

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 10:00 A.M.
February 25, 2015**

**Hearing Room No. 3
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 3**

I 10:00 A.M. SDAB-D-15-031 **TO BE RAISED**

WITHDRAWN

Construct a 250 Dwelling Unit Apartment
Housing Development with ground floor
commercial units (General Retail Stores) and
underground parkade (Corners 1)

10225 - 95 Street NW
Project No.: 147598066-001

LUNCH BREAK: 1:00 P.M. TO 1:30 P.M.

II 1:30 P.M. SDAB-D-15-035 Construct an Accessory Building - rear detached
Garage (7.01 metres by 6.71 metres) existing
without a permit
9805 - 83 Avenue NW
Project No.: 148609144-014

NOTE: *Unless otherwise stated, all references to "Section numbers" refer to
the authority under the Edmonton Zoning Bylaw 12800.*

TO BE RAISED

ITEM I: 10:00 A.M.

FILE: SDAB-D-15-031

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 147598066-001

ADDRESS OF APPELLANT: 1450 - 10405 Jasper Avenue NW,
Edmonton, AB T5J 3N4

APPLICATION TO: Construct a 250 Dwelling Unit Apartment
Housing development with ground floor
commercial units (General Retail Stores)
and underground parkade (Corners 1)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

WITHDRAWN

DECISION DATE: December 24, 2014

NOTIFICATION PERIOD: January 8, 2015 through January 21, 2015

DATE OF APPEAL: January 20, 2015

RESPONDENT:

ADDRESS OF RESPONDENT: 77 - Chippewa Road
Sherwood Park, AB T8A 6J7

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10225 - 95 Street NW

LEGAL DESCRIPTION: Plan RN23 Blk 1 Lot 1 and Plan 1221938
Blk 1 Lot 2

ZONE: DC1 Direct Development Control
Provision

OVERLAY: The Quarters Downtown Overlay

STATUTORY PLAN: The Quarters Downtown Area
Redevelopment Plan



DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

1. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
2. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW,
 - a) the applicant or property owner shall pay a Development Permit notification fee of \$100.00.
 - b) the applicant or property owner shall pay a Lot Grading Fee of \$220.00.
 - c) the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$235,207.38. All assessments are based upon information currently available to the City. The SSTF charges are quoted for the calendar year in which the development permit is granted. The final applicable rate is subject to change based on the year in which the payment is collected by the City of Edmonton.
 - d) the applicant or property owner shall provide a guaranteed security to ensure that landscaping is provided and maintained for two growing seasons. The Landscape Security may be held for two full years after the landscaping has been completed. This security may take the following forms:
 - 1) cash to a value equal to 100% of the established landscaping costs; or 2) an irrevocable letter of credit having a value equivalent to 100% of the established landscaping costs. Any letter of credit shall allow for partial draws. If the landscaping is not completed in accordance with the approved Landscape Plan(s) within one growing season after completion of the development or if the landscaping is not well maintained and in a healthy condition two growing seasons after completion of the landscaping, the City may draw on the security for its use absolutely. (Zoning Bylaw Reference Section 55.6). Landscaping shall be in accordance to the approved landscape plan and to the satisfaction of the Development Officer.
 - e) The owner must enter into a Municipal Improvement Agreement with the City for the following improvements:
 - 1) construction of a 7.8 m commercial crossing access, located approximately 22 m from the west property line;
 - 2) installation of a 3.5 m x 12 m bus stop and amenities pad;
 - 3) two-way conversion of 102A Avenue from 95 Street to the first north/south alley east of 95 Street; and
 - 4) filling in of 9 existing accesses.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

The Agreement must be signed by the property owner and returned to Transportation Services to the attention of Loli Fernandez (780-944-7683) including an irrevocable Letter of Credit in the amount of \$160,000.00 to cover 100% of construction costs. The Agreement will be forwarded directly to the owner for his signature. Once signed, the owner is required to have a Civil Engineer submit stamped engineering drawings for approval by Transportation Services.

- f) the owner/applicant must enter into an Encroachment Agreement with the City for the proposed bus stop canopy encroaching over road right-of-way. The owner/applicant must contact Calvin Chan (780-496-6153) of Sustainable Development for information on the agreement.
 - g) the owner/applicant must enter into an Encroachment Agreement with the City for any pilings, shoring & tie-backs to remain within road right-of-way. The owner/applicant must contact Calvin Chan (780-496-6153) of Sustainable Development Services for information on the agreement. Note: The applicant is responsible to provide Sustainable Development with a plan identifying all existing utilities on road right-of-way within the affected area of the encroachment.
 - h) the owner/applicant shall submit a comprehensive sign package plan to the satisfaction of the Development Officer.
 - g) the owner/applicant shall submit a waste pickup plan to the satisfaction of the Development Officer in consultation with Waste Management.
3. PRIOR TO THE RELEASE FOR BUILDING PERMITS OTHER THAN EXCAVATION PERMITS, the applicant/owner shall provide proof the affected lands located on the eastern portion and legally described as Plan RN23 BLock 1 Lot have been remediated such that they are suited to their intended use to the satisfaction of the Development Officer in consultation with Alberta Environment, Alberta Health Services, and Transportation Services.
- Note: The applicant/owner shall install on all four sides of western portion and legally described as Plan 1221938 Block 1 Lot 2 and that on-site groundwater shall be monitored monthly during construction and for a minimum of 6 months after the installation of the liners or such minimum monitoring period recommended by the environmental consultant supervising installation of the liner.
4. PRIOR TO THE ISSUANCE OF THE OCCUPANCY PERMIT, the owner shall submit public art plan in consultation with the Edmonton Arts Council to the satisfaction of the Development Officer.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

