

RETURN TO:
Municipal Government Board
1229 – 91 Street SW
Edmonton AB T6X 1E9

Telephone: 780-427-4864 Fax: 780-427-0986

Email: mgbmail@gov.ab.ca

Web URL: <http://www.mgb.alberta.ca>

Notice of Appeal for Intermunicipal Dispute

As per section 690(1) of the *Municipal Government Act (Act)*, a municipality that

1. is of the opinion that a statutory plan (or amendment) or a land use bylaw (or amendment) adopted by an adjacent municipality has or may have a detrimental effect on it,
2. has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, and
3. is attempting or has attempted to use mediation to resolve the matter

may appeal the matter to the Municipal Government Board. A statutory declaration indicating the status of mediation must accompany this Notice of Appeal. The Notice of Appeal and Statutory Declaration must be filed with the MGB within 30 days after the passing of the bylaw to adopt or amend the statutory plan or land use bylaw.

Part 1 – General Information – Please Print

APPELLANT MUNICIPALITY

Name of Municipality The City of Calgary		Telephone Number (403) 268-2940	
Designated Contact Kelly Cote		Position (e.g. C.A.O.) Senior Strategist	
Address (Street, PO Box, RR) P.O. Box 2100, Stn. M. #8117		(Town/City/Village) Calgary	(Province) (Postal Code) AB T2P 2M5
E-mail Address Kelly.Cote@calgary.ca		Fax Number (403) 268-3542	

AGENT INFORMATION AND CERTIFICATION (if Appellant is Represented by a Lawyer/Agent)

Name of Firm The City of Calgary Law and Legislative Services Department			
Designated Contact Mercer, David/ Oh, Hanna		(Last) (First)	Telephone Number (daytime) (403) 268-2453/ (403)-268-3622
Address (Street, PO Box, RR) 12 th Floor, Municipal Building, 800 Macleod Tr. S.E. P.O. Box 2100, Station M, Calgary, AB Canada T2P 2M5		(Suite, Apartment) (Town/City/Village)	(Province) (Postal Code)
E-mail Address David.Mercer@calgary.ca / Hanna.Oh@calgary.ca		Fax Number (403) 268-4634	

ADJACENT MUNICIPALITY

Name of Municipality Rocky View County	Telephone Number (403) 230-1401
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Designated Contact (e.g. C.A.O.)			
Kevin Greig, County Manager			
Address (Street, PO Box, RR)	(Town/City/Village)	(Province)	(Postal Code)
911 32 Ave N.E.	Calgary	Alberta	T2E 6X6
E-mail Address		Fax Number	
KGreig@rockyview.ca		(403) 277-5977	

Part 2 – Owner(s) of Land that is the Subject of the Appeal

(If more than one owner, please attach list of the names and addresses of each landowner of any land that will be directly affected by this appeal)

Name (Last)	(First)	Telephone Number (daytime)
All lands within ASP Boundary are affected - please see map attached as Schedule "A"		
Address (Street, PO Box, RR)	(Suite, Apartment)	(Town/City/Village)
		(Province) (Postal Code)
E-mail Address		Fax Number

Part 3 – Bylaw Information

(all to be completed)

Please indicate which bylaw is under appeal	
Rocky View County Bylaw C-7700-2017, the OMNI Area Structure Plan	
Date bylaw received second reading	Date bylaw passed
September 26, 2017	September 26, 2017

Please attach a copy of the notice sent to the municipality prior to the second reading.

Please find attached copies of correspondence provided to Rocky View County regarding the proposed OMNI Area Structure Plan prior to second reading of Bylaw C-7700-2017. Dated July 14, 2017 and September 11, 2017.


Part 4 – Reasons for Appeal

Indicate the specific provisions appealed and the reasons you think they are detrimental (attach more pages as necessary).

