

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 26, 2015**

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

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

I 9:00 A.M. SDAB-S-15-008

Create separate titles for a Semi-detached Dwelling

15811 - 106 Avenue NW
Project No.: 169786241-001

II 1:00 P.M. SDAB-D-15-193

WITHDRAWN

To construct exterior alterations (2 faux dormers, non-livable space) to an Accessory Building, facing the lane (rear detached Garage)

5650 - Ada Boulevard NW
Project No.: 153782266-003

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-S-15-008

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPLICATION NO.:	169786241-001
APPLICATION TO:	Create separate titles for a Semi-detached Dwelling
DECISION OF THE SUBDIVISION AUTHORITY:	Refused
DECISION DATE:	July 15, 2015
DATE OF APPEAL:	July 30, 2015
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	15811 - 106 Avenue NW
LEGAL DESCRIPTION:	Plan 467KS Blk 8 Lot 28
ZONE:	RF4 Semi-detached Residential Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	N/A

SUMMARY

The proposed subdivision is REFUSED on July 15, 2015, for the following reason(s):

1. The proposed subdivision does not comply with the minimum Development Regulations identified in Section 150 of the City of Edmonton Zoning Bylaw. The minimum site depth identified in the RF4 (Semi-detached Residential) Zone for permitted and discretionary uses is 30.0 metres. The proposed lot depths are 15.2 metres each and therefore significantly deficient in depth by 14.8 metres, or 49%.

The proposal will result in site depths, and ultimately lot sizes, that are uncharacteristically small when compared to properties on the block face. For example, the site depths on the block face are approximately 45.7 metres. As stated, the proposed lot depths are 15.2 metres each, which are significantly smaller than those of other properties characteristic to the block face.

APPELLANT'S SUBMISSION

As counsel for the applicant I hereby appeal the attached decision of the Subdivision Authority.

The grounds of appeal are:

1. Refusal of the subdivision is unreasonable in light of the fact that a development permit had been issued for the semi-detached dwellings and has been constructed.
2. In light of the existence of the semi-detached dwellings, granting of a variance in respect of the lot depth and approving the subdivision will not adversely interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties.
3. In light of the existence of the semi-detached dwellings granting of subdivision approval will have no impact whatever on the appearance on the block face.
4. There are large numbers of subdivided semi-detached dwellings located on corner lots in the City with shallow lot depth as a result of orienting the front of the buildings onto the abutting street. So this is an acceptable planning practice in the City.
5. Such other grounds as become apparent at the hearing.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Semi-detached Housing is a Permitted Use in the RF4 Semi-detached Residential Zone under section 150.2(5).

Section 7.2(8) defines **Semi-detached Housing** as follows:

...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.

Section 150 states the following with respect to the **RF4 Semi-detached Residential Zone**:

...

150.4 Development Regulations for Permitted and Discretionary Uses

2. Site Regulations for Semi-detached Housing and Duplex Housing:
 - a. the minimum Site area shall be 442.2 m²;
 - b. the minimum Site Width shall be 13.4 m, where a Lane exists;
 - c. the minimum Site Width shall be 15.0 m, where no Lane exists;
and
 - d. the minimum Site depth shall be 30.0 m.

...

Section 60 states the following with respect to **Bare Land Condominium**:

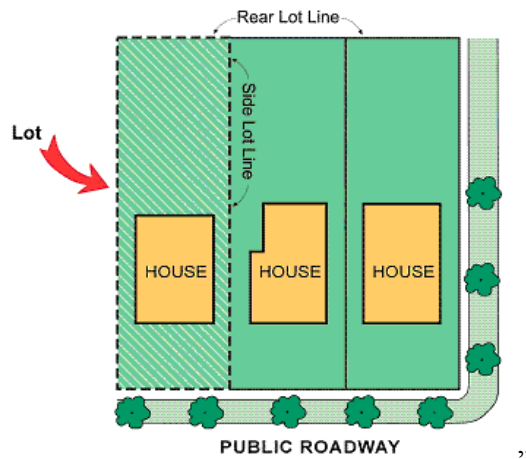
1. A Bare Land Condominium project must comply with all the general regulations of this Bylaw and with the regulations of the applicable Zone such that each Bare Land Condominium Unit is to be treated in the same respect as a lot.
2. An application for a Bare Land Condominium project shall include a comprehensive Site plan, in accordance with Section 13.5 of this Bylaw.
3. In the case where a Bare Land Condominium subdivision is served by a private roadway, the following shall apply:
 - a. a private roadway includes a Lot, Bare Land Condominium Unit, Common Property or portion of Common Property that may be created pursuant to the Condominium Property Act, RSA 2000, c. C-22, created for the purpose of vehicular access and circulation throughout the subdivision or development, including a bridge and any structure incidental to the roadway;
 - b. for the sole purpose of applying the regulations of this Bylaw, a private roadway, as described in Section 60(3)(a), shall be deemed to be the same as a "public roadway";
 - c. the private roadway must allow for the safe and efficient movement of emergency vehicles and be designed to a standard acceptable to the Development Authority or Subdivision Authority;
 - d. where the physical parameters of the private roadway exceed the legally prescribed boundary of private roadway, the boundary of the private roadway shall be deemed to be the edge of the carriageway or sidewalk parallel with the carriageway.

Section 6.1(8) defines **Bare Land Condominium** as “a condominium development containing Bare Land Condominium Units, created specifically through subdivision and registered as a condominium plan in accordance with the Condominium Property Act, RSA 2000, c. C-22.”

Section 6.1(9) defines **Bare Land Condominium Unit** as “a bare land unit as defined in the Condominium Property Act, RSA 2000, c. C-22.”

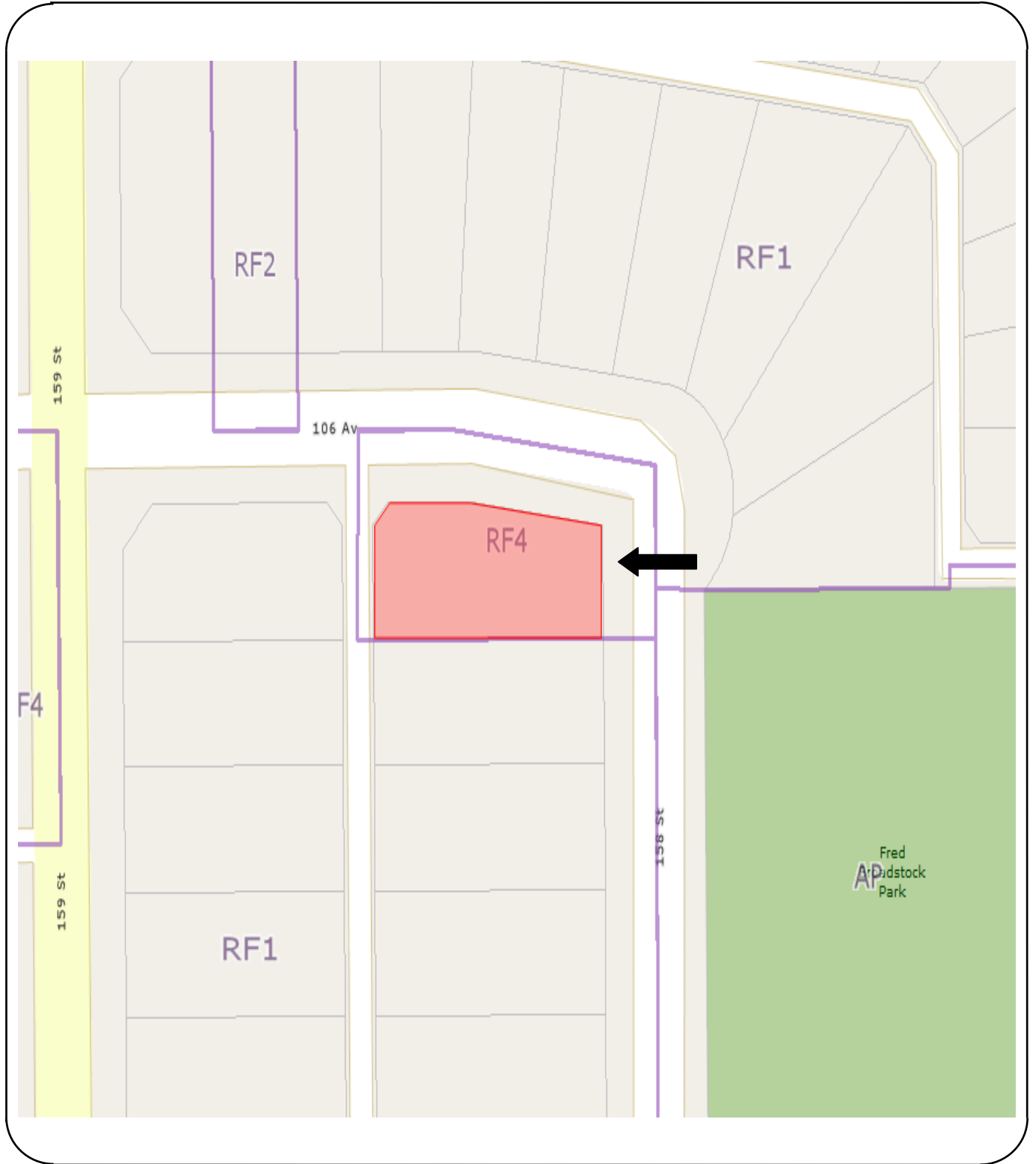
Section 6.1(92) defines **Site** as “an area of land consisting of one or more abutting Lots.”

