



**EDMONTON  
TRIBUNALS**

*Subdivision &  
Development  
Appeal Board*

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Date: September 15, 2017  
Project Numbers: 255925897-001  
File Numbers: SDAB-D-17-158

**Notice of Decision**

- [1] On August 31, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 3, 2017**. The appeal concerned the decision of the Development Authority, issued on July 31, 2017, to refuse the following developments:

**To construct a Semi-detached House with front attached Garages, unenclosed front porches, rear uncovered decks (Lot 62 - 3.05 metres by 3.05 metres; Lot 63 - 3.05 metres by 3.05 metres) and fireplaces.**

- [2] The subject property is on Plan 1425734 Blk 13 Lot 62, located at 4460 - Annett Common SW and Plan 1425734 Blk 13 Lot 63, located at 4458 - Annett Common SW, within the (UCRH) Urban Character Row Housing Zone. The Allard Neighbourhood Area Structure Plan applies to the subject property.

- [3] The following documents were received prior to the hearing and form part of the record:

- A copy of the Allard Neighbourhood Area Structure Plan (the “Allard NASP”);
- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission; and
- The Appellant’s written submission.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – A PowerPoint presentation by the Development Officer; and
- Exhibit B – A SLIM aerial photograph of the subject site submitted by the Development Officer.

**Preliminary Matters**

- [5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

**Summary of Hearing***i) Position of the Appellant, Mr. G. Surmava, representing Rohit Communities:*

- [8] They have received feedback from residents and customers that are frustrated with the parking congestion on Annett Common.
- [9] Photographs of Annett Common were taken at approximately 12:45 p.m. on a week day to illustrate the parking situation. The outside curve of Annett Common, abutting the subject lots is not a preferred parking area on the otherwise congested street.
- [10] In his opinion, the proposed Semi-detached Housing can help alleviate some of the parking problems for the following reasons:
- a. There is a fire hydrant located on the property line of Lot 60 where street parking will be affected.
  - b. The outside curve of the street makes parallel parking more difficult.
  - c. The lots are pie shaped, narrower at the front than the rear, and can only accommodate the parking of three vehicles.
  - d. A front attached garage is allowed in the (RF5) Zone located across the street.
- [11] Schematic drawings were referenced to illustrate the different parking configurations resulting from the existing rear detached garages, a single attached front garage, and the proposed two car front attached garage.
- [12] Allowing a front attached garage will not only provide more off-street parking, it will also create a visual break in the continuous line of vehicles parked on the street.
- [13] Transportation Services has provided preliminary support for the proposed development.

- [14] Elevation drawings were referenced to illustrate the proposed front façade. In his opinion the repetition concerns of the Development Officer have been addressed. However, they are willing to implement any changes required by the Board.
- [15] Mr. Surmava provided the following responses with respect to questions from the Board:
- a. He acknowledged that the proposed development will have a limited amount of green space in the front yard. However, in his opinion the vehicles parked on the street screen the view of the front yards along the block.
  - b. Rear detached two-car garages have already been built for the Row Houses in this area.
  - c. Photographs were referenced to illustrate street parking from different views. All of the lots in the (RF5) Zone will have front attached garages while the lots developed across the street in the (UCRH) Zone are required to develop rear detached garages.
  - d. If the proposed attached front garage is approved, it is not their intent to develop a rear detached garage on the lots.
  - e. A two-car rear detached garage could be developed on the lots.
  - f. He acknowledged that the proposed attached front garage does not comply with the development regulations for the Zone. However, it was originally their intent to develop in accordance with the regulations until residents brought the parking concerns to their attention.
  - g. He acknowledged that the lots in the (RF5) Zone across Annett Common do not have access from a rear lane.
- ii) Position of the Development Officer, Mr. J. Xie, who used a PowerPoint presentation, marked Exhibit A, to provide the following information:*
- [16] The majority of the block is comprised of Row Housing. All of the lots have rear lane access in the (UCRH) Zone.
- [17] The front elevation of the proposed development was referenced to illustrate that the proposed front garage is very prominent and protrudes beyond the front wall of the unenclosed porch. The design of the proposed development on the adjacent lots is similar with the front attached garages being the most prominent feature. The side elevation was referenced to illustrate the prominence of the protrusion of the garage beyond the proposed unenclosed porch.