5. The applicant/owner shall adhere to the recommendations of the submitted Crime Prevention Through Environmental Design report (CPTED) (September 25, 2014 report by Hartwig Architecture) to the satisfaction of the Development Officer.
6. The applicant/owner shall adhere to the recommendations for minimal adverse effects of microclimatic conditions as indicate in the submitted Pedestrian Wind and Snow Drifting Studies - Tower I (October 17, 2014 report by Gradien Wind Engineering Inc) to the satisfaction of the Development Officer.
7. Main building entrances for Apartment Housing and Commercial Uses shall be designed for universal accessibility. Level changes from the sidewalk to entrances of buildings shall be minimized and any proposed Sidewalk furniture and other streetscape elements shall be located such that they do not obstruct a travel path and building entrances.
(Edmonton Zoning Bylaw 860.5(4)(d))
8. Bicycle parking shall be provided in accordance to Section 860 and 54.3, to the satisfaction of the Development Officer.
9. Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.
10. Allocated parking in accordance to the approved plans shall be assigned and marked to the satisfaction of the Development Officer.
11. The applicant/owner shall ensure safe walking conditions below the proposed canopies such to the design of the canopies shall not produce precipitation drips that may freeze onto pathways during winter months.
12. In accordance with Section 860 of the Edmonton Zoning Bylaw and the "860 Overlay Sustainable Compliance" report prepared by BCM Developments and Hartwig Architecture (dated December 10, 2014) the applicant/owner shall ensure the following:
 - a) The development shall provide designs for reduced light pollution by minimizing light trespass from the building site and using targeted lighting to improve visibility of the night sky. Note: This can be achieved if the design meets or exceeds the requirements of the Illuminating Engineering Society of North America (IESNA RP-33-99).

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

- b) Main building entrances and the first level parkade lobby entrance to the building addresses universal accessibility and universal design as follows: 1) Main entrance doors shall meet universal design standards; 2) Level changes from the sidewalk to the main entrance of apartment buildings shall be minimized; and 3) Landscaping elements shall be located out of the travel path to ensure they are not obstacles to apartment building access.
- c) A minimum of 3% of residential suites shall be fully wheelchair accessible.
- d) The building design shall achieve a 29% efficiency improvement over the Model National Energy Code (MNECB) and 10% improvement for retrofit.
- e) Heating, Ventilating and Air-Conditioning (HVAC) and refrigeration equipment shall not contain Hydro chlorofluorocarbons (HCFCs).
- f) The Development shall meet the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1 2001 standards for lighting, including metering, smart controls and occupancy sensors in public spaces.
- g) The Development shall co-managed energy/utility servicing for more than one project.
- h) Ensure that 70% of fixtures and appliances supplied are Energy Star compliant.
- i) Green roofs shall be a minimum 50% of roof surfaces.
- j) Water efficient fixtures such as low-flow toilets, urinals and faucets shall ensure reduction of potable water consumption by 30%. The City of Edmonton Bylaw 14571 Water Efficient Fixtures specifies low-flow toilets and urinals.
- k) A system to collect, store, treat (if necessary), and use rainwater for use on-site shall be applied.
- l) Drought resistant and/or native indigenous planting species shall be provided.
- m) Construction waste management plan to recycle and/or salvage a minimum 50% of non-hazardous construction and demolition debris shall be conducted.
- n) The building shall provide for user-friendly and accessible handling and storage facilities for recyclable materials.
- o) A minimum of at least 15% of the specified project's materials, based on value, shall be comprised of recycled content as defined by CAN/CSA-ISO 14021-00 Environmental Labelling and Advertising Guidelines.
- q) A minimum of at least 10% of the project's specified materials, based on value, shall be comprised of regionally extracted and manufactured materials. Regionally extracted refers to at least 80% of their mass extracted, processed and manufactured within 800 KM by truck and/or 2,400 KM by rail or water.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

- r) The design of the building shall comply with the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 62-2004 ventilation standards, for buildings over three storeys.
- s) An architecturally designed transit shelter shall be integrated with the building design.
- t) For commercial projects, end of trip facilities shall be provided e.g. for bicycle commuters, such as change rooms, lockers and secure storage.
- u) The underground parking levels shall provide for "unbundled" parking spaces from residential unit.
- v) A contribution to affordable housing in accordance with Council approved policy shall be exercised which may be amended from time to time.
- w) A voluntary contribution for public art to be located on either private or public lands in accordance with The Quarters Downtown, Platform for Public Art as prepared by the Edmonton Arts Council.
- x) Provide publicly accessible open space to increase site permeability and A minimum of 225 m² for enhanced options for the pedestrian open space shall be provided.
- y) Electric hybrid vehicle charging station shall be provided in the parkade level of this development.
(Edmonton Zoning Bylaw Reference Section 860 Appendix IV)

Transportation Services has the following conditions:

1. The owner must dedicate to the City of Edmonton and register all road rights-of-way necessary for the construction of 102A Avenue, including the portion required from Lot 1, as shown on Enclosure I and must conform to the 102A Avenue concept plan being finalized by Facility and Capital Planning. The owner shall register a road plan to dedicate the area required from Lot 1 for 102A Avenue as per the Roadway Lands Terms and Conditions of Schedule "E" of the September 24, 2013 Sale Agreement between the City of Edmonton and Trapani Development Ltd. A plan of survey (road plan) with proof of Section 82 notification must be submitted to Rionel Comia (780-442-7181) of Sustainable Development (19th floor Century Place, 9803 - 102A Avenue NW, Edmonton, AB T5J 3A3). The owner may contact Sumon Khan (780-944-0118) of Transportation Planning for further information regarding the road plan registration. The owner will also be required to submit a Phase I Environmental Site Assessment (ESA) for all affected lands to be registered as road right-of-way for review and approval to Don McClymont (780-496-6778) of Transportation Services. All associated costs will be borne by the applicant.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

