

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 20, 2018**

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

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

I 9:00 A.M. SDAB-D-18-503

To demolish a Commercial Building

8108 – 101 Street and 10110 – 81 Avenue NW
Project No.: 277822135-001

II 1:30 P.M. SDAB-D-18-089

To construct exterior alterations to a Single Detached House (to retain existing vehicular access off 105A Street NW and allow a parking space to be located within the Side Yard abutting the flanking public roadway)

10542 - 68 Avenue NW
Project No.: 279175272-001

TO BE RAISED

III 3:00 P.M. SDAB-D-18-070

To construct a Single Detached House with Basement development (NOT to be used as an additional Dwelling), fireplace, rear uncovered deck (under 0.6 metres in height), Unenclosed Front Porch

9843 - 86 Avenue NW
Project No.: 267804471-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-503

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 277822135-001

APPLICATION TO: To demolish a Commercial Building

DECISION OF THE DEVELOPMENT AUTHORITY: N/A

DECISION DATE: N/A

DATE OF APPEAL: May 23, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8108 – 101 Street NW / 10110 – 81 Avenue NW

LEGAL DESCRIPTION: Plan I Blk 60 Lots 15-18

ZONE: DC2 Site Specific Development Control Provision (129)

OVERLAY: N/A

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

We are solicitors for Cejay Ventures Ltd., owners of the property.

On March 23, 2018, the City of Edmonton’s Development Authority received our clients’ application for a Development Permit to demolish the buildings on the subject property. Section 683.1 of the *Municipal Government Act* (the “Act”) requires the Development Authority to determine whether an application for a Development Permit is complete within 20 days after its receipt and provides further that, where no such determination is made by the Development Authority, the application is deemed to be complete.

No agreement was made between the Applicant and the Development Authority to extend the 20 day period set out in the Act. By operation of the

Act and Edmonton's Zoning Bylaw, our client's application was deemed complete on April 12, 2018. Today is the 41st day since that date, and no decision has been made on our client's permit application. Accordingly, pursuant to section 684 of the MGA, we hereby deem the application to be refused and appeal that deemed refusal to the Board on the following grounds:

1. The structures currently on the land are not consistent with the directions of City Council as set forth in the application DC2.129 Zoning and are practically incapable of supporting the uses of land available thereunder.
2. The proposed demolition constitutes a Class A Permitted Use, and has been so declared by the Development Authority;
3. Additional information was requested of the Applicant (though not by the Development Officer as otherwise contemplated in Section 14.12(1) of the Zoning Bylaw). This additional information was provided directly to the City's Principal Heritage Officer, all to his apparent satisfaction; and
4. Such further and other grounds as may be presented at the hearing of the within appeal.

<i>General Matters</i>

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Permit deemed refused

684(1) The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.

(3) If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.

(4) Section 640(5) does not apply in the case of an application that was deemed to be refused under section 653.1(8) or 683.1(8).

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,

- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)

- (i) with respect to an application for a development permit,

- (A) within 21 days after the date on which the decision is made under section 642, or

- (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) ...

- (b) is made by a development authority, the appeal is limited to whether the development authority followed 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.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

- 2.4 Subject only to the provisions in the *Municipal Government Act* respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.
- 2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.
- 2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject DC site, the *City of Edmonton Land Use Bylaw 5996* was in effect. A Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

Section DC2.129.1 states the **General Purpose** of DC2.129 is to provide a Site Specific Development Control District to accommodate redevelopment on the site in the form of a high rise residential/commercial development that will be compatible with the objectives of the Old Strathcona Area Redevelopment Plan.

<i>Demolition</i>

Section 12.2(1) states a Development Permit is not required for (o) demolition of a building or structure where a Development Permit has been issued for a new development on the same Site, and the demolition of the existing building or structure is implicit in that Development Permit.