Please see attached Schedule "C"



 Signature of Appellant OR
 Person Authorized to Act on Behalf of Appellant

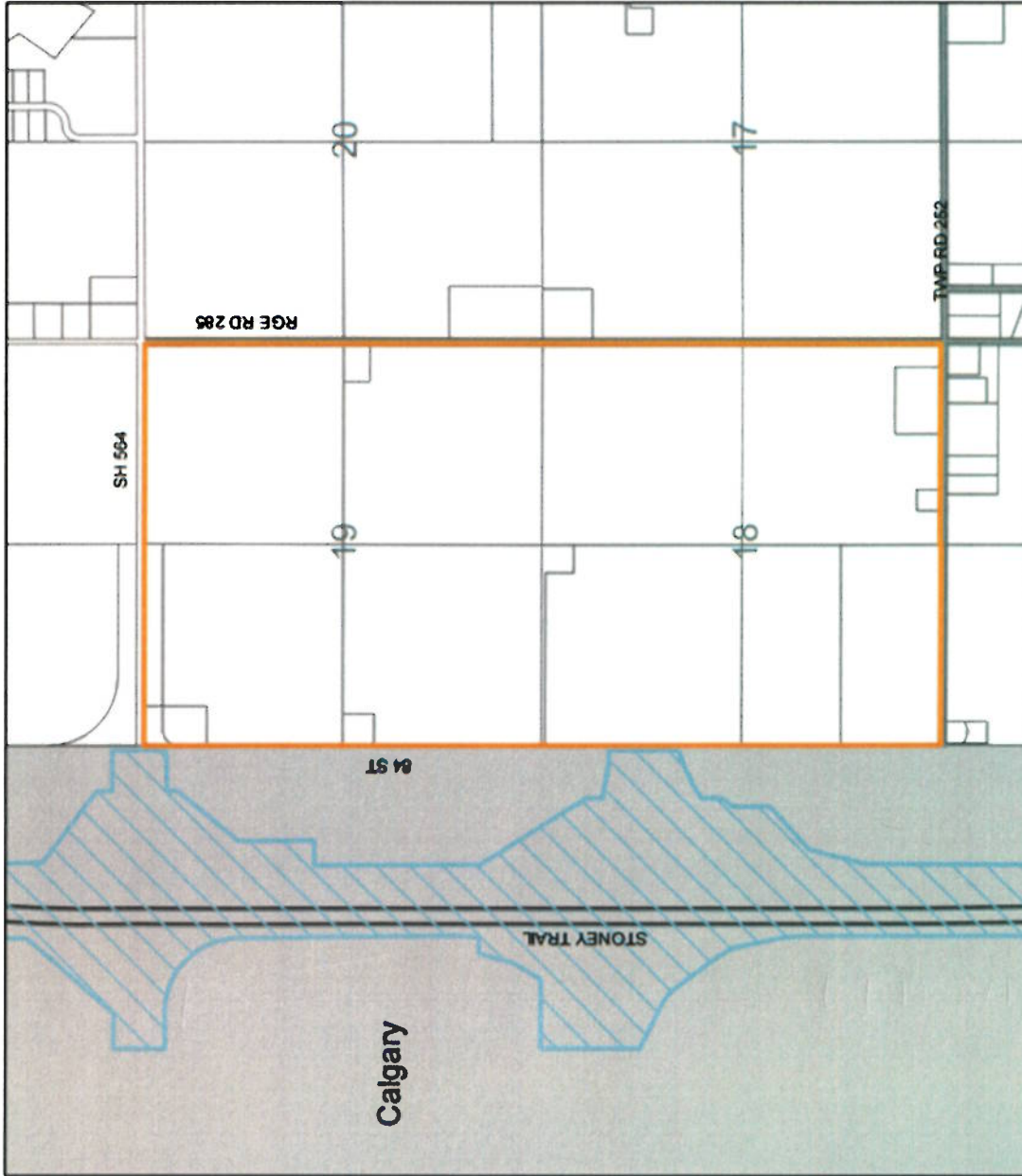
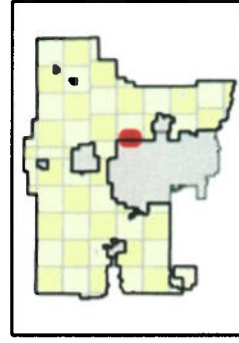


 Date

Schedule "A" – Lands directly affected by this appeal

Map 1:
Plan Area

- ASP Boundary
- Transportation and Utility Corridor



This map is conceptual in nature. No measurements or area calculations should be taken from this map.

