

## **SUBDIVISION AND DEVELOPMENT APPEAL BOARD TOWN OF STONY PLAIN**

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**HEARING DATE:** February 1, 2024  
**DECISION DATE:** February 14, 2024  
**DEVELOPMENT APPLICATION:** 2023-D0223

### **NOTICE OF DECISION**

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#### **INTRODUCTION**

On December 13, 2023 the Development Authority for the Town of Stony Plain conditionally approved an application to construct a multi-unit residential building with main floor parking area (30 dwelling units), including the following variances:

- 1) Relaxation of the minimum depth of a parking space with direct access from a lane, where there is no garage, from 7.5 m to 5.8 m.
- 2) Relaxation of the minimum width of the driveway access from 7.5 m to 6.1 m.

The property is located at 4802 50 Avenue in the Town of Stony Plain and is a permitted use within the C3 – Central Mixed Use District under Land Use Bylaw 2671/LUO/23. The Subdivision and Development Appeal Board (the “SDAB”) heard the appeal on February 1, 2024.

#### **PROCEDURAL MATTERS**

##### **A. Board Members**

At the start of the hearing, the Chair advised that a late submission by the Developer was received after the submission deadline and being introduced at the start of the hearing and the documents were made available to all parties. The Chair indicated that the document would be admitted. The Chair of the SDAB asked if anyone in attendance had any objections or concerns related to the agenda or hearing process. No one came forward.

The Chair asked whether anyone would like to request a postponement of the hearing. Al Olson requested a postponement due to late submission, Exhibit 2, being provided by the Applicant. The Board considered the postponement request and determined the evidence was not deemed as new evidence but rather supporting documentation to evidence previously submitted. The Board provided a 30-minute recess for all participants to review the submission.

The Chair of the SDAB asked if anyone had any objection to the panel hearing the appeal. The Applicant and the Appellant confirmed they had no objections.

## **B. Exhibits**

The SDAB marked the exhibits as set out at the end of this decision letter.

## **C. Procedural Matters**

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

At the end of the hearing, the Chair of the SDAB asked the Applicant and Appellant if they felt they had a fair hearing. They confirmed they had.

The Chair of the SDAB closed the Public Hearing for Development Application 2023-D0223 and advised that the SDAB must provide a written decision together with the reasons for the decision within 15 days.

## **RECOMMENDATION OF THE DEVELOPMENT AUTHORITY**

The Development Authority provided the SDAB with a written submission, which is contained in the agenda. The Development Authority conditionally approved application 2023-D00223 for the following reasons:

### Rationale for Decision:

Development officers have the authority to vary any regulation of the Land Use Bylaw as per Section 1.2.4.1.. The proposed variances, which are necessary to facilitate the development, are a reasonable deviation from the Land Use Bylaw. The overall proposal for the site meets the intent of the Land Use Bylaw and higher statutory plans. It is in the opinion of the Development Authority that the proposed development and subject variances would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

### **Parking**

The variance to the depth of the parking stalls on the east side of the proposed building was deemed reasonable as there is an additional paved area and separation of over 3.5 metres between the back of the stalls and the existing laneway. The standard required parking stall depth is 5.6 m to 5.8 m.

### **Driveway access**

The driveway access only services the ground floor parking garage, which contains 13 parking stalls. There will be limited vehicles utilizing the driveway to enter and exit the garage. The Development Authority conducted research of other parkade accesses in Stony Plain and found that the typical access to a parkade ranges from 6 to 7.5 metres. The intent of this regulation is primarily to serve larger roadway access point rather than parkades off of a rear lane.

