

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
August 8, 2018**

**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-D-18-117

Construct a Limited Group Home (6 residents)
10335 - 162 Street NW
Project No.: 281752371-001

TO BE RAISED

II 10:30 A.M. SDAB-D-18-078

Change the Use from a Single Detached House
to a Lodging House (7 Sleeping Units)
11003 - 85 Avenue NW
Project No.: 274185671-001

III 1:30 P.M. SDAB-D-18-118

Construct a side, rear and front uncovered deck
(rear deck is irregular shape, 9.5 metres by 6.7
metres, attached front and side deck is irregular
shape, 18.5 metres long) with a maximum
Height of 1.2 metres above the ground, with
Privacy Screening (1.82 metres tall above the
deck floor), pergola (Pergola is irregular shape,
5.9 metres by 3.1 metres) and overheight gate in
the west side yard, and to install a Hot Tub,
existing without permits.
976 – Hollingsworth Bend NW
Project No.: 142981618-005

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-18-117

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 281752371-001

APPLICATION TO: Construct a Limited Group Home (6 residents)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: July 5, 2018

DATE OF APPEAL: July 11, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10335 - 162 Street NW

LEGAL DESCRIPTION: Plan 3067HW Blk 20 Lot 8

ZONE: RF4 Semi-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:

We are Solicitors for People Support Services Inc., the Permit applicant. Our client is appealing the refusal of the above-noted permit application for the following reasons:

1. The proposed development is a permitted use.
2. The information contained in the landscaping plan submitted with the development permit application contains sufficient information to show that the landscaping provisions of the Edmonton Zoning Bylaw will be met.
3. The required variances do not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.
4. Such further and other reasons as may be presented at the hearing of this appeal.

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,

- (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, [...]

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;
- ...
- (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 150.2(3) states a **Limited Group Home** is a **Permitted Use** in the **(RF4) Semi-detached Residential Zone**.

Under Section 7.3(4), **Limited Group Home** means a building used for Congregate Living with not more than six residents, excluding staff, who have moderate and non-severe physical, cognitive or behavioral health issues and who require on-site professional care and supervision to perform daily living tasks, improve wellness, achieve stable and harmonious tenancy, or to exit safely in the event of an emergency.

A Limited Group Home is a home which:

- a) provides continuous (24 hours, seven days a week) on-site professional care and supervision by staff licensed or certified to provide such care;
- b) can reasonably expect two or fewer visits by emergency services per month; and
- c) is located in a purpose-built freestanding structure or Single Detached Housing converted for that purpose.

This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Lodging Houses.

Section 96 states that:

2. **Threshold Purpose:** The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a) ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
 - b) ensure that Special Residential Facilities are available in all neighbourhoods; and
 - c) protect existing Special Residential Facilities from concentration that could impair their proper functioning.
3. General Regulations: Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.
- a) When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
 - b) When determining the threshold for the number of Special Residential Facilities by Use per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 metres measured from the nearest intersection shall be used to determine this threshold.
 - c) When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;
 - ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
 - iii. a maximum block face length of 150 metres measured from the nearest intersection shall be used to determine this threshold.
4. Density: For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

Section 79.1 states that, in addition to the regulations in Section 96 of this Bylaw (above), **Limited Group Homes** shall comply with the following regulations:

- a) the maximum occupancy of a Limited Group Home shall not exceed **6 residents** and it shall be developed only as a purpose-built freestanding structure or Single Detached Housing converted for the purpose;

- b) the Development Officer may restrict the occupancy of a Limited Group Home to less than the maximum of 6 residents having regard for the facilities operational needs and Site context;
- c) no Major Home Based Business, Secondary Suite, or Garden Suite shall be permitted as part of the Limited Group Home development or on the Site of such development; and
- d) Limited Group Home shall be of a size, scale, and outward appearance that is typical of surrounding residential developments.

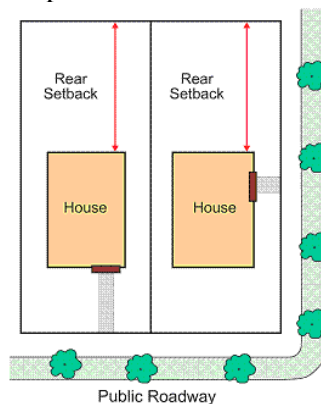
Section 150.1 states that the **General Purpose** of the **(RF4) Semi-detached Residential Zone** is to provide a zone primarily for Semi-detached Housing and Duplex Housing.

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.

Reduced Rear Setback

Section 814.3(4) states that the minimum Rear Setback shall be 40% of Site Depth.

Under Section 6.1, **Rear Setback** means the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



Development Officer’s Determination

Reduced Rear Setback - The distance from the Limited Group Home to the rear property line is 11.3 metres (24.7% of site depth) instead of 18.29 metres (40% of site depth).(Section814.3.4)[unedited]

Attached Garage

Section 814.3(19) states that Rear attached Garages shall not be allowed.

Under Section 6.1, **Garage** means an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.

Development Officer's Determination

Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19) [unedited]

Landscaping

Under Section 55.3, General Planting Requirements states that unless otherwise specified in this Bylaw, Landscaping shall be provided in accordance with the following:

- c. new trees and shrubs shall be provided on the following basis:
 - ii. approximately 50% of required deciduous trees shall be minimum of 50 mm Caliper and approximately 50% shall be a minimum 70 mm Caliper;
 - iii. approximately 75% of required coniferous trees shall be a minimum of 2.5 metres in Height and approximately 25% shall be a minimum of 3.5 metres in Height; and
 - iv. minimum shrub size shall be 300 mm in Height for deciduous and a spread of 450 mm for coniferous;

Under Section 55.4(1), every application for a development listed in Section 55.3 shall include a Landscape Plan, drawn at a scale of 1:300 or larger, which clearly indicates and accurately identifies the following:

- m. proposed trees, shrubs, perennials and ground covers labelled by common name, cross-referenced with a plant list identifying botanical name, quantity, size and method of planting

Under Section 6.1, **Caliper** means the trunk diameter of a tree measured at a point 300.0 mm above the top of the root ball.

