



**Subdivision and  
Development Appeal Board**

Office of the City Clerk  
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DATE: May 31, 2012  
APPLICATION NO: 118822598-001  
FILE NO.: SDAB-D-12-104

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

This appeal dated April 19, 2012, from the decision of the Development Authority for permission to:

Construct a 14 Dwelling Apartment House building with a main floor Restaurant/Bar and Neighbourhood Pub (77 occupants) and a main floor General Retail Store

on Lots 21- 22, Block 19, Plan RN23, located at 10767 – 95 Street, was heard by the Subdivision and Development Appeal Board at its hearing held on May 16, 2012. The decision of the Board was as follows:

**SUMMARY OF HEARING:**

“At the outset of the appeal hearing, the Chairman 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 a 14 Dwelling Apartment House building with a main floor Restaurant/Bar and Neighbourhood Pub (77 occupants) and a main floor General Retail Store, located at 10767 – 95 Street. The subject site is zoned DC2.707 Site Specific Development Control Provision. The development permit application was refused because of a deficiency in the total number of required on-site vehicular parking spaces.

The Board notes there were two letters of support received for the proposed development and no letters of opposition.

## SUMMARY OF HEARING: (CONTINUED)

At the outset of the hearing, the Chairman advised the Appellant that as this is a site zoned DC2.707 Site Specific Development Control Provision, the first issue to be dealt with was whether or not the Development Officer followed the directions of Council in rendering his decision.

The Board first heard from a representative of the Edmonton Sustainable Development Department, Mr. K. Bacon, a Development Officer. Mr. Bacon provided the following information with regards to the proposed development:

1. The development permit application was refused due to a deficiency in the required on-site parking. It was determined that forty two on-site parking spaces are required and the application proposes 11 on-site parking spaces.
2. The Site Specific Development Control Provision allows the Development Officer to consider parking in accordance with Section 54 of the Edmonton Zoning Bylaw and the Development Officer has variance powers if there are fewer parking stalls than what is required.
3. A Parking Study was requested and the Study was not acceptable by Transportation Services. The Parking Study was rejected as Transportation Services felt there would be insufficient parking for the proposed development which would affect the amenities of the neighbourhood.
4. He advised that the Development Authority was not compelled to follow the advice of Transportation Services; however, felt they were the experts and therefore, qualified to review the issues relating to parking.
5. As to the nature of the Use, he advised the parking deficiency arises as a result of the commercial use with the residential portion of the proposed development meeting its parking requirement.
6. There are other restaurants in the neighbourhood that could be facing similar parking deficiencies but he is concerned about an over reliance on the available on-street parking.
7. In regards to the other social housing units in the neighbourhood, he advised that that aspect is not relevant as he is only considering the directions specific to the development within the Site Specific Development Control Provision.
8. The Transportation Department questioned the methodology of the Parking Study and the final conclusions reached.

## SUMMARY OF HEARING: (CONTINUED)

9. The proposed development meets the objectives of the Area Redevelopment Plan and complies with other provisions of the DC2 which includes CPTED requirements. He also noted that the development generally complies with the drawings attached to the DC2 except for the fact that the proposed development does not provide a vehicular ramp leading to additional parking.

The Board then heard from Mr. J. Colak, representing the Appellant, JJ Max Inc. Mr. Colak provided the following information in support of the proposed development:

1. He relies on the Parking Study provided since it was prepared by professional engineers.
2. In his opinion, there is sufficient parking for the proposed development and a little overflow parking will not be a problem.
3. The process has been long and frustrating for him with the zoning being changed on the subject site and a number of design changes throughout.
4. Approval was granted in 2008 for the proposed development but financial constraints at that time resulted in the development being cancelled.
5. The design has been changed since the 2008 approval.
6. He referred to other developments in the area which, he was of the opinion, did not comply with all requirements of the Edmonton Zoning Bylaw. In particular, he referenced specific examples where he believed the parking and the design, character, and appearance was not consistent with the requirements.
7. The area to the north of the subject site is busy with regards to on-street parking but the intersection where the subject site is located usually is not very busy.
8. Customers come to this area from all over the City; however, certain uses such as restaurants are frequented by residents within the area.
9. He admits there is some parking impact caused by the commercial character of the area; however, felt that it is something that is accepted among the residents.

