

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Thursday, 9:00 A.M.  
April 27, 2017**

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

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

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I	9:00 A.M.	SDAB-D-17-077	Convert a Semi-detached House to 4 Dwellings of Apartment Housing - existing without permits  12220 - 85 Street NW 12222 - 85 Street NW Project No.: 235119852-002
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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-17-077

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 235119852-002

APPLICATION TO: Convert a Semi-detached House to 4 Dwellings of Apartment Housing - existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 24, 2017

DATE OF APPEAL: April 2, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12220 - 85 Street NW  
12222 - 85 Street NW

LEGAL DESCRIPTION: Plan 0921841 Blk 30 Lot 16B, Plan 0921841 Blk 30 Lot 16A

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

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*Grounds for Appeal*

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

I am appealing my development permit application refusal for the following reasons:

1. This property has been operating as a semi-detached with suites for what I would estimate to be 20-30 years with no known complaints.
2. The property provides safe & affordable housing options for students, families and seniors looking for accommodations outside of the traditional apartment and fits well with the direction that the City has been moving toward increasing density in the mature neighborhoods.

3. The City has approved other similar properties in the past. These other properties required the same or similar variances as this property. The closest one is a block south of this property located at 12126/28 —85 St NW.
4. Other similar properties that were refused at the City application process were subsequently overturned and approved at the SDAB.
5. There are many other semi-detached properties with basement suites operating within a few blocks of this property.
6. I am a responsible local landlord who has been continually working to improve the property since purchasing it last fall. These improvements I believe have had a positive impact on the tenants' enjoyment of the property and will help increase neighbouring property values.

*Background:*

I purchased this building, marketed as a semi-detached with secondary suites (Attachment 1 - Property Listing), in August 2016 with the understanding that the City was working on changes to allow for semi-detached properties with secondary suites. With the City projecting their desire to increase density in mature neighbourhoods, this property seemed to fit well into such a plan. It provides a safe and affordable option for people looking for an alternative to apartment living while still allowing for reasonable rents. With this information, the purchase was made with the full intention of going through the process of bringing the property into compliance once the anticipated regulation changes came into effect.

The building was purchased with tenants already in place. However, over the summer when one of the basement units became vacant, I was advised that this would be an opportune time, causing limited tenant disruptions, to change over from the older single furnace to two new, high-efficiency furnaces allowing for independent temperature control in each unit. It would also allow for improving the sound and fire separation between the two units in line with what is currently required between units in a single-family home with a secondary suite. Those I consulted indicated that they didn't foresee any issues proceeding with this work in advance of any regulation changes. Unfortunately, this advice proved to be incorrect and the City was alerted to the existence of the suites when my furnace contractor applied for permits to do their work (Attachment 2 - Furnace Contractor Emails with Development Officer). Based on the construction materials used in the suites, I estimate that this property has been operating essentially as a 4-plex for 20-30 years (Attachment 3 - Suite Construction Timeline). The fact that the City was unaware of the suites' existence until now would suggest that there must not have been any complaints over the years as I'm sure that the City would have followed-up on any complaints and the properties would have been brought into compliance or decommissioned at that time. Talking with people in the neighborhood also seems to bear this out.

Upon speaking with a Development Officer at the City, I was made aware of one possible solution I might consider: to apply to convert from a semi-detached to a 4-unit apartment. As part of this application process, I went through a substantial community consultation where I received overwhelming support. Attached are 18 feedback documents that I collected as well as a consultation summary (Attachment 4 - Community Consultation). Twice, I attempted to

contact the Eastwood Community League for their input but, to date, have not received a reply (Attachment 5 - EWCL Emails).

This type of property is quite common in Eastwood and I have found several other properties nearby that appear to also be operating as semi-detached with secondary suites (Attachment 6 - Nearby Semi-Detached Properties with Secondary-Suites). In addition to these properties, I have discovered other properties that have been approved by the Development Authority or have successfully completed the SDAB appeal process and been approved as 4-unit apartments. The closest one is a block south of my property at 12126/28 —85 St NW (SDAB-D-13-100 — May 23, 2013). Acting on advice from a City Development Officer, I am including information regarding these other approved properties below.

<i>General Matters</i>
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**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

...

### **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 140.1 states that the **General Purpose** of the **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, and including Secondary Suites under certain conditions.

Under section 140.2(1), **Apartment Housing** is a **Permitted Use** in the **RF3 Small Scale Infill Development Zone**.