Development Officer's Determination

Based on the requirements of Section 50, Landscaping, the following requires more information:

Trees and shrubs shall be provided on the following basis:

- a. approximately 50% of required deciduous trees shall be minimum of 50 mm Caliper and approximately 50% shall be a minimum 70 mm Caliper (Section 55.3.1.c.ii)

- no information provided
- b. approximately 75% of required coniferous trees shall be a minimum of 2.5 m in Height and approximately 25% shall be a minimum of 3.5 m in Height (Section 55.3.1.c.iii)
 - no information provided
- c. minimum shrub size shall be 300 mm in Height for deciduous and a spread of 450 mm for coniferous (Section 55.3.1.c.iv)
 - no information provided
- d. Common plant names and botanical plant names are required as part of the plant list (Section 55.4.1.k and Section 55.4.1.m)
 - no information provided[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.



Application for Minor Development Permit

Project Number: **281752371-001**
 Application Date: MAY 08, 2018
 Printed: July 11, 2018 at 1:23 PM
 Page: 1 of 2

This document is a Development Permit Decision for the development application described below.

Applicant	Property Address(es) and Legal Description(s) 10335 - 162 STREET NW Plan 3067HW Blk 20 Lot 8 Specific Address(es) Suite: 10335 - 162 STREET NW Entryway: 10335 - 162 STREET NW Building: 10335 - 162 STREET NW
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Scope of Application
 To construct a Limited Group Home (6 residents).

Permit Details # of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Limited Group Home Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
 Refused

Reason for Refusal

Reduced Rear Setback - The distance from the Limited Group Home to the rear property line is 11.3 m (24.7% of site depth) instead of 18.29 m (40% of site depth). (Section 814.3.4)

Attached Garage - The rear garage is attached, instead of detached (Section 814.3.19).

Based on the requirements of Section 50- Landscaping, the following requires more information:
 Trees and shrubs shall be provided on the following basis:

- a.) approximately 50% of required deciduous trees shall be minimum of 50 mm Caliper and approximately 50% shall be a minimum 70 mm Caliper (Section 55.3.1.c.ii)
 - no information provided
- b.) approximately 75% of required coniferous trees shall be a minimum of 2.5 m in Height and approximately 25% shall be a minimum of 3.5 m in Height (Section 55.3.1.c.iii)
 - no information provided
- c.) minimum shrub size shall be 300 mm in Height for deciduous and a spread of 450 mm for coniferous (Section 55.3.1.c.iv)
 - no information provided
- d.) Common plant names and botanical plant names are required as part of the plant list (Section 55.4.1.k and Section 55.4.1.m)
 - no information provided

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.

Issue Date: Jul 05, 2018 **Development Authority:** ANGELES, JOSELITO

Fees

THIS IS NOT A PERMIT



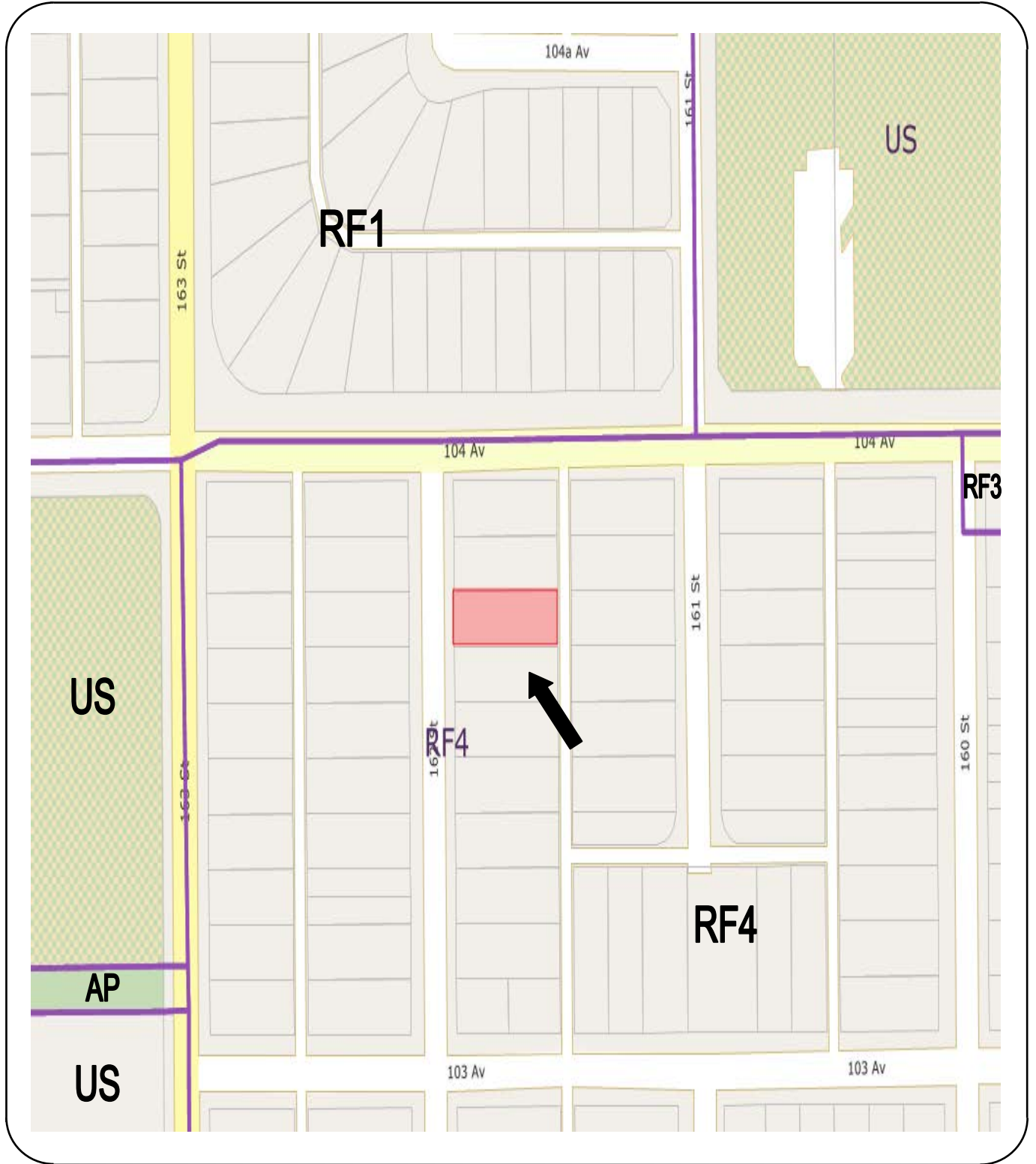
Application for Minor Development Permit