2. The proposed 7.8 m access to 102A Avenue located approximately 22 m from the west property line, is acceptable to Transportation Services and must be constructed as a commercial crossing access. The proposed access should be as far from the 95 Street intersection as possible.
3. The existing nine (9) commercial accesses to 95 Street, 102A Avenue and Jasper Avenue must be removed and the curb & gutter and sidewalk constructed and boulevard restored.
4. Any underground parking access card devices must be located on site, a minimum of 3 m inside the property line.
5. Temporary construction access(es) may be granted to Jasper Avenue and/or 102A Avenue. An OSCAM permit will be required to authorize these temporary/construction access(es) for a period of up to 1 year with the potential to reassess and extend the term of the permit based on the operation of the access/intersection at that time. For further information on the OSCAM permit, the applicant is to contact Olga Messinis (780-944-5658) of Transportation Services.
6. The owner is responsible for all costs associated with the two-way conversion of 102A Avenue from 95 Street to the first north/south alley east of 95 Street, and to the satisfaction of Transportation Services.
7. The owner is required to construct a 3.5 m x 12 m bus stop and amenities pad.
8. There may be utilities within road right-of-way not specified that must be considered during construction. The owner/applicant is responsible for the location of all underground and above ground utilities and maintaining required clearances as specified by the utility companies. Alberta One-Call (1-800-242-3447) and Shaw Cable (1-866-344-7429; www.digshaw.ca) should be contacted at least two weeks prior to the work beginning to have utilities located. Any costs associated with relocations and/or removals shall be at the expense of the owner/applicant.
9. Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx
10. Any sidewalk or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Services, as per Section 15.5(f) of the Zoning Bylaw. The alley, sidewalks and boulevard will be inspected by Transportation Services prior to construction, and again once construction is complete. All expenses incurred for repair are to be borne by the owner.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)**Advisements:**

1. Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.
2. This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.
3. Approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.
4. Signage shall be developed in accordance with Section 860 of the Edmonton Zoning Bylaw which states compliance with Schedule 59B, excluding Freestanding signs as specified in Section 59B.1.2. For Commercial uses on the ground floor, signs shall comply with the overall intent of Section 59.3 of the Zoning Bylaw. Signs require separate Development Applications. (Edmonton Zoning Bylaw Reference Section 860.4(3))
5. Landscaping along public roadways shall be coordinated by the City of Edmonton and shall be provided in consideration of The Quarters Downtown Urban Design Plan. (Edmonton Zoning Bylaw Reference Section 860.5(2))

Transportation has the following advisements:

1. As part of a Hoarding and/or OSCAM Permit(s) being issued for work on road right-of-way, the developer/applicant may be responsible for notification to surrounding property owners, residents, business owners and stakeholders, to the satisfaction of Sustainable Development and Transportation Services. The purpose of the notification is to advise these groups of the scope of the proposed project, the impacts on road right-of-way, and anticipated construction timelines. The developer/applicant is responsible for all costs associated with notification. For more information, please contact James Rockey (780-496-6878) or Robert Metcalf (780-496-1789) of Transportation Services.
2. Residential Sales Trailers require a separate development permit. Construction trailers must be located on private property or within the hoarded area.
3. Upon future development of Phase 2, Sustainable Development will perform roadway improvements including re-alignment of 102A Avenue to tie into the Jasper Avenue/94 Street intersection, landscaping, boulevard trees and sidewalk improvements. All costs associated with these improvements, will be the responsibility of the City of Edmonton as part of The Quarters Streetscape improvements, funded by the CRL. These improvements may occur in 2019 / 2020.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

4. Transportation Services will not permit the backing up of vehicles onto or off of a public roadway.
5. The applicant is proposing to have all loading and unloading occur inside the building. Sight lines for vehicles exiting the parkade should be considered as loading is to be provided on site.

Edmonton Fire and Rescue Services has the following advisements:

1. Ensure that the buildings Sprinkler Fire Department Connection is located in accordance with ABC 3.2.5.16.
2. Ensure that the Fire Alarm Annunciator panel is located in close proximity to the building entrance that faces a street or emergency access route.
3. Ensure that proposed fire hydrants are fully functional prior to construction.
4. Ensure that a Fire Safety Plan has been prepared for this project, have this plan available for review by our office.
5. Ensure that this building has a Central Alarm and Control Facility Room.

For additional information please contact Rebecca Webber 780-496-3628 or rebecca.webber@edmonton.ca

Drainage Services has the following advisements:

Please note that this proposed development application covers two separate titled lots and this project is located in Quarters Phase II area. Drainage Strategic Planning group has recently completed a study for Quarters Phase II area and the conclusion of the study is that all development in this area has to do On-lot Control. If you need more information about this study, please contact Steven Chan at (780) 496-5699.

Therefore, the applicant/owner is advised that the current condition potentially contravenes the City Sewer Bylaw No. 16200. A remedial measure should be taken to correct the problem. Failing to correct the sewer bylaw contravention may result in the refusal of applying for a building permit. For more information, please contact Drainage Services at 780-496-5454.

Variances:

Section 860.5(6)(k) provision relaxed - The maximum average floor plate for the tower zone is increased from 750 sq m to 900 sq m.

Section 860.5(3)(f) & (g) provisions relaxed - the requirement to provide additional separation space between the internal parkade located above grade from any building facade facing a public roadway is waived.

DEVELOPMENT OFFICER'S DECISION (CONTINUED)

NOTE: Variances were granted for this Development Permit pursuant to Sections 11(3) and 11(4). Subject to the right of appeal, the permit is not valid until the required Notification Period expires (date noted below) in accordance with Sections 21(1) and 17(1).

APPELLANT'S SUBMISSION

The Appellant owns 3 undeveloped lots directly across from the proposed Development.

The relaxation of the floor plate size requirement and the relaxation of the separation space required for the above grade parking will result in an unsightly view from our lots. This will devalue our lots and make development difficult. The proposed Development will unduly interfere with the amenities of the neighborhood by being unsightly.

