



**SUBDIVISION AND DEVELOPMENT
APPEAL BOARD**

DATE: **Wednesday, January 10, 2024**
TIME: **6:00 p.m.**
PLACE: Council Chambers
FILE: B02

REVISED AGENDA

1. Election of Chair and Vice Chair for 2024

2. Adoption of Agenda

3. Radius Notifications

4. Submissions re sequence of Appeal Hearings

5. Appeals

a) 42 Rosewood Way, St. Albert, AB

The Appellant is appealing a refused Development Permit to construct a new single detached dwelling with attached garage and deck.

b) 32 St. Anne Street, St. Albert, AB

Appellant is appealing the decision of the STOP ORDER issued December 8, 2023 that states:

In contravention - Development activity described as installation of sheet piling has occurred and is ongoing, which is neither authorized by a development permit nor allowed under section 3.2 of the City's Land Use Bylaw.

c) 32 St. Anne Street, St. Albert, AB

The Appellant is appealing a refused Development Permit to construct a new 8 storey mixed use commercial / residential building with ground floor commercial and 118 residential units.

6. Adjournment

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION
SDAB #LEG00949 - 2024

Re: PLAN 232 0078; BLOCK 6; LOT 6 - known municipally as 42 Rosewood Way, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit application to construct a single detached dwelling with attached garage and rear deck.

The Appellant had no objection to the members of this Board hearing and deciding this Appeal.

At the commencement of the hearing, the Chair identified that he knew one of the principals of the Appellant from minor sports around 10 years ago. There were no objections to the Chair participating in the Appeal. Further, none of the other members of the Board identified a conflict that would prevent them from hearing the matter.

The Board considered the Development Officer's written report and heard from the Development Officer who stated that:

The Appellant is appealing the decision of the Development Officer in refusing a development permit application to construct a single detached dwelling with attached garage and rear deck at 42 Rosewood Way. The application included a variance to the maximum allowable lot coverage.

This property is located within a low-density (RX) residential land use district. Within the RX district, a single detached dwelling with attached garage and a rear deck are permitted uses.

As per Land Use Bylaw Section 8.35(9)(a), The maximum lot coverage for a single detached house is 40% for the principal building and garage. As proposed, the lot coverage for the principal building and garage would be 41.51%. The proposal is 1.51% over the maximum allowable lot coverage.

As per Land Use Bylaw Section 3.14(2)(a), a Development Officer does not have the authority to vary lot coverage.

Development Officer Review:

- 1) The property is districted RX.
- 2) The maximum lot coverage for a dwelling and garage on an RX lot is 40%.
- 3) The application is for a new home in a new neighbourhood on a rectangular lot.
- 4) The proposed development is for a 2,422 ft² (225.01 m²), 2-storey single detached dwelling with attached garage and rear deck.

Main Floor:

a) Living area measuring 1,118 ft² (103.87 m²), consisting of a living room, dining nook, kitchen, double pantry, den, mudroom, and half bath.

b) Attached garage measuring 543.15 ft² (50.46 m²)

c) Front porch measuring 36.06 ft² (3.35 m²)

Second Floor:

a) Living area measuring 1,304 ft² (121.15 m²), consisting of four bedrooms, a bonus room, two bathrooms, and a laundry room.

5) Lot Area = 378.42 m² (4,073.3 ft²)
Building Footprint Area = 157.10 m² (1,691.0 ft²)
Lot Coverage = **41.51%**

6) Lot Coverage:

Maximum lot coverage (LUB): 40%

Proposed lot coverage: 41.51%

Variance Required: 1.51%

- 7) The Development Officer does not have the authority to vary lot coverage.

The Development Officer proposed the following conditions and notes should the Board grant the Appeal:

Conditions:

- 1) Development Permit approval is issued for the construction of a single-detached dwelling with attached garage and rear deck; issued in accordance with the provisions of Land Use Bylaw 9/2005.
- 2) A variance to the maximum allowable lot coverage is hereby approved. The lot coverage for the dwelling and attached garage is approved at 41.51%.