Section 6.1(58) states “**Lot** means 'lot' as defined under Part 17 of the *Municipal Government Act*:



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*.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-15-008



ITEM II: 1:00 P.M.

FILE: SDAB-D-15-193

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

APPLICATION NO.: 153782266-003

APPLICATION TO: Construct exterior alterations (2 faux dormers, non-livable space) to an Accessory Building, facing lane, (rear detached Garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: July 24, 2015

DATE OF APPEAL: August 4, 2015

NOTIFICATION PERIOD: July 24, 2015 through August 7, 2015

WITHDRAWN

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5650 - Ada Boulevard NW

LEGAL DESCRIPTION: Plan 3642AJ Blk 30 Lots 17-18

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT OFFICER'S DECISION

APPROVED - The proposed development is approved subject to the following conditions:

1. This Development Permit authorizes the development of exterior alterations (2 faux dormers, non-livable space) to an Accessory Building, facing lane, (rear detached Garage). The development shall be constructed in accordance with the stamped and approved drawings.
2. Immediately upon completion of the exterior alterations, the site shall be cleared of all debris.
3. As far as reasonably practicable, the design and use of exterior finishing materials used shall be similar to, or better than, the standard of surrounding development.
4. An Accessory building (rear detached Garage) shall not be used as a Dwelling. (Reference

Section 50.3(1))

5. The Accessory building (rear detached Garage) shall not exceed 4.3m nor one Storey in Height. (Reference Section 6.1(49) and 50.3(2))

6. Eave projections on the rear detached garage shall not exceed 0.46m into required yards or Separations spaces less than 1.2m. (Reference Section 44.1(b))

NOTES:

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.

iii. A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.

APPELLANT'S SUBMISSION

When the decision for the application for the development application was made in 2014, I was reassured by Pat Atkinson with the planning department that the homeowner had removed the dormers facing into the alley from the plans. This application for dormers facing the rear lane will affect the privacy of home and affect the value of our property. For this reason I am appealing this decision.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

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

Grounds for appeal

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.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone under section 110.2(4).

Section 50.1(2) states that "Accessory Uses and buildings are permitted in a Zone when

Accessory to a principal Use which is a Permitted Use in that same Zone and for which a Development Permit has been issued.”

Section 6.1(2) states that “**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”.

