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BRIEF SUBMITTED TO THE CITY OF EDMONTON  
RESPECTING THE DRAFT LAND USE BYLAW (BYLAW 5996)

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## INTRODUCTION

We welcome this opportunity to comment on the January 1980 Draft of the Land Use Bylaw of the City of Edmonton (Bylaw 5910) but draw your attention to the generality of our comments. The time our group has had for study of the document has precluded a full detailed review and we offer instead in this text, comments of a general overview for consideration in further revisions of the Draft. An Appendix attached specifies the particular concerns which we have addressed by way of this brief.

## GENERAL COMMENTS

While some new provisions under the proposed Land Use Bylaw represent a step above the Zoning Bylaw and the Land Use Classification Guide, overall the new Land Use Bylaw perpetuates a prescriptive-regulatory system of development control. The Bylaw gives limited emphasis to performance standards, and gives no import to the application of bonusing, incentives, and transfer of development rights in the development review process. Specifically, we see three fundamental weaknesses in the present Draft Land Use Bylaw:

1. Development control criteria proposed in the Land Use Bylaw are inconsistent in the rigorousness of the regulations. In some cases, the regulations allow for broad discretion; in other cases, the regulations are highly "standardized" and set out in specific, narrow, limiting terms. The rationale for the differences in flexibility and rigidity do not seem apparent or even warranted.

2. The Bylaw attempts to "achieve flexibility" through such methods as the Development Officer's discretionary 25% variance, which will only have the effect of allocating more or less of the same. The Land Use Bylaw is allocating varying degrees of allowances within a pre-set, standardized set of guidelines -- the "amount" changes but the product (quality) remains relatively unchanged. The whole city need not be subject to the same standardized regulations and the Land Use Bylaw must encourage unique neighbourhood development consistent with local planning aspirations.
3. There appears to be a fundamental problem relating the Land Use Bylaw to the principles and objectives of the General Municipal Plan. Because of its rigid prescription, the proposed Land Use Bylaw will not accommodate nor encourage the need for innovation to facilitate achieving the General Municipal Plan objectives of environmental quality in a maximum growth strategy. For the Land Use Bylaw to be innovative rather than simply allocative, development standards should be developed according to community and district plans. The General Municipal Plan and other statutory plans must provide the basis of guidelines for guiding growth and development in the City while assuring environmental integrity.

#### SPECIFIC CONSIDERATIONS

Four principles which we feel must be reflected in the Land Use Bylaw are:

1. PARTICIPATION: There must be maximum opportunity for full participation and input of the public in the planning process, that is in development review and control.

2. ENVIRONMENTAL IMPACT: Full account must be taken of the impacts of development and redevelopment, and the Land Use Bylaw should reflect flexible yet comprehensive standards for ensuring protection of environmental quality.
3. FLEXIBILITY/INNOVATION: Development standards should be based on the unique circumstances of the situation and area, and should recognize qualitative as well as quantitative differences in design and development.
4. HERITAGE CONSERVATION: Incentives and allowances should be provided to encourage the protection of buildings and sites which are not only of historic or architectural merit but are significant to the heritage of the local community(s).

This brief will address particular concerns related to the principles we feel must be reflected in the Land Use Bylaw for the City of Edmonton.

#### PARTICIPATION

##### L.U.B. Reference

- 11.7 We support the provisal for public inspection of development applications. Such a Register should also be made available for inspection at public library branches and district offices (Parks and Recreation, Social Services, and Planning).
- 22.1 Notification of issuance of development permits must allow  
to  
22.4 sufficient time for public appeal of a decision by the Development Officer. Provision must be made for public appeal within 14 days of notification of the Development Officer's decision. Consequently,

Section 23(1) should be amended to take account of administrative delays in issuing notices, or delays in mail delivery.

Notification distances should reflect the magnitude of the development proposed and the resulting impact upon neighbouring land uses. The Land Use Bylaw must establish firm notification guidelines in relation to the intensity of proposed development. For instance, minor redistricting proposals and variance notices might require 60 metres notification; moderate proposals 100 metres; and major proposals 200 metres.

