Rocky View County

Attention: XIN DENG

Re: C-8002-2020 and C-8003-2020

We live 1/2km south of the development property. We have 36 acres in part of w4 r28 t23 ne5. My main concern with this development is future flooding on my land.

I've attached a caveat that is on N.E, S.E., and S.W. in section 5 (the section south west of the development). It is registered on all the titles. The short version of this caveat is IF OUR LANDS ARE FLOODED WE CANNOT SUE THE ROCKY VIEW COUNTY FOR DAMAGES.

The water flows west underneath range road 284 and also flows south underneath township road 231 from this development. Some of the water from both of these water exits from the development flows through ditches, etc. to our property. Because of the height of the surrounding lands our property and the neighbours north and east of us on N.E 5 and N.W.4 will be flooded because our lands are the low lands (sloughs) for this area. So unless here is complete supervised water containment in this development we will have additional water flowing onto our properties and enlarging sloughs on our property.

A number of times over the last 20 years we have had more than 1 inch of rain in less than an hour. This causes serious water problems in our area.

Also the county is talking about widening and paving range road 284 and this will cause an increase of water flow to the low spots

Also at the open house zoom meeting the developers said the berm south of railway was going to be 7 meters high and in the plans submitted to Rocky View it says they will be from 1.5 meters to 4 meters high with a 1 to 3 slope on south side and a 1 to 2 slop on north side. How are they going to maintain 1 to 2 slop on north side?

Thanks for your time

Sheila Buckley

230183 range road 284.



#### LAND TITLE CERTIFICATE

S

SHORT LEGAL LINC 0031 542 104 628LK;3

TITLE NUMBER

061 040 000 +2

LEGAL DESCRIPTION

PLAN 628LK

BLOCK 3

CONTAINING 16.2 HECTARES ( 39.92 ACRES) MORE OR LESS

EXCEPTING THEREOUT:

PLAN

NUMBER

HECTARES ACRES MORE OR LESS

SUBDIVISION

0610312

3.24

8.01

EXCEPTING THEREOUT ALL MINES AND MINERALS

AND THE RIGHT TO WORK THE SAME

ATS REFERENCE: 4;28;23;5;NE

ESTATE: FEE SIMPLE

MUNICIPALITY: ROCKY VIEW COUNTY

REFERENCE NUMBER: 981 209 767

REGISTERED OWNER(S)

REGISTRATION DATE (DMY) DOCUMENT TYPE VALUE CONSIDERATION

061 040 000 26/01/2006 SUBDIVISION PLAN

OWNERS

SHEILA BUCKLEY

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

8476LB . 14/01/1972 RESTRICTIVE COVENANT

THE MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44.

751 004 986 20/01/1975 UTILITY RIGHT OF WAY

( CONTINUED )

#### ATTACHMENT 'D': PUBLIC SUBMISSIONS

E-6 - Attachment D 

ENCUMBRANCES, LIENS & INTERESTS

Page 3 of 22

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

PAGE 2 # 061 040 000 +2

GRANTEE - CANADIAN WESTERN NATURAL GAS COMPANY LIMITED.

061 040 004 26/01/2006 EASEMENT

OVER AND FOR BENEFIT OF: SEE INSTRUMENT

AS TO PLAN: SEE INSTRUMENT

061 285 684 17/07/2006 MORTGAGE

MORTGAGEE - FIRST CALGARY SAVINGS & CREDIT UNION

P.O. BOX 908

CALGARY

ALBERTA T2E1K4

ORIGINAL PRINCIPAL AMOUNT: \$450,000

TOTAL INSTRUMENTS: 004

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN ACCURATE REPRODUCTION OF THE CERTIFICATE OF TITLE REPRESENTED HEREIN THIS 2 DAY OF DECEMBER, 2020 AT 07:44 P.M.

