

## NOTICE OF DECISION

FILE NO. **SDAB 2021-003**

APPLICATION No.: **2021-DP-00242**

DEVELOPMENT: **Group Home**

LAND USE DESIGNATION: **R2-1 Modified Medium Density Residential District**

LEGAL DESCRIPTION: **Lot, Block 42, Plan 082 8117**

CIVIC ADDRESS: **Fort McMurray, Alberta**

**IN THE MATTER OF AN APPEAL** filed with the Regional Municipality of Wood Buffalo Subdivision and Development Appeal Board (“the Board”) pursuant to Sections 685 and 686 of the *Municipal Government Act*, R.S.A 2000, c. M-26 (“the Municipal Government Act”), the appeal hearing was held on Thursday, September 23, 2021, virtually via Microsoft Teams, in Fort McMurray, Alberta.

### **BETWEEN:**

Meadow Creek Village Condominium Corporation (“the Appellant”) represented by James Hayward and Alexandra Tarasenco

-and-

The Regional Municipality of Wood Buffalo (“the Municipality”) represented by Camille Goodheart, Counsel for the Municipality and Tracey Tester, Supervisor, Development Control

### **BEFORE:**

A. Austin, Chair  
K. Carruthers  
N. Mahgoub

### **Administration:**

H. Fredeen, Clerk for the Subdivision and Development Appeal Board  
S. Soutter, Manager, Legislative Services  
G. Stewart-Palmer, Q.C., Counsel for the Board

- [1] Following the introduction of the Board, the Chair confirmed with the parties in attendance that there were no objections to the constitution of the Board.
- [2] The appeal was filed in time.

**PRELIMINARY MATTERS****ISSUE #1 LATE FILING OF EXHIBITS**

- [3] At the start of the hearing, the Board marked as exhibits the Subject Area Map, Exhibits P1 through P3, and Exhibits 1, 2 and 3. Those exhibits were received prior to the exhibit exchange date set by the Board, following the opening of the hearing and the postponement of the appeal hearing to September 23, 2021.
- [4] At the start of the hearing, the Board noted that it received the following eight (8) exhibits following the date the Board specified for disclosure. The numbers listed below were assigned by Board Administration for ease of reference, pending the approval and acceptance of the documents as exhibits by the Board.

<b>Number</b>	<b>Description</b>	<b>Who Submitted the Information</b>	<b>Date of Submission</b>
4.	Crime Maps (2 pages)	Appellant	2021-09-20
5.	Written Submission in Support of Appeal (1 page)	Adjacent Property Owner Muhammad Adnan Khan	2021-09-20
6.	Written Submission in Opposition to Appeal (1 page)	Bryan Fayant – McMurray Metis	2021-09-20
7.	Written Submission in Opposition to Appeal (1 page)	Edna Olsen – Moman - Executive Director, Salvation Army	2021-09-23
8.	Response to Late Submission (Crime Maps) filed by Appellant (2 pages)	Municipality	2021-09-23
9.	Written Submission in Opposition to Appeal (1 page)	Linda Thompson – Brown, YMCA Northern Alberta	2021-09-23
10.	Written Submission in Support of Appeal (1 page)	Nimesh Patel	2021-09-23
11.	Written Submission in Opposition to Appeal (1 page)	Rosie Keating, Executive Director, Centre of Hope	2021-09-23

- [5] Of the eight (8) additional exhibits submitted after the Board-imposed deadline date, there was no objection to the Board accepting Exhibit 7, 9, 10 and 11. Therefore, the Board marked those as exhibits.

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- [6] There were objections to Exhibits 4, 5, 6, and 8 by either the Development Authority, the Appellant or the Applicant. The Development Authority objected to Exhibit 4 (the Crime Maps) on the basis that the Board should consider whether their probative value exceeded their prejudicial effect. The Municipality pointed out that the documents were not to be shared without the consent of the RCMP and that the notation on the maps were that not all crimes were reported and the exact location of the crimes was not depicted. The Municipality stated that the maps were of little value and did not indicate what the mischief identified was. Further, the Municipality stated that the maps were not concrete evidence that the Group Home would cause mischief. The Municipality cautioned the Board in determining causation and urged the Board to look to the statistics and not stereotypes. The Applicant also objected to the use of the maps on the basis that it was an unfair use of the document. It steps outside of the use of the site and is prejudicial. The Appellant did not object to the Board accepting the document. The Appellant took exception to any suggestion that there was prejudicial intent in the use of the document. The Appellant stated that the Municipality's objection to the document (#4) was filed only three (3) hours before the hearing so the Appellant had no chance to respond to the Municipality's letter. The Appellant asked that for reasons of procedural fairness that the Municipality's response (#8) not be taken in to account.
- [7] The Appellant objected to the document marked as #5 on the basis that it engaged in allegations of racism which were not the intention of the Appellant. The Appellant stated that they were not aware that the Group Home was for Indigenous people until after the decision to file the appeal had been made. The Municipality and the Applicant had no objection to the inclusion of this document. The Applicant stated that the Appellant did know on July 12, 2021 that there would be Indigenous people who would be using this Group Home.
- [8] Document #8 was the Municipality's letter. The Appellant objected to it on the basis that it was submitted merely hours before the hearing was to start and they had no opportunity to respond to it. The Municipality and the Applicant did not have any objection to the document being accepted by the Board as an exhibit.