Section 14.12 Municipal Historic Evaluation

1. Prior to the issuance of a Development Permit for the demolition of a structure on the Inventory of Historic Resources in Edmonton, the Development Officer, in consultation with the Heritage Officer, may require information, such as:
 - a. the full address and legal description of the site, including a brief discussion of site context (such as the location of the structure on the site, the orientation of the structure to street, and site access);
 - b. photographs of elevations of all sides of the structure;
 - c. photographs of the structure in context with its surrounding streetscape with the perspective of the photograph identified;
 - d. photographs of the interior of the structure, including all rooms, corridors, stairwell/elevator locations, and main features such as fireplaces, windows, doors and other historic detailing;
 - e. photographs of any external detail, structural or decorative, which is relevant to the structure's historic significance that is not generally visible on photographs provided pursuant to subsections 14.12(1)(b) and 14.12(1)(c), such as roof gable(s), decorative moulding, corbelled chimney, window trims, and entrance features;
 - f. a brief written history of the structure including the original construction date, name of the original and subsequent owner(s), name of the original architect, name of the original builder, and information on the date and extent of subsequent alterations;
 - g. original plans or blueprints, or a scaled and dimensioned floor plan and line drawings of all elevations of the structure;
 - h. current Certificate of Title;
 - i. copies of real estate documents with information such as square footage, size of the lot, and placement of the structure on the lot;
 - j. information on materials of construction and information about the amenities of the structure, such as the number of rooms, bathrooms, fireplaces, and any basement development;
 - k. a summary of the reason for the proposed demolition; and
 - l. any other information that may assist in recording the history of the structure, to the satisfaction of the Development Officer, in consultation with the Heritage Officer.

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.



Application for Minor Development Permit

Project Number: **277822135-001**
 Application Date: MAR 23, 2018
 Printed: May 24, 2018 at 8:35 AM
 Page: 1 of 1

This document is an application for a Development Permit for the development described below.

Applicant

Property Address(es) and Legal Description(s)

8108 - 101 STREET NW
 Plan I Blk 60 Lots 15-16
 10110 - 81 AVENUE NW
 Plan I Blk 60 Lots 17-18

Specific Address(es)

Building: 8108 - 101 STREET NW

Scope of Application

To demolish a Commercial Building

Permit Details

of Dwelling Units Add/Remove:
 Client File Reference Number:
 Minor Dev. Application Fee: Demolish Building
 Secondary Suite Included?: N

Class of Permit: Class A
 Lot Grading Needed?:
 New Sewer Service Required: N
 Stat. Plan Overlay/Annex Area:

I/We certify that the above noted details are correct.

Applicant signature: _____

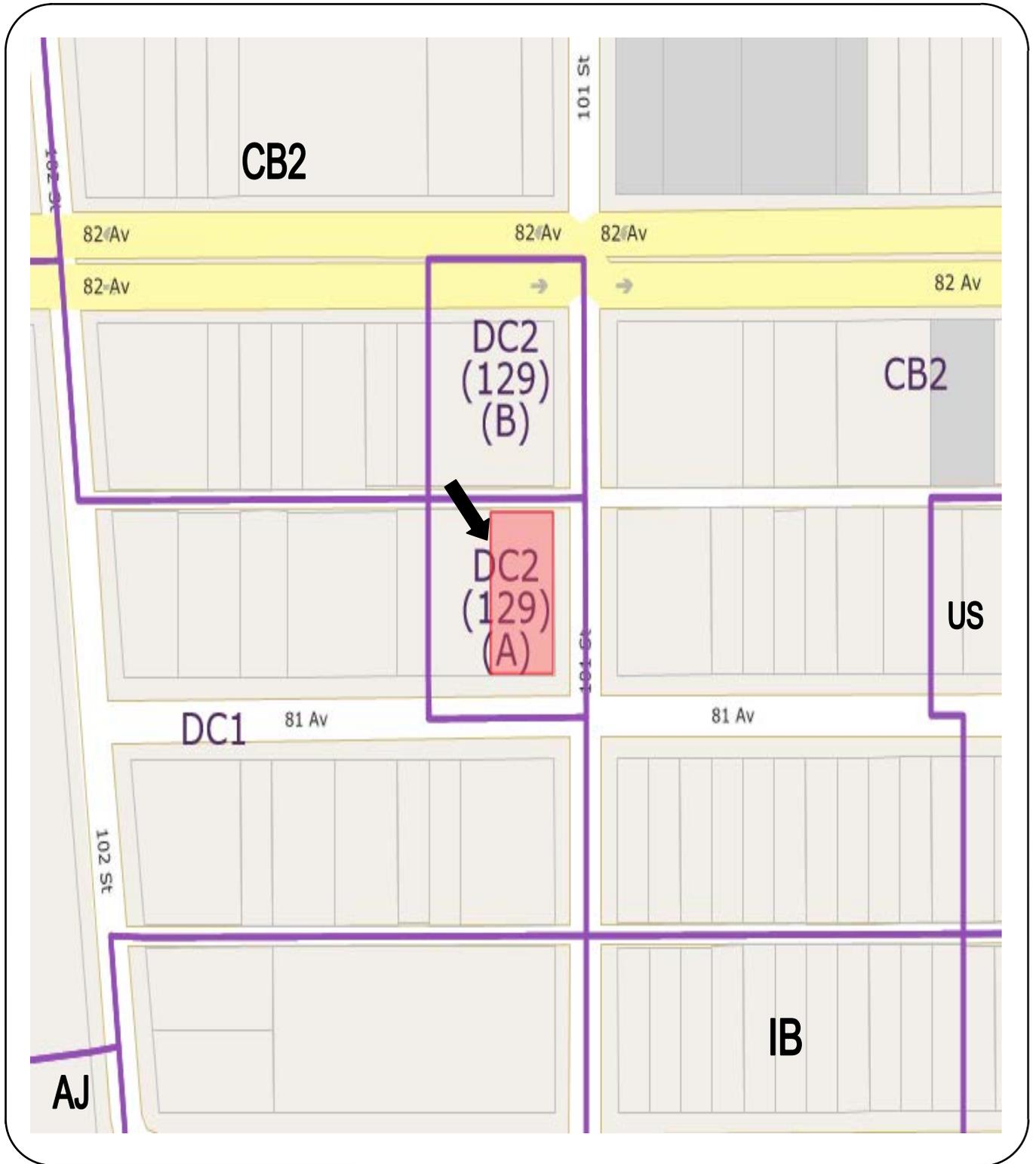
Development Application Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$86.00	\$86.00	04893310	Mar 23, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$86.00	\$86.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-503