### **Other considerations**

- The Municipal Development Standards requires a minimum lane right of way of 6.0 m. The existing laneway to the east and south of the subject property meets the standard.
- The parking stall requirements in the C3 District are subject to Section 4.1.1.1.b.i., which requires one parking stall per dwelling unit in a new development. Table 4.1.1.a applies to the required visitor parking only.
- The intent of Land Use Bylaw Section 2.12.6.2. is to restrict driveway access from the front street where laneway access is available and to restrict parking lots from being within the front yard.
- Waste is managed through a private contractor and is not part of the Town's collection program.
- The site plan was circulated internally for verification that emergency vehicles can access the lane if needed.
- The developer is constructing the sidewalk to connect with the existing trail to the east, which will accommodate pedestrian movement. There are controlled pedestrian crossings at 49 Avenue, 50 Avenue and 52 Avenue.
- Land Use Bylaw 2546/LUO/15 increased the maximum height allowed in the C3 District (formerly CT District) from 14 metres to 25 metres in 2015.
- Parking is prohibited on an Alley (lane), except for loading or unloading, as per Traffic Bylaw 2677/G/23 Section 3.2.4.p. Vehicles using the Alley for this purpose cannot obstruct the flow of traffic within the Alley. Anyone using the laneway for parking of vehicles or storage of materials is in contravention of the bylaw.

### **SUMMARY OF APPELLANT'S POSITION:**

Philip Pardo, a current neighbour to the proposed development, submitted that his concerns regarding the proposed development are:

1. Lack of consistency of the development with the Old Town Community Plan expectations.
2. Additional traffic flow in area creating safety issues.
3. Back lane width will not accommodate additional traffic usage and two-way traffic will become more difficult.
4. Back laneway cannot accommodate waste or emergency vehicles.
5. Reduction in the parking stall requirement will result in parked vehicles encroachment into laneway and impede visibility to the North lane accessway creating safety issues.
6. Inadequate parking stall requirement for number of units and bedrooms/unit; does not appear to comply with LUB.
7. Height of the proposed development is not consistent with the desired height as outlined in the Old Town Community Plan.
8. The proposal does not fit within the historic nature of the area and will affect neighbouring property owners access to sunlight, quality of life and enjoyment of their properties.

### **SUMMARY OF THOSE SPEAKING IN FAVOUR OF THE APPEAL:**

Pam Fennig, business owner within proximity of the development expressed concerns related to safety due to increased traffic and reduced parking stalls that may impede into laneway.

Wendy Devaux, a current neighbour to the proposed development also expressed concerns that the proposed development does not meet the characteristic of the surrounding residential homes per the Old Town Community Plan. Wendy also, provided concerns regarding traffic safety accessing the laneway from the north. Further concerns related to the ability of two-way traffic along the laneway with the reduced parking stall variances and the hairpin corner were expressed. Wendy Devaux also noted that it would be challenging for emergency and waste management vehicles to access the laneway to respond to the proposed development.

Barbara Blackport, a resident of a multi-unit complex on 52 Avenue, expressed concerns related to the reduced parking stalls and how that may impact traffic flow on the laneway if parked vehicles impede into the laneway. She also noted her concerns related to how increased traffic will affect the pedestrian crossings on Hwy 779 and safety due to the proximity of the proposed development to the intersections.

Al Olson, a current neighbour to the proposed development, provided concerns related to the proposed development not meeting the intent of the Old Town Community Plan with respect to the height of the building, landscaping requirements and the removal of trees, and safety concerns due to increased traffic on the laneway and at the north access just off of Hwy 779. He also noted concerns related to conflicting language between the Old Town Community Plan and the Land Use Bylaw and which document had precedence.

Zoe Pardo, a current neighbour to the proposed development, expressed concerns related to the lane access and the increased traffic impact on the north access and Highway 779, citing safety concerns. She also expressed concerns in relation to the perceived conflict between the Old Town Community Plan and the Land Use Bylaw in relation to building height and characteristic of the neighbourhood.

The Board considered the written evidence from individuals speaking in favour of the Appeal as listed in the Exhibits.