The Board then heard from Mr. Bacon, the Development Officer, who advised the Board that if the proposed development was approved, he would want to see a condition imposed requiring the rooftop patio and mural.

## SUMMARY OF HEARING: (CONTINUED)

Mr. Colak had no further submissions.

## DECISION:

that the appeal be ALLOWED and the DEVELOPMENT GRANTED, and the deficiency of 31 Parking Spaces in the minimum required number of Parking Spaces be permitted, subject to the following conditions:

1. All development, including signs, shall be serviced by underground power, telephone and C.A.T.V. services.
2. The Appellant shall provide a decorative mural reflecting the history of the area or Italian Village theme for the trattoria on the south blank party wall facade in accordance to Section DC2.707.3.r(viii). The mural shall be completed within 2 years of obtaining a building permit.
3. The roof top mechanical units shall be concealed by screening in a manner compatible with the architectural character of the building. Reference Section DC2.707.3.r(ix).
4. All access locations and curb crossings shall have the approval of the City Transportation Department prior to the start of construction. Reference Section 53(1).
5. Landscaping shall be in accordance with Section 55 and to the satisfaction of the Development Officer. The landscape plan shall include the proposed rooftop amenity area.

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).

## DECISION: (CONTINUED)

6. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$12,447.92. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.
7. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$220.00.
8. The maximum occupancy of the main floor Restaurant / Bar and Neighbourhood Pub is 77 occupants based on the proposed Public Space of 92.9 square metres. Any increase in occupants or Public Space shall require separate development approval.
9. All outdoor trash collection areas shall be located and screened to the satisfaction of the Development Officer in accordance with Sections 55(4) & (5).
10. Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
11. The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance to Section 54(6).
12. The proposed parking perpendicular to the alley is required to have a minimum stall length of 5.5 metres.
13. This development is proposed to be constructed up to the property line. The owner/applicant must enter into an Encroachment Agreement with the City for any pilings, shoring & tie-backs to remain within road right-of-way. The owner/applicant must contact Joselito Angeles (780-496-6153) or Yan Lu (780-496-8487) of Sustainable Development Services for information on the agreement. The applicant is responsible to provide Sustainable Development with a plan identifying all existing utilities on road right-of-way within the affected area of the encroachment.
14. There is an existing power pole in the alley that may interfere with access to a proposed parking stall. Should relocation of the pole be required, all costs associated with relocation must be borne by the owner/applicant. The applicant should contact Kin Lui (780-412-4510) of EPCOR Distribution & Technologies for more information.

## DECISION: (CONTINUED)

15. 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.
16. The area between the parking area and the alley driving surface must be paved to the satisfaction of the Transportation Services. The applicant must contact Mark Pivovar at 780-944-7693 a minimum of 48 hours prior to construction, to arrange for inspection.
17. Any hoarding or construction taking place on road right-of-way requires an OSCAM permit. The owner must call Transportation Operations at 780-442-6458 to arrange for the permit.

## NOTES:

- 1) Transportation Services encourages the applicant to provide bicycle parking to support the proposed development.
- 2) With the proposed development, there may be a requirement for removal of parking metres/loading zones. Any changes to existing parking along 95 Street must be co-ordinated with Dave Kinsman (780-496-3097) of Transportation Operations.
- 3) Signs require separate Development Applications.
- 4) 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.
- 5) This approval does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

## REASONS FOR DECISION:

The Board finds the following:

1. Section 641(4) of the Municipal Government Act, Chapter M-26 states despite section 685, if a decision with respect to a development permit application in respect of a direct control district