ITEM II: 1:30 P.M.

FILE: SDAB-D-18-089

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 279175272-001

APPLICATION TO: Construct exterior alterations to a Single Detached House (to retain existing vehicular access off 105A Street NW and allow a parking space to be located within the Side Yard abutting the flanking public roadway)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 15, 2018

DATE OF APPEAL: May 26, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10542 - 68 Avenue NW

LEGAL DESCRIPTION: Plan 2325AY Blk C Lot 11

ZONE: RF3-Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

In 2009 I applied for a building permit to convert the attached garage, on my side flanking 1953 home, to an art studio. At that time no mention was made of removal of the existing driveway and no suggestion was made that in the future I would be required to remove the driveway. Early in 2018 I received a letter explaining that due to the upcoming neighbourhood renewal my driveway would be removed as I apparently no longer needed it and not a part of the mature neighbourhood design. I called and explained that I use the driveway for loading and unloading supplies and finished art from my studio. I also explained that I have received no concerns from neighbours and asked how I could appeal this letter. I was told by Kirk Bacon to apply for a development permit which I did and which has since been refused. I

also had conversations with several members of the neighbourhood renewal team when they hosted an information evening in January - nobody from that meeting followed up with me despite assurances that they would try to help me. I understand and appreciate the reasons given for refusal but wondered why so many other driveways that do not lead to a garage and are not off the back alley of a mature alley are allowed. When I asked I was told it was because they had never applied for a building permit and so were not flagged. It seems highly unfair that a lose access to my studio because I followed the rules back in 2009 and I ask for an exception to be made as I was never informed of this change and may therefor have built my studio different had I known and I see plenty of other exceptions in mature neighbourhoods - I will be bringing evidence of these to the hearing.

<i>General Matters</i>

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the decision is made under section 642, [...]

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

(a.1) must comply with the land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(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.

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(10), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

Under section 7.2(8), **Single Detached Housing** means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 140.1 states that the **General Purpose of (RF3) Small Scale Infill Development Zone** is to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to buildings containing up to four Dwellings under certain conditions, and including Secondary Suites and Garden Suites.

Section 814.1 states the **General Purpose of the Mature Neighbourhood Overlay** is to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Vehicular Access

Section 814.3(17) states regardless of whether a Site has existing vehicular access from a public roadway, other than a Lane, no such access shall be permitted to continue where an Abutting Lane exists.

Development Officer's Determination

Driveway - Vehicular access is located off of 105A Street NW (flanking) (Section 814.3.17).

Transportation

Section 53.1 states all access locations and curb crossings shall require the approval of Transportation Services.

Development Officer's Determination

Access to Site - Subdivision Planning, previously known as Transportation Services, has technical concerns with the retention of the existing Driveway (Section 53.1).

Parking Space

Section 54.2(4)(a)(i) states each required off-street parking space shall be a minimum of 2.6 metres width with a minimum clear length of 5.5 metres exclusive of access drives or aisles, ramps, columns. Parking spaces shall have a vertical clearance of at least 2.0 metres.

Development Officer's Determination

Parking - Parking space is 3.0m in length, instead of 5.5m (Section 54.2.4.a).

