



CITY OF
Lethbridge

Office of the City Clerk

SUBDIVISION AND DEVELOPMENT APPEAL BOARD DECISION

January 5, 2024

Re: Appeal of Stop Order DEN00704
Appellant: Streets Alive Family Support Association/Streets Alive Mission
Land Use: Downtown Commercial (C-D)

UPON HEARING representations made by the Development Authority (the General Manager Planning and Design), the Appellant, and other interested parties on Thursday, December 21, 2023, and upon reviewing the written submissions received in respect of this appeal, it is the decision of the Subdivision and Development Appeal Board that the appeal is **ALLOWED** and Stop Order DEN00704 is hereby **REVOKED**. The development permit approved by the Development Officer on May 2, 2000 for the purpose of a religious assembly is considered by the Board sufficient for the activities identified in the Stop Order without obtaining additional development permits.

The Board received written and oral submissions from the Appellant, the Development Authority and from numerous other interested parties. The Board acknowledges and appreciates all of these submissions.

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act and the Land Use By-law, and the circumstances and merits of this case, the reasons for the decision of the Subdivision and Development Appeal Board are as follows:

1. The Board reviewed all evidence and arguments, written and oral, submitted by the parties and will focus on key evidence and arguments in outlining its reasons.
2. The Board found that the activities described in the Stop Order are in compliance with the Land Use Bylaw and that further development permits are not required as alleged by the Development Authority.
3. A Development Permit (00-0383) for a "religious assembly" was granted by the Development Officer on May 2, 2000 for the subject site. The Land Use Bylaw at the time, Bylaw 4100, defined "religious assembly" as:
"development for worship activities, and includes supplementary religious instruction, philanthropic and social activities and staff residences. Amusement activities may be incorporated as an accessory use. The term refers to uses such as chapels, churches, convents, manses, monasteries, mosques, parish halls, rectories, synagogues, and temples."
4. There is no substantive change in the definition of "religious assembly" in the current Land Use Bylaw, Bylaw 6300.

5. The Development Authority stated that the following was occurring:
 - a. Financial administration of funds for patrons, store-style clothing bank, provision of lockers for patrons' daily storage needs, mail pick-up service for patrons;
 - b. Hygiene services including haircuts, hair washing, and foot care; and
 - c. Regular attendance of mobile community paramedics.
6. The Appellant stated that the following was occurring:
 - a. The financial administration of funds started in 2004 at the current location. Clothing is provided for free.
 - b. Haircuts and hair washing is done by a volunteer on an intermittent basis. Foot care is provided one day a week.
 - c. Mobile community paramedics are in attendance for up to three hours per week.
7. The question for the Board is whether these activities are approved as part of the religious assembly use. The Board notes that the definition of this use includes "*supplementary religious instruction, philanthropic and social activities*".
8. The Development Authority's position was that these activities are not supplementary to the religious assembly use, and that separate development permits would be required for these activities to continue. Land Use Bylaw 6300 defines those uses as follows:
 - a. "Resource Centre" means:

"development that provides various social services aimed at addressing the special needs of people whose well-being is at risk. This use does not include overnight accommodation. This use may require provincial approval. Soup Kitchen, Food Bank, Drop-in Centre, Shelter, Supportive Housing, Medical and Health Facility, Medical and Health Office, Education Facility, Office and Government Service are separate uses."

This is a discretionary use for the subject site under the current Land Use Bylaw.
 - b. "Personal Service" means:

"development providing services for the personal care and appearance and includes supplementary retail sale of associated products and may include therapeutic massage as an Accessory Use. This term refers to uses such as beauty salons, barber shops and esthetic services/spas. Medical and Health Office (outpatient) and Fitness Facility are separate uses."

This is a permitted use for the subject site under the current Land Use Bylaw.
 - c. "Medical and Health Office (Outpatient)" means:

"development providing medical and health care on an outpatient basis and may incorporate a dispensary which sells pharmaceutical and related medical supplies as an accessory use. This term refers to uses such as medical and dental offices, clinics and health and wellness services such as physiotherapy, counselling, chiropractic, naturopathic and therapeutic massage."

This is a permitted use for the subject site under the current Land Use Bylaw.
9. The Appellant's position was that the activities described above are supplementary philanthropic and social activities which are part of the approved religious assembly use.
10. The Board heard submissions about whether the above activities could be considered to be supplemental to the approved use of religious assembly.

11. The Board is satisfied that these activities fall within the commonly understood meaning of philanthropic and social activities.
12. The Development Authority argued that the scope and volume of these activities had changed and increased such that they were no longer supplementary to the religious assembly use.
13. The Board notes that section 616(b)(iv) of the *Municipal Government Act* states that:

“development means a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building”.
14. The Board also notes that the Land Use Bylaw defines “supplementary use” as:

“a use of land or buildings which is secondary or subsidiary to, but a part of or integral to, the principal use of the same parcel, building or site.”
15. While the defined term is not used in the definition of “religious assembly,” the Board is satisfied that there is an intent that the philanthropic and social activities would be secondary or subsidiary to the worship activities.
16. The Board considered the nature of the relationship between all activities occurring on site and whether the uses could be considered to be supplementary or subsidiary to the principal use of religious assembly. The Board found that the volume of the activities described above has changed and has increased over time. However, at the same time as these activities have grown, the religious assembly use of the site by the organization has also grown. This is not surprising given the corresponding growth of the population of the City.
17. The activities above have increased but only proportionately to the religious assembly use. They are still secondary in scope and in intensity to the primary use of religious assembly.
18. As such, the Board determined that the activities described above are supplementary and are part of the philanthropic and social activities inherent in the definition of a religious assembly, and no additional permits are required.
19. While there were some references to such activities in the materials before the Board, the Development Authority stated that there was no evidence of a Soup Kitchen, Food Bank or Drop-In Centre operating at the property. These are not the subject of the Stop Order and therefore not issues in this appeal.
20. Having regard to the merits of the appeal and sound planning considerations, the Board, based on the evidence and aforementioned factors, finds that the current operation from a planning perspective has the necessary development permits in place.
21. In reviewing and weighing all the evidence, the Board therefore finds that the appeal does merit approval, and the Stop Order to be revoked.

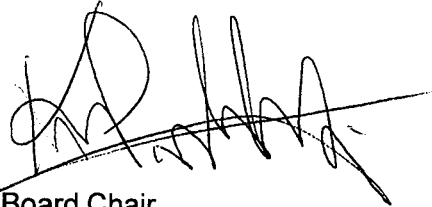
CONCLUSION:

For the reasons set out above, the appeal is allowed and the decision of the Development Authority is overturned. No additional permits are required by the Appellant to continue their current operations. The Stop Order is revoked.

An appeal against this decision may be made to the Alberta Court of Appeal on a question of law or jurisdiction only. Should you wish to do so, it is recommended that you retain legal counsel.

Please contact this Office if you have any questions regarding the decision. A copy of this decision has been mailed to the owner of the property, and the persons who filed the appeal.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kent Perry', written over a horizontal line.

Kent Perry, Board Chair,
Subdivision & Development Appeal Board

cc Appellant/Neighbouring Property Owners