

CITY SHAPING

Choosing Directions for Planning and Developing Edmonton in the Future

A Process of Bylaw Reform

Issues Report

November 2000



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INTRODUCTION

This document identifies and discusses the key planning and land use issues that have been addressed in the Proposed Zoning Bylaw or issues that have been raised as a result of the changes to the Proposed Bylaw. The purpose is to highlight each issue within an appropriate context that includes its historical evolution and connection to future trends.

The issues have been grouped according to General Zoning Issues, Specific Issues and Special Interests, Building/Development Regulations and New Zones. However, each issue is a self-contained discussion that can be understood outside the context of the full document. This will allow anyone with an interest in a specific issue to get the information they need without reading the entire document.

If you would like more information on any of these issues or have other questions about the Proposed Zoning Bylaw, please contact:

- Visit the City of Edmonton website at www.gov.edmonton.ab.ca
 - then* click on City Departments Services
 - then* click on Planning and Development
 - then* click on Edmonton Zoning Initiative (EZI)
- E-mail the Planning & Development Department directly at Ezi@gov.edmonton.ab.ca
- Phone the interactive telephone service at 496-6191
- Phone the Planning & Development Department at 496-3100

GENERAL ZONING ISSUES

A: Social Issues and Community Standards

1. What It Means

Municipalities are often faced with complex issues that have some land use implications but that often focus on social issues or community standards. In Edmonton, some of these issues have included the location of peep shows and liquor stores, the regulation of home-based businesses and the placement of cell towers.

2. The Issue

A zoning bylaw is often the first instrument that people think of in any of these discussions because it has such primacy in regulating what goes where. While this is often appropriate, there are many instances where a zoning bylaw is a very crude and ineffective instrument of municipal policy. In fact, a zoning bylaw is not a policy document at all but rather a tool kit to implement policy. A zoning bylaw is further restricted as an instrument of policy by provisions in the Municipal Government Act. In particular, zoning regulations are restricted as follows:

- Any definition or regulation in a zoning bylaw must be there to affect land use impacts. This means that the provision must be attached to the use of land and not the user of land.
- Any land use that is not contrary to the criminal code must be accommodated in a zoning bylaw in some form.
- A zoning bylaw cannot be used to regulate competition. In other words if a particular land use is acceptable within a zone all similar uses must be acceptable. This means that a bylaw cannot regulate the total number or concentrations of a particular use.
- A zoning bylaw cannot supercede Federal or Provincial legislation and regulations.
- A zoning bylaw cannot regulate the operational aspects of a use where no definable land use impacts are shown. For example, a zoning bylaw cannot allow a print shop and then regulate what is printed.

The other instruments available to municipalities (business licenses, noise bylaws, nuisance bylaws) also have their limits. This often results in circumstances where there is no clear mechanism to deal with an issue that is before Council and where there are clear calls from communities for action. In fact, some of the desired directions go beyond the powers of a municipality.

3. How We Got Here

The following is an inventory of the social and community standards issues that have challenged the parameters of the powers of the Land Use (Zoning) Bylaw in Edmonton over the past 20 years.

- a) **Peep Shows** - In the 1980s, peep shows (Adult Mini Theatres) began to show up in Edmonton. Council wished to deal with this issue in some way. However, the use was not a criminal activity and, therefore, had to be accommodated in some fashion. Notwithstanding concern about whether there are land use impacts or not, Council's direction was to create a separate use class for peep shows and to restrict them to Industrial areas. The proposed Zoning Bylaw has not made any changes to these provisions.
- b) **Liquor Stores** - In 1993, the Alberta Government privatized the retail sale of alcohol. Previous to that decision, the City of Edmonton had considered the former ALCB stores and cold beer outlets as general retail uses and, therefore, began regulating the new private liquor stores as general retail uses. However, representatives from various communities and Council were concerned that these new stores would concentrate in certain parts of the city, creating a problem in certain areas.

The Planning and Development Department prepared two new land use definitions – Major and Minor Alcohol Sales – and distributed them throughout most of the commercial zones. Council also added some additional provisions that would separate liquor stores from schools and other public facilities. These regulations were amended in the mid-1990s to clarify the types of public facilities that were to be separate from liquor stores. However, community concerns about the hours of operation and concentration of liquor stores in particular neighbourhoods could not be addressed with zoning regulations. Hours of operation is a Provincial responsibility that is regulated by Provincial license, while any attempt to control the concentration of stores would be seen as an attempt to regulate competition and zoning bylaws cannot be used for this purpose.

Council reviewed the regulations in the late 1990s, and considered returning to treating liquor stores as general retail uses, which would remove any special regulations associated with them. However, this action was not taken then and the proposed zoning bylaw also does not propose any changes to how liquor stores are regulated.

- c) **Group Homes** - During the late 1980s and throughout the 1990s support and services to various groups was moving from an institutionalization model to a community-based model. The most significant impact of this on zoning regulations was a significant growth in the number of Group Home applications.

In the current Land Use (Zoning) Bylaw, group homes are classified as Limited Group Homes or Group Homes. Limited Group Homes are facilities with 6 or less residents and have been a permitted use in all residential Districts since the early 1980s. This direction fit with Provincial regulations and recognized that, in a fundamental way, 6 residents living as a group had no greater land use impact than a traditional family.

With the growth of facilities and a broadening of the types of facilities in the 1990s, communities and Council were concerned about the types of individuals in group homes and the possibility for concentrations of these facilities in certain areas. The City participated in a number of broad based stakeholder taskforces and Council considered the issue in depth over several years. There were a number of motions to restrict the number of group homes in an area, add various regulations over their operation and make Limited Group Homes a discretionary use.

However, ultimately any discussion of Group Homes gets to the issue of who can live in a neighbourhood. Many of the suggestions for change in the Land Use (Zoning) Bylaw focused on the land user and not the land use and, as such, transcended the authority of both a Land Use (Zoning) Bylaw and a Municipality. In the end, Council decided to continue to work with the Province, advocating a stronger licensing role for the Province. The Proposed Zoning Bylaw has not made any changes to how Group Homes are regulated.

- d) **Adult Video Stores** - Several times throughout the 1980s and 1990s Council has considered the issue of adult video rental establishments. Adult video stores have often been addressed in conjunction with other stores that sell adult related material. In each of these instances the issue for zoning has been how to separate the nature of retail goods, in land use terms. All adult related stores presently qualify as general retail facilities and, as such, are allowed in most commercial zones. No land use basis has been found to separate these facilities. The proposed Zoning Bylaw does not propose any changes to how these types of facilities are regulated.
- e) **Second Hand Stores** - There has been concern throughout the life of the existing Land Use (Zoning) Bylaw that pawnshops might concentrate in particular areas. Several attempts have been made to create a definition for pawnshops that might differentiate them in land use terms from other second hand stores. Similarly there have been efforts to differentiate fine antique stores from second hand stores. Both initiatives have failed to find a difference in land use impact.

In 1996, Council created a special Overlay for commercial strips that would require applicants for second hand stores to contact surrounding property owners before making an application. This Overlay has been applied in several areas along 118 Avenue. The intent of the Overlay is to both alert communities about an application and offer communities an opportunity to influence the applicant. The Proposed Zoning Bylaw does not propose changing the affect of the Overlay.

- f) **Casinos** - In the mid 1990s Council became concerned about the growing number of Casinos in Edmonton. In 1996, Council created a special land use class called Casinos and Other Gaming Establishments but did not distribute this use class to any District. As a consequence any applicant wishing to apply for new casino or bingo hall must first apply to Council to rezone the site to Direct Control thereby making Council the approving authority for any new facility. The Proposed Zoning Bylaw makes no change to this provision.
- g) **Child Care Services** - In the early 1990s Council was concerned that Provincial Standards for the location and facilities associated with child care services were inadequate. As a result, the Land Use (Zoning) Bylaw was amended to refocus daycares away from commercial areas and into residential areas and to add considerably more stringent performance criteria for outdoor play areas. The Proposed Zoning Bylaw has not changed any of these provisions.
- h) **Crime Prevention Through Environmental Design** - In the early 1990s Council considered performance criteria around Crime Prevention Through Environmental Design (CPTED). A number of detailed design manuals were prepared and considerable discussions took place with stakeholders and Council. The issue at that time was how prescriptive to make any new regulation. It was noted during these discussions that a regulated approach would require considerably more detailed plans at the Development Permit stage and more inspection activity as well. Council decided to include reference to the CPTED in the Land Use (Zoning) Bylaw but not to prescribe specific regulations around the manuals. The Proposed Zoning Bylaw makes not change in this area.
- i) **Cell Towers** - The growth in the use of cellular phones and the companies who deliver the service resulted in increasing numbers of towers. Council was concerned about the location of these towers and their impact on neighbours. Regulation of cell towers is a Federal jurisdiction. A municipality cannot regulate telecommunication issues in a zoning bylaw.

The issue was resolved by designing a protocol with Transport Canada and the cellular phone industry that established where towers could be located and which towers would be approved by Transport Canada. When an application is made, the Planning and Development Department sends notices on behalf of the applicant to invite the community to provide direct input to Transport Canada. This approach has become the model across Canada. The Proposed Zoning Bylaw does not make any changes to this process.

- j) **Recreational Vehicles** - In the early 1990s as part of a general clean up of the text in the Land Use (Zoning) Bylaw, the Department created a fire storm of protest by clarifying the wording around the fact that recreational vehicles (RV) could not be parked in the front yard of low density residential development. In response, Council allowed RV parking in front yards from April 1 through Oct 31. The Proposed Zoning Bylaw does not make any changes to these provisions.
- k) **Home Based Businesses** - In the late 1980s, Edmonton was the only municipal participant in a major national study of the new economy and home based business. In the early 1990s, the City made significant changes to the Land Use (Zoning) Bylaw creating a major and minor categorization for Home Based Business. Minor Home Based Businesses are now a permitted use in all residential zones. This has led to a considerable increase in the number of home based businesses. While there have been some concerns around this there has also been considerable praise for Edmonton's approach from the economic development perspective. The new Zoning Bylaw does not propose major changes in this area.

3. Proposed Response to the Issue

Over the last 20 years there have been a number of complex social and moral issues faced by City Council that have called on the Zoning Bylaw to enter the fray of public debate. In preparing the new Zoning Bylaw the Planning and Development Department reviewed the solutions that were developed to address each of these issues. The purpose of that exercise was to understand the "land use" implications of these issues and to identify where appropriate zoning regulations can work in combination with other tools to deal with these issues. In general, the Planning and Development Department has not changed the decisions that were reached on each of these issues.

B: Notification

1. What It Means

The term "notification" generally means the requirement that notices be sent out about a decision made by an approving authority on a development permit that involves the use of discretion. Provincial Legislation provides the framework for this process and the Municipal Government Act requires that a municipality's land use bylaw provide a process for notification, specifically the current Municipal Government Act requires that:

- Notices be mailed to property owners affected by a rezoning application and that notice of the public hearing associated with that rezoning be placed in the newspaper twice before the holding of the hearing. Other notification processes associated with rezoning were created by the City of Edmonton and stay very much the same in the Proposed Bylaw.

- A zoning bylaw set out procedures for notification on the use of discretion in approving an application.

In both the case of a rezoning or a development permit the Municipal Government Act only refers to property owners in its requirements for notices.

Procedures around early notice (notice prior to a decision) are not required by Provincial Legislation and are something that a city may determine for itself.

2. The Issue

The process for notification in Edmonton varies according to the type of development application and, in some cases, this variation causes confusion among both the applicant and the surrounding community. Current notification practice involves the following activities:

- **Redistricting Application.** Early notices are sent to property owners and the affected Community League on receipt of a redistricting application and formal notices are sent again before the public hearing. Newspaper advertisements are placed twice before the Public Hearing and a sign is posted on the site. There are approximately 200 such applications per year.
- **DC5 Redistricting Application.** The applicant must consult with surrounding property owners and the affected community league before making the application. When the Planning and Development Department receives the application an early notice is sent to property owners followed by a notice of the public hearing. Newspaper advertisements are placed twice before the public hearing and a sign is posted on the site. There are approximately 20 such applications per year.
- **Development Applications for Permitted Uses.** No notices are sent and no newspaper advertisements are placed for development applications that are simple to interpret, are for permitted uses and conform in all respects to the Land Use (Zoning) Bylaw. There are about 6,500 such applications per year.
- **Development Applications for Large or Complex Uses.** Advertisements are placed in the newspaper for development applications for permitted uses that conform in all respects to the bylaw but, because of their complexity or size, time is needed to confirm their compliance. There are approximately 700 of these types of applications per year.
- **Development Applications Involving Discretionary Use or Variance to Regulations.** Advertisements are placed in the newspaper and written notices are sent to property owners within 60 meters of the site and the affected Community League(s) for any development application that involves a discretionary use or a variance to the regulations. There are approximately 2,000 such applications.

- **Development Application for Belgravia, McKernan and Parkallen.** The applicant is required to consult with surrounding owners within varying distances and the affected Community League before making a development application in certain situations. Once such an application has been approved written notices are sent to property owners within 60 meters and the affected Community Leagues, and an ad is placed in the newspaper.
- **Application for Secondhand Store.** In areas affected by the Secondhand Store Overlay the applicant is required to consult with surrounding owners within 30 metres and the affected Community League before making an application for a Secondhand Store. Once such an application has been approved written notices are sent to property owners within 60 meters and the affected Community Leagues, and an ad is placed in the newspaper.
- **Application Affected by Mature Districting Overlay.** While the Mature Districting Overlay has not been applied to any property it would require the Development Officer to suspend processing certain applications and send a prenotification letter, similar to the early redistricting letter, to surrounding property owners and the affected Community League before rendering a decision on the application. Once such an application has been approved, written notices are sent to property owners within 60 meters and the affected Community Leagues, and an ad is placed in the newspaper.
- **Application for Development in Old Strathcona.** In Old Strathcona the Development Officer is responsible for sending out a notice of receipt of an application which does not comply with the Overlay and to suspend processing of the application for a period of time. Once such an application has been approved written notices are sent to property owners within 60 meters and the affected Community Leagues, and an ad is placed in the newspaper.
- **Court Challenges.** Additional notices are required for any court challenge to a decision on a redistricting bylaw or the decision of an applicant to appeal a refusal on a development application to Subdivision and Development Appeal Board.
- **Public Hearings.** The holding of a hearing in response to an appeal of a Development Officer's decision at the Subdivision and Development Appeal Board requires more notices to property owners and affected Community Leagues.

