

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
September 27, 2017**

**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-17-176	Convert a single detached house to a Child Care Services (33 Children) 704 - Lauber Crescent NW Project No.: 255383984-001
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II	10:30 A.M.	SDAB-D-17-177	Construct a 2 storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor; 7.01 metres by 8.23 metres) 12912 - 134 Street NW Project No.: 240845024-001
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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-17-176

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 255383984-001

APPLICATION TO: Convert a single detached house to a Child Care Services (33 Children)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 22, 2017

DATE OF APPEAL: September 2, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 704 - Lauber Crescent NW

LEGAL DESCRIPTION: Plan 0225719 Blk 159 Lot 1

ZONE: RSL-Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Leger Neighbourhood Area Structure Plan

Grounds for Appeal

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

We would like to appeal your decision for the following reasons:

1. Parking spaces provided.
 - 2 spaces at 704 Laubert Crescent, the location of the proposed Child Care center
 - 2 spaces at 1045 Leger Boulevard. These spaces belong to a Day Home care owned by Nery Payne, one of the partners of the proposal, and are located right across the street from 704 Laubert Crescent. The Day Home care will close before the proposed Day Care center starts its operations.
 - 1 space located between 704 and 706 Laubert Crescent. There is very little traffic in this particular area.
 - Total parking spaces: 5

Note: the number of 33 children is tentative, the definite number will be determined by Social Services. We are willing to lower the maximum of children to 30, if you object to one of the parking spaces listed above. The proposed of the new Day Care Center will be open from Monday to Friday from 6:30AM – 5:30PM.

2. The need of a Child Care facility in this area.

We want to stress out the great need for a Child Care center at the proposed location. Our partner Nery, who owns a successful Day Home facility, receives frequent calls from families asking for a spot in his facility. Many of those calls are from families in crisis with an urgent need for care for their children. We realized there is not many choices for a community of 1, 622 families and 164 children between 0-10 years old. (2016 Municipal Census)

The only Day Care Center in the area is located at Archbishop Joseph McNail School which does not have enough space for children of our community.

We know each child is unique. We strive to provide a loving, nurturing, and creative environment for children. We are sensitive to their social, emotional, intellectual, and physical needs. We will provide developmentally appropriate program that focus on the process of learning while helping them to enjoy many other successful experiences through the weekly program. We will encourage not just learning, but also the love of learning.

Our plan is to have an educational program to ensure every child will be provided with the opportunity to become a successful learner. The program will be flexible, allowing children to make choices to guide their own learning outcomes.

Certainly, our proposed Child Care Center will be a welcomed solution to need of our community.

General Matters

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.

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 within 14 days,

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

(i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Determining an Appeal

Hearing and decision

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

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 115.1 states that the **General Purpose** of the **(RSL) Residential Small Lot Zone** is:

...to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites and Garden Suites.

Under Section 115.3(1), **Child Care Services** is a **Discretionary Use** in the **(RSL) Residential Small Lot Zone**.

Under Section 7.8(2), **Child Care Services** means a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider's residence.

Passenger Pick-up/Drop-Off

Section 54.2, Schedule 1(A)(33), states Child Care Services requires the following minimum number of parking Spaces.

a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children.

i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer.

ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.

iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.

b) employee parking shall be provided at the rate of:

i) 1 parking space per 100.0 square metres of Floor Area; or

ii) 1 parking space per 360.0 square metres of Floor Area where the Child Care Service is proposed within 400 m of an LRT Station, Transit Centre, Transit Avenue, or all Lots within the boundaries of the Oliver Area Redevelopment Plan, as adopted by Bylaw 11618, as amended, or all Lots within the boundaries of the Strathcona Area Redevelopment Plan, as adopted by Bylaw 11890, as amended; or

iii) Where the Child Care Service is for a dayhome/group family care providing care to 7 or more children within the residence of the child care provider, 1 parking space for each non-resident employee, in addition to the parking required for the

primary Dwelling. Where a Front Yard Driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this Driveway as the provision of a parking space that is in tandem.”

Development Officer’s Determination

1) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children. (Reference Section 54.2 Schedule 1(33).)