Schedule "B"



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Statutory Declaration

(Intermunicipal Dispute Appeal)

I, **BRAD STEVENS**, of the City of Calgary in the Province of Alberta, **DO SOLEMNLY DECLARE THAT:**

1. The City of Calgary wishes to file an appeal with the Municipal Government Board concerning Rocky View County Bylaw C-7700-2017 (the OMNI Area Structure Plan) (the "Bylaw").
2. I am the Deputy City Manager of The City of Calgary;
3. Mediation with Rocky View County has not been possible in advance of this notice of appeal.

The City of Calgary and Rocky View County had been meeting and corresponding in advance of second reading of the Bylaw to attempt to resolve the issues with the OMNI Area Structure Plan that The City had identified. In the interests of intermunicipal collaboration, The City did not pursue mediation in advance of this appeal. Rocky View County proceeded with the consideration of the Bylaw despite The City's significant concerns and request to delay adoption of the ASP.

In addition to the discussions between The City and County administrations, The City of Calgary sent the following letters to the County:

- September 11, 2017 (Exhibit A to this Statutory Declaration)
- July 14, 2017 (Exhibit B to this Statutory Declaration)

4. The City of Calgary has filed an appeal concerning the Bylaw in order to preserve its right to appeal, but remains willing to engage in mediation with Rocky View County prior to a hearing on the merits of the appeal.

AND I MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE AND KNOWING THAT IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH.

DECLARED BEFORE ME AT the City of Calgary
in the Province of Alberta, this 19th day of October,
2017

A handwritten signature in blue ink that reads "Hanna Oh".

Hanna Oh

Barrister & Solicitor

A Commissioner for Oaths in the Province of
Alberta

A handwritten signature in blue ink that reads "Brad Stevens".

Brad Stevens

Deputy City Manager

City of Calgary

THIS IS EXHIBIT " A " referred to in the Statutory Declaration of Brad Sterens Sworn before me this 19 day of Oct A.D. 2017 Hannah A COMMISSIONER FOR OATHS IN AND FOR THE PROVINCE OF ALBERTA



NATHALIE K. NENSHE, MAYOR

September 11, 2017

Reeve Greg Boehlke
Rockyview County Municipal Building
911 - 32nd Avenue N.E.
Calgary, AB T2E 6X6

RE: Omni Area Structure Plan – City of Calgary Public Hearing Submission September 12, 2017

Dear Reeve ~~Boehlke~~ Greg!

It is with significant concern over our shared future that I write this letter. I strongly encourage Rocky View Council ("The County") to delay adoption of the Omni Area Structure Plan ("ASP") in its present form. Transportation concerns expressed by The City of Calgary ("The City") administration are significant and would have a material adverse impact on The City, The County and the rest of the region. We are hoping that by continuing to work together we can develop mutually beneficial solutions for our municipalities and the larger region.

After reviewing both the revised ASP posted on your website and the updated Transportation Impact Assessment, made available for review by City staff on August 14, 2017, it is The City's opinion that the proposed land use concept will cause a detrimental impact to Calgary's transportation system. The plan contemplates an intensive range of retail, office, and commercial uses which will result in transportation system failure. According to The City's assessment, the negative effects will not only be experienced within Calgary's road system, but also cause significant congestion in The County system and Stoney Trail interchanges. This plan will introduce significant traffic safety risks as well as far exceed citizen expectations for level of congestion. It will be very difficult to position the Calgary region as economically competitive if we can't achieve an efficient transportation system.

The City is not raising objections with your ability to improve your municipal assessment base and the orderly development of The County and the region. What we are concerned with is the material detriment that this plan will have to the transportation system that serves The City and the region. Furthermore, The City is not aware of any market assessments that demonstrate demand for the range of land uses in the plan area. We strongly believe that the land uses within the ASP need to be modified to fit within the regional context.

It is The City's opinion that Municipal Government Board s.690 appeals do not exemplify a high point of collaboration or excellence in planning. They exemplify a failure to collaborate and cooperate for the benefit of both of our municipalities. If The County passes the Omni Area Structure Plan on September

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12, then we will all be faced with the prospect of yet another time consuming and very costly Municipal Government Board appeal. This situation would then represent three appeals for detriment filed by The City against The County within the past of 2.5 years. This reflects serious problems and many areas that need improvement.