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

Section 814.1 states 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.

***I. Site Area***

Section 140.4(5)(a) states the minimum Site area for Apartment Housing is 750 square metres.

**Development Officer's Determination:**

Existing Site Area = 696.91 square metres  
Deficient = 53.09 square metres

***II. Site Width***

Section 140.4(5)(b) states the minimum Site width for Apartment Housing is 17.0 metres.

**Development Officer's Determination:**

Existing Site width = 15.26 metres  
Deficient = 1.74 metres

***III. Locational Criteria***

Section 140.4(7) states Apartment Housing shall be located:

- a. on Corner Sites,
- b. on Sites Abutting an arterial or service road,
- c. where both Side Lot Lines Abut existing Apartment Housing or Stacked Row Housing, or
- d. where a minimum of one Side Lot Line:
  - i. Abuts a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use, or

- ii. is not separated by a public roadway, including a Lane, more than 10.0 m wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.

**Development Officer’s Determination:**

None of the above requirements of item #3 were met.

***IV. Site Coverage***

Section 140.4(10) states the Maximum Site Coverage shall be as follows:

	Principal Dwelling building /	Accessory building	Principal building with attached Garage	Total Site Coverage
f. All other uses	28 percent	12 percent	40 percent	40 percent

Under Section 6.1(101), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 metres or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 metres above Grade.

**Development Officer’s Determination:**

Site Area:	696.91 square metres
12 percent allowable Site Coverage:	83.63 square metres
28 percent allowable Site Coverage:	195.14 square metres
40 percent allowable Site Coverage:	278.77 square metres
Accessory Building:	97.57 square metres
Principal Building:	195.14 square metres
Total Site Coverage:	292.71 square metres

**The maximum allowable Site Coverage for an Accessory Building is 83.63 square metres, proposed is 97.57 square metres, which exceeds the maximum allowable Site Coverage for an Accessory Building by 13.94 square metres.**



**The maximum allowable total Site Coverage is 278.77 square metres, proposed is 292.71 square metres, which exceeds the maximum allowable total Site Coverage by 13.94 square metres.**

***V. Amenity Area***

Section 140.4(15) states **Private Outdoor Amenity Area** shall be provided on Site in accordance with Section 47 of this Bylaw.

Section 47, **Private Outdoor Amenity Area**, states:

1. Where required in any Zone, a development shall provide Private Outdoor Amenity Area in accordance with the requirements of the Zone.
2. Private Outdoor Amenity Area shall be designed for the occupants of a specific Dwelling, and shall be provided immediately adjacent to, and with direct access from, the Dwelling it is to serve. It shall be landscaped and surfaced for convenient use for outdoor activities.
3. Private Outdoor Amenity Area shall be screened in a manner which prevents viewing into a part of it from any adjacent areas at a normal standing eye level. When such screening would impair a beneficial outward and open orientation of view, and there is no adverse effect on the privacy of the Private Outdoor Amenity Area, the extent of screening may be reduced.
4. Private Outdoor Amenity Area may be provided above Grade, and may be located within any Yard other than a Front Yard.
5. Neither the width nor the length of any Private Outdoor Amenity Area shall be less than 4.0 metres, except that if it is provided above the first Storey the minimum dimensions shall be 3.0 metres.
6. Private Outdoor Amenity Area may be located within a required Separation Space, but only if the Amenity Area is intended for the use of the Dwelling for which the Separation Space is provided.

Section 6.1(84) states **Private Outdoor Amenity Area** means required open space provided and designed for the active or passive recreation and enjoyment of the residents of a particular Dwelling and which is immediately adjacent to and directly accessible from the Dwelling it is to serve.

**Development Officer's Determination:**

Proposed Private Outdoor Amenity Area[s] are not immediately adjacent to each Dwellings. Deficient

***VI. Access to Grade***

Section 140.4(23) states each Dwelling that has direct access to Grade shall have an entrance door or entrance feature facing a public roadway, other than a Lane. On Corner Sites, the entrance door or entrance feature may face either the Front Lot Line or the flanking Side Lot Line. However, Row Housing and Stacked Row Housing shall orient a minimum of one entrance door or entrance feature towards each adjacent public roadway, other than a Lane. Sliding patio doors shall not serve as the entrance door or entrance feature

**Development Officer's Determination:**

The 2 Dwellings on lower level are facing interior side setback.  
Deficient

***VII. Principal Building***

Section 814.3(9) states Principal buildings shall face a public roadway other than a Lane.