ORDER NUMBER: 40621780

CUSTOMER FILE NUMBER:

\*END OF CERTIFICATE\*

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION, APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

# ALBERTA GOVERNMENT SERVICES LAND TITLES OFFICE

**IMAGE OF DOCUMENT REGISTERED AS:** 

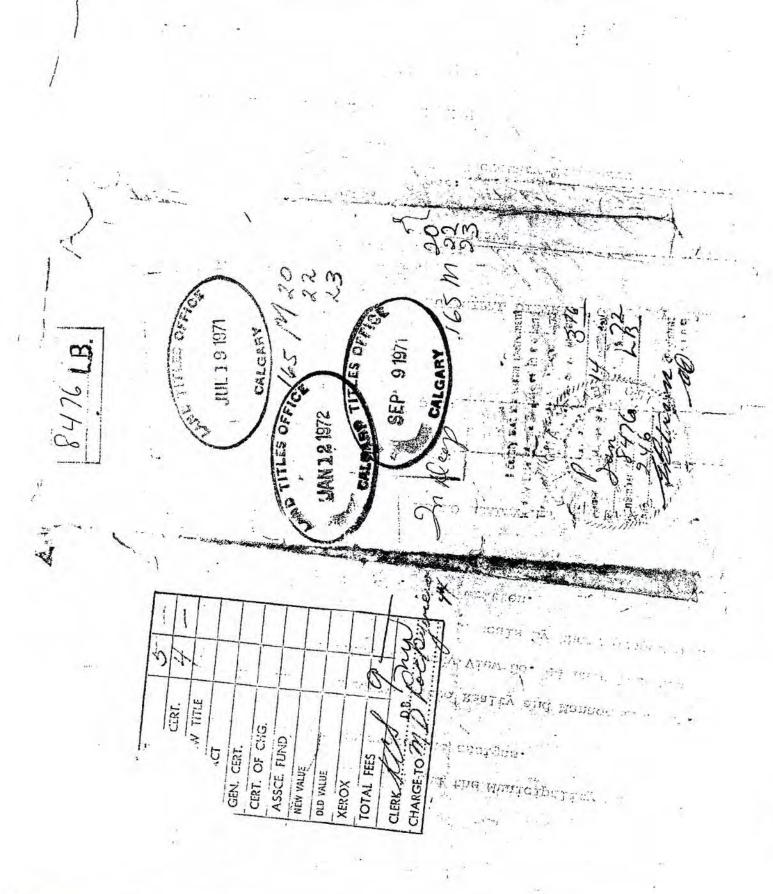
8476LB .

**ORDER NUMBER: 40635164** 

#### **ADVISORY**

This electronic image is a reproduction of the original document registered at the Land Titles Office. Please compare the registration number on this coversheet with that on the attached document to ensure that you have received the correct document. Note that Land Titles Staff are not permitted to interpret the contents of this document.

Please contact the Land Titles Office at (780) 422-7874 if the image of the document is not legible.



he benefit of the Owner and the Municipality and their respective successors and assigns.

IN WITNESS WHEREOF Metro Realty and Management Ltd. and the Municipal District of Rocky View No. 44 have hereunto subscribed their names and corporate seals by their proper officers as of the day and year first above written.

METRO REALTY AND MANAGEMENT LTD.

per:

MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44

DISTRICT **PROVINCE** Reeve OF ALBERTA Secretary-Treasurer

CALGARY REGIONAL PLANNING COMMISSION

APPROVED this

A.D. 1971.

### RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT made in quadruplicate this 30th day of fune.

BETHERNS

METRO REALTY AND MANAGEMENT LTD., (hereinafter called the "Owner")

- OF THE FIRST PART

- and -

THE MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44, a Municipal Corporation in the Province of Alberta (hereinafter called the "Municipality")

- OF THE SECOND PART

WHEREAS the following lands are contained in title and registered in the Land Titles Office for the South Alberta Land Registration District in the name of the above Owner and described as follows:

The North East Quarter of Section Five (5), in Township Twenty-Three (23), Range Twenty-Eight (28), West of the Fourth Meridian in the Province of Alberta, containing one hundred and sixty (160) acres, more or less;

The South East Quarter of Section Five (5), in Township Twenty-Three (23), Range Twenty-Eight (28), West of the Fourth Meridian in the Province of Alberta, containing one hundred and sixty (160) acres, more or less;

The South West Quarter of Section Five (5), in Township Twenty-Three (23), Range Twenty-Eight (28), West of the Fourth Meridian in the Province of Alberta, containing one hundred and sixty (160) acres, more or less;

Excepting thereout the Northerly three hundred and thirty feet (330') throughout of the South West Quarter of Section Five (5), in Township Twenty-Three (23), Range Twenty-Eight (28), West of the Fourth Meridian in the Province of Alberta, containing twenty (20) acres, more or less;

Excepting thereout from all the above lands all mines and minerals and the right to work the same;

(hereinafter called the "Lands");

AND WHEREAS the Owner has made application in accordance with the Subdivision and Transfer Regulations and pursuant to The Planning Act, as amended, for the Province of Alberta to the appropriate subdivision Approving Authority being the Calgary Regional Planning Commission (hereinafter called the "Approving Authority"), for approval of a subdivision of the Lands;

AND WHEREAS the Approving Authority did approve the said application of the Owner for approval of the said subdivision subject among other conditions to the Owner entering into a flood-release agreement with the Municipality, the terms and conditions of which are hereinafter set out;

- 3 -

NOW THEREFORE in consideration of the foregoing, the Owner and the Municipality covenant and agree as follows:

- 1. The Owner indemnifies and holds harmless the Municipality against the cost of any claims or actions, or awards for loss or damage to the Owner arising out of the flooding or inundation of the lands, save and except those arising from the works of the Municipality.
- 2. The Owner acknowledges that this Covenant Agreement is a covenant running with the land and that such agreement shall be registered against the lands concurrently with the registration in the Land Titles Office of the subdivision Instrument pursuant to Section 52 of Chapter 170 of the Revised Statutes of Alberta, 1955, or any other legislation subsequently enacted in substitution therefor.
- 3. The Owner and the Municipal District shall not take any action either jointly or individually that would result in the modification of this Agreement or discharge of the Covenant unless the consent of the Approving Authority has first been obtained.
- This Agreement shall be binding upon and shall enure

to the benefit of the Owner and the Municipality and their respective successors and assigns.

IN WITNESS WHEREOF Metro Realty and Management Ltd.

and the Municipal District of Rocky View No. 44 have hereunto
subscribed their names and corporate seals by their proper officers
as of the day and year first above written.

METRO REALTY AND MANAGEMENT LTD.

per:

PAESIDENT

per:

SECRETARY.

MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44

nare

Reeve

PROVINCE

DISTRICT

OF ALBERTA

er:

Secretary-Treasurer

NO. 44

CALGARY REGIONAL PLANNING COMMISSION

APPROVED this 15 1

day of

A.D. 1971.

A.G. SECV

8476 L.B.

get in store of orginal. Sectional descriptions of anginal. Agreement.

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- and -

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1 VET 1/ 23

DESCRIPTION APPROVED

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1 165 M 22

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- 2 -

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- 4. This Agreement shall be binding upon and shall enure

Mr. Gary Sutherland 283218 Twp Rd 232 Rocky View, Alberta T1X 0K7

January 11, 2021

Rocky View County 262075 Rocky View Point Rocky View County, AB T4A 0X2

Attention: Municipal Clerk's Office

Dear Sir/Madam:

Re: <u>Bylaw C-8002-2020 and C-8003-2020</u>

Upon review of the Shepard Estates Conceptual Scheme document and the proposed concept plan to develop 12 large rural residential estate properties on a 57 acre parcel, I would like to express the following concerns with this proposed land-use designation change and conceptual scheme:

Pg 4, 1.2: Plan Vision and Rationale states that this development will "extend the well-planned and vibrant country residential community that already exists in the area". My response is the existing 'Silhouettes' subdivision that is being referred to was developed where it should have never been built, on slough-bottom, during the very dry years of 2002-03. Since 2005, average to above average precipitation levels have resulted in several of the homes facing high risk of flooding and having to have sump pumps running in their basements on a continual basis. Home-owner turnover has been high in some of the homes in Silhouettes due to issues of water damage and constant struggle with risk of flooding. Some of the homes in Silhouettes have been under construction for multiple years, left either partially constructed &/or vacant for months, beseeched with water and wind damage and an eye-sore to neighbours.

