

LOC2012-0040 - Anthem Development

April 15th, 2014

Sent to the City (Giyen Brenkman) from Graham Hall (resident in North Erlton)

Submission on the proposed changes to the Erlton ARP and Direct control District including;

1. Subsection 2.1.3.2 (v) of the Erlton ARP
2. Section 17 (2) of the Direct Control District.
3. The exclusion of "office" from the definition of a commercial use.
4. The Increase in the maximum size of the grocery store allowed on the development site to 3,800 square metres (40,903 square feet)

Firstly, I believe any proposed changes to laws currently in place must be evaluated against all existing planning instruments, including the MDP, CTP, ARP, DC, Complete Streets 2011.

1. Subsection 2.1.3.2 (v) of the Erlton ARP

The Calgary Municipal Development Plan(MDP) says that the Erlton ARP is "recognized by the MDP as policies providing specific direction relative to the local context".

This "specific direction" was negotiated, and agreed upon in 2007 by the City in partnership with the community, to provide guidance for decisions and protection from possible negative effects of the expected future development/redevelopment in Erlton and in particular the Anthem development.

The MDP also says in section 1.4; "ASPs direct the future land use patterns, transportation and utility networks and sequence of development in new communities. The MGA requires that all ASPs and ARPs must be consistent with the MDP".

"Future reviews of, and amendments to, those ARPs and ASPs will be required to align with the policies of the MDP."

"In areas where an approved ASP or ARP is in effect when making land use decisions, the **specific policies** and design guidelines of that plan will continue to provide direction".

The city is therefore required to ensure that any amendments to an ARP align with the MDP and other planning instruments which supplement, support and expand on the MDP.

One such document is Complete Streets 2011 which says;

"The complete streets guide has been created to foster an understanding of the application of the Calgary Transportation Plan and Municipal Development Plan. Its purpose is to supplement the policies contained in the plans and **facilitate the implementation** of their concepts".

"While the new Guide is being completed City staff continue to use the 2011 Interim Guide for City-built transportation projects. The development industry is also strongly encouraged to use the 2011 Interim Guide for developer-built roads".

Anthem developments are proposing a scale of development that will create significantly increased vehicle movements, and access and egress difficulties for the commercial aspect of the development. Their solution is (and by their own admission always has been, in spite of laws to the contrary) to gain access for the commercial aspect of their development from Erlton Road, in direct contravention of the spirit, intent and letter of the laws in force.

The city now wish to change the Erlton ARP, previously agreed upon in trust and good faith with the community it serves, to allow that which was previously prohibited to suit the very development for

which the laws were to pertain to.

If the changes are now approved how could any community place their trust in the city in future?

The Erlton ARP says;

2.3.1.2 (v) “to minimize the impact of the retail traffic on the residential area, private vehicle access to retail and office development shall be principally from Macleod Trail.

Other clauses in the ARP add support to this specific direction.

“The Plan ensures that future development in the Study Area will be compatible with the currently available transportation capacities and the access characteristics affecting the area. The Plan also endeavours to **minimize the impact of non-local traffic on residential streets in the community.**”

Note: Regarding local streets Complete Streets (pg 21) says; LOCAL – these streets are smaller scale streets that do not serve a city-wide role. They are streets that.... are focused on serving local users only.

“The key objective of the transportation strategy for Erlton is **“To minimize through traffic** in the Erlton area and to **protect the community from potential impacts** related to the upgrading of transportation facilities”.

“Access and site circulation designed to minimize the impact on the adjacent buildings, reduce conflict with pedestrians and **reduce the traffic impact in the community**”.

“Commercial uses shall be oriented to 24th and 25th Avenues, and **shall not be oriented to the Erlton Road frontage**”.

“27th and 28th Avenues S.E. and the related lanes at Macleod Trail should be closed to **minimize the infiltration of through traffic in the residential community**”

“Should 24th Avenue be closed for the purpose of a private road, the road re-design, subject to existing utility right-of-ways and flood channels, **shall discourage through traffic from Macleod Trail to Erlton Road**”.

It is clear and without doubt that the Erlton ARP does not support commercial traffic using Erlton Road for principal access and egress to and from the commercial development, and seeks to discourage, reduce and minimise through traffic and non local traffic on Erlton Road and other streets in Erlton.

The city now wish to replace section 2.3.1 (v) which says;

“to minimize the impact of the retail traffic on the residential area, private vehicle access to retail and office development shall be principally from Macleod Trail”

with;

“Vehicle access to residential and commercial development **is permitted** from Macleod Trail and Erlton Road. In order to minimize circulation of commercial traffic in the adjacent residential area, appropriate mitigation measures, such as maximising vehicle access to commercial development from Macleod Trail, should be considered at Development Permit stage.”