3. How We Got Here

Following the provisions of the "Town and Country Planning Act", the 1961 Zoning Bylaw contained "uses" and "special uses subject to the right of appeal". The City of Edmonton interpreted both categories of use as equivalent and approved all applications for both use groups that conformed to the rules of the bylaw. Written notices were sent to property owners in the case of a development application involving a "special use subject to the right of appeal". The notice advised property owners of their right to appeal this approval to the City's Development Appeal Board. Similar notices were sent on any decision to approve either use situation that included the Development Officer approving an application that did not fully comply with the rules. These notices described the decision and indicated that affected property owners had 14 days to lodge an appeal. The assessment database was used to generate the property owner list of properties within 200 feet of the site of the application.

A new Planning Act was adopted in 1977 and the City adopted a new Land Use Bylaw in 1980. Significant changes occurred. The 1977 Act introduced the notion of Permitted and Discretionary Uses and clearly indicated that planning reasons could be used as a base for approving or refusing a discretionary use. The 1980 Land Use Bylaw built on this notion. The terms Permitted and Discretionary uses were used and other criteria and guidance in the exercise of discretion were provided. Largely because of this shift from simply comparing uses and rules to using judgement, and partly because the 1977 Act was much clearer than previous legislation, the 1980 Land Use Bylaw introduced an elaborate scheme for classifying applications and set out detailed procedures for how notices would be handled. The 1980 Land Use Bylaw set out five classes of permits. These can be generally described as:

1. No permit required. *No notices provided.*
2. An application that is easily interpreted as a permitted use that conforms in all respects. *No notices provided.*
3. An application that is for a permitted use and does conform to all requirements but is complex enough that time is required to make that judgement. *Advertisement placed in the newspaper.*
4. An application that is for a discretionary use or requires a variance to a regulation. *Advertisement placed in the newspaper and written notices to surrounding property owners within 60 meters of the site and affected Community Leagues.*
5. An application that is for a discretionary use or variance that requires a significant review as to the land use impacts or impacts on other planning policy. *Special planning report prepared, advertisement placed in the newspaper and written notices to surrounding property owners within 60 meters of the site and affected Community Leagues.*

The 1977 Planning Act and the Municipal Government Act of the 1990s did not change requirements that appeals be made within 14 days. In order to process the mailing of notices and the newspaper advertisements, applications from classes 3, 4, and 5 as described above are held for 25 days following the decision of the Development Officer. While there have been considerable advances in how this list of property owners is constructed, it is still restricted to property owners and doesn't include tenants and it is still taken from the City's assessment database.

To add complication to this, the introduction of the DC5 Direct Control Provision in the mid-1980s brought in the notion of preconsultation. The DC5 provision requires that any applicant wishing to apply to City Council to have his property designated DC5 must consult with surrounding property owners, document the opinions of those owners and present that information to the Department with his application. The intention at the time of this innovation was to ensure that the community and surrounding property owners had opportunity to influence the applicant in what would be in the actual redistricting application.

Both the 1961 Bylaw and the 1980 Bylaw contain requirements for notices to property owners about rezoning or redistricting applications that are scheduled for a Public Hearing in front of City Council. These processes are mandated in the relevant Provincial Legislation and generally include a newspaper advertisement, a written notice to property owners and a sign being placed on the site. The City of Edmonton introduced a new innovation in the mid-1980s by setting up a process to send an early warning notice from the Planning and Development Department to property owners that a redistricting application has been received.

This notion of preconsultation as introduced in the rezoning process was extended to the Development Permit process in the Belgravia, McKernan and Parkallen Overlays. In these Overlays a series of special rules were set out and circumstances defined when applicants would have to talk to surrounding property owners prior to making a development application. The concept of preconsultation has been further extended by the Secondhand Store Overlay along 118 Avenue. In both of these circumstances it was the applicant's responsibility to contact surrounding property owners and bring the results of that consultation to the Development Officer at the time of the application. This innovation built on the ideas that had been developed for the DC5 applications and was the first example of extending them to the development permit process.

In response to a review of how things were working in Belgravia, McKernan and Parkallen, Council directed the Department to develop an Overlay that would be common to the entire inner city. While the Department prepared this Overlay, the form of this preconsultation was significantly changed. In the Mature Districting Overlay that was approved by Council in 1998 the responsibility for the advisement of an application shifted from the applicant to the Development Officer. Under this overlay, when the Development Officer receives an application, a prenotification letter is sent to property owners surrounding the site, similar to the prenotification letters sent out on rezoning applications. The Development Officer then suspends further consideration of the application for 21 days. This represents a significant shift in the use of such notifications, moving from the consultative notions included originally in the DC5 innovation to the prenotification letter sent by the Department on all redistricting applications. The proposed bylaw moves the process back to pre-consultation.

4. Proposed Response to the Issue

- **Reduce the number of Development Classes.** The Planning Process Round Table recommended that notices *not* be sent out or placed in the newspaper for development permits that comply in all respects to the zoning bylaw and involve permitted uses. This fits with Provincial Legislation that provides a very clear distinction between applications that comply with permitted use and discretionary applications. The draft bylaw proposes to reduce the number of Development Classes from 5 to 2: Permitted and Discretionary.

Notices will only be sent on applications that involve discretion of either use or regulation. This proposal will primarily affect the approximately 700 applications a year for permitted use that comply in all respects to the bylaw but that currently require a newspaper advertisement because it takes time to determine their compliance. Because of this requirement, these applications typically sit for 25 days and are rarely appealed. When there is an appeal, the Provincial Legislation would direct that a permit must be issued unless the Appeal Board can determine that the Development Officer erred in his interpretation of the application.

- **Ensure Adequate Public Information.** The above changes will result in less information to the general public in the newspaper but there are ways of ensuring adequate public access to information. The Planning and Development Department is currently enhancing the information that will be available on the City of Edmonton's Internet Home Page. The Home Page will include a map, which will show zoning and other statutory plan information. The map will be accessible as a map or from an address or legal description. The map will provide links to the text of the Zoning Bylaw and other Statutory Plans. Because all of this information is contained in a database it will also be possible to post information about zoning and development permit applications. Initially this will provide a much-improved daily list of activities that can be shown on a map or neighbourhood name format. It is also anticipated that the system will grow to provide opportunities for both e-commerce and e-business. This will in large measure off set the loss of newspaper ads on the current Class B permits and may eventually replace newspaper advertisements.
- **Provide a Consistent Approach to Preapplication Consultation and Prenotification.** The proposed bylaw would use preapplication consultation as the foundation for all processes associated with early notices. One approach is based on the processes currently used for DC5 rezoning applications and for certain development permits in the existing Overlays affecting Secondhand Stores and Belgravia, McKernan and Parkallen. The intention of this approach is to force applicants to consult with surrounding property owners thereby providing an opportunity for the community to influence the actual application that is made. It is an effective approach from a practical perspective as the necessary preapplication work is done by the applicant who has the most at stake in terms of insuring a timely process. It also provides the community a genuine opportunity to influence the eventual application.

An alternative process is one that would require the Development Officer to send out early notices. However, this approach could raise expectations that any response to a notice from the Development Officer would be reflected in the Officer's eventual decision, which may not always be possible. The Development Officer is limited to the provisions of the bylaw and may not be able to respond to local concerns in all cases. From a practical point of view, the Development Officer is not in a position to mediate all concerns before rendering a decision within the time constraints for such decisions and within the resources currently available.

The DC5 approach is the recommended model for early notice in the proposed bylaw as it provides a legitimate and effective way for communities to influence applications while ensuring that the process can be managed within existing timelines and resources. This is critical given that the draft bylaw proposes to extend the prenotice provisions to all overlays.

- **Clarify Who Should Be Notified.** The Proposed Bylaw would continue to focus on affected Community Leagues and property owners for notification. The Community League structure is longstanding in Edmonton and has historically been relied on by the City to provide official representation of neighbourhoods. The proposed bylaw would not make any changes to that relationship.

The issue of notifying tenants was also reviewed, as the Planning Process Round Table called for extending notices to renters. However, Council has accepted the Planning and Development Department's recommendation that notifying tenants is not practical for a number of reasons. First, the City does not have a database that would list the names of tenants or that indicates whether a property is owner-occupied or rented. This means that any notice would have to be sent to the owner and to occupant, often resulting in two notices to the same person. Where the property was in fact rented, the notice would not be sent simply to "occupant". Aside from the fact that such notices are often disregarded, such a system would add considerably to the mailing costs. The proposal would also suffer because no name was associated with the occupant notice and it would not be possible to demonstrate that notices were in fact sent to an individual. The Department expects that the home page improvement noted above will help to offset this problem. Moreover, posting of a sign on the site, as noted in the Planning Process Round Table, often provides better information opportunities than both the newspaper advertisement and the written notice.

The Proposed Zoning Bylaw also standardizes the notification radius to 60 metres in all cases.

- **Do Not Introduce a Signage System for Approved Development Permits.** The Proposed Bylaw does not include a system for posting signs on the sites of approved discretionary development permits. This concept was recommended as part of the Planning Process Round Table Report to Council but ultimately not recommended by the Department and subsequently rejected by Council. The major concern with the concept is cost. A similar system used by the City of Calgary requires full-time staff to travel around placing and removing signs. This is beyond the resources of the Department.
- **Make No Significant Changes to Rezoning Applications.** The rezoning process was given a careful review during the Planning Process Round Table. Notification procedures with regards to rezoning were considered adequate by the Planning Process Round Table and by City Council in reviewing the recommendations of the Round Table. Since that time City Council has reviewed the processes around the preapplication consultation efforts on DC5 applications, increased the specificity of information to be included on the site signs, and increased the scrutiny that the Department and Council give to the declarations regarding the consultation submitted by the applicant. For these reasons the Proposed Bylaw has not made any significant changes to the notification procedures associated with rezoning applications.

C: Direct Control

1. What It Means

Direct Control Districts replace or substitute for conventional land use districts (zones) in the Land Use (Zoning) Bylaw. A Direct Control District is required when conventional zoning does not provide an adequate solution to the proposed development needs. In theory, application of Direct Control places Council in the position of Development Officer for a specific proposal.

No list of “uses” are initially specified for the Direct Control District and there are separate information, procedural and other requirements for the Direct Control District. Unlike conventional land use districting (zoning), “uses” and the accompanying development regulations are established as a result of the process required to establish the Direct Control District. Consequently, each Direct Control District is, with a few minor exceptions, individual and unique.

2. The Issue

The current Edmonton Land Use (Zoning) Bylaw employs five Direct Control Districts: DC1 (Direct Control Development District), DC2 (Comprehensively Planned Development District), DC3 (Temporary Holding District), DC4 (Special Public Service District) and DC5 (Site Specific Development Control District).

The five Direct Control Districts, as their names suggest, serve different purposes:

1. The DC1 District has broad application to areas or sites in conjunction with statutory land use plans or the Historic Resources Act.
2. The DC2 District applies to large, comprehensively planned projects.
3. The DC3 District has been applied to areas undergoing an Area Redevelopment Plan exercise.
4. The DC4 District applies to areas or sites owned or under the jurisdiction of the provincial or federal government.
5. The DC5 District is the most recent (and popular) Direct Control District and applies to specific sites.

The DC2 and DC3 Districts both have in-built time limits for their successful implementation and both Districts have fallen into disuse.

Direct Control Districts have been applied in two different contexts. The first context is to confirm the development rights for a "specific project." In this context, the built form and site planning details form the basis for the Direct Control District. "Certainty" is the key planning principle. The DC2 District encompasses this principle very well and some (but not all) DC1 and DC5 developments.

The second context is related to a broader range of development rights without necessarily proposing a specific built form and site plan. This provides for greater "flexibility" in determining the range of appropriate uses, and building and site designs that can occur. However, such flexibility creates more "uncertainty" for adjacent property owners and residents who may feel impacted by the proposed development. The DC1 and especially the DC5 Districts are representative of "flexible" development rights. The use of DC5 has continued a trend towards site specific zoning as opposed to Direct Control. Council is being asked to approve a bundle of opportunities as opposed to a specific development proposal. Examples include proposals that allow all the development rights of a particular conventional zone plus some additional opportunities. Even the additional opportunities are not well defined. This results in situations where the DC5 is presented to Council as a very specific proposal when, in fact, it is quite speculative and may take a number of forms. This is not the traditional view of how direct control should function.

3. How We Got Here

Direct Control has been used in Alberta in one form or another since the middle of the last century. In the 1950s, as Edmonton was preparing a new General Plan and Zoning Bylaw, the Province allowed Edmonton to use a number of interim development control bylaws which functioned in many ways like today's DC1 provisions. The regulations had a great deal of discretion within them: allowable uses were not clearly spelled out and Council remained the development permit approving authority in many instances.

The 1961 Zoning Bylaw put most of Edmonton back in a traditional zoning system. However, a large part of the downtown core was placed under the Land Use Classification Guide, which contained no permitted uses and was a form of Direct Control. The use of the Land Use Classification Guide allowed the city to achieve certain corporate planning objectives through the use of Direct Control. In the 1970s it was recognized that a vehicle for direct control applications from landowners was needed to allow for flexibility on major projects. The Comprehensive Development District was developed and became the forerunner of the present day DC2 provision.

The 1977 Planning Act introduced much more rigor into the use of Direct Control and the 1980 Land Use Bylaw brought many innovations.