Pg. 5, 1<sup>st</sup> para: reference to "generous lot sizes". This is contrary to the Rocky View County [RVC] plan [2018], pg 46 10.6.b. which states that any new residential communities will be of compact design, and their planning and design will make best efforts to reduce the development's footprint on the rural landscape.

Pg. 5, 2<sup>nd</sup> para: reference is made to the "integration of each of the home with the existing landscape features to provide privacy and tranquility". The proposed development is immediately adjacent to the Canadian Pacific Railway [CPR] main line, of which, 22 or more lengthy trains [often in excess of 150 rail cars or over 2km in length] pass daily. The site does not offer 'tranquility' as the train whistles are sounded each time at the major rail crossing on Range Road 284 [which CPR reports are a minimum 96 decibels up to a maximum of 110 decibels], and the noise and vibration of over 150 rail cars per train, carries for a distance of over one kilometer. Marketing of the lots in the proposed conceptual scheme will be extremely challenging due to the proximity to the CPR mainline and the noise associated trains passing each and every hour of the day and night.

Pg. 9, Conceptual Scheme Objectives: The point of "facilitate the expanded development of an existing country residential...that complements the existing and future land uses in the area" is of concern for the following reasons:

- a) The RVC Residential Inventory [2016] assessment concluded that "overall, there is a significant amount of residential capacity available throughout the county" in already approved or suitable build-ready, build-approved and policy-approved parcels, thus expansion of country residential is not warranted.
- b) The City of Calgary and RVC Inter-municipal Development Plan [IDP] states on pg.18 that 'Interface Planning' be incorporated in transitional areas between both residential and commercial, and residential and industrial areas, to utilize proportionate and scaled mitigation for use-specific nuisances, thus the focus should be on future commercial and industrial developments not residential.
- c) The RVC Conrich ASP 2017 states in Sec. 9.9-9.11 that transitional areas are required at the interface of residential to industrial development and that residential development in close proximity of a the national railway intermodal facility will be "...impacted by increased truck traffic and facility operations." And that, "Subdivision of transition areas...shall not be supported."
  - Similarly, the Shepard Estates Conceptual scheme's location is immediately adjacent the proposed CPR Intermodal facility. Residential development is RVC's least desirable option within a transitional/interface planning area, compared to future commercial &/or industrial development that would be more suited this close to a major intermodal facility.
- d) And lastly, the draft [2020] RVC Municipal Development Plan's area highlighted as 'Employment Area' for commercial and industrial land uses is the same geographic location of the Shepard Estates Conceptual Scheme. Future residential expansion is not highlighted in the 'employment area'.

Pg. 10, 2.2. Topography: The plan area is described in the Conceptual Scheme as being flat, yet also sloping moderately. Moderate slopes, which according to the Canadian System of Soil Classification and the Soil Landscapes of Canada are 10-15% slope gradient, or the equivalent of 5-8.5 degrees and are not flat. Elevation differences shown in Fig 6 from east [1032m] to west [1020m] on the plan area are over 12m [39.4 ft] in height. Natural drainage patterns resulting from this slope gradient and the local topography is a significant concern for existing landowners in this area and any additional run-off from the proposed plan area's roadways, driveways and roof tops will negatively impact landowners downstream by increasing the risk of flooding into their basements, properties and roadways. The Conceptual Scheme also describes two 'vegetated sites', one in the NW and the other in the SE. As an adjacent landowner and agricultural producer, I have observed that the proposed site has been vegetated [continuously cropped] for 40-50 years. If by vegetated sites, they are referring to the two wetlands, corrections are needed as they are semi-permanent wetlands and are located in the SW and the NE of the plan area as shown in Fig 5. In wetter years, these two wetlands fill and spill into road ditches and cause flooding [via road ditches and culverts and groundwater seepage] to the properties to the south and west of the proposed Shepard Estates Conceptual scheme planning area.

