

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Wednesday, 9:00 A.M.
April 21, 2021

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-21-060

Construct a Single Detached House with a front attached Garage, front covered deck with a floating staircase, balcony, Secondary Suite in the Basement and to demolish an existing Single Detached House and rear detached Garage

9316 - 98 Street NW
Project No.: 364226433-002

II 10:30 A.M. SDAB-D-21-061

Construct a Single Detached House with Unenclosed Front Porch, Front Balcony, rear uncovered deck (4.88m x 5.23m), fireplace, Basement development (NOT to be used as an additional Dwelling) with wet bar and to demolish a Single Detached House and Accessory building (detached Garage)

9024 - 94 Street NW
Project No.: 378594958-002

III 1:30 P.M. SDAB-D-21-062

Convert a Single Detached House to a Child Care Service, and construct interior alterations (maximum 37 children)

9504 - 167 Street NW
Project No.: 385214403-002

NOTE: *Unless otherwise stated, all references to "Section numbers" in this Agenda refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-21-060

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 364226433-002

APPLICATION TO: Construct a Single Detached House with a front attached Garage, front covered deck with a floating staircase, balcony, Secondary Suite in the Basement and to demolish an existing Single Detached House and rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 16, 2021

DATE OF APPEAL: March 23, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9316 - 98 Street NW

LEGAL DESCRIPTION: Plan 1459BA Blk 3 Lot 9

ZONE: (RF2) Low Density Infill Zone

OVERLAY(S): Mature Neighbourhood Overlay
North Saskatchewan River Valley and Ravine System Protection Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

This lot has various hardships around it. A retaining wall on the west side, multiple power poles on the south side, a 25' easement on the east side and a natural vegetation on the south with a 14' grade change from front to back and a 6' grade change to the direct neighbour. This lot by many standards is an abnormal lot within Edmonton that strains many of the architectural bylaws.

<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 written decision is given 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.

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;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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*:

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

Under section 7.2(8), **Single Detached Housing** means:

development consisting of a building containing one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 120.1 states that the **General Purpose** of the **(RF2) Low Density Infill Zone** is “to allow for Single Detached Housing, infill on narrow lots, Semi-detached Housing, Duplex Housing, Secondary Suites and Garden 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.

Section 811.1 states that the **General Purpose** of the **North Saskatchewan River Valley and Ravine System Protection Overlay** is “to provide a development Setback from the North Saskatchewan River Valley and Ravine System.”

<i>Height</i>

Section 814.3(5) states “The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones.”

Under section 6.1, **Height** means “a vertical distance between two points.”

Development Officers Determination

- 1. Building Height - The maximum height shall not exceed 8.9m to the midpoint and 10.4m to the peak. (Section 814.3.5 & Section 52).**
 - proposed to midpoint 9.7m; exceeded by 0.8m;
 - proposed to peak 11.6m; exceeded by 1.2m.

[unedited]

Driveway Access

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Development Officers Determination

- 2. Driveway Access Location - The driveway is located off of 98 Street (front) instead of the lane. (Section 814.3.17)**

[unedited]

Attached Garage

Section 814.3(18) states:

Attached Garages shall be developed in accordance with the following:

- a. a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface;
- b. a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface;
- c. building mass shall be articulated through features such as recessions or off-sets, architectural treatments, and Landscaping; and
- d. ...

Development Officers Determination

- 3. Front Attached Garage - The front attached garage is not the characteristic of the existing Garages on the blockface; there is no**

other house with a front attached garage on the blockface. (Section 814.3.18)

[unedited]

Minimum distance

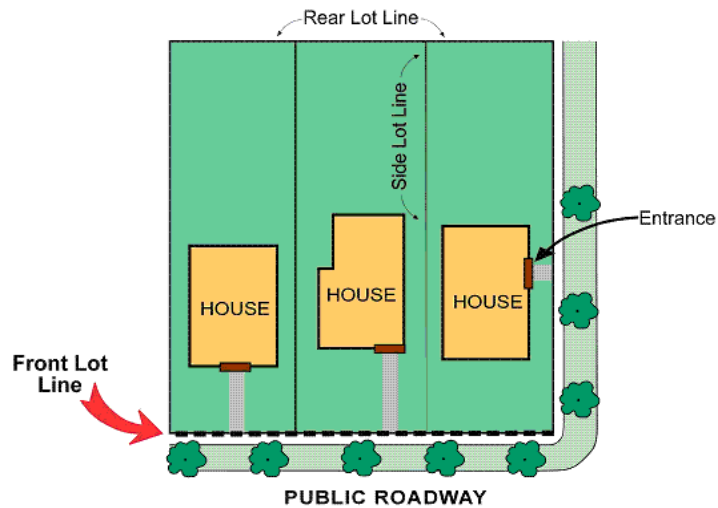
Section 120.4(8) states:

The minimum Front Setback shall be 4.5 m, except that:

- a. ...
- b. the minimum distance between the Front Lot Line and the door of an attached Garage shall be 5.5 m.

