

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
November 4, 2015**

**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-15-257	Construct 15 Dwellings of Apartment Housing with 2 Convenience Retail Stores Use units (1 building, 3 Storeys with penthouse, 176.5 sq. m. of Commercial on main floor at grade, underground parkade) 10903 / 10907 / 10911 - 80 Avenue NW Project No.: 171075618-001
II	1:00 P.M.	SDAB-D-15-258	Construct exterior alterations to a Single Detached House (Driveway extension, 1.52m x 8.20m), existing without permits 4509 - 162 Avenue NW Project No.: 177837033-002
III	2:15 P.M.	SDAB-D-15-259	Construct a Semi-detached House with front verandas, fireplaces, basement development (Not to be used as an additional Dwelling) and to demolish an existing building 10710 - 125 Street NW Project No.: 176376597-001

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-15-257

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 171075618-001

ADDRESS OF APPELLANT: 10911 - 80 Avenue NW
10907 - 80 Avenue NW
10903 - 80 Avenue NW

APPLICATION TO: Construct 15 Dwellings of Apartment Housing with 2 Convenience Retail Stores Use units (1 building, 3 Storeys with penthouse, 176.5 sq. m. of Commercial on main floor at grade, underground parkade)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 1, 2015

DATE OF APPEAL: October 7, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10911 - 80 Avenue NW
10907 - 80 Avenue NW
10903 - 80 Avenue NW

LEGAL DESCRIPTION: Plan I23 Blk 140 Lot 33, 34, 35

ZONE: RA7 Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: 109 Street Corridor Area Redevelopment Plan

Grounds for Appeal

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

1. Floor Area Ratio. The exceedence in FAR should be varied as it has no impact on the neighbourhood and improves the intent of the project within the scope of the 109 Street ReDevelopment Plan.

2. Eastern Side Setback: The proposed side setback is a response to providing grade level commercial which meets the intent of the Area Redevelopment Plan. Furthermore, the proposed setback is consistent with the most recent developments adjacent to this property.

3. Balconies Not Recessed: The projection of balconies is necessary to allow for its exposure and use as a result of the very mature trees along the avenue. Recessed balconies will conceal the openness and access to outdoors. Furthermore, the face of the building is recessed further than the required setback thereby minimizing the protrusion of Balconies.

4. Common Amenity: The provision of an indoor common amenity coupled with outdoor balconies gives a better balance of amenities to the residents. Furthermore, it is anticipated that the need for the indoor amenity will be better received than an outdoor amenity.

[unedited]

<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.

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

...

The decision of the Development Authority is dated October 1, 2015. The Notice of Appeal Period expired on October 15, 2015, and the Notice of Appeal was filed on October 7, 2015.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 210.1 states that the **General Purpose** of the **RA7 Low Rise Apartment Zone** is “To provide a Zone for Low Rise Apartments.”

“Low Rise Apartments” is not defined in the *Edmonton Zoning Bylaw*.

Under Section 210.2(1), **Apartment Housing** is a **Permitted Use** in the RA7 Low Rise Apartment Zone.

Section 7.2(1) defines **Apartment Housing** as:

...development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Under Section 210.3(2), **Convenience Retail Stores** is a **Discretionary Use** in the RA7 Low Rise Apartment Zone.

Section 7.4(11) defines **Convenience Retail Stores** as:

... development used for the retail sale of those goods required by area residents or employees on a day to day basis, from business premises which do not exceed 275 m² in gross Floor Area. Typical Uses include small food stores, drug stores, and variety stores selling confectionery, tobacco, groceries, beverages, pharmaceutical and personal care items, hardware or printed matter.

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is:

...to accommodate the development of medium-scale infill housing in Edmonton’s mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

Section 823.2 states that the Medium Scale Residential Infill Overlay

...applies to lands zoned RF6 and RA7 in the areas shown on the Appendices to this Overlay. Wherever the policies or provisions of a Statutory Plan make reference to the Medium Density Residential Overlay applying to the RF6 or RA7 zones, the regulations contained within this Overlay shall apply.

Floor Area Ratio

The *Edmonton Zoning Bylaw* states:

210.4 Development Regulations for Permitted and Discretionary Uses

...

5. The maximum Floor Area Ratio shall be 1.3. The maximum Floor Area Ratio may be increased to 1.4 when underground parking is provided. In such a case, the application will be a Discretionary Development.

Development Officer's Determination:

1) Floor Area Ratio:

Maximum Allowed: 1.4

Proposed: 1.56

Reference: Section 210.4(5) of the *Edmonton Zoning Bylaw*.

