

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
August 13, 2015**

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

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

TO BE RAISED

I 9:00 A.M. SDAB-D-15-154

Construct an Accessory Building (6m x 24.38m)
existing without permits

6503 - 3 Street NW

Project No.: 150074417-003

II 1:00 P.M. SDAB-D-15-184
SDAB-D-15-185
SDAB-D-15-186
SDAB-D-15-187
SDAB-D-15-188
SDAB-D-15-189

Cease the operation of the ‘Non-accessory
Parking’ and completely prohibit vehicular
access to the site with barricades. This Order is
to be complied with on or before July 31, 2015

Tabled to August 26 or 27, 2015

11120 - 86 Avenue NW

11122 - 86 Avenue NW

11124 - 86 Avenue NW

11132 - 86 Avenue NW

Project No.: 174848500- (001 to 006)

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

TO BE RAISED
ITEM I: 9:00 A.M.

FILE: SDAB-D-15-154

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 150074417-003

APPLICATION TO: Construct an Accessory Building (6m x 24.38m) existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 29, 2015

DATE OF APPEAL: June 18, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6503 - 3 Street NW

LEGAL DESCRIPTION: Plan 138KS Lot 2

ZONE: DC1 (Maple Ridge) Direct Development Control Provision, Bylaw 15767

OVERLAY: N/A

STATUTORY PLAN: Maple Ridge Industrial Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

“In the opinion of the Development Officer, the proposed development is determined to be a General Industrial Use building.

- 1) The proposed General Industrial Use does not qualify as an allowable use under the DC1 Zone, Maple Ridge Industrial for the reason that it is not serviced to City of Edmonton standards for roads and sewers and does not have a service connection for portable water contrary to Section DC1 (3)(q) of the Maple Ridge Industrial.
- 2) The Temporary Storage yard was approved with conditions under Development Permit 117777648-002, dated February 21, 2013.

One of the conditions states that no structures or buildings related to this use shall be erected, nor shall the existing state of the land be materially altered. The proposed development is contrary to this condition.

- 3) Temporary Storage means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds (Zoning Bylaw 12800 Section 7.5(5)).

In the opinion of the Development Officer, the proposed General Industrial Use building is a Principal Use in addition to the Temporary Storage. Photographs from Development Compliance show the proposed development containing tires and mechanical parts that are used for repair work for the trucks in the Temporary Storage yard.”

APPELLANT’S SUBMISSION

“Don’t agree with the opinion of the Development Officer’s issue in statement of his decision. Further details will be submitted at a later time. This is a temporary storage building and not a repair shop as per the decision.”

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER’S COMMENTS

The Subdivision and Development Appeal Board at a hearing on July 16, 2015 made and passed the following motion:

“that SDAB-D-15-154 be TABLED to August 12 or 13, 2015, at the written request of the Appellant and the verbal consent of the Development Authority.”

Appeals

686(1) of the *Municipal Government Act, RSA 2000, c M-26 (“MGA”)* states the following:

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

...

The decision of refusal by the Development Officer is dated May 29, 2015. Fourteen days from the decision date is June 12, 2015 and the Notice of Appeal was filed on June 18, 2015.

Sustainable Development has submitted to the SDAB a Canada Post Registered Mail Delivery, dated June 18, 2015 that confirms the notice of refusal was delivered on June 16, 2015. **A copy of the Canada Post Registered Mail Delivery is on file.**

Designation of direct control districts

641(4) of the *MGA* states the following:

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.

Hearing and decision

687(3) of the *MGA* states the following:

In determining an appeal, the subdivision and development appeal board

....

- (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.

The Development Officer's decision in the application noted above reads:

The proposed General Industrial Use does not qualify as an allowable use under the DC1 Zone, Maple Ridge Industrial for the reason that it is not serviced to City of Edmonton standards for roads and sewers and does not have a service connection for portable water contrary to Section DC1 (3)(q) of the Maple Ridge Industrial.

