

Edmonton Subdivision and Development Appeal Board

Churchill Building
10019 - 103 Avenue NW
Edmonton, AB T5J 0G9
Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: January 20, 2016
Project Number: 048258430-005
File Number: SDAB-D-16-017

Notice of Decision

This is an appeal dated December 15, 2015, from the decision of the Development Authority for permission to convert a Semi-Detached House to a 4-Dwelling Apartment House (existing without permits).

The Development application permit was refused because of deficiencies in the minimum site area, minimum site width, and private outdoor amenity area. It was also refused because it did not meet the location requirement for Apartment Housing and because each dwelling does not have an entrance door or entrance feature facing a public roadway.

The subject Site is located on Plan RN52 Blk 4 Lot 27 at 12027 - 105 Street NW, and is zoned RF3 Small Scale Infill Development Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The appeal was heard on January 13, 2016.

Summary of Hearing:

1. 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.
2. The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:
 - a written submission from the Development Officer, dated December 16, 2015;
 - diagrams and plot plans from the Appellant showing parking and amenity space options for the site; and
 - a response from a neighbour in support of the development, filed online.

Position of the Appellant

3. Tracey Stephen, Andrew Stephen and Anson Choy appeared at the hearing to present the position of the Appellant, 1819734 Alberta Ltd.
4. Ms. Stephen described the due diligence that was undertaken prior to the purchase of the subject property. They hired a realtor and a lawyer to facilitate the purchase and were led to believe that the building as it exists – with four suites – was legal and had all the necessary permits.
5. The property was rundown when it was purchased. There were complaints about the state of the property, but since purchasing the property they have undertaken maintenance and repair that has improved its quality and safety. They have made the property much cleaner and tidier.
6. They hired a contractor to ensure all safety code requirements were complied with. Furthermore, whenever they were advised by the City of a problem they took immediate steps to address and remedy the problem. They believed that they were working with the City and on the right track towards ensuring full compliance with all regulations, codes and bylaws.
7. The subject property fits in well with the neighbourhood. It looks identical to the buildings on either side of it. They don't know if these properties have development permits recognizing them as Apartment Housing, but these buildings are multi-family dwellings that effectively function as apartment housing. Furthermore, there are several other apartment buildings in the neighbourhood. One block away is entirely four-storey apartment buildings.
8. The fact that the subject property is located mid-block, rather than at the corner as required by the zoning bylaw, does not negatively impact the neighbourhood. They are asking for approval of an unobtrusive two-storey building, not a typical apartment building of four-storeys or more.
9. Each of the dwelling units in the building has its own furnace and hot water tank, which are in a room in the basement. There is a steel door that separates the upper units from the lower units. Therefore, the units function and appear as apartment housing.

Position of the Development Authority

10. Kerry Bauer of the City's Sustainable Development department appeared at the hearing to answer questions from the Board.
11. Ms. Bauer's written submission included the following information:
 - In March 2005 a Development Permit was issued for a Semi-detached House and to demolish the existing house and garage. One development condition was 'any

future basement development shall require permits and shall not be used as additional dwellings.’

- In July 2006 a Stop Order was issued to “discontinue the use of the two Secondary Suites in the basement of the Semi Detached House and remove the kitchen area, appliances, all other improvements constructed without development and building approval and serve the tenants ‘notice to Vacate’ by July 30, 2006”.
- In September 2006 the SDAB upheld the Stop Order. In its decision, the Board stated, “... the entrances have been changed, stairs have been installed and an enclosure has been constructed at the rear of the property, all without development permit approval.”
- In September 2015 a Violation Notice was issued, stating: “You are hereby ordered to decommission the Secondary Suites by removing the separation between upstairs and downstairs (keyed locks) and remove the stoves as well as all the electrical components associated with the stoves, apply for a Basement Development Permit OR you may decommission the Secondary Suite and apply to rezone the property to allow for an Apartment Building”.
- In November 2015 a Development Permit was refused to convert a Semi-Detached House to a 4 Dwelling Apartment House.
- There have been 11 Bylaw complaints against this property from 2005 to 2015. This demonstrates a negative impact from this development to the neighbourhood.