Under section 6.1, **Front Lot Line** means:

the property line separating a lot from an abutting public roadway other than a Lane. In the case of a Corner Lot, the Front Line is the shorter of the property lines abutting a public roadway, other than a Lane. In the case of a Corner Lot formed by a curved corner, the Front Lot Line shall be the shorter of the two segments of the property line lying between the point determined to be the actual corner and the two points at the extremities of that property line; In the case of Reverse Housing, the Front Lot Line means the shortest property line which is furthest from and opposite the Lot Line abutting the Lane.



Development Officers Determination

4. Reduced Front Setback - The distance from the front lot line to the front attached garage is 4.7m instead of 5.5m. (Section 120.4.8) 5.

[unedited]

Height and Grade

Section 52.4 states:

The Development Officer shall determine Grade by selecting, from the methods listed below, the method that best ensures compatibility with surrounding development:

- a. if the applicant can show by reference to reliable topographical maps that the elevation of the Site varies by no more than one meter in 30 lineal meters, the Development Officer may determine Grade by calculating the average of the highest and lowest elevation on the Site;
- b. the Development Officer may determine Grade by calculating the average of the elevation at the corners of the Site prior to construction as shown on the applicant's grading plan;
- c. the Development Officer may determine Grade by calculating the average elevation of the corners of the buildings on all properties Abutting the Site or separated from the Site by a Lane;
- d. for a Site where the highest geodetic elevation at a corner of the front property line is greater than the lowest geodetic elevation at a corner of the rear property line by 2.0 m or more, the Development Officer may determine Grade by calculating the average elevation of the front corners of the Lot, and along the side property lines a distance equal to the minimum front Setback in the underlying Zone from the front property line. This method is intended for small scale development with a single Principal building and is not intended to be used for Multi-unit Project Developments;
- e. for a Garden Suite, the Development Officer may determine Grade by calculating the average of the elevation of the corners at the Rear Lot Line prior to construction as shown on the applicant's Site Plan; or

- f. **the Development Officer may use his variance power to determine Grade by a method other than the ones described in subsection 52.4. If so, this shall be a Class B Discretionary Development.**

Development Officers Determination

- 5. **Grade - Grade was calculated based on the average of 7 specific points on the property, in which is an alternative method to those in Section 52.4. (Section 52.4 (f))**

[unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a 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) and 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 11.3 and 11.4.


Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay 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(5) - Height 814.3(17) - Driveway Access 814.3(18) - Attached Garage
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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.

	Project Number: 364226433-002 Application Date: JUN 05, 2020 Printed: March 26, 2021 at 2:55 PM 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	Property Address(es) and Legal Description(s) 9316 - 98 STREET NW Plan 1459BA Blk 3 Lot 9 Specific Address(es) Suite: 9316 - 98 STREET NW Suite: BSMT, 9316 - 98 STREET NW Entryway: 9316 - 98 STREET NW Building: 9316 - 98 STREET NW		
Scope of Application To construct a Single Detached House with a front attached Garage, front covered deck with a floating staircase, balcony, Secondary Suite in the Basement and to demolish an existing Single Detached House and rear detached Garage.			
Permit Details <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> # of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N </td> <td style="width: 50%; vertical-align: top;"> # of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Ames Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 1 # of Secondary Suite Dwelling Units To Construct: 1 Client File Reference Number: Minor Dev. Application Fee: Single Detached House Secondary Suite Included?: N	# of Primary Dwelling Units To Construct: 1 Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Ames Area: Mature Neighbourhood Overlay
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Development Application Decision Refused Issue Date: Mar 16, 2021 Development Authority: LAI, ECHO Reason for Refusal <ol style="list-style-type: none"> 1. Building Height - The maximum height shall not exceed 8.9m to the midpoint and 10.4m to the peak. (Section 814.3.5 & Section 52). <ul style="list-style-type: none"> - proposed to midpoint 9.7m; exceeded by 0.8m; - proposed to peak 11.6m; exceeded by 1.2m. 2. Driveway Access Location - The driveway is located off of 98 Street (front) instead of the lane. (Section 814.3.17) 3. Front Attached Garage - The front attached garage is not the characteristic of the existing Garages on the blockface; there is no other house with a front attached garage on the blockface. (Section 814.3.18) 4. Reduced Front Setback - The distance from the front lot line to the front attached garage is 4.7m instead of 5.5m. (Section 120.4.8) 5. 5. Grade - Grade was calculated based on the average of 7 specific points on the property, in which is an alternative method to those in Section 52.4. (Section 52.4 (f)) 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.			
THIS IS NOT A PERMIT			



