

In the Court of Appeal of Alberta

**Citation: 1381034 Alberta Ltd v Calgary (Subdivision and Development Appeal Board),
2026 ABCA 228**

Date: 20260703
Docket: 2501-0088AC
Registry: Calgary

Between:

1381034 Alberta Ltd

Appellant

- and -

Calgary Subdivision and Development Appeal Board and City of Calgary

Respondents

The Court:

**The Honourable Justice Jolaine Antonio
The Honourable Justice Kevin Feehan
The Honourable Justice Kevin Feth**

**Memorandum of Judgment of the Honourable Justice Feehan
and the Honourable Justice Feth**

Dissenting Memorandum of Judgment of the Honourable Justice Antonio

Appeal from the Decision by
The Calgary Subdivision and Development Appeal Board
Dated the 4th day of March, 2025
(2024 CGYSDAB 0085; SDAB2024-0085)

Memorandum of Judgment

The Majority:

I. Overview

[1] 1381034 Alberta Ltd, a developer, appeals a decision of the Calgary Subdivision and Development Appeal Board of March 4, 2025, that overturned a decision of the City of Calgary Development Authority to issue a development permit for the construction of a multi-unit townhouse on 36 Ave NW, in Bowness, Calgary. The developer complains the Appeal Board incorrectly interpreted the densification amendments to Calgary's *Land Use Bylaw*, 1P2007, the municipal development plan, and the area redevelopment plan, and failed to provide sufficient reasons for its decision. In the absence of sufficient reasons, the developer asserts a lack of certainty and predictability in trying to develop its property.

[2] For the reasons below, the appeal is allowed and the matter is returned to the Appeal Board for redetermination.

II. Background

[3] The developer owns lands in the Bowness area of Calgary, zoned residential-grade oriented infill (R-CG), under Calgary's *Land Use Bylaw*, which is part of Calgary's densification initiative: Division 11, s 525; *Lehodey v Calgary (City)*, 2025 ABKB 8, para 1. The purposes of this zone include accommodating a wide range of grade-oriented development, secondary suites, site and building designs adaptable to the functional requirements of evolving household needs, providing flexible parcel dimensions, and building setbacks that facilitate integration of a diversity of grade-oriented housing over time: s 525(b) - (e).

[4] On December 13, 2024, the Development Authority approved the developer's application as a discretionary use for an eight-plex townhouse, with four primary suites, four secondary suites, and a detached four car garage: s 527(2)(s.1). The development permit met all requirements for setbacks and height, and the developer did not seek any variances to the regulations. The Development Authority advised the permit met the requirements of the Municipal Development Plan and the Bowness Area Redevelopment Plan.

[5] There is significant redevelopment in this immediate area including multi-family rowhouses and duplexes, and an approved 10-plex comprising five primary dwelling units with five secondary suites.

[6] The Appeal Board heard an appeal from the approval of the development permit on January 16 and February 18, 2025, and issued reasons for decision on March 4, 2025: 2024 CGYSDAB 0085 (Board Decision).

[7] At the hearing, the Appeal Board was advised that the proposed front setback was 0.91m closer to the street than the current building on the lands, the proposed building height was stepped down to 60% parcel depth to meet the required 8.6m maximum height, and a shadow study showed significant sunlight exposure to neighbouring homes. The developer offered to reduce the building height by a further 0.76m to address any concerns.

[8] The Board Decision summarized all submissions in detail but provided minimal analysis for overturning the development permit. The Appeal Board confirmed the proposed development was a discretionary use under the R-CG zone and that its decision was guided by ss 35 and 37 of the *Land Use Bylaw*, the Municipal Development Plan, and the Bowness Area Redevelopment Plan. It set out some of those provisions:

76 Section 35 (a) of the Bylaw states, “When making a decision on a development permit for a discretionary use the Development Authority must take into account: any plans and policies affecting the parcel;”.

77 Section 35 (d) of the Bylaw states, “When making a decision on a development permit for a discretionary use the Development Authority must take into account: the compatibility and impact of the proposed development with respect to adjacent development and the neighbourhood;”.

78 Section 37 (2) of the Bylaw states, “The Development Authority may refuse a development permit application for a discretionary use even though it meets the requirements and rules of this Bylaw.”

79 Section 2.3.2 (c) of the MDP states, “Ensure infill development complements the established character of the area and does not create dramatic contrasts in the physical development pattern.

80 Section 3.5.1 (a) of the MDP states, in part, “Recognize the predominantly low density residential nature of Developed Residential Areas and support retention of housing stock, or moderate intensification in a form and nature that respects the scale and character of the neighbourhood.”

81 Section 6.3.3.4 (a) of the Bowness ARP states, “New development should be compatible with the scale and form of existing and adjacent homes.”