4. Proposed Response to the Issue

An assessment and evaluation of the general purpose and the need for each Direct Control District was undertaken. This assessment also included a historical review of the implementation of the Districts since the adoption of the current Land Use (Zoning) Bylaw. As a result of that assessment, the following changes were proposed for the Draft Bylaw:

- **Reduce the original Direct Control Districts (zones) from 5 to 2 (maintain DC1 and DC5).**
- **Eliminate the DC2 and DC3.** The DC2 District is no longer being used by the development industry and can be effectively replaced by the revised DC5 District and accompanying amendments (see below). The Temporary Holding District (DC3) is also no longer in use and its purpose in conjunction with an ongoing Area Redevelopment Plan exercise can be achieved administratively without resorting to the use of Direct Control.
- **Eliminate the DC4 District but replace it with a new conventional zone.** While there is merit in having a zone that applies to land that falls under the jurisdiction of a senior level of government, such a zone need not be Direct Control. A new conventional zone based on the DC4 District would be created that recognizes the City's lack of regulatory authority over lands owned or used by the Provincial or Federal Governments, or activities falling under their legislation.
- **Do not substantially change the DC1.** The DC1 District is still an effective land use regulatory tool for historical resources or unique character or special environmental areas identified in Statutory Plans.
- **Change the focus of the DC5 to provide for specific development “projects”.** The DC5 District (zone) remains a valid zoning tool for site specific development proposals where “conventional” zones can be demonstrated as not sufficiently workable to satisfy Council's development and policy objectives, or which do not sufficiently address the impacts of the proposed development upon adjacent property owners. The new DC5 District (Zone) would focus the purpose of Direct Control on specific “projects,” eliminating, in the process, broad development proposals of a largely speculative nature. This focus would allow the intent of the pre-existing DC2 District to be implemented through the new DC5 District (Zone) while eliminating some of the administrative constraints inherent in the DC2 District. The new DC5 District (Zone) would strike a balance between the need for development opportunity on the part of the landowner and the desire for certainty for the surrounding property owners and residents.
- **Streamline the Development Criteria and Information Requirements for both the DC1 and DC5 Districts (Zones) and consolidate regulations common to both conventional and Direct Control Districts (Zones).**

D: Overlays - General

1. What It Means

Overlays provide an easy method to respond to very localized or defined issues without having to create new zones. An Overlay provision is intended to maintain or establish the list of Permitted and Discretionary Uses outlined in the underlying District but to alter some of the regulations affecting the use of land. Three types of Overlays are included in the current Land Use (Zoning) Bylaw.

The first type of these is city wide Overlays, which were designated on separate map schedules that formed part of the Bylaw. City-wide Overlays do not require the preparation of an area (statutory or non-statutory) plan, and once in place, they can continue to be applied to other areas which are experiencing similar issues or development conditions.

The second type of Overlay included in the 1980 Bylaw was called a Statutory Plan Overlay (SPO). These Overlays resulted from the preparation of an Area Redevelopment or Area Structure Plan (ARP) and have been used to create customized zoning solutions to address specific design concerns or concerns identified in the Plan. A map identifying the general area affected by the Statutory Plan Overlay is included in the Bylaw and an asterisk (*) appears beside the Land Use Districting notation on the main Districting map to alert readers to the fact that the regulations of the base District have been altered by a Statutory Plan Overlay.

A third type of Overlay approach called Special Areas was created in the 1990s. Special Areas are used to implement an Area Redevelopment Plan or an Area Structure Plan. Special Area regulations can create an entirely new land use district (zone) to be applied only within the Special Area. Generally, a Special Area is created when there is a need for a specific set of uses and regulations that is not contained in any of the standard land use districts (zones).

2. The Issue

The introduction of the Overlay provision has brought some major advantages for dealing with special circumstances. However, it has also added a level of complexity to the system and the use of Overlays has changed over time.

There are presently nine city-wide Overlays that have been implemented. These Overlays provide for special development requirements within or near airports and floodplains, in areas adjacent to the North Saskatchewan River Valley, along major commercial corridors and entrance routes, in areas with a high concentration of secondhand stores and in areas where there has been concern regarding low density residential infill development.

In each of these nine circumstances the city-wide Overlays do not change the allowable uses but do affect regulations. For example, the Airport Protection Overlay specifies the allowable height for development near the Municipal Airport so that the function and actual Federal Licensing of the operation of the runways are protected. The advantages of such an approach are obvious. The area affected by the Airport Protection Overlay is extensive and involves many different zones. With a single map the overlay provision sets the required height regulations regardless of Districting and saves the creation of countless special zones.

There are presently 10 Statutory Plan Overlays within the current Land Use (Zoning) Bylaw. The Statutory Plan Overlays range from very lengthy and complex regulation to very minor changes to the underlying land use district (zone). Although a number of the Area Redevelopment Plans had similar issues, each Plan proposed a slightly different solution through the preparation of a Statutory Plan Overlay. The Statutory Plan Overlays, like the city-wide Overlays do not affect use. An example may be found in the Oliver Statutory Plan Overlay. The RF6 District allows Stacked Townhouses. This particular overlay doubles the allowable unit density and reduces yard requirements so that this additional density can be achieved.

A number of Area Redevelopment Plans were under preparation at the time the new Land Use (Zoning) Bylaw was being prepared in 1980. All of them took advantage of the new tool. This provided a number of significant planning enhancements to the ARPs. ARPs could finally deal with fine grain issues like alternatives to high-rises in Garneau and Oliver without worrying about the city-wide implications of inventing new zones. Communities like Boyle McCauley could "bonus" certain types of housing in reflection of the social economic condition of the community and so on.

After reviewing the implementation of the Belgravia, McKernan and Parkallen Overlays, City Council directed the Planning and Development Department to develop an "Off the Shelf" set of regulations to deal with the integration of new low density residential development amongst existing development and later adopted the Mature Districting Overlay.

The 1980 Bylaw also created two mixed use Districts (RMX and CMX) that could be specially tailored to specific areas but could only be used within a Statutory Plan Overlay. The Downtown Plan of 1980 had used the mixed-use districts of RMX and CMX Districts to create the combination of uses and regulations judged appropriate. The fact that all uses in RMX and CMX were discretionary had long been unpopular and the new Downtown Plan wished to deal with that by creating permitted uses.

There are two Special Areas in the current Land Use (Zoning) Bylaw, the Downtown and Terwillegar Town Special Areas. The existing two Special Areas have both resulted from recent planning exercises as a means of addressing issues that could not be resolved by the original overlay concept. For example, in Terwillegar the land developers were creating a neo traditional community and needed not only to vary regulations but to add garage suites and secondary suites as use opportunities.

The existing 49 variants on standard districts contained within the 10 Statutory Plan Overlays and the Belgravia, McKernan and Parkallen Overlay all serve a purpose but in many circumstances they all deal with similar groupings of development issues.

The current Land Use (Zoning) Bylaw structure requires that an Overlay be placed in conjunction with a plan making activity. This is a good provision in that it requires the rigor and consultation of a plan to introduce very narrowly based regulations. However, the Department simply doesn't have the resources to offer extensive plan making services to a large number of communities. That same rigor and consultation can be preserved in developing a standard set of rules for a predetermined set of planning issues.

3. How We Got Here

The 1961 Zoning Bylaw did not contain any mechanisms similar to today's Overlay mechanism. There are mainly examples of planning issues during the period between 1961 and 1980 when the Bylaw was in affect, where some form of Overlay would have been helpful. During this time there were few regulatory options available other than creating a new zone or relying on the direct control mechanism of the day which was called the Land Use Classification Guide. The creation of the RC1, RRa, RRb and RRc zones and the debate over illegal suites represent some examples from the 1960s.

In the 1970s, there was considerable growth pressure and an emerging political constituency that wanted special consideration for the inner city. The forerunners of modern ARPs, Riverdale and Groat Estate Community Plans, both sought fine grain solutions to infill redevelopment that was simply not available without creating new zones. In fact, the R1a zone was created in response to Community Plan making exercise in Canora. As work began on the 1980 Land Use Bylaw in the late 1970s it was obvious that some tool was needed to deal both with broad based issues that affected a number of different zones and some fine grained tools for very local situations.

The concept of an Overlay provision was invented in the 1980 Land Use Bylaw. Two different types of Overlays were originally included in the 1980 Bylaw: city-wide Overlays and Statutory Overlays. The third type, Special Areas, was introduced in the 1990s.

Some of the innovations offered by the application of particular overlays are illustrated in the following examples:

- **Belgravia, McKernan and Parkallen.** The direction to prepare a plan for Belgravia, McKernan and Parkallen arose during the controversy over a functional design for the south LRT and 114 Street. Originally, it was to be an Area Redevelopment Plan but changed to a Community Plan as issues around the transportation corridor were resolved and it became clear that major land use changes were not being considered. Near the end of the process there was a community desire to deal with issues around low-density infill development.

To respond to this interest, the Planning and Development Department drafted a version of a city-wide Overlay that would only be applied to these three communities. This overcame the problem that the Statutory Plan Overlay provisions are generally used in neighbourhoods that require an Area Redevelopment Plan Bylaw. The new Overlay did several things to increase the compatibility of new low-density development with existing development such as requirements for larger rear yards, lower height and restricted vehicular access to the rear of the site.

These Overlays also introduced a significant new innovation which requires applicants to talk to surrounding neighbours in cases where variances to the Overlay regulations were being proposed. This preapplication consultation idea was loosely based on the requirements for consulting surrounding owners before submitting an application to redistrict to DC5 a process that had been introduced in the mid 80s.

As Council adopted the Community Plan and the Overlay they expressed concern about the proliferation of Overlays. The principal concern as expressed to Council by builders was that things were becoming overly complex and eventually each community would have a different set of regulations. Council was also concerned about the consultation provisions.

As a result of these concerns Council directed the Department to prepare a review of the operation of the Overlay within two years. Upon review of the Department's report and recommendation that things be left as they are, Council directed that the Department prepare a standardized version of the low density overlay that could be applied to all inner city communities if needed.

- **Mature Districting Overlay.** Following Council's direction, the Department began to develop a set of Overlay regulations that would achieve the primary objectives of the Belgravia, McKernan and Parkallen Overlay and could be applied to other inner city communities. The primary objectives included protecting treed boulevards by forcing use of the rear lane for vehicular access, increasing the rear yard requirements, lowering the height allowed by conventional low density districts, lowering the allowable proportion of the basement to protrude from the ground and dealing with issues around gables and lofts in the top half story. It is of note that the proposal considered additional architectural controls but in the end did not choose to intrude further in the rights of property owners over design issues.

This proposal was tested with 30 sample inner city communities, presented at a series of workshops and eventually adopted by Council with the benefit of a public hearing. The intention was to apply the overlay to all 108 inner city communities. The requirement to send a written notice to all property owners affected by the change forced the decision to hold off applying the Overlay until it could be done in conjunction with the new zoning bylaw.

It is important to note that the Mature Districting Overlay continued a form of pre-notice but shifted the responsibility of notifying surrounding property owners of an application for a variance to the regulations from the property owner to the Development Officer. This shifted the intent from one of preapplication consultation similar to DC5 redistricting applications to one of early notification similar to standard redistricting applications.

- **Strathcona Statutory Plan Overlay.** As the Mature Districting proposal was being worked on, the Department was also working with the Scona, Strathcona, Ritchie, Garneau and Queen Alexandria communities on a new ARP for Old Strathcona. Among many other things, the Strathcona ARP was looking at the integration of not only new low-density infill but also the interrelationship of new medium- and high-density development within existing communities. New Statutory Plan Overlays for all three situations were developed.

The Mature Districting Overlay was proposed for the low-density situation and new regulations were developed for the medium- and high-density situations. Before recommending these to City Council, the Department hired a series of architects to test all three. The objective was to ensure that modern housing aspirations could be met within the provisions of the Overlays. The report from the consultants was that they could. This was critical because it is the position of Council in both the 1992 Municipal Plan and the 1998 Municipal Development Plan to encourage investment in the inner city. Nothing could be more of a discouragement to investment than the inability to respond to modern housing aspirations.

The Strathcona Statutory Plan Overlays use the prenotification model outlined in the Mature Districting text. This model places the responsibility of sending the prenotice on the Development Officer. This has given the Department an opportunity to test that model.

4. Proposed Response to the Issue

In developing proposed changes to Overlays, the Department wrote to the 17 affected Community Leagues explaining the proposal, outlining the implications and offering to meet with them directly. Meetings were held with several community leagues at which more details were provided and discussed. In addition, the Federation of Community Leagues formed a Committee to review the draft proposals and, as part of that review, sent information to the affected Community Leagues and organized an open house on the issue.

As a result of that process, the following changes to the Proposed Bylaw are recommended:

- **Combine some, continue most city-wide Overlays.** The Proposed Zoning Bylaw has reviewed all of the city-wide Overlays and combined some but continued most. The Major Entrance Overlay has been combined with the Major Commercial Corridor Overlay and the new combination will fulfill the functions of both. These Overlays provide a convenient way to cross broad sectors of the city with special purpose regulations that are reasonably easy to explain and implement.
- **No Changes to Special Area Overlays.** The Proposed Zoning Bylaw proposes no changes to the Special Area Overlays for Terwillegar and Downtown. These are seen as having very limited application and involve relatively new plans. The Department would discourage the further use of the 900 series simply because it adds unnecessary confusion. Efforts have been made to provide other tools for neo traditional development.
- **Standardize pre-notification.** Most Overlays have some provisions for altering surrounding property owners about applications that involve variances to the Overlay regulations. The Proposed Bylaw would standardize how this is done, by requiring the applicant to contact surrounding property owners before the application is actually made. This approach recognizes the primary responsibility of the Development Officer to make decisions based on the provisions of the Bylaw while giving the community an opportunity to influence the application.

