use Bylaw 1165, 2023
	O-7B Excerpts from TAC Geometric Design Guide (BC Supplement) Chapter 1500
	P. Development Authority’s Position Statement June 4, 2025, with Attachments
	Q. Letter from Lindal
	R. Letter from L. Ohrn
	S. Submission from Appellant legal Counsel C. Davis - Springfield Capital Inc. v Grande Prairie (Subdivision and Development Appeal Board), 2018 ABCA 203

- T. Submission from Appellant legal Counsel C. Davis – Landry v Rocky View County (Subdivision and Development Appeal Board), 2025 ABCA 34
- U. Submission from Municipality of Crowsnest Pass Development Authority, comparative parking standards
- V. Submission from K. Snyder – Presentation notes: market value of properties
- W. Submission from K. Snyder – Presentation notes: MDP inconsistencies
- X. Submission from D. Anderson, letter
- Y. Submission from T. Harrison and H. Many Guns, letter; and T. and M. Brown, letter
- Z. Submission from H. Veldman, photos and letters; and M. Veldman, letter
- AA. Submission from Appellant legal Counsel C. Davis – Plan Showing Survey of Subdivision (Plan 2310236)

APPENDIX B

List of persons who gave oral evidence or made submissions at the hearing:

CAPACITY	NAME
Appellants:	Christopher Davis, Legal Counsel Brian Gallant Karen Snyder Vern Harrison Ralph Tiegen Dale Anderson Doug Lindal Harry Veldman
Applicant:	Greg Beekman, Arise Developments Inc
Municipal Representatives:	Katherine Mertz – Development Officer Johan van der Bank - Manager of Development & Trades

<p><u>IMPORTANT:</u> This Decision of the Subdivision and Development Appeal Board is final and binding on all parties and persons, subject only to Appeal to the Provincial Court of Appeal.</p>