### **SUMMARY OF APPLICANT'S POSITION:**

The Applicant, Sweetpal Chauhan submitted that:

1. There is a housing shortage in Stony Plain, and the proposed development would provide needed housing inventory.
2. The C3 district allows for higher density development.
3. The Old Town Community Plan encourages higher density development.
4. The proposal is achievable and aligned with the Town's Land Use Bylaw requirements.
5. The Developer is working with Alberta Transportation for permanent access rights to Lot 8 usage and an agreement has been agreed upon and awaiting the developer's execution.
6. The variances related to the driveway and parking stalls have been reviewed by Professional Engineers with an opinion provided that indicates the variances are acceptable and will accommodate the traffic and parking needs.

## EVIDENCE

Evidence presented to the SDAB included:

- The SDAB Agenda Package dated February 1, 2024.
- Written submission (as presented in agenda package) and verbal presentation from Development Authority.
- Written submission (as presented in agenda package) and verbal presentation from the Appellant.
- Written submission (as presented in agenda package) and verbal presentation from the Applicant.
- Letters of concern from the following residents:
  - Christine Bauer and Iven Reksten
  - Jakelina Trautman
  - Laefer and Brittanie Lewis
  - Wendy Devaux
- Verbal presentations from the following individuals:
  - Pam Fennig
  - Wendy Devaux
  - Barbara Blackport
  - Al Olson
  - Zoe Pardo

## FINDINGS OF FACT

1. The subject property is located at 4802 50 Avenue.
2. The subject property is located in the C3 – Central Mixed Use District.
3. Multi-unit dwelling is a permitted use within the C3 District.
4. The subject property is designated as Highway Commercial Character Area within the Old Town Community Plan (Area Re-development Plan).
5. The proposed development is comprised of high density residential use.
6. The height of the development complies with the C3 District.
7. The parking requirements for a Multi unit dwelling in a C3 – Central Mixed Use District as outlined in 4.1.1(1)(b) of the Land Use Bylaw are:
  - a) 1 parking space per Dwelling Unit must be provided for residential uses,
  - b) No parking required for all other uses,
8. The parking is contained off the laneway which is a continuous flow that surrounds the property on two (2) sides (rear yard and side yard).
9. The proposed development requires the following variances to the development regulations of the C3 District:
  - a) Relaxation of the minimum depth of a parking space with direct access from a lane, where there is no garage, from 7.5 m to 5.8 m.
  - b) Relaxation of the minimum width of the driveway access from 7.5 m to 6.1 m.
10. As per Land Use Bylaw 2671/LUO/23, the Development Authority may vary any regulation of the bylaw and issue a development permit even though the proposed development does not comply with one or more regulations of the bylaw or is a non-conforming building if the proposed development:
  - (a) Conforms to the use prescribed for that land or building in the bylaw; and

- (b) would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
11. A Professional Engineering opinion provides that the variance for parking on the east side is acceptable and will not affect operation of the adjacent lane. The proposed parking will accommodate the length of most passenger vehicles and there is an additional 4.0 m offset from the property line to the lane, which provides a buffer that effectively results in a parking stall length that is about 9.8 m, which exceeds the LUB standard 7.5 m length for a stall adjacent to a lane.
  12. A Professional Engineering opinion provides that the variance for a reduction in size of the access from the lane into the indoor parkade on the south side of the building is acceptable and will not affect the operation of the access as it is a driveway into an indoor parkade with 13 stalls, and would only ever accommodate passenger vehicles, as deliveries, garbage collection, and emergency services would access the building via the loading zone adjacent to the alley or on 50 Avenue. It further provides that commercial vehicles will not have physical access into the parkade due to height restrictions and provides data to support that two large passenger vehicles will be able to pass when entering/exiting the parkade, with adequate clearances.
  13. The Development Authority conducted research of other parkade accesses in Stony Plain and found that the typical access to a parkade ranges from 6 to 7.5 metres. The intent of this regulation is primarily to serve larger roadway access point rather than parkades off of a rear lane.
  14. The Development Authority confirmed Alberta Transportation and Economic Corridors permit approval.
  15. Five residents, including the appellant submitted written concerns, stating they had concerns regarding parking, traffic flow and safety, inconsistent character of the development within the neighbourhood and height of building.
  16. Six residents, including the appellant provided verbal submissions related to concerns they had in relation to required number of parking stalls, access issues to laneway, landscaping provisions, tree removal, characteristic of development, and pedestrian safety.
  17. The Town does not have a private tree bylaw and as the proposed development is a permitted use in the C3 District landscaping requirements are not subject to the appeal.
  18. As the proposed development is a permitted use within the C3 District the height and characteristic of the development are not subject to the appeal.
  19. As the use and required parking stalls are in compliance with the C3 District, traffic considerations are not subject to the appeal.
  20. The development application was circulated to Town Engineering and Emergency Services for review and no concerns were identified.
  21. Traffic flow and considerations are determined through the Municipal Development Standards and are not subject to development permit approval therefore not within the jurisdiction of the SDAB.
  22. It is the opinion of the Development Authority that the proposed development and variances would not materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

