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City Clerk's Office

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- ✓ I have read and understand that my name and comments will be made publicly available in the Council agenda. My email address will not be included in the public record.

First name (required)	Tina
Last name (required)	Peters
What do you want to do? (required)	Submit a comment
Public hearing item (required - max 75 characters)	10930 42 Street NE - Breach of contractual obligations
Date of meeting	Apr 12, 2021
Comments - please refrain from providing personal information in this field (maximum 2500 characters)	Amending the Land Use Designation (zoning) for the lands is in breach of the Applicant's contractual obligations to our client under the terms of the purchase and sale agreement pursuant to which the Applicant acquired the subject lands.

McCarthy Tétrault LLP Attachment 5  
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April 5, 2021

**Via Facsimile and Online Submission**

**Without Prejudice**

Office of the City Clerk  
 The City of Calgary  
 700 Macleod Trail SE  
 P.O. Box 2100, Postal Station 'M'  
 Calgary AB T2P 2M5

Dear Sirs and Mesdames:

**Re: 10930 42 Street NE (the "Property") – Notice of Public Hearing re Application for Land Use Amendment**

Reference is made to the agreement of purchase and sale dated May 30, 2018 between Shepard Jacksonport Ltd. ("**Shepard**"), as vendor, and Rajish Jeerh, as purchaser, and as assigned by Rajish Jeerh to 2144793 Alberta Ltd. (the "**Applicant**") pursuant to an assignment and assumption agreement dated October 30, 2018 (collectively, the "**Purchase Agreement**"), respecting the Property.

We are solicitors for Shepard, owner of certain lands adjacent to the Property and developer of the 100 acre retail and industrial development in north east Calgary known as 'Jacksonport', of which the Property forms a part.

On behalf of Shepard, we hereby object to the Land Use Amendment Application for the Property. Such Application is a breach of the Applicant's contractual obligations to Shepard. Section 5.1(a) of the Purchase Agreement stipulates, *inter alia*, that in no circumstances is the Applicant entitled to undertake any application for a land use re-designation without the prior written approval of Shepard, which such approval may be arbitrarily withheld. The Applicant failed to obtain such approval from Shepard prior to making the said Application and has not obtained Shepard's approval as of the date of this letter.

Furthermore, Jacksonport contains lots that are zoned I-G and I-C and the price point per acre for such lots varies based on the applicable zoning for such lots. Lots with an I-C zoning designation have a higher sale price per acre than lots with an I-G zoning designation. The Applicant contracted and paid for a lot zoned I-G and it would be inequitable to purchasers of other lots in Jacksonport if the Applicant was permitted to acquire a lower priced I-G lot and subsequently have it rezoned for the same use as the more expensive I-C lots.

For the reasons set forth above, we submit that the requested Application should be refused.

We will contact you further regarding our option to address to City Council and/or to distribute any additional materials.

Thank you for your consideration.

Yours truly,

McCarthy Tétrault LLP



Tina Peters

TP/aw

c: Mohar Law, solicitors for the Applicant, Attention: Mandeep Singh via email ([msm@moharlaw.com](mailto:msm@moharlaw.com))