

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
March 14, 2019**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 9:00 A.M. SDAB-D-19-036

To change the Use from a Single Detached House to a Lodging House with 6 Sleeping Units

11520 - 78 Avenue NW
Project No.: 292046627-001

NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-19-036

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 292046627-001

APPLICATION TO: Change the Use from a Single Detached House to a Lodging House with 6 Sleeping Units

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: February 5, 2019

DATE OF APPEAL: February 12, 2019

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11520 - 78 Avenue NW

LEGAL DESCRIPTION: Plan 2831HW Blk 2 Lot 5

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

We would like to address the Development Officer’s reasons for denial stated on the refusal notice:

- 1) Lodging House is a Discretionary use in the RF1 Zone:

While speaking to the Development Officer who refused my application, it was indicated to me that my application was primarily refused due to the number of persons in the neighbourhood who are opposed to a lodging house. Looking at public rental listing websites and/or take a walk around the neighbourhood, you can find

numerous student housing providers in the McKernan/Belgravia neighbourhoods. The students at the U of A need housing and this neighbourhood is geographically one of the most optimal locations to live, being so close to campus. Student housing is an integral part of the neighbourhood and is one of the primary reasons we chose to buy a home in McKernan, to be close to the University.

The preconceived notions surrounding student housing (grounds keeping and noise) have been specifically analyzed and the management of such issues are addressed through our lease agreement and the types of individuals we allow in our home. We comply with all bylaws regarding snow removal from sidewalks and have added a clause in our lease agreements that ensure that these individuals are aware that undue noise is grounds for termination of lease. We've had plenty of conversation with our neighbours to our west side to ensure that if there were any issues that arose from the occupancy of our home, that he could freely contact us, and we would address immediately. Since purchasing this home in May 2018, we have yet to hear of any noise or grounds keeping complaints and/or had any municipal bylaw infractions.

I, Teresa Nguyen, am a condo manager currently simultaneously managing over 400 individual residential units with experience in commercially managing large condos with complex and sensitive issues. My professional background is in risk management. My husband is a Chartered Accountant working as a manager at a large corporation. We also own and manage other rental properties in the city. Our professional and personal experience enables us to effectively ensure that our tenants comply with all municipal regulations and ensure that our property is well kept. Living only about 10 minutes away, we are very active in the management of the property including addressing any issues that arise.

We have every intention to continue the ownership of this property for the foreseeable future. This would include additional monetary investments in the upkeep and maintenance of this property to ensure the property esthetically fits into the neighbourhood so that anyone passing by would not be able to tell that a group of students reside at this house.

- 2) The increased parking demand and traffic generation from the proposed development is out of scale with surrounding developments:

One of the stipulations and decisions that we have made was to limit the residents in our home that own vehicles. Through various interviews with prospective residents, it was a recurring theme that most of these individuals do not own vehicles given the proximity to public transportation and their demographic (i.e. younger university students who do not prioritize ownership of vehicles). While there are 4 parking spaces in the back of the property including the garage

space, we were told that there only needed to be 3 parking spaces available for the 6 individuals residing at the house. There are 2 residents that have city permits for parking on the street. This matches the maximum allowable per household in this restricted parking neighbourhood. Given the opportunity, we would continue this pattern of limiting the number of individuals that own vehicles that reside in our home, ensuring we comply with bylaws.

3) The site as 0 loading spaces, instead of 1:

There are no commercial services provided at this location other than using this home as a rental house. All distribution system servicing such as plumbing, heating and electrical are all done by typical residential contractors (i.e. When calling these contractors' dispatch, they would redirect us to their residential and not commercial servicing department, just like any other single-family home). There would be no commercial vehicles requiring a loading space to service our location. Our house is not meant to serve those who might require special services such as medical care or security services. No specialty laundering facilities, no commercial kitchens. It is very much still a single-family home with finished basement. No different than a household with 6 family members living under one roof. If you refer to the Appendix to this letter, you can see that 2 full sized trucks can easily fit on the driveway including that of a servicing contractor.

While physically it would be possible to put a loading space in place, this would dramatically alter the esthetics of the back side of the house. A nice masonry retaining wall and mature tree currently lines up with the neighbours' back yards – a lot of landscaping has been done to ensure that the property remains nice to look at. Particularly since the commercial space would never be used by a commercial vehicle for servicing the property, would be not only a waste of money but would negatively impact the façade of the property.

We would greatly appreciate the opportunity to speak at a hearing to voice our commitment to the neighbourhood and address any additional concerns that our fellow neighbours might have.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,

- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, [...]