[9] The Appeal Board agreed that the proposed development complied with all requirements for maximum density, building height, rear building height, front setback, side setbacks, number of parking stalls, size of parking stalls, number of storage units, and parcel coverage.

[10] The substantive analysis in the Board Decision was limited to a single paragraph:

The Board acknowledges that the development does not exceed the limits in the Bylaw respecting these factors. However, since this development is a discretionary use, compliance with Bylaw limits is not the only consideration. Due to its scope and scale, the Board finds the proposed development is dissimilar to almost all other properties on this block face. The proposed development is insensitive to and incompatible with the existing character and scale of the adjacent properties and the neighbourhood. While development does not need to be identical to its surroundings, this development was simply too far out of scale. As such, it is not supported by the MDP or the ARP and does not meet the criteria for approval as set out in section 35 of the Land Use Bylaw.

III. Permission to Appeal

[11] Permission to appeal was granted on the following questions:

- a. Did the City of Calgary Subdivision and Development Appeal Board (the “Board”) err in interpreting or failing to interpret s 35 of City of Calgary Land Use Bylaw, Bylaw 1P2007 as amended or the test for discretionary use in the common law?
- b. Did the Board err in its interpretation of the Municipal Development Plan, Bylaw 65P2024 or Bowness Area Redevelopment Plan, Bylaw 16P2019?
- c. Did the Board fail to provide justifiable, transparent and intelligible reasons?

[12] The City and Appeal Board took no position on the appeal. The appellant before the Appeal Board, Nelly Reuscher, did not participate in this appeal.

IV. Standard of Review

[13] Appeals under section 688 of the *Municipal Government Act* are reviewed in accordance with appellate standards of review: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, para 37, [2019] 4 SCR 653; *Housen v Nikolaisen*, 2002 SCC 33, para 8, [2002] 2 SCR 235; *Edmonton (City of) Library Board v Edmonton (City of)*, 2021 ABCA 355, para 27; *Mattson v Rocky View (County)*, 2025 ABCA 191, para 6. These appeals are limited to questions of law or jurisdiction.

[14] The appellant's first two grounds of appeal concern the Appeal Board's interpretation of the applicable bylaws, which are questions of law reviewed on the standard of correctness: **Edmonton (City of) Library Board**, para 27; **Mattson**, para 6.

[15] The appellant's third ground of appeal concerns the adequacy of the Appeal Board's reasons. Insufficient reasons are not a freestanding ground of appeal: **R v Sheppard**, 2002 SCC 26, paras 33, 54, [2002] 1 SCR 869; **R v GF**, 2021 SCC 20, para 69, [2021] 1 SCR 801; **R v Leonard**, 2025 ONCA 63, para 6, 176 OR (3d) 49. Providing reasons that are insufficient when read in isolation is not, on its own, a reversible error; instead, the standard is "whether the reasons, read in context and as a whole, in light of the live issues at trial, explain what the trial judge decided and why they decided that way in a manner that permits effective appellate review": **GF**, para 70; **R v Gagnon**, 2006 SCC 17, para 13, [2006] 1 SCR 621; **R v Radita**, 2019 ABCA 77, para 37, 374 CCC (3d) 223; **R v WO**, 2020 ONCA 392, 454 DLR (4th) 54, para 13, aff'd 2021 SCC 8, 454 DLR (4th) 51. Where this standard is not met, it is an error of law: **R v ASP**, 2021 ABCA 10, para 8; **R v Mitchell**, 2023 ABCA 119, para 30; **Sheppard**, para 28; **R v REM**, 2008 SCC 51, paras 52-53, [2008] 3 SCR 3; **R v Tayo Tompouba**, 2024 SCC 16, para 63, 491 DLR (4th) 195.

[16] **Vavilov** relies on **Sheppard** in articulating the purpose and importance of reasons, and there is overlap between the standards: paras 79, 78; **Halton (Regional Municipality) v Canada (Transportation Agency)**, 2024 FCA 122, para 22; **Edmonton (City of) v Edmonton Police Association**, 2020 ABCA 182, para 27; **Canadian National Railway Company v Canada (Transportation Agency)**, 2025 FCA 184, paras 44-47.

[17] Other provincial appellate courts addressing appeals of administrative decisions in other statutory contexts have relied on **Sheppard** and **Vavilov** together to articulate the standard for sufficiency of reasons: **Elkins v Van Wissen**, 2023 ONCA 789, paras 36, 37, 67-69, 168 OR (3d) 756; **Histed v Law Society of Manitoba**, 2021 MBCA 70, paras 34, 35, 82, 461 DLR (4th) 588; **Zheng v Manitoba Veterinary Medical Association**, 2023 MBCA 77, para 13. In recent cases involving the sufficiency of reasons in appellate review of civil trial decisions, the Ontario Court of Appeal has stated the applicable law with reference to both the **Vavilov** and **Sheppard** principles: **Bruno v Dacosta**, 2020 ONCA 602, paras 12-21; **Penate v Martoglio**, 2024 ONCA 166, paras 18-24, 496 DLR (4th) 50.