[unedited]

Side Setback

The *Edmonton Zoning Bylaw* states:

823.3 Development Regulations

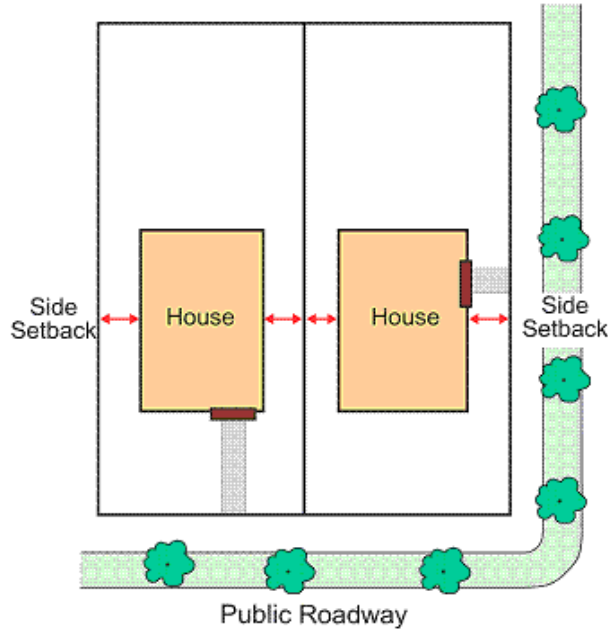
1. Building form

...

- d. The minimum Side Setback shall be 3.0 m. except as provided in subsection 823.3(1)(e). Where the Side Yard abuts an arterial road, the minimum Side Setback shall be 4.5 m. Separation Space and Privacy Zone as outlined in Section 48 of this Bylaw shall be reduced to accommodate these Side Setback requirements, except where a Principal Living Room Window faces an interior Side Yard.

Section 6.1(90) defines **Side Setback** as follows:

Side Setback means the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.



Development Officer’s Determination:

2) Eastern Side Setback:

Minimum Required: 4.5 metres

Proposed: 3.6 metres

Reference: Section 823.3(1)(d) of the *Edmonton Zoning Bylaw*
[unedited]

Building Design: Balconies

The *Edmonton Zoning Bylaw* states:

823.3 Development Regulations

...

2. Building Design

...

j. The length of balconies shall not comprise more than 50% of any building façade. Balconies shall be designed as integral components of buildings and shall be recessed or partially recessed.

Development Officer’s Determination:

3) Balconies are not recessed or partially recessed as required by Section 823.3(2)(j) of the *Edmonton Zoning Bylaw*. [unedited]

Amenity Area

The *Edmonton Zoning Bylaw* states:

823.4 Development Regulations

...

3. Amenity Area

...

c. Development containing ten (10) to nineteen (19) Apartment Housing Dwellings shall provide a minimum of 2.5 m² of common Amenity Area per Dwelling in addition to the 7.5 m of Private Outdoor Amenity Area required under Section 823.3(3)(a). Common Amenity Area shall be designed to facilitate active or passive recreational activities and shall:

- i. be located outdoors at ground level,
- ii. be aggregated into areas of not less than 25.0 m²,
- iii. have a minimum width and length of 4.0 m,
- iv. have access to sunlight,
- v. include seating and artificial lighting, and
- vi. be directly accessible from the building.

Development Officer's Determination:

4) Common Amenity Area is provided indoors instead of outdoors as required by Section 823.3(3)(c)(i) of the *Edmonton Zoning Bylaw* [unedited]

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: **171075618-001**
 Application Date: APR 20, 2015
 Printed: October 27, 2015 at 1:48 PM
 Page: 1 of 2

Application for Major Development Permit

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

<p>Applicant</p> <p>DER & ASSOCIATES ARCHTECTURE LTD. </p>	<p>Property Address(es) and Legal Description(s)</p> <p>10911 - 80 AVENUE NW Plan I23 Blk 140 Lot 33</p> <p>10907 - 80 AVENUE NW Plan I23 Blk 140 Lot 34</p> <p>10903 - 80 AVENUE NW Plan I23 Blk 140 Lot 35</p> <hr/> <p>Specific Address(es)</p> <p>Building: 10903 - 80 AVENUE NW Building: 10907 - 80 AVENUE NW Building: 10911 - 80 AVENUE NW</p>
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Scope of Application
 To construct 15 Dwellings of Apartment Housing with 2 Convenience Retail Stores Use units (1 building, 3 Storeys with penthouse, 176.5 sq. m. of Commercial on main floor at grade, underground parkade).

<p>Permit Details</p> <p>Class of Permit: Gross Floor Area (sq.m.): 176 New Sewer Service Required: Y Site Area (sq. m.): 1213.48</p>	<p>Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 2 Stat. Plan Overlay/Annex Area: (none)</p>
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

Reason for Refusal

- 1) Floor Area Ratio:
 - Maximum Allowed: 1.4
 - Proposed: 1.56
 - Reference: Section 210.4(5) of the Edmonton Zoning Bylaw.

- 2) Eastern Side Setback:
 - Minimum Required: 4.5 metres
 - Proposed: is 3.6 metres
 - Reference: Section 823.3(1)(d) of the Edmonton Zoning Bylaw

- 3) Balconies are not recessed or partially recessed as required by Section 823.3(2)(j) of the Edmonton Zoning Bylaw.