### **DECISION**

- [9] **It is the decision of the Subdivision and Development Appeal Board to not accept the documents marked as Exhibit 4, 5, 6 and 8.**

### **REASONS**

- [10] The Board notes that all of the documents which were contested were submitted late (after the Board-imposed date for documents to be provided to the Board). This appeal hearing opened in July and was adjourned to September 23, 2021 and the Board provided disclosure dates so that all parties could submit the evidence that they wished to rely upon in sufficient time for the information to be reviewed, so that no-one would be surprised by late evidence and that it would be fair to all participating in the hearing.

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- [11] These four (4) documents were objected to. There was no explanation as to why Documents #4, #5 and #6 could not have been filed prior to the disclosure date. The Board recognizes that for Document #8, this was filed in response to Document #4, which explains, at least in part, why it was filed as late as it was.
- [12] However, the Board notes the objection by the Development Authority, the Applicant and the Appellant. Although the documents were submitted in accordance with the requirements from O.C. 099/2020, s. 3(1)(b), they were received on the same day as the hearing and the parties who objected to them did not have much (if any) time to review them and prepare a response. Therefore, although technically filed “in time”, the Board is of the view that given the filing of the documents, it would not be procedurally fair to the parties to accept late evidence. Therefore, the Board did not accept these documents into evidence and did not consider their contents when coming to their conclusion.

#### **ISSUE #2      AFFECTED PERSONS**

- [13] At the beginning of the hearing, the Municipality raised a question as to who affected persons would be when considering the petition filed by the Appellant. The Development Authority noted that there are a number of persons whose addresses are blacked out and therefore the locations of these persons are difficult to confirm with accuracy.
- [14] The Appellant noted that ninety-five (95%) percent of the people who are listed on the petition (see pages 54-57 of the Agenda Package) live within sixty (60) meters of the Proposed Development. They are homeowners within the condominium complex or who rent condominiums or are nearby affected citizens. However, the Appellant stated that he was not able to confirm or deny whether people who listed an address from outside of Fort McMurray were or were not owners or renters within the condominium complex.
- [15] The Applicant made no submissions on this issue.

#### **DECISION**

- [16] **It is the decision of the Subdivision and Development Appeal Board that the persons listed in paragraph [19] below are not affected and the Board has not taken their evidence (signing the “petition”) into account in making its decision.**

#### **REASONS**

- [17] The Board notes that the version of the Board’s agenda materials circulated to the parties and to the public had the addresses of the signatories to the “petition” redacted for reasons of privacy. However, the Board has a full copy of the names and addresses of the signatories to the petition.
- [18] The Board notes that the Appellant submitted the “petition” as part of its evidence. However, the Appellant could not confirm whether those people signing the petition who had an address outside of Fort McMurray were either owners or renters within the condominium complex or within the notification distance.

- [19] Since the Appellant, who would be in the best position to clarify the residence of the signatories, could not provide information on this point for the Board, the Board finds that any listed individual who has set out an address outside of Fort McMurray is not affected because they are outside the municipality. The Board is precluded from hearing from persons who are not affected. Since the Board has no evidence to conclude that the impugned signatories are affected, the Board has not taken into account their support for the appeal. For greater clarity, this means that the signatories in the following lines were not taken into account by the Board (see pages 54-57 of the Agenda package.)