Required: 5

Provided: 2


Deficient: 3

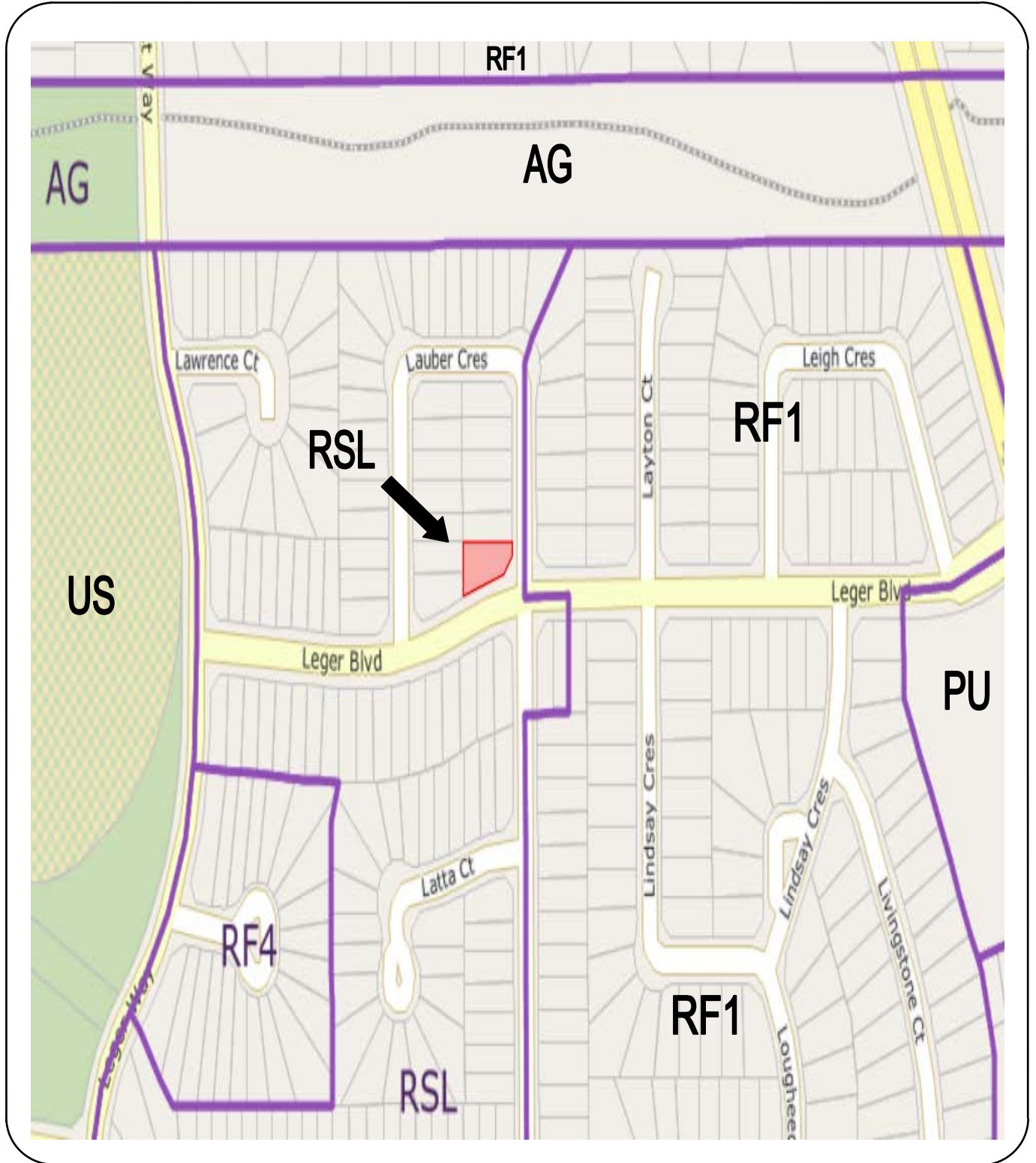
Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-03-338	To convert a Single Detached House to a Child Care Service (25 Children)	November 21, 2003; that the appeal be STRUCK FROM THE AGENDA due to the late filing of the notice of 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. 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*.