[18] The front elevations of developments located on the rest of the block were referenced. The majority of the buildings are Row Housing developments and their prominent features are porches, windows, and varied roof lines. A side elevation of a Row House was referenced to illustrate that the porch and the front façade are the prominent features. None of these developments have attached front garages.

[19] The design of each dwelling along the block is varied to add variety to the streetscape.

[20] Section 3.1 of the Allard NASP states that the Vision is to develop a compact, attractive, and pedestrian-friendly community that promotes livability, connectivity, and walkability. It incorporates an integrated system of parks, storm water ponds, and open spaces that serve as focal points within the neighbourhood and promote a sense of community and place.

In his opinion this applies to this block because development is compact, pedestrian friendly and walkable. The front façades are attractive, compact and allow greater density because there are no front attached garages to interrupt the sidewalks. This fosters a sense of community and place.

[21] Section 3.3.1 *Urban Design* of the Allard NASP states that aesthetic standards for MDR and HDR, The MDR1, MDR2 and HDR sites are placed in prominent locations within the Allard neighbourhood, primarily adjacent to James Mowatt Trail and within proximity of the LRT station. Consequently, these sites should be developed at higher urban design standards to ensure that the development creates a distinct built form and character through sensitive streetscape design, attention to transitioning and landscaping.

In his opinion this policy is relevant to this site especially in conjunction with the development regulations of the Zone. As evidenced by other developments on this block, there is distinct built form and the Row Houses have been designed to be sensitive to the streetscape and promote an attractive and pedestrian friendly design. Landscaping is provided in the front yard that allows a transition from private to public space.

[22] Section 3.4 *Transportation* of the Allard NASP proposes a number of walkways in the plan area to serve as minor pedestrian connections. These walkways enhance pedestrian connectivity in the LDR areas by establishing pedestrian connections to open spaces. An Enhanced Walkway Connection is proposed through the MDR 1 parcels along James Mowatt Trail to maintain pedestrian connectivity between the northern end of the greenway and James Mowatt Trail. The Enhanced Walkway Connection will include a 3-metre wide multi-use trail abutting the private internal access for the MDR 1 parcels.

[23] An aerial map was referenced to illustrate the location of these walkways in relation to the subject site.

[24] There is a landscaped boulevard on this block. The entire neighbourhood is designed to be walkable and pedestrian friendly. The proposed development will cause a break in the uninterrupted pedestrian landscaped boulevard on this block.

- [25] He acknowledged that front attached garages will be developed on the lots located in the (RF5) Zone across the street but it is required because rear lane access is not provided.
- [26] In his opinion the lots in this Zone are meant to be landscaped with greenery from the house to the curb and the proposed development will interrupt that pattern.
- [27] Mr. Xie provided the following responses with respect to questions from the Board:
- a. He acknowledged that there were not a lot of trees illustrated in the photographs submitted by the Appellant. However, it may be too early in the development process for all of the landscaping to be complete.
  - b. Section 165.4(9) of the *Edmonton Zoning Bylaw* states that on-site parking shall be accessed from a rear or side lane only, in accordance with subsection 165.4(10), except where there is no lane access and the Dwelling has a width of 6.5 metres or greater, a front attached Garage may be developed in accordance with subsection 165.4(11).  
  
There is a rear lane, therefore a front attached Garage cannot be developed. Furthermore, the development does not comply with section 165.4(11).
  - c. The proposed garage protrudes too far in front of the principal dwelling and is the most prominent feature of the proposed front elevation.
  - d. The proposed development will be the only interruption in the landscaped boulevard on the north and east side of this block.
  - e. He acknowledged that front attached garages are allowed for lots in the (RF5) Zone located across the street from the subject site. However, in his opinion the policies of the Allard NASP have to be considered in conjunction with the development regulations of the (UCRH) Zone.
  - f. An aerial map was referenced, marked *Exhibit B*, to identify the location of walkways in relation to the subject site. It was noted that all of the lots around the outside of the loop have front attached garages while all of the interior lots have rear lanes with rear detached garages.
  - g. The purpose of this Zone is to orient development to a public street and have greater attention to architectural detail.