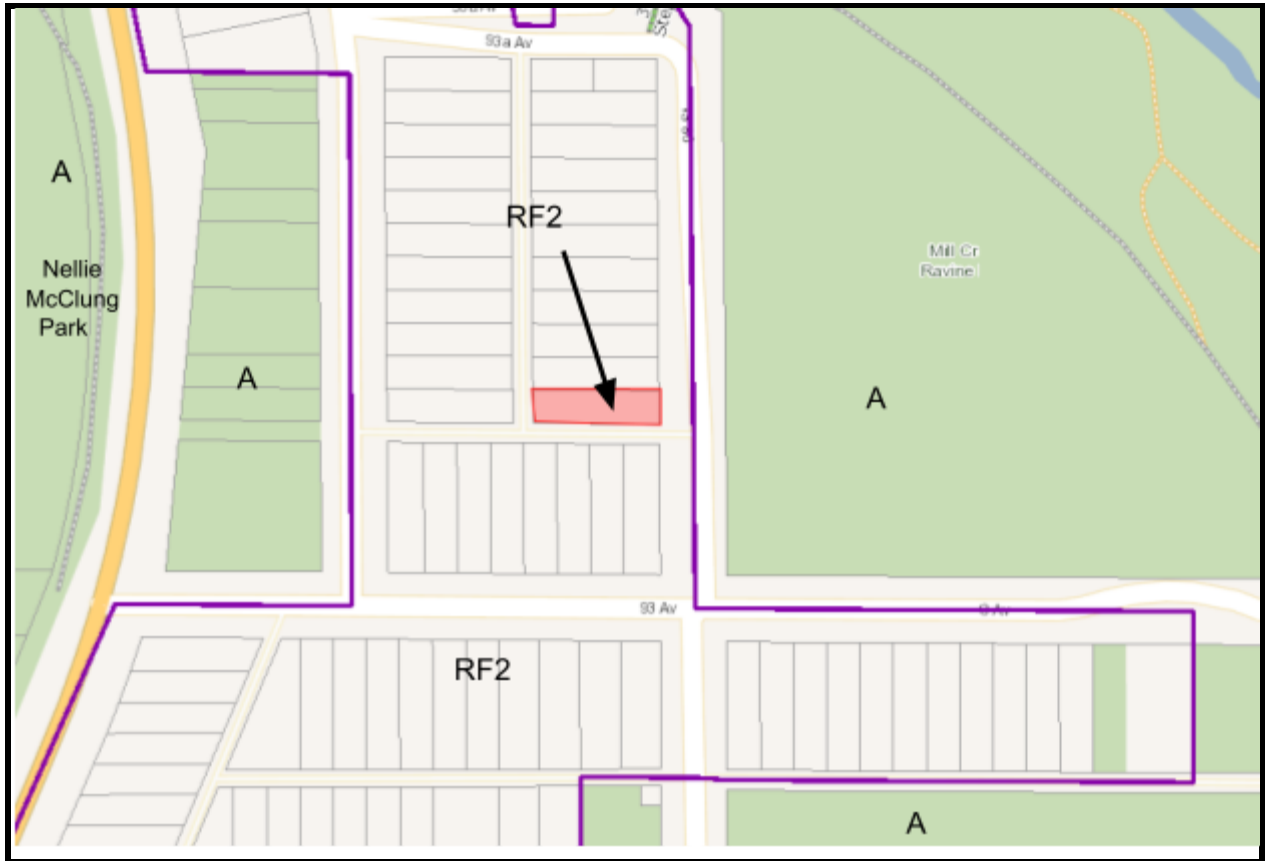
Project Number: **364226433-002**
Application Date: JUN 05, 2020
Printed: March 26, 2021 at 2:55 PM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$148.00	\$148.00	964220052743001	Jun 08, 2020
Development Permit Inspection Fee	\$211.00	\$211.00	964220052743001	Jun 08, 2020
Sanitary Sewer Trunk Fund (Secondary/Garden Suite)	\$758.00	\$758.00	968231005696001	Jun 17, 2020
Dev. Application Fee	\$502.00	\$502.00	964220052743001	Jun 08, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,619.00</u>	<u>\$1,619.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

▲
N

File: SDAB-D-21-060

ITEM II: 10:30 A.M.