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## **SUMMARY OF HEARING**

### **Development Authority**

- [20] This Appeal was against the approval by the Municipality to grant a development permit for a Group Home for property located at Unit #1-8, 235 Millennium Gate, legally described as Block 42, Plan 0828117, located in Fort McMurray, Regional Municipality of Wood Buffalo (the “Lands”).
- [21] The Development Authority approved development permit 2021-DP-00242 (the “Development Permit”). This was an application for a Group Home on the Lands. The proposed use, Group Home (the “Proposed Development”), is a discretionary use in the R2-1 Modified Medium Density Residential District of the Municipality’s Land Use Bylaw 99/059 (the “Land Use Bylaw”).
- [22] The Municipality does not have a Municipal Planning Commission. Therefore, it is within the authority of the Development Authority to approve the application for the Proposed Development.
- [23] The Development Authority advised that the Proposed Development did not fall squarely within the definition of a Group Home. The definition of a Group Home is as follows:
- A development using a dwelling unit as a facility which is authorized, licensed or certified by a provincial authority to provide room and board for foster children or for physically, mentally, socially, developmentally or behaviourally challenged persons and which may be for the personal rehabilitation of its residents either through self help or professional care, guidance and supervision. The residential character of the development shall be maintained with the occupants living together as a single housekeeping group using shared kitchen facilities. A group home may incorporate accommodations for residents, staff as an accessory use.*
- [24] The reason the Proposed Development did not fall squarely within the definition of a Group Home is that it is not “authorized, licensed or certified by a provincial authority” and does not have “shared kitchen facilities”. Rather, each of the units will stand alone.
- [25] Section 18.1 of the Land Use Bylaw provides that the Development Authority is able to examine a particular use to determine what use it would be by determining whether it is similar in character and purpose to a listed use. The Development Authority determined that the use most similar in character and purpose to the Proposed Development is Group Home, despite the lack of compliance with all of the elements of that definition.
- [26] The Proposed Development is to provide transitional and supportive housing spaces for twenty-two (22) Indigenous unhoused individuals and families. There are plans to have integrated and holistic wrap-around services with common areas for programming and offices and meeting spaces for support services for workers from the Wood Buffalo Wellness Society, the McMurray Metis and other partner agencies. There will be eight (8)

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permanent and five (5) temporary staff. There will be no exterior changes proposed for the building.

[27] The application for development approval was submitted May 13, 2021 and approved June 10, 2021. The Development Permit approval was advertised in the local newspaper on June 24, 2021 and notice to adjacent property owners within a sixty (60) meter radius was sent on the same day. The Notice of Appeal was filed July 15, 2021.

[28] Given the discretionary nature of the use, the Development Authority considered the circumstances and the merits of the application in addition to the following factors:

- a. Plans and policies affecting the subject Lands – this included the Municipality’s Municipal Development Plan particularly Section 4, which speaks to the safety, health and inclusivity of all residents and the need for livable communities and enhancing assistance and support to people in need (see page 21 of the Agenda package). The Development Authority also examined the Timberlea Area Structure Plan which sets out a key objective of providing a range and variety of housing opportunities to meet current and future market conditions. The Development Authority also looked at Council’s Strategic Plan 2018-2021 with Initiative 11 - to foster equality, diversity and inclusion and mentioning support initiatives to end homelessness.
- b. The purpose statements in the applicable land use district – the Development Authority noted that the R2-1 District lists as its purpose to provide mixed forms of medium density residential development. The Development Authority concluded that the Proposed Development would fall within the range of uses qualifying for mixed forms.
- c. The appropriateness of the location and parcel for the Proposed Development – The Development Authority considered that the Hub Family Resource Centre is one hundred twenty (120) meters from the Lands. The Wood Buffalo Addiction and Mental Health Services walk-in clinic is three hundred (300) meters from the Lands. This clinic provides various addiction and mental health services. The Lands are within one hundred (100) meters of a grocery store and two hundred (200) meters from various government services and schools. The Group Home is a necessary community service.
- d. The compatibility and impact of the Proposed Development with respect to adjacent development and the neighbourhood – The Development Authority noted the exterior of the building will remain the same and the Proposed Development will not significantly change the density or residential nature of the Lands. The Development Authority concluded that the Proposed Development is compatible.
- e. The merits of the Proposed Development

- f. The servicing requirements, access, parking and transportation requirements, vehicle and pedestrian circulation – The MDP provides that placing affordable housing close to transit and amenities will reduce additional costs. There are five (5) bus stops within three hundred (300) meters of the Lands. There are unlikely to be additional parking pressures as the Group Home residents will be relying on public transportation. The on-site parking will exist for the administrative component of the Group Home.
- g. Sound planning principles – The Development Authority considered the Municipality’s plans to end homelessness in making its decision.
- [29] In response to the Appellant’s concerns, the Development Authority advised that there are two schools in proximity to the Proposed Development and neither school has provided any concerns to the Board. There is no evidence that there is or that there will be a safety issue at the Lands. Further, should there be an issue or need for police services, the RCMP detachment is six hundred (600) meters away from the Lands.
- [30] The Development Authority reviews and processes development applications and approves or denies them. The Development Authority cannot dictate where development occurs.
- [31] The management and maintenance of the Group Home is the responsibility of the Applicant and the owner. All required timelines for notice under the Land Use Bylaw were met. Consultation was not legally required.
- [32] In the Development Authority’s closing comments, the Development Authority stated that there needs to be a causal connection between the concerns raised by the Appellant and the Proposed Development. The Development Authority questioned whether there was any causal connection between the increase in condominium fees and the Proposed Development. Condominium fees have increased across Fort McMurray due to a number of factors. Many of the concerns that have been raised by the Appellant have occurred before the Group Home is in operation. In regard to the photos of mischief, there is no indication as to who is responsible and there is no link between the Group Home and potential mischief or whether mischief would increase if the Group Home were permitted. The New York study was silent on causation, but was more a correlation. Further, the New York study dealt with shelters rather than group homes. The Development Authority questioned whether the evidence from New York is comparable to Fort McMurray as there are different social nets and realities.