This approach is also more efficient as the Department does not have the resources to mediate all issues that arise between an applicant and surrounding neighbours. Placing the responsibility for the notice with the Development Officer puts him in the middle on any dispute. Placing the responsibility with the applicant allows the applicant to decide on the risk of an appeal to the Subdivision and Development Appeal Board later in the process when time is even more costly. The Proposed Bylaw would extend this preapplication consultation model to all of the five "Off the Shelf" Overlays and continues it in the Secondhand Store Overlay.

- **Major changes to Statutory Plan Overlays.** The Proposed Zoning Bylaw recommends replacing the 49 variants of standard zoning contained within the 11 Statutory Plan Overlays (including Belgravia, McKernan and Parkallen) with five "Off the Shelf" solutions. This change recognizes that zoning is an attempt to simplify controls to a core of key regulations affecting key impacts arising from development. With the "Off the Shelf" approach, known solutions can be offered to more communities in Edmonton than is possible under the current system. The five proposed Overlays are:
 1. **Mature Neighbourhoods (low density) Residential.** This Overlay is very similar to the Mature Neighbourhood Text and the Strathcona Overlay.
 2. **Medium Density Residential.** This Overlay takes most of the initiatives from the existing SPOs and is modelled on the Strathcona Overlay.
 3. **High Rise Residential.** This Overlay is modeled on the Garneau Overlay and is similar to some of the existing SPOs.
 4. **Neo Traditional.** This Overlay contains everything allowed in Terwillegar except the additional use class garage suites.
 5. **Commercial Shopping Street Strips.** This Overlay is modeled on the work done on Whyte Avenue and addresses all the issues contained in other SPOs.

This approach is being recommended for the following reasons:

- The current provisions have been written at different times with different approaches but to address very similar issues. A simplification and an up-to-date drafting approach will make the new provisions more sustainable over time.
- The new provisions can be offered to a wider area of the city than can the present provisions, thus offering planning solutions to issues in these areas that are not presently available.
- This new approach follows the direction given by Council when considering the Mature Neighbourhood Overlays.

The proposed changes to Statutory Plan Overlays in the Draft Bylaw have some advantages to the existing communities. Given that they are based on the Department's most current work and work that has been tested against the needs of modern housing, the five "Off the Shelf" Overlays contain legal drafting and architectural considerations that are more consistent with the rest of the bylaw, more defensible from a drafting point of view and representative of best planning practices. The Department believes that the "Off the Shelf" approach is more sustainable than the current approach.

However any system that moves from unique neighbourhood based approaches to a more general zoning approach will create some problems. In addition to this loss of uniqueness there are some very real and significant planning policy initiatives that are lost. For example, in the Boyle McCauley Plan one of the major housing objectives was to encourage the development of Bachelor Suites. As a result the SPO, Boyle McCauley, provides a density bonus for Bachelor Suites in the RA7 SPO. The "Off the Shelf" version contains no such bonus and, in fact, the planning objective has less relevance to most of the city. Several of the other SPOs contain planning policy implementation initiatives that are unique to their areas of the city.

In addition, the 10 existing SPOs contain seven sets of RMX regulation areas and four sets of CMX regulation areas. Since RMX and CMX will disappear under the proposed Bylaw changes new zoning for these areas must be found.

To help keep the important area specific planning objectives the Proposed Bylaw would include the following provisions:

- Development Officers would have additional variance powers over issues such as height, unit density and floor area ratio when direction for such variances is provided in a Statutory Plan.
- Amendments to the existing Statutory Plans (ARPs) would set parameters for the use of the additional variance powers listed above.

The majority of the issues can be addressed by combining these two proposals. Returning to the Boyle McCauley example, here is how this approach would work:

An application is made on a site zoned RA7 in Boyle McCauley for a low rise apartment building which has a number of Bachelor Suites and the unit density exceeds the allowable density of RA7. The "Off the Shelf" Medium Density Overlay will apply in Boyle McCauley and will provide for the sensitive integration of new development amongst existing development but will not include the Density bonus offered for Bachelor Suites or direct the Parking reduction to those same suites. The additional variance powers for the Development Officer over the issue of height will direct the Officer to the revised plan which will contain the direction on both density and parking (parking is an issue over which the Development Officer already has variance powers). The application is approved with the appropriate variances and the original policy objectives of the ARP are met.

This solution allows the Development Officer to increase development rights to meet a particular planning need defined in an ARP. This will solve the majority of the situations. There are, however, some examples where the existing Overlay regulates the development potential to a lesser level than is being proposed in the Off the Shelf Overlays. Variance powers allow the Development Officer to relax regulations but not make them more restrictive. These situations are Garneau and Belgravia, McKernan and Parkallen.

The proposed Zoning Bylaw would deal with the present 11 RMX and CMX by proposing a DC1 provision on six sites and conventional zoning on the rest. The choices made in these recommendations have been made to minimize property right changes and are very close to existing rights.

E: Mature Neighbourhood Overlay

1. What It Means

The Mature Neighbourhood Overlay was approved by City Council in 1999 as a new set of land use regulations designed to ensure compatible redevelopment in older neighbourhoods without discouraging the market for residential rejuvenation and reinvestment. These regulations were adopted but not applied in any areas and have now been refined as part of the proposed Zoning Bylaw.

2. The Issue

The refined Mature Neighbourhood Overlay achieves Council's original objectives, and in some cases improves upon them. Five additions have been proposed, primarily incorporating urban design elements from other existing Statutory Plan Overlays (SPOs). However, because the Mature Neighbourhood Overlay does not incorporate every regulation from all existing SPOs, some controversy remains concerning its appropriateness and the validity of its goals.

3. How We Got Here

For decades Edmonton has encouraged renewal within its older neighbourhoods through both renovations and new infill houses. However such redevelopment often raised issues among property owners, as the built-form of new homes sometimes clashed with existing houses and streetscapes. In the past, the City responded to complaints by creating individual neighbourhood Statutory Plan Overlays (SPOs) to alter zoning rules to resolve specific problems or meet local neighbourhood objectives. Those SPOs proved workable but as more mature neighbourhoods raised the issue of infill housing, concerns grew that a proliferation could confuse and complicate development regulations in the inner city. In 1997, City Council directed Planning and Development staff to work with interested communities and the development industry to facilitate a common solution.

Recognizing that zoning changes were needed to address issues shared by mature neighbourhoods but that resources to prepare overlays for individual communities would be onerous, the City concluded that a universal solution was desirable from an administrative and implementation perspective. Research and consultations with homebuilders, community leaders and a panel of independent architects led to a new form of Overlay with four primary objectives:

- Maintain pedestrian friendly streets.
- Maintain compatibility of scale with surrounding homes.
- Maintain sunlight and privacy for adjacent properties.
- Increase community awareness and opportunities to influence new development.

The goal was to apply the Overlay equitably to all mature neighbourhoods, thereby providing all with the same level of protection and allowing for the removal of distinct but similar SPOs in seven communities. Council approved the Mature Neighbourhood Overlay and its goal in January 1999 but did not implement it at that time. In 2000, after reviewing a 1999 survey of citizens' preferences and "best practices" by other municipalities, the new Zoning Bylaw project refined the Overlay to clarify and strengthen some of its regulations and readied it for application to Edmonton's 108 mature neighbourhoods.

4. Proposed Response to the Issue

Overall the revised and updated Mature Neighbourhood Overlay maintains the approach approved by Council in January 1999 for addressing the issues of scale, compatibility, streetscape design, privacy and sunlight, and community involvement in Edmonton's mature residential neighbourhoods. It provides for much greater compatibility between new and existing low-density residential development in older neighbourhoods, and will apply to all RF1, RF2, RF3, RF4 and RF5 zoned properties in Edmonton's mature residential area. It allows one zoning instrument to replace seven SPOs, without jeopardizing the primary objectives of those instruments. The updated Mature Neighbourhood Overlay achieves a better balance for new low-density residential redevelopment, while maintaining a manageable and simplified regulatory framework for the development industry. The proposed approach is to apply this Overlay to all inner city neighbourhoods.

In particular, the Mature Neighbourhood Overlay continues to:

- **Maintain Pedestrian Friendly Streets by:**
 - √ ensuring consistent appearance along block faces (keeps consistent siting with other homes; individuality of units in attached dwellings is added),
 - √ encouraging street orientation (front porches and verandas, front door entrances), and
 - √ minimizing the impact of front drive garages (lane usage in some circumstances, front drive garage appearance in others).
- **Maintain Compatibility of Scale with Surrounding Homes by:**
 - √ reducing height and appearance of height (retains 8.6 m height cap and lower basement elevation for houses above one storey, adds more design features to visually separate storeys and dormers), and
 - √ reducing building mass (keeps reduced floor area above two storeys and increasing side yards for larger homes on wider lots).
- **Maintain Privacy and Sunlight Penetration for Adjacent Homes by:**
 - √ limiting the front to back length of development (keeps deeper rear yards, rear detached garages set well back).
- **Enhance Local Awareness and Influence on New Developments by:**
 - √ requiring consultation between parties when Overlay variance is proposed (initiated by applicant, consistent "impact area" usage).

Despite achieving these positive objectives, the following issues remain:

- **Height.** With its maximum building height at 8.6 m, the Overlay does not match the 7.5 m height limit of the three overlays in Belgravia, Parkallen and McKernan. Experienced homebuilders and architects advise that 8.6 m is the optimum height within which the modern two-storey home with peaked roof may be designed while still achieving an acceptable sense of compatibility with older housing forms. It is lower than the 10 m height employed in most new suburban areas but allows builders to design and market homes that are most in demand. Because of that, the Overlay's height limit will not impede the City's desire for more residential redevelopment that is sensitive to the densities and lifestyles valued by older neighbourhoods.

Despite achieving these positive objectives, the following issues remain:

- **Front Drive Garages.** The Overlay mandates that lanes be used rather than front drive garages in fewer situations than do some neighbourhood SPOs. Those situations are limited to narrower lots, where the cumulative affect of numerous driveways has a greater impact, and to sites with treed boulevards, where access across the public landscaped strip breaks up the continuity and attractiveness of the popular "tree lined street" characteristic treasured in mature communities. Because of the great variety of lot sizes and roadway cross sections that exist among the more than 100 mature neighbourhoods, it would be inappropriate to universally prohibit opportunities for front drive garages. Limiting such restrictions to situations where front drive garages would be most intrusive is more practical and sustainable. Where front drive garages are allowed, design criteria ensure the garage does not dominate the front facade of the dwelling.
- **Preapplication Consultation.** The Overlay proposes a revised consultation process that is identical to a standard process being recommended for Direct Control and several other Overlays. It is required only when a development application requires a variance to the Overlay, and the onus is placed on the applicant rather than City staff to initiate and complete the process. It is in the applicant's interest to identify and respond to local concerns before encountering the costs of application and (potentially) appeal, and the applicant knows most about the proposal details and implications of any change. This ensures that the parties most affected, specifically the applicant, neighbouring landowners and the Community League, who have most to gain will have direct interaction. The distance that establishes which landowners must be contacted is also increased, to 60 m. This is the same distance the Development Officer will eventually use to send out notices and therefore will serve as logical follow-up for interested landowners. Ideally, such direct consultation will improve applications and may result in more satisfactory outcomes when variances are needed.

Specific Issues And Special Interests

F: Religious Assemblies

1. What It Means

The City of Edmonton collectively defines all places of worship as Religious Assemblies. No differentiation is made for size, appearance or the nature of activities, regardless of where they are located.

2. The Issue

Like most other urban land uses, religious assemblies have evolved over the last century. As a result, questions of compatibility have arisen that did not concern citizens and urban planners in the past.

Compatibility impacts fall into four categories: size, appearance, activities and traffic. Specific impacts derive from the fact that religious assemblies can:

- occupy excessively large sites, dwarfing sites for lower density housing;
- expand to an extent their mass and height become intrusive and overwhelm lower scale housing forms;
- cover greater proportions of land than lower scale housing, detracting from the typical sense of spaciousness in residential areas;
- exhibit architecture details and styles that contrast with housing forms;
- introduce activities inappropriate for a residential area, such as social gatherings, daytime child or elderly care, drop-in centres, classroom instruction and group counseling, for example;
 - √ operate continuously throughout the day, and the week;
 - √ cause spillover parking on nearby residential roads; and
 - √ attract disproportionate volumes of traffic to local residential roads, disrupting residents' quiet enjoyment of their properties, impeding access to their homes, and sometimes creating pedestrian-vehicle conflicts.

3. How We Got Here

Religious assemblies have historically located in residential communities close to the people they served. They relied primarily on "walk-in" traffic and their locations were well suited for serving immediate populations. Congregations were not much larger than the communities in which they gathered and major events like worship and weddings usually occurred on weekends. The popular view was that those small religious assemblies, serving the needs of relatives and neighbours, were compatible and desirable in even the lowest density community. This belief shaped planning practice, which for generations treated them as an equivalent and complementary land use.

Social, economic and technological changes since World War II altered almost every aspect of city design and form, including religious assemblies. Adherents were no longer tied by distance to their places of worship and events and outreach programs were no longer held on traditional weekends or aimed solely at people in the immediate area. Religious assemblies became destination places and "full service" centres for much larger areas. While many remained compact and locally based, some grew in size well beyond the numbers of the surrounding neighbourhood. Others combined several smaller congregations into fewer larger ones. But, despite such changes, popular opinion and planning practice continued to view religious assemblies in the same way.

Edmonton's 1966 Zoning Bylaw recognized that religious assemblies should be located within or next to residential areas, though limiting them to specific commercial, rural, high density residential and "private service" zones. The 1980 Land Use Bylaw maintained but moderated that principle. It allowed religious assemblies as permitted uses in one Urban Service District but as discretionary in Commercial and Agricultural Districts, and added them as discretionary uses in almost every Residential District. To control potential appearance impacts, the 1980 Bylaw allowed the Development Officer to impose design conditions to mitigate any appearance of massiveness when sited beside a residential building and limited height to 10 m or more. However, those extra rules have not successfully dealt with the more wide spread impacts of emerging religious development trends.

