

LLOYDMINSTER SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION

APPEAL TO BE HEARD:	Development Permit Refusal
Municipal Address:	5001 48 Avenue
Zoning:	C5 Service Commercial
Legal Description:	Lot 19-20 Block 9 Plan B1127
Permit No.	23-3841
Appellant Name:	Micheal Davison

A. INTRODUCTION

1. Planning received reports that an ATCO type trailer has been placed on the property at 5001 – 48 Avenue. Upon review of the file it was found that there was no permit submitted for this intensification of the property.
2. A Notice of Contravention was emailed to the Men’s Shelter on November 7, 2023. Planning received an application on November 7, 2023, which was deemed complete on November 10, 2023.
3. The Development Authority received a Development Permit Application on November 7, 2023.
4. The Development Authority provided a Letter of Advisement to all property owners within 150 metres of the site and placed an advertisement in the November 16 and November 23, 2023 issues of the Meridian Source asking for concerned parties to provide comments in writing within fourteen (14) days. Approximately fifty (50) individuals brought forward opposition to the application and two (2) supported the application.
5. The Development Authority reviewed the application with all concerns and noted the intensification of the proposed use does not satisfactorily conform and suit the existing development of the adjacent areas without posing undue negative impacts on the surrounding residential and commercial properties.
6. The application was refused on December 14, 2023, with the Notice of Decision being sent to the applicant on December 14, 2023. A copy of the Notice of Decision is attached as Schedule “A” to this Report. The decision was advertised in the December 21, 2023, issue of the Meridian Source requiring 21 days as the appeal period. The Appeal Period expired end of day January 11, 2024.

7. The Appellant appealed the Development Permit refusal.

B. PRELIMINARY MATTERS

8. Subdivision and Development Appeal Board (SDAB) members – the Chair asked the Appellant and other parties in attendance whether there were any objections to the SDAB members – there were no objections.

9. Hearing Process - the Chair reviewed the hearing process. The Chair asked the Appellant and other parties in attendance whether there were any objections to the hearing process. There were no objections.

C. SUMMARY OF HEARING

10. The SDAB Board heard from the Manager, Planning, Natasha Pidkova, who read from the City's submission that was provided to the Board and did not expand further on the original submission.

11. The SDAB Board asked the Development Authority if the Board were to find for the Appellant, what if any conditions would be appropriate. The Development Authority proposed the following conditions:

- (a) Accessory building shall not be closer than 3 metres from the side and rear property lines;
- (b) Code separation must be maintained between structures;
- (c) Garbage receptacles shall be placed in such a way as to not be visible from the street or must be enclosed;
- (d) The Applicant and landowner is responsible for the continual clean-up of the area;
- (e) A bicycle stand with a minimum of 5 spots is to be included on the property;
- (f) The Applicant must include 3 off street vehicle parking stalls for the property;

- (g) The warming shelter must be staffed when accessible by the public and is not intended for overnight stays;
- (h) This is not intended to be used as a safe consumption site;
- (i) The Applicant must provide a total of 8 trees, 11 shrubs, and continual screening along the south edge of the property, as a buffer from the residential district.

12. The SDAB Board then heard from the Appellant, Michael Davison, representing the Lloydminster Social Action Coalition Society, who also reiterated the contents of their submission. In addition, Michael Davison stated that a survey was recently completed that noted that they service 193 unique individuals and that based on statistics from the RCMP, regional callouts have not increased with the addition of the trailer to the property. Michael Davison said that he was pleased that they were already meeting the majority of the proposed conditions with the exception of the 3 metre set back and the addition of trees and shrubs.

13. Michael Stonhouse spoke in favour of the appeal. He noted that as the Arch Deacon of the Anglican Church the shelter has blessed the downtown by relocating the homeless to the shelter and the trailer is a temporary solution to a long term problem.

14. Muhammad Mangla spoke opposed to the appeal. He stated that as an affected homeowner and member of the Mosque in the area, he is in favor of helping people, but the Mosque has been broken into regularly and he feels that there should be publicly reported data regarding how the area is being affected and he has requested increased nighttime patrols by the RCMP.

15. Matthew Hamilton spoke opposed to the appeal. As his property backs onto the church parking lot, he has seen an immense increase in traffic, crime, and drugs in the area. He has had his house broken into and his family does not feel safe. He said that he has sustained an undue hardship of having to purchase cameras to monitor his property.