## REASONS FOR DECISION: (CONTINUED)

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
  - (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.
2. Based on the evidence submitted, the Development Officer did not follow the directions of Council based on the following:
  - (a) The Development Officer placed too much credence on the opinion of Transportation Services. The Transportation Service's comments were based on a very technical analysis of the proposed development in light of the proximity to low density residential usage. The Development Officer has the ability to grant variances in parking based on Section 54.1(2)(g) of the Edmonton Zoning Bylaw. In this regard, he can give due consideration to the nature of the development, the size of the site, and other physical constraints. Notwithstanding the opinion of Transportation Services, Section 54.1(2)(g) is a planning regulation that proffers the Development Officer to consider merits specific to a specific development and the context in which it is situated.
3. The proposed development meets the objectives of the Area Redevelopment Plan for Sub Area 2 regarding the unique characteristics of the cultural theme of the area.
4. There were no objections to the proposed development and no one appeared in opposition to the proposed development which indicates to the Board that there is a general acceptance of the parking situation from the residents of the low density residential zone adjacent to the commercial strip along 95 Street.
5. Due to the size of the subject site and compliance with drawings attached to the DC2, the Board is of the opinion that it would be a hardship on the Appellant to provide 42 on-site parking spaces.
6. The proposed development has the support of the Chinatown and Little Italy Business Association as well as another major business located in the neighbourhood.

## REASONS FOR DECISION: (CONTINUED)

7. The Development Officer did not dispute the comments of Mr. Cholak with regards to the implications of the reductions in parking where he stated “The study has recommended parking relaxations due to the distance of the proposed development from public transit, the proposed transit pass funding program and the character of the Italian Village.”
8. The Board accepts the arguments of the Appellant that other developments in the area also have deficiencies in the area of required parking. This argument also supports the general acceptance from residents in the immediately adjacent area pertaining to overflow parking.
9. The proposed development meets all requirements of the Area Structure Plan and Site Specific Development Control Provision other than the requirements of on-site parking.
10. The Board notes that the proposed development is consistent with the policies set out within the Edmonton Municipal Development Plan as it provides for an appropriate infill mixed use development.
11. Based on the above, it is the opinion of the Board, that the variance is justified in accordance with Section 54.1(2)(g) of the Edmonton Zoning Bylaw and the variance would 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 Planning and Development Department, located on the 5<sup>th</sup> 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 Planning and Development Department, located on the 5<sup>th</sup> Floor, 10250 – 101 Street, Edmonton.

NOTE: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.

Mr. C. Thomas, Chairman  
SUBDIVISION AND DEVELOPMENT  
APPEAL BOARD

cc: City of Edmonton Sustainable Development Department – Attn: K. Bacon  
Chinatown and Little Italy Business Association – Attn: R. Lawrence, Executive Director  
Italian Centre Shop Ltd.



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DATE: May 31, 2012  
APPLICATION NO: 117672297-001  
FILE NO.: SDAB-D-12-105

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

This appeal dated April 19, 2012, from the decision of the Development Authority for permission to:

Construct two Apartment Buildings (67 units and 58 units) (four Storeys, one with underground parking)

on Lot 2, Block 60, Plan 0820372, located at 5403 – 162 Avenue, was heard by the Subdivision and Development Appeal Board at its hearing held on May 16, 2012. The decision of the Board was as follows:

**SUMMARY OF HEARING:**

“At the outset of the appeal hearing, the Chairman confirmed with the parties in attendance that there was no opposition to the composition of the panel.

The Chairman first addressed the issue of jurisdiction and whether the appeal was filed outside of the allowable 14-day appeal period, pursuant to the requirements of the *Municipal Government Act*.

The Board heard from the Appellants, Mr. G. Davidson and Ms. S. Fantini, who advised the following:

1. The Notice to Property Owner was received by the Appellants on or about April 11, 2012.
2. The Appellants advised the Board that although they pick up their mail everyday from the neighbourhood Superbox, the private contractor that delivers the mail does not necessarily deliver the mail on a daily basis.

SUMMARY OF HEARING: (CONTINUED)

3. Ms. Fantini made various calls to the Development Officer subsequent to receiving the Notice to Property Owner.
4. The appeal was filed on April 19, 2012 and is of the opinion that her appeal was filed in time.

The Board then heard from Mr. J. Murphy, Q.C., legal counsel for the Respondent, who advised that, based on the evidence submitted by the Appellant and the provisions outlined in the *Municipal Government Act*, he is of the opinion that the appeal was filed in time.