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

In making this decision, the SDAB reviewed all the evidence presented and considered provisions of the following legislation:

- Land Use Bylaw 2671/LUO/23
  - Section 1.2.0. Powers and Duties of the Development Authority
  - Section 2.12.0. C3 – Central Mixed Use District
  - Section 4.1.1. General Parking Regulations
  - Section 4.5.0. Driveways and Access to Roads and Lanes
  - Section 6.1.0. Definition - Multi-unit Dwelling
- Old Town Community Plan

- Uniquely Stony Plain Municipal Development Plan 2020

The SDAB DENIES the appeal and UPHOLDS the decision of the Development Authority made on December 13, 2023, to approve development application 2023-D0223, and APPROVES the development permit with the following condition:

- An agreement is executed between the Developer and Alberta Transportation in relation to Lot 8 & 9 that provides the Developer use of lots to achieve the additional lane width as provided on the approved plans.

## REASONS FOR DECISION

The SDAB is of the opinion that:

1. The variances provided are within the scope and intent of the Town's Land Use Bylaw and Old Town Community Plan and can be accommodated on the proposed site.
2. The Highway Commercial Character Area within the Old Town Community Plan provides an opportunity for a range of medium-density commercial, residential and institutional uses requiring larger lots. Development within the Highway Commercial area is designed to accommodate a high number of travellers using the thoroughfares in the area.
3. In accordance with section 687(3)(d) of the Municipal Government Act, the variances would not unduly interfere with the amenities of the neighbourhood and the proposed development conforms with the use prescribed for the land within the Land Use Bylaw.
4. The proposed development and variances would not materially interfere with or affect the use or enjoyment of neighbouring parcels of land.
5. The variance is a reasonable deviation from the applicable Development regulations.
6. There was no direct correlation between the appellants evidence and the variances requested.

For these reasons, the Board denies the appeal and approves the development application with the amended condition noted.

This decision was issued on this 14 day of February 2024, for the Town of Stony Plain Subdivision and Development Appeal Board.



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Justin Laurie, Chair  
Subdivision and Development Appeal Board

*Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.*

**APPENDIX A:  
REPRESENTATIONS**

**PERSONS APPEARING**

1. Catherine Kozyra, Development Authority
2. Justin Young, Development Authority
3. Philip Pardo, Appellant
4. Sweetpal Chauhan, Applicant
5. Raghvinder Singh, Applicant
6. Al Olsen, Resident
7. Pam Fennig, Resident
8. Wendy Devaux, Resident
9. Barbara Blackport, Resident
10. Zoe Pardo, Resident

**APPENDIX B:  
DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB**

	Description	Date	Pages
1.	SDAB Agenda Package	February 1, 2024	78
2.	Scheffer Andrew Ltd. Submission	February 1, 2024	9
3.	Philip Pardo submission, Photographs and drawing	February 1, 2024	16