### **SUBMISSIONS IN FAVOR OF THE APPEAL**

#### **The Appellant – Meadow Creek Village Condominium Corporation c/o James Hayward and Alexandra Terensenco**

- [33] The Board heard from Mr. Hayward who was speaking on behalf of the Appellant.



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- [34] The Appellant acknowledged that this type of Group Home is something needed in the community. They are not opposed to the development *per se*. The opposition is due to the way in which the development proposal was undertaken, the process, the notification, the timelines and the lack of an in-depth plan of how to make it work in the community. The position of the Appellant is that the Proposed Development should not be permitted until these issues are addressed.
- [35] Mr. Hayward is on the Board for the Meadow Creek Village Condominium Corporation. He indicates that the condominium corporation has not received formal notification that the Proposed Development would proceed. He was offended at the lack of notice to the condominium corporation. He suggested that there is a moral need to notify the condominium corporation of developments of this nature. He stated that had the Condominium Corporation Board been informed of the Proposed Development in January 2021 when the application was first made, it was likely the appeal would not have been filed. That time would have given the Condominium Corporation Board time to address the issues that they had with the stakeholders. He stated that Wood Buffalo Housing and the Municipality were negligent in not advising the owners of the Proposed Development. He cited page 53 of Exhibit 3 which showed that the Municipality rushed the process and due to time constraints did not take time to do their proper due diligence.
- [36] He stated that Wood Buffalo Housing had financial motivations to rush this Proposed Development through and that resulted in the lack of consultation. The major concern that he has is in relation to the Wood Buffalo Housing's failure to manage the properties in this area properly. Mr. Hayward referenced the photos starting at page 72 of Exhibit 3. He stated that these photos are examples of how Wood Buffalo Housing fails to properly manage the parcels that they govern. There is ongoing vandalism, trash and shopping carts from nearby grocery stores, and various sorts of rubbish. He stated that Wood Buffalo Housing has allowed the housing they manage in this area to turn the area into a ghetto. If there are no additional safeguards, it will get worse and the impact on the homes will be devastating.
- [37] Mr. Hayward referenced Wood Buffalo Housing's negligence in failing to address the infrastructure issues. Various homeowners have had sewer backups in their basement. The Meadow Creek Village Condominium Corporation has had its sewer lines flushed and opened up but cannot control the sewers in the adjacent areas. Because Wood Buffalo Housing did not address the sewers in the areas it controls, there have been continuing issues to the owners within the Meadow Creek Village Condominium Corporation. In his view, Wood Buffalo Housing will not take any responsibility for property maintenance and any consequences that occur to homeowners within the area will be ignored by it.
- [38] Mr. Hayward recognizes that everyone who lives and rents within the Meadow Creek Village is someone who requires subsidized housing. The people in this area are already marginalized and struggling. He referenced the maps starting at page 61 of Exhibit 3 showing the low socio-economic status in this area and the severe lack of services. He stated that it was not appropriate to put the Proposed Development where people are struggling and marginalized and services are not available at the same level as they are in other areas of Fort McMurray.

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- [39] Mr. Hayward advised that the property values in the area have decreased substantially. He noted that the price of his home has dropped almost by half since 2009 when he bought it. Property values in the neighbourhood are down sixty (60%) to seventy (70%) percent. He referred to the evidence he submitted that when group homes move into an area, it will decrease property values (see page 95 to 100 of Exhibit 3).
- [40] Mr. Hayward referenced page 71 of Exhibit 3 evidencing a decrease in property values and an increase in condominium fees for this area. He stated that the area will suffer a financial burden and will have to bear the burden of negative experiences from the Proposed Development.
- [41] He has submitted a petition of over one hundred (100) signatures (this is even after removing those who have residences outside of the municipality). He stated that the Municipality's notification in the newspaper of the Proposed Development is not sufficient because no one reads the newspaper. Mr. Hayward advised that the police have been no help to date and they provide no support to the residents in the area for the concerns they experience.
- [42] The Appellant is requesting a revised plan. He is requesting on-site security and video security. He wishes to hold the stakeholders accountable. Mr. Hayward advised that there are no social services for youth and the concern is that when additional marginalized people are put into the neighbourhood, this will get worse.
- [43] In response to Board questions about what conditions he would like to see, he would like to see on-site security and video surveillance patrolling what is happening in the neighbourhood. There should be something to preserve a record of incidents as they occur so homeowners are not struggling to prove an incident. The increased video surveillance should be not only for the property but also in the neighbourhood. Further, there should be a mechanism to hold stakeholders accountable should there be negative impacts.
- [44] In response to Ms. Packham's comments about notifying him on July 12 about the nature of the Proposed Development, Mr. Hayward stated that he did receive the information on July 12<sup>th</sup>, but the decision to file the appeal had been made prior to receiving that information. He disputed the fact that the motivation for appeal is because this is a project for Indigenous citizens.
- [45] The Appellant stated that they have evidence including testimonials of experiences from owners from the types of things that were occurring in the community when Centre of Hope moved in. The process was rushed, and the Appellant argued that the Municipality had recognized this (see Exhibit 3). The Appellant denied that the services are close to the development. Their primary concern is the maintenance and upkeep. Wood Buffalo Housing has done a poor job of taking care of other buildings in the area. There will not be proper property maintenance. There is evidence of neglect which impacts upon them. The surrounding businesses were not notified, but are concerned about this Proposed Development. The appeal is not against the Proposed Development, but against the