Project Number: **281752371-001**
Application Date: MAY 08, 2018
Printed: July 11, 2018 at 1:23 PM
Page: 2 of 2

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$339.00	\$339.00	05002640	May 08, 2018
SSTC fee for 2018	\$697.00			
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$1,036.00</u>	<u>\$339.00</u>		
(\$697.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-117



TO BE RAISED
ITEM II: 10:30 A.M.

FILE: SDAB-D-18-078

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 274185671-001

APPLICATION TO: Change the Use from a Single Detached House to Lodging House (7 Sleeping Units)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: April 27, 2018

DATE OF APPEAL: May 2, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11003 - 85 Avenue NW

LEGAL DESCRIPTION: Plan I23A Blk 161 Lot 32

ZONE: DC1 (Garneau Area Redevelopment Plan) Direct Development Control Provision

OVERLAY: N/A

STATUTORY PLAN: Garneau Area Redevelopment Plan

Grounds for Appeal

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

This permit was declined due to the fact that there was 7 bedrooms in the house rather than 4 (as it was explained afterward to me not at the time of application). Due to the size of the home and the large footprint of the home I am asking for an exception to this ruling. There is plenty of square footage to accommodate the request. 4 rooms are above ground 3 are in the basement. I do not fully understand this as I was originally told 8 would be permitted for this home or I may not have applied in the first place. I depend on the city to provide accurate information at one of the 3 previous meetings I had with the city before submitting the application.

This application will not affect the neighbourhood in any negative way nor will it change anything structurally to the home. It is truly the fairest single best use for the home.

<i>General Matters</i>

Appeal Information:

The Subdivision and Development Appeal Board made and passed the following motion on May 31, 2018:

“That SDAB-D-18-078 be TABLED to June 14, 2018 at the written request of the Appellant.”

The Subdivision and Development Appeal Board made and passed the following motion on June 14, 2018:

“That SDAB-D-18-078 be TABLED to August 8 or 9, 2018 at the verbal request of the Appellant.”

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,

- (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, [...]

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

(a) ...

(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.

Section 2 of the *Edmonton Zoning Bylaw* concerning Repeal, Enactment and Transition Procedures states the following:

2.4 Subject only to the provisions in the Municipal Government Act respecting legal non-conforming Uses and notwithstanding the effect it may have on rights, vested or otherwise, the provisions of this Bylaw govern from the Effective Date onward. In particular, no application for a Development Permit shall be evaluated under the procedural or substantive provisions of the previous Land Use Bylaw after the Effective Date, even if the application was received before the Effective Date.

...

2.6 Any Direct Control Districts that were in effect immediately prior to the Effective date are hereby deemed to continue in full force and effect and are hereby incorporated into Part IV of this Bylaw.

2.7 Unless there is an explicit statement to the contrary in a Direct Control District or Provision, any reference in a Direct Control District or Direct Control Provision to a land use bylaw shall be deemed to be a reference to the land use bylaw that was in effect at the time of the creation of the Direct Control District or Provision.

At the time of the creation of the subject Direct Control Site, the *City of Edmonton Land Use Bylaw 5996* was in effect. An Alberta Court of Appeal decision in *Parkdale-Cromdale Community League Association v. Edmonton (City)*, 2007 ABCA 309 concluded that section 2.7 of the *Edmonton Zoning Bylaw* only applies if there is an express cross-reference in a Direct Control Bylaw passed before 2001 to a provision of the old *Land Use Bylaw*. In the absence of an express reference in the Direct Control Bylaw to the *Land Use Bylaw 5996*, it does not prevail over section 2.4 of the *Edmonton Zoning Bylaw*.

General Provisions from the DC1 (Garneau Area Redevelopment Plan) Direct Development Control Provision (“the DC1”):

Under section 12, **Boarding and Lodging Houses** is a **listed Use** in the DC1.

The DC1 provides the following with respect to **Development Criteria**:

The following development criteria shall apply to developments within this District pursuant to Section 710.4 of the Land Use Bylaw.

1. The General Regulations and Special Land Use Provisions of the Land Use Bylaw.
2. The development regulations of the RF3 (Low Density Redevelopment) District, provided that the Development Officer may relax these regulations for individual applications, where such relaxations would assist in the achievement of the development criteria in Clauses 3, 4 and 5 below.
3. New developments or additions to existing buildings shall be compatible with the scale, massing and siting of adjacent buildings along the same street frontage.
4. The rehabilitation and renovation of existing buildings shall retain the original details of rooflines, doors and windows, trim, exterior finishing materials and similar architectural features to the greatest extent practical.
5. The design and appearance of new developments shall incorporate building details and finishing materials which are common to the domestic architecture of the turn of the century and early 1920's detached housing in the area.
6. Existing trees and vegetation shall be retained wherever possible and where removal for new construction is required, mature trees shall be planted to maintain the appearance of the streetscape.

The DC1 states the following with respect to the **Rationale** of the **DC1**:

The Garneau Plan in Policy 1.1 identifies the subject area as a "Special Character Residential Area" contributing to the city as a whole a precinct of older detached housing having interesting architectural detailing and variety in built form. This District is intended to encourage the retention and rehabilitation of existing structures while allowing for infill redevelopment. The regulations associated with this District are intended to ensure that all rehabilitation and redevelopment activities are sensitive to the existing character of both the built form and its relationship to existing streetscapes.