4. Proposed Response to the Issue

Edmonton's Proposed Zoning Bylaw addresses the negative aspects of modern religious trends in residential settings while respecting and encouraging their traditional roles and functions. The proposed approach accepts the principle that religious assemblies can co-exist well in low-density neighbourhoods and continue to be seen as community assets, provided the "size" and "traffic" issues are addressed. The new Zoning Bylaw focuses on religious assembly sites near areas zoned for single detached dwellings, as they are most likely to be adversely affected by those two issues. Sites near higher density residential and commercial areas are less likely to be an issue, since they share similar size and traffic characteristics.

Addressing Size Issues. The new Zoning Bylaw proposes to keep religious assemblies within a range similar to other building forms that are acceptable near low scale housing. Local convenience shopping centres, elementary schools, community league halls and small row housing and walk-up apartment projects exist successfully in low density neighbourhoods, so religious assemblies that exhibit similar size characteristics will have no greater impact than they do. In particular, the new Zoning Bylaw proposes to:

- **Apply special regulations whenever low density housing is within 60 m**, not just next door. Impacts go well beyond adjoining properties and special rules should apply to any site close enough to affect low-density housing. 60 m is a commonly accepted "impact" radius.
- **Set an upper limit on site size.** While still large, 4,000 m² is only 12 to 15 times the minimum for single detached dwellings and is fairly typical for a small row house project, community hall or convenience commercial development with similar built form and activity level impacts. This site size constrains development potential to buildings similar in size and mass to a small walk-up apartment, row house project or school, which are compatible in a residential setting.
- **Allow the applicable Zone to govern height.** This ensures a religious assembly's height is never more than any other development allowed by the same Zone and would be consistent for the site.
- **Set yard and setback requirements similar to lower density residential zones**, when next to a residential zoned site. Side yards are equal to or greater than those required by single and multi-family housing, low and mid-rise apartment, convenience commercial and urban service zones, but less than those of high-rise apartment and other commercial or light industrial zones because a religious assembly could not develop to the full extent as those developments. Rear yards are similar to those required in most residential zones, and maintains consistent backyard treatment. Where adjacent sites are not residential, the applicable Zone's rear yard and rear setback requirements, ranging from 3 to 7 m will appropriately apply.

Addressing Traffic Issues. The new Zoning Bylaw proposes to keep vehicular traffic away from local streets. The amount of on-site parking a religious assembly provides and where vehicles enter the site both influence the degree to which traffic is attracted to nearby streets. In particular, the new Zoning Bylaw proposes to:

- **More than double the requirement for on-site parking.** The 1966 and 1980 Bylaws required one parking space for 15 people, reflecting the dated view that "walk-in" traffic was still the norm. This was later amended to one per 10 people, but still failed to reflect the trend of greater automobile usage and lower passenger density. The new standard of one space per four people, based on recent traffic engineering research, will reduce the need for off-site parking by increasing on-site supply.
- **Direct traffic to major roadways.** Restricting access to major roads helps ensure that proper roadway capacity is available, reduces pressure for non-local traffic to use local roadways, and discourages congregations from sites in the interior of communities. When necessary or advisable, a variance will allow access from a local road if it only serves multi-unit residential and non-residential sites and is designed to accommodate the type of traffic generated. Access from a lane may be allowed if it does not also serve lower scale housing or direct traffic onto another local residential road.

Issues not addressed by the new Zoning Bylaw. The following factors are not addressed by the Proposed Zoning Bylaw and remain at the discretion of individual religious assemblies:

- **Architectural style** and taste remain the congregation's choice, as it does for owners and builders of single detached, duplex, row housing and apartment dwellings. The Bylaw expands the Development Officer's right to impose conditions to mitigate any appearance of massiveness and, since religious assembly is discretionary in all but one Zone, affected parties continue to have the opportunity to review and influence developments.
- The **sense of spaciousness** of religious assembly development may continue to concern area residents. Site coverage remains at 40%, or about 45% more than a comparably sized row housing project with surface parking. However this is a necessary trade-off given the restricted site size and increased requirement to allocate space to parking.
- Many **activities** some people consider inappropriate in residential areas are already allowed and often promoted in those neighbourhoods, in schools, community halls, local convenience shopping centres and even in dwellings. Some activities require separate permits and, therefore, may be subject to closer scrutiny before being allowed.

- Regarding **continuous activity** during the day and week, zoning is not the proper statutory vehicle to regulate hours of operation and restrict freedoms of assembly. However, indirectly limiting the size of congregations through the means proposed may help contain any excesses in terms of such activities.

G: Restaurants

1. What It Means

The current Land Use (Zoning) Bylaw includes two definitions for restaurants: Minor and Major. The definition of Minor Eating and Drinking establishments was intended to allow a local pub of no more than 100 seats, as part of a neighbourhood facility. The definition of Major Eating and Drinking Establishments was intended to take care of everything else including any facility, regardless of size, that offered entertainment.

2. The Issue

Over the years there has been a growing concern that the provisions in the existing Land Use (Zoning) Bylaw are not responsive to concerns from property owners and communities regarding the impact of restaurants and entertainment facilities on surrounding property owners.

There have been many examples of neighbourhood facilities that serve local areas well and are good neighbours. However, there are some that do not. Unfortunately the kinds of problems that result from the ones that do not, are often related to the nature of the market niche being attracted to the facility and have more to do with the inappropriate behavior of clientele than any predictable land use impact. Clearly, having entertainment increases the risk, but it may also be true that the size maximum of 100 in local neighbourhood facilities is too high.

Natural market forces tend to concentrate entertainment activities in certain areas and the Major Eating and Drinking Use Class has focused on areas like Whyte Avenue, Calgary Trail and 170 Street. This problem is similar to the issue of the large Taverns in the 1960s and 1970s. The city and municipal jurisdictions have little authority to regulate concentrations of activities and particularly the behavior of patrons. Provincial regulations have significantly changed since 1980 and this has reduced the amount of scrutiny given to Major Eating and Drinking Establishments. As a result there are growing concerns about the impacts on specific areas of the city.

Since 1980 there have been major changes in the industry itself. A modern facility is now a significant capital investment and, in order to get return from that investment, the facility often functions in several different ways throughout the day. For example, a facility may function as a traditional restaurant for breakfast and lunch, move closer to a restaurant and lounge at the supper hour and a nightclub in the evening. These shifts in emphases are not evident at the development permit stage and difficult to define in land use impact terms.

Restaurants are regulated by more than the Land Use (Zoning) Bylaw. The existing Land Use (Zoning) Bylaw regulates the size of facilities by the number of seats. Building code regulations and fire regulations regulate the size by the area available to the public and sets occupancy ratios for that public space. These differences often result in the growth of a facility as it proceeds through the approval process. The space being proposed may accommodate far more people than the simple number of seats noted on the development permit. In addition, there is a far greater resource put into enforcing the building code and fire regulations on a continuous basis than the land use regulations. Some form of alignment of these regulations needs to be found.

There is a strong public perception that things need to change. Neighbourhood facilities may still be more popular than the large taverns of the 1960s, but communities want to know more about proposals before there are approved and they want greater certainty that the City will be able to do something about facilities that are causing local issues. There is also a concern that the concentration of major facilities contributes to a change in the nature and function of areas. Finally changing laws around alcohol, longer hours, changing numbers and the introduction of new activities such as VLTs have all contributed to a growing call for more restrictive zoning provisions.

Zoning alone cannot address all of these problems but some change is essential.

3. How We Got Here

Concerns about the hospitality industry and its impact on surrounding properties are not new.

The 1961 bylaw contained uses for "eating establishments" and "cabarets" but very little detail about them. At that time, liquor laws placed the nightclub or alcohol related aspects of the hospitality industry in large tavern like facilities, generally in conjunction with a hotel. The combination of the zoning regulations and the Provincial regulations focused these facilities in larger commercial sites generally on major arteries. During the life of the 1961 bylaw, community morals began to change and there were calls for changes to Provincial legislation to break up the large tavern like facilities and encourage more local neighbourhood facilities.

While Minor Eating and Drinking Establishments was a bold move in 1980 and did respond to the public issue of the day (get rid of the large taverns and have some more civilized local pubs) it did contain the seeds of many of today's problems. The Planning and Development Department has been looking at these problems for some time, with work beginning in the late 1990s to find a combination of solutions to these problems. Some of these solutions are already in place.

For example, to respond to the problems created by their being no coordinated effort to enforce the different regulations that affect restaurants, City Council directed the establishment of the Community Licensing Committee. This committee includes all agencies (Police, Business Licensing, Fire, Alberta Liquor and Gaming, Capital Health, and Planning and Development) that have an influence on a facility. The committee meets regularly to review areas of concern both from the perspective of regulation and implementation of regulation. This has resulted in a far more effective implementation of existing municipal authority.

As part of the Old Strathcona ARP exercise, the Planning and Development Department undertook a major review of hospitality activity on Whyte Avenue. The ARP exercise brought all the stakeholders together and a number of zoning solutions were found. One of these solutions was finding a way to bring capacity numbers of the different regulations together. The Overlay that was developed for Whyte Avenue regulates numbers of occupants based not only on seating but also on the amount of Public Space.

By making sure that there is a relationship between public space and seating, the Development Officer cannot create a situation where the facility will "grow" as it proceeds through other approvals like Building Code and Fire that rely on size of space and not seating to set occupancy limits. This will also make it much easier to enforce decisions during the operation of the facility since both the police and fire inspectors, who are more often in the field, will be dealing with just one set of occupancy numbers. In addition, the Overlay for Strathcona now contains a maximum occupancy of 200 for new Minor and Major Eating and Drinking Establishments.

Despite this positive solution, there are a number of issues that zoning has not solved on Whyte Avenue. For example, the City does not have the authority to regulate against a concentration of like facilities. If a particular business activity, such as nightclubs, is legal under the criminal code, a city cannot regulate the number of those facilities. Such a regulation would be seen as limiting competition. A municipality also has difficulty regulating elements of a facility such as hours of operation as those practices are also licensed by a Provincial regulation. Consequently, an earlier closing time than is allowed by Provincial statute cannot be mandated through zoning.

The Planning and Development Department completed a cross country survey to find out what other major cities are doing to resolve the issues associated with eating and drinking establishments, and found that most had more definitions for restaurant and night time activities than does our current Land Use (Zoning) Bylaw. Most of these regulations attempt to provide a much finer definition of restaurant activities by creating more discreet groupings. As a result, they are able to more specifically designate activities in different zones. To make any real progress on the known problems the proposed Zoning Bylaw must provide finer grained definitions for Major and Minor Eating and Drinking Establishments.

4. Proposed Response to the Issue

The changes proposed in the new Zoning Bylaw are intended to:

- provide more certainty regarding how a new facility will function and more predictability as to its impacts;
- distribute the various hospitality activities more sensitively amongst the various commercial zones;
- provide a sounder base from which to enforce a variety of zoning regulations;
- provide regulations for such peripheral activities as outdoor patios; and
- provide a more fine grained base of definitions so that regulations can be more specifically aimed at impacts.

The fundamental base of these changes is the creation of four new Use Classes to replace Major and Minor Eating and Drinking Establishments. The proposed Zoning Bylaw provides four new definitions:

- **Specialty Food Services.** Development where limited types of prepared foods and beverages are offered for sale to the public, for consumption within the premises or off the site. This Use Class typically relies primarily on walk-in clientele, and includes coffee, donut, bagel or sub shops, ice cream parlours and dessert shops.
- **Restaurants.** Development where the primary purpose of the facility is the sale of prepared foods and beverages to the public, for consumption within the premises or off the site. This Use Class typically has a varied menu, with a fully equipped kitchen and preparation area, and includes fast food and family restaurants.

- **Neighbourhood Pubs and Bars.** Development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the site. This Use Class typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Uses include neighbourhood pubs, bars, beverage rooms, and cocktail lounges.
- **Nightclubs.** Development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the site, in a facility where entertainment facilities take up more than 10% or 47 m² of the gross floor area. This Use Class typically has a limited menu from a partially equipped kitchen/preparation area and prohibits minors from lawfully utilizing the facility. Uses include dance clubs, cabarets, nightclubs, lounges, beverage rooms, and cocktail lounges.

In general, Specialty Food Services will not include alcohol service. Restaurants will not include a lounge. Pubs and Neighbourhood Bars may include both a restaurant and a lounge but will not include entertainment. Nightclubs will include entertainment.

The Zoning Bylaw also proposes five general commercial zones ranging from local neighbourhood facilities to broad general business areas. The four new Use Classes have been distributed through these zones, with new regulations for permitted and discretionary uses and additional size regulations as you move from neighbourhood level to general business areas.

Regulations have been developed to ensure that not only are the types of hospitality operations differentiated and distributed differently in different zones, but that the size of each type is controlled as well.

Calculation of patron capacities by type of facility will change from simply number of seats to include a square meter calculation. This will ensure that there is a match between the size as calculated for a Development Permit and the size calculated using building and fire regulations, thereby making it easier to enforce regulations.

All of these new Use Classes will have opportunities for outdoor seating areas but new rules have been created to keep the patio areas away from residential development and to regulate noise from any sound systems.

Because the Use Classes are much more fine grained in the function of the facility, it is possible to differentiate various other regulations. For example, parking requirements for the Specialty Food Facilities are lower than the present standards, while parking requirements have been increased for Night Clubs.

Various types of restaurants will continue to be allowed in public facilities like schools and parks but they will also benefit from these changes as well.

The Proposed Zoning Bylaw still contains definitions for drive-through restaurants along with regulating such aspects as queuing lines. Private Clubs remain as a Use Class as well continuing the opportunities for banquet facilities.

Various transition clauses and how the new Use Classes have been distributed, ensure that existing facilities can be interpreted as conforming to the new rules, therefore ensuring that the transition from old rules to new is as easy as possible.

The combination of new Use Classes, new regulations and the distribution of these in the various zones significantly improves how hospitality operations are regulated. These operations are a valued business and land use and the new regulations will continue good opportunities for new locations. When a new application is made there will be much greater certainty as to the potential impacts on surrounding properties. There will also be new rules to help mitigate any negative impacts.

