

# SUBMISSION BY PETER COLLINS TO CALGARY CITY COUNCIL REGARDING PROPOSED 2024 BLANKET UPZONING

## LEGISLATIVE OBLIGATIONS AND RESTRICTIONS

For planning and development matters, provincial law<sup>1</sup> sets out an authoritative statement:

The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted

- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,

**without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.**

The Court of Appeal of Alberta reviewed this law in the specific context of a municipal zoning bylaw, and made the following statements<sup>2</sup>:

These values – orderly and economic development, preservation of quality of life and the environment, respect for individual rights, and **recognition of the limited extent to which the overall public interest may legitimately override individual rights** – are critical components in planning law and practice in Alberta, and thus highly relevant to the interpretation of the Bylaw.

**Central to these values is the need for certainty and predictability in planning law.** Although expropriation of private property is permitted for the public, not private, good in clearly defined and limited circumstances, private ownership of land remains one of the fundamental elements of our Parliamentary democracy. **Without certainty, the economical development of land would be an unachievable objective.** Who would invest in land with no clear indication as to the use to which it could be put? Hence the importance of land use bylaws which clearly define the specific uses for property and any limits on them.

**The need for predictability is equally imperative. The public must have confidence that the rules governing land use will be applied fairly and equally.** This is as important to the individual landowner as it is to the corporate developer. Without this, few would wish to invest capital in an asset the value of which might

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<sup>1</sup> Section 617, *Municipal Government Act* (Alberta)

<sup>2</sup> *Love v. Flagstaff* (County of) Subdivision and Development Appeal Board, 2002 ABCA 292 (CanLII)

tomorrow prove relatively worthless. This is not in the community's collective interest.

...the scheme and object of the Act reveal a legislative intention not only to expressly protect individual rights but to permit those rights to be eroded only in favour of a public interest and only to the extent necessary for the overall public interest.

## OUR MOST IMPORTANT INVESTMENT

In nearly all cases, a home is the biggest financial commitment a person ever makes. A home is not only a financial investment, but it is the owner's place of refuge, a "home base" from which life is conducted. People often expend substantial time and energy in maintaining their homes and gardens, developing and maintaining community connections, and organizing their lives around their home base. Society is connected and organized in many ways and at many levels, but families, homes and communities are among the basic and most important aspects of societal connection.

A threat to that home base is a threat to the structure and stability of a person's life, their family life, and their community connection. There is nowhere to run and hide when the home base is threatened.

Council must respect home ownership, and maintain the certainty and predictability of that ownership. Blanket upzoning of established neighbourhoods, however, destroys that certainty and predictability, contrary to the fundamental principles of planning and development set out in the *Municipal Government Act* (Alberta).

## LAND USE CHANGES NEED FULL INPUT FROM AFFECTED OWNERS

The *Municipal Government Act* (Alberta) requires public hearings when enacting or amending bylaws, and requires that the City have a public participation policy, which for Calgary is the "Engage Policy". That policy speaks of "purposeful dialogue between the City, impacted or interested Calgarians and other communities or groups". Yet, by a blanket bylaw amendment changing the zoning of most residential lots in the City, affected home-owners are deprived of any proper, meaningful, "purposeful" input into the zoning change.

A public hearing to consider the effects of a zoning change on one lot would permit surrounding residents to fully present their views, including consideration of a wide range of relevant issues such as building context, sun/shadow effects, privacy effects, traffic effects, urban forest effects, utilities infrastructure effects, and other relevant considerations.

The blanket upzoning bylaw amendment limits a concerned resident to one five minute presentation to Council, along with any written material the resident wishes to propose. It

is unrealistic and simply impossible for Council to consider the effects of this zoning change on each individual lot touched by the blanket zoning change.

The proposed blanket upzoning bylaw change is contrary to the governing principles of the *Municipal Government Act* (Alberta) and the City's own Engage Policy.