Parking Spaces within the Side Yard

Section 54.2.2.e.ii states on a Corner Lot in a Residential Zone, parking spaces, in addition to complying with the other provisions of this Bylaw, shall not be located within the Side Setback Abutting the flanking public roadway, other than a Lane.

Development Officer's Determination

Parking - Parking space is located within the side yard abutting the flanking public roadway (Section 54.2.2.e).

Driveway

Section 54.1(4)(a) states the Driveway shall lead directly from the roadway to the Garage or Parking Area.

Development Officer's Determination

Driveway - Driveway does not lead directly from the roadway to the garage or an approved parking area (54.1.4.a).

Non-Conforming Building

Section 11.3(2) states the Development Officer may approve, with or without conditions as a Class B Discretionary Development, an enlargement, alteration or addition to a non-conforming building if the non-conforming building complies with the Uses prescribed for that land in this Bylaw and the proposed development would not, in their opinion:

- a. unduly interfere with the amenities of the neighbourhood; or
- b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

Development Officer's Determination

Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.2.2).

Community Consultation

Section 814.5 states the following:

1. When the Development Officer receives a Development Permit Application for a new principal building, new Garage Suite, or new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit

for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) or 814.3(9) of this Overlay:

- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.2 and 11.3.

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay Proposed to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access

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.

	Project Number: 279175272-001 Application Date: APR 10, 2018 Printed: May 28, 2018 at 8:45 AM Page: 1 of 2										
<h2 style="margin: 0;">Application for Minor Development Permit</h2>											
This document is a Development Permit Decision for the development application described below.											
Applicant <div style="border: 1px solid black; height: 60px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 10542 - 68 AVENUE NW Plan 2325AY Blk C Lot 11 Specific Address(es) Suite: 10542 - 68 AVENUE NW Entryway: 10542 - 68 AVENUE NW Building: 10542 - 68 AVENUE NW										
Scope of Application To construct exterior alterations to a Single Detached House (to retain existing vehicular access off 105A Street NW and allow a parking space to be located within the Side Yard Abutting the flanking public roadway).											
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay								
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I/We certify that the above noted details are correct. Applicant signature: _____											
Development Application Decision Refused Reason for Refusal Driveway - Vehicular access is located off of 105A Street NW (flanking) (Section 814.3.17). Access to Site - Subdivision Planning, previously known as Transportation Services, has technical concerns with the retention of the existing Driveway (Section 53.1). Parking - Parking space is 3.0m in length, instead of 5.5m (Section 54.2.4.a). Parking - Parking space is located within the side yard abutting the flanking public roadway (Section 54.2.2.e). Driveway - Driveway does not lead directly from the roadway to the garage or an approved parking area (54.1.4.a). Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed (Section 11.2.2). Rights of Appeal The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.											
Issue Date: May 15, 2018 Development Authority: YEUNG, KENNETH											
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: right;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">\$170.00</td> <td style="text-align: right;">04931105</td> <td style="text-align: right;">Apr 10, 2018</td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee	\$170.00	\$170.00	04931105	Apr 10, 2018
	Fee Amount	Amount Paid	Receipt #	Date Paid							
Dev. Application Fee	\$170.00	\$170.00	04931105	Apr 10, 2018							
THIS IS NOT A PERMIT											