All other initiatives such as the Community Licensing Committee, various fighting and noise bylaws, liaison work with the Province, neighbourhood police activity and others will continue.

H: Signs

1. What It Means

The current sign regulations were introduced in the early 1980s with some very definite themes and a clear vision for signage. According to these regulations, signage is to provide an index of the goods and services that are along a street. To do that, it is necessary to regulate not only the physical aspects of a sign but also the nature of the message on the sign.

2. The Issue

Signs form an integral part of our daily lives but their definition as land uses and their place in zoning is often difficult to understand.

The sign regulations in the current Land Use (Zoning) Bylaw are 20 years old and have gone through several significant revisions. These revisions and changing circumstances have made the implementation of these regulations increasingly difficult. The development of a new Zoning Bylaw provided the opportunity for a complete review of the sign provisions.

The current Land Use (Zoning) Bylaw contains approximately 75 pages of regulations for signs. This complex series of segmentation requires more regulation than is reasonable or sustainable. It also places signs somewhere between simple regulations and actual use classes making questions of jurisdiction and enforcement difficult.

Experience has also shown that the present system is not particularly flexible. Any demand for change from the industry or the introduction of new products is a complex matter affecting many parts of the regulations. Not only is there a risk of inconsistencies, the public discussions often focus only on the issue at hand and lose site of the larger objectives.

Finally there are questions of whether our present system is in fact zoning at all. Focusing on the message as being paramount leaves the regulations open to challenges on the commercial free speech issue. This is not to say that the object of an index of goods and services along a particular street isn't important. The challenge for the new bylaw will be to preserve the best of the existing while simplifying the overall structure.

Specific issues that need to be addressed in the Proposed Zoning Bylaw include the following:

- There is no distinction between form and function. Regulations deal with several different types of signs based on sign use.
- Signs are a mixture of regulations/uses. This has been a source of confusion and legal challenges for years.
- The current regulations inadvertently discriminate against the business signs which are intended to be "first order" signage.
- The existing regulations penalize the small business on its own site by not allowing any certain sign opportunities.
- The current regulations contain a plethora of sign types and different regulations for each. This can result in considerable sign overlap and multiple signs on the site, contrary to the intent of the regulations.
- The current Land Use (Zoning) Bylaw contains many complex calculations that must be reviewed to determine if a sign is allowed.
- Some of the existing regulations have double meanings depending on how they are read.
- The current regulations contain many controls on the message that can be displayed on signs.

3. How We Got Here

The 1961 Zoning Bylaw began with very simple provisions regarding signs, specifically that signs would be to the "satisfaction of the Development Officer". In the 1960s, Development Officers had general rules of thumb as to what should be approved. However, these were without benefit of either policy or regulation, and consistency was difficult. During the business boom of the 1970s, it became more and more obvious that a more regulated approach was required. In the mid 1970s the Planning and Development Department added specific regulations for signs to the commercial zones and some regulations to the residential zones. These regulations focused primarily on the physical elements of the sign and were helpful in focusing on issues within individual zones but they had gaps and lacked a central theme or vision.

The Land Use Bylaw was initially adopted in 1980 using the 1970s regulations. The new sign regulations were completed and added to the Land Use Bylaw a couple of years later. However, there were challenges almost immediately and there have been several major reviews of portions of the sign regulations, driven by innovations in signage, complaints from sectors of the industry or concerns from Council.

The sign regulations introduced in the early 1980s identified three types of advertising that might be on a sign:

- Business Identification.
- Local Advertising.
- General Advertising.

The opportunities for each of these three types of advertising were distributed to the various Land Use Districts such that the most permissible form was Business Identification and the most restricted form was General Advertising.

Business Identification was restricted to the name and logo of the business on the site of the sign. Given the vision of providing an index of goods and services on a particular street, this was the most permissible form of message. Local advertising allowed for a message of the particular goods that were available from the site that the sign was on. This added more information about the index but still served the primary vision. However, because the additional messages cluttered the index, local advertising signs were more restricted. General advertising is best illustrated by billboards that carry national advertising. It is clear that the good being advertised is not available at the sign location. To protect the indexing of local shopping locations these general advertising opportunities were pushed to peripheral locations along major arteries.

In addition to type of advertising, the 1980s sign regulations also segmented the physical form of signs into a number of different groupings and applied scales of permissibility to each form similar to those applied to advertising. For example, fascia signs were much more permissible than either projecting signs or roof signs.

The situation was further complicated by the need to deal with anomalies like temporary signs. The 1980's Bylaw included regulations for all forms of signs, which meant that each innovation of signage required a new set of rules.

4. Proposed Response to the Issue

The basic goal of the initiative was to overhaul the sign regulations structurally rather than adjust the existing regulations, making the regulations as simple as possible while retaining a "purity" of sign form and function. To ensure continuity, the existing regulations formed the basis from which many of the simplified regulations were created.

The original theory of a sign hierarchy was retained to ensure that business identification would be the most important form of sign and that general advertising should not predominate. Specialty regulations (such as those that deal with Portable and Balloon Signs) are blended to create a "level playing field" for sign types.

While the proposed sign regulations have retained much of their current structure, significant changes have been made to streamline the regulations and change the "philosophy" of the regulations. Proposed changes to sign regulations are as follows:

- **Treat signs in the same manner as other land uses** and reviewed under regulations that are simple, less prescriptive, understandable (as to their purpose) and easily applied. This allow signs to be treated as either permitted or discretionary developments within the land use districts (zones), the same as any other development.
- **Consolidate regulations in the Temporary Sign category** with Portable and Balloon Signs being regulated as a unit and not separately. The introduction of new sign technology and business practices has resulted in a piecemeal and inconsistent approach to the accommodation of "temporary signs" which will now come under a more comprehensive and consistent approach. This should reduce the necessity of frequent amendments to the sign regulations with the introduction of new and different types of signage for essentially the same type of signage (temporary).
- **Make a clear distinction between the "form" of the sign and the "function" of the sign.** The proposed regulations make a clearer distinction between the form of the sign and the function of the sign, and tie the regulations to the zoning of the property. For example, all signs that are not permanently installed on the property are considered a temporary sign, regardless of the form. All temporary signs are governed by one set of regulations, leveling the field and generally reducing the clutter from overlapping sign types.

- **Respect the sign hierarchy.** The proposed regulations give the business owner greater opportunities to construct a sign for his business by removing arbitrary minimum regulations. This is intended to return primary emphasis to the “business index”. Further, the regulations for “Off-premise” signs have reinforced that the sign locations are to comply with the yard regulations of the district. This means that Off-premise signs can only be located where a building could be located, usually set back from the property line. This respects the sign hierarchy since “On-premise” signs are allowed up to the property line and no “Off-premise” sign can block any “On-premise” signs.
- **Improve opportunities for businesses to have signs.** Minimum frontage requirements have been removed allowing the small business an equal footing.
- **Eliminate complicated calculations.** To simplify the regulations, minimum regulations have been replaced with proposed maximum sizes, reducing the need for calculations.
- **Reduce control of sign messages.** Since controlling the message on a sign can lead to a challenge under the Charter and is not a planning consideration, the regulations have removed many of these controls. The purity of the function of the sign is retained by the “On-premise” and “Off-premise” use classes. The business owners have the choice to deploy whatever message they feel will serve their needs.
- **Simplify, simplify, simplify.** In general, the changes will condense the prescriptive nature of many of the regulations to more clearly relate the “purpose” of the regulation. The new regulations will be simply stated to avoid multiple interpretations. References to sign forms will be collapsed and simplified to either a sign on top of a building, attached on the face of the building, hanging off the building or standing independent of a building.
- **Other changes.** Two sign use classes, “On-premise” and “Off-premise”, will be created that will be combined with the form of the sign (freestanding, fascia, roof and projecting to create a sign use. References to zoning districts will be removed and emphasis will be placed on the zoning district to establish which signs will be permitted. The regulatory focus from "business identification" signs to "general advertising" signs will be reversed, recognizing that it is the "general advertising" signs which have proliferated over the years and caused most of the concerns or issues over signage. The major entrance signage will be redistributed to the applicable zoning category.

I: Parking and Loading

A review of parking and loading regulations was undertaken to prepare revised parking and loading regulations that will respond to current and projected future development trends for parking and loading demand in the City of Edmonton. In coordination with the Transportation and Streets Department a consultant (Reid Crowther and Partners Ltd.) was hired to update parking and loading sections of the existing Land Use (Zoning) Bylaw. The consultant's task was to: (1) examine the suitability of existing parking and loading standards; (2) establish new regulations where necessary; and (3) review and improve procedures for evaluating parking and loading impact and requirements.

The following is a brief summary of the major revisions to the Parking and Loading regulations:

- The revised parking and loading section of the Bylaw is **logical, clear, easy to administer and user friendly**. The majority of the parking and loading regulations remain intact with minor editorial changes to make it simple and concise. Because of the new section headings, text from the existing bylaw has been moved around to its appropriate location in the revised text. The new regulation is broken into seven (7) sections:
 - √ Section 66.1 – Off-street Parking and Loading Requirements and Regulations.
 - √ Section 66.2 – Required Off-street Vehicular Accessory Parking.
 - √ Section 66.3 – Bicycle Parking Facilities.
 - √ Section 66.4 – Off-street Vehicular Loading and Unloading Facilities.
 - √ Section 66.5 – Passenger Drop-off Spaces for Public and Private Elementary, Junior High and High Schools.
 - √ Section 66.6 – Hard surfacing and Curbing of Parking, Loading and Unloading Spaces.
 - √ Section 66.7 – Parking Garages.
- Section 66.1 – "Off-street Parking and Loading Requirements and Regulations" is a new section for general applicability and requirements for vehicular off-street parking, bicycle parking and loading and unloading areas to eliminate duplications within each section. This section also ensures that changes in use, intensity, or building modifications which result in increased parking requirements will not be reviewed based on the incremental increase only.

- Parking requirements for general commercial use classes has been broken down into four categories to reflect a more evenly graduated scale. The parking rates follow fairly closely to the Institute of Transportation Engineers (ITE) fitted curve equation for shopping centres. In addition, new parking rates are introduced for "Specialty Food Services", "Restaurants", "Neighbourhood Pubs and Bars" and "Nightclubs" to make them consistent with the new definitions for these uses.
- New parking rates are also introduced for "Religious Assemblies" to make them in-line with the actual vehicle occupancy counts from on-site surveys.
- Some use classes are further broken down into more specific uses to better reflect parking rates for these uses. For example, a general parking rate is assigned to "Indoor Participant Recreation Services." However, specific parking rates for uses such as "Health and Fitness Clubs," "Bowling Alleys," etc. are set because these uses warrant a different (higher or lower) parking rate or if it is more appropriate to use a different unit of measurement to calculate the required parking stalls.
- Section 66.5 "Passenger Drop-off Space for Public and Private Elementary, Junior High and High Schools" has been relocated from Section 76 of the current Land Use (Zoning) Bylaw, as passenger drop-off space share similar characteristics of loading and unloading area. The width of drop off spaces increased to 2.6 m to make it the same as existing and proposed parking stall width.
- A higher percentage (from 15% to 30%) of small stall spaces has been included to reflect current automobile ownership trends according to the vehicle segmentation analysis from the City of Edmonton.
- Dimensions for disabled parking (3.7m width by 5.5m length) have been added to make it as user-friendly as dimensions for other parking and loading spaces.
- Bicycle parking requirements are basically unchanged except that bicycle parking spaces and accesses shall be located on hard paved surfaces.
- Loading and Unloading requirements are basically unchanged with only minor editorial revisions.

J. Livestock Operations

1. What It Means

In the current Land Use (Zoning) Bylaw, farms are listed as a permitted use in the AG and AGU Districts and both districts include the following provision under regulations:

Farms which may be offensive in nature, including Hog Ranches, Poultry Farms, Feedlots, or the breeding and raising of fur-bearing animals shall not be located less than 150 m (492.12 ft.) from the nearest developed or proposed Residential or Urban Services District.

2. The Issue

The future holds a number of challenges with respect to farms and the existing provisions are not detailed enough to manage these challenges.

The trend in livestock operations has been in the direction of increasing size, specialization and intensity. This has generated a wide range of community and public concern related to odour, land management, manure disposal, and incompatibility with residential and other forms of urban development.

These issues are not unique to Edmonton. Across the Province both urban and rural municipalities are struggling with the emerging nature of Agra-business and its impact on surrounding landowners. The Province is very much at the centre of this controversy but to date has not taken a leadership role in either ensuring the rights of the Agra business or protecting the surrounding property owners from its impacts. To date the Province has promoted guidelines but ultimately left it to local governments to struggle with these issues within local land use bylaws. This has led to a patchwork of regulation across the Province.

The existing Land Use (Zoning) Bylaw is out of step in several areas:

- The current Bylaw would propose **discretionary judgement on a Permitted Use**. This situation arises from the fact that the Use Class "Farms" is listed as a Permitted Use and the regulation requires the use of considerable judgement or discretion to implement.
- The existing regulations would allow, within Edmonton boundaries, uses which we have negotiated with our neighbouring municipalities not to be allowed in the established Fringe Areas as directed in the Municipal Development Plan.
- The existing regulations are outdated in not recognizing the difference between traditional farming activities and some of the new more specialized Agra-businesses.

3. Proposed Response to the Issue

The new Zoning Bylaw proposes a new Use Class called Livestock Operations, which is defined as follows:

Livestock Operations means development with an animal unit concentration of greater than 17 animal units per hectare and where this animal density exceeds a duration of 90 consecutive days or more.

The definition uses the term "animal unit" which requires that the following definition be added:

Animal Unit means the number of animals of a particular category of livestock that will excrete 73 kg of total nitrogen in a 12-month period.

