

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 17, 2016**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I 9:00 A.M. SDAB-D-16-194

To construct an addition to a Semi-detached House (rear covered deck, 3.66 metres by 4.27 metres)

15539 - 59A Street NW
Project No.: 220524621-001

II 10:30 A.M. SDAB-D-16-195

To leave as Built an Accessory Building

12941 - 65 Street NW
Project No.: 189288219-004

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-16-194

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 220524621-001

APPLICATION TO: Construct an addition to a Semi-detached House (rear covered deck, 3.66 metres by 4.27 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 7, 2016

DATE OF APPEAL: July 26, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 15539 - 59A Street NW

LEGAL DESCRIPTION: Plan 9023542 Blk 26 Lot 22

ZONE: RF5 Row Housing Zone

OVERLAY: N/A

STATUTORY PLAN(S): Hollick Kenyon Neighbourhood Area Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

We are applying for an appeal on behalf of the home owner Helen Cabay regarding her proposed covered deck. We did not receive the development refusal until Wed, July 20th and by the time we contacted the customer we had missed the appeal deadline the next day on the 21st. I spoke with Christopher Davis in planning and he stated that the normally they receive a receipt confirmation and that they had not received one for permit and he expressed concern. I am requesting that you consider the short notice for filing the appeal and will allow us to proceed with the appeal.

The homeowner is an elderly lady who has decided to stay in this home long term. Her back yard space is unusable during the summer due to sun/heat and

her aging. She would like to add a cover to offer her a shady usable space during the warm months. She also babysits her 5 grandchildren and would have a place to entertain and watch over the children as they play during the summer months.

There are several like units/lots that have similar covers in the complex. She ordered a premium patio cover package and with her proposed landscaping would make a visually appealing addition.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

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

The Board is advised that the decision of approval by the Development Officer is dated July 7, 2016. The Notice of Appeal was filed on July 26, 2016.

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

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 160.1 states the **General Purpose** of the RF5 Row Housing Zone is to provide for relatively low to medium density housing, generally referred to as Row Housing.

Section 160.2(4) states **Semi-detached Housing**, on a Site of 1.4 hectares or less, is a **Permitted Use** in the RF5 Row Housing Zone.

Under Section 7.2(8), **Semi-detached Housing** means development consisting of a building containing only two Dwellings joined in whole or in part at the side or rear with no Dwelling being placed over another in whole or in part. Each Dwelling has separate, individual, and direct access to Grade. This type of development is designed and constructed as two Dwellings at the time of initial construction of the building. This Use Class does not include Secondary Suites or Duplexes.

Site Coverage

Section 160.4(4) states the maximum total Site Coverage shall be as follows:

| | Principal Dwelling building | / | Accessory building | Principal building with attached Garage or where parking is provided underground |
|--|-----------------------------|---|--------------------|--|
| (d) Semi-detached Housing - internal (non Corner) Dwelling | 30 percent | | 17 percent | 45 percent |

Under Section 6.1(94), **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

The Development Officer has provided the following information:

| | |
|--|----------------------|
| Site Area: | 342.07 square metres |
| 17 percent allowable Site Coverage: | 58.15 square metres |
| 30 percent allowable Site Coverage: | 102.62 square metres |
| 45 percent allowable Site Coverage: | 153.93 square metres |
| Principal Building (with attached garage): | 152.40 square metres |
| Proposed addition: | 15.61 square metres |
| Total Site Coverage: | 168.01 square metres |

The maximum allowable total Site Coverage is 153.93 square metres, proposed is 168.01 square metres, which exceeds the maximum allowable total Site Coverage by 14.08 square metres.

Rear Setback

Section 160.4(6) states the minimum Rear Setback shall be 7.5 metres, except the Rear Yard may be reduced to 5.5 metres where an attached Garage is provided.


