

Edmonton Subdivision and Development Appeal Board

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DATE: April 9, 2015
PROJECT NO.: 165629946-001
FILE NO.: SDAB-D-15-061

Notice of Decision

This appeal dated March 3, 2015, from the decision of the Development Authority for permission to:

Convert a Single Detached House to a Child Care Service with 56 children (0-11 months: 1 kid, 12-18 months: 3 kids, 19 months to 3 years: 16 kids, 3 years to 4.5 years: 19 kids, 4.5 years - 7 years: 5 kids, school age: 12 kids

on Plan 7621477 Blk 25 Lot 2, located at 16708 - 100 Street NW and Plan 7621477 Blk 25 Lot 3, located at 16712 - 100 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 25, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

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

The Board heard an appeal from the decision of the Development Authority to refuse an application to convert a Single Detached House to a Child Care Service with 56 children (0-11 months: 1 kid, 12-18 months: 3 kids, 19 months to 3 years: 16 kids, 3 years to 4.5 years: 19 kids, 4.5 years - 7 years: 5 kids, school age: 12 kids, located at 16708 and 16712 - 100 Street NW. The subject Site is zoned RF1 Single Detached Residential Zone. The development permit application was refused because the proposed development does not meet the General Purpose of the RF1 Zone, does not meet the locational criteria, a deficiency in the number of minimum required parking spaces and location of the outdoor play space.

The Board notes that no letters were received in support or opposition to the proposed development.

Prior to the hearing the Development Authority submitted documentation to support the decision.

The Board heard from Mr. Sadek, the Appellant, who made the following points:

1. He referenced his written submission including his annotated “Exhibit A to H” which outlined his response to the reasons for refusal.
2. With regard to the general purpose of the RF1 Single Detached Residential Zone, he stated that previously a dental clinic was approved to operate on the subject site and a daycare should not be different.
3. He identified the locational context of the subject area as follows:
 - a. The proposed daycare is located one lot away from the corner lot.
 - b. There is a commercial centre located east of the subject site, across 100 Street NW. It contains a restaurant, bar and a medical clinic.
 - c. There is a church located northeast of the subject site, across 100 Street NW.
 - d. There is another large commercial centre located on the corner of 167 Avenue and 97 Street NW, which is southeast and within walking distance of the subject site.
4. With regard to the provision of parking on site, he provided the following information:
 - a. All vehicular parking will take place on the subject site and there will be no off-site parking;
 - b. An additional 4 parking spaces are provided on the revised site plan marked as “Exhibit C” if the trees on the north side of Lot 3 were cut down. However, he would prefer to preserve these trees.
5. In his opinion, there are other daycares in Edmonton with a deficiency in parking which have been approved. Some of these daycares, such as ones that are located within a school, may use off-site parking.
6. He addressed the results of his neighbourhood consultation and made the following statements:
 - a. The residents of the properties located immediately north and southwest of the subject site are not opposed to the proposed development.
 - b. The adjacent neighbour located west of the subject site has concerns regarding the hours of operation; noise generated within the proposed outdoor play area; and the height of the existing fence to mitigate such noise.
 - c. The adjacent neighbour has also expressed concerns about the future zoning changes on the property if a development permit was issued for a childcare which in her opinion might be considered a commercial use.
 - d. He explained to the concerned neighbour that the daycare will not be in operation during the evening or weekends.
 - e. He is willing to build a solid fence to ensure privacy on the neighbouring properties.
 - f. He stated that a development permit will authorize the use of a daycare only and any other use on the site will require a different development permit application.
7. In his opinion, the shed and fence located along the west property line of Lot 3 will mitigate noise from the playground.
8. He could relocate the playground to the front yard of the property; however, he would prefer to have it in the rear yard of the property so children do not throw items onto the street.
9. He stated there are three other daycares in the area shown in “Exhibit G”.

10. He referred to “Exhibit H” and stated there are other nearby zoning areas such as RF4 (Semi-detached Residential Zone) and RF5 (Row Housing Zone), which allows for higher density uses.