The new wording now allows the city to permit principal access to the commercial development from Erlton Road with “appropriate” mitigation measures to be considered to minimise circulation of commercial traffic in Erlton.

The overall clause on its own is open to be misconstrued or misinterpreted (as explained below). It is ambiguous, the wording is poor for a legislative document and there is no real “specific direction relative to the local context ” as per the MDP and which is provided by the current clause. It also directly contravenes the Interim Complete streets guide 2011. I believe it leaves the city open to legal challenge of its validity. **It should therefore be revised accordingly.**

The word “appropriate” is entirely subjective and open to interpretation

An “appropriate” mitigation measure may simply be requiring vehicles such as trucks “access to the commercial development from MacLeod trail”. An appropriate mitigation measure may also be vehicle access to the development is principally from Macleod Trail.

The clause permits access from Macleod trail for residential and commercial traffic without any stated reservation or condition. If there are to be condions or restrictions to this access it should be made clear.

An appropriate mitigation measure is “ maximising” (making as great as possible) vehicle access to commercial development from Macleod Trail”.

What does this mean in terms of specifics? What are the constraints attached to this statement? The most “appropriate” mitigation measure to minimise traffic in Erlton Road is “private vehicle access to retail and office development shall be principally from Macleod Trail”

The clause allows for access “from” Macleod Trail”, Is access also allowed “to” Macleod Trail?

Commercial vehicles will be required to access the commercial development. This includes trucks and light commercial vehicles. The CTP says light commercial vehicles make up 50% of the distance travelled for all commercial vehicles. If trucks or light commercial vehicles or both are permitted to use Erlton road the ARP should stipulate the limitations of this use.

It is plain and clear to all that the proposed changes are being made in an attempt to enable the city to “comply” with a changed ARP and exercise its discretion to approve Erlton road as the primary access for commercial and non local traffic ,as Anthem have apparently planned since 2006 by their own words of Jan 6 2014;

“The latest concept for the site **has always been** to provide access for both residential and commercial vehicles onto Erlton Road and was included in the traffic review done in 2006 and submitted to the City of Calgary”,

The ECA has said;

“Some of you may recall that a key issue in the original 1985 version of our ARP, at section 1.2.2, was that non-local traffic was to be minimized on residential streets. The 2007 ARP amendment in conjunction with the current 2007 Anthem Properties DC Bylaw incorporated that statement in section 2.1.3.2 (v).

These final drafts have firmed up this commercial vehicular access issue in both the DC Bylaw and our ARP, and as far as I’m aware are supported by the City’s Planning and Transportation departments, since they studied, negotiated, and wrote these documents. Our community had significant input, with the City resolving a number of contentious issues in favour of the residents.

The city now wish to permit for the Anthem development what was agreed upon with the community would not be permitted for this very development.

I oppose the proposed change to clause 2.1.3.2 (v) of the Erlton ARP

In addition the Erlton ARP seeks to limit through traffic on 25th Ave.

“25th Avenue S.E., west of Macleod Trail, shall be retained as a Collector to **limit through traffic and to minimize negative impact on the community**”.

If commercial vehicles are permitted to access Erlton Road, 25th ave would also become a conduit for an unlimited volume of commercial and non-local through traffic, **contradicting this specific direction of the ARP.**

Also the increase in through traffic, and installation of traffic signals at the Erlton Road/25th ave intersection would not allow 25th ave to remain “as is” and also contradicts the ARP which says;

“A key principle of this Plan is that 25th Avenue, west of Macleod Trail, should remain essentially “as is” so as to control the extent of through traffic at this location.”

2. Section 17 (2) of the Direct Control District.

This section says;

“Vehicular access to parking structures for non-residential uses **must not** be provided from Erlton Road SW”.

The city seeks to remove this clause in its entirety.

Erlton road was designed to be and functions as a local (residential) street (1500 vpd or less – pg 99 complete streets guide). The city has calculated that approximately 1372 vpd currently use Erlton Road which is within the residential street volume (email to ECA).

pt 3.7 of the CTP says;

These streets(residential) generally have narrower rights-of-way than the streets identified in the Road and Street Palette (Figure 3). They are designed to maximize access to homes and local amenities, and focus on the needs of pedestrians, cyclists, private automobiles and on-street parking.

The complete streets guide pg 25 says;

“Residential Streets provide direct access to abutting low and medium density residential properties. Access is **not permitted to commercial properties** because they are high traffic generators”.

