

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
July 9, 2015**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I 9:00 A.M. SDAB-D-15-142 To convert the second floor of the existing mixed Use building to a Lodging House (existing without permits).

10608 - 97 Street NW
Project No.: 161225631-003

LUNCH BREAK – 11:30 A.M. TO 12:30 P.M.

II 12:30 P.M. SDAB-D-15-143 To change the Use from a Single Detached House to a Limited Group Home and to Construct Interior Alterations

7815 - 160 Street NW
Project No.: 171141167-001

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

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPLICATION NO.: 161225631-003

APPLICATION TO: Convert the second floor of the existing mixed Use building to a Lodging House (existing without permits).

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 3, 2015

DATE OF APPEAL: June 11, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10608 - 97 Street NW

LEGAL DESCRIPTION: Plan 9825188 Blk 12 Lot 3A

ZONE: CB2-General Business Zone

OVERLAY: Pedestrian Commercial Shopping Street Overlay

STATUTORY PLAN: Boyle Street/McCauley Area Redevelopment Plan

DEVELOPMENT OFFICER'S DECISION

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

1) The proposed development, a Lodging House is neither listed as Permitted or Discretionary use under the CB2 General Business Zone (reference Section 340.2 and 340.4).

Advisement:

The Lodging House shall be discontinued and reverted back to the approved one dwelling apartment house in accordance to Development Permit no. 000840586-001, dated September 20, 1999.

APPELLANT'S SUBMISSION

Built in 1943, second floor was used continuously as a Lodging House except for 1999-2006 or 2007.

In 1999 the owner at that time converted to single apartment and gave up variance.

In 2006 the second floor was converted back to Lodging House; no permits. The new owners in 2014 were unaware.

The building is very clean, well maintained and operated. Provides clean, safe housing at very reasonable rents to tenants who work nearby.

Many other similar buildings in the area.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 687(3) of the *Municipal Government Act* states in determining an appeal, the subdivision and development appeal board

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

A **Lodging House** is not a Use listed in the CB2 General Business Zone, Section 340.

The Development Officer determined Lodging House is neither listed as Permitted or Discretionary Use under the CB2 General Business Zone.

Under Section 7.3(6) **Lodging Houses** means a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use Class does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Section 96 states for Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds:

1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities. Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.

- b. When determining the threshold for the number of Special Residential Facilities by Use Class per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 metres measured from the nearest intersection shall be used to determine this threshold.

4. Density

For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

Section 76 states in addition to the regulations in Section 96 of this Bylaw, Lodging Houses shall comply with the following regulations:

1. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Discretionary Use shall be a maximum of 6 residents;
2. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Permitted Use shall be the greater of 6 residents or 1 resident per 60 square metres of Lot size;
3. The Development Officer may restrict the occupancy of a Lodging House to less than the maximum number of residents allowed having regard for the threshold purpose identified in Section 96, the level of traffic generation, parking demand, and frequency of visits by emergency vehicles relative to that which is characteristic of the Zone in which the Lodging House is located;
4. A Lodging House shall be developed as either a purpose-built freestanding structure, or Single Detached Housing converted for the purpose, or part of an Apartment Housing development;

5. A Lodging House may be located in Duplex Housing or Semi-detached Housing converted for the purpose in a Zone where Lodging Houses are a Permitted Use and both units are operated by a single provider;
6. In a Zone where Lodging Houses are a Permitted Use and where more than 12 Sleeping Units are allowed in a development, Sleeping Units may include limited food preparation facilities such as bar fridge, mini-sink, and microwave;
7. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development;
8. Where a Lodging House is designed as a freestanding structure it shall be of a size, scale, and outward appearance that is typical of surrounding residential development; and
9. Increases in vehicular traffic generation and parking demand must be to the satisfaction of the Development Officer and/or Transportation Services.