[18] In statutory appeals of administrative decisions, provision of inadequate reasons is an error of law: **Best Buy Canada Ltd. v Canada (Border Services Agency)**, 2025 FCA 45, para 11, citing **Halton**, paras 21-33; **Canadian National Railway Company**, para 47.

[19] In Appeal Board decisions under the *Act*, the obligation to give reasons is codified in subsection 687(2), which requires that the Appeal Board give a decision in writing and reasons for its decision. This obligation is consistent with the "need for certainty and predictability in planning law": **Landry v Rocky View County (Subdivision and Development Appeal Board)**, 2025 ABCA 34, para 26; **Love v Flagstaff (County of) Subdivision and Development Appeal Board**, 2002 ABCA 292, para 27. Reasons serve the purposes of explaining to the parties why the decision was

made, providing public accountability, and permitting appellate review: *Cowan v Grande Prairie No 1 (County of)*, 2020 ABCA 399, para 4.

[20] Prior to *Vavilov*, this Court treated a failure to provide adequate reasons pursuant to this provision as an error of law, relying on both the standard in *Sheppard* and administrative law principles: *Keephills Aggregate Co Ltd v Parkland (County of) Subdivision and Appeal Board*, 2003 ABCA 242, paras 14-24; *Springfield Capital Inc v Grande Prairie (City)*, 2017 ABCA 431, paras 14-19. Since *Vavilov*, this Court has assessed the sufficiency of reasons of the Appeal Board against the principles of justification, transparency and intelligibility articulated in *Vavilov: Mohr v Strathcona (County)*, 2020 ABCA 187, paras 1, 11-13, 19, 23, 25; and in dissent, para 35; see also *Cowan*, paras 4, 5, 11. The law in Alberta is that reasons given under subsection 687(2) of the *Act* must meet the standard of justification, transparency and intelligibility, and a failure to provide reasons meeting this standard is an error of law justifying appellate intervention.

V. Analysis

[21] The proposed land use before the Appeal Board was discretionary. “The object and purpose of a discretionary use is to allow the development authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses”: *Rossdale Community League (1974) v Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261, para 14, 60 MPLR (4th) 52.

[22] In addition, the *Land Use Bylaw* requires, amongst other things, consideration of the purpose statement for a relevant district, appropriateness of the parcel and location for the development, sound planning principles, the merits of the proposed development, servicing requirements, access, parking, vehicle and pedestrian circulation, impact on public transit, climate mitigation and adaptation: *Land Use Bylaw*, s 35 (a.1), (b), (c), and (j).

[23] The Appeal Board cannot reject a development permit for a discretionary use without having a legitimate planning reason for doing so: *Landry*, para 39; Frederick A Laux, QC, and Gwendolyn Stewart-Palmer, *Planning Law and Practice in Alberta*, 4th ed (Edmonton; Juriliber, 2019), s 10.7(1)(b), fn 263.

[24] The Appeal Board characterized the proposed development as “insensitive” and “incompatible” with the existing character and scale of the neighbourhood, which appears to engage the standard in *Rossdale*. However, the Appeal Board did not provide an interpretation of those terms nor meaningfully explain how the proposed development was insensitive or incompatible. The Appeal Board merely wrote that the “development was simply too far out of scale” when compared to the “character and scale of the adjacent properties and the neighbourhood” and “dissimilar to almost all other properties on this block face”. The magnitude or nature of the incompatibility was not explained except that the developer’s offer to reduce the building’s height by .76 metres “would not be sufficient”.

[25] “Compatibility” is not a defined term in the statutory scheme. The developer says compatibility may be defined as: “a state in which two things or people are able to exist or occur without problems or conflict ... able to exist, live or work successfully with something or someone else. Capable of co-existing”. The two things need not be the same or identical: *Kevin P McGuinness, Encyclopedic Dictionary of Canadian Law*, Vol 1 (Toronto: LexisNexis, Canada, 2021), c-321. The Appeal Board did not explain whether this interpretation of compatibility was rejected and if so, why. The Appeal Board also did not explain why an eight-plex could not “exist or occur without problems or conflicts” in this neighbourhood, particularly in light of the developer’s evidence of other multi-family developments on the same block, including the approved 10-plex. On the issue of compatibility, the reasons are deficient because they fail to “disclose why or how or on what evidence the tribunal reached its conclusion”: **Springfield Capital**, para 16, citing **Keephills**, para 24.