3) No portion of a fireplace chase or cantilevered section including eaves shall project more than 0.6 m into a required side yard.

4) The finished floor of the main level shall not be located more than 2.0 m above the finished grade.

5) The dwelling height shall not exceed 11.0 m.

6) Any changes in design, elevation or site plan configuration shall first be submitted for review by the Development Officer and any such changes shall not be undertaken until written authorization is provided by the Development Officer.

7) If a lot less than 11.5m in width, the driveway shall not exceed 5.5m in width at the front property line. Driveways shall be grouped on lots less than 12.2m in width to maximize on-street parking with a minimum of one on-street parking space provided to every two lots. There shall be a minimum separation distance between grouped driveways of 2.7m. See Section 8.21 of the Land Use Bylaw for details.

8) A concrete driveway apron from curb to sidewalk is required. A hard-surfaced driveway, as approved by the Development Officer in consultation with Engineering Services, is required from sidewalk to face of the garage.

9) The development shall be constructed in accordance with the stamped, approved plan(s).

10) The landscaping shall be completed within two (2) years of the date of building permit approval.

11) The exterior finishes must be completed within two (2) years of the date of development permit approval.

12) The deck, as approved, shall remain uncovered and unenclosed.

13) Future deck and basement development shall be subject to a separate development permit application.

NOTES:

a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.

b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.

c) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations, and standards.

d) The City of St. Albert 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 St. Albert, 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 or within the property.

e) The city property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a city representative will contact the applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

The Board heard from the Appellant who stated that:

The Appellant was represented by Mr. Salvatore DeRose. He made submissions regarding the request for the variance to the lot coverage.

The Appellant would like to keep the house as per plan as the house is pre-sold and their client does not want to make any changes. The Appellant's client provided the floor plan and the Appellant plotted the proposed house on the land and did not anticipate surpassing the lot coverage requirements by 1.5%. The transaction is pending obtaining the variance that is requested.

The house fits within the building pocket on the lot, and there are no neighbouring houses built beside this lot. As such no approvals from adjacent neighbours were obtained.

The Appellant reviewed two potential options presented to their client to bring the residence in compliance with the lot coverage and neither option was acceptable to them.

The Appellant and their client would like to keep the floor plan as is, as it is not affecting any neighbouring houses as it is a new phase in a subdivision.

Board also considered/reviewed the following:

There were no responses from the Radius Notification area that were opposed to the variance.

The Board finds the following:

Allowed with conditions:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to construct a single detached dwelling with attached garage and rear deck located at **42 Rosewood Way, St. Albert, AB.**

The development is approved with the following conditions:

Conditions:

- 1) Development Permit approval is issued for the construction of a single-detached dwelling with attached garage and rear deck; issued in accordance with the provisions of Land Use Bylaw 9/2005.
- 2) A variance to the maximum allowable lot coverage is hereby approved. The lot coverage for the dwelling and attached garage is approved at 41.51%.
- 3) No portion of a fireplace chase or cantilevered section including eaves shall project more than 0.6 m into a required side yard.
- 4) The finished floor of the main level shall not be located more than 2.0 m above the finished grade.
- 5) The dwelling height shall not exceed 11.0 m.
- 6) Any changes in design, elevation or site plan configuration shall first be submitted for review by the Development Officer and any such changes shall not be undertaken until written authorization is provided by the Development Officer.
- 7) If a lot less than 11.5m in width, the driveway shall not exceed 5.5m in width at the front property line. Driveways shall be grouped on lots less than 12.2m in width to maximize on-street parking with a minimum of one on-street parking space provided to every two lots. There shall be a minimum separation distance between grouped driveways of 2.7m. See Section 8.21 of the Land Use Bylaw for details.
- 8) A concrete driveway apron from curb to sidewalk is required. A hard-surfaced driveway, as approved by the Development Officer in consultation with Engineering Services, is required from sidewalk to face of the garage.