Development Officer's Determination

Proposed: 3.73 metres

Deficient by: 1.77 metres

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: 220524621-001 Application Date: APR 27, 2016 Printed: July 14, 2016 at 8:51 AM 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) 15539 - 59A STREET NW Plan 9023542 Blk 26 Lot 22 Specific Address(es) Suite: 15539 - 59A STREET NW Entryway: 15539 - 59A STREET NW | | | | | | | | | | |
| Scope of Application To construct an addition to a Semi-detached House (rear covered deck, 3.66m x 4.27m). | | | | | | | | | | | |
| Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none;"> Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table> | | # 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 B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) | | | | | | | | |
| # 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 B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none) | | | | | | | | | | |
| I/We certify that the above noted details are correct. Applicant signature: _____ | | | | | | | | | | | |
| Development Application Decision Refused Reason for Refusal 1) For Semi-detached Housing - internal (non Corner) dwelling, where a Principal Building has an attached Garage or where parking is provided underground, maximum total Site Coverage shall be 45%. (Ref. Sec. 160.4(4)(b)) Proposed: 168.0 m2 (49.1%) Deficient by: 14.0 m2 (4.1%) 2) The minimum Rear Setback shall be 7.5m, except the Rear Yard may be reduced to 5.5m where an attached Garage is provided. (Ref. Sec. 160.4(5)) Proposed: 3.73 m Deficient by: 1.77 m 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: Jul 07, 2016 Development Authority: DAVIS, CHRISTOPHER Signature: _____ | | | | | | | | | | | |
| Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%;">Fee Amount</th> <th style="width: 10%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">\$159.00</td> <td style="text-align: right;">03236220</td> <td style="text-align: right;">Apr 27, 2016</td> </tr> </tbody> </table> | | | Fee Amount | Amount Paid | Receipt # | Date Paid | Dev. Application Fee | \$159.00 | \$159.00 | 03236220 | Apr 27, 2016 |
| | Fee Amount | Amount Paid | Receipt # | Date Paid | | | | | | | |
| Dev. Application Fee | \$159.00 | \$159.00 | 03236220 | Apr 27, 2016 | | | | | | | |
| THIS IS NOT A PERMIT | | | | | | | | | | | |



Project Number: **220524621-001**
Application Date: APR 27, 2016
Printed: July 14, 2016 at 8:51 AM
Page: 2 of 2

Application for Minor Development Permit

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|-----------------------|------------|-------------|-----------|-----------|
| DP Notification Fee | \$41.00 | | | |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | \$200.00 | \$159.00 | | |
| (\$41.00 outstanding) | | | | |

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location 

File: SDAB-D-16-194



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-195

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 189288219-004

ADDRESS OF APPELLANT: 12945 – 65 Street NW

APPLICATION TO: Leave as Built an Accessory Building.

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 27, 2016

DATE OF APPEAL: July 13, 2016

NOTIFICATION PERIOD: July 5, 2016 through July 18, 2016

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12941 - 65 Street NW

LEGAL DESCRIPTION: Plan 2552S Blk 6 Lot 13

ZONE: RF5 Row Housing Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Belvedere Station Area Redevelopment Plan

Grounds for Appeal

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

My neighbour at 12941 - 65 Street NW is destroying my garage foundation due to raining problems.

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.

685(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 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

...

or

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

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

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*:

Under section 160.3(12), **Single Detached Housing** is a **Discretionary Use** in the RF5 Row Housing Zone.

Section 160.1 states that the **General Purpose** of the **RF5 Row Housing Zone** is:

...to provide for relatively low to medium density housing, generally referred to as Row Housing.

Section 814.1 states the following with respect to the **General Purpose** of the **Mature Neighbourhood Overlay**:

...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.

Section 6.1(2) defines **Accessory** to mean "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."

Accessory Buildings in Residential Zones

Section 50.3 states the following:

In a Residential Zone:

4. Accessory buildings and structures shall be located on an Interior Site as follows:

...

- b. an Accessory building or structure shall be located not less than 0.9 metres from the Side Lot Line, except where it is a mutual Garage erected on the common property line to the satisfaction of the Development Officer, or where a Garage is placed on the common property line in accordance with the provisions of the RPL Zone, or where the Accessory building does not exceed the permitted fence Height or in the case of Garage Suites, where the minimum Side Setback shall be in accordance with Section 87.

...

Development Officer's Determination:

Reduced Side Setback - The distance from the garage to the property line shared with 12945 - 65 St (side lot line) is 0.38 metres instead of 0.9 metres (Section 50.3.4.b) [unedited]

Projection into Setbacks

Section 44.1 states the following:

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

...