I'm sure you would agree that grid lock and transportation failure are not in the interests of either of our municipalities or the broader region. Please give this matter serious consideration and do not adopt the Omni Area Structure Plan as currently written. We need to continue to work together on this matter outside the confines of yet another costly appeal process.

It is positive that our respective administrations have continued to work to try to find creative solutions. Therefore The City would strongly encourage The County to provide additional time be provided to allow further constructive conversations and that the Omni Area Structure Plan not proceed for three readings at the September 12, 2017 session of Rocky View Council.

Sincerely,


Naheed K. Nenshi
MAYOR

Thank you for your consideration.

cc: Jeff Fielding, City Manager, The City of Calgary



July 14, 2017

THIS IS EXHIBIT " B " referred to in the Statutory Declaration of Brad Stevens Sworn before me this 19 day of Oct A.D. 2017
Hannuoh
A COMMISSIONER FOR OATHS
IN AND FOR THE PROVINCE OF ALBERTA

City File: RV17-13
MD File: PL20170094

Department of Planning and Development
Rocky View County
911 – 32nd Avenue NE
Calgary, Alberta T2E 6X6

Attention: Andrea Bryden

SUBJECT: PL20170094 To adopt an Area Structure Plan (ASP) in accordance with section 633 of the Municipal Government Act.

Dear Ms. Bryden,

The City of Calgary has reviewed the above noted application in reference to the *Rocky View County/City of Calgary Intermunicipal Development Plan (IDP)* and other applicable policies. The City of Calgary Administration provides the following comments.

Rocky View County is expected to become a member of the Calgary Metropolitan Region Board (CMRB) upon its formation later in 2017. The mandate of the CMRB will include the creation of a Regional Growth Plan and Regional Servicing Plan. The forthcoming CMRB and associated plans are creating uncertainty with respect to the alignment of plans. Rocky View County Council has recognized this with respect to the timeline of the Springbank Area Structure Plan review process. The City of Calgary is confused why Rocky View County would not take a similar approach with the Omni Area Structure Plan and requests clarification.

Rocky View County Council's recently provided unanimous support for the Alberta Community Partnership grant application to support the preparation of an interim Regional Growth Plan. The development of the interim plan provides an opportunity for better collaboration and coordination between the municipalities of the Calgary region. Given the important regional elements of the Omni Area Structure Plan including transportation and stormwater, this plan would be better considered following the completion of the interim Regional Growth Plan.

The proposed Omni Area Structure Plan does not appear to take Map 4 of the IDP into consideration. The lands within the ASP are not identified as an Industrial Growth Area for Rocky View County. The IDP does identify a Residential Growth Area for Rocky View County south of the ASP area, however there is no residential development proposed. The value of the Intermunicipal Development Plan to our municipalities continues to be a concern for The City when significant policies such as these are not reflected in Area Structure Plans.

More broadly, The City of Calgary and Rocky View County have yet to reach agreement with respect to the impact of development, on the hard and soft infrastructure, adjacent to our shared boundary. In the Tri-Party Agreement of 2010 June 08, our municipalities agreed that land use can have short and long term impacts that may be financial in nature. Further in that agreement, Rocky View County and The City of Calgary agreed to expedite the work needed to address cross boundary financial impacts of development. Since this agreement, a number of Area Structure Plans have been approved. While our important work on the Conrich Area Structure Plan remains a positive step forward, there is more work required.

We anticipate that this ASP, like others adjacent to our shared municipal boundary, may have financial impacts on the hard and soft infrastructure of The City of Calgary. Forthcoming amendments propose to enable municipalities to enter into an Intermunicipal Collaboration Framework to addresses service delivery and associated costs. Prior to the approval of the Omni Area Structure Plan, The City of Calgary expects that Rocky View County would expedite this process and enter into discussions intended to create an Intermunicipal Collaboration Framework in a timely manner.