[26] The Appeal Board also did not address the impact and intensity of the proposed development. It is not sufficient for the Appeal Board to say the proposed building was “dissimilar” to other properties on the block face. The Appeal Board’s conclusory statement that this development was “insensitive” and “too far out of scale” was unsupported by any analysis of the facts and arguments before it, which included conflicting evidence about the impact of the development on the adjacent properties and the neighbourhood. It was required to articulate some basis for its conclusion that the development was “insensitive” and “too far out of scale” given the development’s compliance with the *Land Use Bylaw* requirements for the neighbourhood. In summary, the Appeal Board’s decision was conclusory and did not constitute sufficient reasons for its determination: **Landry**, para 40. The necessary analysis for its conclusion is absent: **Springfield Capital**, para 17.

[27] We agree with the developer that “certainty and predictability” are “central values” in planning law; the economic development of land is dependent on clarity around permissible use: **Love**, para 27. The legislative directive that the Appeal Board provide reasons must be interpreted consistently with these values. The developer complains that cursory and conclusory reasons provide no meaningful guidance about permitted uses of the property. While the Appeal Board is not required to define the scope of possible permissible future development in the abstract, it must grapple with the key issues raised by the parties and explain why the decision was made: **Vavilov**, paras 79-81, 127-128; **Cowan**, para 4; **Mohr**, para 35. For example, some analysis explaining the Appeal Board’s conclusion that the development was “too far out of scale”, such as whether this conclusion was based on the proposed development’s height, setback, or some other key metric, would have provided useful direction to the developer. Instead, the developer is left guessing about how to revise the development proposal or consider other uses.

[28] The deficiencies in the Appeal Board’s reasons are such that the basis for the outcome it reached is not transparent and intelligible as required under **Vavilov**, paras 96-98, 102-103. Equally, in this case, the basis for the decision is not “‘intelligible’, or capable of being made out” so as to permit appellate review, as required under **Sheppard**, para 55; **REM**, para 35. This is so

even reading the reasons in light of the entire record. Where, as here, the decision-maker's reasoning cannot be discerned from the reasons and the record, it is not the role of this Court to substitute its own analysis: **Vavilov**, paras 96-98; **R v Dinardo**, 2008 SCC 24, para 32, [2008] 1 SCR 788; **R v Falcon**, 2025 ABCA 153, paras 11-13.

VI. Conclusion

[29] The appeal is allowed and this matter is returned to the Appeal Board for redetermination in accordance with these reasons. Notice of the hearing before the Appeal Board is to be given to all neighbours within 100m of the proposed development.

Appeal heard on January 7, 2026

Memorandum filed at Calgary, Alberta
this 3rd day of July, 2026

Feehan J.A.

Feth J.A.

Dissenting Memorandum of Judgment

Antonio J.A. (dissenting):

I. Facts

[30] The appellant obtained a permit to develop an interior lot in a low-density area of Bowness zoned residential-grade oriented infill (“R-CG”). The permit allowed the appellant to replace the existing building with an eight-plex townhouse, consisting of four primary suites and four secondary basement suites, plus a detached four-car garage. A neighbour appealed the development permit to the Calgary Subdivision and Development Appeal Board (“SDAB”). The SDAB quashed the development permit. The appellant appeals and seeks to have the permit restored.

II. The hearing before the SDAB

A. Arguments opposing the proposed development

[31] Before the SDAB, the neighbours opposing the proposed development voiced as main concerns the “size, density, and impact on parking, garbage management, drainage, noise, and shadowing”: *Re SDAB2024-0085*, 2024 CGYSDAB 0085 at para 40 [*SDAB Decision*].

[32] They observed the proposed development is located on an interior lot in a low-density area where townhouses are a discretionary use: *SDAB Decision* at paras 33, 37. There are higher-density developments in the surrounding area, but they are located on corner lots and often opted for permitted uses rather than relying on discretionary use approvals: *SDAB Decision* at paras 34–35.

[33] The neighbours argued the proposed development would exceed the maximum allowable density for the parcel when considered as eight dwelling units. They submitted the buildings would fill nearly the entire parcel, be taller than any surrounding properties, and protrude farther into the front yard: *SDAB Decision* at paras 46–47.

[34] The neighbours further argued that, while R-CG zoning allows for flexibility to address housing shortages, development must still align with community context: *SDAB Decision* at para 36. Had the goal been to universally permit townhouses, Calgary’s *Land Use Bylaw* (“Bylaw”) would have included townhouses as a permitted use rather than a discretionary one: *SDAB Decision* at para 37. The Bowness Area Redevelopment Plan (“Bowness ARP”) was designed to ensure growth aligns with the character and needs of the community, so if the Bowness

ARP “can be overridden based on zoning alone, [its] purpose becomes questionable”: *SDAB Decision* at para 38.