General Provisions from the *Edmonton Zoning Bylaw 12800*:

***It should be noted that General Provisions from the *Edmonton Land Use Bylaw 5996* are attached to the SDAB-D-18-078 file.**

Under section 7.3(6), **Lodging House** means:

a building or part of building, used for Congregate Living, containing Sleeping Units and four or more persons, and where there is no provision of on-site care, treatment or professional services of a physical or mental health nature. This Use does not include Extended Medical Treatment Services, Detention and Correction Facilities, Fraternity and Sorority Housing, Group Homes, and Limited Group Homes.

Under section 6.1(19), **Congregate Living** means:

four or more individuals occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses.

Under section 6.1(32), **Dwelling** means:

a self contained unit comprised of one or more rooms accommodating sitting, sleeping, sanitary facilities, and a principal kitchen for food preparation, cooking, and serving. A Dwelling is used permanently or semi-permanently as a residence for a single Household.

Under section 6.1(107), **Sleeping Unit** means:

a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

1. does not include provision for cooking or food preparation except as provided for in Section 76 and 79 of this Bylaw;
2. may or may not be equipped with sanitary facilities; and
3. provides accommodation for a maximum of two persons.

Section 140.4(25) of the **(RF3) Small Scale Infill Development Zone** states:

For Lodging Houses, the following regulations shall apply:

- a. no more than four Sleeping Units may be developed, whether or not in combination with a Dwelling;

- b. the minimum Site area shall be 360 m² in all cases and the Site area shall be comprised of the aggregate of 200 m² for each Sleeping Unit, or for each of the Dwelling and each Sleeping Unit when they are in combination; and
- c. the Development Officer shall exercise discretion with respect to the number of Sleeping Units developed, having regard to the character and density of existing Residential Uses.

Development Officer's Determination

1. Maximum Sleeping Units - The proposal has 7 sleeping units, instead of the maximum of 4 (Reference Section 140.4.25(a))

2. Minimum Site Area - The Site has 619.92m², instead of 1400m² (Reference Section 140.4.25(b)) [unedited]

Section 76 – Lodging Houses (Edmonton Zoning Bylaw 12800)

In addition to the regulations in Section 96 of this Bylaw, Lodging Houses shall comply with the following regulations:

1. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Discretionary Use shall be a maximum of 6 residents;
2. The maximum occupancy of a Lodging House in a Zone where Lodging Houses are a Permitted Use shall be the greater of 6 residents or 1 resident per 60 m² of Lot size;
3. The Development Officer may restrict the occupancy of a Lodging House to less than the maximum number of residents allowed having regard for the threshold purpose identified in Section 96, the level of traffic generation, parking demand, and frequency of visits by emergency vehicles relative to that which is characteristic of the Zone in which the Lodging House is located;
4. A Lodging House shall be developed as either a purpose-built freestanding structure, or Single Detached Housing converted for the purpose, or part of an Apartment Housing development;
5. A Lodging House may be located in Duplex Housing or Semi-detached Housing converted for the purpose in a Zone where Lodging Houses are a Permitted Use and both units are operated by a single provider;

6. In a Zone where Lodging Houses are a Permitted Use and where more than 12 Sleeping Units are allowed in a development, Sleeping Units may include limited food preparation facilities such as bar fridge, mini-sink, and microwave;
7. No Major Home Based Business, Secondary Suite, Garden Suite or Garage Suite shall be permitted as part of a Lodging House development or on the Site of such development;
8. Where a Lodging House is designed as a freestanding structure it shall be of a size, scale, and outward appearance that is typical of surrounding residential development; and
9. Increases in vehicular traffic generation and parking demand must be to the satisfaction of the Development Officer and/or Transportation Services.

<p><i>Lodging Houses Thresholds (Edmonton Zoning Bylaw 12800)</i></p>
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Section 96 provides the following with respect to *Lodging Houses Thresholds*:

1. Special Residential Facilities

For the purpose of this section, Fraternity and Sorority Housing, Group Homes, Limited Group Homes, and Lodging Houses shall be collectively referred to as Special Residential Facilities.

Group Homes developed in combination with Apartment Housing either in one building or on one Site, and which meet the criteria of Section 94, Supportive Community Provisions, shall be exempt from the requirements of subsection 96(3)(b) and (c) of this Bylaw.

2. Threshold Purpose

The purpose of the Fraternity and Sorority Housing, Limited Group Homes, Group Homes, and Lodging Houses Thresholds is to:

- a. ensure that the capacity of any neighbourhood to accommodate Special Residential Facilities is not exceeded;
- b. ensure that Special Residential Facilities are available in all neighbourhoods; and
- c. protect existing Special Residential Facilities from concentration that could impair their proper functioning.

3. General Regulations

Special Residential Facilities shall comply with all thresholds contained in this Section in addition to any other regulations in this Bylaw including any relevant Special Land Use Provisions that apply. In all cases, the most restrictive threshold shall apply.

- a. When determining the threshold for the number of Special Residential Facilities per neighbourhood, a maximum of 3 facilities per 1000 persons shall be allowed in any neighbourhood.
- b. When determining the threshold for the number of Special Residential Facilities by Use per block.
 - i. a maximum of 2 Special Residential Facilities shall be allowed on a single block in a residential Zone;
 - ii. a maximum block length of 150 m measured from the nearest intersection shall be used to determine this threshold.
- c. When determining the threshold for the number of residents of Special Residential Facilities per opposing block face;
 - i. accommodation for a maximum of 12 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Discretionary Use;
 - ii. accommodation for a maximum of 30 residents shall be allowed on an opposing block face in Special Residential Facilities in any residential Zone where either Group Homes or Lodging Houses are a Permitted Use; and
 - iii. a maximum block face length of 150 m measured from the nearest intersection shall be used to determine this threshold.

4. Density


For the purposes of calculating Density for a Group Home or Lodging House each Sleeping Unit shall be considered a Dwelling when a development contains seven or more Sleeping Units.