9) The development shall be constructed in accordance with the stamped, approved plan(s).

10) The landscaping shall be completed within two (2) years of the date of building permit approval.

11) The exterior finishes must be completed within two (2) years of the date of development permit approval.

12) The deck, as approved, shall remain uncovered and unenclosed.

13) Future deck and basement development shall be subject to a separate development permit application.

NOTES:

a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.

b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.

c) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations and standards.

d) The City of St. Albert 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 St. Albert, 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 or within the property.

e) The city property on or adjacent to development including, but not limited to; the existing sidewalk, curb and boulevard features shall be protected from damage throughout the construction process. Damage caused by the owner, builder, tradesman or suppliers shall be repaired to the satisfaction of the City of St. Albert Engineering Services. An inspection of the existing site conditions must be completed by city staff prior to commencement of the work. All snow and debris shall be removed from the sidewalk areas for the inspection. If necessary, a city representative will contact the applicant and request the site be cleared for inspection, prior to demolition and commencement of construction.

f) An on-street construction permit is required for any construction taking place on City property including but not limited to driveway construction. Contact Engineering Services at 780-459-1654 to obtain the permit.

The Board makes its decision for the following reasons:

1. The Board concludes that (in accordance with section 687(3)(d) of the *Municipal Government Act*) the variance will not unduly interfere with the amenities of the neighbourhood, and/or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land based on the following because:
 - a. There were no objections from any of the properties notified within the radius notification area; and
 - b. The lot variance sought was a minor percentage above the required lot coverage.
2. The proposed development conforms with the use prescribed for the land within the Land Use Bylaw.

The Applicant is responsible for complying with all applicable federal, provincial and municipal enactment and any other applicable law and for obtaining all applicable permits, licenses and approvals. Building permits must be obtained from the Building Inspector who can be contacted at 780-459-1655.

Michael Kirk
Michael Kirk (Jan 19, 2024 14:07 MST)

Chair

January 19, 2024

Date

b) 32 St. Anne Street, St. Albert, AB

Appellant is appealing the decision of the **STOP ORDER** issued December 8, 2023 that states:

In contravention - Development activity described as installation of sheet piling has occurred and is ongoing, which is neither authorized by a development permit nor allowed under section 3.2 of the City's Land Use Bylaw.

RESINDED (No Hearing)

ALLOWED WITH CONDITIONS

CITY OF ST. ALBERT

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION SDAB #LEG00947 - 2024

Re: PLAN 2321930; BLOCK 5; LOT 41A - known municipally as 32 St. Anne Street, St. Albert, AB.

Regarding the appeal of a decision of the Development Officer in refusing a development permit to construct a new 8 Story Mixed Use Commercial / Residential Building with ground floor commercial and 118 residential units.

The Appellant had no objection to the members of this Board hearing and deciding this Appeal.

One of the members of the Board advised that family members were involved with the St. Albert Community Hall. There was no opposition to the member participating in this Appeal.

The Board considered the Development Officer's written report and heard from the Development Officer who stated that:

The Appellant is appealing the decision of the Development Officer to refuse a development permit application (DP 070348) to construct an 8 Story Mixed Use Building with main floor commercial and 118 apartment units.

The property is located in the Downtown (DT) Land Use District which is regulated by Section 10.8 of Land Use Bylaw 9/2005.

The development permit sought by the appellant was refused by the Development Officer for the reasons set out in DP 070348 issued December 11, 2023.

The variances requested relate to Development Regulations of the Land Use Bylaw. The variances required to approve the project were not within the variance capacity of the Development Officer to grant, in accordance with Section 3.14 of the Land Use Bylaw. Administration recommends that the Board approve the issuance of a Development Permit, subject to the following variances and conditions:

Conditions

1. The development authorized is an 8-storey mixed use building with main floor commercial and 118 residential units. The previous approval issued by the Subdivision and Development Appeal Board on October 19, 2020 (DP 066155) for

a similar development on this property is hereby rescinded and is no longer valid or subsisting.