B. Arguments in favour of the proposed development

[35] The developer argued that the proposed development complied with the R-CG zoning requirements and did not require any variances or relaxations: *SDAB Decision* at para 55. Nonetheless, the developer offered to reduce its height by one to two feet by modifying the roofline: *SDAB Decision* at para 60. In addition, the developer argued the proposed development’s architectural features align with features commonly found in the neighbourhood: *SDAB Decision* at para 56.

[36] While not required for the development permit, the developer completed shadow studies that purport to show the neighbours will still have “significant sunlight exposure throughout the day, particularly in summer months”: *SDAB Decision* at para 57.

[37] The developer recognized that, because a townhouse is a discretionary use, SDAB was required to consider statutory plans, including the Bowness ARP and the Municipal Development Plan 2020 (“MDP”). However, it argued these plans were only policy documents, not regulatory requirements: *SDAB Decision* at para 59. By contrast, the blanket rezoning to R-CG “set new parameters for redevelopment, allowing for greater densification in line with citywide housing policies”: *SDAB Decision* at para 59.

[38] The development authority advised that, being classified as four primary units and four secondary units in the R-CG zoning, the proposed development conforms with the maximum allowable density for the lot: *SDAB Decision* at paras 25–26, 67. Further, since City Council removed setback requirements, its protrusion into the front yard does not bar the proposed development: *SDAB Decision* at para 62. Likewise, since the *Bylaw* does not regulate occupancy, drainage, noise and waste collection, these concerns are not valid planning considerations for the SDAB: *SDAB Decision* at paras 61, 64. Additional concerns regarding parking, traffic, and transit access are addressed under the regulations: *SDAB Decision* at para 63.

III. The SDAB’s reasons

[39] In its decision, the SDAB stated it had reviewed all the evidence and arguments presented by the parties but would focus its reasons on key issues. It cited and reproduced the relevant provisions from the *Bylaw*, the MDP and the Bowness ARP that guided its ultimate decision on the discretionary use permit: *SDAB Decision* at paras 74, 76–81, citing *Bylaw*, ss 35(a), (d), 37(2); MDP, ss 2.3.2(c), 3.5.1(a); Bowness ARP, ss 6.3.3.4(a).

[40] For purposes of its decision, the SDAB accepted the classification of the proposed development as a four-unit townhouse, each with its own secondary suite, and a detached four-car garage: *SDAB Decision* at para 75. It further accepted the evidence that the proposed development

complies with the *Bylaw* requirements for density, height, setbacks, parking, storage and parcel coverage, noting it is at or near the *Bylaw* limits: *SDAB Decision* at para 82.

[41] However, because the proposed development is a discretionary use, the SDAB considered more than compliance with *Bylaw* limits. It found the proposed development was “dissimilar to almost all other properties on this block face”, explaining at para 82:

The proposed development is insensitive to and incompatible with the existing character and scale of the adjacent properties and the neighbourhood. While development does not need to be identical to its surroundings, this development was simply too far out of scale. As such, it is not supported by the MDP or the ARP and does not meet the criteria for approval as set out in section 35 of the Land Use Bylaw.

[42] The SDAB gave the developer’s offer to reduce the height of the proposed development no weight, as this modification “would not be sufficient to make the development compatible with the neighbouring properties and neighbourhood”: *SDAB Decision* at para 83.

[43] Given the findings above, the SDAB found it unnecessary to comment on concerns regarding the effect of the proposed development on property values, vacancy rates, noise and nuisance, improper drainage and waste container management: *SDAB Decision* at para 84.

IV. Analysis

[44] The appellant obtained permission to appeal on the following three questions:

- (i) Did the Board fail to provide justifiable, transparent and intelligible reasons?
- (ii) Did the City of Calgary Subdivision and Development Appeal Board (the “Board”) err in interpreting or failing to interpret s 35 of City of Calgary Land Use Bylaw, Bylaw 1P2007 as amended or the test for discretionary use in the common law?
- (iii) Did the Board err in its interpretation of the Municipal Development Plan, Bylaw 65P2024 or Bowness Area Redevelopment Plan, Bylaw 16P2019?

A. Sufficiency of reasons

[45] The appellant argues the SDAB failed to provide justifiable, transparent and intelligible reasons. It says the *SDAB Decision* is conclusory and does not provide reasons for why the proposed development was determined to be “simply too far out of scale”.

[46] I disagree. The reasons of the SDAB on their own, and when read in the context of the record, are sufficient. It is clear why the SDAB came to the decision that it did, and its reasons are sufficient to facilitate meaningful judicial review: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 81.