Public notice of a decision should be given to resident tenants as well as property owners. Notification procedures should also include community planning groups who are both registered under the Alberta Societies Act and with the City for notification of proposed developments in their area.

26.1 We support the consideration of documented neighbourhood concerns  
to and opinions in redistricting applications. However, the comments  
26.4 above regarding notification procedures, distances and the definition of "persons affected" (tenants as well as owners), and the opportunities for community review must also be incorporated in redistricting amendments.

72.1 Development information signs on site can, in conjunction with  
to other notification procedures, improve the opportunities for  
72.3 community involvement in the development review process. Preliminary signage of the site should be required to indicate the redistricting

category approved, intended uses for the site, the number and density of dwelling units proposed, and should be posted at the time of notice of a decision of the Development Officer.

### ENVIRONMENTAL IMPACTS

It is our opinion that the Land Use Bylaw should not only establish criteria for assessing the impacts of redevelopment and development, but must necessarily take into consideration broader environmental planning and design criteria. The proposed Land Use Bylaw pays little regard to the concepts of energy conservation or the implications for minimized energy demands through urban design. Building design and orientation which maximizes applications of low energy passive solar heating and regulations which ensure access to sunlight can be cited as examples.

#### L.U.B. Reference

- 14.2 In as much as demolition is a change in land use and is therefore "development" under Section 1(5) of the Planning Act 1977, it is important that demolition permits not be issued unless there is an approved redevelopment permit, since otherwise the result of a demolition is a use not permitted under the Land Use Bylaw.
- 15.3 Information requirements for Class B - Permitted Use Permits,  
to  
15.5 Class C - Discretionary Use Permits, and Class D - Design Review Permit, developments should include an analysis of the "scale of development" proposed taking full account of the "compatibility" of the proposed development and its effects on neighbouring properties and the community in general.

15.5(2) It is difficult to establish when a traffic impact assessment is necessary. The proposed Land Use Bylaw statement of "developments exceeding 1,000 dwellings" is excessively high. Traffic generation statements should be required with all development applications and such statements should have due regard of the situational/locational factors of the proposed development.

16.1 Micro-climatic studies are an important new provision in the Land  
to  
16.5 Use Bylaw. We feel, however, that wind and sun impact studies should not be discretionary but rather should be required in all cases as a part of an applicant's information requirements.

No criteria are given for wind and sun impact statements to establish under what circumstances development proposals are acceptable or not.

It is not clear in the Land Use Bylaw whether micro-climatic studies will include impact assessments for land uses other than parks, public streets, plazas, and other open spaces. Environmental impacts affect equally parks, residential, commercial, and industrial land uses and the information requirements for the Land Use Bylaw should ascertain such impacts for all land uses.

Given Edmonton's particularly harsh winters, it is ludicrous that sun impact measurements not be taken when the sun is at its lowest angle (i.e. December 21st) to offset the measurements of the sun's highest angle (i.e. June 21st).

The information requirements for industrial development applications do not have sufficient regard of the possibilities

of non-toxic emissions mixing with emissions of other operations to produce "combined" toxicity.

14.1(3) The erection of telecommunications masts and towers, and the  
(h) (j) construction of Essential Public Utility Service Developments can have very direct impacts at the local level. As such they should be removed from the proposed Class 0 - No Development Permit Required - class, and included under the Class C - Discretionary Use Permit - class.

General Urban design guidelines must be established to retain Jasper  
(Downtown) Avenue as a pedestrian street. Without such guidelines Jasper Avenue will become a "canyon of concrete and glass". An urban design plan is needed that will incorporate Jasper Avenue as a pedestrian system thus making the C.B.D. area an exciting, interesting and inviting place to visit.