Municipality and its handling of the Proposed Development. The Appellant believes that there are insufficient services in the area to support the residents.

### **Mytresh Patel**

[46] Mr. Patel lives within the condominium corporation at 187 Millenium Gate and he stated it was approximately fifty (50) meters from the Proposed Development. He echoed his support for the comments made by Mr. Hayward. He is not in favour of group home projects. He was concerned about the social impact of the Proposed Development. He cited an example a few weeks ago where an individual tried to attack him and his wife while their two children were in the car. He is concerned about the social impact of the Proposed Development and its effect on the schools in the surrounding area. He stated the project should be in a commercial area.

### **Trushar Patel**

[47] Mr. Patel lives at 187 Millenium Gate, near the Lands. He opposes the project. He believes it is a commercial activity based upon the Applicant's use of the word "client". He believes that there are increasing amounts of criminal activity and feels the Proposed Development will have a psychological and social impact on children. He also stated there will be a financial impact because the real estate value is lower, particularly in this area. He stated there has been a sixty (60%) to seventy (70%) percent decrease in the value of his property. Finally, he questioned why a commercial activity of this nature would be put into a residential area and that it will set an example for other non-residential development.

## **SUBMISSIONS OPPOSED TO THE APPEAL**

### **Wood Buffalo Wellness Society**

[48] The Applicant for the Proposed Development is the Wood Buffalo Wellness Society. Ms. Jo-Anne Packham spoken on the Applicant's behalf. She advised that the clients for the Proposed Development will pay rent. The Development Permit was applied for because the eight-plex will be repurposed taking three of the units to house operation for the Wood Buffalo Wellness Society and using the balance of the units for housing. There will be twenty-four-hour staff and enhanced security. This is a group home to address Indigenous homelessness. The people who will be in this Proposed Development are not victims of violence specifically.

[49] In her view, the clients of the Proposed Development will not be a risk to the safety of the signers of the petition. The Applicant researched the neighbourhoods and determined that this neighbourhood was well supported by the sector and the community. She stated that her clients should not be caught in a strained relationship between the condominium and Wood Buffalo Housing. She empathizes with the loss of value, but stated that Canadian studies do not substantiate the concerns of loss of value as alleged by the Appellant. In a study in January of 2020 from British Columbia, thirteen (13) case studies were conducted and of those, in four (4) the value increased, in six (6) the value mirrored the trends, and in two (2) there was a slight decrease. Wood Buffalo Housing has a mandate of housing for

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everyone. The Wood Buffalo Wellness Society has partnered with Wood Buffalo Housing to get stable housing. She questioned whether the current residents were opposing the housing on the basis that housing for everyone meant everyone, provided that they were not Indigenous? She asked if the housing is not in this area, then where could it be located. The Timberlea area has a connection for Indigenous people. The clients want wellness and recovery to overcome the impacts of colonization.

- [50] Ms. Packham stated that on July 12, 2021, she was in discussions with Mr. Hayward. There were presentations made and she confirmed the Applicant had made full disclosure of the project and about it being for Indigenous people.
- [51] Ms. Packham advised that there will be trained social workers on site. There will be no actual security on staff. There will be video surveillance on the buildings, but not on the surrounding areas.
- [52] In response to Board questions about who will be responsible for maintenance if the project goes ahead, Ms. Packham advised that Wood Buffalo Housing (as owner) will do property maintenance of the buildings. Wood Buffalo Wellness Society, as a tenant, will be responsible for garbage collection. Part of the Wellness Society's job will be to help tenants take care of the Lands and teaching them life skills. The Wood Buffalo Housing will have maintenance personnel as part of the agreement. Snow shoveling will be handled by the residents or by Wood Buffalo Wellness Society.
- [53] In response to Board questions, Ms. Packham advised that there will be all age groups within the Group Home. There will be separate lease agreements. There are twenty-two (22) beds. If there are couples, there may be between twenty-two (22) to twenty-five (25) persons in the buildings.
- [54] The Applicant had two points in closing comment. The assumption that the presenters made in support of the appeal (that homeless people pose a risk to families and children) is without evidence and incorrect. Further, the project falls within the planning considerations and the Land Use Bylaw. It is within the spirit and intent of the Land Use Bylaw. The Applicant recognizes the importance of integrating members of the community into places that they can call home.
- [55] Upon conclusion of the presentations at the appeal hearing, the Chair asked the parties present if they felt that they had a fair opportunity to present their case. No issues were brought to the Board's attention.