	Project Number: 255383984-001 Application Date: JUN 28, 2017 Printed: September 5, 2017 at 10:49 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Major Development Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 704 - LAUBER CRESCENT NW Plan 0225719 Blk 159 Lot 1 <div style="text-align: right; font-family: cursive;">RSL</div>																				
Scope of Application To convert a single detached house to a Child Care Services (33 Children).																					
Permit Details <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%; vertical-align: top;"> Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; vertical-align: top;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)																		
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Issue Date: Aug 22, 2017 Development Authority: BUCCINO, SAMANTHA Signature: _____																					
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THIS IS NOT A PERMIT																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17- 176



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-177

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 240845024-001

APPLICATION TO: Construct a 2 storey Accessory Building
(Garage Suite on 2nd floor, Garage on
main floor; 7.01 metres by 8.23 metres)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: August 25, 2017

DATE OF APPEAL: August 30, 2017

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 12912 - 134 Street NW

LEGAL DESCRIPTION: Plan 1837KS Blk 69 Lot 3

ZONE: RF1-Single Detached Residential 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:

I wish to appeal based on several factors. including but not limited to: existing setbacks that were pre-existing to 1957 when the original home was built that coincide with other homes in the neighbourhood, full neighbourhood support including directly affected neighbours, bylaw changes to height restrictions discussed with City of Edmonton development officers, other garage structures in area have the same setbacks, structural engineering restricts lowering of height.

General Matters

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
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the person applying for the permit or affected by the order under section 645 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 within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Determining an Appeal

Hearing and decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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.

General Provisions from the *Edmonton Zoning Bylaw*:

On July 10, 2017, City Council passed Bylaw 18115 and Bylaw 18013, to be effective September 1, 2017. These Bylaws significantly amended the regulations pertaining to Garden Suites and Garage Suites and the Mature Neighbourhood Overlay.

Section 3.2(1)(i) states for the purpose of any Development Permit or Direct Control Provision, Garage Suites is deemed to be Garden Suites.

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.2(1), a **Garden Suite** is a **Permitted Use** in the RF1 Single Detached Residential Zone.

Section 7.2(3) states:

Garden Suite means an Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use Class does not include Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Section 814.1 states that 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.

Garage Location

Section 814.3(21) states a rear detached Garage or Garden Suite shall be fully contained within the rear 12.8 metres of the Site.

Development Officer's Determination

Garage location - The rear detached Garage containing a Garage Suite is fully contained within the rear 13.9 metres of the site, instead of the rear 12.8 metres (Section 814.3.20)

Garage Suite Maximum Height

Section 87(3)(b) states the maximum Height shall be as follows: **6.2 metres** where the Garden Suite has a roof slope of less than 4/12 (18.4 degrees).

Section 87(3)(e) states notwithstanding Section 52.1(b), Height shall be determined by measuring from the horizontal plane through Grade to the highest point of the parapet where a Garden Suite has a flat roof.

Development Officer's Determination

Height - The rear detached Garage containing a Garage Suite is 6.0 metres in Height instead of 5.5 metres (Section 87.2.a.ii).

Side Setback

Section 87(10) states the minimum Side Setback shall be the same as that prescribed for Single Detached Housing within the underlying Zone or applicable Overlay.

Section 814.3(3)(b) states where a Site Width is greater than 12.0 metres and less than 18.3 metres, the Side Setback requirements of the underlying Zone shall apply.

Section 110.4(10)(a) states Side Setbacks shall total at least 20 percent of the Site Width, with a minimum Side Setback of 1.2 metres on each side.

Development Officer's Determination

Reduced Side Setback - The distance from the rear detached Garage to the north property line (side lot line) is 0.9 metres instead of 1.2 metres (Section 87.6.a and Section 110.4.10.a).

Community Consultation

Section 814.5(1) states 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
3	The municipal address and assessed owners of the land Abutting the Site of the proposed development and the President of each Community League	The assessed owners of the land Abutting the Site of the proposed development	814.3(3) – Side Setbacks 814.3(8) – Side Setbacks and Privacy 814.3(9) – Privacy Screening on Platform Structures 814.3(10) – Platform Structures (Front Yard) 814.3(11) – Platform Structures (Flanking Side Yard) 814.3(12) – Cantilevers in Side Setbacks 814.3(20) – Distance between Garage and Principal Dwelling 814.3(21) - Rear Detached Garage Location

Interior Side Setback

Section 814.3(8) states where an interior Side Setback is less than 2.0 metres,

- a. the applicant shall provide information regarding the location of side windows of the Dwellings on the Abutting properties and Amenity Areas on Abutting properties;
- b. the side windows of the proposed Dwelling shall be located to reduce overlook into Amenity Areas of the Abutting properties; and
- c. the proposed Dwelling shall incorporate design techniques, such as, but not limited to, translucent window treatment, window location, raised windows, or Privacy Screening, to reduce direct line of sight into the windows of the Dwelling on the Abutting property.