*iii) Rebuttal of the Appellant, Mr. G. Surmava*

- [28] The boulevard can only be sodded because trees cannot be planted in a right-of-way.

- [29] The proposed development will comply with all of the landscaping regulations, including the specific number of required trees and shrubs.
- [30] The proposed front driveway will provide a break in street parking and make access to the sidewalk and walkways easier for pedestrians.
- [31] Rohit Communities have developed all of the lots in this area and they are concerned about the impact of the proposed development on the residents.
- [32] They have reviewed and accept the recommended conditions of the Development Officer if their development is approved and are open to any suggested revisions to the proposed front façades and elevation treatments.
- [33] The design and required protrusion of the front attached garage beyond the front of the Principal Dwelling was necessary because of the pie-shaped lot.

### **Decision**

- [34] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **REFUSED**.

### **Reasons for Decision**

- [35] Semi-detached Housing is a Permitted Use in the (UCRH) Urban Character Row Housing Zone.
- [36] The Allard Neighbourhood Area Structure Plan (the “Allard NASP”) applies to the subject property and includes the following policies:

#### Section 3.1 Vision states:

The Allard NASP is a compact, attractive, and pedestrian-friendly community that promotes livability, connectivity, and walkability. It incorporates an integrated system of parks, storm water ponds, and open spaces that serve as focal points within the neighbourhood and promote a sense of community and place.

The specific goals and objectives of the Allard NASP are to develop a compact, walkable neighbourhood, specifically to promote pedestrian accessibility to parks, open spaces and transit facilities; to minimize walking distances by creating a pedestrian oriented street network and by providing walkways where roadway connection is not feasible.

[37] Section 165.4(9)(b) of the *Edmonton Zoning Bylaw* states:

on-site parking shall be accessed from a rear or side Lane only, in accordance with subsection 165.4(10), except as follows: where there is no Lane access and the Dwelling has a width of 6.5 metres or greater, a front attached Garage may be developed in accordance with subsection 165.4(11).

In this case there is a rear Lane, therefore a front attached Garage cannot be developed. Furthermore, the development does not comply with section 165.4(11).

[38] The Board supports the findings of the Development Officer that this type of housing does not complement the seven existing Row House buildings with rear attached and detached Garages located within one block of the subject site.

[39] Section 165.6(1)(b) of the *Edmonton Zoning Bylaw* states:

each Dwelling shall be oriented toward the street such that front and flanking facades include design elements such as windows, covered porches, varied building articulation and landscaping as the dominant elements facing the public streetscape.

The prominent elements of this development are the proposed Garage and Driveway.

[40] The Appellant provided evidence that the proposed design type was put forward in an attempt to address neighbourhood concerns regarding on street parking. However, the Board was not provided with any supporting documentation from residents in the neighbourhood and finds that providing increased on-site parking for this development is not a sufficient planning reason to allow the required variances.

[41] In summary, the Board finds that the design of the proposed development is inconsistent with the policies of the applicable statutory plan and with the requirements of the *Edmonton Zoning Bylaw*.

[42] For all of these reasons the Board finds that the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

Mr. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

Board members in attendance: Mr. C. Buyze, Ms. E. Solez, Mr. N. Somerville, Ms. K. Thind

c.c. City of Edmonton, Sustainable Development Department, Attn: Mr. J. Xie

**Important Information for the Applicant/Appellant**

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *Municipal Government Act*, RSA 2000, c M-26.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.





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Date: September 15, 2017  
Project Number: 255619055-001  
File Number: SDAB-D-17-159

**Notice of Decision**

- [1] On August 31, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on **August 3, 2017**. The appeal concerned the decision of the Development Authority, issued on July 31, 2017, to refuse the following development:

**To construct a Semi-detached House with front attached Garages, Unenclosed Front Porches, rear uncovered decks (Lot - 3.05 metres by 3.05 metres; Lot 60 - 3.05 metres by 3.05 metres).**

- [2] The subject property is on Plan 1425734 Blk 13 Lot 60, located at 4464 - Annett Common SW and Plan 1425734 Blk 13 Lot 61, located at 4462 - Annett Common SW, within the (UCRH) Urban Character Row Housing Zone. The Allard Neighbourhood Area Structure Plan applies to the subject property.

- [3] The following documents were received prior to the hearing and form part of the record:

- A copy of the Allard Neighbourhood Area Structure Plan (the “Allard NASP”);
- A copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- The Development Officer’s written submission; and
- The Appellant’s written submission.

- [4] The following exhibits were presented during the hearing and form part of the record:

- Exhibit A – A PowerPoint presentation by the Development Officer; and
- Exhibit B – A SLIM aerial photograph of the subject site submitted by the Development Officer.

**Preliminary Matters**

- [5] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [6] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

**Summary of Hearing***i) Position of the Appellant, Mr. G. Surmava, representing Rohit Communities:*

- [8] They have received feedback from residents and customers that are frustrated with the parking congestion on Annett Common.
- [9] Photographs of Annett Common were taken at approximately 12:45 p.m. on a week day to illustrate the parking situation. The outside curve of Annett Common, abutting the subject lots is not a preferred parking area on the otherwise congested street.
- [10] In his opinion, the proposed Semi-detached Housing can help alleviate some of the parking problems for the following reasons:
- a. There is a fire hydrant located on the property line of Lot 60 where street parking will be affected.
  - b. The outside curve of the street makes parallel parking more difficult.
  - c. The lots are pie shaped, narrower at the front than the rear, and can only accommodate the parking of three vehicles.
  - d. A front attached garage is allowed in the (RF5) Zone located across the street.
- [11] Schematic drawings were referenced to illustrate the different parking configurations resulting from the existing rear detached garages, a single attached front garage, and the proposed two car front attached garage.
- [12] Allowing a front attached garage will not only provide more off-street parking, it will also create a visual break in the continuous line of vehicles parked on the street.
- [13] Transportation Services has provided preliminary support for the proposed development.

[14] Elevation drawings were referenced to illustrate the proposed front façade. In his opinion the repetition concerns of the Development Officer have been addressed. However, they are willing to implement any changes required by the Board.

- [15] Mr. Surmava provided the following responses with respect to questions from the Board:
- a. He acknowledged that the proposed development will have a limited amount of green space in the front yard. However, in his opinion the vehicles parked on the street screen the view of the front yards along the block.
  - b. Rear detached two-car garages have already been built for the Row Houses in this area.
  - c. Photographs were referenced to illustrate street parking from different views. All of the lots in the (RF5) Zone will have front attached garages while the lots developed across the street in the (UCRH) Zone are required to develop rear detached garages.
  - d. If the proposed attached front garage is approved, it is not their intent to develop a rear detached garage on the lots.
  - e. A two-car rear detached garage could be developed on the lots.
  - f. He acknowledged that the proposed attached front garage does not comply with the development regulations for the Zone. However, it was originally their intent to develop in accordance with the regulations until residents brought the parking concerns to their attention.
  - g. He acknowledged that the lots in the (RF5) Zone across Annett Common do not have access from a rear lane.

*ii) Position of the Development Officer, Mr. J. Xie, who used a PowerPoint presentation, marked Exhibit A, to provide the following information:*

[16] The majority of the block is comprised of Row Housing. All of the lots have rear lane access in the (UCRH) Zone.

[17] The front elevation of the proposed development was referenced to illustrate that the proposed front garage is very prominent and protrudes beyond the front wall of the unenclosed porch. The design of the proposed development on the adjacent lots is similar with the front attached garages being the most prominent feature. The side elevation was referenced to illustrate the prominence of the protrusion of the garage beyond the proposed unenclosed porch.