#### INNOVATION AND FLEXIBILITY

Overall, we find the proposed Land Use Bylaw to be as rigid and prescriptive as was the previous Zoning Bylaw and Land Use Classification Guide. We find little evidence of any attempt to introduce innovative processes of development control which will facilitate the implementation of the General Plan objectives. The success of the Land Use Bylaw to implement the policies of the General Municipal Plan is premised on restrictive-uniform development standards which will not encourage flexibility in design suited to the unique character of each specific area. The Land Use Bylaw does not give sufficient emphasis to the role of performance standards in development review of residential



and commercial uses. Performance standards which have been established appear to have been set arbitrarily with little relation to the objectives of the General Municipal Plan or other statutory plans. The probable results of such are a continuation of monotonously duplicated "clones" of neighbourhoods which have little or no character uniquely their own.

L.U.B.  
Reference

- 11.5           The 25% variance given to the Development Officer (the 25% figure itself seemingly arbitrary) emphasizes the need to ensure the Land Use Bylaw is flexible and responsive to local conditions. Will 25% achieve the development sensitivity seemingly desired? Or, will such variance only lend itself to continued monotonous development throughout the City?
- 51.0 and Use Classes       Proposed development standards are so overly restrictive and unnecessarily bureaucratic as to minimize or negate the General Plan principle of increasing the compactness of residential development.
- 56 & 57       There are no mechanisms evident in the draft Land Use Bylaw which will encourage the development of private outdoor amenity areas in RA (apartment) classifications.
- 69.0           The detail of the landscaping requirements may be cited as being exemplary of the over-regulation of the Land Use Bylaw. The Bylaw goes so far as to prescribe the minimum caliper and the mix of trees required! Conversely, no requirement is made for the retention of existing mature vegetation.

General  
(Commercial)

The provision of neighbourhood oriented commercial uses (CNC) pays little regard to the integrity of the "neighbourhood unit" - implied as an area serving an elementary school and consisting of 5,000 persons. The proposed CNC class is of such a scale as to be designed to serve 4 or more neighbourhood units and as such will need to be oriented more towards automobile access than to pedestrian access. There is an inherent contradiction with this use class (CNC) and the proposed General Plan objectives of establishing "hierarchies of commercial uses" and "minimizing commercial impacts on neighbourhoods". Therefore, we feel Land Use Bylaw provisions must encourage neighbourhood scale commercial outlets oriented to pedestrian rather than vehicular traffic.

General  
(Residential)

The residential development criteria proposed will not ensure sufficiently broad environmental sensitivity in increasing residential densities throughout the City. Performance standards must be tied to development criteria established in local redevelopment and structure plans, and the General Municipal Plan.

#### HERITAGE CONSERVATION

Little attention and provision is made in the Draft Land Use Bylaw for encouraging the retention of buildings of historical or architectural merit other than those so designated under the Alberta Historic Resources Act (1973). In addition no recognition is given to buildings which may not be historically significant according to the above Act, yet are significant to the heritage of the local community.

Bonus incentives, micro-zoning and transfer of development rights could be implemented through the Land Use Bylaw to preserve such sites and buildings. Such incentives would make it feasible for older local communities to retain some of the unique character which is part of the diversity and richness of Edmonton's growth and history.

#### CONCLUSION

The Land Use Bylaw must be seen as a mechanism to implement and evaluate the General Municipal Plan. It is then necessary to ensure the proposed Land Use Bylaw (administrative regulations, district categories and map) indeed implement and reflect the objectives and policies of the General Municipal Plan and other statutory plans. The weaknesses of the proposed Land Use Bylaw to effectively tie development to the General Municipal Plan and other statutory plans will have the effect of placing greater emphasis on development appeal as a process for establishing the statutory authority for redevelopment. As we move into an exciting but uncertain decade of the 1980's, we need to ensure Edmonton has a Land Use Bylaw which can both cope and adapt to unforeseeable and changing demands.

It is our opinion that while much work and effort has gone into the preparation of this draft Land Use Bylaw, there is still much work needed to achieve the flexibility in development control to ensure innovative and sensitive redevelopment and development in Edmonton. What we have in the proposed Land Use Bylaw rather is "the same old wine in new bottles".