FILE: SDAB-D-21-061

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 378594958-002

APPLICATION TO: Construct a Single Detached House with Unenclosed Front Porch, Front Balcony, rear uncovered deck (4.88m x 5.23m), fireplace, Basement development (NOT to be used as an additional Dwelling) with wet bar and to demolish a Single Detached House and Accessory building (detached Garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 16, 2021

DATE OF APPEAL: March 23, 2021

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9024 - 94 Street NW

LEGAL DESCRIPTION: Plan 1345AJ Blk 2 Lots 31-32

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:

We have been long term residents of the City of Edmonton and also in the community of Bonnie Doon, our intention is to raise our young family in this beautiful community and ensure we have a dwelling that meets our

current needs but also allows our family to grow into it. We worked very closely with our design team to ensure we adhered to the bylaws as close as we could while still achieving the size and space we desired. The current bylaws do not adequately reflect the current market conditions in regards to a modern families needs. The design we are proposing complements the existing streetscape and careful consideration was taken to ensure our home does not look like a three story structure.

The design utilizes a pitched roof on the third floor in the front and back with dormers in the middle so that the impact of the third floor from street level is minimal. As well, the roof design promotes privacy and nullifies overlook for both neighbors on the 3rd floor balconies located at the front and back of the home. This 3rd floor space is important to us and we wanted to create a space that felt much larger than its actual footprint. Through the use of the two dormers and large windows at the front and back we were able to minimize the size of the third floor to once again minimize its impact on the overall appearance of the home. We feel that although the dormers are slightly larger than what is allowable under the current bylaws, reducing them would significantly impact the functionality of that upper floor. We have also mitigated the building height by pushing the house further than typical into the ground.

Please find attached a street perspective of our proposed house (center) as well as two class 'A ' homes on either side that have been approved in the past. The homes on either side comply with all bylaws and this illustration is intended to illustrate that our house is consistent in appearance to those.

<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 written decision is given 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.

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;

(a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

(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*:

Under section 140.2(8), **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 one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 140.1 states that the **General Purpose** of the **(RF3) Small Scale Infill Development Zone** is “to provide for a mix of small scale housing.”

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.

Height

Section 814.3(5) states “The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones.”

Under section 6.1, **Height** means “a vertical distance between two points.”

Development Officers Determination

The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones (Section 814.3.5).

Proposed: The house is 9.0m in height, instead of 8.9m.

[unedited]

Dormers

Section 814.3(7) states “When a structure is greater than 7.5 m in Height, the width of any one Dormer shall not exceed 3.6 m. The aggregate total width of one or all Dormers shall not exceed one third of the length of the building’s wall in which the Dormers are located.”

Under section 6.1, **Dormer** means “an extension of a room that projects vertically beyond the plane of a sloped roof to allow for a window opening into the room.”

Development Officers Determination

When a structure is greater than 7.5 m in Height, the width of any one Dormer shall not exceed 3.6 m (Section 814.3.7).

Proposed: The side dormers are each 5.3m wide, instead of 3.6m.

[unedited]

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a 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) and 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 11.3 and 11.4.