## IMPORTANT CHANGES REQUIRE VOTER APPROVAL

The proposed blanket upzoning is arguably the most significant change to land use policy in the City since the implementation of zoning bylaws many decades ago. In the past, major rewrites of the zoning bylaw were technical updates, introducing more detail, and incremental in nature. This amendment, however, is a substantive and significant change in land use policy.

61% of Calgary housing is either single detached or semi detached dwellings, and 69% of all homes are owner occupied.<sup>3</sup> These are substantial majorities of Calgarians in each case. A major land use policy change affecting so many Calgarians necessitates that the scope of consultation – and deferral to residents' wishes – must be commensurate to the scope of the change.

No councillor advocated for this policy change while campaigning for office, no councillor (other than Peter Demong) was elected with a majority of votes in the applicable ward, and voter turnout was only 46% city wide. In my own ward (Ward 11), Kourtney Penner received only 28% of the votes cast. Assuming the turnout rate for Ward 11 was the same as the City-wide rate, that means that Ms. Penner was elected by only 13% of Ward 11 voters. Silence on blanket upzoning, combined with this low number of votes, is the opposite of a mandate to impose blanket upzoning.

Council had an opportunity to permit wide public input on the issue, via a plebiscite, but a majority of Council rejected this potential method of obtaining public input. Those councillors voting against the plebiscite are demonstrating a profound disrespect for the voters of Calgary, for the principles of the *Municipal Government Act* (Alberta), and for informed democratic decision-making.

## BLANKET UPZONING DOESN'T ALIGN WITH THE MUNICIPAL DEVELOPMENT PLAN

The *Municipal Government Act* (Alberta) requires the City to enact a municipal development plan (MDP), which Calgary did in 2005, and updated in 2019/2020. While the MDP contemplates a range of housing opportunities and choices, and a balance of growth between established and greenfield communities, it also speaks of **“reinforcing the character, quality and stability of neighbourhoods.”** It calls for locating new housing in Activity Centres and Main Streets, reasoning that “focusing most intensification to defined

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<sup>3</sup> Statistics Canada – 2021 Census - Calgary

areas provides more certainty to the development and building industries and **makes redevelopment more predictable for existing communities by lessening the impact on stable, low-density areas.**"

One MDP objective<sup>4</sup> is to "reinforce the stability of Calgary's neighbourhoods and ensure housing quality and vitality of its residential areas." "Intensification should be accommodated within existing communities in a sensitive manner". The City promotes infilling that is sensitive, compatible and complementary to the existing physical patterns and character of neighbourhoods.

Another MDP objective<sup>5</sup> is to "Respect and enhance neighbourhood character and vitality, including the following policies:

- a) **Respect the existing character of low density residential areas**, while still allowing for innovative and creative designs that foster distinctiveness.
- b) Ensure an appropriate transition of development intensity, uses and built form between areas of higher and lower intensity, such as low-density residential areas and more intensive multi-residential or commercial areas.
- c) **Ensure infill development complements the established character of the area and does not create dramatic contrasts in the physical development pattern.**
- d) **Ensure that the preparation of local area plans includes community engagement early in the decision making process that identifies and addresses local character, community needs and appropriate development transitions with existing neighbourhoods**

Finally, section 3.5.3 of the MDP states that land use policies should "encourage **modest** redevelopment of Established Areas"

The new building forms permitted by R-CG, up to 11 meters high (current R-C1 zoning limit is 10 meters) and 60% lot coverage (current R-C1 zoning limit is 45%), are not "modest". R-CG higher density building forms would "create dramatic contrasts in the physical development pattern". To be clear, labelling housing forms which permit 9 dwelling units on one 50X120 lot "low density" does not alter the higher density reality.

## THE CITY'S DENSITY GOALS CAN BE ACHIEVED ELSEWHERE

It is not necessary to destroy established communities to achieve the City's growth and density goals.