**Development Officer's Determination:**

Only 2 Dwellings are facing the road. The other 2 are facing the interior side setback.  
Deficient

***VIII. Length of Driveway***

Section 54.2(4)(a) 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.

**Development Officer's Determination:**

Proposed driveway is only 5.13 metres long.  
Deficient

***Community Consultation***

Section 814.3 states when a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:


- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 metres of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

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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*.

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	Project Number: <b>235119852-002</b> Application Date: JAN 16, 2017 Printed: March 24, 2017 at 10:04 AM Page: 1 of 3		
<h2 style="margin: 0;">Application for Major Development Permit</h2>			
<p>This document is a Development Permit Decision for the development application described below.</p>			
<b>Applicant</b>  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	<b>Property Address(es) and Legal Description(s)</b> 12220 - 85 STREET NW Plan 0921841 Blk 30 Lot 16B  12222 - 85 STREET NW Plan 0921841 Blk 30 Lot 16A  <b>Specific Address(es)</b> Entryway: 12220 - 85 STREET NW Entryway: 12222 - 85 STREET NW Building: 12220 - 85 STREET NW		
<b>Scope of Application</b> To convert a Semi-detached House to 4 Dwellings of Apartment Housing - existing without permits.			
<b>Permit Details</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">           Class of Permit:            Gross Floor Area (sq.m.):            New Sewer Service Required: Y            Site Area (sq. m.):         </td> <td style="width: 50%; border: none; vertical-align: top;">           Contact Person:            Lot Grading Needed?: N            NumberOfMainFloorDwellings:            Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay         </td> </tr> </table>		Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: Y Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<b>Development Application Decision</b> Refused			
<p><b>THIS IS NOT A PERMIT</b></p>			



Project Number: **235119852-002**  
 Application Date: JAN 16, 2017  
 Printed: March 24, 2017 at 10:04 AM  
 Page: 2 of 3

## Application for Major Development Permit

**Reason for Refusal**

The proposed development increases the intensity of use of the residential building. It is a conversion of a Semi-detached House to a 4 Dwelling Apartment Housing (existing without permits).

Numerous requirements due to the increase in intensity of use were not met:

- 1) Minimum Site Area required for Apartment Housing is 750 sm. (Reference Section 140.4(5a))  
 - Existing site area is 696.91 sm. Deficient
- 2) Minimum Site Width required for Apartment Housing is 17.0 m. (Reference Section 140.4(5b))  
 - Existing site width is 15.26 sm. Deficient
- 3) Apartment Housing shall be located: (Reference Section 140.4(7))
  - a. on Corner Sites,
  - b. on Sites Abutting an arterial or service road,
  - c. where both Side Lot Lines Abut existing Apartment Housing or Stacked Row Housing, or
  - d. where a minimum of one Side Lot Line:
  - i. Abuts a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use, or
  - ii. is not separated by a public roadway, including a Lane, more than 10.0 m wide from a Site where a Commercial Use, or Stacked Row Housing or Apartment Housing with a maximum Height greater than four Storeys, is a Permitted Use.
 - None of the above requirements of item # 3 were met.
- 4) Maximum Site Coverage for Apartment Housing shall be: (Reference Section 140.4(10)(f))
  - a. 12% of Site Area for Accessory Building (detached garage)  
 - Existing garage is 14%. This exceeded the maximum requirement by 2% or 13.9 sm.
  - b. 40% of Site Area for all buildings within the Site.  
 - Existing house and detached garage have a total of 42% of Site Coverage. This exceeded the maximum requirement by 2% or 13.9 sm.
- 5) Private Outdoor Amenity Area (POAA) shall be provided on Site in accordance with Section 47 of this Bylaw. (Reference Section 140.4(15))  
 - Proposed POAAs are not immediately adjacent to each Dwellings. Deficient
- 6) Each Dwelling that has direct access to Grade shall have an entrance door or entrance feature facing a public roadway, other than a Lane. (Reference Section 140.4(23))  
 - The 2 Dwellings on lower level are facing interior side setback. Deficient
- 7) Principal buildings shall face a public roadway other than a Lane. (Reference Section 814.3(9))  
 - Only 2 Dwellings are facing the road. The other 2 are facing the interior side setback. Deficient.
- 8) Length of parking space shall be a minimum of 5.5 m.  
 - Proposed driveway is only 5.13 m long. Deficient.