Under Section 6.1(16), **Congregate Living** means four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under Section 6.1(95), **Sleeping Unit** means a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

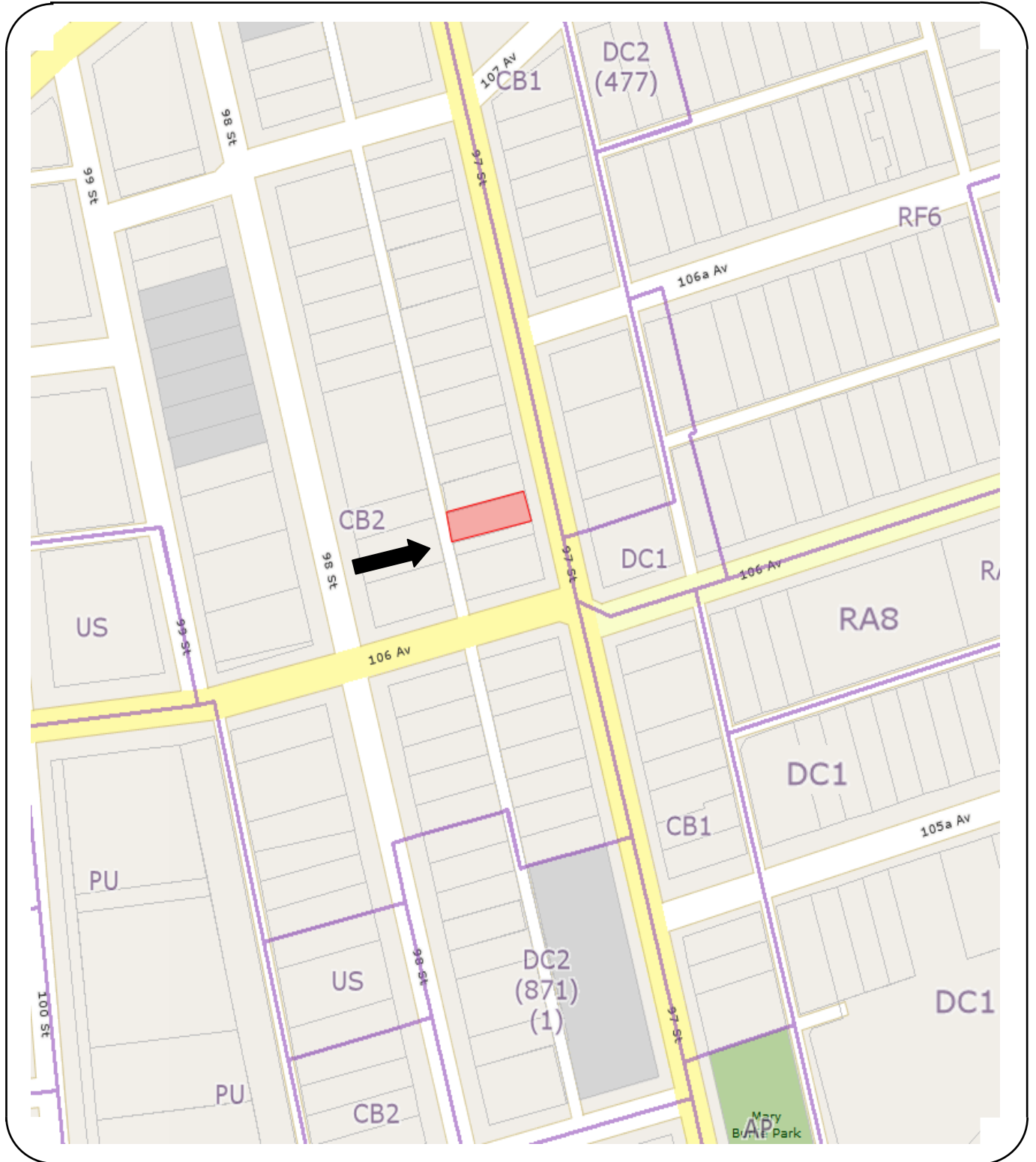
- a. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
- b. may or may not be equipped with sanitary facilities; and
- c. provides accommodation for a maximum of two persons.