In response to questions by the Board, Mr. Sadek provided the following information:

1. The staffing requirement for a daycare is set out by the *Child Care Licensing Regulations*.
2. It is his intention to accommodate all age groups of children, therefore 9 employees will be required for the 56 childcare and out-of-school care operation. However, a total of 11 jobs will likely be created as some of the positions will be part-time.
3. He operates another daycare centre in Edmonton.
4. He stated additional reasons to justify that traffic and parking are not concerns for the proposed development as follows:
 - a. Vehicular traffic for the daycare will be less than those accessing the commercial centre located east of the subject site and across 100 Street NW;
 - b. Vehicular traffic for the daycare is in the opposite direction than traffic accessing the commercial centre;
 - c. The amount of traffic for the daycare will not be significant. Based on his experience with his other daycare that has 87 children, there have never been more than 6 vehicles on the site at one time;
 - d. In his opinion, 11 parking spaces will be sufficient for the proposed daycare;
 - e. Although 30 percent of the parking spaces are for small car, the parking spaces are angled toward the street; and
 - f. In his opinion, the width of the parking spaces meets the requirements of Section 54.2 of the *Edmonton Zoning Bylaw*.
5. In his opinion, the gas station across the street is more than 50 metres away from the subject site.

The Board then heard from Mr. Chan, representing the Sustainable Development Department, who made the following points:

1. He confirmed that the size of the parking spaces complies with the *Edmonton Zoning Bylaw*; however, the width of the drive aisle is deficient by 1.5 metres.
2. He confirmed that 12 parking spaces are required for 9 employees, which could be provided on the subject Site. Therefore, Section 54.2, Schedule 1(A)(31) of the *Edmonton Zoning Bylaw* is met.
3. He is concerned that there might be some traffic issues with 56 children attending the proposed daycare.
4. He is concerned that the subject site is in close proximity to a collector road.
5. He estimates that gas station across the road is 50 metres from the proposed daycare.
6. The location requirement for the proposed daycare should meet all of the locational requirements set out in Section 80.1 of the *Edmonton Zoning Bylaw*.
7. In his opinion, the word “adjacent” means adjoining lots; therefore, the church across 100 Street NW and north of the commercial centre is not considered to be adjacent.

The Board then heard from Ms. Kostyniuk, the neighbouring property owner to the west who previously had filed concerns with the proposed development, who made the following points:

1. She has lived in the area for 20 years.
2. The two most adjacent neighbouring properties to the proposed daycare are rental properties.
3. She is concerned that if the daycare is not approved, the property will become a rental property.
4. She is not opposed to the daycare and deems it as a trade off to another rental property that could have problematic renters.
5. She would be agreeable to the proposed development if the Respondent builds a fence that will alleviate noise concerns of the daycare. In addition, a trellis to the fence will mitigate privacy issues.
6. She did not have concerns with the previous dental clinic on the subject site as it had minimal traffic associated with the business.
7. In her opinion, the proposed daycare will not be open for business as often as the dental clinic.

In rebuttal, Mr. Sadek made the following points:

1. With regard to the revised site plan, he was not aware that the width of the proposed drive aisle was not sufficient.
2. In his opinion, there is sufficient parking on the subject site and the drive aisle can be revised to meet the regulations of the *Edmonton Zoning Bylaw*.
3. Two vehicles could park in the garage.
4. The vehicular access to the proposed development is located on the third lot from the intersection of the collector road, 100 Street NW.
5. He referred to his photographic evidence marked as “Exhibit I” and stated that the locational criteria imposed by the Development Authority was unfair for the following reasons:
 - a. There is another daycare on 167 Avenue and 121 Street that is located in close proximity to a gas bar.
 - b. There is another daycare that was approved at 137 Avenue and 119 Street which does not meet the locational criteria as set out in Section 80.1 of the *Edmonton Zoning Bylaw*.
6. One of the renters has lived in the adjacent property for 20 years.
7. He does not know what type of development could be developed on the subject site if the proposed daycare is not approved.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED, and the deficiency of 1.5 metres in the drive aisle and one parking space be permitted, subject to the revised Site Plan marked as “Exhibit C” and the following conditions:

1. Seven on-site drop-off parking spaces shall be provided for the Child Care Services. Reference Section 80.6.
2. Exterior lighting of the facility shall provide for a well lit environment. Reference Section 80.7.
3. Where on-site outdoor play space is provided, pursuant to the Provincial Child Care Licensing Regulation, noisy, noxious or hazardous adjacent Uses such as, but not limited to, loading/unloading areas, garbage bins, large parking lots, arterial roads, passenger drop-off areas, rail lines, Light Rail Transit lines or stormwater lakes should either be avoided or their effects mitigated through landscaping, buffering, fencing, or other means. Reference Section 80.8(a).
4. Outdoor play space shall be securely enclosed on all sides. Reference Section 80.8(c).
5. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55.4(4).
6. Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. Reference Section 51.
7. All required parking and loading facilities shall only be used for the purpose of accommodating the vehicles of clients, customers, employees, members, residents or visitors in connection with the building or Use for which the parking and loading facilities are provided, and the parking and loading facilities shall not be used for driveways, access or egress, commercial repair work, display, sale or storage of goods of any kind. Reference Section 54.1(1)(c).
8. Access from the site to 100 Street exists. Any Modification to the existing access requires the review and approval of Transportation Services.

NOTES:

- a. Signs require separate Development Applications.
- b. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the *Edmonton Zoning Bylaw*. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
- c. The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).
- d. The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this 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.
- e. A Building Permit is **REQUIRED** for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.

- f. This is not a Business Licence. A separate application must be made for a Business Licence.
- g. Unless otherwise stated, all above references to section numbers refer to the authority under the *Edmonton Zoning Bylaw* 12800.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Discretionary Use in the RF1 Single Detached Residential Zone.
2. The Board finds the location of the proposed development is appropriate for the following reasons:
 - a. The Board does not accept the Development Authority's interpretation of Section 80(1) of the *Edmonton Zoning Bylaw* which the proposed development must satisfy that it is abutting a collector or arterial road as well as on a corner Site, and either adjacent to or in community facilities such as a school, park, church or community centre; or adjacent to commercial areas or multi-family development.
 - b. The Board is of the opinion that the interpretation and the intent of 80(1) of the *Edmonton Zoning Bylaw* is to give preference to the locational criteria and the criteria is satisfied if one of the four listed locational criteria is met.
 - c. The Board notes that the proposed development abuts a collector road (100 Street NW) which complies with the preferred locational requirements of Section 80(1) of the *Edmonton Zoning Bylaw*.
3. The Board accepts the Development Authority's submission that the correct number of required drop-off parking spaces is 7 and the number of parking spaces required for staff is 5.
4. The Board notes that Transportation Services has expressed concerns with the possibility of on-street parking. The Board is satisfied that the Appellant has submitted a revised Site Plan which 11 parking spaces are provided on-site.
5. The Board accepts the evidence provided by the Appellant that the on-site traffic level will not be significant and a relaxation of the minimum drive aisle width from 7.0 metres to 5.5 metres will not be detrimental to vehicular movements on-site.
6. The Board is satisfied that the concerns of the neighbouring property owner located west of the subject property has been addressed due to the following reasons:
 - a. The Appellant has indicated that he is willing to build a fence to mitigate noise and privacy concerns; and
 - b. The neighbouring property owner was in support of the proposed daycare rather than the potential use of the subject site as a rental property.
7. Based on the above, it is the opinion of the Board, 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 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. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the *Edmonton Zoning Bylaw*, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
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.