The proposed Development will materially interfere with the future use and enjoyment of our lots due to its size and decrease the value of our property.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This is an application to construct a 250 Dwelling Unit Apartment Housing development with ground floor commercial units (General Retail Stores) and underground parkade (Corners 1).

The site consists of two lots, which are located between Jasper Avenue to the south and 102A Avenue to the north east of 95 Street. The site is zoned DC1 Direct Development Control Provision (FQ) Five Corners High Density Quarter – Area 2 (Schedule “H”), Section 710 of the Edmonton Zoning Bylaw 12800. This DC1 was Signed and Passed by City Council on April 15, 2009, under Bylaw 15039. **A copy of Bylaw 15039 is on file.**

The site is within The Quarters Downtown Overlay, Section 860. The site is also within The Quarters Downtown Area Redevelopment Plan, Bylaw 15037, as amended, approved by Council April 15, 2009.

The Subdivision and Development Appeal Board at a hearing on February 4, 2015 made and passed the following motion:

“that SDAB-D-15-031 scheduled for February 12, 2015 be TABLED to February 25, 2015 or February 26, 2015 per written request of the Appellant.”

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED)

Section 641(4) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 states despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority following the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

Apartment Housing is a listed Use in the DC1 Direct Development Control Provision (FQ) Five Corners High Density Quarter – Area 2, Section 3(a) and Section 3(2).

General Retail Stores is a listed Use in the DC1 Direct Development Control Provision (FQ) Five Corners High Density Quarter – Area 2, Section 3(h).

Under Section 7.2(1), **Apartment Housing** means development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Under Section 7.4(22), **General Retail Stores** means development used for the retail or consignment sale of new goods or merchandise within an enclosed building, not including the sale of gasoline, heavy agricultural and industrial equipment, alcoholic beverages, or goods sold wholesale. Accessory Uses may include the assembly or repair of products sold on Site, or minor public services such as postal services or pharmacies. This Use Class does not include Aircraft Sales/Rentals, Automotive and Minor Recreation Vehicle Sales/Rentals, Flea Market, Gas Bars, Greenhouses, Plant Nurseries and Market Gardens, Pawn Stores, Major Alcohol Sales, Minor Alcohol Sales, Major Service Stations, Minor Service Stations, Secondhand Stores, and Warehouse Sales.

This application was approved by the Development Officer subject to conditions.

Pursuant to Section 11.3 and 11.4 and subject to the right of appeal to the Subdivision and Development Appeal Board, Section 21.1, the Development Officer granted the following variances:

Schedule "H", Section 5(m) of Bylaw 15039 states Architectural Control shall be in accordance with Section 860 of the Zoning Bylaw.

Section 860.5(6)(k)(iii) of the Edmonton Zoning Bylaw, Bylaw 12800 states the average floor plate for the tower zone shall not exceed 750 square metres, except the areas known as The Armature Area 1 and 2.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS
(CONTINUED)

The Development Officer determined the average Floor Plate shall not exceed 750 square metres. The proposed development provides an average Floor Plate of 900 square metres, which is in excess of the maximum by 150 square metres. The Development Officer relaxed the average Floor Plate requirement.

Schedule “H”, Section 5(j) of Bylaw 15039 states parking areas shall be developed in accordance with Section 860 of the Zoning Bylaw.

Section 860.5(3)(f) of the Edmonton Zoning Bylaw, Bylaw 12800 states no portion of an above Grade Parking Garage on the ground (first) floor shall be allowed for a minimum depth of 10.0 metres from any building façade facing a public roadway, other than a lane.

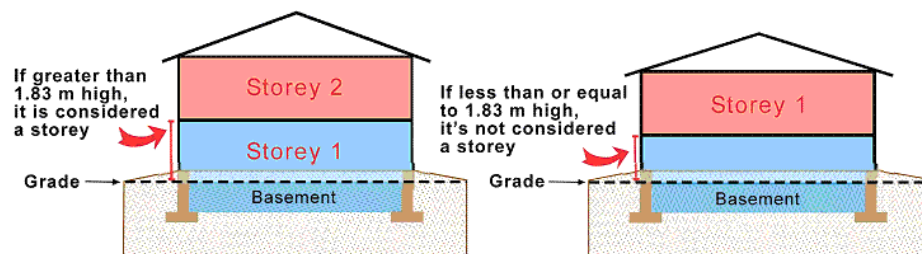
Section 860.5(3)(g) of the Edmonton Zoning Bylaw, Bylaw 12800 states no portion of an above Grade Parking Garage above the ground (first) floor up to 5 storeys shall be allowed for a minimum depth of 6.0 metres from any building façade facing a public roadway, other than a lane.

The Development Officer waived the requirements under section 860.5(3)(f) and (g).

The decision of approval by the Development Officer has been appealed by an adjacent property owner located to the west at 9502 – 102 Avenue.

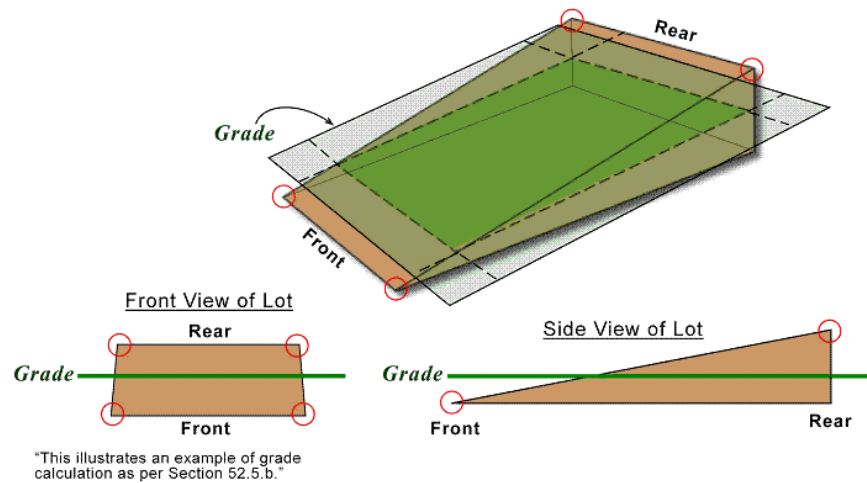
Under Section 6.1(36), **Floor Plate** means the total floor area of a Storey within a building or structure contained within the outside surface of the exterior walls, provided that in the case of a wall containing windows, the glazing line of windows may be used.