[47] The *SDAB Decision* overturned the development permit. It is evident that its decision turned on the “scope and scale” of the proposed development. This was a compendious expression of several of the neighbours’ concerns. The SDAB expressly noted a development need not be identical to its surroundings, but found the proposed development was “dissimilar” to other properties on the block face, was “simply too far out of scale”, and was “insensitive to and incompatible with the existing character and scale of the adjacent properties and the neighbourhood”: *SDAB Decision* at para 82. As a result, it held that the proposed development is not supported by the MDP and ARP and did not meet the criteria for approval set out in section 35 of the *Bylaw*: *SDAB Decision* at para 82.

[48] The reasons make clear that the SDAB’s decision did not turn on arguments regarding vacancy rates, noise and nuisance, improper drainage, waste container management or the effect of the proposed development on property values: *SDAB Decision* at para 84. As the SDAB accepted submissions that the proposed development consisted of four dwelling units and therefore was within the maximum allowable density, its decision did not turn on arguments the development exceeded maximum density: *SDAB Decision* at paras 25–26, 67, 75.

[49] The appellant relies on this Court’s decision in *Landry* for the proposition that the SDAB decision should be quashed where reasons do not disclose a “legitimate planning reason” for refusing a discretionary use development permit: *Landry v Rocky View County (Subdivision and Development Appeal Board)*, 2025 ABCA 34 at paras 39–40 [*Landry*]. In my view, *Landry* does not assist the appellant.

[50] In *Landry*, the SDAB not only allowed an appeal from a development permit, but reversed a setback relaxation on its own motion and without notice to the parties: *Landry* at paras 5, 7. Regarding the relaxation reversal, the SDAB said only that it had “concerns with the impact of the proposed development on the future development of the open road allowance” and that it was “not appropriate for the proposed development to be so close to an open road allowance”: *Landry* at para 40. On appeal, this Court held the Board’s reasoning could not be “gleaned from the record”; to the contrary, there was no evidence grounding the decision to reverse the relaxation: *Landry* at paras 41–42. *Landry* turned on procedural fairness concerns. The absence of relevant evidence and the mention of unexplained “concerns” meant the Board’s reasoning could not be discerned. No similar concerns are present in this case.

[51] Here, we do not have a complete copy of the record, but the appellant has provided the Court with a transcript of the SDAB hearing and excerpts from the record. Those materials contain evidence that supports the decision and informs the SDAB’s reasons.

[52] For example, the appellant’s excerpts include diagrams and photos it filed before the SDAB. Those images show the proposed development would occupy a greater percentage of its lot than any other lot on the block; it would be meaningfully taller than other homes; and the front of the building would be closer to the road than all but one other building on the block, presenting

a more prominent profile. Diagrams portraying the proposed development alongside the neighbouring residences present a stark contrast.

[53] The appellant directed the SDAB's attention to some buildings in the neighbourhood that it said stood as "comparators", such that the proposed development would not be unique. One comparator was a two-storey duplex quite different in scale from proposed raised two-storey plus basement, four-unit townhouse with four secondary suites and a four-car garage.

[54] Two other identified comparators were rowhouses facing busier roads at the outer boundaries of the residential neighbourhood. However, rowhouses on edge streets or busier roads, or in transition zones, may not be apt comparators for developments within low-density areas. Section 3.5.2 of the MDP states that inner city areas, like Bowness, tend to have "older housing stock in the form of low to moderate housing densities and a finer mix of land uses along many of the edge streets". Much of the intensification in inner city areas "has taken place along busier roads" and as low density infills in lower density areas. According to section 3.5.2(a), inner city areas "may intensify, particularly in transition zones adjacent to areas designated for higher density (i.e., Neighbourhood Main Street), or if the intensification is consistent and compatible with the existing character of the neighbourhood." Similarly, the Bowness ARP adopts the "main street" concept as a means to "sensitively increase density" and the variety of housing in the area: Bowness ARP, s 1.5.4.

[55] The appellant also argued the proposed development would be consistent with redevelopment in the immediate area. One proposed redevelopment was a group of apartment buildings that would cover an area bounded by busier streets and separated from the neighbourhood in question by such a street. The other, which had been approved by the development authority, was a five-unit townhouse, with each unit having its own secondary suite, on the same street as the proposed development and nine lots to the west.

[56] At the time these documents were produced, neither of these proposed redevelopments was an existing building. The Bowness ARP provides that "[n]ew developments should be compatible with the scale and form of *existing* and adjacent houses": Bowness ARP, s 6.3.4(a) (emphasis added). It is therefore questionable whether these proposed developments can be used as appropriate comparators, particularly prior to their approval by development authorities. In any event, the SDAB evaluated the addition of the proposed development given the "predominantly low density residential nature" and character of the area as set out in the MDP, so it was well within its scope to decide, as it did, that the development is "insensitive to and incompatible with the existing character and scale of the adjacent properties and the neighbourhood".