Mr. B. Gibson, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

CC:

Edmonton Subdivision and Development Appeal Board

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DATE: April 9, 2015
PROJECT NO.: 161821680-001
FILE NO.: SDAB-D-15-062

Notice of Decision

This appeal dated February 17, 2015, from the decision of the Development Authority for permission to:

Construct 4 Dwellings of Stacked Row Housing with front verandas (four at 2.13 metres by 6.10 metres) and uncovered rear decks (two irregulars at 3.66 metres by 6.10 metres) and to demolish the existing Single Detached House and Accessory Building (rear detached Garage)

on Plan RN64 Blk 2 Lot 9, located at 11840 - 122 Street NW, was heard by the Subdivision and Development Appeal Board at its hearing held on March 25, 2015. The decision of the Board was as follows:

SUMMARY OF HEARING:

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.

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

The Board heard an appeal of the decision of the Development Authority to refuse an application to construct 4 Dwellings of Stacked Row Housing with front verandas (four at 2.13 metres by 6.10 metres) and uncovered rear decks (two irregulars at 3.66 metres by 6.10 metres) and to demolish the existing Single Detached House and Accessory Building (rear detached Garage), located at 11840 - 122 Street NW. The subject site is zoned RF3 Small Scale Infill Development Zone and is within the Mature Neighbourhood Overlay. The development application was refused because a deficiency in minimum required Site area, Site Width, Site Coverage and the minimum length and width of the Private Outdoor Amenity Area as well as it does not meet the locational requirement.

The Board notes that one website response was received in opposition to the proposed development.

Prior to the hearing the Development Authority submitted documentation to support the decision.

The Board heard from Mr. McAuley, representing the Appellant, Abington Homes Ltd., who made the following points:

1. He is a small contractor that develops custom homes in the area.
2. He provided the Board with documentation marked, "Exhibit A" which showed the following:
 - a. Photos of the existing run down and unlivable conditions of the subject site and the improvements that has been made;
 - b. Photos of new infill developments that are similar to the proposed development with two 2-storey dwellings placed on top and one ground level dwelling with ground level entry on each side;
 - c. Photos of other properties in the neighbourhood that contain a tri-plex and a four-plex;
 - d. Community consultation which showed support from 7 of these properties;
 - e. Elevation plans of the proposed development and landscaping plan;
 - f. Letter of intention; and
 - g. The reasons for refusal.
3. In his opinion, the proposed development will fit in with the properties in the area.
4. There are several duplexes and single family dwellings with suites in the neighbourhood.
5. With regard to the proposed development, there will be one bedroom suites in the lower level which will have single tenants or couples without children in each unit.
6. He stated the reasons for refusal and the rationale for the proposed plans:
 - a. The minimum required site area is 750 square metres and the proposed site area is 654 square metres. The lots in the surrounding area are similar in size, i.e. 50 foot wide lots.
 - b. The Development Authority's site coverage calculation is 28.64 percent. However, this should be 27.8 percent as the original plans showed a deck that has since been changed to an uncovered deck. Therefore, the proposed development meets the maximum allowable site coverage.
 - c. He agreed that each amenity area should be 4 metres in width by 4 metres in depth. The square footage of the proposed area is 13 metres square which is below the requirements of the *Edmonton Zoning Bylaw*.
 - d. The proposed development is similar to those illustrated in photo #6 of "Exhibit A", where 6 parking spaces are provided in the rear yard. Further, Transportation Services supports the proposed development with 6 parking spaces.
7. He attempted to contact the Prince Charles Community League by way of email but did not receive a response.
8. He spoke to neighbouring property owners and discussed the proposed development and landscaping.

In response to questions by the Board, Mr. McAuley provided the following information:

1. It is his intention to sell the units as condominiums and they will not be rental units.
2. The parking spaces will be designated for each condominium.
3. There will be a green space between the fenced off parking area and the uncovered decks.
4. The property immediately north of the subject site is a 2 storey semi-detached development.
5. In his opinion there is no issue with on-street parking.