12. Ms. Bauer’s written submission also included the following opinions:

- There was no unnecessary hardship/practical difficulty peculiar to the site because to justify non-conformity with the requirements of the Zoning Bylaw with the possible exception of variances to minimum Site Width and Site Area.
- The variances unduly interfere with the amenities of the neighbourhood and/or materially interfere with or affect the use, enjoyment, or value of neighbouring properties because of the number of complaints against the property.

13. In answer to questions from the Board, Ms. Bauer provided the following information and opinions:

- When a Stop Order is issued and the property owner fails to take corrected action, the City will issue fines.
- The complaints about the subject Site were related to snow removal and other aesthetic concerns.
- The Appellant was advised to apply for an Apartment Housing Use because Secondary Suites are not permitted in Semi-detached Housing. There was no guarantee that this application would be successful. Rather it was the better of two poor options.

Decision:

The appeal is DENIED and the decision of the Development Authority is CONFIRMED.

Reasons for Decision:

1. The subject structure was approved as Semi-detached Housing in March 2005 with one of the conditions being that any future basement development would require permits and would not be used as additional dwellings. Secondary Suites were subsequently built in the basement illegally.
2. In July 2006 a Stop Order was issued to discontinue the use of two suites in the basement. That stop order was upheld by this Board in September 2006. The current owners apparently bought this property unaware of the problems with the suites. In September 2015 they became aware of the problems when served with a notice to decommission the suites. They were advised that another alternative was to try to get approval for Apartment Housing. This is what they did. The matter before this Board is the appeal of the Development Authority's refusal to issue a development permit for Apartment Housing.
3. The Development Officer is of the opinion that this development is Semi-detached Housing with illegal basement suites. The Board concurs with this conclusion. The original development permit was for Semi-detached Housing and this is what was built.
4. Section 7.2(7) of the Edmonton Zoning Bylaw defines Secondary Suite as development consisting of a Dwelling located within, and Accessory to, *a structure in which the principal use is Single Detached Housing*. Further, the definition goes on to state: "This Use Class does not include Apartment Housing, Duplex Housing, Garage Suites, Garden Suites, *Semi-detached Housing*, Lodging Houses, Blatchford Lane Suites, Blatchford Accessory Suites, or Blatchford Townhousing." [emphasis added] The definition of Secondary Suite excludes its existence in anything other than Single Detached Housing and specifically excludes Semi-detached Housing.
5. Further, Section 7.2(1) of the Edmonton Zoning Bylaw says that "Apartment Housing means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, *which does not conform to the definition of any other Residential Use Class*". [emphasis added] The Board cannot find that the subject building is Apartment Housing because it conforms to the definition of Semi-detached Housing.
6. Section 687(3)(d)(ii) of the *Municipal Government Act* states that, in determining an appeal, the subdivision and development appeal board may issue a development permit that does not comply with the land use bylaw in certain circumstances provided "the proposed development conforms with the use prescribed for that land or building in the land use bylaw". Having concluded that this building is Semi-detached Housing, this Board lacks the jurisdiction to approve the Secondary Suites because they do not conform with the use prescribed for the building in the Zoning Bylaw.

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*, R.S.A. 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.
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 5th Floor, 10250 – 101 Street, Edmonton.

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.

Mr. M. Young, Presiding Officer
Subdivision and Development Appeal Board

CC:

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Phone: 780-496-6079 Fax: 780-577-3537
Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: January 20, 2016
Project Number: 179441144-001
File Number: SDAB-D-16-018

Notice of Decision

This is an appeal dated December 20, 2015, from the decision of the Development Authority for permission to construct 3 Dwellings of Row Housing and an Accessory Building (rear mutual detached Garage, 7.32 m x 12.04 m) and develop the basements and to demolish an existing Single Detached House and Accessory Building (detached Garage).

The development permit was approved by the Development Authority and subsequently appealed by neighbouring property owners.

The subject site is located on Plan 2457S Blk 9 Lots 11-12 at 10620 - 65 Avenue NW and is zoned RF3 Small Scale Infill Development Zone.