- 4) Common Amenity Area is provided indoors instead of outdoors as required by Section 823.3(3)(c)(i) of the Edmonton Zoning Bylaw.

THIS IS NOT A PERMIT



Project Number: **171075618-001**
Application Date: APR 20, 2015
Printed: October 27, 2015 at 1:48 PM
Page: 2 of 2

Application for Major Development Permit

Rights of Appeal

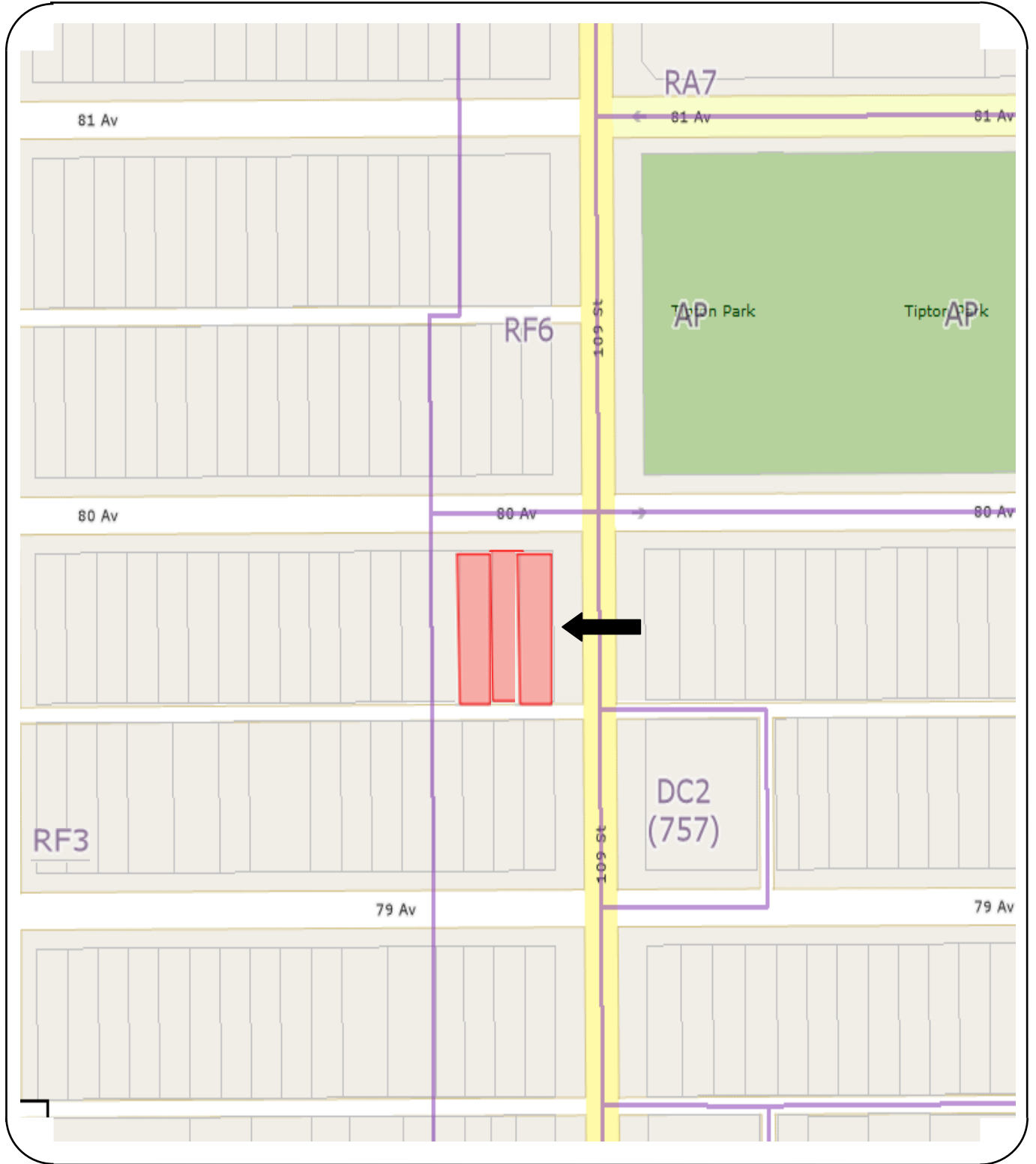
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 01, 2015 **Development Authority:** McLELLAN, ANDREW **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$811.00	\$811.00	02419425	May 11, 2015
Dev. Application Fee # of dwelling units	\$748.00	\$748.00	02419425	May 11, 2015
Lot Grading Fee	\$330.00	\$330.00	02419425	May 11, 2015
Sanitary Sewer Trunk Fund 2012+	\$15,315.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$17,204.00	\$1,889.00		
<i>(\$15,315.00 outstanding)</i>				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-257



ITEM II: 1:00 P.M.