- b) eaves or similar architectural features on Accessory buildings provided that such projections do not exceed 0.6 metres in the case of Setbacks or Separation Spaces of 1.2 metres or greater, and 0.46 metres for Setbacks or Separation Spaces of less than 1.2 metres.

Development Officer's Determination:

Eave projections - are 0.12 metres and 0.34 metres into property at 12945 - 65 St, instead of 0.46 metres into required yards or Separations spaces less than 1.2 metres. (Reference Section 44.1(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: 189288219-004 Application Date: APR 13, 2016 Printed: July 15, 2016 at 12:39 PM Page: 1 of 2 | | |
| Minor Development Permit | | | |
| This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended. | | | |
| Applicant | Property Address(es) and Legal Description(s) 12941 - 65 STREET NW Plan 2552S Blk 6 Lot 13 Specific Address(es) Entryway: 12941 - 65 STREET NW Building: 12941 - 65 STREET NW | | |
| Scope of Permit To Leave as Built an Accessory Building. | | | |
| Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> # of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Leave as Built (Accessory Bldg.) Secondary Suite Included?: N </td> <td style="width: 50%; border: none; vertical-align: top;"> Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table> | | # of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Leave as Built (Accessory Bldg.) Secondary Suite Included?: N | Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay |
| # of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Leave as Built (Accessory Bldg.) Secondary Suite Included?: N | Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay | | |
| I/We certify that the above noted details are correct. Applicant signature: _____ | | | |
| Development Permit Decision Approved Subject to the Following Conditions This Development Permit authorizes the development of a Leave as Built Accessory Building (Garage). The development shall be constructed in accordance with the stamped and approved drawings. An accessory building or structure shall not exceed 4.3m nor one storey in height. (Reference Section 6.1(35) and 50.3(2).) An Accessory building or structure shall be located not less than 0.9 m from a principal building(non MNO) and any other Accessory building or structure; Eave projections shall not exceed 0.46m into required yards or Separations spaces less than 1.2m. (Reference Section 44.1(b)) ADVISEMENTS: i.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800. ii.) An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site. | | | |
| The permit holder is advised to read the reverse for important information concerning this decision. | | | |



Project Number: **189288219-004**
 Application Date: APR 13, 2016
 Printed: July 15, 2016 at 12:39 PM
 Page: 2 of 2

Minor Development Permit

Variations

Reduced Side Setback - The distance from the garage to the property line shared with 12945 - 65 St (side lot line) is 0.38m instead of 0.9m (Section 50.3.4.b).
 Eave projections - are 0.12m and 0.34m into property at 12945 - 65 St, instead of 0.46m into required yards or Separations spaces less than 1.2m. (Reference Section 44.1(b))