The appeal was filed on time, in accordance with Section 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26.

The appeal was heard on January 13, 2016.

Summary of Hearing:

1. 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.
2. The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:
 - a written submission from the Development Officer dated January 5, 2016;
 - a memo dated November 10, 2015 from Transportation Services containing conditions and advisement;
 - a Google street view image and a Google Earth image accessed at the hearing with the consent of all present;
 - a rendering of the proposed development provided by the Respondent;
 - a copy of Edmonton's 2014 Infill Roadmap provided by the Respondent;
 - a written submission from the Respondent; and
 - a plot plan provided by the Respondent.

Position of the Appellants

3. The Board first heard from Ursula Buffi who lives immediately east of the proposed development. The Board also heard from Robert Tobaka whose company owns the property two lots to the east of the subject site.
4. Ms. Buffi addressed the location requirements for Row Housing set out in section 140.4(6) of Edmonton's Zoning Bylaw and stressed that the proposed development would be improperly located on the subject site.
5. Ms. Buffi spoke about the congestion in the neighbourhood. There is too much traffic already in the neighbourhood and not enough on-street parking. The proposed development will unduly exacerbate that problem.
6. Ms. Buffi suggested that the proposed development is far too large for the site and for the neighbourhood. It does not leave reasonable amenity space, room for a garden nor an area for children to play. Overall, the development does not match the character of the neighbourhood and will bring down the quality of life in the neighbourhood.
7. Ms. Buffi spoke about a building that had been allowed to be constructed next door to her that impacted her by creating a massing effect and sun shadowing. It also impinged on her privacy as sightlines from windows in the building next to her go straight into her own bathroom window. She felt the proposed development would have a similar impact on its neighbours.
8. Mr. Tobaka reiterated many of the concerns raised by Ms. Buffi. He added that there would be a domino effect following the approval of this development. If this development is allowed others like it will follow.
9. Mr. Tobaka noted that the properties he owns in the neighbourhood are four-unit Row Housing and that he complied with all the necessary regulations when his buildings were given development approval.
10. The Board asked Mr. Tobaka if a petition or other such documentation of community opinion was prepared. Mr. Tobaka said that this was not done because the people in the neighbourhood are older and feel intimidated by the process and procedures involved in speaking out about this.

Position of Affected Neighbours

11. The Board heard from Cynthia Joines, an affected neighbour. Ms. Joines has lived in her home for approximately 30 years and has seen many changes in the neighbourhood. With infill developments has come an increase in traffic and parking problems. She would not

be against the development of a duplex, but believes that three dwellings on the subject site is too much.

12. The Board heard from Monica Parker, an affected neighbour. Ms. Parker also noted that there is an increase in traffic and parking congestion. She was also concerned about the impact the new building would have on her view and her privacy.

Position of the Development Authority

13. Trevor Illingworth of the City's Sustainable Development department appeared at the hearing to answer questions from the Board.

14. Mr. Illingworth's written submission included the following information and opinions:

- Upon review of the application, it was found that the development did not meet the locational criteria that Row Housing shall be located on Corner Sites, on Sites abutting an arterial or service road, or where a minimum of one Side Lot Line abuts a Site where a commercial Use, or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use. (Section 140.4(6)).
- The variance was granted to allow the proposed Row Housing to be located on an interior lot that abutted a Site with Stacked Row Housing instead of a Site with Apartment Housing or commercial Use for the following reasons:
 - The proposed three Dwellings of Row Housing is a Permitted Use in the RF3 zone that allows small-scale conversion and infill redevelopment to buildings containing up to four Dwellings.
 - This application met the regulations of the RF3 zone and the Mature Neighbourhood Overlay, except for the locational criteria.
 - The building is located on an interior lot that is between a Semi-detached House on the west side and a four Dwelling Stacked Row Housing on the east side. This development will provide a gradual transition in building forms.
 - There are other four Dwelling houses in the area that were built on interior lots. The proposed development is only for three Dwelling Row Housing.
 - Stacked Row Housings and Apartment Housings are both considered Multi-unit Project Developments.
 - The proposed development conforms with the use prescribed in the zoning Bylaw (Section 11.3(2)).
 - Notices were sent out to the neighbourhood community league (Allendale Community League), Central Area Council of Community Area Council, and affected parties.
 - In the opinion of the Development Officer, the proposed development would not unduly interfere with the amenities of the neighbourhood nor materially interfere with or affect the use, enjoyment or value of neighbouring properties.