FILE: SDAB-D-15-258

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 177837033-002

APPLICATION TO: Construct exterior alterations to a Single Detached House (Driveway extension, 1.52m x 8.20m), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 6, 2015

DATE OF APPEAL: October 9, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 4509 - 162 Avenue NW

LEGAL DESCRIPTION: Plan 0624661 Blk 15 Lot 103

ZONE: RSL Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Brintnell Neighbourhood Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

I am the previous home owner and we just recently sold this property. My husband and I requested a Real Property Report before selling the house. The RPR stated that we were required to pull a permit for the driveway extension. We followed the proper procedures and did as was required.

You have denied this permit.

That is unfortunate, given the fact that the buyers lawyers have withheld \$5000 of our money. They would like this issue dealt with before they release the funds. We are not only dealing with a denial that is unwarranted, but a \$5000 hold.

1) We poured this extension on our driveway in June 2010. I have receipts for the concrete to prove this. A permit for a driveway extension was NOT required prior to Sept 26th 2011... We poured the extension in 2010. You might want to look under section 643 in the Municipal Government Act .. This clearly indicates that permits were not required prior to Sept 26th, 2011.

Here is a pic of the concrete receipt ** I can provide this if needed...

2) We did get FINAL GRADE APPROVAL for all landscaping and the driveway extension in Sept 2011... There were no issues then. If the CITY OF EDMONTON had an issue with my landscaping and/or driveway extension, why would they grant me final grade approval ? We dealt with a very nice man, named Filipe Goncalves. If he still works in your department you may want to have a conversation with him. I'm sure he may be able to offer some insight. ** I have all documents supporting the Final Grade Approval

Just in case you have seen our front driveway with extension ... I have attached a picture. **Pictures can also be provided

Furthermore, the new property owners do not want us to go in and sledge hammer the extension of the driveway, because you have denied us a permit. They love the way it compliments the house and the curb appeal. This extension is the SIDEWALK that leads into our backyard.

It is very unfortunate that property owners such as ourselves who take pride and care in their homes have to deal with permit denials that were NEVER part of municipal law at time of construction.

This driveway extension poses no drainage issues and no one has EVER complained about this.

In regards, to the landscaping concerns. We submitted drawings and got approval from the developer for our landscaping plans. We have all documents to prove this. We received our deposit of \$1000.00 back from the developer because we completed the landscaping to their standards.
[unedited]

<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.

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

...

The decision of the Development Authority is dated October 6, 2015. The Notice of Appeal Period expired on October 20, 2015 and the Notice of Appeal was filed on October 9, 2015.

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.

“Low Rise Apartments” is not defined in the *Edmonton Zoning Bylaw*.

Under Section 115.2(4), **Single Detached Housing** is a **Permitted Use** in the RSL Residential Small Lot Zone.

Section 6.1(26) defines **Driveway** as “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.”

Definition of Driveway

Section 6.1(26) defines **Driveway** as “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area.”

Development Officer's Determination:

1. The proposed concrete area shall not be considered a Driveway. Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area. (Section 6.1(26)) The proposed concrete extension on the right side of the property does not lead to an overhead garage door or parking area. [unedited]

Parking

The *Edmonton Zoning Bylaw* states:

44. Projection into Setbacks and Separation Spaces

The following features may project into a required Setback or Separation Space as provided for below:

- ...
6. a Parking Area when comprised of parking spaces required under this Bylaw, provided that no Parking Area in any Zone shall be located within the Front Yard. This shall not prohibit the use of a Front Yard for Driveways;

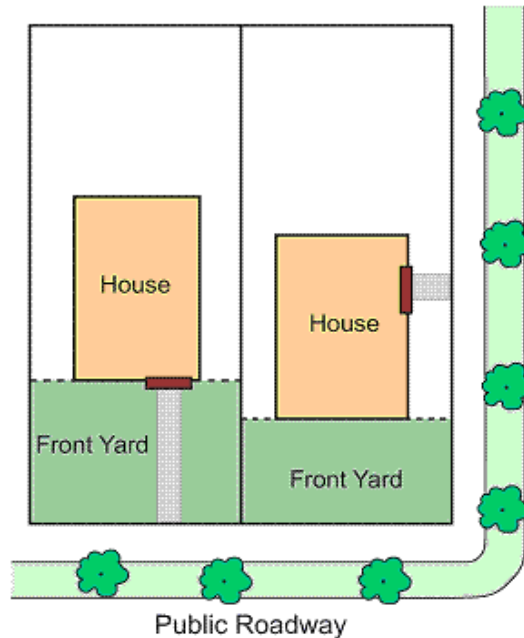
54.2 Required Off-street Vehicular Accessory Parking

2. Location of Vehicular Parking Facilities

- ...
- e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following:
 - i. parking spaces shall not be located within a Front Yard;

Section 6.1(40) states:

Front Yard means the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Development Officer's Determination:

2. The proposed concrete area is not part of the Driveway. No Parking Area or parking spaces shall be located within the Front Yard. (Section 44.6 and Section 54.2(2(e)(i))[unedited]

Landscaping

Section 55.1 states the following with respect to the **General Purpose** of the Landscaping regulations:

The intent of these Landscaping regulations is to contribute to a reasonable standard of liveability and appearance for developments, from the initial placement of the Landscaping through to its mature state, to provide a positive overall image for Edmonton and to encourage good environmental stewardship.