And from the table on Pg 99;

“Access is not permitted to commercial properties”.

The purpose of the complete Streets document is “to supplement the policies contained in the plans and facilitate the implementation of their concepts”.

Complete streets says unequivocally that access is **not permitted** to commercial properties from a residential street.

Because Complete Streets is an expansion of the MDP and CTP, the changes proposed to the DC contravene the requirements of the MDP that “future reviews of, and amendments to, those ARPs and ASPs will be required to align with the policies of the MDP”, and “ARPs must be consistent with the MDP”.

The proposed changes to the DC and the Erlton ARP propose to allow commercial vehicles to be permitted to access a commercial development from Erlton Road contravening Complete Streets 2011 and therefore the MDP and CTP.

Emergency access

The design guidelines for subdivision servicing 2012 requires 3 access points for developments with 601 units or more, one of which is emergency access. Where is this third access to be and will it be from Erlton Road?

I believe that the proposed change to section 17 (2) of the DC may be illegal because the changes contravene the City's own policies, guidelines and standards.

I therefore oppose the removal of Clause 17(2).

Other considerations regarding commercial traffic using Erlton Road.

a. Circuitous routes. Traffic entering the development via Erlton road would be required to divert via 25th avenue and take a circuitous route to the commercial uses, especially traffic which is heading south on Mcleod Trail.

Complete streets requires that the negative aspects of access management be addressed including; “Reduced access to businesses may require circuitous travel for all users, including pedestrians and bicyclists”.

How will this negative aspect be addressed if commercial vehicles are permitted to use Erlton Road?

b. Energy use and emissions.

Transportation goal #6 of section 1.5 of the CTP seeks to “advance environmental sustainability” by “protecting air and water quality and reducing energy consumption and greenhouse gas emissions”.

Diverting vehicles to a single location via circuitous routes, installing un-warranted traffic signals which will further slow traffic and cause greater delays, removing currently available on-street parking on Erlton Road (approx. 40 or more parks on Erlton Road) and penalising east west traffic with longer red signals (increased delay) from and to 25th Ave (see TIA), does not advance environmental sustainability, on the contrary there will be an increase in traffic delays including public transport on 25th Ave, increase in energy consumption, increase in greenhouse gas emissions,

increased noise pollution and increased oil leakage onto affected roads, which will then enter the stormwater system.

Light commercial vehicles make up 50% of the distance travelled for all commercial vehicles (CTP data). These light commercial vehicles would also be able to use Erlton Road should the bylaw change be approved.

If commercial traffic is not permitted to use Erlton Road, no new signals would be required, no loss of parking, no signal co-ordination with Macleod Trail and 25th, minimal delay to vehicles using Erlton Road and 25th ave, and environmental goals and policies could be met.

As an aside why are signals at Erlton and 25th required when the city engineer has said regarding this intersection "In terms of the intersection performance for the post-development (improved) road cross-section, level of service is estimated to be at "A" (excellent)" (email to ECA Nov 15 2013). Why install signals at an intersection that will operate at the highest efficiency possible and lowest delays post development. Un-warranted signals are proven to lower efficiency and increase delays.

Diverting traffic to Erlton Road via 25th ave is an environmentally irresponsible decision and directly contradicts the environmental goals of the MDP.

It behoves the city to make the same environmentally responsible decisions they would require of other developers, in the administration of their own policies.

c. Activity centre. The city has designated locations for major and community activity centres (MDP map1). Erlton is not one of them. However the nature and scale of the proposed changes that will affect the scale of the development will make it essentially a community activity centre.

The MDP says;

"Tall buildings are appropriate in the Centre City, Major Activity Centres, or Community Activity Centres and Urban Corridors where deemed appropriate through a Local Area Plan"(MDP).

CACs exhibit the following characteristics (see "New community planning guidebook")

- i. should consist of small and medium format retail uses
- ii. shall be integrated horizontally with other uses on the same or different sites within the CAC and/or vertically within building with other uses.
- iii. Should include a site for a community-scale food store.
- iv. should accommodate employment uses

A community activity centre is essentially what the Anthem development will become if the DC and ARP is changed as proposed, provided that the CAC will be sandwiched into a 2ha site rather than the minimum 4 hectares required for a CAC.

The point is, this centre will become a focal point for shoppers from multiple communities, significant pass-by traffic and non local shoppers, with access and egress funnelled via 25th ave, a collector street (which will no longer remain "as is") and where through traffic should be "limited", into a quiet residential street(Erlton Road) where commercial traffic is "prohibited" and non local traffic should be "minimised".