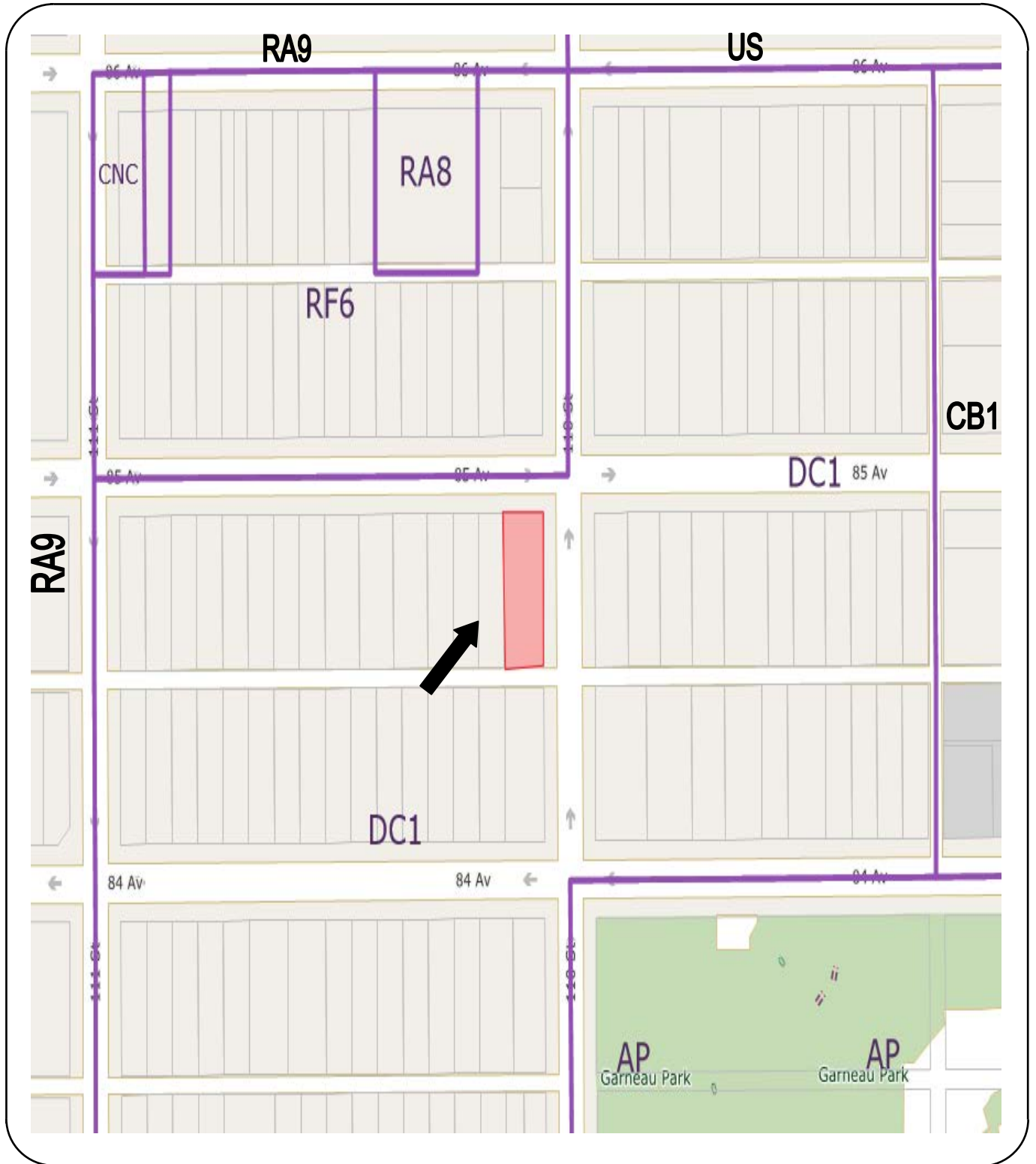
5. Register

For the purpose of applying these regulations the Development Officer shall maintain a register of all approved Special Residential Facilities. The register shall include the address of the facility, maximum occupancy of the facility, and any other necessary information.

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.

	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: 274185671-001 Application Date: FEB 06, 2018 Printed: May 2, 2018 at 3:45 PM Page: 1 of 1																																			
This document is a Development Permit Decision for the development application described below.																																					
Applicant	Property Address(es) and Legal Description(s) 11003 - 85 AVENUE NW Plan I23A Blk 161 Lot 32																																				
	Specific Address(es) Suite: 11003 - 85 AVENUE NW Entryway: 11003 - 85 AVENUE NW Building: 11003 - 85 AVENUE NW																																				
Scope of Application To change use from Single Detached House to Lodging House (7 sleeping units)																																					
Permit Details																																					
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 6 Stat. Plan Overlay/Annex Area: Garneau																																				
I/We certify that the above noted details are correct. Applicant signature: _____																																					
Development Application Decision Refused Reason for Refusal <ol style="list-style-type: none"> 1. Maximum Sleeping Units - The proposal has 7 sleeping units, instead of the maximum of 4 (Reference Section 140.4.25(a)) 2. Minimum Site Area - The Site has 619.92m2, instead of 1400m2 (Reference Section 140.4.25(b)) 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.																																					
Issue Date: Apr 27, 2018 Development Authority: LANGILLE, BRANDON Signature: _____																																					
Fees <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right; width: 15%;">Fee Amount</th> <th style="text-align: right; width: 15%;">Amount Paid</th> <th style="text-align: left; width: 10%;">Receipt #</th> <th style="text-align: left; width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$277.00</td> <td style="text-align: right;">\$277.00</td> <td>04784521</td> <td>Feb 06, 2018</td> </tr> <tr> <td>Development Permit Inspection Fee</td> <td style="text-align: right;">\$0.00</td> <td style="text-align: right;">\$510.00</td> <td>04784521</td> <td>Feb 06, 2018</td> </tr> <tr> <td>Dev. Application Fee # of dwelling units</td> <td style="text-align: right;">\$150.00</td> <td style="text-align: right;">\$150.00</td> <td>04784521</td> <td>Feb 06, 2018</td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right; border-top: 1px solid black;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$427.00</td> <td style="text-align: right; border-top: 1px solid black;">\$937.00</td> <td></td> <td></td> </tr> <tr> <td colspan="5" style="padding-left: 20px;">(overpaid by (\$510.00))</td> </tr> </tbody> </table>				Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$277.00	\$277.00	04784521	Feb 06, 2018	Development Permit Inspection Fee	\$0.00	\$510.00	04784521	Feb 06, 2018	Dev. Application Fee # of dwelling units	\$150.00	\$150.00	04784521	Feb 06, 2018	Total GST Amount:	\$0.00				Totals for Permit:	\$427.00	\$937.00			(overpaid by (\$510.00))				
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THIS IS NOT A PERMIT																																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-078



ITEM III: 1:30 P.M.