According to an internal City document<sup>6</sup>:

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<sup>4</sup> Section 2.2.5

<sup>5</sup> section 2.3.2

<sup>6</sup> Calgary Planning & Development Services briefing document dated 5 July 2023

**Calgary is well supplied with 22-31 years of planned land supply in new communities.** This far exceeds the minimum 15 years' supply of planned land identified within the Municipal Development Plan (5.2.3 (d)(A)). **Overall, there is enough land to accommodate close to 500,000 people.** The 12 Area Structure Plans approved in the last decade are cumulatively built out at approximately 9 per cent. **This demonstrates a significant amount of vacant land where planning policy work is already complete, and where The City has plans for growth.**

In addition to land supply on the periphery of the city, there is land owned by the City. It is disappointing that the City has identified only 2 parcels of City-owned property, out of 407 possible parcels, which would be suitable for residential housing development. The City should require that all potential sites (other than green/parks space) along major transportation corridors, near LRT sites and on vacant or underutilized commercial parcels must first be developed before densification via R-CG in established neighbourhoods is permitted.

Why, for example, is the former Ernest Manning School site, taken by the City as part of the west LRT expansion, sitting undeveloped after so many years?

## CREATING DENSITY IN ESTABLISHED NEIGHBOURHOODS WON'T SOLVE AFFORDABILITY

Redesignating land to R-CG does not create affordable housing. There is NO requirement for affordable housing on any privately owned land. Removing older more affordable bungalows from the rental market may further reduce affordability.

A variety of studies <sup>7,8,9,10</sup> show that increased density achieved through upzoning does not create affordable housing, and in fact usually results in the creation of housing stock which is more expensive than that which it replaced.

R-CG densification does not create affordability. Rarely, if ever, is an existing single family dwelling replaced by multiple dwelling units which each cost less than what was removed. Developers do not construct affordable housing; they construct the amount and type of housing which will maximize their profit from development of the parcel(s) in question. That is a rational response by developers to the market.

R-CG densification simultaneously increases the stock of more expensive housing and decreases the stock of comparatively more affordable housing.

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<sup>7</sup> Blanket Upzoning—A Blunt Instrument—Won't Solve the Affordable Housing Crisis 15 March 2019 – The Planning Report.

<sup>8</sup> Overview of Evidence for Universal Up-Zoning. Suzanne Tough PhD

<sup>9</sup> 3 We Zoned for Density and Got Higher House Prices: Supply and Price Effects of Upzoning over 20 Years Cameron Murray C, Lim M, Urban Policy and Research V41, 2023 Issue 2

<sup>10</sup> Broad Upzoning Makes Housing Less Affordable, And Doesn't Add Supply

If the City wants “affordable” housing, then it must either increase the land supply (my preferred choice) or intervene in the housing market. Intervention could be achieved by mandating a certain percentage of housing units for low income groups, or granting long-term leases to housing cooperatives committed to affordable housing.

I am not optimistic that government intervention is the solution: the City has not done a very good job managing its existing City-owned affordable housing stock, and there is little reason to believe it can do better than the market with an even larger stock of housing under its administration. Since Calgary’s inception, housing has been planned and developed by the private sector, and I have great faith that if the many restrictions on housing development which the City imposes on the housing development and construction sector were removed, the private sector would respond by building a sufficient supply the housing that Calgarians want and can afford.

## **R-CG DENSIFICATION WILL DESTROY EXISTING NEIGHBOURHOODS**

Single family dwellings in established neighbourhoods are an essential and desirable part of Calgary’s housing stock, and should be maintained, not destroyed.

R-CG driven densification would simply remove single family dwellings and replace them with equally or more costly multi-family dwellings, without regard to the overall impact on the community. And, in the process, the removal of single family dwellings would result in a reduction in choice in type of housing. Single family dwellings are the most sought after dwelling type, especially by families, so R-CG densification would also not be effective in providing most Calgarians with the type of housing they seek.