Section 6.1(55) defines **Landscaping** as follows:

Landscaping means the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:

- a. soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;

- b. decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
- c. architectural elements such as decorative fencing, walls and sculpture;

Development Officer's Determination:

3. The Front Yard shall be landscaped. (Section 55) Landscaping means the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:
- a) soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;
 - b) decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
 - c) architectural elements such as decorative fencing, walls and sculpture. (Section 6.1(55))

NOTES:

- 1. Landscaping condition attached to Development Permit # 067692672-001 for the Single Detached House approval have not been fulfilled.
- 2. All Yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. (Reference 55.2(4)(b))
[unedited]

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: **177837033-002**
Application Date: SEP 08, 2015
Printed: October 29, 2015 at 2:12 PM
Page: 1 of 2

Application for Minor Development Permit

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

Applicant

MARCELO, HELDER


Property Address(es) and Legal Description(s)

4509 - 162 AVENUE NW
Plan 0624661 Blk 15 Lot 103

Scope of Application

To construct exterior alterations to a Single Detached House (Driveway extension, 1.52m x 8.20m), existing without permits.

Permit Details

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 A
Lot Grading Needed?:
New Sewer Service Required: N/A
Stat. Plan Overlay/Annex Area: (none)

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

Applicant signature: _____

Development Application Decision

Refused

THIS IS NOT A PERMIT



Project Number: **177837033-002**
 Application Date: SEP 08, 2015
 Printed: October 29, 2015 at 2:12 PM
 Page: 2 of 2

Application for Minor Development Permit

Reason for Refusal

Application to construct exterior alterations to an existing Single Detached House (Driveway extension, 1.52m x 8.20m), is refused for the following reasons:

1. The proposed concrete area shall not be considered a Driveway. Driveway means an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area. (Section 6.1(26)) The proposed concrete extension on the right side of the property does not lead to an overhead garage door or parking area.
2. The proposed concrete area is not part of the Driveway. No Parking Area or parking spaces shall be located within the Front Yard. (Section 44.6 and Section 54.2(2)(e)(i))
3. The Front Yard shall be landscaped. (Section 55) Landscaping means the preservation or modification of the natural features of a Site through the placement or addition of any or a combination of the following:
 - a) soft landscaping elements such as trees, shrubs, plants, lawns and ornamental plantings;
 - b) decorative hardsurfacing elements such as bricks, pavers, shale, crushed rock or other suitable materials, excluding monolithic concrete and asphalt, in the form of patios, walkways and paths; and
 - c) architectural elements such as decorative fencing, walls and sculpture. (Section 6.1(55))

NOTES:

1. Landscaping condition attached to Development Permit # 067692672-001 for the Single Detached House approval have not been fulfilled.
2. All Yards, visible from a public roadway other than a lane, shall be seeded or sodded within eighteen (18) consecutive months of the issuance of an Occupancy Certificate for the development. (Reference 55.2(4)(b))
3. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.