General Industrial Uses is a listed Use only where serviced to City of Edmonton standards for roads and sewers and which shall have a service connection for potable water, is a listed Use in the DC1 (Maple Ridge) Direct Development Control Provision, Bylaw 15767, section 3.q.

Under section 7.5(2), **General Industrial Uses** means development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

The Development Officer's decision in the application noted above reads:

The Temporary Storage yard was approved with conditions under Development Permit 11777648-002, dated February 21, 2013. One of the conditions states that no structures or buildings related to this use shall be erected, nor shall the existing state of the land be materially altered. The proposed development is contrary to this condition.

Under section 7.5(5), **Temporary Storage** means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

The Development Officer's decision in the application noted above reads:

In the opinion of the Development Officer, the proposed General Industrial Use building is a Principal Use in addition to the Temporary Storage. Photographs from Development Compliance show the proposed development containing tires and mechanical parts that are used for repair work for the trucks in the Temporary Storage yard.

Section 7 provides the following with regard to Use Class Definitions:

7.1 General

1. Use Class Categories, as set out in subsections 7.2 through 7.9 inclusive, group Use Classes with common functional or physical impact characteristics. A Use Class groups individual land Uses with common functional or physical impact characteristics.
2. The Use Classes of this Section are used to define the range of Uses which are permitted or discretionary within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use Class definitions:
 - a. the typical Uses, which may be listed in the definitions, are not intended to be exclusive or restrictive. Reference should be made to the definition of the Use Class in determining whether or not a use is included within a particular Use Class;
 - b. where a specific use does not conform to the wording of any Use Class definition or generally conforms to the wording of two or more Use Class definitions, the Development Officer may, in his discretion, deem that the use conforms to and is included in that Use Class which he considers to be the most appropriate in character and purpose. In such a case, the use shall be considered a Discretionary Use, whether or not the Use Class is listed as Permitted or Discretionary within the applicable Zone; and
 - c. the Use Class headings such as Residential or Commercial do not mean that the Use Classes listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted and Discretionary Use Classes within each Zone.

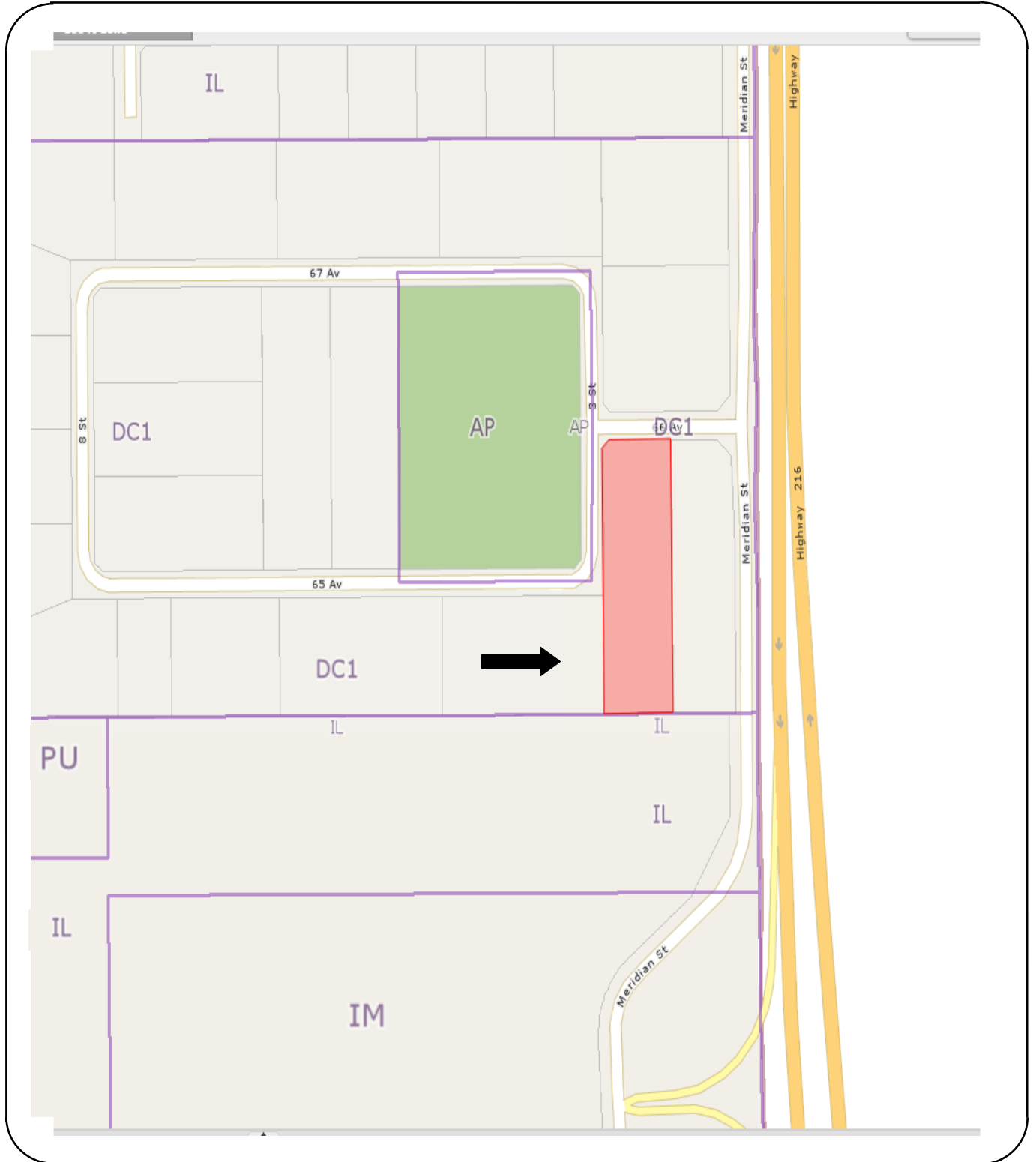
Under section 6.1(2), **Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Under section 6.1(108), **Use** means the purpose or activity for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.