DECISION:

that the Board assume jurisdiction

REASONS FOR DECISION:

The Board finds the following:

1. Based on the evidence provided, the Board applied the provisions of Section 686(1)(b) of the *Municipal Government Act*, and therefore finds that the appeal was filed within the allowable 14 days.

SUMMARY OF HEARING: (CONTINUED)

The Board heard an appeal of the decision of the Development Authority to approve with variances and subject to conditions, an application to construct two Apartment buildings (67 units and 58 units) (four Storeys, one with underground parking), located at 5403 – 162 Avenue. The subject site is zoned RA7 Low Rise Apartment Zone. The approval was subsequently appealed by an adjacent property owner.

The Board heard from Ms. S. Fantini and Mr. G. Davidson, the Appellants, who provided the following information in opposition to the proposed development:

1. They provided a copy of relevant portions of the Hollick-Kenyon Neighbourhood Structure Plan (Exhibit “A”) with notations. She pointed out that that the last public consultation relating to the area was in 2001 when the area was largely undeveloped.

## SUMMARY OF HEARING: (CONTINUED)

2. Concern was expressed primarily about safety issues concerning parking and traffic congestion resulting from the nearby school whose enrolment currently stands at approximately 750 students rather than the previously planned 460 students.
3. The proposed development would pose an even greater safety risk to the student population as a result of diminished sight lines from parked vehicles along the boulevard and future landscaping.
4. They are concerned that the variance granted in required on-site parking spaces would result in an increase in on-street parking.
5. In their opinion, the driveways of the proposed development also were of a concern given the close proximity to the school.
6. There have been complaints to local police with regards to the traffic and parking congestion.
7. Other issues that would result from the proposed development were not being able to use and enjoy their property given the potential loss of privacy.
8. There is a potential for the value of their property to be in jeopardy given previous issues with a home being located in close proximity to a multi-family apartment development.
9. The proposed development would block some of the sunlight they currently enjoy.
10. The variances granted in the required Setback and Privacy Zone would have a negative impact on the surrounding properties and reiterated their concerns regarding the loss of privacy.
11. They advised that the photographs submitted with their initial submission were taken on a Monday morning at approximately 8:30 a.m. and these photographs illustrate the congestion resulting from students being dropped off.
12. They submitted 11 signatures from property owners in opposition to the proposed development.

The Board then heard from Mr. J. Murphy, Q.C., legal counsel for the Appellant, E F Gooch Architects. He provided the following information in support of the proposed development:

1. The proposed Apartment development is a Permitted Use in the RA7 Low Rise Apartment Zone and is within the Height and Density requirements set out in the Edmonton Zoning Bylaw. He felt that the RA7 Zone had been in effect since the 1990's.

## SUMMARY OF HEARING: (CONTINUED)

2. The last consultation in 2001, as noted by the Appellant, was a discussion of areas other than the subject site.
3. The sign located on the subject site is not a rezoning sign but rather a marketing sign for the property, indicating the subject site to be zoned RA7.
4. In regards to the variances granted by the Development Officer, he stated the following:
  - a) His client's proposal of 198 parking spaces was reduced by the Development Officer to 190 in order to allow for landscaped islands to enhance residential character. He added that that was a request from the Development Officer and not the developer.
  - b) The variance of 0.60 metres or a Stepback of 9.24 metres was to the south property line and could not affect the Appellants property nor could it affect any of the properties owned by those who signed the petition.
  - c) The required Separation Space and Privacy Zone is reduced from 7.5 metres to 4.5 metres. This was something resulting from consultation with the Development Officer. The intent of the requirement is to ensure privacy for the residents within the building itself. It has no bearing on the actual building setback or height.
5. He indicated that there was sufficient public transit in the area for the reduction in parking spaces.
6. The Privacy Zone was created to create privacy within the property and would not contribute to privacy concerns of neighbouring property owners.
7. He acknowledged that neighbouring property owners had complained about the subject site being muddy which had been tracked through the neighbourhood.
8. No Sun Shadow Study had been done as the proposed development was within the Height requirements of the Edmonton Zoning Bylaw.
9. There are two proposed driveways for access and egress from the subject site, one on 162 Avenue and the other on 54 Street.