Garden Suites

....

Section 87.5 states Floor Area for Dwelling space in a Garden Suite shall be provided in accordance with the following:

- a. for the purposes of this regulation, Floor Area shall exclude Parking Areas within the Garden Suite, up to 4 m² of the area covered by stairways, and up to 6 m² of the area covered by elevators and any associated landing area;
- b. the maximum Floor Area shall be 75 square metres;
- c. the minimum Floor Area shall be 30 square metres;
- d. in the RF1, RF2, RF3, RF4, RF5, RF6, RA7, RA8, and RA9 Zones, the maximum Second Storey Floor Area shall be 50 square metres; and**
- e. in all other Zones, the maximum Second Storey Floor Area shall be 60 square metres.

...

Section 87.13 states where a Garden Suite is two Storeys, the applicant shall provide information regarding the location of windows and the location of any existing Amenity Areas on Abutting properties. Second Storey windows shall be placed and sized such that they reduce overlook into Yards and windows of Abutting properties to the satisfaction of the Development Officer through one or more of the following:

- a. reducing direct views of Rear Yard or Side Yard Amenity Areas, or direct views into a Garden Suite window on an Abutting Site through off-setting window placement, locating windows above eye level, or obscuring windows with translucent treatment;
- b. strategic placement of windows in conjunction with landscaping or the placement of other accessory buildings; and
- c. placing larger windows such as Principal Living Room Windows to face a lane, a flanking street, or the larger of any Side Yard abutting another property.

...

Section 87.17 states Façades shall be articulated to the satisfaction of the Development Officer through two or more of the following:

- a. projection or recession of portions of the façade;
- b. projecting architectural features;
- c. platform structures;
- d. use of two or more exterior finishing materials;
- e. Landscaping with shrubs along building Façades, in addition to Landscaping required by Section 55 of this Bylaw;
- f. entrance features oriented toward the public roadway, including a Lane;
- g. dormers; or
- h. window trim with a minimum width of 0.075 metres.


...

Section 87.19 states Façades facing a Lane shall have exterior lighting.

Section 87.20 states Garden Suites shall have a covered entrance feature over the main door.

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*.