Under Section 6.1(98), **Storey** means that portion of a building, which is situated between the top of any floor and the top of the floor next above it. If there is no floor above, the Storey is the portion of the building, which is situated between the top of any floor and the ceiling above it. If the top of the floor directly above a Basement is more than 1.83 metres above grade, such Basement shall be considered a Storey for the purpose of this Bylaw.



Under Section 6.1(42), **Grade** means a geodetic elevation from which the Height of a structure is measured, calculated in accordance with Section 52.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED)



Under Section 6.1(70), **Parking Garage** means an Accessory Building or Structure, or any portion of a principal building or structure, containing communal parking spaces used for vehicular parking or storage.

Under Section 6.1(32), **Façade** means the exterior outward face of a building. Typically, the façade of interest is that surface that serves as the front of that building and faces a building's primary street. Buildings on the corner of two streets or a street and an alley present two public façades.

Schedule "H", Section 1 of the DC1 Direct Development Control Provision (HQ) Heritage Quarter, Bylaw 15039 states the purpose of this Provision is to accommodate a predominately high-rise, high density residential and ground oriented commercial development that is pedestrian friendly and compatible in scale, function, built form and urban design with surrounding developments; all in accordance with Section 860 of the Zoning Bylaw, The Quarters Downtown Area Redevelopment Plan and The Quarters Downtown Urban Design Plan.

Section 860.1 states the purpose of The Quarters Downtown Overlay is to apply common regulations to a number of underlying Direct Control Provisions in order to achieve the objectives of The Quarters Area Redevelopment Plan and The Quarters Urban Design Plan.

Included in the Sustainable Development Department's POSSE system, under "SDAB", is a Memorandum dated December 4, 2014 from Tyler Golly, General Supervisor, Sustainable Transportation, Transportation Planning Branch, which indicates that Transportation Services has reviewed the development application and has provided comments, conditions, and advisements. **A copy of the Memorandum from Transportation Services is on file.**

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED)

Included in the Sustainable Development Department's POSSE system, under "SDAB", is a Memorandum dated May 7, 2014 from Chet Domanski, Chair, Edmonton Design Committee, which indicates that the Edmonton Design Committee has passed a recommendation of support for the application with conditions. **A copy of the letter from the Edmonton Design Committee is on file.**

The following jobs are listed in the Sustainable Development POSSE system:

Application Number	Description	Decision
163235741-003 APP14-0679- REZ-1	Application to Rezone	Created October 30, 2014
163235741-002 APP14-0679- NSP-1	Application to amend Neighbourhood Structure Plan	Created October 30, 2014

NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-031



ITEM I: 1:30 P.M.

FILE: SDAB-D-15-035

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 148609144-014

ADDRESS OF APPELLANT: #202, 10446 - 122 Street NW, Edmonton
AB T5N 1M3

APPLICATION TO: Construct an Accessory Building - rear
detached Garage (7.01 metres by 6.71
metres) existing without a permit.

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 15, 2015

DATE OF APPEAL: January 29, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9805 - 83 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 72 Lot 21

ZONE: RF2 Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

1) As per Section 6.1(2) in the Edmonton Zoning Bylaw 12800:

- Accessory means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

No Principal Building has been approved on the proposed Site as the existing Single Detached House was built without permits and was refused by the Development Authority and the Subdivision and Development Appeal Board

DEVELOPMENT OFFICER'S DECISION CONTINUED

(December 11, 2014). Therefore, the proposed development shall not be approved prior to the principal Use/building. (Also reference section 50.1)

2) Maximum Site Coverage for a Single Detached and Duplex Housing with a Site area 300 m² or greater shall be 12% for an Accessory Building and 40% for the Total Site Coverage. (Section 120.4(7))

Total Site Coverage proposed: 46.5% (187.91 m²)
Exceeds by: 6.5 % (26.33 m²)

3) The distance between an Accessory Building and the lot line running parallel to any flanking public roadway, other than a Lane, shall not be less than the Side Setback required for the principal building.

Required flanking Side yard: 2.01 m (20%)
Proposed flanking side yard: 1.78 m
Deficient by: 0.23 m

APPELLANT'S SUBMISSION

Schedule A

Issue for Appeal

Did the Development Officer err in refusing the applicants' permit application for a detached garage structure located at 9805 83rd Avenue NW?

Facts

The subject lot is zoned RF(2), Low Density Infill. The Mature Neighbourhood Overlay ("MNO") applies as well. The subject lot is a corner lot with a municipal sidewalk fronting 83 avenue on the north and 98 street on the east side. The 98 street side is a grassy municipal boulevard 6.05 m in width from the property line to the curb. There is no sidewalk on this boulevard. The lot abuts an alleyway to the south, which in turn abuts a large surface parking lot for a four storey walk-up apartment building. The sole immediate neighbour shares the west property line.

The detached garage on the subject property is a double garage. The car door faces the alleyway to the south and a man door faces into the yard to the north. There are no doors or windows on the west and east sides, which face the neighbour's property and the municipal boulevard respectively.

The garage is just over 11 feet tall at the midpoint of the roof. It covers 506 square feet.

APPELLANT'S SUBMISSION CONTINUED

The garage sits 1.2 m from the west property line and on the east side, facing the municipal boulevard and street, it sits 1.78 m from the property line.