## SUMMARY OF HEARING: (CONTINUED)

In rebuttal, Ms. Fantini acknowledged the zoning of the subject site. She reiterated concerns regarding the loss of privacy and additional traffic and parking congestion as a result of the proposed development. She noted that the Google map provided by the Appellant's representative did not accurately show the current locations of public transit stops. As to a Sun Shadow Study, Ms. Fantini felt that the proposed Apartment Building will block the sun from her property and negatively impact her.

## DECISION:

that the appeal be DENIED and the decision of the Development Authority CONFIRMED

The approval by the Development Officer contains the following conditions and variances:

Conditions:

1. 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 completed in accordance with the approved landscape plan AS AMENDED (see redline copies), Section 55 and to the satisfaction of the Development Officer, and is maintained for two growing seasons. It should be sent attention to the Development Officer and be accompanied by an estimate of the work to be done. 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 (see enclosed for Requirements).

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

## DECISION: (CONTINUED)

2. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Charge fee of \$107,125.00. 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.
3. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Lot Grading Fee of \$1,650.00.
4. The parking stall adjacent to the parkade ramp should be removed to increase the inside radius of the parkade ramp and provide adequate sight lines for vehicles exiting the parkade, as shown on Enclosure I.
5. Bicycle parking (minimum 10 spaces) shall be provided in accordance with Section 54.3 and to the satisfaction of the Development Officer.
6. The applicant/owner shall provide parking for People with Disabilities (4 spaces) in accordance with Section 54.1(3) and to the satisfaction of the Development Officer.
7. The developer shall provide 18 guest parking spaces readily available to an entrance of the building to be served, and clearly identified as guest parking. Section 54.2(1)(a), Schedule 1(1).
8. The proposed 7.5 metre access to 162 Avenue located approximately 2 metres from the west property line, is acceptable to Transportation Services and must be constructed as a commercial crossing access to current City of Edmonton standards.
9. The proposed 7.5 metre access to 54 Street located approximately 38 metres from the south property line, is acceptable to Transportation Services and must be constructed as a commercial crossing access to current City of Edmonton standards.
10. The off-street parking, loading and unloading (including aisles or driveways) shall be hardsurfaced, curbed, drained and maintained in accordance with Section 54.6.

## DECISION: (CONTINUED)

11. The existing bus stop on 162 Avenue conflicts with the proposed access and must be relocated further east so that the head of the bus stop is a minimum distance of 15 metres from the edge of the east flare of the proposed access, as shown on Enclosure I. A 4 metres by 9 metres concrete bus stop pad must be constructed at the new location and the existing bus stop/shelter pad must be removed and the boulevard restored. The applicant should contact Gregory Scheller (780-496-8914) of Edmonton Transit for more information.
12. There are existing boulevard trees along 162 Avenue and 54 Street which were a requirement of the associated subdivision (SUB/05-0264, Hollick Kenyon Stage 16). There are three (3) existing boulevard trees adjacent to the subject property that will conflict with the proposed accesses. The landscaping has not received its Final Acceptance Certificate (FAC), Therefore, the applicant must contact Aime Stewart with Scheffer Andrew Ltd. (780-732-7779) to coordinate removal/relocation of the trees.
13. Should the landscaping receive its FAC (where the City takes ownership) prior to construction of this development, all costs associated with the potential removal or relocation of existing boulevard trees as stated in the Corporate Tree Management Policy C456A, will be borne by the owner/applicant. The owner will be required to contact Marshall Mithrush of Community Services (780-496-4953), prior to construction, to remove and relocate the trees or to arrange for hoarding and/or root cutting at the discretion and direction of Community Services.
14. Any 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 the Zoning Bylaw. The 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.
15. 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](http://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.