15. In answer to questions from the Board, Mr. Illingworth provided the following:
- Secondary Suites are not allowed in Row Housing. If suites are developed in the basement, it would be addressed through enforcement. There are no proactive steps to prevent the construction of illegal suites.
 - The grade of the site is relative flat and that, in any case, the height of the proposed development complies with zoning regulations.
 - The site could have been subdivided into two lots, each with Single Detached Houses and legal basement suites. This hypothetical development could have been done without any variances and would result in four dwellings on the site. Therefore, three dwellings on the site is not the most intensive permissible use of the site.
 - Density is managed through regulations governing maximum site coverage, setbacks, amenity space, etc. The proposed development meets these requirements and, therefore, does not contribute to undue densification.
 - The location requirement for Row Housing is meant to provide a transition with respect to density and building form.

Position of the Respondent

16. The Board heard from Darcy Fett, the developer for the proposed development, and Jeremy Walter, the architect.
17. Mr. Fett and Mr. Walter asked for permission to access Google Maps and Google Earth to show the subject property and surrounding neighbourhood. With the consent of all present, they showed a street view of the subject site and an aerial view. They showed that the four dwelling Stacked Row Housing next door is a full two-storeys and is almost as tall as the proposed development. This building has larger site coverage than the proposed development. The Semi-detached House on the other side of the proposed development is also the same height as the proposed development.
18. The subject site area is 40 square metres larger than required for the proposed development. It is also below the maximum allowable height. Furthermore, they could have chosen to build two single detached houses with secondary suites. They could have built more intensively but chose not to.
19. With respect to privacy concerns, privacy glass can be installed in windows. Their developments always have privacy glass in bathroom windows.
20. With respect to the concern about the potential for illegal basement suites, there are no side access doors in the proposed development, so basement suites are not an option. This was a deliberate design choice to avoid that concern. Furthermore, should an illegal suite be developed, the City will respond to complaints in that regard.

21. With respect to concerns about a lack of on-street parking, the proposed development will have the effect of creating one more on-street parking space. The development permit requires that the existing front driveway be eliminated and curb and sidewalk installed.
22. In 2014, the City developed an Infill Roadmap to guide future infill development. Action 16 in that planning document is “Create more opportunities for Row Housing in the RF3 Small Scale Infill Development Zone by removing location restrictions and changing the site regulations that currently limit this form of infill on RF3 lots”. This document is evidence of the direction that the City is taking and should be given consideration. The general direction of the City is to move towards more density in mature neighbourhoods.
23. With respect to concerns about density and traffic, even if this development were required to meet the location requirement and be on a corner lot, it would still have the same impact on density and traffic. The specific location on the block does not increase or decrease density or traffic on the block.
24. They did not conduct a neighbourhood consultation but they did speak to the Community League president.
25. It would not be possible to save some of the existing foliage on site, but they do have an approved landscaping plan.

Rebuttal

26. Ms. Buffi noted that the Infill Action Plan is not law. It is merely a “thought process” that has not come into effect through the Zoning Bylaw.
27. Ms. Buffi also noted that the colour and design of the proposed development as shown in the architect’s rendering is out of character with the neighbourhood.

Decision:

The appeal is DENIED and the decision of the Development Authority is CONFIRMED.

Reasons for Decision:

1. Row Housing is a permitted Use in the RF3 Small Scale Infill Development Zone.
2. This development would be a Class A development without any right of appeal but for a variance to the location requirement set out in section 140.4(6) which states that “Row Housing shall be located: (a) on Corner Sites, (b) on Sites abutting an arterial or service road, or (c) where a minimum of one Side Lot Line abuts a Site where a commercial Use, or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted

Use”. The Development Authority granted the development permit even though the location is on an interior lot that did not abut a commercial use or Apartment Housing. The reason for allowing the variance was that the development is to be located between Stacked Row Housing on one side and Semi-detached Housing on the other side, both of which are two-storeys.