Pg. 13, Existing Land Use: The Conceptual Scheme reports that "none of the adjacent designated (A-GEN) parcels appear to be supporting active agricultural operations". This statement is not true. I am the owner of the immediately adjacent quarter section to the west of the proposed Shepard Estates plan area, and have actively farmed said quarter since 1990. I also actively farm [but do not own] the land immediately adjacent and SE of the Silhouettes subdivision. Several of the acreages to the SW of the proposed plan area are actively involved in apiculture, and for decades I have custom hayed the majority of the parcels each year.

Pg. 17, Future Land Use Concept: In addition to the IDP, there are two other statutory plans that have been over looked. The map in Fig 9 fails to acknowledge these two important planning documents [see attached map for the location of these ASP's]:

- a) The City of Calgary's South Shepard ASP [2013, amended in 2019] focus is on shaping a more compact urban form with increased residential area densities, mixed-use commercial and country residential re-developments to allow for cost effective delivery of municipal services and infrastructure.
- b) The RVC Shepard ASP [2001, amended in 2014] originally included lands that are now in the Janet ASP, and since the amendment in 2014, lands that remain abut the CPR mainline and Range Rd 284. These lands are designated industrial with a transitional interface to residential [to the south] and open space [cemetery to the west]. The RVC Shepard ASP 2014 also highlighted the importance of a regional stormwater management and regional drainage system. In multiple, subsequent statutory plans since 2001, the Shepard Regional Drainage system is referenced as the wetland complex that drains lands from Chestermere Lake south and SW to Shepard Slough within the City of Calgary and on to the Bow River via the South Channel or Shepard Ditch. The area's topography is naturally undulating with very low lying, nearly level areas with high water tables and strong hydraulic connectivity [surface water to ground water interaction].

Both of these ASP's emphasize compact development, transitional/interface planning areas and effective drainage and flood risk mitigation.

Pg. 24, Water Supply: The Shepard Estates Conceptual Scheme suggests that "individual wells and septic systems will be used as there are no public watermains in the area." A water well density of 12 per 57 acres is very high and without proven groundwater source[s] with good water quality, presents a greater risk to development of the proposed plan area and an even greater risk to human health. The hamlet of Shepard used to have individual households on their own water wells and septic systems until water contamination became a serious health issue and reports of nitrate poisoning became more prevalent as the density of residential developments increased in the late 1990's.

The water well I have on SE-08-23-28-W04 adjacent and west of the proposed Shepard Estates plan area is not potable due to very high phosphates/minerals and it is also corrosive to fixtures, pumps and plumbing. As a result, drinking water has to be bought and hauled. Any future country residential developments facing water supply & quality issues will be a very hard sell.

Pg. 25, Sanitary Supply: As stated above, it is a major concern that all 12 proposed households will have their own septic system. This is not feasible and is a serious environmental concern due to the local area's drainage patterns, high water tables and risk of shallow groundwater contamination.

Pg. 25, 2.5 Stormwater Management: The Shepard Estates Conceptual scheme reports that the "existing or natural drainage pattern <u>will remain</u> following the proposed development of the plan area." "Post-development run-off will be managed through retention…and collection areas". This is not feasible.

Run-off from this site occurs already [without development] via the road ditches and culverts and flooding and inundation negatively impacts land owners and their properties to the south and west.