Section 819.1 of the Pedestrian Commercial Shopping Street Overlay states the purpose of this Overlay is to maintain the pedestrian-oriented character of commercial areas, comprised of shopping streets in close proximity to residential areas of the City.

Section 340.1 of the CB2 General Business Zone states the purpose of the Zone is to provide for businesses that require large Sites and a location with good visibility and accessibility along, or adjacent to, major public roadways.

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-15-142



ITEM II: 12:30 P.M.

FILE: SDAB-D-15-143

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

APPLICATION NO.: 171141167-001

APPLICATION TO: Change the Use from a Single Detached House to a Limited Group Home and to Construct Interior Alterations

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 22, 2015

DATE OF APPEAL: June 10, 2015

NOTIFICATION PERIOD: May 28, 2015 through June 10, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 7815 - 160 STREET NW

LEGAL DESCRIPTION: Plan 5405NY Blk 11 Lot 22

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT OFFICER'S DECISION

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

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 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.

The development shall be recognized, authorized, licenced or certified by a public authority as a social care facility (Reference Section 7.3(4)).

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1 (Reference Section 17.1)

The required parking spaces shall be wholly provided on the same Site as the building. (Reference Section 54.2(2)(a))

No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of the Limited Group Home development or on the Site of such development (Reference Section 79.1(c)).

Limited Group Home shall be of a size, scale, and outward appearance that is typical of surrounding residential developments (Reference Section 79.1(d)).

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information (Reference Section 96.5)

PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Sanitary Sewer Trunk Fund fee of \$2042.00. 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.

NOTE: Signs require separate Development Applications.

NOTE: A 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.

NOTE: This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.

VARIANCES:

Note: A variance was 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.

Section 54.1(2)(f) relaxed - To permit tandem parking
Section 54.4(1)(a) relaxed - No loading space required

APPELLANT'S SUBMISSION

The variance is to permit tandem parking and approves that no loading space is required. All houses on the block have front street access to garages, which limits street parking. There are no back alleys in the district.

The proposed development is for up to 6 residents, plus the family already living there. The house is a split level with stairs and mobility for residents is required. That logically means that some, or all will have vehicles. Tandem parking of vehicles requires that some be moved to allow the ones that are blocked to get out to the street.

In addition, there is a requirement that there be on site professional care and supervision. Those providing that supervision and care also will likely have vehicles and perhaps there will even likely be service vehicles. Parking is inadequate to start with and tandem parking, with numerous vehicles as may be contemplated here, will result in potentially a number of vehicles being parked on the street. The house has a detached rear garage with a fairly narrow driveway leading to it from the street.

Since the occupants require on site professional care and supervision and that may require emergency vehicles from time to time as a result.

In addition, 4 to 6 occupants will undoubtedly have visitors, which require parking.

The current City policy for this street is that snow is bladed, piled on the side of the street, and not hauled away. Since the area has front drive garages, the City also clears the entry to each driveway and piles the snow as well, rather than hauling it away. Parking is allowed on both sides of the street. In the winter there are currently a limited number of cars parked on the street but navigating the street is none the less, difficult at times.

The City of Edmonton Group Home Information and Application Guide, revised May 6, 2015 states under Parking and Loading Zones:

"NOTE: Parking spaces cannot be tandem (placed back-to-back), nor can they be placed_ in the front/flanking side yard."

Edmonton Zoning Bylaw 12800 states in Section 54. (2) (f):

"Unless otherwise specified in this Bylaw, no required parking spaces shall be provided as tandem parking."

Parking is clearly an issue addressed by both the Bylaw and the Guidelines.

The variation will interfere with the amenities of the neighbourhood by creating a parking issue inconsistent with the neighbourhood and will interfere with the use and enjoyment of adjoining property.