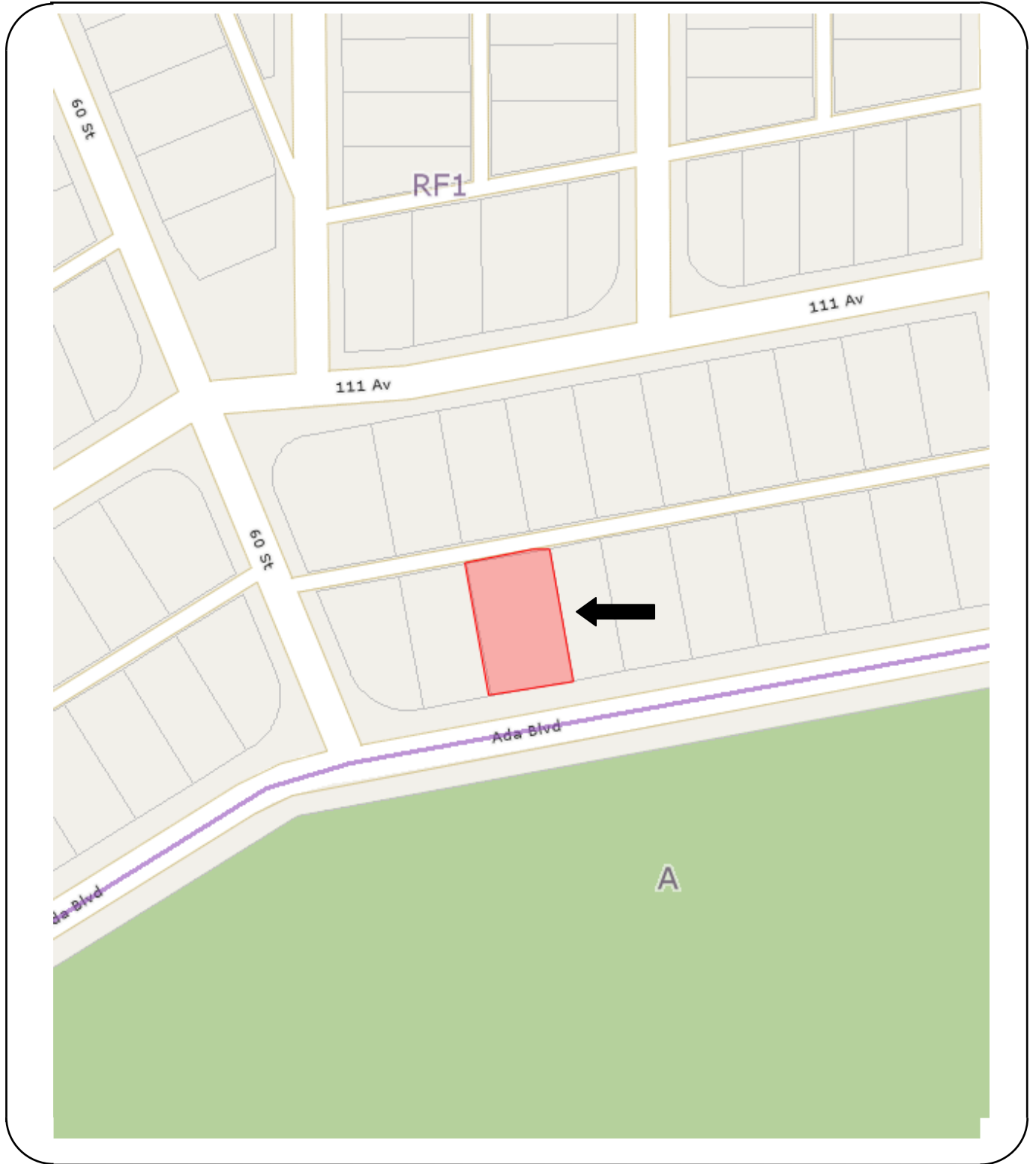
Section 814.1 states the following with respect to the **General Purpose** of the **Mature Neighbourhood Overlay**:

...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 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, Semi-detached Housing and Duplex Housing under certain conditions.”

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SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-15-193



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BUSINESS LAID OVER

SDAB-D-15-179	An appeal to construct exterior alterations (extension of front Driveway) to a Single Detached House <i>September 2, 2015</i>
SDAB-D-15-181	An appeal to construct (1) Freestanding Minor Digital On-premises Sign (Rogers Broadcasting) <i>September 9, 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>