2. Before commencing any work on the development, the Appellant must:
 - (a) enter into a Development Agreement with the City of St. Albert, the content of which is satisfactory to the Development Authority, addressing matters set out in section 650(1) of the *Municipal Government Act* as the Development Authority deems appropriate.
 - (b) enter into a Servicing Agreement with the City of St. Albert to the satisfaction of the Development Authority (or alternatively include provisions within the aforesaid Development Agreement) addressing requirements for the Appellant to install or pay for the installation of off site servicing and off site roadway improvements for the purpose of ensuring adequate and safe public access including emergency vehicle access to the development to the development standards and engineering standards of the City. Without limiting the generality of the foregoing, the said Servicing Agreement or Development Agreement provisions may specify that the Appellant and the City will share portions of the cost and responsibility of improvements to the back alley adjacent to the development site; to Perron Street in the immediate vicinity of the alley access to the development, and the Perron/St. Anne Street intersection.
3. Before commencing any work on the development, the Appellant must provide drawings to the satisfaction of the Development Authority showing the location of, and access to, a combination of the required commercial stalls and residential stalls in the parkade and surface parking locations. To the extent that the said number of parking stalls is less than the number that would be needed to comply with the parking requirements of the Land Use Bylaw, a variance is hereby granted.
4. Before commencing any work on the development, including but not limited to site stabilization preparatory work for the foundation, the Appellant must provide drawings and documents to the satisfaction of the Building Inspections Authority, and a Building Permit must be issued.
5. All future uses and interior alterations/tenant improvements shall be subject to separate development and building permit approval.
6. The development site and building shall be developed as per the plans stamped, signed, and conditionally approved by the Development Authority, Land Use Bylaw requirements, and variances and conditions herein approved by the Subdivision and Development Appeal Board.
7. Any work done to implement changes of any kind or magnitude to the plans as submitted in evidence to the Subdivision and Development Appeal Board will constitute a contravention of this approval for which the City may take any and all

enforcement measures available to it at law, unless the changes are approved under a new development permit application, whether by a development officer or on appeal to the Subdivision and Development Appeal Board.

8. The site is to be serviced, landscaped and fenced as applicable as per the plans accepted by the Development Authority, in consultation with the City Engineering Department as may be required; which acceptance may impose any conditions, including but not limited to completion deadlines, the provision of security and minimum insurance requirements that the City considers appropriate.
9. All building elevations to be as indicated on the stamped, approved plans with the final appearance and type of exterior finishing materials to be approved by the Development Authority.
10. Screening Requirements:
 - a) All rooftop mechanical equipment must be visually and acoustically screened to the satisfaction of the Development Authority, and;
 - b) Any exterior garbage and/or recycle containers as proposed and future installation of same, shall be located within enclosures that are screened to the satisfaction of the Development Officer.
11. Landscaping and exterior finishing of the building shall be completed within two (2) years of development permit issuance.
12. Outdoor lighting for the development shall comply with the provisions of Section 6.17 of the Land Use Bylaw. In this regard, outdoor lighting must be located and arranged so that rays of light are not directed at an adjacent site and indirect rays of light do not adversely affect an adjacent site.
13. Prior to the occupancy of the building all conditions of development permit approval, save those of a continuing nature, shall be fulfilled unless written authorization is otherwise provided by the Development Authority.
14. Prior to the issuance of a building permit, the following fees, levies, charges, securities and documentation shall be provided to the City (where dollar amounts are not specified, they are as set out in the Master Rates Bylaw, as established by or under the authority of the Chief Administrative Officer, or as calculated pursuant to the City's bylaws respecting property taxation):
 - a) Off-site charges;
 - b) Construction water charges;
 - c) Street cleaning levy;
 - d) Detailed site grading and drainage plan;
 - e) Detailed plans for underground power, water, sanitary and storm sewer servicing including the location of all service connections as required;
 - f) Two (2) complete sets of detailed construction drawings, including detailed architectural, structural, electrical and mechanical drawings;

- g) Payment of any outstanding property tax arrears;
- h) A Certificate of Insurance to the satisfaction of the City
- i) Applicable building permit fees;
- j) A detailed landscape plan prepared by a registered Alberta Landscape Architect, to the standards, Land Use Bylaw requirements and satisfaction of the Development Authority.