The Board then heard from Mr. Angeles, representing the Sustainable Development Department, who made the following points:

1. He clarified that the site coverage of 187.6 square metres was derived from the surveyed plan. Therefore, the calculation will result in 28.64 percent site coverage.
2. The proposed development is considered stacked row housing and not a semi-detached due to the fact that secondary suites are not allowed within semi-detached housing.

In response to questions by the Board, Mr. Angeles provided the following information:

1. He confirmed that Transportation Services does not have a concern with regard to parking.
2. He clarified that the number of required parking spaces is calculated by the number of bedrooms. The basement units have one bedroom and the upper level will have more than one bedroom which results in 6 parking spaces.
3. He stated that there is no variance in the side and rear setbacks; however there is a deficiency in the dimensions of the amenity area.
4. He confirmed that the proposed development is a medium density development and should be located on a corner lot.
5. He was not certain if there was a transit system in the area as it is not located along a transit artery as defined in the *Edmonton Zoning Bylaw*. Therefore, the proximity to bus services is not considered when reviewing the proposed development.
6. With regard to photograph number 5 within "Exhibit A", he stated that the proposed development is similar to the illustrated development being that it appears to be stacked row housing and is not on a corner lot. However, the illustrated development could be in a different zone.

In rebuttal, Mr. McAuley made the following points:

1. He confirmed that the amenity area is below the minimum required; however, if the proposed development were expanded to comply with the amenity area requirement, this would create site coverage issues.
2. He confirmed that there are bus stops in the area.
3. There are concrete sidewalks in the front and side of the proposed development.
4. He confirmed there is support from adjacent property owners.

DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED, subject to the following conditions and variances:

The Board waives the following:

1. Section 140.4(7) states Apartment Housing or Stacked Row Housing shall be located:
 - a. on Corner Sites,
 - b. on Sites abutting an arterial or service road,
 - c. where both Side Lot Lines abut existing Apartment Housing or Stacked Row Housing, or
 - d. where a minimum of one Side Lot Line:
 - i. abuts a Site where a commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use, or
 - ii. is not separated by a public roadway, including a Lane, more than 10.0 metres wide from a Site where a commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.

2. Section 140.4(5)(a) – the minimum Site area shall be 750 metres square.

Proposed: 654.97 metres square

Deficient: 95.03 metres square

3. Section 140.4(5)(b) – the minimum Site Width shall be 17 metres.

Proposed: 15.24 metres

Deficient: 1.76 metres

4. Section 140.4(10)(f) – the Site Coverage for the Principal Dwelling / building is 28 percent.

Proposed: 28.64 percent (187.6 metres square)

Exceeds: 0.64 percent (4.21 metres square)

5. Section 47.5 – Neither the width nor the length of any Private Outdoor Amenity Area shall be less than 4.0 metres, except that if it is provided above the first Storey the minimum dimensions shall be 3.0 metres.

Lower level Dwellings

Proposed: 2.13 metres (depth) by 6.10 metres (width)

Deficient by: 1.87 metres (depth)

Main level Dwellings

Proposed: none

Deficient by: two 4 metres by 4 metres Amenity Areas

Conditions

1. The maximum Height shall not exceed 10 metres nor 2 ½ Storeys.
2. Landscaping shall be provided in accordance with Section 55 of the *Edmonton Zoning Bylaw*. Required number of trees is 7 and required shrubs are 17. The Landscaping Plan submitted by the owner/applicant for approval shall be to the satisfaction of the Development Officer.
3. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:
 - a) cash to a value equal to 100 percent of the established landscaping costs; or
 - b) an irrevocable letter of credit having a value equivalent to 100 percent of the established landscaping costs.

Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. Reference Section 55.6
4. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Charge fee of \$2,654.00. Please contact Private Development, Drainage Services, at 780-496-5665 for further details regarding the fee. Fee payment should be made through the Sustainable Development Department, attention the Development Officer. The final applicable rate will be adjusted to the year in which SSTC payment is collected by the City. SSTC is applicable to the property for 4 multi family dwellings at \$1,021/dwelling with credit given for one single family dwelling at the rate of \$1,430/dwelling under the current DP#161821680-001. The SSTC charge is quoted at year 2015 rate.
5. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$330.00.