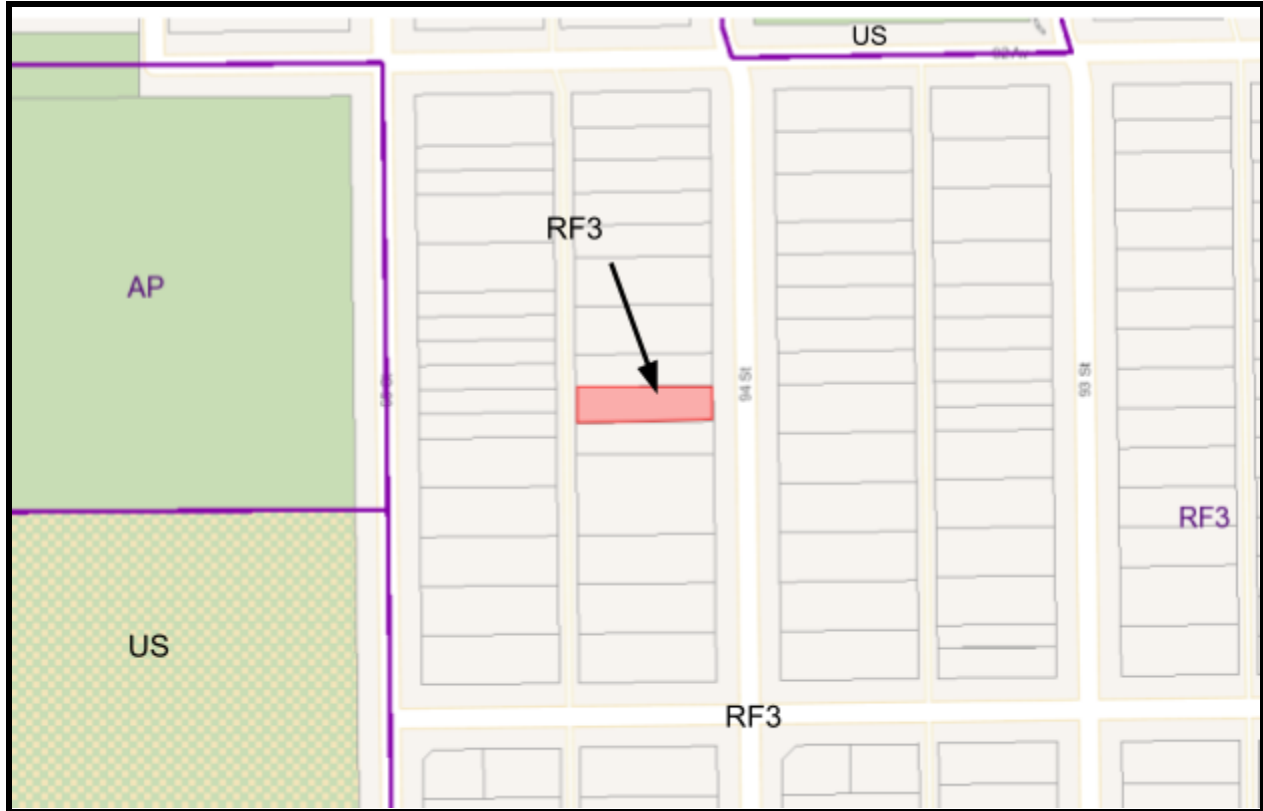
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay 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(5) - Height 814.3(7) - Dormer Width

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: 378594958-002 Application Date: NOV 18, 2020 Printed: March 16, 2021 at 9:08 AM Page: 1 of 1																																	
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Development Application Decision Refused Issue Date: Mar 16, 2021 Development Authority: PAYNE, KYLE Reason for Refusal When a structure is greater than 7.5 m in Height, the width of any one Dormer shall not exceed 3.6 m (Section 814.3.7). Proposed: The side dormers are each 5.3m wide, instead of 3.6m. The maximum Height shall not exceed 10.0 m in the RF5 Zone and 8.9 m in all other Zones (Section 814.3.5). Proposed: The house is 9.0m in height, instead of 8.9m. 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.																																		
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SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-21-061 ▲
N

ITEM III: 1:30 P.M.

FILE: SDAB-D-21-062

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 385214403-002

APPLICATION TO: Convert a Single Detached House to a Child Care Service,
and construct interior alterations (maximum 37 children)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: March 15, 2021

DATE OF APPEAL: March 22, 2021

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9504 - 167 Street NW

LEGAL DESCRIPTION: Plan 5417NY Blk 9 Lot 16

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

REASONS FOR REFUSAL RESPONSE:

1. General Purpose of RF1: Section 110.1 - The purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small-scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing. In the opinion of the Development Officer, the scale of the proposed conversion of the Single

Detached House to a Child Care Service with 37 children does not meet the General Purpose of the RF1 Zone. The scale of the proposed Child Care Service will generate a negative impact, specifically noise, and increased vehicular traffic for pick up and drop of children, uncharacteristic of the existing low density single detached residential district, immediately to the east and north side of the neighborhood.

OUR RESPONSE: Currently a brand-new school (Alex Janvier Elementary School) is being built in front of the proposed Daycare Center. There are also an existing two schools in the surrounding area which is West Lawn School and St. Thomas More School. The proposed Daycare Center is in response to the changing need of time. Canadian Childcare Resource Center will serve the General Public by providing an alternative childcare center in the area that will literally help the working parents and the neighborhood to have a reliable and reputable center just across these 3 schools.