The City of Calgary would also like to provide the following comments with respect to stormwater and transportation:

Stormwater

The subject lands are located within the Corporate Stormwater Management Initiative (CSMI) and Shepard Regional Drainage Plan (SRDP) study areas. A regional stormwater management solution has not been confirmed for the area. Rocky View County should confirm the status of these two initiatives, and how they may affect this development. If the CSMI proceeds, compliance with agreed upon strategy will need to be vetted by with actively engaged stakeholders. This shall include circulation of CSMI related submission to the City of Calgary and conditioned by obtaining respective approvals (e.g. master drainage plans and consequent documents).

- With the CSMI is in its “explore” phase, is there a fall-back strategy in place for stormwater management?
- The recommended ultimate storm servicing strategy via CSMI system is not consistent with the “Cooperative Stormwater Management Initiative (CSMI), which proposes to take water south and east” identified in the Stormwater Section on page 48. There seem to be a contradiction between the two statements, without explanation or justification.
- It is assumed that all developments in the CSMI area will have to comply with the 40 mm runoff volume control target proposed for the CSMI area.
- No consideration for run-on drainage is indicated in the regional and local, and interim and ultimate storm servicing strategy.

- On Map 10: Proposed Offsite Drainage, the reference to “CSMI” in the legend is not clear and the offsite drainage areas should include the run-on catchments draining runoff towards the ASP lands.
- Existing drainage from The City of Calgary (84th Street and west side drains to east side of 84th Street into Rocky View County) should be taken into consideration.
- Policy 18.17 and Policy 18.18 are identical.

Stormwater may be discharged to the Western Irrigation canal system at the end of the irrigation season. The interim solution that is being proposed in the ASP is consistent with the proposed CSMI interim solution. However, The City of Calgary has concerns that we may be responsible for the water quality of the WID canal system that is receiving inputs that we cannot control.

Utilizing WID system as a part of storm servicing strategy for the ASP lands should be addressed directly between WID and Rocky View County administration. The understanding of the operation should be shared with other stakeholders. An engagement with particular stakeholders utilizing the WID system may be required. The City of Calgary suggests that stakeholders’ roles and liability risks should be clearly identified and understood.

Transportation and Transit

In addition to the detailed comments previous supplied on the network analysis, emailed to you by Kari Fellows on July 7, 2017, Transportation Planning offers the following comments regarding the ASP.

It is recommended to add reference to the 84th Street Study for clarity to Section 16. Transportation, The City of Calgary policies 16.11 through 16.13.

Regarding proposed alignments, limits and classification for the eastward extension of Airport Trail, has Alberta Transportation been consulted regarding a potential future second ring road and future connections? (to determine whether a higher classification and alignment that continues east of Range Road 285 would be more suitable).

It is unclear in the ASP which roads and interchanges are built now and which are unfunded infrastructure projects (for example, ramps/bridges for 10 of the movements at the Stoney Trail & Airport Trail interchange at a \$60M estimated cost and twinning of the Country Hills Boulevard bridge over Stoney Trail); the City requests additional ASP text (or perhaps an appendix) and modifications to Map 7: Transportation to clarify the following:

- Existing infrastructure vs. planned infrastructure
- Committed, planned and undetermined funding sources for major infrastructure (in particular the undetermined ones)
- Alignment for 84th St is subject to 84th St study

- Jurisdictions for infrastructure (City of Calgary, Alberta Transportation)

The proposed network illustrated in Map 7: Transportation will break down if the forecast volumes materialize; volumes forecast for a number of the intersections and road links, including along City owned and operated 84th St NE, exceed the capacity that this infrastructure could possibly provide; City staff are available to discuss options for remedying this situation.

Policy 16.9 refers to "...opportunities to connection to a regional public/private transportation system." Is the intention referring to a transit system? The City recommends a specific reference to future regional transit, including more specific policy requirements for attracting ridership to transit, for example:

- Particular attention to walking connections between senior's housing and transit stops,
- In general, good provision of sidewalk and pathway connections through the plan area will be important assets for attractive and efficient transit service.

Given the concerns outlined in this letter, The City of Calgary cannot support this Area Structure Plan and requests that the Area Structure Plan not proceed to the approvals process until the concerns of this letter have been addressed.