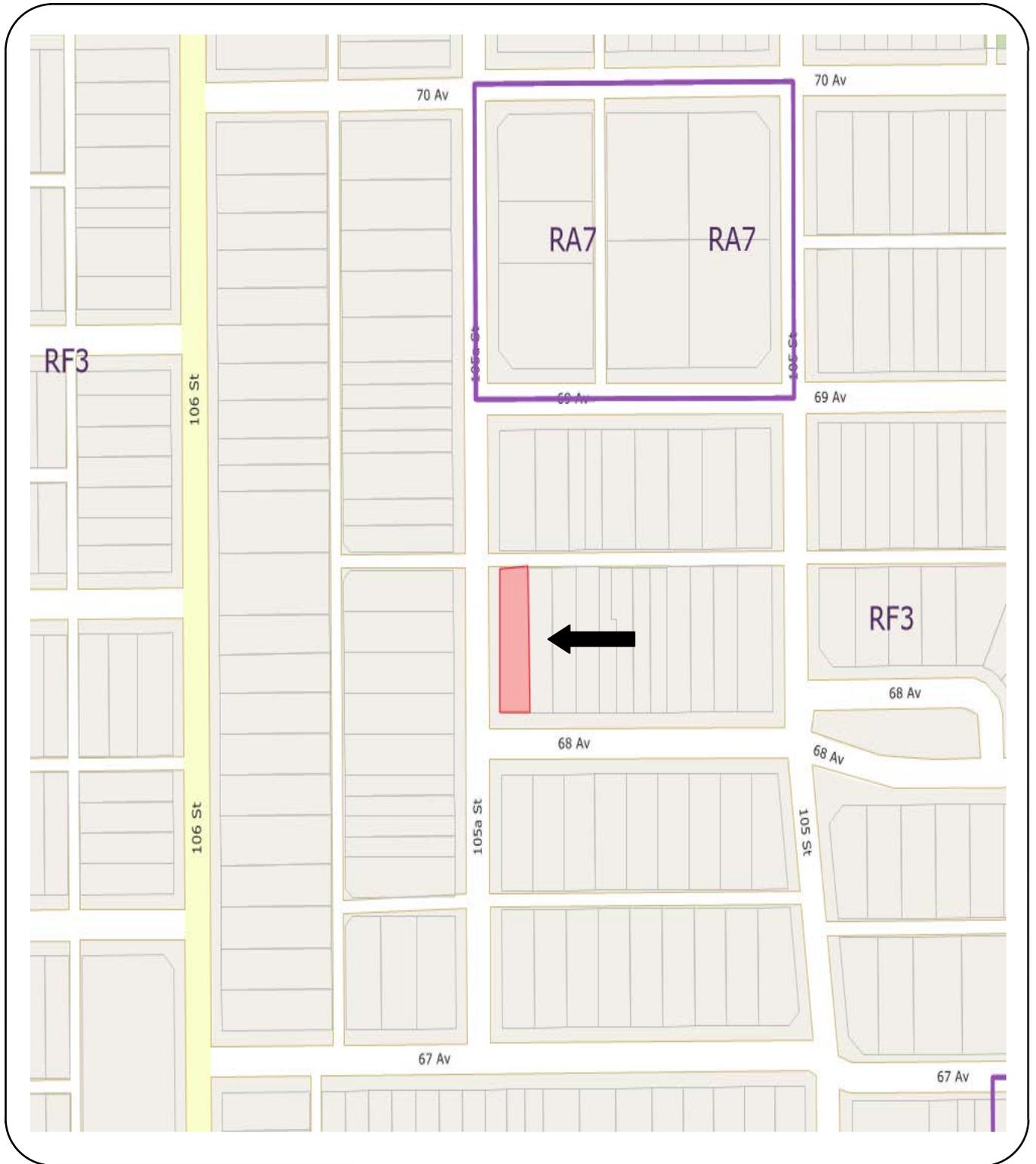
Application for Minor Development Permit

Project Number: **279175272-001**
Application Date: APR 10, 2018
Printed: May 28, 2018 at 8:45 AM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Application Refund	(\$54.00)			
Total GST Amount:	\$0.00			
Totals for Permit:	\$116.00	\$170.00		
(overpaid by (\$54.00))				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-089



TO BE RAISED
ITEM III: 3:00 P.M.

FILE: SDAB-D-18-070

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

APPELLANT:

APPLICATION NO.: 267804471-001

APPLICATION TO: Construct a Single Detached House with
Basement development (NOT to be used
as an additional Dwelling), fireplace, rear
uncovered deck (under 0.6 metres in
height), Unenclosed Front Porch

DECISION OF THE
DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: November 24, 2017

DATE OF APPEAL: April 14, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9843 - 86 Avenue NW

LEGAL DESCRIPTION: Plan I7 Blk 93 Lot 34

ZONE: (RF2) Low Density Infill Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

1. The City has maintained the position that I am not entitled to view or receive copies of the plans for the permitted property (the "Property"). I specifically asked to view/receive the plans, and was denied.
2. On April 5, 2018, I learned that the Property is being constructed with three stories, and much higher than the other homes on our street, appearing to stand taller than the permitted 8.4 m maximum height.

3. On April 5, 2018, I learned that, notwithstanding the permit conditions requiring compliance with Section 8 of the Mature Neighborhood Overlay (the "MNO"), multiple side windows are creating significant and inappropriate overlook into my home and amenity areas. I asked the Property owner about plans to ensure compliance with Section 8, and received no response. I am told by the City that I am not entitled to view those plans. On April 12 and 13, 2018, the windows were installed and I have learned that one (maybe 2) of the side windows are "frosted" in compliance with the MNO. The rest are not, creating significant and inappropriate and unwanted visual intrusion into my property.
4. A roof top deck is being constructed. I was told by the City that the permit does not allow a roof top deck.
5. The City is looking into these issues, but I am filing this Appeal in the meantime to preserve the limitation following notice of the above issues.