### **FINDINGS OF FACT**

- [56] In addition to other findings of fact set out in the Board's reasons, the Board makes the following express findings of fact:
- a. The Lands are zoned R2-1 Modified Medium Density Residential District.
  - b. The Proposed Development is a "Group Home".

- c. The use (Group Home) is a discretionary use in the R2-1 District. 0
- d. The Appellant is an affected person.
- e. The Applicant is an affected person.
- f. The speakers, Mr. M. Patel and Mr. T. Patel, are both affected persons.

[57] The Proposed Development is compatible with the surrounding uses.

### **DECISION**

[58] **It is the decision of the Subdivision and Development Appeal Board to deny the appeal. The application for a Group Home is APPROVED. All of the conditions found in the Development Permit (see pages 32 to 35 of the Agenda Package) are upheld and form part of this development approval. The Board adds two additional conditions:**

- i. **The Developer must have functional security cameras on the buildings. The cameras are for the purpose of security for the buildings and not for the area.**
- ii. **The Developer must keep the Lands in a good state of repair, including general upkeep and cleanliness.**

### **REASONS FOR THE DECISION**

[59] The Board notes that its jurisdiction is found within Section 687(3) of the Municipal Government Act, RSA 2000, c.M-26 (the “MGA”). In making this decision, the Board has examined the provisions of the Land Use Bylaw and has considered the oral and written submissions by and on behalf of the Development Authority, the Appellant and the Applicant, as well as the affected persons.

### **Issues to be Decided**

[60] The Board has determined that the following issues must be decided:

- a. Are those speaking affected?
  - b. Is the Proposed Development compliant with the relevant statutory plans?
  - c. What is the Land Use District?
  - d. What use is the Proposed Development?
  - e. Is the Proposed Development compatible with the neighbouring uses?
- a. Are those speaking affected?**

[61] The first question for the Board to determine is whether those speaking before the Board are affected.

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[62] The Appellant is the Board of the Condominium Corporation located within the notification distance. Due to the proximity of the properties, the Board finds that the Appellant is affected by the Proposed Development.

[63] The Applicant for the Development Permit is the person whose permit is under appeal. As a result, the Applicant is clearly affected by this appeal.

[64] Mr. M. Patel and Mr. T. Patel both live relatively close to the Land on which the Proposed Development will be located. Given their proximity to the Proposed Development, the Board finds that they are affected.

**b. Is the Proposed Development compliant with the relevant statutory plans?**

[65] Under Section 687(3)(a.3), any development must comply with the relevant statutory plans. In this regard, the only evidence before the Board was that of the Development Authority, located at pages 21-22 of the Agenda Package.

[66] In regard to the Municipal Development Plan, the Board notes that the uncontroverted evidence before it is that the MDP in Section 4 contains provisions calling for communities to be close to the services that are required by residents. The Board notes the evidence was that services are within relative proximity to the Proposed Development. The Board finds as a matter of fact that the services meet the requirements of the MDP and are in relative proximity to the Proposed Development. Having concluded that services are in proximity, and having reviewed the provisions of the MDP cited by the Development Authority, the Board concludes that the Proposed Development is in line with the goals of the MDP and is therefore compliant with the MDP.

[67] In regard to the Timberlea Area Structure Plan, the uncontroverted evidence before the Board is that Section 4 of the Timberlea Area Structure Plan outlines key objectives including the requirement for a variety of housing types. The Proposed Development does provide a different type of housing. The Board finds as a fact that the Proposed Development will provide housing satisfying the provisions of the Timberlea Area Structure Plan. Therefore the Board concludes that the Proposed Development complies with the objectives of the Timberlea Area Structure Plan.

[68] Having concluded that the Proposed Development does comply with the relevant statutory plans, the Board turns to the next question to be answered.

**c. What is the Land Use District?**

[69] The evidence is clear that the Lands are located within the R2-1 District and the Board finds so as a fact. None of the parties before the Board raised any concerns and the evidence is clear that this is the zoning for the area. The Board notes under Section 202.4(b) that Group Home is a discretionary use that may be approved.

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**d. What Use is the Proposed Development?**

[70] The Development Authority advised that the Proposed Development did not fall within the strict definition of a Group Home because it was not “authorized, licensed, or certified by a provincial authority” and it does not have “shared kitchen facilities”.

[71] The Board has examined the definition of Group Home. The Board notes that the elements of the Group Home definition are:

- a. Facility which is authorized, licensed or certified by a provincial authority;
- b. To provide room and board for foster children or for physically, mentally, socially, developmentally or behaviourally challenged persons;
- c. Which may be for the personal rehabilitation for its residents either through self help or professional care, guidance and supervision.
- d. The residential character of the development shall be maintained;
- e. With the occupants living together as a single housekeeping group using shared kitchen facilities.