[57] The submissions made at the SDAB hearing also help to inform the SDAB's reasons. The SDAB accepted an argument before it that as townhouses were a discretionary use mandating approval, not a permitted use, planning documents other than the *Bylaw* were relevant. The SDAB implicitly accepted the continued role of the MDP and Bowness ARP in saying it was "guided in its decision" by sections 35 and 37 of the *Bylaw* as well as the MDP and the Bowness ARP: *SDAB*

Decision at para 74. The appellant has not provided authorities that would undermine this conclusion, and in fact argues the SDAB ought to have given greater consideration to select portions of these other planning documents.

[58] The appellant critiques the SDAB for failing to expressly address other mandatory provisions of the *Bylaw* and argues its interpretation of section 35 is inconsistent with the purpose section of the R-CG district. In the context of hundreds of pages of governing documents, it is unrealistic to expect the SDAB to address every applicable provision explicitly. Reasons would not be made more intelligible or transparent by analyzing every possible regulatory and policy factor. The SDAB's choice to focus on the issues that drove its decision did not render its reasons deficient.

[59] The appellant also argues the SDAB reasons are insufficient because it does not know how it can develop the lands in question. In deciding the fate of this development permit, the SDAB was not required to opine on the acceptable limits of a hypothetical future development. It was not an issue before it. To do so in the abstract, without submissions from affected parties, would have been unwise.

[60] In sum, the record before us and submissions before the SDAB illustrate the meaning of the SDAB's conclusion that the proposed development would be "out of scale" in the surrounding low-density residential neighbourhood and inconsistent with its character, and the reasons explain this is why the proposed development was rejected. The reasons are not deficient for failing to address the viability of hypothetical future developments. Particularly when read in the context of the record, the reasons permit appellate review and are justifiable, transparent and intelligible. I would dismiss this ground of appeal.

B. Compatibility

[61] The appellant submits the SDAB erred by failing to interpret the meaning of "compatibility" of the proposed development with neighbouring properties.

[62] The land use framework in Calgary mandates the consideration of "the compatibility and impact of the proposed development with respect to adjacent development and the neighbourhood" when deciding on a discretionary use permit: *Bylaw*, s 35(d). Similarly, the MDP sets out a city-wide policy of ensuring "infill development complements the established character of the area and does not create dramatic contrasts in the physical development pattern": MDP, s 2.3.2(c). It further provides that "moderate intensification in a form and nature that respects the scale and character of the neighbourhood" is a land use policy: MDP, s 3.5.1(a).

[63] The Bowness ARP seeks to "[p]romote land use stability through the preservation and rehabilitation of existing low density residential housing while accommodating compatible renovations and new infills of similar density and form" as a secondary objective: Bowness ARP, s 6.2.4. Among numerous other references to maintaining the character of the neighbourhood and

supporting a sensitive infill policy, the Bowness ARP provides that “[n]ew developments should be compatible with the scale and form of existing and adjacent homes”: Bowness ARP, s 6.3.4(a).

[64] None of these sources define “compatibility” or similar terms. The SDAB adverted to the planning documents that reference compatibility but did not define the term in its reasons.

[65] The appellant reads the SDAB’s reasons as having equated “compatible” to “similar”. The appellant contrasts this interpretation of “compatibility” with what it says is the ordinary meaning of compatibility, citing Kevin P McGuinness, *The Encyclopedic Dictionary of Canadian Law*, vol 1 (Toronto: LexisNexis Canada, 2021): “A state in which two things or people are able to exist or occur without problems or conflict. It does not mean being the same as or identical to. It does mean able to co-exist in harmony.”

[66] The cited dictionary provides four definitions of “compatibility” and eight of “compatible”. One of these definitions, pertaining to explosives, cites a regulation as its source. No other definition, including that selected by the appellant, includes a source in support, legal or otherwise. I cannot accept the appellant’s apparent premise that its chosen definition is authoritative in this context.

[67] The SDAB expressly drew guidance from the *Bylaw*, which links compatibility to impact on the neighbourhood and adjacent development; from the MDP, which speaks of preventing dramatic contrasts and respecting the scale and character of the neighbourhood; and from the Bowness ARP, which links compatibility with “the scale and form of existing and adjacent homes”: *SDAB Decision* at paras 74, 82; *Bylaw*, s 35(d); MDP, ss 2.3.2(c), 3.5.1(a); Bowness ARP, s 6.3.4(a).

[68] The appellant’s submission that the SDAB applied a test of “similarity” rather than “compatibility” is an oversimplification of the SDAB’s reasons to the point of inaccuracy. The SDAB instructed itself in terms of the applicable regulatory framework. Given the content of that framework, there is no inherent error in considering similarity or dissimilarity as part of the analysis of provisions relating to compatibility.

[69] Tellingly, the appellant itself relied on similarity, both before us and the SDAB. In this Court, it submits the SDAB failed to consider “that the proposed development was *similar* to developments in the immediate area if not the directly adjacent properties” (emphasis added). Apart from the contradiction in its position with respect to similarity, as noted, these other proposed developments were on edge streets or corners, such that there were important differences in context, particularly having regard to the relevant planning documents: see, e.g., MDP, ss 3.5.2, 3.5.2(a); Bowness ARP, s 1.5.4.

[70] The appellant also submits the SDAB failed to address how the proposed development was incompatible with “other residential uses in the area, including other multi-family developments on the same block”. As noted above, apart from the three-storey proposed development that had

been approved nine blocks away, the only other *existing* multi-family dwellings *on the same block* were two-storey duplexes. Larger developments were either not in existence at the relevant time or were on busier edge streets. Further, the SDAB can determine how many larger developments can be added to an area without changing the character of the neighborhood.

[71] The appellant suggests that, because the proposed development met the requirements of the *Bylaw*, the SDAB erred in concluding it was incompatible or out of scale. Notably, however, in its submissions before the SDAB, the appellant pointed to features not governed by the *Bylaw*, such as shadow zones and exterior materials, as part of its effort to show the proposed development would be compatible with the neighbourhood. It did not argue that *Bylaw* compliance was the only relevant question in the compatibility analysis, which ties back to the SDAB's acceptance that the proposed development is a discretionary use such that materials beyond the *Bylaw* are relevant. That determination is not challenged on appeal.

[72] In any event, the *Bylaw* provides that a development permit may be refused "even though it meets the requirements and rules of this Bylaw": *Bylaw*, s 37(2). In addition, when the SDAB reviews the decision of the development authority on a development permit, there is no presumption of correctness in favour of the development authority; the SDAB decides the issue *de novo*: *Landry* at para 30. Accordingly, the SDAB had authority under section 37(2) of the *Bylaw* to refuse an otherwise compliant discretionary use permit.

[73] The appellant has not persuaded me the SDAB committed any reviewable error regarding the meaning of "compatibility." I would dismiss this ground of appeal.

C. Reconciling the MDP and the Bowness ARP

[74] The appellant argues the SDAB failed to reconcile the conflicting provisions of the *Bylaw*, the MDP and the Bowness ARP. In particular, it says the SDAB did not address the provisions allowing for "moderate intensification" and supporting change in low-density neighbourhoods to offer "a variety of housing types".

[75] Contrary to the appellant's submission, the SDAB did instruct itself on provisions regarding moderate intensification. At para 80, it quoted a land use policy set out in section 3.5.1(a) of the MDP: "Recognize the predominantly low density residential nature of Developed Residential Areas and support retention of housing stock, or moderate intensification in a form and nature that respects the scale and character of the neighbourhood."

[76] This provision is an example of the sensitive balancing inherent in municipal planning. The MDP does not demand "moderate intensification" in any fashion. Rather, it supports retention of existing homes *or* moderate intensification "that respects the scale and character of the neighbourhood". It is evident the SDAB concluded the proposed development did not achieve this aim: *SDAB Decision* at para 82.

[77] Similarly, section 3.5.1(b) of the MDP articulates a policy that:

Redevelopment within predominantly multifamily areas should be compatible with the established pattern of development and will consider the following elements:

- i. Appropriate transitions between adjacent areas.
- ii. A variety of multi-family housing types to meet the diverse needs of present and future populations.

The SDAB did not explicitly rely on this provision, and it may not have been relevant to the proposed development because it is not obvious that the neighbourhood is “predominantly multifamily”. Nonetheless, this provision provides another example of balancing compatibility with established development, while considering transitional areas and diversity of housing types.

[78] I am not satisfied the SDAB erred in interpreting the MDP and the Bowness ARP. On one reading, that framework may appear to contain contradictory elements, but the better view is that its elements are flexible enough to allow development authorities to exercise their expertise to achieve the appropriate balance between competing objectives. The SDAB’s view of that balance in this case does not disclose legal error. I would dismiss this ground of appeal as well.

V. Conclusion

[79] I would dismiss the appeal.

Appeal heard on January 7, 2026

Memorandum filed at Calgary, Alberta
this 3rd day of July, 2026

Antonio J.A.

Appearances:

K. Elhatton-Lake
for the Appellant

J. Sykes
for the Respondent, Calgary Subdivision and Development Appeal Board

S. Belvedere
for the Respondent, City of Calgary