<i>General Matters</i>

The Subdivision and Development Appeal Board made and passed the following motion on May 9, 2018:

"That SDAB-D-18-070 be TABLED to June 20 or 21 or June 27 or 28, 2018"

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted

or the application for the development permit was deemed to be refused under section 683.1(8).

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board,

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the decision is made under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Permitted and discretionary uses

642(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the decision was made and containing any other information required by the regulations, must be given or sent to the applicant on the same day the decision is made.

The *Edmonton Zoning Bylaw 12800* provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class A Permitted Development

- 1. Within seven days of the issuance of a Development Permit for a Class A Permitted Development, the Development Officer shall dispatch a written notice describing the development and stating the Development Officer's decision, by ordinary mail to the applicant of the Development Permit.

2. For all lands in Residential Zones within the Mature Neighbourhood Overlay as shown in Appendix I to Section 814, and Established Neighbourhoods as identified in Edmonton's The Way We Grow: Municipal Development Plan, Bylaw 15100, Maps:
 - a. within seven days of the issuance of a Development Permit for a Class A Permitted Development, the Development Officer shall send notice of their decision to the municipal address and assessed owners of the land Abutting and directly adjacent across a Lane from the Site which is the subject of the Development Permit for construction of, and any demolition associated with new:
 - i. Apartment Housing, Duplex Housing, Garden Suite, Row Housing, Semi-detached Housing, Single Detached Housing, or Stacked Row Housing.

20.2 Class B Development

1. Within seven days of the issuance of a Development Permit for a Class B Discretionary Development, the Development Officer shall dispatch a written notice by ordinary mail to all relevant parties listed below that are wholly or partially within 60.0 m of the boundaries of the Site which is the subject of the Development Permit:
 - a. each assessed owner of the Site or a part of the Site of the development;
 - b. each assessed owner of land;
 - c. the President of each Community League; and
 - d. the President of each Business Revitalization Zone.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
3. Within 10 days of the issuance of a Development Permit for Class B Discretionary Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating their decision, and the right to appeal therefrom.
4. Where, in the opinion of the Development Officer, a proposed development is likely to affect other owners of land beyond 60.0 m, the Development Officer shall notify owners of land at such additional distance and direction from the Site as, in the opinion of the Development Officer, may experience any impact attributable to the development.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 120.1 states that the **General Purpose** of the **(RF2) Low Density Infill Zone** is:

...to retain Single Detached Housing, while allowing infill on narrow lots, including Secondary Suites under certain conditions.

Under section 120.2(7), **Single Detached Housing** is a **Permitted Use** in the (RF2) Low Density Infill Zone.

Section 7.2(9) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 814.1 states that the **General 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.

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-17-105	To construct a Single Detached House with a veranda, Rooftop Terrace with Privacy Screening, fireplace, rear uncovered deck (under 0.6m in height), Secondary Suite in the Basement, and to demolish the existing Single Detached House and Accessory Building (rear detached Garage).	June 29, 2017; The appeal is denied and the decision of the Development Authority is Confirmed. Court of Appeal 2017 ABCA 354 (Leave to Appeal)

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.



Project Number: **267804471-001**
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House Development and Building Permit

This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.

Applicant	Property Address(es) and Legal Description(s) 9843 - 86 AVENUE NW Plan I7 Blk 93 Lot 34 Location(s) of Work Entryway: 9843 - 86 AVENUE NW Building: 9843 - 86 AVENUE NW RF2, MND
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Scope of Permit
 To construct a Single Detached House with Basement development (NOT to be used as an additional Dwelling), fireplace, rear uncovered deck (under 0.6 m in height), Unenclosed Front Porch

Permit Details Affected Floor Area (sq. ft.): 2028 Class of Permit: Class A Front Yard (m): 4.8 Rear Yard (m): 17.6 Side Yard, left (m): 1.2 Site Area (sq. m.): 353.6 Site Width (m): 10.06	Building Height to Midpoint (m): 8.4 Dwelling Type: Single Detached House Home Design Type: 3-storey Secondary Suite Included?: N Side Yard, right (m): 1.5 Site Depth (m): 35.19 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision
 Approved



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House Development and Building Permit

Subject to the Following Conditions

The Development shall be constructed in accordance with the stamped and approved drawings.

1. WITHIN 14 DAYS OF APPROVAL, prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.5)
2. Windows and privacy screening shall incorporate frosted glass in accordance with the stamped approved drawings and in accordance with Section 814.3(8).
3. Any Platform Structures greater than 1.0 m above Grade shall provide privacy screening to prevent visual intrusion into adjacent properties (Section 814.3(9)).
4. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).
5. Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).
6. Landscaping shall be installed and maintained in accordance with Section 55.
7. Private Outdoor Amenity Area shall be provided on Site in accordance with Section 47 of this Bylaw.