Since the time of subdivision [June 1971], RVC enforced restrictive covenant agreements on all parcels in SW, SE and NE-05-23-28-W-04 which "indemnifies and holds harmless the Municipality against the cost of any claims or actions...arising out of the flooding or inundation of the lands". Drainage issues have been severe and long standing for property owners as well as negatively impacting the structural integrity of Range Rd 284.

Run-off from spring snow melt while the ground is still frozen <u>does not</u> absorb nor infiltrate into the ground, instead it becomes overland flow. From spring to fall, extreme rainstorms or other precipitation events do occur and despite vegetative cover, run-off is conveyed to the south through the road ditches along Range Road 284 and the drainage swale [shown in the photo on pg. 26] into Silhouettes subdivision; and to the west via Twp Road 231.

A thorough regional drainage and stormwater management plan for the broader area [South Shepard ASP and IDP] needs to be developed with effective drainage or conveyance infrastructure from Rge Rd 284 west via Twp Road 231 to the South Channel [aka Shepard Ditch] that drains the Shepard Slough south to the Bow River. Effective drainage in the IDP/ASP area is necessary to ensure that future land use concepts can effectively mitigate overland flows, conserve necessary wetlands and protect water resources. Without an effective out-flow to the west and into Shepard Slough/Ditch, any development in the IDP area will increase run-off and risk of flooding. Without an effective out-flow to the west and into Shepard Slough/Ditch, the Conceptual scheme must take into account the need to construct retention ponds to hold any surface run-off and prevent flooding of property owners to the south and west.

Pg. 33, Sound Attenuation and Rail Line Screening: The Conceptual scheme reports that the May 2020 study found that sound levels were not above 63 dBA. This is in accurate as the CPR reports on their website that the minimum sound level for the train whistles is 96 dBA and although there is no maximum sound rating in Canada, they use the maximum allowed in the USA of 110 dBA. I have lived for 60 years one mile north of the proposed plan area [and CPR mainline] and can attest that noise from the train can be very loud, even a mile away. The proposed optional berm to mitigate train noise will be ineffective and only exacerbate the surface run-off and drainage issues due to snow drift accumulations, and additional water volumes. I have evidence of this from farming the land near the Shepard power plant and the spoil piles located there which trap snow or cause more water volume from snow drifts on the leeward side of the berm/pile.

Pg. 35, 3.1 Interim Growth Plan/Regional Growth Plan: The Shepard Estates Conceptual scheme states that "the Shepard Estates is proposed as an intensification and infill", however at the low density of 12 residences on 57 acres [or 1 household per 4 acres], the proposed Shepard Estates conceptual scheme is

contrary to most of the Rocky View County plan [pg 46] and the City of Calgary's South Shepard ASP Growth Plan. Each of these refers to densification targets and concepts of compact urban design which reduce the development footprint on the rural landscape for new residential communities.

In summary, I do not support a land use change [Bylaw C8002-2020] from A-GEN to R-RUR, the land would be better suited to industrial or commercial interface because of close proximity to the CPR rail line, drainage patterns and as a buffer to the existing residential developments south of the tracks.

I also do not support the Shepard Estates Conceptual Scheme [Bylaw C8003-2020] for all the above reasons. We, as a group of adjacent landowners, brought up many of these same issues during the virtual open house in July 2020, and the conceptual scheme makes no mention of them. Without a comprehensive drainage and stormwater management plan, all future development in the area will constantly be jeopardized by water-related issues, flooding risks, and risk to property and human health.

Thank you for your consideration of the above information and suggested alternatives.

I can be reached at 403-614-7063 [cell] or 403-279-9120 [residence] anytime if you have questions or need additional information. Thank you for your consideration of this written submission and I look forward to discussing this further with RVC administration.

Yours truly,

**Gary Sutherland** 

Cc: Xin Deng, Planner, Rocky View County
Candace Vanin

Sans Suddant

**Attachments** 

Map of Statutory Plans Impacting Conceptual Scheme Map of Elevation Contours & Surface Water Impacting Conceptual Scheme