The neighborhood that we are in right now is very much aware that this is a busy neighborhood where busy main roads are bustling with noise from cars and vehicles intersecting 95 and 167th. This situation was already here, and our neighborhood is very much aware of the existence of "people traffic and noise" since we live across 3 big schools.

Our Proposed Center will work hand in hand with the Community, The Schools and City of Edmonton to eliminate or reduce possible noise pollution or extra people traffic in the neighborhood by implementing the "Innovative, Responsive and Adaptive Childcare Program by opening our door to the Community as early as 6:00 AM to 9:00 PM thereby eliminating congestion or traffic in the area.

After due consultation with our stake holders and community advisory group we therefore conclude that being responsive towards the needs and demands of time are especially important factor in economic development and we support City of Edmonton local government, Provincial and Federal by providing an alternative innovative childcare for everyone regardless of the time of the day. When they need it, we will be here for them. With the responsibility that will be accorded to us there will be some the possible impact of our Center to the Community at large.

We resolved the possible "traffic and congestion" in the area that will be attributed to the new school that will open this September 2021. More and more Parents and Families will be driving towards the school at a rush hour from 7am-8am up to 8:30 am.

Our Center will be ready to decongest the "school vehicular and people traffic" by Parents not coming anymore to the school to drop off their children by car and instead they will just drop off their children to us as early as 6:00 am and we will be the one to drop them off directly to school on foot.

As per the City of Edmonton By Laws and Zoning Guidelines, the proposed Daycare Center is situated in the corner lot and a side service road. It was indicated in the category that an RF1 Category will have "discretionary uses" such as Child Care Services.

110.3 Discretionary Uses

As per the City of Edmonton By Laws and Zoning Guidelines, the proposed Daycare Center is situated in the corner lot and a side service road. It was indicated in the category that an RF1 Category will have "discretionary uses" such as Child Care Services.

2) Passenger Drop-off: Section 54.7.3.a - Passenger Drop-off Spaces for Child Care Services 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, except that; I. An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off Vehicle Parking space requirement without a variance if the Development Officer, after consultation with the applicable City department, finds that the proposal meets the requirements of the applicable City department.

OUR RESPONSE:

The Proposed Daycare will provide 5-6 PARKING STALLS that will be seen in the revised drawings. Please take note that the total number of students we are applying to is only 37 students. Our Daycare is focused on safety, security and total well-being of everyone. We support and will continue to support any recommendation of the Development Officer to make this endeavor a reality.

Progress is everywhere. The resilience of Edmontonians to rise from ashes after this pandemic is heartwarming. The City of Edmonton supported everyone in this Global Tragedy.

In our own little ways at CANADIAN CHILDCARE RESOURCE CENTER INC., we would like to help each in everyone in the community to have a reliable childcare center that is multicultural, diverse, and innovative in ways to uphold and protect the rights of the children.

The endeavor that we are embarking here is a service for the community to bridge the gap between Parents and Childcare Centers. Canadian Childcare Resource Center will provide an alternative place for the Parents to drop off their children much earlier than the traditional daycare centers. This will allow single parents and families to work and be productive members of society.

At the end of the day, the importance of providing services to everyone is what our company stands for and we are hoping for your favorable response regarding this matter.

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.

(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 written decision is given 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.

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;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (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*:

Under section 110.3(1), **Child Care Services** is a **Discretionary Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.8(2), **Child Care Services** means:

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.

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, Garden Suites, Semi-detached Housing and Duplex Housing."

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.

<p><i>Discretionary Use</i></p>
--

Development Officers Determination

The proposed development, a **Child Care Service** is listed as a **Discretionary Use in the RF1 (Single Detached Residential Zone)**. **Discretionary Uses** means those uses of land, buildings or structures for which **Permits** may be issued only at the discretion of the **Development Officer**.

In the opinion of the Development Officer, the proposed development is not a suitable Use in the context of the site, and refused for the following reasons:

[unedited]

General Purpose of the (RF1) Single Detached Residential Zone

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, Garden Suites, Semi-detached Housing and Duplex Housing.”

Development Officers Determination

1. General Purpose of RF1:

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

In the opinion of the Development Officer, the scale of the proposed conversion of the Single Detached House to a Child Care Service with 37 children does not meet the General Purpose of the RF1 Zone. The scale of the proposed Child Care Service will generate a negative impact, specifically noise, and increased vehicular traffic for pick up and drop of children, uncharacteristic of the existing low density single detached residential district, immediately to the east and north side of the neighborhood.