[72] In relation to the above elements, the Board notes the lack of compliance with elements a and e. However, the Board finds as a question of fact that the development meets the element of providing room and board since the only evidence before the Board was that the units will be used for shelter (rental accommodation) for the Wood Buffalo Wellness Society. Further, the uncontroverted evidence before the Board is that the Proposed Development will provide personal rehabilitation and personal care, guidance and supervision. The Board draws these conclusions based upon the evidence provided by the Applicant that there will be social workers on site who will provide assistance to the residents and the residents are going to be learning life skills, amongst other things.

[73] Despite the technical non-compliance with the full definition of Group Home, the Board finds that the Proposed Development is, in fact, a Group Home.

**e. Is the Proposed Development Compatible with the Neighbouring Uses?**

[74] Having found that the Proposed Development is a Group Home, the Board notes that the use Group Home is a discretionary use within the R2-1 District. Therefore, the Board must assess the compatibility of the Proposed Development with neighbouring uses as referenced in *Rossdale Community League (1974) v. Edmonton (Subdivision and Development Appeal Board)*, 2009 ABCA 261:

*[14] The object and purpose of a discretionary use is to allow the Development Authority to assess the particular type and character of the use involved, including its intensity and its compatibility with adjacent uses.*

[75] The Appellant has raised the following concerns which the Board must consider in order to determine whether the Proposed Development is compatible with neighbouring uses:

- a. The proximity to schools;
- b. The impact on adjacent property values;
- c. The lack of consultation;
- d. Security; and
- e. Impact to infrastructure and maintenance of the Lands.

### **Proximity to Schools**

[76] The Appellant, as well as the two speakers in favour of the appeal, commented upon the potential impact of the Proposed Development to the two schools in the area. The Applicant advised that there will be residents of all ages in the Proposed Development. The Board concludes from this that may be children living in the Proposed Development.

[77] Despite the general concerns raised by the Appellant and the two speakers, there were no specific issues as to why the Proposed Development would be incompatible with the two schools in the area. Moreover, the two schools themselves did not attend the hearing and sent no statements of concern to the Board for the Board's consideration. In the absence of specific evidence and in the absence of the attendance of the schools, the Board finds that the mere proximity of the Group Home to the schools is not in and of itself sufficient to establish incompatibility of the Proposed Development with the neighbouring uses.

### **Impact on Adjacent Property Values**

[78] The Appellant and those speaking in favour of the appeal all commented upon the fact that their property values have decreased. Their evidence was that the decrease in value has been between sixty (60%) and seventy (70%) percent. The Appellant noted that this decrease was from 2009, when he purchased his property.

[79] The Board has considered this evidence, but notes that the evidence included by the Appellant was fairly general in nature. Moreover, the Board notes that the evidence of a decrease in value has preceded the Group Home being located in the area. The Board finds the link between the concerns raised about the decrease in value and the location of the Group Home to be insufficiently strong to find that there will be a decrease in property value as a result of the Group Home. The Board notes that there will be no exterior alterations to the building. As a result, people in the area would not know that there is a Group Home on the Lands. Since the nature of the development is residential, the residents of the Group Home would, to outward appearances, not be any different than any other resident within the area. The Board finds that there is insufficient evidence for it to conclude that the Proposed Development will cause a decrease in property values. Therefore, the Board does not find that there is incompatibility on this ground.



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**Lack of Consultation**

- [80] The Appellant raised the concern that the appeal was only necessitated due to the lack of consultation by the Applicant and the Municipality. The Appellant's harshest comments were in relation to the Municipality and its failure to consult.
- [81] The Board notes that there are no provisions within the Land Use Bylaw requiring consultation. Moreover, the Board noted the evidence of the Applicant was that on July 12, 2021 there was an open house. This information suggests to the Board that the Applicant did attempt to bring information to the community.
- [82] Although the Board understands the concern of the Appellant in relation to the lack of consultation, the Board must accept the Land Use Bylaw as it finds it. In the absence of any direct requirement in the Land Use Bylaw compelling pre-approval consultation, the Board is not able to conclude that this lack of consultation constitutes an indication of incompatibility between the Proposed Development and the neighbouring uses.
- [83] The Board would certainly recommend consultation for developments for which the Development Authority might consider to be controversial, but the Board cannot compel this to occur under the provisions of the Land Use Bylaw.

**Security**

- [84] The Appellant and those speaking in favour of the appeal raised concerns about their security should the Proposed Development proceed. In this regard, they raised incidents of personal security from people in the neighbourhood.
- [85] The Applicant advised that the issue of homelessness does not immediately cause questions of security.
- [86] The Board notes that the concerns raised by the Appellant and those speaking in favour of the appeal are general in nature and also are not directly related to the Group Home. The residents of the Group Home have not yet been part of the neighbourhood and the Board cannot accept that there is a causal link between the residents of a not yet established Group Home and security. The Board does accept that there may be security issues in the neighbourhood. However, the Board cannot address those concerns and the Appellant should raise them with the RCMP.
- [87] The Appellant indicated that in relation to the security concerns, that having security cameras installed for the Lands, as well as having them installed to surveil the neighbourhood would be of assistance. The Applicant indicated that there will be security cameras for the properties, but those cameras will not surveil the neighbourhood.