The activity contemplated is a business and significant additional traffic and parking connected with a business of this scope is not consistent with the neighbourhood and its current uses and amenities.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S
COMMENTS

A **Limited Group Home** is a Permitted Use in the RF1 Residential Single Detached Residential Zone, Section 110.2(1).

Under Section 7.3(4), **Limited Group Home** means a building used for Congregate Living with not more than six residents, excluding staff, who have moderate and non-severe physical, cognitive or behavioral health issues and who require on-site professional care and supervision to perform daily living tasks, improve wellness, achieve stable and harmonious tenancy, or to exit safely in the event of an emergency.

A Limited Group Home is a home which:

- a. provides continuous (24 hours, seven days a week) on-site professional care and supervision by staff licensed or certified to provide such care;
- b. can reasonably expect two or fewer visits by emergency services per month; and
- c. is located in a purpose-built freestanding structure or Single Detached Housing converted for that purpose.

This Use Class does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Lodging Houses.

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 variance:

Section 54.1(2)(f) states unless otherwise specified in this Bylaw, no required parking spaces shall be provided as Tandem Parking.

The Development Officer determined no required parking spaces shall be provided as Tandem Parking. The Development Officer waived the requirements of 54.1(2)(f) to allow for Tandem Parking for the proposed development.

Section 54.4(1)(a) states the number of off-street loading spaces, required for each Use is specified in Schedule 3.

Section 54.4 Schedule 3(2) provides the following with regard to the Loading Spaces Requirement:

Use of Building or Site	Total Floor Area of Building	Minimum Number of loading spaces Required
Any development within the Residential-Related, Basic Services or Community, Educational, Recreational and Cultural Service Use Classes and Professional, Financial and Office Support Services	Up to 2 800 square metres Each additional 2 800 square metres	1 1 additional

The Development Officer waived the requirements of 54.4(1)(a) for the provision of loading spaces.

The decision of approval by the Development Officer has been appealed by a neighbouring property owner at 7819-160 Street.

Section 96 states for Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds:

1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities. Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
- b. When determining the threshold for the number of Special Residential Facilities by Use Class per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;

- ii. a maximum block length of 150 metres measured from the nearest intersection shall be used to determine this threshold.
 - c. When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;
 - ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
 - iii. a maximum block face length of 150 metres measured from the nearest intersection shall be used to determine this threshold.

4. Density

For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

Section 79.1 states in addition to the regulations in Section 96 of this Bylaw, Limited Group Homes shall comply with the following regulations:

- a. the maximum occupancy of a Limited Group Home shall not exceed 6 residents and it shall be developed only as a purpose-built freestanding structure or Single Detached Housing converted for the purpose;
- b. the Development Officer may restrict the occupancy of a Limited Group Home to less than the maximum of 6 residents having regard for the facilities operational needs and Site context;

- c. no Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of the Limited Group Home development or on the Site of such development; and
- d. Limited Group Home shall be of a size, scale, and outward appearance that is typical of surrounding residential developments.

Under Section 6.1(16), **Congregate Living** means four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