3. It is the opinion of the Board that the location requirements are to ensure that Row Housing fits in with abutting developments in both form and density. The Board is of the view that the proposed development will do that. In terms of density, it will sit between a two-dwelling Semi-detached House on one side and a four-dwelling unit on the other side. In terms of form, it will be roughly the same height as the developments on other side and will cover a smaller percentage of its Site than the four-dwelling unit beside it.
4. Many of the concerns of the Appellants and those affected property owners opposed to the development are related to things such as increased density, reduced street parking, and increased traffic in the area. These concerns have nothing to do with the single variance related to location. In any event, the Board is of the view that these concerns are misplaced.
5. Regarding increased density, the Board notes that the Respondent could have erected two Single Detached Houses on the site with legal Secondary Suites in the basement. Such a development would be a permitted use without a right of appeal in the absence of variances. It would result in four dwellings on the site rather than three. Such a development has smaller Side Setback requirements and, therefore, has the potential to have a greater massing effect than the proposed development.
6. With respect to parking and traffic concerns, if the Respondent had chosen to construct two Single Detached Houses with basements suites, that would have had a greater impact on the parking and traffic situation in the neighbourhood than the proposed development of three-dwelling Row Housing. Further, the proposed development will create one additional parking space on the street by the removal of the existing front driveway.
7. The Board also notes that there are other developments in the neighbourhood that have four dwellings and is of the view that the proposed three-dwelling development will not be out of character in the area.
8. The Board also notes the provisions of Edmonton’s 2014 Infill Roadmap, particularly action 16 which states “Create more opportunities for Row Housing in the RF3 Small Scale Infill Development Zone by removing location restrictions and changing the site regulations that currently limit this form of infill on RF3 lots.” Although these changes have yet to be implemented in the Zoning Bylaw, the Board sees this as an indication that the City is moving towards removing the location restrictions that are the subject of this appeal.

9. Based on the foregoing, the Board is of the view that the proposed development will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

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 5th Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 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 5th Floor, 10250 – 101 Street, Edmonton.

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.

Mr. M. Young, Presiding Officer
Subdivision and Development Appeal Board

CC:

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Email: sdab@edmonton.ca
Web: www.edmontonsdab.ca

Date: January 20, 2016
Project Number: 178536368-001
File Number: SDAB-D-16-019

Notice of Decision

This is an appeal dated December 10, 2015, from the decision of the Development Authority for permission to construct 70 Dwellings of Apartment Housing (1 building, 6 stories tall) with underground parkade, and to demolish 2 existing Row House buildings (12 Dwellings).

The development permit application was approved with conditions and with a variance granted in the minimum required parking stalls and was subsequently appealed by an adjacent property owner.

The subject site is on Plan 1024706 Blk 109 Lot 16A, located at 8329 - 113 Avenue NW, and is zoned RA8 Medium Rise Apartment Zone.

The appeal was filed on time, in accordance with Section 686 of the Municipal Government Act, R.S.A 2000, c. M-26.

The appeal was heard on January 13, 2016.

Summary of Hearing:

1. 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.
2. The following documentation was provided to the Board and referenced during the hearing, copies of which are on file:
 - a 3 page written submission from the Development Officer dated January 6, 2016;
 - a 3 page written submission from the Appellant (undated);
 - a 7 page written submission from the Respondent (undated);
 - an email from Drainage Services to the Development Officer, dated October 6, 2015, containing drainage assessments applicable to the subject property;
 - a memo from Fire Rescue Services dated October 1, 2015, indicating no objections to the proposed development;
 - a map from the Development Officer showing proximity of the proposed development to transit facilities;

- a memo dated November 26, 2015 from Transportation Services providing conditions and advisements for the proposed development.
- An email from Waste Management Services to the Development Officer dated November 10, 2015, indicating that the proposed development meets the needs and requirements of Waste Management.