Rights of Appeal

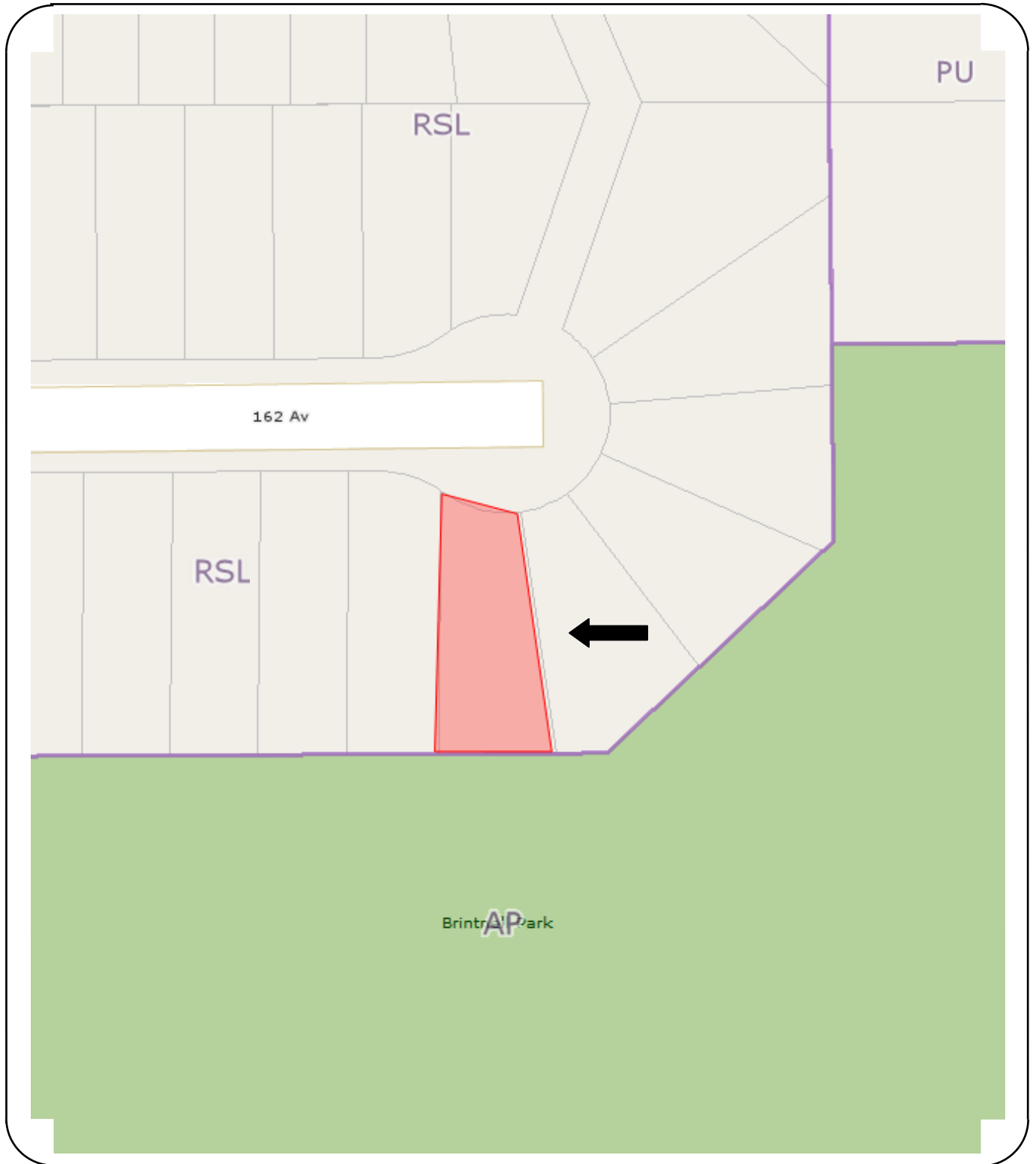
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 06, 2015 **Development Authority:** LAI, ECHO **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$155.00	\$155.00	02731530	Sep 08, 2015
Existing Without Permit Penalty Fee	\$155.00	\$155.00	02731530	Sep 08, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$310.00	\$310.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-258



ITEM III: 2:15 P.M.

FILE: SDAB-D-15-259

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 176376597-001

APPLICATION TO: Construct a Semi-detached House with front verandas, fireplaces, basement development (Not to be used as an additional Dwelling) and to demolish an existing building

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 5, 2015

DATE OF APPEAL: October 8, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10710 - 125 Street NW

LEGAL DESCRIPTION: Plan RN22B Blk 45 Lots 12-13

ZONE: DC1 Direct Development Control Provision
RA7 Low Rise Apartment Zone

OVERLAY: Mature Neighbourhood Overlay
Medium Scale Residential Infill Overlay

STATUTORY PLAN: West Ingle ARP

Grounds for Appeal

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

RA7 zoning is not considered. The property is in transitional zone between commercial and residential. Property has TWO ZONING RA7 and DC1. The DC1 zoning has been applied to the property development application without considering the transitional nature of the land and the fact that the property has TWO ZONING RA7 and DC1. [unedited]

General Matters

Appeal Information:

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

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority 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.

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

The decision of the Development Authority is dated October 5, 2015. The Notice of Appeal Period expired on October 19, 2015 and the Notice of Appeal was filed on October 8, 2015.

General Provisions from the *Edmonton Zoning Bylaw*:

The **General Purpose** of the DC1 Westmount Architectural Heritage area is:

To establish a Direct Control District for single detached residential development and associated uses, as found under the RF1 (Single Detached Residential) District, in the Westmount Architectural Heritage Area so as to continue the tradition of heritage and community as originally conceived in the subdivision and architecture of the Area. The District is based on the RF1 Regulations but with additional Development Criteria and accompanying voluntary Architectural Guidelines, as written and developed by residents of the Area, that are intended to preserve the Area's unique historical streetscape and architectural features, reflecting the character, location and proportions of existing structures from the early 1900s in the Area, including: Boulevards with mature trees; continuous sidewalks; rear lane access to on-site parking; verandahs; and other features as originally conceived in subdivision plans and architectural designs of the early 1900s.