Applicants' Position

The applicants take the position that each of the three reasons for refusal set out by the Development Officer are incorrect for the following reasons:

Reason for Refusal (1) - The garage clearly fits the definition of an "accessory" use under the Zoning Bylaw. It is a building which is incidental, subordinate and devoted to the principal Use or building, which in this case is a residential single family house. The garage is to be used solely as a means to park the vehicles of the users of the principal building. Section 50.1 of the Zoning Bylaw states that "Accessory Uses and Buildings are *permitted* in a Zone when Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit *has been* issued." (emphasis added). A residential single family house is obviously a permitted principal use in this zone, and such a principal building does in fact sit on the subject lot. The applicants note that a permit was in fact issued for the residential single family house before this application for the detached garage was submitted.

The Development Officer states that "No principal building has been approved on the proposed Site as the existing Single Detached House was built without permits". This is clearly incorrect. The Single Detached House was in fact approved on February 13, 2014 subject to the right to appeal. An appeal was lodged by a neighbour but was refused by the SDAB on April 11, 2014. The application for this garage permit was made on November 7, 2014 when the principal building had a valid permit. It is therefore incorrect for the Development Officer to use, as a reason for refusal of this permit, the reasoning that "the proposed development shall not be approved prior to the principal Use/building" because a development permit, in fact, *has been* issued for the principal residence. An approval by the SDAB will be an approval *after* the principal Use/building *had been* approved. In any event, the house structure exists on the lot and the garage therefore is, and has always been, a proper accessory use to the house structure. The Development Officer's basis for refusal on this ground is purely technical and not founded on any sound planning reason.

Reason for Refusal (2) - Maximum site coverage is well under the 40% maximum as the calculation completed by the Development Officer includes the raised deck in the back yard. This deck has been lowered to less than 1.0 m above grade and therefore should not be included in the site coverage calculation. With that removed, the garage and principal structure cover less than 40% of the lot.

APPELLANT'S SUBMISSION CONTINUED

Reason for Refusal (3) - The detached garage sits 1.78 m from the east property line. The bylaw states that this accessory structure shall not be less than the side setback for the principal building which the Development Officer states is 2.01 m (20% of lot width). The Development Officer failed to take into consideration that the SDAB, in a ruling dated April 11, 2014, confirmed that the variance to the 20% side setback requirement for the principal building was based on sound planning reasons, and allowed the principal building to sit at a distance of 1.2 m from the lot line. Given that the detached garage is 0.58 m further from the lot line than the principal building, there will obviously be no deleterious effects arising from the present location of the garage building.

The applicants state that the Development Officer has provided no valid planning rationale as a basis to refuse the present permit application and therefore the permit ought to be granted.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

This application is to construct an Accessory Building - rear detached Garage (7.01 metres by 6.71 metres) - existing without permit.

The site is located on the southwest corner of 83 Avenue and 98 Street and is zoned RF2 Low Density Infill Zone, Section 120 of the Edmonton Zoning Bylaw 12800. The site is within the Mature Neighbourhood Overlay, Section 814. The site is also within the Low Density Residential Area and within Section 1 – Guidelines for Low Density Residential Zones of the Strathcona Area Redevelopment Plan, under Bylaw 11890 (as amended), approved by City Council on December 15, 1998.

Under Section 6.1(2), **Accessory** means, when used to describe a Use or a building, a Use or building naturally or normally incidental, subordinate, and devoted to the Principal Use or building, and located on the same lot or Site.

Section 50.1(2) states Accessory Uses and Buildings are permitted in a Zone when Accessory to a Principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.

The Development Officer indicated that no Principal Building has been approved on the proposed Site as the existing Single Detached House was built without permits. Therefore, the proposed development shall not be approved prior to the principal Use or building.

The Development Officer determined that a Development Permit has not been issued for the Principal Use.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS
(CONTINUED)

The submitted Real Property Report created by Delta Land Surveys Ltd., dated March 17, 2014, shows the following:

Detached Garage:

(West) Side Setback:	1.20 metres
(East) flanking Side Setback:	1.78 metres
(South) Rear Setback:	3.27 metres

Vehicular access to the detached Garage is from the (south) rear lane.

The Development Officer has provided the following information:

Site Area:	403.96 square metres
12 percent allowable Site Coverage:	48.48 square metres
28 percent allowable Site Coverage:	113.11 square metres
40 percent allowable Site Coverage:	161.58 square metres
Previous Single Detached House application:	140.91 square metres
Detached Garage:	47.04 square metres
Total Site Coverage:	187.95 square metres

Section 50.3(3)(a) states the Site Coverage of Accessory Buildings, with or without a Garage Suite, or Structures shall not exceed 12 percent, unless a different standard is prescribed within the regulations contained within the relevant Zone.

Section 120.4(7) states the maximum Site Coverage for Single Detached Housing on a Site with an area greater than 300 square metres shall be:

Principal Dwelling/building:	28 percent
Accessory building:	12 percent
Total Site Coverage:	40 percent

The Development Officer determined that the maximum allowable Total Site Coverage with the previous Single Detached House application is 161.58 square metres, proposed is 187.95 square metres, which exceeds the maximum allowable Total Site Coverage by 26.33 square metres.

Section 50.3(5)(a) states, on a corner Site, the distance between an Accessory Building and the lot line running parallel to any flanking public roadway, other than a Lane, shall not be less than the Side Setback required for the principal building.

Section 814.3(2) states where the Site Width is less than 18.3 metres, the Side Setback requirements of the underlying Residential Zone shall apply.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS
(CONTINUED)

Section 120.4(10)(b) states on a Corner Site where the building faces the Front Lot Line, the minimum Side Setback abutting the flanking Side Lot Line shall be 20 percent of the Site Width, to a maximum of 4.5 metres.