DC1 (Maple Ridge Industrial) Direct Development Control Provision, Bylaw 15767, section 1 states the intent of this (DC1) Direct Control Provision is:

- To recognize existing residential and limited non-residential uses as permitted uses, but to prohibit any increase in the number of residential dwellings/lots.
- To permit improvements or additions to existing residential uses.
- To allow industrial uses with full City of Edmonton Standard services that are compatible with adjacent residential uses.

This DC1 allows transition to future industrial development with full City of Edmonton services for roads, sanitary sewer, drainage and potable water. The DC1 implements the policies of the Maple Ridge Industrial Area Structure Plan (section 4.8).



SURROUNDING LAND USE DISTRICTS

Site Location 

File: SDAB-D-15-154



ITEM II: 1:00 P.M.

FILE: SDAB-D-15-(184 to 189)

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 174848500 - (001 to 006)

ORDER TO: Cease the operation of the 'Non-accessory Parking' and completely prohibit vehicular access to the site with barricades. This order is to be complied with before July 31, 2015.

DECISION OF THE DEVELOPMENT OFFICER: Order Issued

DECISION DATE: July 6, 2015

DATE OF APPEAL: July 16, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11120 - 86 Avenue NW
11122 - 86 Avenue NW
11124 - 86 Avenue NW
11132 - 86 Avenue NW

LEGAL DESCRIPTION: Plan I23A Blk 166 Lots 6 to 11

ZONE: RA9 High Rise Apartment Zone

OVERLAY: N/A

STATUTORY PLAN: Garneau Area Redevelopment Plan

Tabled to August 26 or 27, 2015



BUSINESS LAID OVER

SDAB-D-15-184 /185/186/187/ 188/189	An appeal to cease the operation of the Non-Accessory Parking and completely prohibit vehicular access to the site with barricades <i>August 26 or 27, 2015</i>
SDAB-D-15-161	An appeal to construct four Dwellings of Row Housing with attached Garages and to demolish the existing Single Detached House and rear detached Garage <i>September 23 or 24, 2015</i>

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 *MGA*.