Rights of Appeal

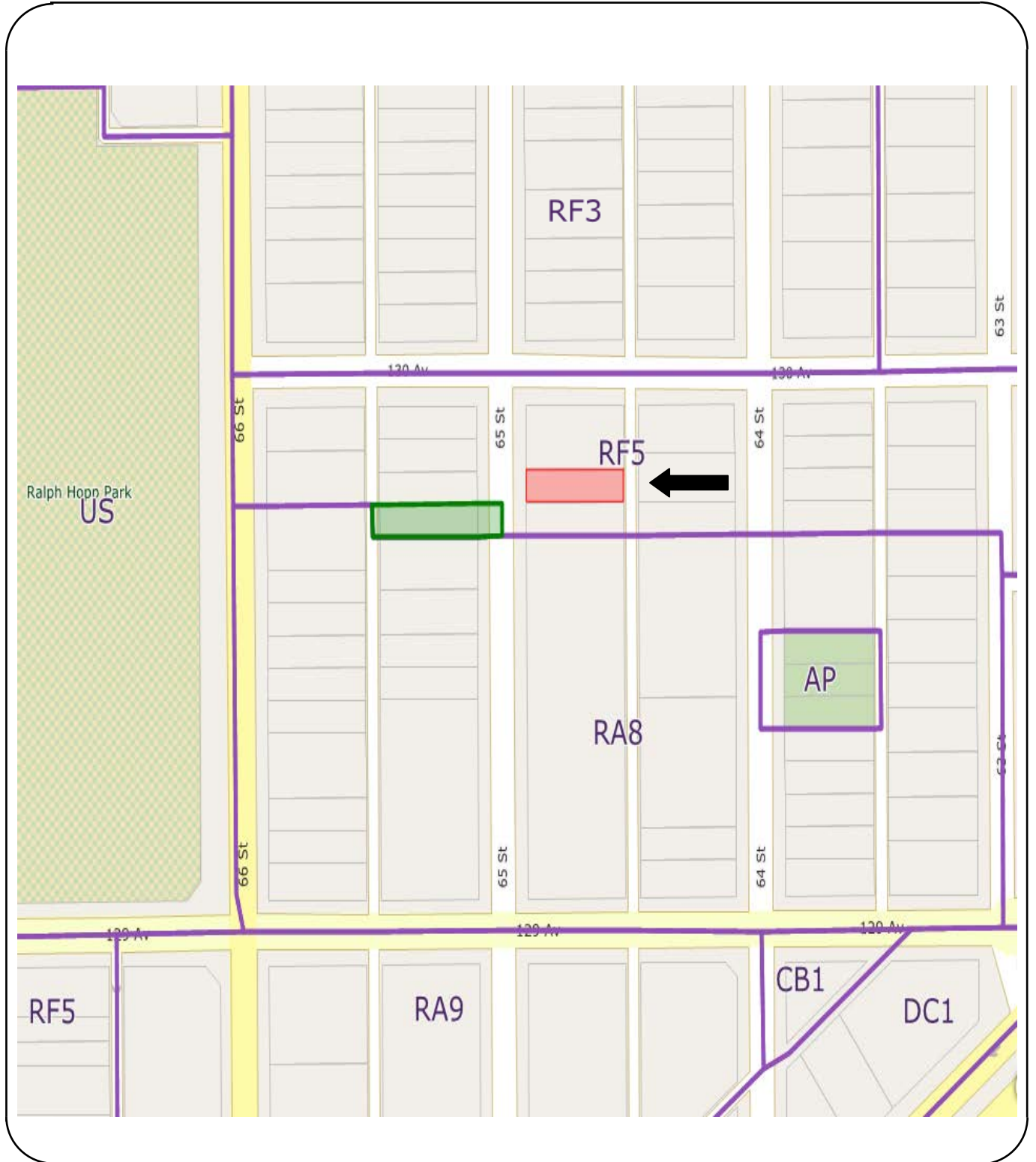
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jun 27, 2016 **Development Authority:** WATTS, STACY **Signature:** _____
Notice Period Begins: Jul 05, 2016 **Ends:** Jul 18, 2016

Fees

| | Fee Amount | Amount Paid | Receipt # | Date Paid |
|----------------------|------------|-------------|-----------|--------------|
| DP Notification Fee | \$41.00 | \$41.00 | 03200982 | Apr 14, 2016 |
| Dev. Application Fee | \$102.00 | \$102.00 | 03200982 | Apr 14, 2016 |
| Total GST Amount: | \$0.00 | | | |
| Totals for Permit: | \$143.00 | \$143.00 | | |

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-195



BUSINESS LAID OVER

| | |
|---------------|--|
| SDAB-D-16-176 | An appeal to install (1) Freestanding Off-premises Sign (Outfront Media), existing without permits <i>August 25, 2016</i> |
| SDAB-D-16-190 | An appeal to install a Freestanding Off-premises Sign (6.1 metres by 3 metres facing N/S) <i>September 1, 2016</i> |
| SDAB-D-16-187 | An appeal to construct a 3 Dwelling Apartment House and to demolish the existing Single Detached House. <i>August 31, 2016 or September 1, 2016</i> |
| SDAB-D-16-205 | An appeal to continue and intensify the use of an existing Protective and Emergency Services Use (Fire Station 21 with a 24/7 crew) and to allow interior and exterior alterations <i>September 1, 2016</i> |
| SDAB-D-16-204 | An appeal to develop a Secondary Suite in the basement of a Single Detached House, existing without permits <i>September 21 or 22, 2016</i> |
| SDAB-D-16-192 | An appeal to change the Use from General Retail to Minor Alcohol Sales (AKP Liquors) <i>September 21 or 22, 2016</i> |
| SDAB-D-16-144 | An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i> |