NOTES:

- a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.
- b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.
- c) Without limiting the generality of the foregoing clause, the applicant/developer shall be responsible for acquiring various permits as required from the City's Engineering Department including an On-Street Construction Permit, Water and Sewer Connection Permit, etc. In this regard, please contact the Manager of Development Engineering.
- d) The City of St. Albert 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 St. Albert, 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 or within the property.
- e) A digital file of the underground servicing plan is to be submitted to the satisfaction of the Development Approving Authority; a landscape "as-built" package including one PDF file, and one AutoCAD file.
- f) The applicant and/or the developer shall be responsible for the following:
 - i) the costs and installation of paving, drainage and curbing of all driveway, parking and loading areas.
 - ii) installation of fire hydrants to the satisfaction of the Development Approving Authority.
 - iii) coordinating with the various utility companies regarding their respective services.

- g) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations, and standards.
- h) Addressing of individual units shall be coordinated with the City. Please contact a Planning Technician at 780-459-1642.

The Development Officer also confirmed that the variance for the parking reduction was 25.27%, which exceeded the Development Officer's discretion by 0.27%.

It was also confirmed during the Hearing that the Development Permit that was allowed pursuant to the decision of the SDAB in its decision of October 19th, 2020 was still in place as of the date of the hearing of this Appeal.¹

Also, the Development Officer and Counsel for the City advised that the Development Department and the Development Authority support the application for the variances.

The Board heard from the Appellant who stated that:

The Appellant was represented by John Clarke. Mr. Clarke advised that this is a revised application for a Development Permit as it relates to the Development Permit for this site that was granted on October 19th, 2020. The proposed development has been modified somewhat, as the adjacent lot has been purchased and the underground parkade has been modified from 3 floors to 2, extends into that lot.

There is also a modification of the pedestal from three floors to one. He also indicated that there are no new variances proposed by the Appellant.

The variances sought are the reduction of the pedestal from three floors to one, the setback requirements (which are the same as for the October 19th, 2020 Development Permit), and the variance for a reduction in parking spaces.

In response to inquiries from the Board about any Traffic Impact Studies ("TIA"), Mr. Adrian Slaght from the City Transportation Department advised that the Transportation Department had no concerns with the Appeal and the variances sought. Mr. Slaght advised that there was sufficient parking in the downtown area.

The Board inquired about structural engineering issues with this development. The Appellant's structural engineer spoke to the issue of the reduction in the number of levels for the pedestal. This related to the issue of having to remove support piles that had been installed and were cracking. The removal created a scenario where the groundwater seeped into the holes, thereby reducing the soil strength. With the reduction in the pedestal floors and a new system for piling (sheet piling), this would provide the necessary strength for support of the building. The piling is anticipated to last 12 weeks from approximately February 1, 2024.

¹ SDAB decision #LEG00862, October 19th, 2020.

Mr. Clarke also indicated that much of the building is pre-fabricated and has been in a storage lot for the last three years. He also mentioned that this building will be the first zero emission building in Western Canada.

Mr. Clarke also made submissions about the type of vibrations that would result from the sheet piling. He indicated that the nature of the new piling was such that there should not be significant vibration to adjacent properties. It should also not affect the structural integrity of the adjacent properties given the type of construction of the adjacent buildings.

On the issue of potential claims, the project has “wrap-up” type insurance that would be available for claims from adjacent landowners.

It was also submitted that the building permit portion of the construction as well as the conditions and notes proposed by the Development Officer as part of the Development permit would cover any construction related issue, and those specific to vibrations.

The Board also considered/reviewed the following:

There were a number of parties that appeared and spoke against and for the Appeal.