FILE: SDAB-D-18-118

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

APPELLANT:

APPLICATION NO.: 142981618-005

APPLICATION TO: To construct a side, rear and front uncovered deck (rear deck is irregular shape, 9.5 metres by 6.7 metres, attached front and side deck is irregular shape, 18.5 metres long) with a maximum Height of 1.2 metres above the ground, with Privacy Screening (1.82 metres tall above the deck floor), pergola (Pergola is irregular shape, 5.9 metres by 3.1 metres) and overheight gate in the west side yard, and to install a Hot Tub, existing without permits.

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: June 25, 2018

DATE OF APPEAL: July 16, 2018

NOTIFICATION PERIOD: July 3, 2018 through July 24, 2018

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 976 - Hollingsworth Bend NW

LEGAL DESCRIPTION: Plan 0223933 Blk 162 Lot 1

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Hodgson Neighbourhood Area Structure Plan

<i>Grounds for Appeal</i>

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

The variances associated with this permit have a negative impact on our property. The deck has been built too close to the property line (long portion of the side uncovered deck is 0 m, instead of 0.6 m), the constructed privacy screen is too high in height (1.82 m, instead of 1.2 m), the pergola is 0.6 m (instead of 0.9 m) from our shared property line, and the constructed 2.08 m tall fence gate is too high in height. There are too many variances associated with this development that were all built without the city's approval/permit. They continued to complete all of the construction even when they were notified by the city to stop.

<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;

...

- (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 110.2(5), **Single Detached Housing** is a **Permitted Use** in the (RF1) Single Detached Residential Zone.

Under section 6.1, **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 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, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Projection into Setbacks

Section 110.4(10) states “The minimum Rear Setback shall be 7.5 m, [...]”

Section 110.4(11) states:

Side Setbacks shall be established on the following basis:

- a. Side Setbacks shall total at least 20% of the Site Width, with a minimum Side Setback of 1.2 m on each side;
- b. where there is no Lane abutting the Site, one Side Setback shall be at least 3.0 m for vehicular access, unless there is an attached Garage or a Garage that is an integral part of a Dwelling;

...

Section 44.3 states:

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

- a) ...

- b) Platform Structures provided such projections do not exceed 2.0 m into any other Setbacks or Separation Spaces with a depth of at least 4.0 m;
- c) Platform Structures provided such projections do not exceed 0.6 m into any other Setbacks or Separation Spaces with a depth of less than 4.0 m; and

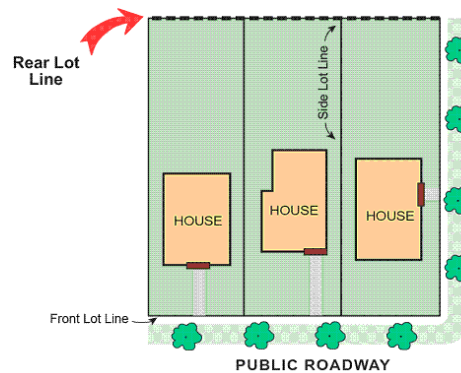
...

Under section 6.1, **Platform Structure** means:

means an elevated structure intended for use as outdoor Amenity Area that may project and/or be recessed from the wall of a building, may be surrounded by guardrails, parapet walls or similar features. Common examples include: balconies, raised terraces and decks. This definition does not include a Rooftop Terrace.

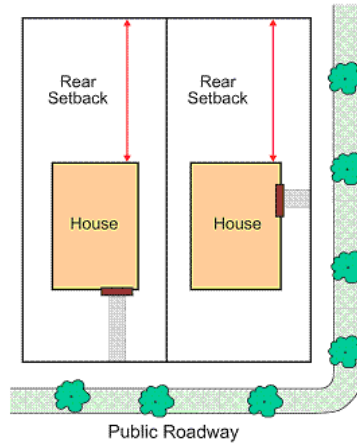
Under section 6.1, **Rear Lot Line** means:

means either the property line of a lot which is furthest from and opposite the Front Lot Line, or, where there is no such property line, the point of intersection of any property lines other than a Front Lot Line which is furthest from and opposite the Front Lot Line;



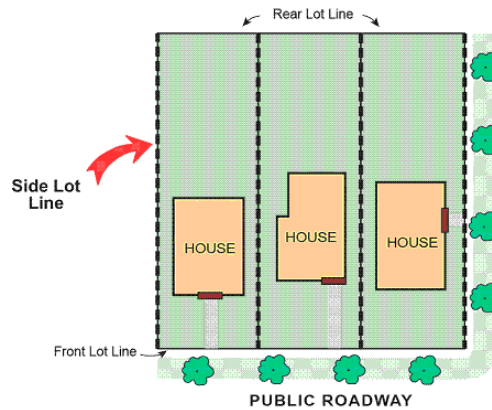
Under section 6.1, **Rear Setback** means:

means the distance that a development or a specified portion of it, must be set back from a Rear Lot Line. A Rear Setback is not a Rear Yard, Amenity Space or Separation Space.



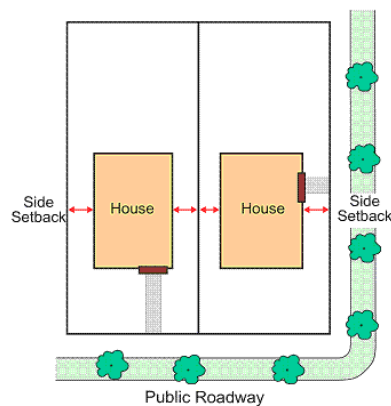
Under section 6.1, **Side Lot Line** means:

the property line of a lot other than a Front Lot Line or Rear Lot Line;



Under section 6.1, **Side Setback** means:

means the distance that a development or a specified portion of it, must be set back from a Side Lot Line. A Side Setback is not a Side Yard, Amenity Space or Separation Space.