The Development Officer determined the required (east) flanking Side Setback is 20 percent of the Site Width, being 2.01 metres. The proposed (east) flanking Side Setback is 1.78 metres, which is deficient by 0.23 metres.

Section 814.1 states that the purpose of the Mature Neighbourhood Overlay is to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Section 120.1 states the purpose of this Zone is to retain Single Detached Housing, while allowing infill on narrow lots, including Secondary Suites under certain conditions.

The following jobs are listed in the Sustainable Development Department POSSE system:

Application Number	Description	Decision
148809144-013 SDAB-D-14-307	Leave as Built a Single Detached House (overall Height) on Lot 21, Block 72, Plan 1 has been deemed to be refused.	December 11, 2014; that the appeal be DENIED and the decision of the Development Authority CONFIRMED
148809144-012 SDAB-D-14-271	Construct an Accessory Building - rear detached Garage (7.01 metres by 6.71 metres) WORK DONE WITHOUT PERMITS on Lot 21, Block 72, Plan I.	October 31, 2014; that the appeal be allowed The applicant may resubmit an application for permission to construct an Accessory Building – rear detached Garage.
148809144-011	To Leave as Built a Single Detached House (overall Height).	(deemed to be refused).
148609144-010 SDAB-D-14-225	Order	August 13, 2014; Withdrawn.
148609144-009	Order	April 22, 2014; Withdrawn.

Application Number	Description	Decision
148609144-008 SDAB-D-14-077 148609144-008 (continued)	Construct a Single Detached House with front veranda, side landing, rear uncovered deck (7.47 metres by 4.27 metres), fire place on main and upper floor, and to develop a Secondary Suite in the basement.	<p>April 11, 2014; that the appeal be DENIED and the decision of the Development Authority CONFIRMED</p> <p>The decision of approval by the Development Authority contains the following variances and conditions:</p> <p><u>Variance:</u></p> <p>Section 150.4(8)(c) relaxed - Side Setbacks shall be established on the following basis for a Corner Site where the building faces the Front Lot Line, the minimum Side Setback abutting the flanking Side Lot Line shall be 20 percent of the Site Width, to a maximum of 4.5 metres.</p> <p>Required: 2.01 metres Proposed: 1.3 metres Deficient by: 0.71 metres</p> <p><u>Conditions:</u></p> <ol style="list-style-type: none"> 1. The height of the principal building shall not exceed 8.6 metres nor 2 1/2 Storeys as per the height definition of Section 6.1(49) of the Edmonton Zoning Bylaw 12800. 2. Any future deck enclosure or cover requires a separate development and building permit approval. 3. Except for the hardsurfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw. 4. All yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. Alternative forms of landscaping may be substituted for seeding or sodding as specified in Section 55.2(4)(b).

<p>148609144-008 (continued)</p>		<p>5. On-Site parking shall be located in accordance with Section 50 of this Bylaw. Such hard surface parking pad shall include an underground electrical power connection with outlet on a post 1.0 metres in height, located within 1.0 metres of the parking pad.</p> <p>6. Private Outdoor Amenity Area shall be provided on Site in accordance with Section 47 of this Bylaw.</p> <p>7. Lot grades must match the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5500 for lot grading inspection inquiries.</p> <p>8. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the <i>Municipal Government Act</i>, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.</p>
<p>148609144-007</p>	<p>Order</p>	<p>June 27, 2014:</p> <p>LAND USE INFRACTION:</p> <p>This property is zoned RF2 (Low Density Infill Zone) in accordance with Section 120 of the Edmonton Zoning Bylaw.</p> <p>On June 26, 2014, Justin Young, a Development Officer for the City of Edmonton having authority to exercise development powers under section 642(1) of the Municipal Government Act R.S.A. 2000 conducted a site inspection at 9805 83 Avenue NW.</p> <p>Our investigation revealed that the Single Detached House has not been constructed in accordance with Development Permit 148609144-001.</p>