ADVISEMENTS:

- i. Lot grades must match the Edmonton Drainage Bylaw 16200 and/or comply with the Engineered approved lot grading plans for the area. Contact Drainage Services at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.
- ii. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.
- iii. 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 including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site.
- iv. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

Rights of Appeal

This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Nov 24, 2017 Development Authority: HETHERINGTON, FIONA Signature: _____

Building Permit Decision

Issued



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House Development and Building Permit

Conditions of Issuance

P.E. J.Bosse

PRESCRIPTIVE PATH PROJECT

IF any prescriptive path building assemblies change during the course of construction, submit for review and approval before booking final inspection for occupancy, one of:

- * as-built (revised) assemblies/components demonstrating prescriptive compliance; OR
- * as-built trade-off calculations demonstrating similar or better level of performance to that of the involved reference assemblies, with revised plans demonstrating locations of trade-offs; OR
- * as-built House Performance Compliance Calculation Report/Summary confirming actual construction with revised annual energy consumption calculations, demonstrating similar or better level of performance to that of the reference building.

-Any other deviation from the approved drawings, including site plans, shall be made with written approval of the permit issuing office.

-Secure rear door with guard, or install access steps/landing complete guard/handrails.

-Sulphate-resistant HS (formerly Type 50) 32 MPa concrete shall be used for any footing, foundation wall, pile or grade beam.

-Air barrier construction shall conform to ABC2014:B:9.25.3 and 9.36.2.9. and 9.36.2.10.

-All trades permit inspections must be completed before booking final inspection for occupancy.

-Dial 311 (780-442-5311 outside Edmonton) to book inspections.

-No building or part thereof may be occupied unless permission is granted by the Building Safety Codes Officer.

-The approved drawings for which the building permit is issued must be available on the site for use of Safety Codes Officers (building inspectors).

BASEMENT:

-An interconnected smoke alarm is required Per Article 9.10.19.3 of the Alberta Building Code 2014

-A Carbon Monoxide Detector, as per ABC 2014 9.32.3.9. is required, on every Floor level containing a Bedroom.

-Insulation and vapour barrier shall be protected when laundry or utility equipment is located within 1200mm (4ft).

-Service room is required to be enclosed, complete with a 32 inch x 78 inch door.

-A handrail is required to be continuous throughout the length of a stair, including landings (32 inch to 38 inch high)

-All rooms used as a bedroom require an openable window. The minimum unobstructed opening is required to be not less than 15 inch (380mm) in height and width and to have an area of 3.77 sq. ft. (0.35 sq. m.). ***Egress equivalency is determined by actual clear opening (not rough opening size) ***

-Where a window well is required a minimum clearance of 30 inch (760mm) is required in front of the window and the operation of the window shall not reduce this clearance.

-If a Window is provided with security bars the bars shall be operable from the inside without the use of any special knowledge or tools.

DECK:

-Stairs/guards/handrails are to comply with Section 9.8. of the 2014 Alberta Building Code.

-Prior to installation of metal or vinyl guards the Applicant is required to provide Product Approval documentation referencing the Manufacturers design criteria as per Section 9.4.1.1/4.1.5.14. of the 2014 Alberta Building Code.

-Glass in guards shall be safety glass, laminated or tempered type that conforms with CAN/CGSB-12.1-M "Tempered or Laminated Safety Glass"

-For service line location please call Alberta One Call at 1-800-242-3447.

-Every building permit expires if the undertaking to which it applies is not started within 90 days from the date of issue of the permit or if abandoned for a period of 120 days. If expired, a new permit must be obtained and fees paid before work is commenced or restarted.

-Public land shall not be used for any purpose including storage of materials without prior written permission from the City of Edmonton.