Position of the Appellant

3. The Board heard from the Appellant, Salena Wong, an affected neighbour who lives directly west of the subject site.
4. Ms. Wong addressed the parking problems that already exist in this neighbourhood and that will be exacerbated by the proposed development. The subject development is phase two of a two phase six-storey apartment building complex. The first of the two buildings has been constructed and already the neighbourhood is seeing an unbearable increase in parking and traffic. Phase one was deficient by 30 parking stalls and phase two (the proposed development) will be deficient by 24 parking stalls. The neighbourhood streets are congested with parking that has spilled over from the newly built apartment building.
5. The increase in traffic presents a danger to the many children that live in the neighbourhood.
6. In answer to questions from the Board with respect to the parking issue, Ms. Wong said that many of the people who are parking on the street are seen walking to the nearby LRT station. She believes that much of the parking congestion is not caused by local residents but by students or people who work downtown and use the LRT. She also noted that there is “residents parking only” signage in the area and that parking enforcement officers have been diligent in ticketing illegally parked vehicles.
7. The increased density has also brought more crime to the neighbourhood. Incidents of graffiti and other vandalism have been on the rise. There has also been an increase in noise in the area.
8. The subject development has severely reduced greenspace. There is no amenity space and nowhere for children to play.

Position of Affected Neighbours:

9. The Board heard from Eugene Plawiuk, Donalda Cassel and Bhat Vo, affected neighbours who live directly to the west of the subject site.
10. Mr. Plawiuk, Ms. Cassel and Mr. Vo reiterated Ms. Wong’s concerns regarding parking and vandalism. Mr. Plawiuk stressed that it did not make sense that there was not a parking stall required for every dwelling unit.

11. Mr. Plawiuk reiterated that there are probably people parking on the neighbourhood streets who do not live in the neighbourhood but park there and then take the LRT to university or downtown.
12. Mr. Plawiuk and Ms. Cassel described the danger associated with the narrow dead-end alley behind the proposed development and that it did not provide sufficient egress in the event of an emergency.

Position of the Development Authority

13. Kirk Bacon of the City's Sustainable Development department appeared at the hearing to answer questions from the Board.
14. Mr. Bacon's written submission included the following information and opinions:
 - In the opinion of the Development Officer the amount of onsite vehicular parking stalls is sufficient to accommodate the proposed Apartment House building based on the following:
 - The comments of the Transportation Services Department.
 - The existing Apartment House was granted a parking variance from 87 stalls down to 57 stalls. In accordance to the submitted parking demand study the existing Apartment House actually only uses 47 of these stalls.
 - In accordance to the applicant's parking demand study, the proposed Apartment House is intended for below-market housing. Based on the operation of similar buildings the client operates (including the existing building on-site) this type of development does not generate as much parking demand as typical Apartment Houses. All of the identified below-market housing sites showed that the onsite parking was underutilized. The percentage of on-site stalls used at these sites ranged from 25.4% to 85.7%.
 - Residents of the proposed development have easy access to other modes of Transportation:
 - The Site is in close proximity to Transit facilities with good connections to the rest of the City. The Stadium Station LRT Station and Transit Centre are within easy walking distance of this site at 208m away. There are also close bus stops along 112 Avenue and 82 Street.
 - The Site abuts a multi-use trail along east property line providing cycling and walking connections to adjacent areas
15. In answer to questions from the Board, Mr. Bacon provided the following:
 - The parking study was submitted by the Respondent and reviewed by the City's Transportation department. They support the parking variance.
 - If, in the future, the building changes from low income housing to higher income housing, the permit with the approved number of parking stalls will remain in

place. The permit follows the land and does not change with the owner or residents of the building.

- The parking requirement of 72 stalls is a reduced number based on the subject site being in close proximity to an LRT station.