Thank you for this opportunity to speak to the draft Land Use Bylaw - Bylaw #5910. We hope our comments are helpful in your deliberations in finalizing this Bylaw.

LAND USE BYLAW

APPENDIX 1: LISTING OF PARTICULAR CONCERNS

A. OPERATIVE AND INTERPRETIVE CLAUSES

(1) 4.2(1)

What if s.s.1 of the General Land Use Regulations is contravened by an existing subdivision?

(2) 8.(4)

The word "instrument" should probably be substituted for "agreement".

(3) 9.(28)

Definition of "height" - there were problems with this definition under the old Zoning Bylaw since theoretically you can have a 50 feet high building which according to the definition is only 25 feet if you put the eaves close enough to the ground. This has led to some problems in R-1 neighbourhoods where buildings defined as 25 feet high but actually 35 - 40 feet high dwarfed their neighbours and destroyed the streetscape.

B. GENERAL ADMINISTRATIVE CLAUSES

(1) 11.4(1)

No mention is made of Development Officers duties with respect to Statutory Plans.

(2) 11.4(6)

Only City Council can approve applications in Direct Control Districts. What is the statutory basis for this section. s. 68 and s. 75 of the Planning Act, 1977, contemplate Council approving developments and entering agreements; i.e. there may be an improper delegation of powers.

(3) 11.7

Support this provision.

(4) 14.1(i)

There was recently an appeal to the D.A.B. with respect to the location of a recreational vehicle which was causing some problems and the D.A.B. refused a permit. This is obviously a problem and should not be exempted.

(5) 14.1(3)(d)

\$500 too low - suggest \$1,000 plus escalation clause for inflation, real cost escalation, etc.

(6) 14.1(3)(h)

This should be taken out of Class 0 and placed in Class C - Discretionary Use Permit.

(7) 14.1(3)(j)

This should be taken out of Class 0 and placed in Class C - Discretionary Use Permit.

(8) 14.1(3)(m)

"You have got to be kidding!"

(9) 14.2(1)

\$500 raised to \$1,000 with escalation clause, etc.

(10) 14.2(2)

(iii) Remove - Unnecessarily bureaucratic

(iv)

(v)

(vi) Take out drywalling and insulation.

(11) 14.2 (4) (a)

Demolition is a change in use and therefore is a development under s.1(5) of the Planning Act, 1977. Demolition permits should not be issued unless there is an approved (re)development permit as, otherwise, the change in use caused by demolition would not be permitted by the Land Use Bylaw classifications or the Statutory Plans.

Definition of historic resource for purpose of demolition review too narrow, should be expanded to include architectural or heritage merit or significance.

(12) 15.1(6), (7)

Should be retained in Bylaw.

(13) 15.5(2)

Traffic impact for over 1,000 dwellings too high.

(14) 16.2

Take out words "where it is required" - This should be mandatory. As written gives too much discretionary power to "development officer".

16.2(1), (2)

Should require study methodology, what criteria for development permit approval or denial.

(15) 16.3

What criteria for development approval or denial?

Wind impact studies called for in section 16.2 and section 16.3 do not establish criteria for refusing a development application. Maximum wind speed increase over normal speed allowed.

(16) 16.4

Take out words "where it is required" - This should be mandatory. As written gives too much discretionary power to "development officer".

16.4 (2) (a)

Not including adjacent developments/buildings, need clarification - only intended for park uses?

Sun shadow impact study requirement in Section 16.4 does not define criteria to determine whether a development is acceptable or not.

Sun is required most in the winter on pedestrian streets such as Jasper Avenue. The sun is at its lowest sun angle on December 21. This should be added to offset June 21. (The highest angle of the sun.)

(17) 16.5 (1) (c)

Tests required do not recognize mixing of toxic emissions with those of other operations and possibilities for combined toxicity.

(18) 22.2

Class B permit requires issuance of notice within 10 days. Allows effectively 5 days for public to appeal (re Land Use Bylaw Section 23.1).

(19) 22.3

Class C permit requires issuance of notice in seven days. Allowing 7 days for public to notify of appeal. Issuance of public notice should be required within four(?) days.