16. Graeme Friesen spoke opposed to the appeal. He has lived in the affected area for 15 years and noted that the area houses low income families that are already in

vulnerable situations and now they are suffering from vandalism, break ins, stolen property, decreased property values, and lack of safety. He stated that the land owners in the area are law abiding citizens paying taxes who need assistance from the RCMP and the City.

17. Glen Prosser spoke opposed to the appeal. He stated that people need help, but this is a hand out not a hand up and is not the answer. He noted that he is tired of calling the RCMP and is continuously having to deal with tent set ups, garbage, drugs, overdoses.

18. Leon Cherney spoke opposed to the appeal. After last year's improper process by the shelter, they disregarded the rules again this year and do not consider the very negative impacts on neighbours. He also insists that standards be developed for shelters and provided the example of Edmonton standards.

19. Spencer and Shennay Francis spoke opposed to the appeal. They have a young family and do not feel safe as they are constantly dealing with trespassing on their property, their fence being kicked in, theft, drug use and death threats. They noted that the traffic, drugs, and problems have intensified and their children cannot ride bikes or even play in the backyard without being harassed.

20. Kristina Cherney spoke opposed to the appeal. She noted that the unpermitted shelter opened last year had severe consequences for their business and there was open drug and alcohol use in front of that temporary shelter. She questioned why there are no rules imposed on the shelter and why there is no accountability on the shelter.

21. There was one (1) additional written submission and one (1) USB drive containing photos and videos opposed to the appeal.

D. DECISION

22. The SDAB allows the appeal and approves the proposed development at 5001 48 Avenue, Lloydminster, Saskatchewan (Lot 19-20, Block 9, Plan B1127) with the following conditions:

- (a) The Applicant/landowner is responsible for the continual clean up of the area;
- (b) The Applicant/landowner shall install a bicycle stand that can accommodate a minimum of five (5) bicycles;
- (c) The Applicant must maintain a minimum of three (3) off street parking stalls for the property;
- (d) The warming shelter must be have onsite staff at all times when open to clientele and shall not be used as an overnight sleeping facility;
- (e) The temporary structure/warming shelter shall cease operations on April 15, 2024, and the accessory building structure must be removed from the property no later that April 30, 2024, at 12:00 PM;
- (f) Once the structure has been removed, the property shall be remediated and restored to its previous use and condition;
- (g) The warming shelter is not to be used for the consumption of alcoholic beverages or illegal narcotics;
- (h) The Applicant/landowner will ensure that the property is inspected by Fire Services to ensure it meets fire separation requirements.

E. REASON FOR DECISION

23. The Board reviewed the requirements of Part 17 of the *Municipal Government Act* and in particular, the requirements of S. 687 of the *Municipal Government Act*.

24. As the proposed use is a discretionary use, the Board must consider whether or not the use is appropriate for the site taking into consideration whether it is compatible with the surrounding area. The discretionary use considerations in the Land Use Bylaw (LUB) can be used to guide the Board in exercising its discretion.

25. The Board gave the significant weight to the received documentation and presentations by the area residents. The Board heard considerable concerns from area

residents regarding the impacts of the warming shelter and lack of steps by the Appellant to mitigate these impacts. The Board was particularly concerned that the Appellant had not taken proactive steps to engage the neighbours and work collaboratively to resolve their concerns. Based on the evidence of the area residents, the Board is of the view that the warming shelter, as it is presently being operated is not compatible with the surrounding area on a long term basis.

26. The Board also had to consider the effects of not providing or removing a facility for the unhoused during the winter months in making this decision and how that might impact the neighbourhood. The Board's decision to have the facility removed in April was an attempt to balance the concerns of the residents with the need to provide services to the vulnerable user groups on a short term basis during the winter months.

27. The Board, in determining that it would only allow the facility to remain in place for a specific time period, did consider that the shelter operator would then have sufficient time to address the community issues and an opportunity to properly plan and mitigate community issues before the need for a future warming shelter was required.

28. The Board notes that one of the difficulties in evaluating this type of development is the City's lack of standards and guidelines applicable to shelters. In the absence of such guidelines and standards, there is little to guide the Board in exercising its discretion. Having City standards and guidelines applicable to shelters, that take into account the impacts that such a facility has on the residents and surrounding area, would assist the Board going forward.

DocuSigned by:

DOUG RODWELL

SDAB Clerk, Doug Rodwell
City of Lloydminster
Subdivision and Development Appeal
Board

DocuSigned by:

Bernal Ulsifer

Chair, Bernal Ulsifer
City of Lloydminster
Subdivision and Development Appeal
Board

IMPORTANT INFORMATION FOR APPELLANT

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. M26.