[unedited]

Passenger Drop-off Spaces

Section 54.7(3) states:

Passenger Drop-off Spaces for Child Care Services shall:

- a. 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, except that;
 - i. An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off Vehicle Parking space requirement without a variance if the Development

Officer, after consultation with the applicable City department, finds that the proposal meets the requirements of the applicable City department;

Development Officers Determination

2. Passenger Drop-off:

Section 54.7.3.a - Passenger Drop-off Spaces for Child Care Services 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, except that;

i. An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off Vehicle Parking space requirement without a variance if the Development Officer, after consultation with the applicable City department, finds that the proposal meets the requirements of the applicable City department.

**Required: 5 pick-up/drop-off spaces
Proposed: 2 pick-up/drop-off spaces
Deficient by: 3 pick-up/drop-off spaces**

The City's Transportation Operations does not support an on-street drop-off zone for the proposed Day Care Services on either 95 Avenue services road or 167 Street. In the opinion of the Development Officer, the parking deficiency is significant and would have a negative impact on the surrounding properties, uncharacteristic of the residential area, and with respect to traffic and on-street parking congestion.

[unedited]

Section 80 - Child Care Services

A Child Care Service shall comply with the following:

1. Child Care Services Site Plan and Development Application Content:
 - a. In addition to the requirements of Section 13, every application for a Development Permit for a Child Care Services Use shall include a Site plan and floor plan that combined, includes all information required in the Child Care Services Checklist.
2. Location requirements:

- a. No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for the following Uses:
 - i. Automotive and Equipment Repair Shops
 - ii. Fleet Services
 - iii. Funeral, Cremation and Internment Services
 - iv. General Industrial Uses
 - v. Rapid Drive-through Vehicle Services, or
 - vi. Vehicle and Equipment Sales/Rentals.
- b. No portion of a Child Care Services Use, including the building, building bay or on-Site outdoor play space, where provided, shall be located on a Site or adjacent to a Site with an approved development permit for the following Uses:
 - i. Land Treatment
 - ii. Major Impact Utility Services, or
 - iii. Minor Impact Utility Services.
- c. No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.
- d. Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer.
- e. Where Child Care Services is proposed on a Site zoned (IB) Business Industrial Zone, (IL) Light Industrial Zone, or (EIB) Ellerslie Business Industrial Zone, it shall only be allowed if the Site development forms part of an office park development or commercial strip mall.

3. Playspace requirements

- a. Where outdoor play space is provided at ground level it shall be allowed in any Yard. It shall be Fenced on all sides and all gates shall be self-latching. Fencing shall not be required where outdoor play space is proposed to share existing play equipment on Sites zoned (US) Urban Services Zone or (AP) Public Parks Zone, or if an exemption is permitted by the Government of Alberta.
- b. Where outdoor play space is provided above the first level such as on a Rooftop Terrace, balcony, or similar, the following regulations shall apply:
 - i. Perimeter guard rails, or parapet walls, or a combination thereof that is at least 1.83 m in Height and provides a secure perimeter shall be installed and shall be consistent with the architectural materials and style of the building.
 - ii. Mechanical equipment and exhaust systems shall be designed to be integrated into the play space so the Development Officer is satisfied that it does not create adverse effects related to noise, fumes or safety, or shall be located a minimum of 2 m outside of the perimeter of the outdoor play space.

4. Development in Residential Zones

- a. Where a Child Care Services Use is proposed in a building with a valid development permit for Multi-unit Housing or Row Housing, the Child Care Services shall not be part of a Dwelling.
- b. Where a Child Care Services Use is proposed as part of a Dwelling, or is proposed in a converted Single Detached Housing, the Use shall only be located:
 - i. on a Corner Lot; or
 - ii. on a Site Abutting a Site that is actively used for a Community, Educational, Recreational and Cultural Service Use Class; or
 - iii. Abutting a Site with zoning that lists Multi-unit Housing, General Retail Stores or Convenience Retail Stores as a permitted Use.
- c. A converted Dwelling shall not change the principal character or external appearance of the Dwelling in which it is located.


- d. If a new building is constructed for a Child Care Services Use, it shall retain the external appearance of a residential Dwelling, unless it is built as part of a development where the primary use is a Religious Assembly Use.