	Project Number: 240845024-001 Application Date: JAN 25, 2017 Printed: August 31, 2017 at 8:33 AM Page: 1 of 2															
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>																
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 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit Bylaw.																
Applicant <div style="border: 1px solid black; width: 200px; height: 40px; margin: 10px auto;"></div>	Property Address(es) and Legal Description(s) 12912 - 134 STREET NW Plan 1837KS Blk 69 Lot 3 Location(s) of Work Entryway: 12912A - 134 STREET NW Building: 12912A - 134 STREET NW															
Scope of Application To construct a 2 storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor; 7.01m x 8.23m).																
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 621 Class of Permit: Front Yard (m): Rear Yard (m): 5.5 Side Yard, left (m): 7.32 Site Area (sq. m.): 576.28 Site Width (m): 15.24 </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): 5.72 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): .91 Site Depth (m): 37.81 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Affected Floor Area (sq. ft.): 621 Class of Permit: Front Yard (m): Rear Yard (m): 5.5 Side Yard, left (m): 7.32 Site Area (sq. m.): 576.28 Site Width (m): 15.24	Building Height to Midpoint (m): 5.72 Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): .91 Site Depth (m): 37.81 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay													
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Development Application Decision Refused Reason for Refusal 1. Garage location - The rear detached Garage containing a Garage Suite is fully contained within the rear 13.9m of the site, instead of the rear 12.8m (Section 814.3.20) 2. Height - The rear detached Garage containing a Garage Suite is 6.0m in Height instead of 5.5m (Section 87.2.a.ii). 3. Reduced Side Setback - The distance from the rear detached Garage to the north property line (side lot line) is 0.9m instead of 1.2m (Section 87.6.a and Section 110.4.10.a). Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.																
Issue Date: Aug 25, 2017 Development Authority: HETHERINGTON, FIONA Signature: _____																
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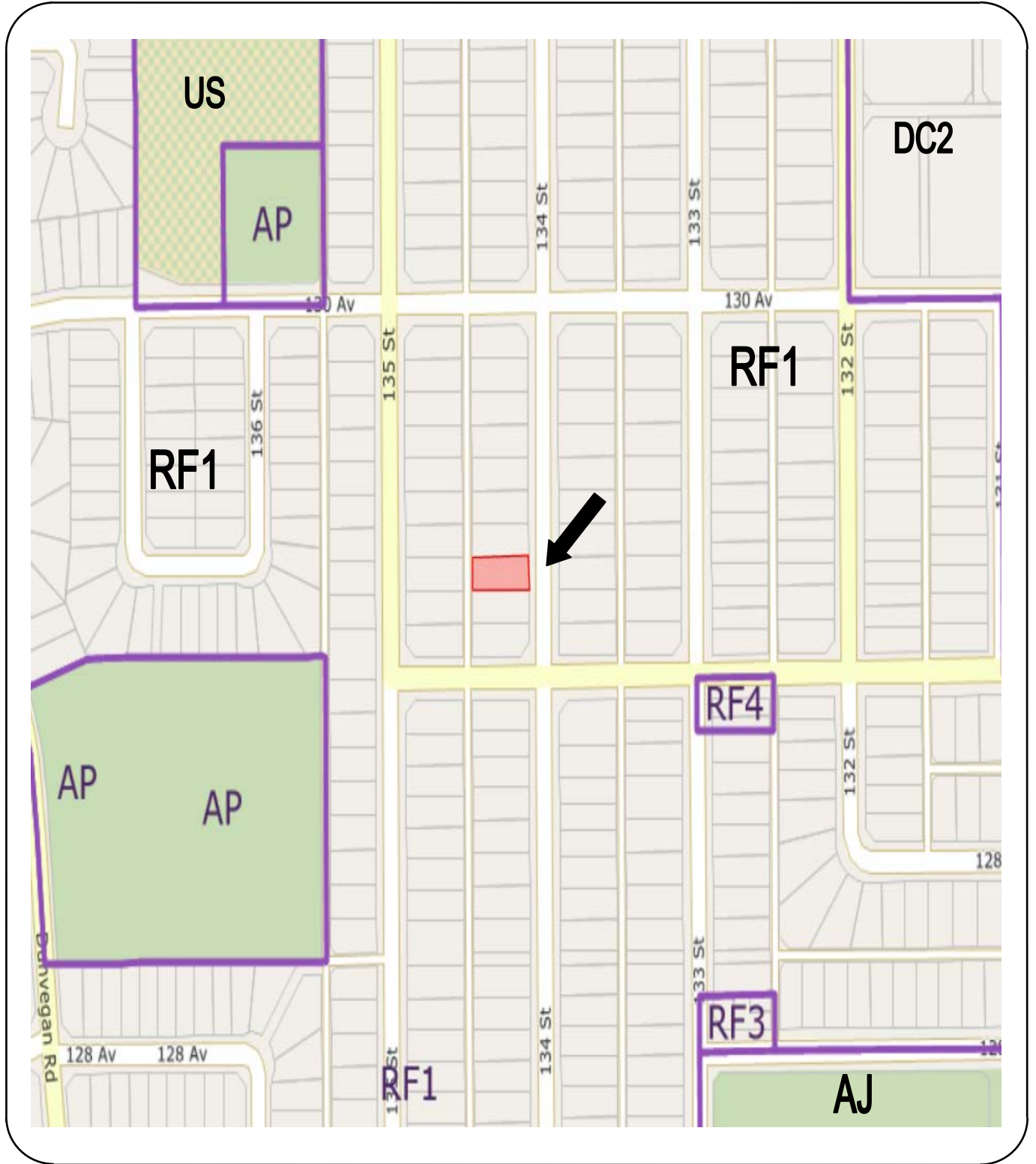
Project Number: **240845024-001**
Application Date: JAN 25, 2017
Printed: August 31, 2017 at 8:33 AM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Safety Codes Fee	\$13.42	\$13.42	03919926	Feb 14, 2017
Water Usage Fee	\$25.41	\$25.41	03919926	Feb 14, 2017
Building Permit Fee	\$1,064.00	\$1,064.00	03919926	Feb 14, 2017
Lot Grading Fee	\$140.00	\$140.00	03919926	Feb 14, 2017
Safety Codes Fee	\$42.56	\$42.56	03919926	Feb 14, 2017
Electrical Fees (House)	\$223.00	\$223.00	03919926	Feb 14, 2017
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,280.39	\$2,280.39		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-177