This is exactly the scenario the Erlton ARP was designed to prevent (partnered with the city) when it formulated various clauses in the ARP in 2007 one of which says;

“private vehicle access to retail and office development shall be principally from Macleod Trail”.

“To minimize through traffic in the Erlton area and to **protect the community from potential impacts** related to the upgrading of transportation facilities”.

“discourage through traffic from Macleod Trail to Erlton Road”.

Highway commercial uses intended to primarily serve motorists on Macleod Trail **are discouraged**.

As property owners in Erlton we are opposed to the vehicle access change to the DC and the ARP, not only because the changes open the possibility for bad traffic engineering decisions, is environmentally insensitive, contradictory to the spirit and intent of the ARP, does not align with the policies of other planning instruments in force and used by the city to regulate other developments, it is also in conflict with the good faith and trust the community placed in the city in 2007.

To approve the vehicle access changes to the ARP and DC would be backtracking by the city from the 2007 consultations with the community and calls the very integrity of the city into question.

3. The exclusion of “office” from the definition of a commercial use.

The proposed new DC bylaw is to read;

“Commercial use means all uses in the Direct Control District other than residential uses and office”.

In the uses and use rules of bylaw 1P2007 an office is defined as;

“where business people, professional, clerical and administrative staff work in fields other than medical or counselling fields;

and;

“provides services to either a select clientele or no clients, and therefore has limited contact with the public at large”;

“Office” is a permitted use in existing buildings under the commercial – corridor 1 district heading and a discretionary use in proposed buildings.

A commercial activity according to PIPEDA means “any particular transaction, act or conduct or any regular course of conduct that is of a commercial character.....”

Office use is absolutely commercial in character.

The office use (business people, professional, clerical, admin) therefore fits the category of commercial business and should be included in the definition of a commercial use.

4. Increase in supermarket size to 3800m2

The Elton ARP says;

“Commercial uses are intended to primarily serve the local population “

“One of the primary objectives is a range of local (neighbourhood) commercial uses to serve the needs of the immediate communities”.

Anthem wish to increase the size of the supermarket from 2900m2 (31,215 sq ft) as per the

maximum allowed in the ARP, to 3900m² (40,900 sq ft).

In general for mixed use developments as proposed, the amount of traffic generated is proportional to the size and type of use. A 40,900 sq ft store is a third larger than allowed for by the ARP and will produce approximately a third more traffic, much of this traffic from outside of the neighbourhood via Macleod Trail. The bylaw changes will allow this extra traffic to access the development via Erlton Road. The development also has many of the characteristics of a community activity centre e.g. high buildings, high density housing, underground parking, close to transit, (3.3.3 MDP) in a location where a CAC has not been designated according to Calgary City planning maps. CACs are intended to "represent a local destination for multiple communities". The MDP also says that "Individual CAC densities and the appropriate job and population distributions will be established through a Local area Plan".

Erlton has a local area plan and it does not include a community activity centre. The Erlton ARP conversely uses language that suggests only a neighbourhood activity centre is appropriate for this area.

I object to the change of supermarket size to 3800m²

Consultation

The CTP says;

The increasing complexity of issues faced by "city builders" requires that all disciplines work together to achieve outcomes that would not be possible for any one discipline acting alone. Involvement of broad stakeholder groups will also be important in the planning, design and operation of the transportation system. **Collaborative processes should be undertaken when planning new transportation infrastructure, upgrading existing infrastructure, or evaluating the impacts of new developments** Impacted stakeholder groups, including but not limited to community residents and associations, local businesses and the development industry should be engaged **early in planning processes** to build understanding of transportation issues, and ensure that infrastructure meets the needs of all users and adjacent properties.

A charette type approach is the most appropriate means to achieve these goals. Why has this process not been followed with the Anthem development?

The local alderman said (regarding mission road) that the charette was a means by which city planning incorporates the idea that "**citizens must have an intimate role in shaping the future of the communities they live in.**"

Mayor Nenshi's welcoming remarks to the Charette in June of 2011, "This is a really important process not just for the future of this community but the entire city....this charette process...you've got a serious responsibility.. think hard about what a community can mean, what kind of a community you want to live in, and work in, and build because that's what a community is...**it's about the people who live there** and the common dream that they have."

for these words to mean anything these sentiments should convert into action for the residents of Erlton. Specifically, discussions by Anthem, the City, the ECA as community representatives, and other interested residents, with full disclosure and discussion of the transportation strategy and design plans for the development with the opportunity for the "**people who live there**" to truly

“have an intimate role in shaping the future” of their community.

Kind Regards,

Graham hall