**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: Mar 24, 2017      Development Authority: ANGELES, JOSELITO      Signature: \_\_\_\_\_

Fees				
	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$542.00	\$542.00	03863226	Jan 16, 2017

**THIS IS NOT A PERMIT**



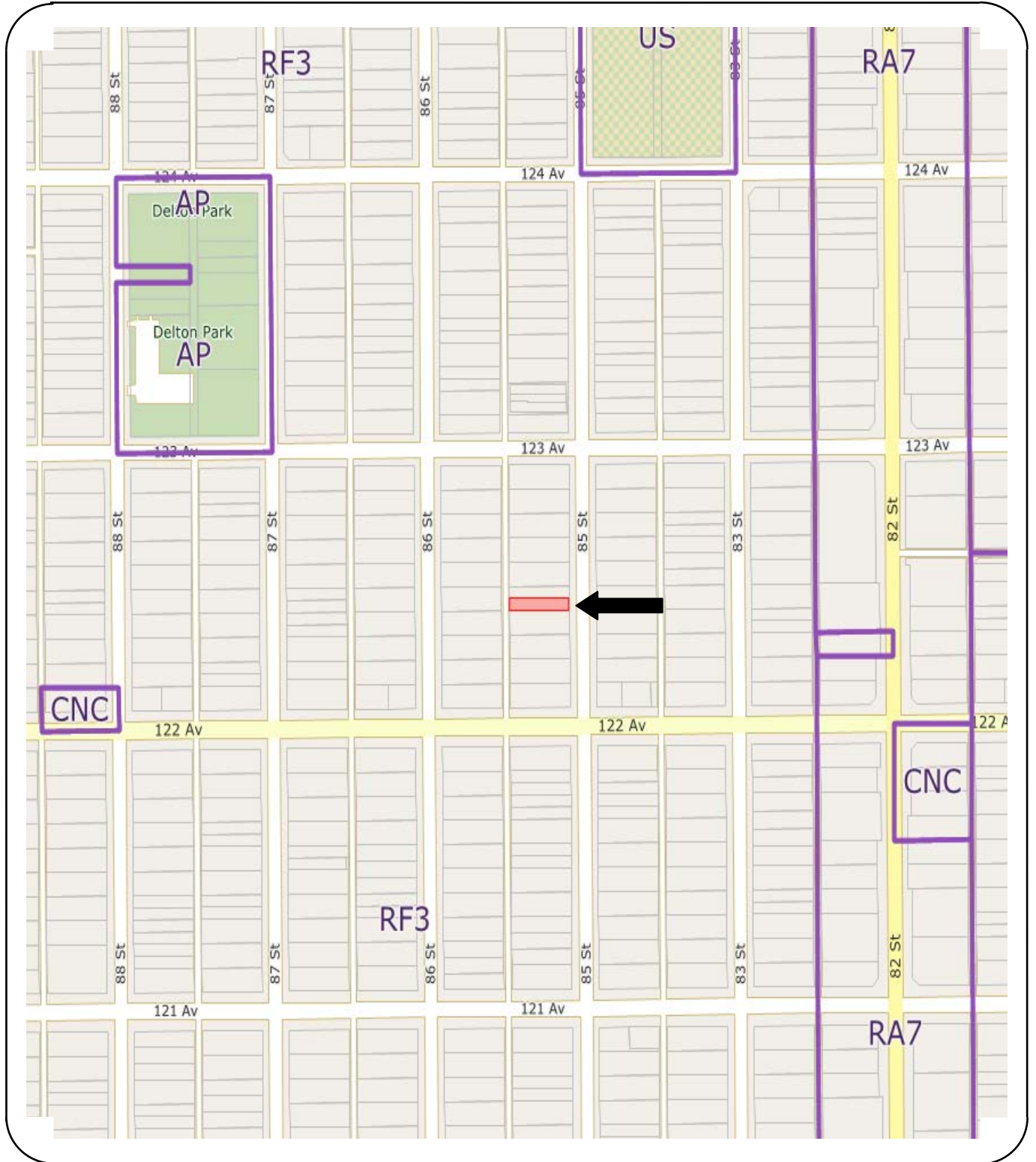
Project Number: 235119852-002  
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Page: 3 of 3

## Application for Major Development Permit

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Sanitary Sewer Trunk Fund 2012+	\$3,132.00			
Total GST Amount:	<u>\$0.00</u>	<u>          </u>		
Totals for Permit:	\$3,674.00	\$542.00		
(\$3,132.00 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-17-077