Dr. Kelly Burgess

Dr. Burgess spoke against the Appeal. She advised:

- she owns the property adjacent to the west of the subject property.
- the building has been there in one form or another since 1970. She purchased it in 1987 and built a new building in 2006.
- her concerns related to parking. They already have issues with people other than patients parking in her office lot.
- She also indicated that in her opinion the City had not properly studied the traffic impact in the rear alley.
- she also referenced pounding from the construction piling work and how it affected her building.

Brenda Burgess

Ms. Burgess spoke against the Appeal. She advised:

- she is a business owner with an accounting business in the building which is adjacent (the same building as the veterinarian practice).
- she raised issues about the nature of the vibration and its impact on her office operations from the piling work and associated vibrations.
- she referenced parking issue and issues with the rear alley as well.

Chris Skrobot

Mr. Skrobot spoke against the Appeal. He advised:

- his property is southwest of the subject property was affected by the vibrations from piling work.
- he referenced both the 2020 SDAB Decision and excerpts from a City of Toronto bylaw relating to vibration from construction.²
- Mr. Skrobot suggested that the vibrations from piling work would affect the structural integrity of his building but offered no evidence to support that position.
- Mr. Skrobot also referenced possible damage and wanted the Board to include conditions on the Development Permit, if granted to include, requiring insurance to cover the adjacent landowners and also for provisions such as the Toronto bylaw to be added as conditions.

Bentley Barr

Mr. Barr was notified of the Appeal pursuant to the radius notification. He advised as follows:

- he was part of the St. Albert Community Hall.
- he indicated that the parking would be affected.
- they already had issues with parking, both in the private and non-private stalls. The problems related to people not authorized to park in the private stalls, doing so. This has been an ongoing problem.
- they tracked the vehicles and some of them belonged to business owners in the downtown area using the private parking.
- he suggested this problem was going to get worse.
- they have complained to By-Law enforcement and the RCMP without success.
- Mr. Barr suggested that the City already exceeded its parking parameters in the downtown area.

Bill Gavigan

Mr. Gavigan is a subcontractor for Niche Developments. He advised that:

- he has observed the back alley which has been raised as a concern.
- he has also observed people exiting from the veterinarian's lot (Dr. Burgess) and proceeding across the alley and not using it.
- the development subject of the Appeal is one of the best things that has happened to the St. Albert Downtown core.
- that any of the piling work, installation or removal, did not cause any structural damage to any building downtown.

² The City of St. Albert does not have a By-Law relating to construction vibration and there does not appear to be any type of provision mandated in the Alberta Building Code which is Provincial Government jurisdiction.

The Board finds the following:

The Appeal focused on the issue of parking and access. The parties that spoke in opposition to the Appeal made no submissions in relation to the setback variance sought, and the reduction in the pedestal.

On the issue of parking, the issue was focused on access to parking in Downtown St. Albert. First, the variance sought with respect to the parking was marginally outside of the Development Officer's discretion by 0.27%. The variance sought was 25.27% and the Development Officer's discretion is 25%.

The representative from the City's Transportation Department, Mr. Slaght, made submissions in relation to the capacity for parking in downtown St. Albert. He indicated that the capacity had not reached 90% (and was closer to 80%) and there were over 500 public parking spaces in the downtown area. The issue was that they were all over the downtown area and people would be inclined to find the closest parking spaces.

Much of the parking issues complained of were not specific to this project and the Appeal. The concerns raised were more in relation to what the parties were experiencing and their concern of the effect of the project on their parking.

However, the Board is of the view and accepts the City's submissions that there are a sufficient number of parking spaces in the downtown area to handle capacity, and provide spaces for the businesses of downtown St. Albert.

There was also concern raised about the project, specifically piling work, having an effect on the structural integrity of the adjacent buildings. This was raised by Dr. Burgess, Brenda Burgess and Mr. Skrobot. They all indicated that their respective buildings were subject of vibrations from piling work, and that was the removal of the piles that had previously been installed. However, none of the parties in opposition to the appeal provided any engineering reports to support their contentions.