22.3(1) (a, b, c)

Notification distance should be expanded to allow for broader notification with respect to more intense development.

22.3

Support this provision - definition of "persons affected" too narrow. Notification distance should reflect magnitude of impacts of the proposal.

(20) 24.2

Importance of timing together building and development permits thus avoiding problem of sites being cleared and excavated with no development proceeding e.g. 113 Street, 99 Avenue site.

(21) 26.4

Support this provision - definition of "persons affected" too narrow. Notification distance should reflect magnitude of impacts of the proposal.

Permit notices should be given to any planning group which has registered for notification of proposed developments in their area.

Bylaw should establish firm guidelines in relation to intensity of development, notification should be to residents and owners.

26.1(d)

Should read "President of Community League or recognized community group chartered under the Societies Act and who has notified the Planning Department in writing of interest to receive notice."

C. GENERAL DEVELOPMENT REGULATIONS

(1) 51.2(1) (a)

Overly restrictive? Provision allowed for under Land Use Bylaw contrary to General Plan principle 5 - increasing compactness of residential development. Land Use Bylaw provision more restrictive than Zoning and Land Use Classification Guide.

(2) 56 and 57

Amenity and private outdoor amenity areas.

No provision under Land Use Bylaw for requiring private outdoor amenity areas in RA (apartment) classification.

(3) 69.0

Landscaping - very detailed landscaping requirements.

(4) 71.0

Micro-climate study required where development would affect public open spaces. Requirements should be expanded to include other land uses (residential, etc.).

(5) 72.0

Development information signs - support this inclusion in the Bylaw.

(6) 72.1(1)

Signing of site should be required at time of issuance of development permit. Should be tied in with the notification requirements under Section 26.4.

Preliminary signing of site should indicate zoning approved, intended uses for site, and density and number of dwellings proposed.

(7) 72.3

Information required under this section may be posted within the 30-day period as per section 72.1 but not to include the information requirements outlined above in C.(6) comments.

D. USE CLAUSES

(1) General

Jasper Avenue: Urban design guidelines need to be established to retain Jasper Avenue as a pedestrian street.

(2) Commercial Mix Use District

Control is wide open. Need to have an urban design plan for the downtown.

(3) Commercial Neighbourhood Convenience

There is still too big a gap between the neighbourhood variety store and a small shopping plaza.

Both are accommodated in one commercial district, namely CNC (neighbourhood convenience commercial).

By combining both in one district, problems will arise out of the connotation given to the work "neighbourhood". This usually implies an area which serves an elementary school consisting of 5,000 people @ 1 ft<sup>2</sup> / capita gives a convenience store of 5,000 square feet.

The maximum site area for CNC is roughly 5 acres. The largest development permissible would therefore likely be:

$$5 \times 43,560 = 108,900 \text{ ft}^2$$

@ 5 ft<sup>2</sup>/capita this would serve 22,000 people hardly a neighbourhood -- more like 4 neighbourhoods.

The fact that the original 10,760 ft<sup>2</sup> maximum discretionary use was raised to 26,910 ft<sup>2</sup> for a grocery store or supermarket indicates the need for 2 land use categories instead of only one: i.e. one for neighbour variety stores and one for small district shopping plazas and large grocery stores.

(4) RA9

230.3(2)

Why not permit rowhouses as well instead of only duplexes and stacked rowhouses?

(5) Comprehensively Planned Development District (DC 2)

720.2(1)

Why must land be controlled by a single person.

720.2(4)

s. 75 of the Planning Act, 1977, as amended by Bill 66 provides for the registration of caveat for certain purposes -- these purposes do not include the types of conditions contemplated in 2.4.

720.2(8), (9)

The differences in (a) and (b) seem discriminatory and unnecessarily complex.

720.2(11)

What is the statutory basis for this section. s. 68 and s. 75 of the Planning Act, 1977, contemplate Council approving developments and entering agreements; i.e. there may be an improper delegation of powers.