- [88] The Board is prepared to impose a condition that the Applicant have functional security cameras on the properties to help address possible security issues. The security cameras are to be focussed on the Lands themselves. The Board will not impose a condition that the surveillance cameras surveil the neighbourhood. To do so would be a breach of privacy of those in the neighbourhood and moreover would be beyond the control and authority of the Applicant to provide surveillance in the surrounding neighbourhood. The Applicant will be running a Group Home. The surveillance cameras will deal with security of the subject properties, but should not go beyond that.

### **Impact to Infrastructure and Maintenance of the Lands**

- [89] The Appellant stated that Wood Buffalo Housing is responsible for the maintenance of various other properties that it owns within the neighbourhood. Wood Buffalo Housing is the owner of the Lands. The Appellant's concerns are that Wood Buffalo Housing will not properly maintain the Lands which will therefore cause a negative impact to the community. In response, the Applicant advised that the obligations of maintenance will be those of Wood Buffalo Housing and the Applicant will be responsible for the upkeep of the Lands, including snow removal.
- [90] The Board has noted the photographs submitted by the Appellant and has taken into account their contents. The Board is sympathetic with the concern. The Board accepts the evidence of the Appellant that there has been a general lack of maintenance in the neighbourhood. In order to address this concern of compatibility, the Board is prepared to impose a condition that the Applicant keep the properties in a good state of repair. This would mean general upkeep and cleanliness.
- [91] The Board is of the view that imposing a condition of this nature should address the concerns of compatibility which may arise from a lack of upkeep of the Lands. However, the Board cannot impose a condition on Wood Buffalo Housing as Wood Buffalo Housing is not the Applicant for the permit. However, the Board would urge the Applicant to ensure that Wood Buffalo Housing undertakes appropriate maintenance to keep the state of the buildings compatible with the neighbouring uses, including those of the Applicant.
- [92] It is so ordered.
- [93] The decision of the Subdivision and Development Appeal Board is final and binding on all parties, subject only to appeal to the Court of Appeal under Section 688 of the *Municipal Government Act*, R.S.A 2000, c. M-26

Dated at the Regional Municipality of Wood Buffalo in the Province of Alberta, this 8<sup>th</sup> day of October 2021.

CHAIR

Section 17 - FOIP

Alethea Austin

**APPENDIX "A"****DOCUMENTS RECEIVED AND CONSIDERED BY THE SDAB:**

<b>Exhibit #</b>	<b>Description</b>	<b>Filed by</b>	<b>Filing Date</b>
	Subject Area Map	Clerk	2021-07-22
P1	Request for Postponement (4 pages)	Appellant	2021-07-29
P2	Postponement Request Response (2 pages)	Regional Municipality of Wood Buffalo	2021-08-06
P3	Postponement Request Response (3 pages)	Applicant	2021-08-06
1.	Notice of Appeal (8 pages)	Appellant	2021-07-15
2.	Disclosure of Evidence - Municipality (34 pages)	Municipality	2021-09-09
3.	Disclosure of Evidence – Appellant (49 pages)	Appellant	2021-09-09
7.	Written Submission in Opposition to Appeal (1 page)	Edna Olsen-Moman – Executive Director, Salvation Army	2021-09-23
9.	Written Submission in Opposition to Appeal (1 page)	Linda Thompson-Brown, YMCA, Northern Alberta	2021-09-23
10.	Written Submission in Support of Appeal (1 page)	Nimesh Patel	2021-09-23
11.	Written Submission in Opposition to Appeal (1 page)	Rosie Keating, Executive Director, Centre of Hope	2021-09-23

**APPENDIX “B”****REPRESENTATIONS****PERSON APPEARING****CAPACITY**

Tracey Tester	Supervisor, Development Control Regional Municipality of Wood Buffalo
Camille Goodheart	Counsel for Regional Municipality of Wood Buffalo
James Hayward	Appellant, Director, Meadowcreek Village Condominium Corporation
Alexandra Tarasenco	Appellant, Director, Meadowcreek Village Condominium Corporation
Jo-Anne Packham	Applicant, Director, Wood Buffalo Wellness Society
Christine Burton	Applicant, President, Wood Buffalo Wellness Society
Mitesh Patel	Affected Party
Trushar Patel	Affected Party

**Others Appearing:**

Caitlin Hanly	Counsel for Regional Municipality of Wood Buffalo
Jasmine Kaur	Development Officer, Planning and Development, Regional Municipality of Wood Buffalo