The Proposed Zoning Bylaw also includes the following as a revised definition of Farms:

Farms means development for the primary production of farm products such as: dairy products; poultry products; cattle, hogs, sheep and other animals; wheat or other grains; and vegetables or other field crops. This does not include Livestock Operations.

The current Farm definition has been expanded to include typical wintering and cow/calf situations but, because of the new definition for Livestock Operations, Farms clearly no longer includes feed lots or intensive captivity areas.

The new use class, Livestock Operations, is not included in any Zone. All potential operators would be required to consider a DC rezoning application. This is appropriate because:

- A fringe zone has been negotiated with our adjacent municipalities in which intensive livestock operations are not allowed.
- Livestock Operations' potential off site impacts render them incompatible with urban development.
- Once established it is difficult to prevent or limit Livestock Operations expansion.
- A substantial investment is required to establish such a use and thus may require a longer time frame for capitalization and be in the way of the primary function of lands within the city boundary, which is ultimately for urban development.
- Farms continue as a Permitted Use in the AG and AGU zones in the proposed Zoning Bylaw.

The new definition for Livestock Operations does not include any size provisions. A trigger or threshold number that would indicate the number of animal units that would have to be reached before an operation became a Livestock Operation was considered. However, it was decided that any operation regardless of the number of animal units could be a problem in an urban municipality, where land uses change and ultimately the intended use is for urban purposes.

In essence, the Proposed Bylaw separates Livestock Operations from traditional Farms. This approach preserves Farm opportunities as a right within the city while setting the same restrictions within the City boundaries that have been negotiated with neighbouring municipalities in the fringe area plans. The new definition replaces rather vague provisions for the discretion on the part of the Development Officer in terms of noxious impacts. The new definition will also help in the integration of the former county bylaws into the City of Edmonton bylaw.

Building/Development Regulations

K. Required Lot Widths

1. What It Means

The Greater Edmonton Home Builders' Association and other land development industry groups have asked that the proposed Zoning Bylaw include a change to the Residential Planned Lot (RPL) Zone that would see the minimum lot width reduced from 9.0 m (29.5 ft.) to 8.5 m (28 ft.). Some Edmonton area homebuilders develop a single detached home that is 6.1m (20 ft.) wide or less and argue that this product requires no more than an 8.5 m wide lot (i.e. a 20 ft. wide home and two four foot sideyards). These builders term matching the lot width to the structure as "right sizing" and note that the end product is more affordable and more efficient in terms of land utilization than the current RPL Zone.

The request for changes to the lot width requirement has been accompanied by other requests for changes to the small lot housing provisions including a call for a standard side yard of 1.2 m regardless of building height and an increase in allowable site coverage for garages.

Any change to the site requirements must be looked at carefully because the sites are relatively tight to begin with and there tends to be a cumulative affect of the site changes on the overall area. For example these site changes can add burdens to already tight on street parking situations and create a reduction in the overall open space of the area.

2. How We Got Here

The RPL District was created with the adoption of the present City of Edmonton Land Use Bylaw in July 1980. In its original form, the intended purpose of the RPL District was to provide a Land Use District for the development of affordable single detached housing on a project basis at 42 units per hectare (17 units/acre). Soon after its creation the RPL District was amended to accommodate a trend toward the development of single detached housing on fee simple lots. To maintain the density of the District, a minimum lot width of 7.5 m was established. The District was well accepted during the early 1980s as the RPL product was extensively developed in a variety of suburban locations.

During the mid-1980s the popularity of the RPL product began to wane as it was criticized for its appearance, practicality, and liveability. The issue of appearance was related directly to the marketing and pricing of the RPL product by builders and to how the product was presented on a block face basis. The problem of practicality and liveability, in part, tied back to the regulations of the District. At the time, the RPL District was deliberately structured to be developed in a zero lot line format and on a block-face basis. This allowed builders to achieve optimal site coverage and density, while ensuring the following: appropriate siting of individual structures, appropriate orientation of habitable room windows, the provision of adequate space for outdoor amenity areas and ancillary buildings, the provision of adequate yards, the appropriate placement of maintenance easements, and a consideration of the overall appearance of the streetscape. However, then as now, the majority of single detached housing units, including RPL units, were marketed on an individual "pre-sold" basis which made the implementation of zero lot line development difficult.

In response to concerns from City Council about the overall quality of RPL development, the Planning and Development Department initiated a review of the District in 1988. The Department subsequently met with industry representatives to discuss the merits and limitations of the District. In September 1989, the Department advanced and Council approved amendments to the RPL District which incorporated many industry suggestions to the District.

One significant change was to increase the minimum lot width from 7.5 m to 9.0 m. The rationale behind this change was that a 9.0 m wide lot would accommodate the housing product common to RPL development without the requirement for zero lot line regulations and the co-ordination of development on a block-face basis. The ability to accommodate a wider choice in the placement of the housing form and other changes to the District were widely perceived as having a positive impact on the streetscape appearance, practicality and liveability of the product. Improvements to the appearance of the product itself further enhanced its appeal to the point where the RPL District is again accepted.

3. Proposed Response to the Issue

The Proposed Bylaw does include a number of changes reducing site requirements in the RPL, RSL and RF4 zones. The changes have been supported in an overall consideration of the balance between affordability and area amenities. Examples of the changes include increasing by 2% the site coverage for garages in RPL, establishing a side yard requirement of 1.2m regardless of height in all three zones and reductions in the requirements for separation spaces in all three zones.

The draft Zoning Bylaw does not include a reduction in the minimum lot width for the RPL Zone from 9.0 m to 8.5 m for the following reasons:

- The 9.0 m lot width is considered to be truly the minimum acceptable for single detached development. Regardless of the appearance, design and affordability of a particular housing product, lot widths of less than 9.0 metres are detrimental to a number of quality of life factors and should only be developed on a completely planned block-face basis. As block-face planning of fee simple lots is difficult to achieve, this is not an option.
- A reduction in the minimum lot width for the RPL Zone would be a step backward from the improved appearance, practicality and liveability achieved in the RPL District in the last 10 years and would only heighten off-site parking and circulation problems.
- "Right sizing" to such a fine degree could lead to future administrative problems.
- The Department does not support making amendments to the RPL District to accommodate one particular building product.

L. Height and Grade

1. What It Means

Height is one of the most challenging issues in any zoning bylaw. Examples of different definitions for height and how to calculate it run to several pages. Many of the examples have importance in communities where there are significant grade differences on the urban landscape. In such circumstances many communities go to very elaborate ends to focus on the projection of view planes and the like. Edmonton with its prairie setting makes some of these considerations less relevant. However, there are grade differences throughout the city and defining a place from which to start measuring (grade) is the most important issue.

2. The Issue

The current regulations regarding the determination of height are not easily interpreted or understood, particularly when looking at a development and determining whether what is on the ground reflects the regulations. Yet, height and how to calculate it are critical because, more than any other aspect of development, height impacts surrounding property. It affects sun shadow situations. It creates a perception of mass and it affects the views and privacy of adjacent property. Through zoning, Council sets a series of uses and a building envelope for each zone. It is intended that all development for these uses and within these envelopes will have similar impacts and therefore neighbours will affect each other equally.

3. How We Got Here

The 1961 Bylaw described grade (where we start measuring from) as "the average of the finished ground level at the centre of all walls of a building". Height was then measured from that grade to the top of flat topped buildings or the mid-point of the pitches of roofs on pitched roof buildings.

When the new Land Use Bylaw was being prepared in 1980, it was noted that the definition for grade did not take into account the fact that a builder might raise the site through fill before constructing the walls of the building. As a result, there were examples of buildings where sites were raised several feet above neighbouring property before the building even began. To resolve this problem, the 1980 Bylaw changed the definition of grade to:

The average level of finished grade calculated at the perimeter of a site, as determined by the Development Officer.

This new definition helped in that it moved the calculation line from the edge of the Building to the perimeter of the site. Definitions of height were largely unchanged. However, because very few applications came to the Development Officers with surveyed details about the grade at the perimeter of the site, the Development Officers often relied on the "as determined by the Development Officer" portion of the definition to make decisions. As a result, the practice of building soil up to the edge of the building continued, actually increasing the height of buildings in relation to neighbouring properties.

As in past exercises, work on the new Zoning Bylaw focused on the question of where to start measuring height from. In other words how is grade defined? Based on the assumption that the most important element for grade was the front property line, a new definition of grade was circulated. This definition described grade as "one metre above the grade at the mid point of the Front Property Line".

The definition for height remained very similar to both the 1961 and 1980 bylaws with the addition of the following additional rules to section 62:

- For the purpose of measuring Height, the Development Officer shall calculate from Grade Level or 1.0 m above.
- The Development Officer may approve, based on the submission of a detailed grade plan, a grade level above that specified in Section 63.4. In such cases, the application shall be deemed to be a Discretionary Class permit.

These changes focused consideration on the front property line as the starting point and recognized that in many instances detailed grading plans were available. Since the early 1990s the City has required detailed grading plans with all new subdivisions as part of the effort to manage storm run off. This means that detailed grading plans exist for each lot in new suburban areas. Because they are intended to deal with water run off, these plans provide a very fair way to establish a grade for a site for the calculation of height. They all respect the grade level of adjacent sites.

However, allowing a full meter above the front property line would add considerably to the allowable height for new construction. If the site slopes down and away from the front property line, there is even more opportunity to increase the allowable height. The proposal was objected to by everyone who commented on it.

4. Proposed Response to the Issue

The Edmonton Federation of Community Leagues provided a better solution that the department has worked with and which can be generally summarized as follows :

The Development Office shall calculate grade by one of the following methods:

- Grade shall be:
 - √ the average of the corners of the Site as shown on a lot grading plan approved by the City as part of the subdivision process;
 - √ the average elevation of the corners of the Site as shown on a lot grading plan of the site; or
 - √ the average elevation of the corners of the buildings on all properties abutting the Site or separated from the Site by a lane.
- Demonstrate by reference to a reliable topographical map that at no point on the Site does the elevation change by more than one meter in 30 lineal meters. The Development Officer shall determine grade by calculating the average of the highest and lowest elevation on the site.

In any case outside of this menu the Development Officer will be using discretion and notices will be sent to surrounding property owners.

Such a definition does not need additional height regulations.

Flat sites have a very simple test based on topographical maps. In new developments, height issues are handled earlier in the planning process when a lot grading plan is approved. This provides an equitable definition of grade for each site. In other circumstances applicants with sites that have grade variations on them have a choice of preparing detailed grading plans that indicate the relationship with adjacent properties or effectively asking the Development Officer for a variance.

By establishing a clear and definable point from where to start measuring and then relying on the tested and true regulations for measuring height, neighbouring property owners can be assured that the height allowed on the neighbouring property will be similar to the height allowed on their property. If that is not the case, they will receive a notice before construction begins.

M. Floor Area Ratio (FAR)

1. The Issue

The Greater Edmonton Home Builder's Association (GEHBA) reviewed the RA7 Zoning and requested that the "floor area ratio" (FAR) be amended to reflect market conditions. More specifically, the Association submitted that:

The maximum Floor Area Ratio shall be 1.3, with the exception that the development officer may increase this maximum to 1.5 for a project if underground parking is provided and the maximum number of units still fall within the allowable 125/ha.

According to GEHBA, market conditions require larger floor plates to provide larger dwelling units per floor. Historically, multi-residential development was perceived to provide for rental accommodation and the units were typically one bedroom configuration. However, with an aging population, market demand has shifted and home ownership in multi-residential development has become very popular amongst "empty nesters." As a result, the configuration of dwelling units has changed and larger dwelling units are required to meet demand.

Land use zones prescribe development rights and standards. Standards include lot size, yard space, density, height, and the building bulk and form, among others. These standards regulate the building size in residential neighbourhoods to ensure homogeneity of building envelopes in a given zone. Floor area ratio (FAR) has a significant impact on building bulk and form and the density of use. To change the RA7 FAR from 1.3 to 1.5 could create negative externalities depending on its implementation particularly in a mature neighbourhood. It is also a significant departure from the conventional transitional zoning that community expects to secure property values.

2. How We Got Here

The 1961 Zoning Bylaw provided two zones for low-rise apartments. The R3 zone had a maximum height of 3 stories and the R4 zone had a maximum height of 4 stories. The 1980 Land Use Bylaw blended these two zones into RA7 at a maximum height of 4 stories. Various provisions in the 1980 General Plan called for a transition of heights and densities such that RA7 would not be placed beside low-density housing. Initially this worked in suburban areas where plans started with a green field but did not work very well in the inner city where situations already existed. In the inner city the Department tried to solve some of these problems by doing Area Redevelopment Plans and by changing zones to create the transitions.

Over time problems arose in both the suburbs and the inner city and the Department started to use DC5 to solve problems. Finally in the 1990s, transitions were created within the RA7 project itself such that heights would be stepped down towards the abutting low-density development within a project.

More recently issues affecting RA7 have centred on market shifts in apartments and the growth in popularity of larger units and underground parking.

3. Proposed Response to Issue

The Proposed Zoning Bylaw recognizes GEHBA's request and that market conditions are a dynamic force and factor when preparing planning legislation. It also recognizes that planning legislation should be prepared to achieve orderly, economical and beneficial development and to maintain and improve the quality of the physical environment. These factors of planning legislation are reflected in Plan Edmonton which state the following:

- Provide for choices regarding the types of development in which people live and do business;
- Address compatibility of land use in the development and review of land use plans and development proposals;
- Support increased densities of land use through infill development that is sensitive to existing development;
- Encourage rehabilitation, redevelopment and infilling to increase the amount and quality of housing in mature neighbourhoods; and
- Provide for a range of housing types and densities in each residential neighbourhood.

Consequently, the Proposed Zoning Bylaw will include the following:

The maximum Floor Area Ratio shall be 1.3, except that the Development Officer may increase this maximum to 1.4 for developments with larger individual unit floor plates and additional indoor Amenity Areas and facilities subject to underground parking being provided. The development must comply with the unit density provisions of this section.