The Board is satisfied that construction related issues will be dealt with through the conditions and notes that will be part of the Development Permit as well as in relation to any Building Permits that will be required. Furthermore, the Board is satisfied that the vibrations from piling will be minimized with the sheet piling that will be used. Also, the piling portion of the work will last only 12 weeks of the construction which should commence early February 2024.

Allowed with conditions:

The Subdivision and Development Appeal Board of the City of St. Albert hereby grants the Appeal to construct a new 8 Story Mixed Use Commercial / Residential Building with ground floor commercial and 118 residential units located at **32 St Anne Street, St. Albert, AB.**

The development is approved with the following conditions and notes:

Conditions

1. The development authorized is an 8-storey mixed use building with main floor commercial and 118 residential units. The previous approval issued by the Subdivision and Development Appeal Board on October 19, 2020 (DP 066155) for a similar development on this property is hereby rescinded and is no longer valid or subsisting.
2. Before commencing any work on the development, the Appellant must:
 - (a) enter into a Development Agreement with the City of St. Albert, the content of which is satisfactory to the Development Authority, addressing matters set out in section 650(1) of the *Municipal Government Act* as the Development Authority deems appropriate.
 - (b) enter into a Servicing Agreement with the City of St. Albert to the satisfaction of the Development Authority (or alternatively include provisions within the aforesaid Development Agreement) addressing requirements for the Appellant to install or pay for the installation of off site servicing and off site roadway improvements for the purpose of ensuring adequate and safe public access including emergency vehicle access to the development to the development standards and engineering standards of the City. Without limiting the generality of the foregoing, the said Servicing Agreement or Development Agreement provisions may specify that the Appellant and the City will share portions of the cost and responsibility of improvements to the back alley adjacent to the development site; to Perron Street in the immediate vicinity of the alley access to the development, and the Perron/St. Anne Street intersection.
3. Before commencing any work on the development, the Appellant must provide drawings to the satisfaction of the Development Authority showing the location of, and access to, a combination of the required commercial stalls and residential stalls in the parkade and surface parking locations. To the extent that the said number of parking stalls is less than the number that would be needed to comply with the parking requirements of the Land Use Bylaw, a variance is hereby granted.
4. Before commencing any work on the development, including but not limited to site stabilization preparatory work for the foundation, the Appellant must provide drawings and documents to the satisfaction of the Building Inspections Authority, and a Building Permit must be issued.
5. All future uses and interior alterations/tenant improvements shall be subject to separate development and building permit approval.

6. The development site and building shall be developed as per the plans stamped, signed, and conditionally approved by the Development Authority, Land Use Bylaw requirements, and variances and conditions herein approved by the Subdivision and Development Appeal Board.
7. Any work done to implement changes of any kind or magnitude to the plans as submitted in evidence to the Subdivision and Development Appeal Board will constitute a contravention of this approval for which the City may take any and all enforcement measures available to it at law, unless the changes are approved under a new development permit application, whether by a development officer or on appeal to the Subdivision and Development Appeal Board.
8. The site is to be serviced, landscaped and fenced as applicable as per the plans accepted by the Development Authority, in consultation with the City Engineering Department as may be required; which acceptance may impose any conditions, including but not limited to completion deadlines, the provision of security and minimum insurance requirements that the City considers appropriate.
9. All building elevations to be as indicated on the stamped, approved plans with the final appearance and type of exterior finishing materials to be approved by the Development Authority.
10. Screening Requirements:
 - a) All rooftop mechanical equipment must be visually and acoustically screened to the satisfaction of the Development Authority, and;
 - b) Any exterior garbage and/or recycle containers as proposed and future installation of same, shall be located within enclosures that are screened to the satisfaction of the Development Officer.
11. Landscaping and exterior finishing of the building shall be completed within two (2) years of development permit issuance.
12. Outdoor lighting for the development shall comply with the provisions of Section 6.17 of the Land Use Bylaw. In this regard, outdoor lighting must be located and arranged so that rays of light are not directed at an adjacent site and indirect rays of light do not adversely affect an adjacent site.
13. Prior to the occupancy of the building all conditions of development permit approval, save those of a continuing nature, shall be fulfilled unless written authorization is otherwise provided by the Development Authority.
14. Prior to the issuance of a building permit, the following fees, levies, charges, securities, and documentation shall be provided to the City (where dollar amounts are not specified, they are as set out in the Master Rates Bylaw, as established by or under the authority of the Chief Administrative Officer, or as calculated pursuant to the City's bylaws respecting property taxation):