Non-Listed Use

Section 3 of the DC1 Westmount Architectural Heritage District states:

3) Uses

The following uses are prescribed for lands designated DC1 pursuant to Section 710.3 of the Land Use Bylaw.

- a) Single Detached Housing
- b) Minor Home Occupations
- c) Religious Assembly, where lawfully existing on a site in the District at the effective date of this Bylaw, on the same site only.
- d) Limited Group Homes
- e) Group Homes
- f) Foster Homes
- g) Child Care Services
- h) Major Home Occupations

Section 710.3 of the *Land Use Bylaw, Bylaw 5996, Version 10, November 1999* states:

710.3 Uses

1) A Development Permit may be issued for those uses prescribed for the land in an approved Area Redevelopment Plan or Area Structure Plan, or those uses consistent with its designation under the Historical Resources Act, 1980.

2) For all DC1 Districts created prior to the passage of Bylaw 10529, containing Office-in-the-Home and Homecraft Use Classes as listed uses, these Use Classes shall be replaced by the Use Classes Minor Home Occupation and Major Home Occupation and the development of such uses shall be in accordance with the Special Land Use Provisions of Sections 84 and 85 of the Land Use Bylaw.

Development Officer's Determination

The proposed Semi-detached House is not a listed Use within the DC1 Zone (Westmount Architectural Heritage Area). [unedited]

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: **176376597-001**
 Application Date: JUL 23, 2015
 Printed: October 30, 2015 at 1:54 PM
 Page: 1 of 1

Application for Minor Development Permit

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

<p>Applicant</p> <p>GEDDES, RADA </p>	<p>Property Address(es) and Legal Description(s)</p> <p>10710 - 125 STREET NW Plan RN22B Blk 45 Lots 12-13</p> <p>Specific Address(es)</p> <p>Entryway: 10710 - 125 STREET NW Entryway: 10712 - 125 STREET NW Building: 10710 - 125 STREET NW</p>
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Scope of Application

To construct a Semi-Detached House with front verandas, fireplaces, basement development (Not to be used as an additional Dwelling) and to demolish existing building.

Permit Details

<p># of Dwelling Units Add/Remove: 1 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N</p>	<p>Class of Permit: Class A Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:</p>
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision

Refused

Reason for Refusal

The proposed Semi-detached House is not a listed Use within the DC1 Zone (Westmount Architectural Heritage Area).

Rights of Appeal

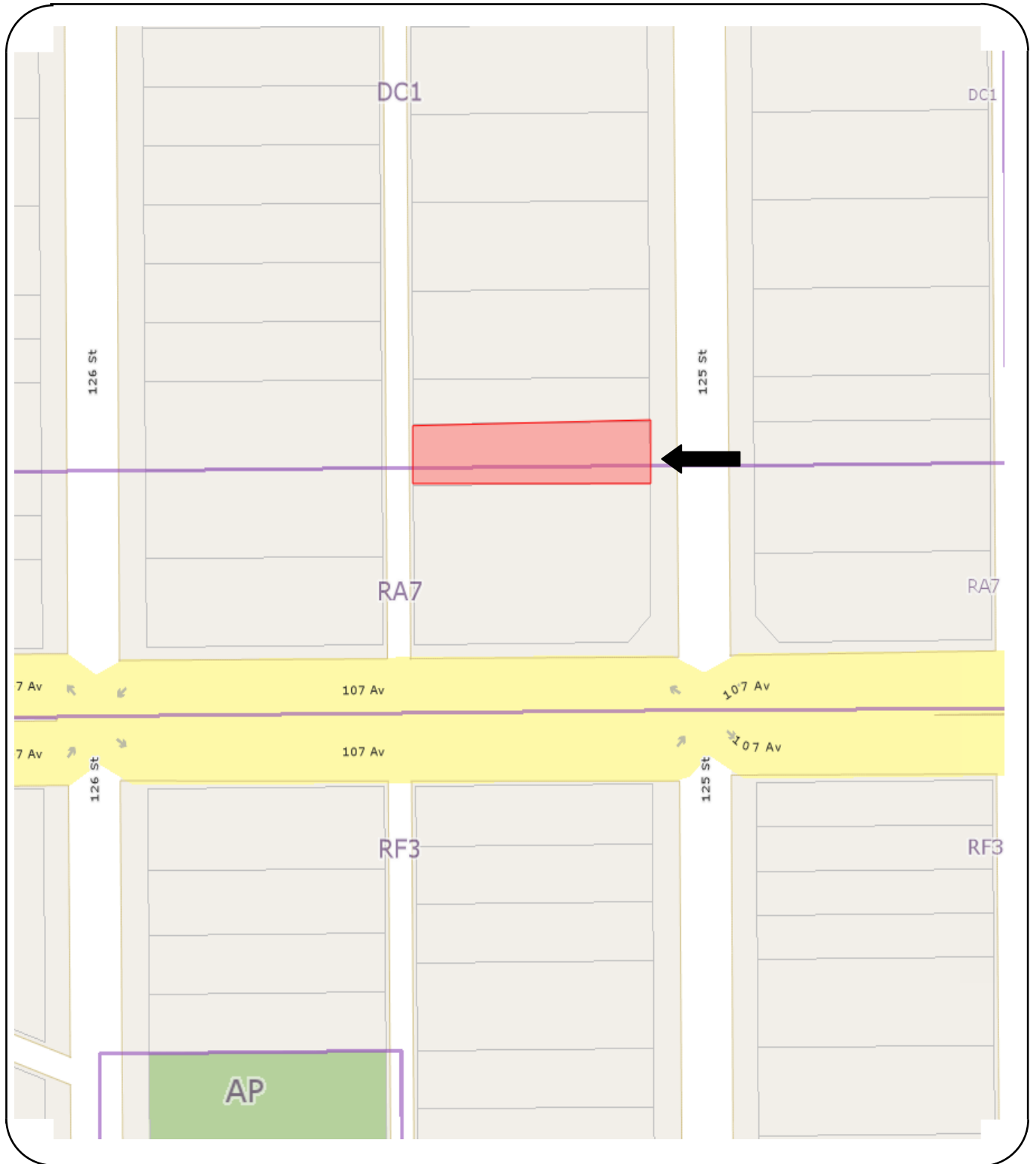
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 05, 2015 **Development Authority:** HEIMDAHL, KENDALL **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$447.00	\$447.00	02609240	Jul 23, 2015
Lot Grading Fee	\$135.00	\$135.00	02609240	Jul 23, 2015
Sanitary Sewer Trunk Fund	\$1,430.00	\$1,430.00	02609240	Jul 23, 2015
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,012.00	\$2,012.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-259