It is expected that the FAR bonus will provide an incentive to the development industry to invest in the community while achieving the strategies of Plan Edmonton.

Proposed Zones

N. Annexed Lands

1. The Issue

The "annexed lands" were acquired by the City of Edmonton from the surrounding municipalities of the County of Strathcona, Sturgeon County, County of Parkland and the City of St. Albert on January 1, 1982. However, these lands were never incorporated into the fabric of the City's current Land Use (Zoning) Bylaw. As a result, the review and administration of development proposals in the annexed lands has been difficult, requiring City of Edmonton administrators to work within four different Land Use Bylaws, each with their own approaches and regulations.

2. Proposed Response to the Issue

A major objective of the proposed Zoning Bylaw is to remedy the long-standing incongruity and incorporate the annexed lands into the structure of the Edmonton Land Use (Zoning) Bylaw, adjusting for statutory plan direction where appropriate. To accomplish this objective, the zones that apply to the annexed lands were first translated into the closest "equivalent" Districts under the current City of Edmonton Land Use (Zoning) Bylaw. These equivalent Districts were then filtered through an evaluation of relevant policies and objectives of the City's statutory plans such as the Municipal Development Plan, and applicable Area Structure Plans. Therefore, the initial equivalent Edmonton District could be altered by any relevant statutory plan direction.

Various "rules" were developed in conjunction with the translation exercise to deal comprehensively and fairly with similar development situations throughout the city. These rules were created to treat all situations as fairly as possible and without bias, so as not to legitimize a use that would conflict with a statutory plan. To do otherwise would establish undesirable precedents, undermine the objectives of Statutory Plan(s) and open the door to further exemptions.

25 separate land use districts from the Land Use Bylaws of four annexed lands were translated into seven equivalent zones in the proposed Edmonton Zoning Bylaw, with the exception of those situations described in the "rules" section below.

Annexed Area Bylaws and Equivalent City of Edmonton Land Use Districts (Zones)

County of Strathcona District

AG (Agricultural)
SH (Small Holdings)
CR (Country Residential)
MHR (Mobile Home Residential)
C-3 (Highway Commercial)
RR (Rural Recreation and Open Space)
RI (Restricted Industrial)
GI (General Industrial)
HI (Heavy Industrial)

Sturgeon County District

AG (Agricultural)
CR (Country Residential)
PI (Public Institutional)
GI (General Industrial)
Industrial

St. Albert Annexed District

DC (Direct Control - Restricted Development)
UR (Urban Reserve)

Parkland County District

AG (Agricultural Mixed Land Use)
DC/AG (Direct Control Agricultural
Mixed Land Use)
CR (Country Residential)
DC/CR (Direct Control Country Residential)
DC/CR* (Direct Control-Country
Residential – Big Lake)
IC (Industrial Commercial)
DC/IC (Direct Control Industrial Commercial)
DC/ICR (Direct Control Industrial
Commercial Reserve)
DC (Direct Control)

City District

AG (Agricultural)
AG (Agricultural)
RR (Rural Residential)
RMH (Mobile Home)
CHY (Highway Corridor)
AP (Public Parks)
IB (Industrial Business)
IM (Medium Industrial)
IH (Heavy Industrial)

City District

AG (Agricultural)
RR (Rural Residential)
US (Urban Services)
IM (Medium Industrial) or IB (Business)

City District

AG (Agricultural)
AG (Agricultural)

City District

AG (Agricultural)
AG (Agricultural)
RR (Rural Residential)
RR (Rural Residential)
RR (Rural Residential)
IM (Medium Industrial) or CHY (Highway
Corridor) adjacent to major highways
IM (Medium Industrial)
AGI (Industrial Reserve)
AG (Agricultural)

Efforts have been made to translate zones based upon the equivalency chart outlined above. Exceptions to this translation occur where such translations conflict with existing statutory plans. The following guidelines/rules were used in an attempt to achieve a fair and reasonable translation:

- **The treatment of existing country residential development.** Plan Edmonton is not supportive of country residential development as it prematurely fragments agricultural land prior to the extension of cost-effective urban services. However, the Planning and Development Department recognizes that existing country residential developments are relatively permanent uses that are not likely return to agricultural use if restricted. In addition, existing country residential developments could be incorporated into future suburban development patterns relatively easily without great concern for compatibility with future surrounding land uses.

Given this, existing country residential developments that presently possess a Country Residential zoning designation or development right (and are developed in a typical country residential format) should be translated to the City's equivalent RR (Rural Residential) Zone. Where existing country residential developments do not meet these requirements, or are superseded by a statutory plan, they should be zoned AGI (Industrial Reserve) or AG (Agricultural), depending upon the direction of Plan Edmonton or the respective statutory plan.

While this course of action initially appears to conflict with Plan Edmonton's position against the "fragmentation of agricultural land", the Planning and Development Department deems this to be the most balanced and reasonable approach to recognize historical circumstance while recognizing the characteristics of country residential development as described above. To ensure that new country residential uses do not proliferate (as mandated by Plan Edmonton), the future use of the RR (Rural Residential) zone will be discouraged through other provisions in the RR (Rural Residential) zone.

- **The treatment of existing mobile home parks.** Several mobile home parks exist within the city. Three in particular are sensitively located in agricultural or industrial areas within the annexed lands. These land uses either have been, or will be, the subject of incompatible land use conflicts. Plan Edmonton does not support residential development in these areas. Two of the parks are in large industrial areas as identified in Plan Edmonton. Accordingly, it is the recommendation that they should be zoned AG (Agricultural) and AGI (Industrial Reserve) respectively, depending upon the direction of Plan Edmonton.

This subject is a difficult one for the Planning and Development Department, and this direction does not come easily as it will have a negative effect upon approximately 1,800 households within the subject parks. However, from a planning perspective and with the objective of addressing and preventing conflict between neighbouring land uses (as recognized within Plan Edmonton), the Department recommends that this is the appropriate time to act and remedy these historical circumstances that have been inherited.

- **Any lands within the Transportation Utility Corridor (TUC).** Lands within the TUC should be zoned to the City's most restrictive zone, that being the AG (Agricultural) Zone. The AG Zone should extend over the entirety of lands that are privately held and partially effected by the TUC. This application of the AG zone is consistent with the County AG designations that are already in place for most of the area affected by the TUC.
- **Sturgeon lands zoned PI (Public Institutional).** Lands zoned PI should be zoned to the City's most restrictive zone, that being the AG (Agricultural) Zone, rather than translated to the equivalent US (Urban Services) District. The M.D. of Sturgeon's PI zoning is applied to large tracts of agricultural land and recognizes two institutions from a senior level of government (Province of Alberta). A translation to the US District would risk the future establishment of land uses that would be inconsistent with Plan Edmonton on a large scale, should the lands ever become privately owned (in whole or in part). Any future development would then require rezoning from the AG zone with due planning review.
- **Any lands addressed in an industrial context through an ASP** that are (a) less than 8.1 hectares in area, or (b) in an industrially developed state should be zoned IH (Heavy Industrial), IM (Medium Industrial) or IB (Industrial Business) as directed by the respective Plan.
- **Any lands addressed in an industrial context through an ASP** that are (a) equal to, or greater than, 8.1 hectares in area, and (b) in an undeveloped state should be zoned AGI (Industrial Reserve). Detailed zoning to the IH, IM or IB zones will follow at the landowner's initiative.
- **Any lands not contained within an ASP and not presently zoned for industrial purposes,** but identified as "Business and Employment Area" on Map 1 of Plan Edmonton should be zoned AGI (Industrial Reserve) so as to be consistent with Plan Edmonton. For example, this would apply to portions of the Transportation Utility Corridor that are zoned DC(RDA) in the former County of Parkland.

- **Any lands not contained within an ASP and not presently zoned for agricultural purposes**, but identified as "Agricultural Area" on Map 1 of Plan Edmonton should be zoned AG (Agricultural) so as to be consistent with Plan Edmonton. For example, this would apply to the south-westernmost corner of the city (former County of Parkland) in areas presently zoned DC(CR) that are not in a Country Residential subdivided state. This would also apply to the south-westernmost area zoned DC (RDA).

O. Performance Based Industrial Zone

1. What It Means

The I Zone is linked to a new generation of statutory industrial plans, through the vehicle of an Industrial Statutory Plan Overlay (IPO), in Edmonton's Zoning Bylaw. The IPO provides the means to alter land use or specify regulations for land uses or land use activity to achieve the objectives of an Industrial Plan. The I Zone applies the IPO to potentially about half of the "development impacts" which are regulated under the Zone. This flexible zoning tool allows for tailoring industrial development to market influences, new environmental standards and other economic conditions. For example, the development of a high technology manufacturing business park could form the basis of an IPO. The range of acceptable uses within this industrial community would be specified and associated regulations could deal with such matters as compatible land uses, large site requirements, higher environmental standards for earthborne vibrations, and higher power and water utility consumption rates.

2. The Issue

The new I Zone will not be implemented immediately with the adoption of the new Zoning Bylaw. Instead, it will be added to the existing list of industrial zones in the Bylaw and will only replace these industrial zones in conjunction with the preparation and implementation of a new generation of industrial plans.

Zoning linked with a plan can be a powerful planning and development tool. This strong linkage is presently missing. Industrial development and growth in Edmonton is encumbered by a zoning and land use planning system that is many decades old and no longer serves the best interests of industry and Edmontonians. This must change if Edmonton is to take full advantage of the anticipated economic growth for the City, resulting from a healthy resource development sector, new knowledge based industries, and continued diversification of our economic base.

By itself, zoning has the ability to regulate some of the “negative” effects of industrial development such as the unsightly appearance of outdoor storage in highly visible roadway locations. However, today’s businesses, governments and the public are looking for a much more balanced decision making approach which examines complex relationships between market responsiveness, community compatibility and environmental protection. Direct links between zoning and an Industrial Plan are needed to provide the flexibility and capacity to deal with the broader range of strategic planning objectives required to sustain and allow for economic growth.

An Industrial Plan, integrated with a new performance based zoning model, is needed to accommodate variables such as lot size, architectural controls, the preservation of best sites for industries, the concentration or clustering of benefiting industries, enhanced environmental standards and special servicing requirements. Only through the preparation of an Industrial Plan can stakeholders be consulted, best locations and critical servicing/site factors be identified, and market forces be adequately reflected. Zoning alone cannot do the job and neither can the present generation of industrial plans.

"Certainty" of use is not guaranteed in the I Zone as it is in all existing land use districts (zones). Instead, the new I Zone does not immediately provide for “permitted” and “discretionary” uses. The proposed industrial use or activity is “sifted” through a “development impact matrix” which evaluates the proposed use or activity against the assessment criteria identified in this matrix. A new development application form and screening process for industrial applications assesses whether the proposed industrial use or activity is “permitted” or “discretionary” in nature. This evaluation is at the heart of a performance based approach which examines the “impact of development” and the ability of an industrial uses performance – through site planning, facility operation and/or building design – to deal with such “impacts.”

3. Proposed Response to the Issue

The performance-based approach has two primary advantages over conventional zoning with its up front guarantee of “permitted” and “discretionary” uses:

- The I Zone expands the range of considerations that can be addressed by zoning, to include not only new environmental concerns but also best site factors (i.e. lot size and supply, transportation and access), other off site development impacts (i.e. parking, appearance, servicing) and the clustering of benefiting industries. Without this performance-based zoning approach, the options are limited to prohibiting such potentially problematic uses, ignoring the problem or finding a development control mechanism other than zoning to deal with specific land use issues. Increasingly, conventional zoning is not an option if desired types of industrial development are to be identified and positively supported within specific areas of the city.

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- **The I Zone expands the range of considerations that can be addressed by zoning**, to include not only new environmental concerns but also best site factors (i.e. lot size and supply, transportation and access), other off site development impacts (i.e. parking, access, servicing) and the clustering of benefiting industries. Without this performance-based zoning approach, the options are limited to prohibiting such potentially problematic uses, ignoring the problem or finding a development control mechanism other than zoning to deal with specific land use issues. Increasingly, conventional zoning is not an option if desired types of industrial development are to be identified and positively supported within specific areas of the city.
- **The I Zone has a much greater performance flexibility than the contemporary industrial land use districts (zones)**. The current regulatory (zoning) system deals primarily with the negative impacts of industrial development, through zoning regulations which either prohibit or confine certain industrial activities or which establish building and site envelope requirements. Conventional zoning, in other words, stops at the property line and at the building façade in determining whether an industrial use is appropriately located.

The performance-based zoning model has the ability to go a step further. It can examine how an industry may “perform” through changes to facility operations (i.e. enhanced environmental controls), building design (i.e. thicker walls, containment facilities, on-site wastewater treatment etc.) and site planning (i.e. building siting and orientation, buffer yards, landscaping, etc.) to overcome perceived problems or development impacts. The greater performance flexibility of the performance-based I Zone can be further enhanced through linkage with the Industrial Plan.

The challenge with the I Zone is to develop a streamlined and administratively efficient screening process for industrial applications. This is being done, guided by several key principles:

- The number of simple applications that require straightforward and quick approvals, especially change of use applications within an existing building or complex, can be substantially increased over present numbers. This will leave greater staff and technical resources for the more deserving and complex applications.
- Where provincial and/or federal statutes and regulations apply, the onus should be on the applicant to demonstrate how the industry intends to comply with those requirements and what if any additional land use planning measures could be recommended.

- A similar approach would apply to industry-imposed standards for dealing with the potential or accidental release of hazardous substances. This would avoid the impracticality of development control officers having to become environmental experts in order to review and approve industrial development applications.
- The introduction of computer technologies, industrial development application forms and other administrative measures can help to expedite the development review process without sacrificing the ability to effectively regulate many of the environmental and other development impacts that are not being addressed very well or not at all under the current industrial zoning.

In the end, after the changes introduced with the new I Zone and Industrial Plan, there should be a stronger guarantee to both industries and the public that industries are properly sited and that the improved conditions exist for sustaining and expanding industrial growth for the long term.