5. Sign Requirements

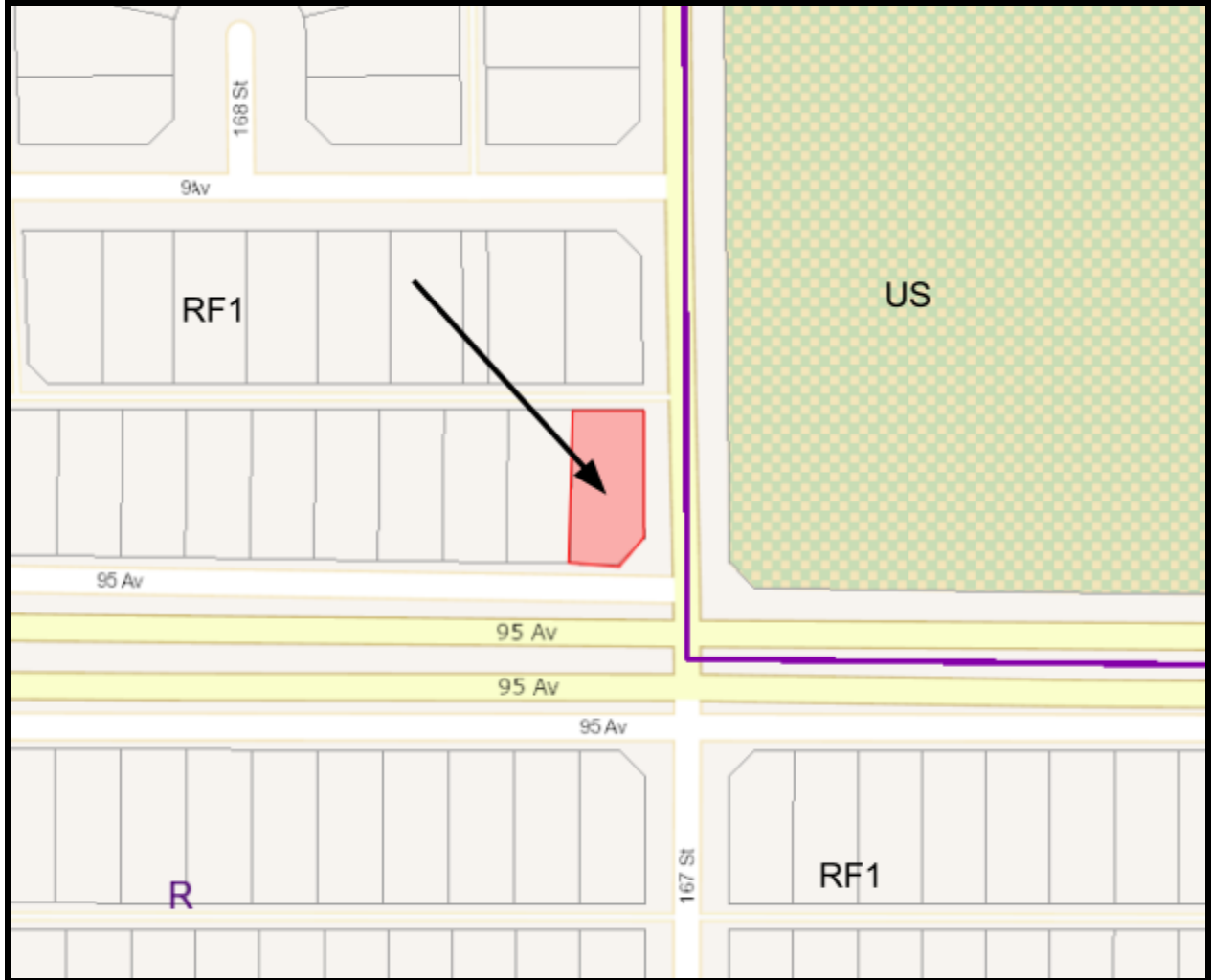
- a. Signs shall conform to the regulations found in the Sign Schedule for the underlying zone.

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.

	<p>Project Number: 385214403-002 Application Date: JAN 30, 2021 Printed: March 18, 2021 at 9:19 AM Page: 1 of 2</p> <h2 style="text-align: center;">Application for Major Development Permit</h2>		
<p>This document is a Development Permit Decision for the development application described below.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 9504 - 167 STREET NW Plan 5417NY Blk 9 Lot 16</p> <hr/> <p>Specific Address(es) Suite: 9504 - 167 STREET NW Entryway: 9504 - 167 STREET NW Building: 9504 - 167 STREET NW</p>		
<p>Scope of Application To convert a Single Detached House to a Child Care Service, and construct interior alterations (maximum 37 children).</p>			
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-21-062

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N