- a) Off-site charges;
- b) Construction water charges;
- c) Street cleaning levy;
- d) Detailed site grading and drainage plan;
- e) Detailed plans for underground power, water, sanitary and storm sewer servicing including the location of all service connections as required;
- f) Two (2) complete sets of detailed construction drawings, including detailed architectural, structural, electrical and mechanical drawings;
- g) Payment of any outstanding property tax arrears;
- h) A Certificate of Insurance to the satisfaction of the City
- i) Applicable building permit fees;
- j) A detailed landscape plan prepared by a registered Alberta Landscape Architect, to the standards, Land Use Bylaw requirements and satisfaction of the Development Authority.

NOTES:

- a) A person applying for, or in possession of, a valid development permit is not relieved from full responsibility for ascertaining and complying with or carrying out development in accordance with the conditions of any covenant, caveat, easement or other instrument affecting the building or land.
- b) The applicant shall be responsible for compliance with all applicable Federal, Provincial and Municipal laws, regulations and standards, as well as ensuring compliance with, and be responsible for obtaining, all applicable permits, licenses and approvals, at its own expense.
- c) Without limiting the generality of the foregoing clause, the applicant/developer shall be responsible for acquiring various permits as required from the City's Engineering Department including an On-Street Construction Permit, Water and Sewer Connection Permit, etc. In this regard, please contact the Manager of Development Engineering.
- d) The City of St. Albert 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 St. Albert, 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 or within the property.
- e) A digital file of the underground servicing plan is to be submitted to the satisfaction of the Development Approving Authority; a landscape "as-built" package including one PDF file, and one AutoCAD file.
- f) The applicant and/or the developer shall be responsible for the following:

- i) the costs and installation of paving, drainage and curbing of all driveway, parking and loading areas.
 - ii) installation of fire hydrants to the satisfaction of the Development Approving Authority.
 - iii) coordinating with the various utility companies regarding their respective services.
- g) All construction must conform to the relevant requirements of the Alberta Building Code, the City of St. Albert municipal engineering standards and all applicable codes, laws, regulations, and standards.
- h) Addressing of individual units shall be coordinated with the City. Please contact a Planning Technician at 780-459-1642.

The Board makes its decision for the following reasons:

1. The Board concludes that (in accordance with section 687(3)(d) of the *Municipal Government Act*) the variance will not unduly interfere with the amenities of the neighbourhood, and/or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land based on the following because:
 - a. The proposed parking spaces exceed the variance powers of the Development Officer by 0.27%, which is minimal, and the preponderance of the evidence was that there was sufficient public parking in downtown St. Albert for businesses downtown;
 - b. There were no opposition submissions with respect to the setback variances and the pedestal variance;
 - c. The Board was satisfied that the vibration effect from the piling work would not unduly affect the adjacent neighbours and there was insurance in place from the Appellant for any claims; and
 - d. There were no objections from any of the other neighbours who were in the Radius Notification area.
2. The proposed development conforms with the use prescribed for the land within the Land Use Bylaw.

The Applicant is responsible for complying with all applicable federal, provincial and municipal enactment and any other applicable law and for obtaining all applicable permits, licenses and approvals. Building permits must be obtained from the Building Inspector who can be contacted at 780-459-1655.

Michael Kirk
Michael Kirk (Jan 23, 2024 09:00 MST)

Chair

January 23, 2024

Date