- [18] The front elevations of developments located on the rest of the block were referenced. The majority of the buildings are Row Housing developments and their prominent features are porches, windows, and varied roof lines. A side elevation of a Row House was referenced to illustrate that the porch and the front façade are the prominent features. None of these developments have attached front garages.
- [19] The design of each dwelling along the block is varied to add variety to the streetscape.
- [20] Section 3.1 of the Allard NASP states that the Vision is to develop a compact, attractive, and pedestrian-friendly community that promotes livability, connectivity, and walkability. It incorporates an integrated system of parks, storm water ponds, and open spaces that serve as focal points within the neighbourhood and promote a sense of community and place.

In his opinion this applies to this block because development is compact, pedestrian friendly and walkable. The front façades are attractive, compact and allow greater density because there are no front attached garages to interrupt the sidewalks. This fosters a sense of community and place.

- [21] Section 3.3.1 *Urban Design* of the Allard NASP states that aesthetic standards for MDR and HDR, The MDR1, MDR2 and HDR sites are placed in prominent locations within the Allard neighbourhood, primarily adjacent to James Mowatt Trail and within proximity of the LRT station. Consequently, these sites should be developed at higher urban design standards to ensure that the development creates a distinct built form and character through sensitive streetscape design, attention to transitioning and landscaping.

In his opinion this policy is relevant to this site especially in conjunction with the development regulations of the Zone. As evidenced by other developments on this block, there is distinct built form and the Row Houses have been designed to be sensitive to the streetscape and promote an attractive and pedestrian friendly design. Landscaping is provided in the front yard that allows a transition from private to public space.

- [22] Section 3.4 *Transportation* of the Allard NASP proposes a number of walkways in the plan area to serve as minor pedestrian connections. These walkways enhance pedestrian connectivity in the LDR areas by establishing pedestrian connections to open spaces. An Enhanced Walkway Connection is proposed through the MDR 1 parcels along James Mowatt Trail to maintain pedestrian connectivity between the northern end of the greenway and James Mowatt Trail. The Enhanced Walkway Connection will include a 3-metre wide multi-use trail abutting the private internal access for the MDR 1 parcels.
- [23] An aerial map was referenced to illustrate the location of these walkways in relation to the subject site.
- [24] There is a landscaped boulevard on this block. The entire neighbourhood is designed to be walkable and pedestrian friendly. The proposed development will cause a break in the uninterrupted pedestrian landscaped boulevard on this block.

- [25] He acknowledged that front attached garages will be developed on the lots located in the (RF5) Zone across the street but it is required because rear lane access is not provided.
- [26] In his opinion the lots in this Zone are meant to be landscaped with greenery from the house to the curb and the proposed development will interrupt that pattern.
- [27] Mr. Xie provided the following responses with respect to questions from the Board:
- a. He acknowledged that there were not a lot of trees illustrated in the photographs submitted by the Appellant. However, it may be too early in the development process for all of the landscaping to be complete.
  - b. Section 165.4(9) of the *Edmonton Zoning Bylaw* states that on-site parking shall be accessed from a rear or side lane only, in accordance with subsection 165.4(10), except where there is no lane access and the Dwelling has a width of 6.5 metres or greater, a front attached Garage may be developed in accordance with subsection 165.4(11).  
  
There is a rear lane, therefore a front attached Garage cannot be developed. Furthermore, the development does not comply with section 165.4(11).
  - c. The proposed garage protrudes too far in front of the principal dwelling and is the most prominent feature of the proposed front elevation.
  - d. The proposed development will be the only interruption in the landscaped boulevard on the north and east side of this block.
  - e. He acknowledged that front attached garages are allowed for lots in the (RF5) Zone located across the street from the subject site. However, in his opinion the policies of the Allard NASP have to be considered in conjunction with the development regulations of the (UCRH) Zone.
  - f. An aerial map was referenced, marked *Exhibit B*, to identify the location of walkways in relation to the subject site. It was noted that all of the lots around the outside of the loop have front attached garages while all of the interior lots have rear lanes with rear detached garages.
  - g. The purpose of this Zone is to orient development to a public street and have greater attention to architectural detail.

*iii) Rebuttal of the Appellant, Mr. G. Surmava*

- [28] The boulevard can only be sodded because trees cannot be planted in a right-of-way.