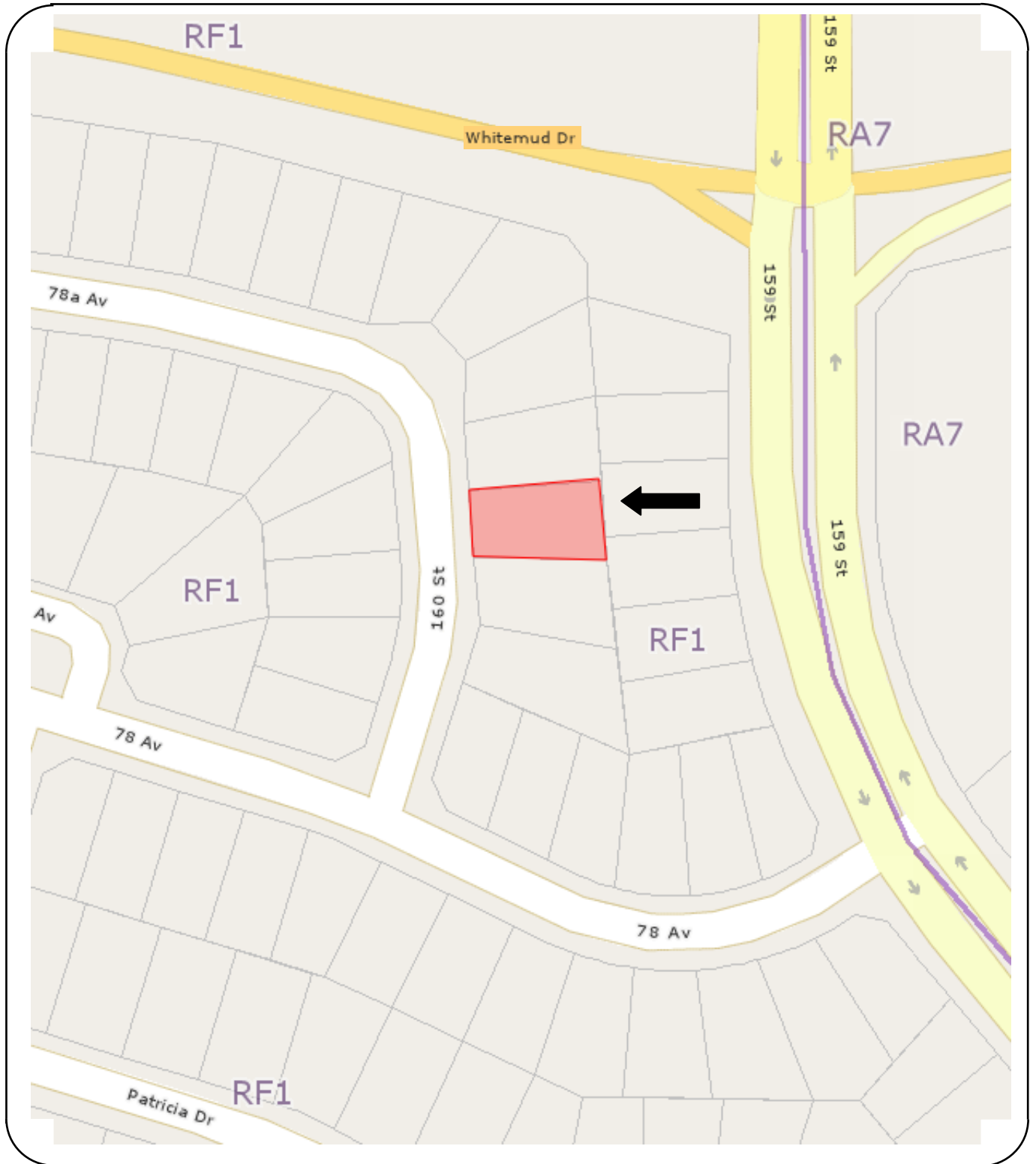
Under Section 6.1(100), **Tandem Parking** means two parking spaces, one behind the other, with a common or shared point of access to the manoeuvring aisle.

Section 814.1 states the purpose of this 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 110.1 states the purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

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-15-143



BUSINESS LAID OVER

SDAB-D-15-136	An appeal to construct and operate a Residential Sales Centre <i>July 15 or 16, 2015</i>
SDAB-D-15-125	An appeal to construct an uncovered deck (1.95m x 4.90m at 1.10m in height), existing without permits <i>July 15 or 16, 2015</i>
SDAB-S-15-006	An appeal to create two (2) semi-detached residential units by Bare Land Condominium <i>July 15 or 16, 2015</i>
SDAB-D-15-138	An appeal to develop a Secondary Suite in an existing Single Detached House <i>August 5 or 6, 2015</i>

APPEAL HEARINGS TO BE SCHEDULED

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