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.3(3), **Lodging Houses** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.3(6), **Lodging Houses** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under section 6.1, **Congregate Living** means:

four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under section 6.1, **Sleeping Unit** means:

a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

- a. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
- b. may or may not be equipped with sanitary facilities; and
- c. provides accommodation for a maximum of two persons.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is:

to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Discretionary Use

Development Officer's Determination

1) Lodging House is a Discretionary Use in the RF1 Zone (Section 110.3.3). [unedited]

Lodging Houses

Section 76 provides the following with respect to *Lodging Houses*:

In addition to the regulations in Section 96 of this Bylaw, Lodging Houses shall comply with the following regulations:

1. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Discretionary Use shall be a maximum of 6 residents;
2. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Permitted Use shall be the greater of 6 residents or 1 resident per 60 m2 of Lot size;
3. The Development Officer may restrict the occupancy of a Lodging House to less than the maximum number of residents allowed having regard for the threshold purpose identified in Section 96, the level of traffic generation, parking demand, and frequency of visits by emergency vehicles relative to that which is characteristic of the Zone in which the Lodging House is located;

4. A Lodging House shall be developed as either a purpose-built freestanding structure, or Single Detached Housing converted for the purpose, or part of an Apartment Housing development;
5. A Lodging House may be located in Duplex Housing or Semi-detached Housing converted for the purpose in a Zone where Lodging Houses are a Permitted Use and both units are operated by a single provider;
6. In a Zone where Lodging Houses are a Permitted Use and where more than 12 Sleeping Units are allowed in a development, Sleeping Units may include limited food preparation facilities such as bar fridge, mini-sink, and microwave;
7. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development;
8. Where a Lodging House is designed as a freestanding structure it shall be of a size, scale, and outward appearance that is typical of surrounding residential development; and
9. **Increases in vehicular traffic generation and parking demand must be to the satisfaction of the Development Officer and/or Transportation Services.**

Development Officer’s Determination

- 2) **The increased parking demand and traffic generation from the proposed development is out of the scale with surrounding developments (Section 76.9).** [unedited]

Loading Spaces

Section 54.4, Schedule 3, states the following:

Use of Building or Site	Total Floor Area of Building	Minimum Number of Loading Spaces Required
1. Any development within the Commercial or Industrial Use Classes, excluding Professional, Financial and Office Support Services	Less than <u>465 m²</u>	1
	<u>465 m²</u> to <u>2 300 m²</u>	2
	Each additional <u>2 300 m²</u> , or fraction thereof	1 additional
2. Any development within the Residential-Related, Basic Services	Up to <u>2 800 m²</u>	1
	Each additional <u>2</u>	1 additional

<p>or Community, Educational, Recreational and Cultural Service Use Classes and Professional, Financial and Office Support Services, excluding Limited Group Homes</p>	<p>800 m² or fraction thereof</p>	
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Development Officer’s Determination

- 3) The site has 0 loading spaces, instead of 1 (Section 54.4 Schedule 3). [unedited]

Lodging Houses Thresholds

Section 96 states the following with respect to *Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds*:

1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities. Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this

Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
- b. When determining the threshold for the number of Special Residential Facilities by Use per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 m measured from the nearest intersection shall be used to determine this threshold.
- c. When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;
 - ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
 - iii. a maximum block face length of 150 m measured from the nearest intersection shall be used to determine this threshold.

4. Density


For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 292046627-001 Application Date: SEP 07, 2018 Printed: February 5, 2019 at 2:18 PM Page: 1 of 1		
This document is a Development Permit Decision for the development application described below.				
Applicant	Property Address(es) and Legal Description(s) 11520 - 78 AVENUE NW Plan 2831HW Blk 2 Lot 5			
	Specific Address(es) Suite: 11520 - 78 AVENUE NW Entryway: 11520 - 78 AVENUE NW Building: 11520 - 78 AVENUE NW			
Scope of Application To change the Use from a Single Detached House to a Lodging House with 6 Sleeping Units				
Permit Details				
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N/A Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay			
I/We certify that the above noted details are correct. Applicant signature: _____				
Development Application Decision Refused Issue Date: Feb 05, 2019 Development Authority: XIE, JASON Reason for Refusal 1) Lodging House is a Discretionary Use in the RF1 Zone (Section 110.3.3). 2) The increased parking demand and traffic generation from the proposed development is out of the scale with surrounding developments (Section 76.9). 3) The site has 0 loading spaces, instead of 1 (Section 54.4 Schedule 3). Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.				
Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$510.00	\$510.00	05324978	Sep 10, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$510.00	\$510.00		
THIS IS NOT A PERMIT				



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-19-036