- [29] The proposed development will comply with all of the landscaping regulations, including the specific number of required trees and shrubs.
- [30] The proposed front driveway will provide a break in street parking and make access to the sidewalk and walkways easier for pedestrians.
- [31] Rohit Communities have developed all of the lots in this area and they are concerned about the impact of the proposed development on the residents.
- [32] They have reviewed and accept the recommended conditions of the Development Officer if their development is approved and are open to any suggested revisions to the proposed front façades and elevation treatments.
- [33] The design and required protrusion of the front attached garage beyond the front of the Principal Dwelling was necessary because of the pie-shaped lot.

### **Decision**

- [34] The appeal is **DENIED** and the decision of the Development Authority is **CONFIRMED**. The development is **REFUSED**.

### **Reasons for Decision**

- [35] Semi-detached Housing is a Permitted Use in the (UCRH) Urban Character Row Housing Zone.
- [36] The Allard Neighbourhood Area Structure Plan (the “Allard NASP”) applies to the subject property and includes the following policies:

#### Section 3.1 Vision states:

The Allard NASP is a compact, attractive, and pedestrian-friendly community that promotes livability, connectivity, and walkability. It incorporates an integrated system of parks, storm water ponds, and open spaces that serve as focal points within the neighbourhood and promote a sense of community and place.

The specific goals and objectives of the Allard NASP are to develop a compact, walkable neighbourhood, specifically to promote pedestrian accessibility to parks, open spaces and transit facilities; to minimize walking distances by creating a pedestrian oriented street network and by providing walkways where roadway connection is not feasible.

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on-site parking shall be accessed from a rear or side Lane only, in accordance with subsection 165.4(10), except as follows: where there is no Lane access and the Dwelling has a width of 6.5 metres or greater, a front attached Garage may be developed in accordance with subsection 165.4(11).

In this case there is a rear Lane, therefore a front attached Garage cannot be developed. Furthermore, the development does not comply with section 165.4(11).

[38] The Board supports the findings of the Development Officer that this type of housing does not complement the seven existing Row House buildings with rear attached and detached Garages located within one block of the subject site.

[39] Section 165.6(1)(b) of the *Edmonton Zoning Bylaw* states:

each Dwelling shall be oriented toward the street such that front and flanking facades include design elements such as windows, covered porches, varied building articulation and landscaping as the dominant elements facing the public streetscape.

The prominent elements of this development are the proposed Garage and Driveway.

[40] The Appellant provided evidence that the proposed design type was put forward in an attempt to address neighbourhood concerns regarding on street parking. However, the Board was not provided with any supporting documentation from residents in the neighbourhood and finds that providing increased on-site parking for this development is not a sufficient planning reason to allow the required variances.

[41] In summary, the Board finds that the design of the proposed development is inconsistent with the policies of the applicable statutory plan and with the requirements of the *Edmonton Zoning Bylaw*.

[42] For all of these reasons the Board finds that the proposed development will unduly interfere with the amenities of the neighbourhood and materially interfere with and affect the use, enjoyment and value of neighbouring parcels of land.

Mr. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

Board members in attendance: Mr. C. Buyze, Ms. E. Solez, Mr. N. Somerville, Ms. K. Thind

c.c. City of Edmonton, Sustainable Development Department, Attn: Mr. J. Xie

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Date: September 15, 2017  
Project Number: 253421617-001  
File Number: SDAB-D-17-160

**Notice of Decision**

- [1] On August 31, 2017, the Subdivision and Development Appeal Board heard an appeal that was filed on **August 8, 2017**. The appeal concerned the decision of the Development Authority, issued on July 26, 2017, to approve the following development:

**To change the Use from a Personal Service Shop to a Commercial School (maximum 40 students - Educare Learning Centre).**

- [2] The subject property is on Plan 1523167 Unit 1, located at 320 - Saddleback Road NW, within the (CNC) Neighbourhood Convenience Commercial Zone.
- [3] The following documents were received prior to the hearing and form part of the record:
- A copy of SDAB-D-16-256;
  - A copy of the Development Permit application with attachments, proposed plans, and the approved Development Permit;
  - The Development Officer's written submission;
  - The Appellant's written submission; and
  - A letter of agreement between the Appellant and the Respondent.