Thank you for the opportunity to review and comment on this application. Please feel free to contact me at the number below if you have any questions regarding the above comments.

Sincerely,



Austin Weleschuk

Planner, Calgary Growth Strategies

Planning & Development

T. 403.268.1163 | F. 403.268.3011 | E. austin.weleschuk@calgary.ca

Schedule “C” – Reasons for the Appeal

Pursuant to section 690 of the Municipal Government Act, RSA 2000, c M-26, The City of Calgary hereby appeals the approval of Rocky View County Bylaw C-7700-2017 (the OMNI ASP) that was given third and final reading on September 26, 2017.

The City of Calgary is of the opinion this bylaw will have a detrimental impact on The City of Calgary for the reasons provided below.

1. The proposed land use is significantly more intense than envisioned in the County Plan and not appropriate for the proposed location.

The OMNI ASP proposes a vision for the land area which are not aligned to Rocky View County's County Plan. The County Plan identified the OMNI ASP area as appropriate for Highway business uses. According to the County Plan, Highway business areas are intended to take advantage of the provincial highway system. They are of *limited size* and should be located in proximity to highway intersections and interchanges. According to the County Plan, the purpose of a Highway business area is to contribute to the County's fiscal goals, provide destination commercial and business services, provide services to the traveling public, and offer *local* employment opportunities. The OMNI ASP land use vision is not aligned to the County Plan by a range of uses that include destination commercial, large format commercial, entertainment as well as regional employment opportunities. The City anticipates that the County will generally follow the County Plan direction for this area and integrate rational planning concerns with the transportation system into the land use concept.

The intensity of commercial land uses identified through the OMNI ASP is more aligned with the County's description of Regional Business Centre. The County Plan, however, does not identify the OMNI ASP area as a Regional Business Centre but as appropriate for lower intensity Highway business uses. This lack of coordinated planning by Rocky View County has resulted in much of the transportation network being previously allocated to traffic volumes generated in the Conrich ASP, Janet ASP and the East Stoney ASP areas. The City of Calgary transportation network is unable to accommodate the intensity of land uses proposed in the OMNI ASP area. The OMNI ASP proposes an intense land use vision that results in significant detriment to The City of Calgary.

The City of Calgary and Rocky View County have an existing mediated agreement which addresses the detriment to City transportation infrastructure caused by development in the Conrich ASP area. At the time of that mediation The City was not aware that another very significant commercial area with high trip generation was being planned immediately adjacent to Calgary's boundary and near the Conrich ASP area. This lack of coordinated planning results in significant uncertainty and detriment for lands within The City and uncertainty for the Conrich mediated agreement. The uncertainty created by lack of coordinated planning causes detriment to The City of Calgary in its existing agreements with Rocky View County and the anticipated negative impact to The City of Calgary transportation system.

The amount of land identified for commercial development, 267.1 ha (660 acres), in combination with the 267.1 ha (660 acres) of light industrial creates significant detrimental impact to Calgary's existing and future transportation networks as described in the transportation impact section below.

2. Development in the ASP area will detrimentally affect The City of Calgary's Transportation Network

The transportation infrastructure proposed in the OMNI ASP cannot accommodate the traffic that will be generated at build out of this plan area plus build out of already approved ASP areas including Conrich in Rocky View County; Janet in Rocky View County and East Stoney in the City of Calgary. The development intensity, in particular the size and allowable intensity of commercial development, and resulting traffic demand will be too high for the existing and planned transportation network to accommodate. It is possible that there is no feasible and economically viable transportation solution for the proposed development intensity.

The publicly available supporting technical study (draft Network Analysis dated June 12, 2017, posted on Rocky View County's web site [OMNI - Areas Structure Plan - Network Analysis](#)) clearly indicates traffic volumes that exceed existing capacity, particularly at intersections along 84th Street NE, which is under City of Calgary jurisdiction. In addition to volumes exceeding existing capacity, analysis reports show that queue reach for many of the exclusive, dual turning lanes are predicted by the traffic analysis software to exceed the very long turn lane storage proposed. This introduces a safety concern as more rear end collisions are known to occur when turn lane queues extend into high volume through lanes. Further, functional analysis to confirm that proposed turn lanes meeting City of Calgary standards can fit within the available distances between required intersections has not yet been completed, and The City of Calgary questions the feasibility of the proposed improved network.