BUSINESS LAID OVER

SDAB-D-15-242	An appeal by <u>Go Outdoor Advertising Ltd.</u> to install (1) Freestanding Off-premises Sign <i>November 12, 2015</i>
SDAB-D-15-236 to 241	An appeal by <u>Ogilvie LLP</u> to comply with six Orders to acquire valid development permits by September 25, 2015 or cease the Use and demolish and remove all materials by September 25, 2015; and to comply with all conditions of development permit No. 149045660-001. <i>November 19, 2015</i>
SDAB-D-15-246	An appeal by <u>Walton Development & Management LP VS Jason & Sarah McPeak</u> to construct exterior alterations (driveway extension, 9.0m x 1.52 m) to an existing Single Detached House. <i>November 18 or 19, 2015</i>
SDAB-D-15-251	An appeal by <u>Lain & Janet Birchall; Roger/Denele Walsh; Karen Bilinske VS Homes By Anthony Developments</u> to construct a 2 storey Accessory Building (Garage Suite on 2nd floor, Garage on main floor; 10.06m x 9.14m) <i>November 26, 2015</i>
SDAB-D-15-252	An appeal by <u>Southwest Muslim Community Centre</u> change the Use from an Indoor Participant Recreation Service to a Religious Assembly with a capacity of 456 seats, and to construct interior alterations (SouthWest Muslim Community Centre) <i>November 25 or 26, 2015</i>
SDAB-D-15-247	An appeal by <u>Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.</u> change the use of "Building E" from Professional, Financial and Office Support Services to General Retail Stores and to construct interior and exterior alterations (increase building size and change dimensions, revision to parking layout and Drive-thru). <i>March 9 or 10, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

175784462-002	An appeal by <u>Jarnail Dhaliwal</u> to construct exterior alterations (front yard concrete extension, 1.20m x 5.30m) to a Single Detached House, existing without permits. <i>November 12, 2015</i>
178546662-001	An appeal by <u>Gagan Garg / Miller Thomson LLP</u> to change the Use of a General Retail Store to Minor Alcohol Sales (LIQUOR SHOPPE) <i>November 18 or 19, 2015</i>
159269966-003	An appeal by <u>Anh Padmore</u> to construct an exterior alteration to an existing Single Detached House, (driveway extension 2.8m x 8.4m) existing without permits. <i>November 19, 2015</i>

.....continued

145348619-005	An appeal by <u>Derek Potts</u> to construct an exterior alterations (Driveway extension, irregular shaped, 8.5m x 7m) to an existing Single Detached House. <i>November 26, 2015</i>
174864823-001	An appeal by <u>Dean and Jade Gronemeyer VS Imelda Calapre</u> to convert a Single Detached House into a Limited Group Home (6 Residents). <i>December 10, 2015</i>
159269966-003	An appeal by <u>Anh Padmore</u> to construct an exterior alteration to an existing Single Detached House, (Driveway Extension 2.8m x 8.4m existing without permits). <i>January 21, 2016</i>