Development Officer’s Determination

- 1. Projection - The distance from a 1.5 m long portion of the side uncovered deck to the property line shared with 974 Hollingsworth Bend (side lot line) is 0 m, instead of 0.6 m (Section 44.3.c). [unedited]**

- 2. Projection - The distance from the rear uncovered deck to the property line shared with 721 Hollingsworth Green NW is 2.3 m, instead of 5.5 m (Section 44.3.b). [unedited]**

Fences, Walls, Gates, and Privacy Screening in Residential Zones

Section 49.1(d) states:

On an Interior Site, the Height of a Fence, wall, or gate shall not exceed:

- i. 1.2 m for the portion of the Fence, wall, or gate constructed in the Front Yard, and

- ii. 1.85 m in all other Yards.

Section 49.2(c) states:

Privacy Screening, excluding vegetative screening, constructed on a Platform Structure located within a Front Yard, required Side Setback or within 2.5 m of a Rear Lot Line shall not exceed 1.2 m in Height, and 1.85 m in Height in all other Yards, when measured from the surface of a Platform Structure.

Under section 6.1, **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

Under section 6.1, **Privacy Screening** means:

a feature that obscures direct and otherwise unimpeded sightlines. Common examples include: vegetative screening, such as shrubs and trees, lattice, masonry or wooden walls, parapet walls, translucent glass or any combination of these or like features. Privacy Screening does not include a balustrade railing or similar railing system.

Development Officer’s Determination

- 3. Fence - A 2.08 m tall gate is located in the side yard beside 974 Hollingsworth Bend (Section 49.1.d.ii). [unedited]**

4. Privacy Screen - The Privacy Screen constructed on the rear uncovered deck which is 0.6 m from 974 Hollingsworth Bend is 1.82 m when measured from the deck's surface, instead of 1.2 m (Section 49.2.c). [unedited]

5. Privacy Screen - The Privacy Screen constructed on the rear uncovered deck which is within 2.5 m of 721 Hollingsworth Green is 1.82 m tall when measured from the deck's surface, instead of 1.2 m (Section 49.2.c). [unedited]

Accessory Buildings in Residential Zones

Section 50.3(5)(b) states:

- a. ...
- b. an Accessory building or structure shall be located not less than 0.9 m from the interior Side Lot Line, [...]
- c. ...
- d. an Accessory building or structure shall be located not less than 0.9 m from a principal building and any other Accessory building or structure;

...

Development Officer’s Determination

6. Accessory Building Setback - The pergola is 0.6 m from the property line shared with 974 Hollingsworth Bend (side lot line), instead of 0.9 m (Section 50.3.5.b). [unedited]

7. Accessory Building Setback - The pergola is 0.5 m from the house instead of 0.9 m (Section 50.3.5.c). [unedited]


Previous Subdivision and Development Appeal Board Decisions

Application Number	Description	Decision
SDAB-D-16-265	To construct a side, rear and front uncovered deck (rear deck is irregular shape, 9.5 m x 6.7 m, attached front and side deck is irregular shape, 18.5 m long) with a maximum Height of 1.2 m, with	November 3, 2016; The Board does not assume jurisdiction.

	Privacy Screening (1.8 m tall above the deck floor), pergola (Pergola is irregular shape, 5.9 m x 3.1 m) and overheight gate in the west side yard, and to install a Hot Tub, existing without permits.	
SDAB-D-13-312	To construct an uncovered deck with attached pergola (irregular shape, maximum 6.70m x 14.17m @ 1.22m in height) and to install a Hot Tub, existing without permits / constructed right up to property line.	December 19, 2013; that the appeal be DENIED and the decision of refusal by the Development Authority CONFIRMED.

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: 142981618-005 Application Date: FEB 27, 2018 Printed: July 16, 2018 at 10:12 AM Page: 1 of 3
<h2 style="margin: 0;">Minor Development Permit</h2>	
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) 976 - HOLLINGSWORTH BEND NW Plan 0223933 Blk 162 Lot 1
Scope of Permit To construct a side, rear and front uncovered deck (rear deck is irregular shape, 9.5 m x 6.7 m, attached front and side deck is irregular shape, 18.5 m long) with a maximum Height of 1.2 m above the ground, with Privacy Screening (1.82 m tall above the deck floor), pergola (Pergola is irregular shape, 5.9 m x 3.1 m) and overheight gate in the west side yard, and to install a Hot Tub, existing without permits.	
Permit Details	
# of Dwelling Units Add/Remove: Client File Reference Number: Minor Dev. Application Fee: Exterior Alterations (Res.) Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: N/A Stat. Plan Overlay/Annex Area:
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Permit Decision Approved Issue Date: Jun 25, 2018 Development Authority: LIANG, BENNY	
(Empty space for additional notes or comments)	



Project Number: **142981618-005**
 Application Date: FEB 27, 2018
 Printed: July 16, 2018 at 10:12 AM
 Page: 2 of 3

Minor Development Permit

Subject to the Following Conditions

1. This Development Permit ONLY authorizes the construction of a side, rear and front uncovered deck (rear deck is irregular shape, 9.5 m x 6.7 m, attached front and side deck is irregular shape, 18.5 m long) with a maximum Height of 1.2 m above the ground, with Privacy Screening (1.82 m tall above the deck floor), pergola (Pergola is irregular shape, 5.9 m x 3.1 m) and overheight gate in the west side yard, and to install a Hot Tub, that is existing without permits. The development shall be constructed in accordance with the stamped and approved drawings. All other structures shown on the approved plans are not included in this approval.
2. The design and use of exterior finishing materials used on the deck and pergola shall be similar to, or better than, the standard of surrounding development (Section 57.2.1).
3. The deck shall not encroach onto neighbouring properties.
4. The pergola shall not be enclosed with walls or a roof.
5. The pergola shall not exceed 4.3 m in Height (Section 50.3.2).
6. The pergola eaves shall be at least 0.6 m from the interior side lot line.