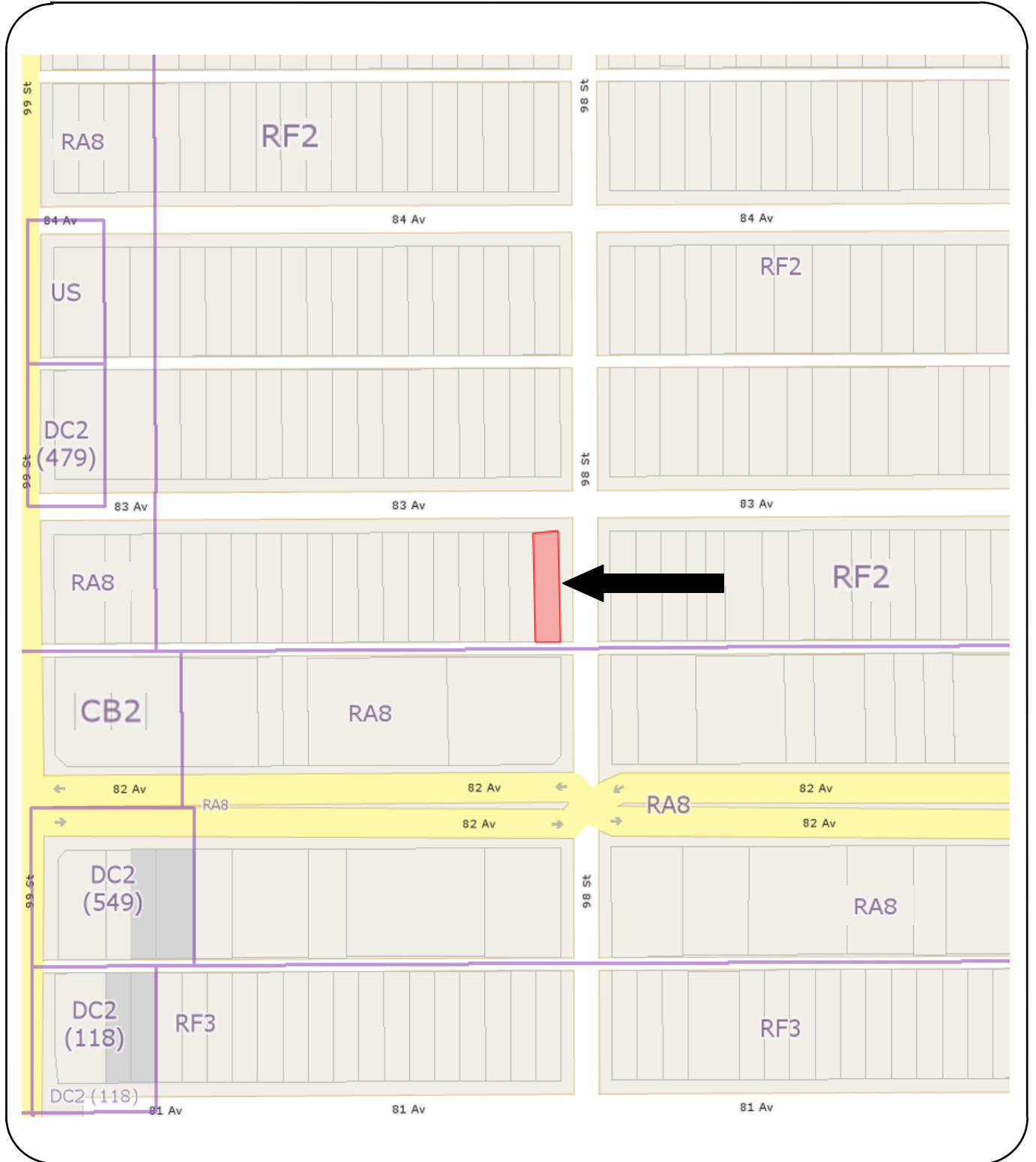
<p>148609144-007 (continued)</p>		<p>Development Conditions of Permit 148609144-001 state:</p> <p>The height of the principal building shall not exceed 8.6 metres nor 2 1/2 Storeys as per the height definition of Section 6.1(49) of the Edmonton Zoning Bylaw 12800.</p> <p>Our investigation revealed that an Accessory Building (Garage) has been constructed, The City of Edmonton has not issued a development permit to construct an Accessory Building, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.</p> <p>Edmonton Zoning Bylaw 12800</p> <p>Approval Required For Development</p> <p>5.1 No Person:</p> <p>Shall commence, or cause or allow to be commenced, a Development without a development Permit therefor issued under the provisions of Section 12 of this Bylaw; or</p> <p>Shall carry on, or cause or allow to be carried on a development without a Development Permit therefor issued under Section 12 of this Bylaw.</p> <p>5.2 An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the Edmonton Building Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.</p> <p>ORDER:</p> <p>Pursuant to Section 645 of the</p>
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<p>148609144-007 (continued)</p>		<p>Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:</p> <p>Cease all work on site until all applicable permits have been obtained,</p> <p>Apply for a Development Permit which reflects the current development on site.</p> <p>OR</p> <p>Demolish all buildings and remove all materials from the site.</p> <p>This order is to be complied with on or before July 23, 2014.</p>
<p>148609144-007</p>	<p>Order</p>	<p>March 12, 2014:</p> <p>LAND USE INFRACTION:</p> <p>This property is zoned RF2 (Low Density Infill Zone) in accordance with Section 120 of the Edmonton Zoning Bylaw. Our investigation revealed that a Single Detached House and Accessory Building have been built. The City of Edmonton has not issued a development permit to construct a Single Detached House and Accessory Building, which is contrary to Section 683 of the Municipal Government Act, R.S.A. 2000, c.M-26.1.</p> <p>ORDER:</p> <p>Pursuant to Section 645 of the Municipal Government Act, R.S.A. 2000, YOU ARE HEREBY ORDERED TO:</p> <p>CEASE ALL CONSTRUCTION AND/OR DEVELOPMENT UNTIL THE REQUIRED PERMITS HAVE BEEN OBTAINED.</p> <p>This order is to be complied with on or before March 21, 2014.</p>

Application Number	Description	Decision
148609144-001 148609144-001 (continued)	To construct a Single Detached house with front veranda, side landing, rear uncovered deck (7.47 metres x 4.27 metres), fire place on main and upper floor, and to develop a Secondary Suite in the basement. BUILT WITHOUT PERMITS.	February 12, 2014; Approved with conditions and the following variance: Section 150.4(8)(c) relaxed - Side Setbacks shall be established on the following basis for a Corner Site where the building faces the Front Lot Line, the minimum Side Setback abutting the flanking Side Lot Line shall be 20 percent of the Site Width, to a maximum of 4.5 metres. Required: 2.01 metres Proposed: 1.3 metres Deficient by: 0.71 metres

NOTICE TO APPLICANT/APPELLANT

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.



SURROUNDING LAND USE DISTRICTS

 Site Location

File: SDAB-D-15-035



BUSINESS LAID OVER

SDAB-D-15-019	An appeal by <u>Art Lab</u> to construct an Accessory Building (detached Garage, 4.88 metres by 6.10 metres). <i>March 5, 2015</i>
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APPEAL HEARINGS TO BE SCHEDULED

161242059-003	An appeal by <u>Tom Parada</u> to construct an uncovered deck (irregular, 8.61 metres by 4.89 metres at 0.95 metres in Height and 6.01 metres by 1.01 metres at 0.34 metres in Height), existing without permits. <i>March 12, 2015</i>
165332560-001	An appeal by <u>Ace Lange Construction</u> to construct exterior alterations (driveway extension 6.0m x 3.0 m) to an existing Single Detached House, existing without permits. <i>March 11 or 12, 2015</i>