Blanket R-CG densification also means that the Local Area Plans (both completed and in process) for established communities is a waste of time. Why plan for increased density in logical places (along major transportation corridors, near LRT sites and on vacant or underutilized commercial parcels), if developers can build anywhere in a community to the limit of R-CG? This is the opposite of responsible, planned, careful densification.

## **UNFAIR TO ESTABLISHED COMMUNITIES**

Newer Calgary communities are developed according to a master plan which includes a carefully designed mix of single family, multi-family, commercial developments and cultural/community facilities, all with appropriate roadways, park spaces and utilities infrastructure.

Established communities were master-planned communities, complete with boulevards, parks, schools and churches. They were designed specifically for low density single family and duplex dwellings. They were not designed for the substantially greater densification which blanket R-CG zoning would permit. Neither roadways, utilities, nor public park spaces could properly accommodate the greatly increased number of residents.

Rezoning without consideration for neighborhood character and heritage would result in the loss of unique architectural features, cultural assets, and community identity. Replacing heritage homes with generic buildings would not only erase a vital piece of the community's identity but also disregard the cultural and historical value they hold. These homes contribute to the unique charm and identity of our City, attracting residents and visitors alike with their architectural beauty and historical significance.

To quote Richard White:

Calgary's urban planners and some politicians don't seem to understand one of the reasons Calgary is one of the best places to live is NOT because of its urban vitality, but because of its affordable spacious, suburban tranquility even in our inner-city neighbourhoods."

## PARKING

Reduced parking requirements will exacerbate on-street parking conflict and degrade the quality and desirability of neighbourhoods. Developers do not care about parking; the residents they leave behind must live with the shortage. Council may seek to convert Calgary to a city with many fewer motor vehicles, but that goal is contrary to the desires and actual demonstrated behaviour of most Calgarians, who value and need motor vehicles in order to get on with their lives. Shifting parking from residential parcels to the street does not solve the parking problem; it only relocates it.

While the City planners apparently wish for a future where Calgarians ride bicycles, "wheel" in other ways, or ride public transit, the reality is that Calgary is a large city of suburbs, and vehicles are a necessity for virtually all Calgarians. The City's own data<sup>11</sup> shows an historical household **automobile ownership rate of 1.85 per household** as of 2011. Auto ownership in 2011 was higher than in 2001 in every household size category. Younger and older residents still have ~1 vehicle per household, with rates over 2 per household for the 35 to 44 demographic. Data do not support the proposition that smaller dwelling units have no need for parking. **Increased densification would require more, not less, parking.**

As a final point, the blanket upzoning would set a parking ratio of 0.5 parking stalls per dwelling unit/suite in established areas, whereas the parking ratio for the newer communities covered by R-G zoning is one stall per unit. Why the difference?

## ENVIRONMENTAL CONCERNS

The higher density forms proposed will lead to a reduction in green space, trees and permeable surfaces reducing evapotranspiration, exacerbating the urban heat island effect, limiting biodiversity through loss of habitat and increasing peak discharge of

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<sup>11</sup> Changing Travel Behaviour, October 2013

stormwater and its associated impacts. Reduction of the urban tree canopy runs directly counter to the City's stated climate change goals. Passive CO2 sequestration will be reduced by 22Kg per annum with each mature tree lost to increased building coverage.<sup>12</sup>

## CONCLUDING COMMENTS

Making the base residential "low density" land use district R-CG in place of the various R1 and R2 districts will certainly increase density, is unlikely to increase affordability, and will destroy the character and desirability of many existing neighbourhoods. Put simply, it would be a bad and ineffective policy.

The proposed blanket rezoning to R-CG is a radical proposal, will not achieve its stated goals, and will substantially alter – in a bad way -- the look and feel of Calgary.

Don't do something irreversibly bad. I urge Council to **just say no to blanket R-CG.**

Peter Collins

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<sup>12</sup> The Unassailable Case Against Blanket Rezoning , by Stephen Shawcross and Sano Stante, 2024