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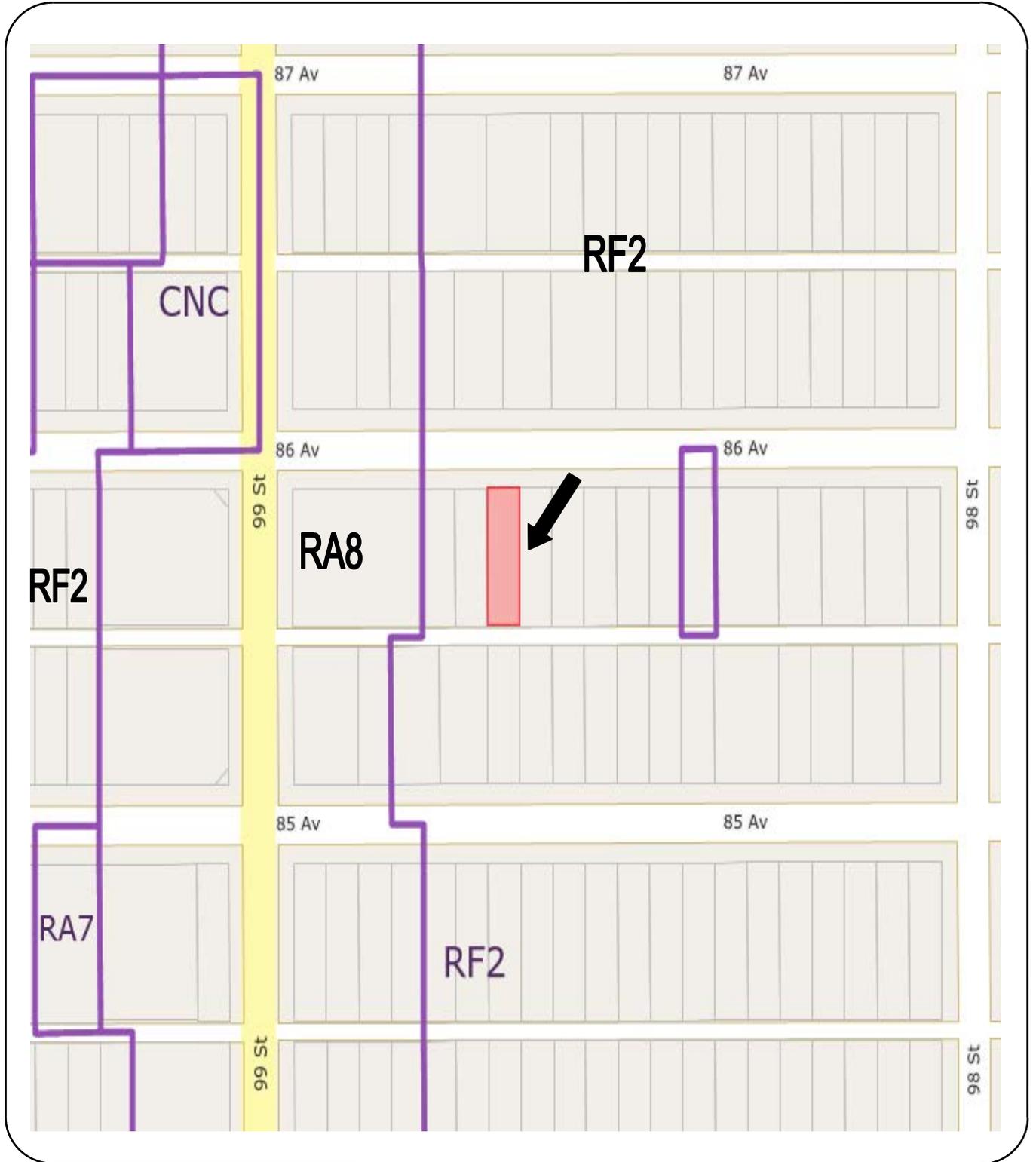
House Development and Building Permit

- Owner and constructor are responsible and will be held liable for any damage to public roads, sidewalks, boulevards, landscaping, trees and utilities caused by construction-related activities.
- Construction must comply with the requirements of ABC, and the Safety Codes Act and related regulations.
- An owner or constructor shall, upon request, provide written assurance from the person supervising construction that the construction was in compliance with the requirements of ABC and any permits issued.

Issue Date: Apr 06, 2018 **Safety Codes Officer:** BOSSE, JOSH, KUHN, DANIEL **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fee (Service)	\$79.00	\$79.00	04636385	Nov 22, 2017
Electrical Safety Codes Fee	\$15.78	\$15.78	04636385	Nov 22, 2017
Water Usage Fee	\$49.61	\$49.61	04636385	Nov 22, 2017
Lot Grading Fee	\$140.00	\$140.00	04636385	Nov 22, 2017
Safety Codes Fee	\$72.32	\$72.32	04636385	Nov 22, 2017
Development Permit Inspection Fee	\$200.00	\$200.00	04636385	Nov 22, 2017
Building Permit Fee	\$1,808.00	\$1,808.00	04636385	Nov 22, 2017
Electrical Fees (House)	\$282.00	\$282.00	04636385	Nov 22, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,646.71	\$2,646.71		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-070