The feasibility, operation and costs of future traffic signals required for 84th Street NE have not been addressed in the ASP or supporting technical documents, and the issue is complicated by the fact that the 84th Street NE alignment changes jurisdiction several times in the area impacted by the OMNI ASP. Provision of transit service is referenced in the ASP and Network Analysis, and is indicated as a strategy for managing traffic demand. However, provision of public transit for this area would rely on a collaborative agreement with The City of Calgary, and no discussion of approach, funding, or feasibility for transit service has been initiated. Feasibility of both of these features of the transportation system are key to the serviceability of this ASP area.

The agreement negotiated in 2016 through mediation to resolve City of Calgary's s.690 appeal of Rocky View's Conrich Area Structure Plan included a joint study of the classification, alignment, right of way requirements and jurisdiction for 84th Street NE adjacent to this ASP area. The terms of reference for this study were determined and the study was initiated prior to Rocky View Council approval of this Omni ASP. The 84th Street NE study is now underway and agreement on representative traffic volumes to account for build out of approved ASPs has become an issue. There is a risk of higher budget and longer schedule required for the study due to extra work required dealing with uncertainty of future development scale and resulting traffic volumes.

In addition to concerns about safety and capacity of the street network, The City of Calgary is currently undertaking a goods movement strategy that extends into the Calgary Region. The study is ongoing and planned to be completed in 1.5 years. Major upgrades to Airport Trail west of the municipal boundary are in the planning and design stages to increase the value of this route for goods movement. The Omni ASP as approved by Rocky View County Council classifies Airport Trail as a 4-lane major road east of the municipal boundary. This classification will limit the carrying capacity for the road, potentially to the detriment of regional goods movement capacity.

The development proposed in the OMNI ASP cannot be accommodated within the existing, planned or feasible transportation network and as a result, safety problems, capital costs and severe traffic congestion would be imposed on The City's transportation network if the OMNI ASP is approved as is, all of which will cause a detrimental impact on The City.

3. Development in the ASP area will detrimentally affect The City of Calgary's Emergency Services

The OMNI ASP indicates that fire services will be provided from existing and/or proposed County emergency service facilities, and where appropriate, by contract from adjacent municipalities. The County currently does not have a response station for the ASP area. It is estimated that full build out of the OMNI ASP area will have several incidents per day including fire suppression, critical medical interventions, motor vehicle collisions and hazardous materials responses.

Rocky View County does not currently have a contract with The City of Calgary to provide fire services to the ASP area. If a contract is entered into with The City, service to Calgary's would be impacted. The volume of incidents created by the OMNI ASP will deplete service for the existing district of Station 32 and 38 and increase the risk to Calgary's in this area, which will be detrimental to The City and Calgary's.

If a contract is negotiated with the Chestermere Fire Department the response time would be outside the 10 minute mandate of the Alberta Building Code and the structure will require additional considerations.

4. Relevant Sections of the OMNI ASP

The sections of the OMNI ASP that require amendment from a land use intensity, transportation, emergency services perspective include but are not limited to:

- Part I: Introduction

- Section 4 Key Issues and Opportunities

- Section 4 Physical Constraints and Attributes

- Section 6 Planning for Tomorrow - Omni Vision

- Section 6 Planning for Tomorrow – Goals

- Part II: Plan Policies

- Section 7 Omni Land Use Strategy

- Map 5: Land Use Scenario

- Section 8 Commercial

- Section 8 Commercial Objectives

- Section 8 Policy 8.2

- Section 8 Policy 8.3

- Section 8 Text box titled Large-format retail uses

- Section 8 Policy 8.7

- Section 8 Policy 8.10

- Section 9 Light Industrial Objectives

- Section 10 Policy 10.5

- Section 11 Gateways

- Section 11 Gateways Objectives

Section 15 Emergency Services
Section 16 Transportation
Section 16 Transportation Objectives
Section 16 Policy 16.6
Section 16 The City of Calgary

5. Such other grounds as presented at the appeal hearing.