## DECISION: (CONTINUED)

16. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW the owner shall enter into a Municipal Improvement Agreement with the City for the following improvements:
  - a) construction of a 7.5 metre commercial crossing to 162 Avenue;
  - b) construction of a 7.5 metre commercial crossing to 54 Street;
  - c) removal of an existing bus stop/shelter pad and construction of a 4 metres by 9 metres bus stop pad;
  - d) removal/relocation of three (3) boulevard trees;
  - e) relocation/alteration of existing utilities and installation of new utilities; and
  - f) restoration of any sidewalk/boulevard damage occurring as a result of construction traffic for development of the site.Engineering Drawings are not required for this Agreement. However, construction must meet the City of Edmonton Design and Construction Standards. The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Mark Pivovar (780-944-7693) including an irrevocable Letter of Credit in the amount of \$39,000 to cover 100 percent of construction costs. The Agreement will be forwarded directly to the owner for his signature.
17. There is an existing Telus pedestal in the vicinity of the proposed 7.5 metre access to 162 Avenue, as shown on Enclosure I. The access must maintain a minimum clearance of 1.5 metres from the Telus pedestal. The applicant should contact Walter Bukkems (780-991-8300) of Telus for more information. Should relocation of the pedestal be required, all costs associated with relocation must be borne by the owner/applicant.
18. A minimum 12 metre radius (measured at the centre of the road) is required for the corners of the internal roadway to accommodate the turning requirements for emergency response vehicles, as shown on Enclosure I.
19. The parking layout must be modified so that the parking stalls do not block access to the proposed bicycle racks and the exterior doors to the buildings, as shown on Enclosure I. Every effort must be made not to remove additional parking stalls.
20. Any hoarding or construction taking place on road right-of-way requires an OSCAM permit. It should be noted that the hoarding must not damage boulevard trees. The owner must call Transportation Operations at 780-442-6458 to arrange for the permit.

## DECISION: (CONTINUED)

ADVISEMENTS:

1. An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. (Reference Section 5.2)
2. Transportation Services does not object to the proposed parking deficiency of parking stalls (provided 190 stalls; required 198 stalls), which includes removal of one additional stall to improve access from the parkade.
3. Transportation Services advises that the proposed tandem parking stalls should be designated for the two bedroom units.
4. Transportation Services recommends that the applicant provide sidewalk connectors from the building entrances to the public sidewalks and bus stops on 54 Street and 162 Avenue to ensure a safe route for pedestrians and reduced potential for pedestrian/vehicle conflict in the parking lot, as shown on Enclosure I.
5. Residential Sales Centres require a separate development permit. Construction trailers must be located on private property or within the hoarded area.

Variances

1. Required parking is reduced from 198 to 190 spaces.  
Section 54.2, Schedule 1
2. Required Stepback of Building 1 from south property line is reduced from 10.0 metres to 9.4 metres. Section 210.4(11)
3. Required Separation Space is reduced to the Privacy Zone and Setbacks provided (from 7.5 metres to 4.5 metres). Section 48.2

## REASONS FOR DECISION:

The Board finds the following:

1. The proposed development, Apartment Housing, is a Permitted Use in the RA7 Low Rise Apartment Zone.
2. The Appellants did not demonstrate to the satisfaction of the Board that the proposed variances would unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
3. Based on the evidence submitted, the variance in required Parking Spaces is reasonable given the size of the development.
4. Based on the irregular shape of the building, the variance of 0.60 metres in the minimum required distance from the south property line will not increase the overall massing affect to the point where the building would not have any adverse affect on the properties to the south.
5. Based on the evidence submitted, the variance granted in relation to Separation Space has no bearing on the Appellant's property given it is in respect to certain units within the building and the building maintains the required Setback on the east property line.”

Enclosure

**IMPORTANT INFORMATION FOR APPLICANT/APELLANT**

1. **THIS IS NOT A BUILDING PERMIT.** A Building Permit must be obtained separately from the Planning and Development Department, located on the 5<sup>th</sup> 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 Planning and Development Department, located on the 5<sup>th</sup> Floor, 10250 – 101 Street, Edmonton.

NOTE: Citizens can call 311, 24-hours a day, every day of the year for access to City of Edmonton information, programs and services.

Mr. C. Thomas, Chairman  
SUBDIVISION AND DEVELOPMENT  
APPEAL BOARD

Enclosure

cc: Ms. Fantini / G. Davidson  
Ogilvie LLP – Attn: James W. Murphy, Q.C.