ADVISEMENT:

All 'Section(s)' above refer to the *Edmonton Zoning Bylaw* 12800 as amended.

This property would receive manual collection of their waste from the lane.

An approved Development Permit means that the proposed development has been reviewed only against the provisions of the *Edmonton Zoning Bylaw*. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the *Municipal Government Act*, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

A Building Permit is REQUIRED for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information. Signs require separate Development Applications.

TRANSPORTATION CONDITIONS:

1. The area between the parking area and the alley driving surface must be paved to the satisfaction of the Transportation Services, as shown on Enclosure I. The applicant must contact Loli Fernandez (780-944-7683) a minimum of 48 hours prior to construction, to arrange for inspection.
2. Garbage enclosures must be located entirely within private property and gates and/or doors of the garbage enclosure must not open or encroach into road right-of-way, as shown on Enclosure I.
3. There is an existing power pole in the alley that may interfere with access to a proposed parking stall to the site, as shown on Enclosure I. Should relocation of the pole/guy-wire be required, all costs associated with relocation must be borne by the owner/applicant. The applicant should contact Andy Balding (780-412-3520) of EPCOR Distribution & Technologies for more information.
4. A sidewalk connection must be constructed to the public sidewalk on 122 Street to provide connectivity, as shown on Enclosure I.
5. There are existing boulevard trees adjacent to the site that must be protected during construction. Prior to construction, the owner/applicant must contact Marshall Mithrush of Community Services (780-496-4953) to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant.
6. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
7. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: http://vwww.edmonton.ca/bylaws/licences/licences_permits/oscam-permit-request.aspx

8. Any alley, sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

REASONS FOR DECISION:

The Board finds the following:

1. The proposed development is a Permitted Use in the RF3 Small Scale Infill Development Zone.
2. The Board grants a variance to the required width and depth dimensions of an Amenity Area for the following reasons:
 - a. The Board is satisfied that there is sufficient green space in the rear yard to allow for adequate enjoyment of the property; and
 - b. The Board is satisfied that the amenity spaces for the lower units are adequate for enjoyment of the property.
3. The Board notes that the proposed Site Coverage exceeds the maximum allowable by 4.21 metres square. However, the Board finds that the excess in Site Coverage does not negatively impact the amount of Amenity Area that is available and is minimal compared to the total Site area.
4. The Board waives the locational criteria for the following reasons:
 - a. Based on the submitted photographic evidence, the Board accepts that there are similar density developments in the neighbourhood which does not meet the locational criteria;
 - b. The provision of parking meets the requirements of 54.2 Schedule 1 of the *Edmonton Zoning Bylaw*; and
 - c. Transportation Services has no concerns with the proposed development and the location of the proposed parking spaces.
5. The Board finds the Site area and Site Width of other properties is similar to that of the subject property.
6. The Board finds the proposed development is characteristic of the neighbourhood.
7. The Board notes that one web response was received in opposition to the proposed development; however, there was no explanation of their concerns.
8. There is support from 7 neighbouring property owners.
9. Based on the above, it is the opinion of the Board, 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 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. 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.
3. A Development Permit shall expire and shall no longer be valid after one year from the date of approval of the Permit, if no construction has been initiated. However, if the permit holder is unable to proceed pending a court decision involving the proposed development, time shall not run until such proceedings are finally completed. For further information, refer to Section 22 of the *Edmonton Zoning Bylaw*, 12800.
4. Notwithstanding clause (3) above, if a Building Permit is issued for the development within the twelve month period, the Development Permit issued therefore shall not lapse unless and until the Building Permit so issued is cancelled or allowed to lapse by virtue of work not having commenced within the statutory minimum period.
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.

Mr. B. Gibson, Presiding Officer
SUBDIVISION AND DEVELOPMENT
APPEAL BOARD

CC: