



LOT DRAINAGE UPDATE PUD2015-0081 June 10, 2015

The City of Calgary Lot Grading Bylaw 32M2004 is simple, easy to understand, and well written. It clearly states in section 7, a builder must have a lot grading permit prior to start of construction on any development.

This crystal clear statute is unambiguous, transparent, and not subject to interpretation. A lot grading permit is intended to provide 3rd party professional documentation of existing approved common property grades of the subdivision block plan including geodetic datum points at the corners of the parcel, midline, and interior of the parcel, prior to any stripping or grading for redevelopment. This is important in established, built up areas where an approved, comprehensive grade plan was initially built for the block and not only protected all properties with common grades along adjoining property lines on the block, but also reduced overlooking, privacy, and shading issues.

The geodetics of the Lot Grading Permit provide fundamental baseline data by which the first filter for determining a redevelopment stream is assessed for discretionary or contextual/permitted use. Lot Grading Permits determine, among other things, if a parcel is sloped. Sloped parcels are excluded from the Contextual DP stream. On parcels which are not sloped, the Lot Grading Permit data also provides the baseline data from which Contextual building envelopes are calculated for a Contextual Development Permit. Contextual DP applications which are approved are subject to limited review and not appealable. The Lot Grading Permit is also the primary line of defense in protecting the rights of the directly affected adjacent neighbours, and the street scape of the community.

It is common in the developed areas, especially for laneless parcels, that no Lot Grading Permit is obtained by builders, hence there's limited or no geodetic data, and there has been zero Development Enforcement in this regard. Within a km radius of my home, I have observed half a dozen contextual redevelopments which are abusing this absence of data and lack of enforcement. A builder will apply for and receive a demolition permit, which is far upstream of a Development Permit Application, and while he has his heavy equipment on the parcel, will also strip and grade, and alter the grades of the parcel, in some cases sufficiently so that a parcel that was sloped, is no longer. This results in a parcel which was excluded from the contextual DP stream, is now included in this stream, and therefore not subject to appeal, nor CPAG review, nor community comment and influence. Parcels which necessitate significant grade changes have no business in the Contextual Stream in the first place. It is a flagrant abuse of process.

Critique of Report PUD2015-0081

There are 3 main issues with today's report to this committee.

- 1) On page 4 of this report, 2nd paragraph, the writer states:

"The City is establishing itself in an advisory capacity rather than a policing role. Voluntary compliance is likely to occur when industry and homeowners are aware of and understand: drainage requirements; the benefits of compliance; that the requirements are reasonable and feasible; and that the consequences of noncompliance are high. Having industry, homeowners, and The City work collaboratively to promote good drainage solutions will foster a positive working relationship for development.

There is much talk of guidelines and advisory capacity in this report. Guidelines and advice are not bylaw, and hence not subject to enforcement if not followed by builders. Therefore, there is no protection whatsoever for adjacent neighbours with common property grades. The consequences of noncompliance for the **Builder** are nonexistent if this is not required in bylaw. The consequences for the adjacent homeowners are high.

- 2) How can 2 bylaws be merged into one, when each bylaw addresses a different thing: the Lot grading Bylaw for pre-development data, the Drainage Bylaw for post-construction grade certificates? Compliance is evaluated on the basis of comparison of pre-construction Lot Grade Permit data, as compared to post construction grade certificates data. Enforcement will be impossible if there is no comparative data. In addition, if the requirement for a Lot Grading Permit is omitted, what will the first filter for determining Development Permit stream be? How will a parcel slope be assessed? How will a contextual building envelope be calculated? If the Lot Grading Permit is merged with the Drainage permit, this then necessitates the deletion of the Contextual Development Permit stream, and all redevelopments necessarily become discretionary.
- 3) The report states we can expect amendments to bylaw by Q4 2016. This report has been under construction for over a year, maybe 2. The writer alludes to recommendations for amendments in another year and a half, and the amendments alluded to are opaque, undefined, and without clear target objectives. Again, the current Lot Grading Bylaw is excellent, and needs to be enforced.

Conclusion and recommendations

- 1) We strongly urge this Committee to reject this report which, with respect, is fuzzy logic. Send back to administration with instructions to crystalize and differentiate guidelines, voluntary compliance, and the intent of bylaw amendments, and return to this Committee by end Q3 2015.
- 2) We vigorously recommend Lot Grading Bylaw, and requirement for Lot Grading Permits be retained and strengthened with renewed understanding of the importance of enforcement as the abuse of process has come to light to this Committee. In addition, Demolition Permits should be issued only on condition that a bona fide Lot Grading Permit has been received from the builder for the parcel prior to Demolition Permit issuance, to deter the current abuse of process of altering existing approved common property grades of the redevelopment parcel.
- 3) With respect to bylaw amendments, the Lot Grading Bylaw and the requirement for a Lot Grading Permit should be linked, via statute, to the Demolition Permit process, as well as LUB1P2007. If not, there is no opportunity to appeal, as the SDAB adjudicates only on matters of LUB1P2007.

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