**Preliminary Matters**

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [6] The appeal was filed on time, in accordance with section 686 of the *Municipal Government Act*, RSA 2000, c M-26.

## Summary of Hearing

### *i) Position of the Appellant, Ms. J. Agrios, Q.C., Kennedy Agrios LLP:*

- [7] Ms. Agrios submitted a letter confirming that her client, Blue Quill Phase 1 is prepared to withdraw their appeal on the basis that the Development Permit be amended to include two additional conditions.
- [8] The first condition is that the hours of operation shall be restricted to 10:30 a.m. to 4:30 p.m., Monday through Thursday, Saturday and Sunday. There shall be no classes or other operations on Friday.
- [9] The second condition is that there shall be two designated drop-off parking stalls located in front of the premises.
- [10] While this site appears to be one shopping centre with one parking lot, there are actually two phases with separate ownership. Blue Quill Phase 1 owns Phase 1 and Phase 2 has separate ownership. A Mosque was approved and is currently operating in Phase 2. The operation of the Mosque has created parking congestion, especially on Fridays, when people are attending worship services at the Mosque.
- [11] The owner of Phase 1 was concerned that the proposed development would create more parking problems, especially on Fridays.
- [12] In order to resolve the conflict, the Applicant has agreed to restrict the hours of operation for the proposed Commercial School to ensure that there is no cross over into the hours when there is a greater demand for parking. The Applicant also agreed to provide two designated drop-off parking spaces in front of the proposed Commercial School to ensure the safety of the children who will be attending the premises.

## Decision

- [13] The appeal is **ALLOWED IN PART** and the decision of the Development Authority is **VARIED**. The development is **GRANTED** as approved by the Development Authority with two additional **CONDITIONS**:
1. The hours of operation shall be restricted to 10:30 a.m. to 4:30 p.m., Monday through Thursday, Saturday and Sunday. There shall be no classes or other operations on Friday.
  2. There shall be two designated drop-off parking stalls located in front of the premises.

**Reasons for Decision**

[14] Section 687(3)(c) of the *Municipal Government Act* states:

the Subdivision and Development Appeal Board may confirm, revoke or vary an 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.

[15] Legal Counsel for the Appellant submitted a duly executed agreement signed by the Appellant and the Respondent agreeing to the imposition of two additional conditions.

[16] Accordingly, the Board has imposed the two additional conditions agreed upon by the Appellant and the Respondent. These conditions are in addition to the conditions imposed by the Development Authority when the development permit was originally approved.

Mr. V. Laberge, Presiding Officer  
Subdivision and Development Appeal Board

Board members in attendance: Mr. C. Buyze, Ms. E. Solez, Mr. N. Somerville, Ms. K. Thind

c.c. Kennedy Agrios LLP, Attn: Ms. J. Agrios, Q.C.  
City of Edmonton, Sustainable Development Department, Attn: Mr. N. Shah

**Important Information for the Applicant/Appellant**

1. This is not a Building Permit. A Building Permit must be obtained separately from the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.
2. Obtaining a Development Permit does not relieve you from complying with:
  - a) the requirements of the *Edmonton Zoning Bylaw*, insofar as those requirements have not been relaxed or varied by a decision of the Subdivision and Development Appeal Board,
  - b) the requirements of the *Alberta Safety Codes Act*,
  - c) the *Alberta Regulation 204/207 – Safety Codes Act – Permit Regulation*,
  - d) the requirements of any other appropriate federal, provincial or municipal legislation,
  - e) the conditions of any caveat, covenant, easement or other instrument affecting a building or land.
3. When an application for a Development Permit has been approved by the Subdivision and Development Appeal Board, it shall not be valid unless and until any conditions of approval, save those of a continuing nature, have been fulfilled.
4. A Development Permit will expire in accordance to the provisions of section 22 of the *Edmonton Zoning Bylaw, Bylaw 12800*, as amended.
5. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
6. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

*NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.*