ADVISEMENT:

- A. A sandbag should be placed on the east side of the Hot Tub under the deck to direct water to the west side of the lot, toward the street.

Variations

1. Projection - The distance from a 1.5 m long portion of the side uncovered deck to the property line shared with 974 Hollingsworth Bend (side lot line) is 0 m, instead of 0.6 m (Section 44.3.c).
2. Projection - The distance from the rear uncovered deck to the property line shared with 721 Hollingsworth Green NW is 2.3 m, instead of 5.5 m (Section 44.3.b).
3. Fence - A 2.08 m tall gate is located in the side yard beside 974 Hollingsworth Bend (Section 49.1.d.ii).
4. Privacy Screen - The Privacy Screen constructed on the rear uncovered deck which is 0.6 m from 974 Hollingsworth Bend is 1.82 m when measured from the deck's surface, instead of 1.2 m (Section 49.2.c).
5. Privacy Screen - The Privacy Screen constructed on the rear uncovered deck which is within 2.5 m of 721 Hollingsworth Green is 1.82 m tall when measured from the deck's surface, instead of 1.2 m (Section 49.2.c).
6. Accessory Building Setback - The pergola is 0.6 m from the property line shared with 974 Hollingsworth Bend (side lot line), instead of 0.9 m (Section 50.3.5.b).
7. Accessory Building Setback - The pergola is 0.5 m from the house instead of 0.9 m (Section 50.3.5.c).

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.

Notice Period Begins: Jul 03, 2018 **Ends:** Jul 24, 2018

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Existing Without Permit Penalty Fee	\$170.00	\$170.00	04820779	Feb 27, 2018
Dev. Application Fee	\$170.00	\$170.00	04820779	Feb 27, 2018

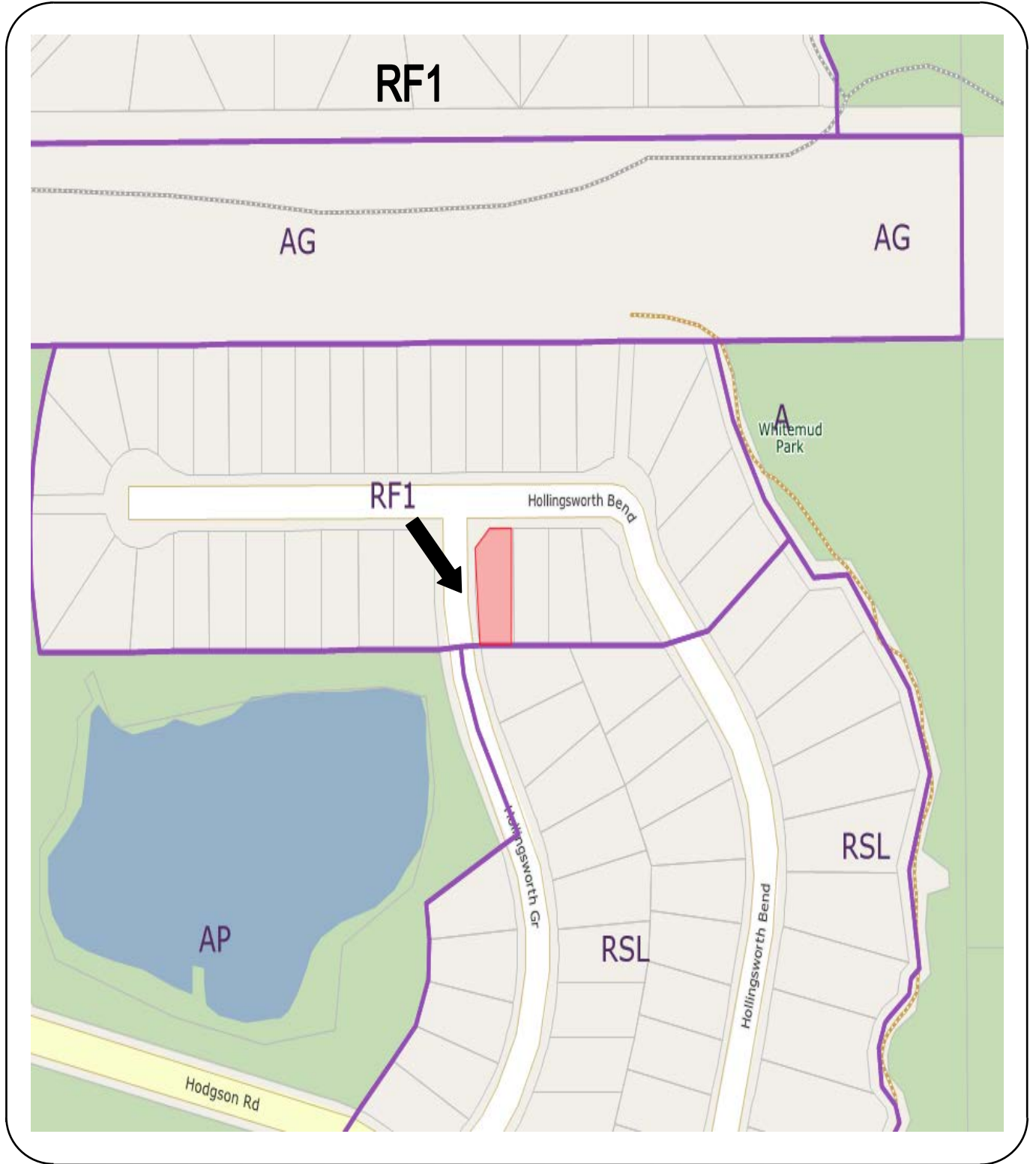


Project Number: **142981618-005**
Application Date: FEB 27, 2018
Printed: July 16, 2018 at 10:12 AM
Page: 3 of 3

Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Total GST Amount:	\$0.00			
Totals for Permit:	\$340.00	\$340.00		



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-18-118