Position of the Respondent

16. The Board heard from Peter Osbourne, a partner with the Respondent firm, GEC Architecture. The Board also heard from Greg Dewling, CEO of Capital Region Housing, the property owner.
17. They noted that a community consultation process was conducted that included the community league. An open house forum was held and at that time there were no concerns raised about the necessary parking variance.
18. Capital Region Housing has 128 locations in Edmonton. Capital Region Housing works in collaboration with the police to reduce crime on their properties. All tenants must undergo a criminal record check and must sign a commitment to remain crime free. There is nighttime security on all their sites.
19. The conclusions of the parking assessment they did for the subject site are consistent with what they have experienced at the low income sites they manage. Such sites do not need as much parking as more typical sites.
20. In answer to questions from the Board, they provided the following:
 - There is a \$10 per month fee for a parking stall at this development.
 - There is no capacity for more underground parking.
 - The Phase one building is currently fully occupied.

Decision:

The appeal is DENIED and the decision of the Development Authority is CONFIRMED.

Reasons for Decision:

1. Apartment Housing is a permitted Use in the RA8 Medium Rise Apartment Zone. This development would be a Class A development without any right of appeal but for a variance to the required number of parking stalls.
2. This development is phase two of an apartment housing complex on the site. Phase one was completed in 2013. The only variance given by the Development Officer with

respect to the proposed development (phase two) was a variance reducing the required number of parking stalls from 72 to 48, a variance of 24. The requirement of 72 stalls was calculated based on the fact that this is a Transit Oriented Development that is close to an LRT station.

3. The Respondent provided documentation showing that the parking utilization in phase one is only 82.5 percent. The result is that 10 stalls are unused. It is to be noted that phase one was approved with a parking variance of 30 stalls. Even with this variance, there is still excess parking capacity on site. The Respondent operates many other similar facilities in the city geared toward low income housing. Six such projects in addition to phase one were included in their statistics. The evidence demonstrates that parking is consistently underutilized in these type of facilities.
4. The Transportation department pointed out that the 10 stalls not being used in phase one could be used by phase two, which results in an effective deficiency of 14 stalls or 20 percent of required parking.
5. Many of the issues raised by the Appellant and others opposed related to issues that are not relevant to the parking variance, such as congestion in the narrow back lane, increased crime, increased litter, too much density, and lack of green space.
6. Regarding the concerns about increased density, the Board notes that the proposed development is located in an area zoned RA8 Medium Rise Apartment and the proposed development meets all the zoning regulations except for parking. All of those opposed to the development reside in an area zoned RA9 High Rise Apartment. This zoning complies with the Parkdale Area Redevelopment Plan. For example, Policy 2.1 of the ARP states that it is the policy of the ARP to focus redevelopment in Parkdale to those areas which can best utilize the LRT and which pose the least impact on the stable low-density portions of the community. The map on page 62 of the ARP shows that the area of the proposed development and the neighbourhood where the opponents live is designated for highrise apartment development. The Board concludes that, while those opposed to the proposed development may not approve of the increased density that it will bring to the neighbourhood, this densification near the Stadium LRT station is in accordance with the policies outlined in the ARP.
7. The one concern raised by those opposed to the development that relates to the parking variance is the issue of lack of parking spaces on the street. The Board notes that this site is located near the Stadium LRT station and Commonwealth Stadium and has some 284 units of multi-residential housing close by. The Appellant acknowledged that much of the parking problem in the neighbourhood is likely related to those facilities. The Appellant also said that she could not say with any certainty that the residents of phase one were parking on the streets. While the Board acknowledges some possibility that residents of phase one are parking on the street rather than paying \$10 per month for parking, the Board is of the view that the spillover from phase one is probably very minimal.

8. In the opinion of the Board, the parking variance is appropriate. The Board is of the view that parking spaces will be underutilized in phase two and that the parking variance will not significantly contribute to parking problems on the nearby streets. The Board does not believe that the parking issues currently being experienced in the neighbourhood are the result of the residents of phase one parking on the street nor does the Board believe that there will be a significant number of residents from phase two parking on the streets.
9. Based on the foregoing, the Board is of the view that the parking variance will not unduly interfere with the amenities of the neighbourhood, nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

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 5th Floor, 10250 – 101 Street, Edmonton.
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*, R.S.A. 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 5th Floor, 10250 – 101 Street, Edmonton.

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.

Mr. M. Young, Presiding Officer
Subdivision and Development Appeal Board

CC: