

SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA

Thursday, 9:00 A.M.
December 10, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I 9:00 A.M. SDAB-D-20-174

POSTPONEMENT REQUEST

Construct exterior alterations to a Garden Suite (changed windows sizes/ location, change exterior finishes and balcony size), existing without permits

11623 - 73 Avenue NW
Project No.: 325287912-001

II 10:30 A.M. SDAB-D-20-173

Construct an addition on top of a Single Detached House (room on rooftop Terrace)

9632 - 96 Street W
Project No.: 365664034-002

III 1:30 P.M. SDAB-D-20-171

Change the Use of a Restaurant to a Bar & Neighbourhood Pub

10805 - 95 Street NW
Project No.: 375010619-002

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-20-174

POSTPONEMENT REQUEST

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 325287912-001

APPLICATION TO: Construct exterior alterations to a Garden Suite (changed windows sizes/ location, change exterior finishes and balcony size), existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 19, 2020

DATE OF APPEAL: November 17, 2020

NOTIFICATION PERIOD: October 27, 2020 through November 17, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11623 - 73 Avenue NW

LEGAL DESCRIPTION: Plan 2938HW Blk 10 Lots 29-30

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan / Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

I have very great concerns regarding the number of windows that were not on plans provided to the City planning dept. AND the size of the windows. I have emails with the City Planning Dept dating back to Sept 15/ 2016. I also have file #'s relating to the Garden Suite that was built without permits.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,

(A) within 21 days after the date on which the written decision is given under section 642, or

(B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

(ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

(a.1) must comply with the land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (d), must comply with any land use bylaw in effect;

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

...

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.2(2), **Garden Suite** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(2), **Garden Suite** means:

Accessory building containing a Dwelling, which is located separate from the principal Use which is Single Detached Housing, and which may contain a Parking Area. A Garden Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. This Use includes Mobile Homes that conform to Section 78 of this Bylaw. This Use does not include Secondary Suites, or Blatchford Lane Suites.

Section 110.1 states that the **General Purpose** of the **(RF1) Single Detached Residential Zone** is “to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Garden Suites, Semi-detached Housing and Duplex Housing.”

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Garden Suites - Façades

Section 87.15 states:

In order to reduce perceived building mass, Façades shall be articulated to the satisfaction of the Development Officer through two or more of the following:

- a. projection or recession of portions of the façade;
- b. projecting architectural features;
- c. platform structures;
- d. use of two or more exterior finishing materials;
- e. variation in rooflines;
- f. entrance features oriented toward the public roadway, including a Lane;
- g. glazing or windows on the ground floor covering a minimum of 50% of the width of a facade that faces a public roadway, including a Lane;
- h. dormers; or
- i. window trim with a minimum width of 0.075 m.

Under section 6.1, **Façade** means:

the exterior outward face of a building. Typically, the façade of interest is that surface that serves as the front of that building and faces a building's primary street. Buildings on the corner of two streets or a street and an alley present two public façades.

Development Officer's Determination

Elevation changes - To reduce building massing, the side elevation of the Garden Suite shall have design features (Section 87.15)


[unedited]


Previous Subdivision and Development Appeal Board Decision

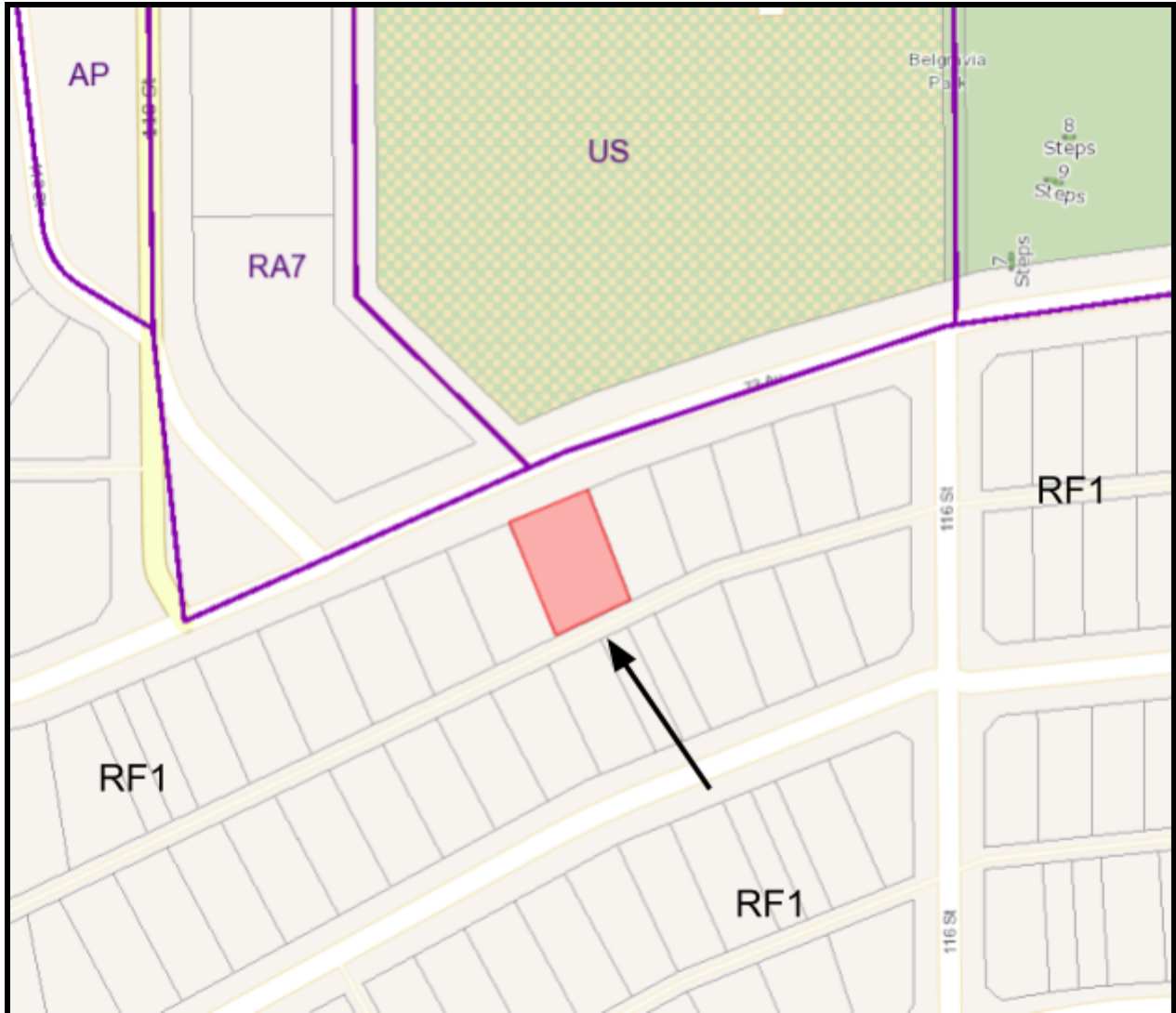
Application Number	Description	Decision
SDAB-D-16-297	Construct a 2 Storey Accessory Building (Garage Suite on second floor, Garage on main floor, 10.36 metres by 6.81 metres), existing without permits	December 8, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED with CONDITIONS / ADVISEMENTS

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: 325287912-001 Application Date: JUL 12, 2019 Printed: October 19, 2020 at 10:20 AM Page: 1 of 2		
<h2>Alterations 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	<table border="1"> <tr> <td data-bbox="813 449 1385 537"> Property Address(es) and Legal Description(s) 11623 - 73 AVENUE NW Plan 2938HW Blk 10 Lots 29-30 </td> </tr> <tr> <td data-bbox="813 541 1385 667"> Location(s) of Work Suite: 11623 - 73 AVENUE NW Entryway: 11623 - 73 AVENUE NW Building: 11623 - 73 AVENUE NW </td> </tr> </table>	Property Address(es) and Legal Description(s) 11623 - 73 AVENUE NW Plan 2938HW Blk 10 Lots 29-30	Location(s) of Work Suite: 11623 - 73 AVENUE NW Entryway: 11623 - 73 AVENUE NW Building: 11623 - 73 AVENUE NW
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Scope of Permit To construct exterior alterations to a Garden Suite (changed windows sizes/ location, change exterior finishes and balcony size), existing without permits.			
Permit Details <table border="1"> <tr> <td data-bbox="269 821 805 894"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td data-bbox="813 821 1385 894"> Site Area (sq. m.): 809.51 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 809.51
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 809.51		
Development Permit Decision Approved Issue Date: Oct 19, 2020 Development Authority: BAUER, KERRY Subject to the Following Conditions This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21 (Section 17.1). This Development Permit authorizes the development of Exterior Alterations to a Garden Suite (changed windows sizes/ location, change exterior finishes and balcony size), existing without permits. The development shall be constructed in accordance with the stamped and approved drawings. Immediately upon completion of the exterior alterations, the site shall be cleared of all debris. 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 (Section 57.3.1). ADVISEMENTS: An approved Development Permit means that the proposed development has been reviewed against the provisions of this bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments including, but not limited to, the Municipal Government Act, the Safety Codes Act or any caveats, restrictive covenants or easements that might be attached to the Site (Section 5.2). Any proposed change from the original approved drawings is subject to a revision/re-examination fee. The fee will be determined by the reviewing officer based on the scope of the request and in accordance with current fee schedules. A review fee may be collected for each change request. Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800. Variations Elevation changes - To reduce building massing, the side elevation of the Garden Suite shall have design features (Section 87.15)			

	Project Number: 325287912-001 Application Date: JUL 12, 2019 Printed: October 19, 2020 at 10:20 AM Page: 2 of 2																																								
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<p>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: Oct 27, 2020 Ends: Nov 17, 2020</p>																																									
<p>Building Permit Decision No decision has yet been made.</p>																																									
<p>Fees</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Building Permit Fee (Construction Value)</td> <td style="text-align: right;">\$110.00</td> <td style="text-align: right;">\$110.00</td> <td>05985712</td> <td>Jul 12, 2019</td> </tr> <tr> <td>Existing Without Permit Building Penalty Fee</td> <td style="text-align: right;">\$110.00</td> <td style="text-align: right;">\$110.00</td> <td>06081247</td> <td>Aug 21, 2019</td> </tr> <tr> <td>Existing Without Permit Dev Application Penalty Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td>06081247</td> <td>Aug 21, 2019</td> </tr> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$173.00</td> <td style="text-align: right;">\$173.00</td> <td>05985712</td> <td>Jul 12, 2019</td> </tr> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$4.50</td> <td style="text-align: right;">\$4.50</td> <td>05985712</td> <td>Jul 12, 2019</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; border-bottom: 1px solid black;">\$570.50</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$570.50</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Building Permit Fee (Construction Value)	\$110.00	\$110.00	05985712	Jul 12, 2019	Existing Without Permit Building Penalty Fee	\$110.00	\$110.00	06081247	Aug 21, 2019	Existing Without Permit Dev Application Penalty Fee	\$173.00	\$173.00	06081247	Aug 21, 2019	Development Application Fee	\$173.00	\$173.00	05985712	Jul 12, 2019	Safety Codes Fee	\$4.50	\$4.50	05985712	Jul 12, 2019	Total GST Amount:	\$0.00				Totals for Permit:	\$570.50	\$570.50		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-174

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N

ITEM II: 10:30 A.M.

FILE: SDAB-D-20-173

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 365664034-002

APPLICATION TO: Construct an addition on top of a Single Detached House
(room on rooftop Terrace)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 5, 2020

DATE OF APPEAL: November 13, 2020

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 9632 - 96 Street NW

LEGAL DESCRIPTION: Plan 1226AQ Blk 5 Lot 21

ZONE: (RF3) Small Scale Infill Development Zone

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

STATUTORY PLAN: Cloverdale Area Redevelopment Plan

Grounds for Appeal

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

I am filing this appeal to the SDAB with respect to the refusal of my development permit application to construct an addition on top of a Single Detached House (3 seasons room on rooftop Terrace). I wish to appeal the decision of the Development Authority & request variance for the height.

Throughout the design process attempts were made to keep the development under the 8.9 m maximum height, but were unable to do so. I am not requesting any variances that do not presently exist in the area, nor am I attempting to set any new precedents. The SDAB has previously approved multiple height variances in the area; most recently for the properties located at 9729 96A Street NW (property to the north across the rear alley) & 9716 96 Street NW (properties south), and 9726 - 96 Street, all of which are located within a 75m radius of our property. Throughout consultations with neighbours as well as during the design minimization of the impact of the development on neighbours has been a priority. My fiancé & I chose Cloverdale for our family because it's a unique & diverse neighbourhood. There are no architectural guidelines with existing developments encompassing all facets of residential architecture; character homes soon to be torn down, new modern infills, Victorian, traditional, modern farmhouse, contemporary, & funky & futuristic. A large portion of infills built in Cloverdale in the past 25 years are 2.5-story homes. I feel our proposed development, with its modern architectural design will enhance the unique character of the Cloverdale area. We were cognizant throughout the design process to minimize the aesthetic of the height of the house so as not to appear to be extremely tall in consideration of our neighbours. As such the roof trusses chosen are only 12' high, which is the smallest useable size. The 3 seasons room is centrally located with front & rear walls significantly setback from the main walls of the first two floors to make the house have the appearance of a 2-storey development from the front & rear at street level. With the loft stepped back the home will look no taller than any other 2.5 story property in the neighbourhood. The staircase from the second floor to the loft was located from the front of the house (where the main staircase is) to minimize the height at the front of the house & increase the loft setback. This cost more in design & adds cost to the overall build, but it makes the house look much smaller from the street level. Since our design has a flat roof there is no way to average the parapet height with the eaves so the measured height is above the 8.9m, but again will not appear any taller than any other existing development in the immediate 60m radius or the community. If our roof was sloped we would be able to average the roof like a traditional home design; however, the flat roof has nothing to average so the measured height could read higher than another property in the area; but, a direct measure of the highest point of the house, depending on roof slope could render many existing houses taller than our proposed development. There is also a 4-story apartment building to the north located at 9603 98 Avenue NW which appears to be significantly over height in relation to the single detached homes on 96 Street NW. I have received lots of positive feedback & many letters of support while consulting with as many neighbours as possible within a 60m radius; most importantly, I have written support from both abutting property owners, as well as the property across the street who would be most affected. I feel I have done my best to mitigate any & all negative impact the design could have on the neighbourhood. In closing I feel I have established that the proposed development does not unduly interfere with the amenities of the

neighborhood nor materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

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- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 140.2(8), **Single Detached Housing** is a **Permitted Use** in the **(RF3) Small Scale Infill Development Zone**.

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

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

Under section 6.1, **Rooftop Terrace** means:

an elevated structure intended for use as an outdoor Amenity Area that may be surrounded by guardrails, parapet walls or similar features, and is located above:

- a. the uppermost Habitable Room;
- b. the uppermost Commercial Floor Area intended for occupancy;
or
- c. in the case of an Accessory building other than a Garden Suite, any roof.

This definition does not include a Platform Structure.

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

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

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

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the

streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

Height

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

Development Officer’s Determination

Height - The proposed Height of the Single Detached House is 10.25m, instead of the maximum of 8.9m (Section 814.3.5)

[unedited]

Community Consultation

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

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified affected parties in accordance with Table 814.5(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit Application in accordance with Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of 60.0 m of the Site of the proposed development and the President of each Community League	814.3(5) - Height

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>Application for Addition Permit</h2>		Project Number: 365664034-002 Application Date: JUN 22, 2020 Printed: October 5, 2020 at 2:34 PM Page: 1 of 1																															
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Development Application Decision Refused Issue Date: Oct 05, 2020 Development Authority: LANGILLE, BRANDON Reason for Refusal Height - The proposed Height of the Single Detached House is 10.25m, instead of the maximum of 8.9m (Section 814.3.5) 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.																																		
Building Permit Decision Refused																																		
Fees <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: right;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$433.00</td> <td style="text-align: right;">\$433.00</td> <td style="text-align: left;">9698960640010010</td> <td style="text-align: right;">Jun 22, 2020</td> </tr> <tr> <td>Safety Codes Fee</td> <td style="text-align: right;">\$0.40</td> <td style="text-align: right;">\$0.40</td> <td style="text-align: left;">9698960640010010</td> <td style="text-align: right;">Jun 22, 2020</td> </tr> <tr> <td>Building Permit Fee (Construction Value)</td> <td style="text-align: right;">\$100.00</td> <td style="text-align: right;">\$100.00</td> <td style="text-align: left;">9698960640010010</td> <td style="text-align: right;">Jun 22, 2020</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; border-bottom: 3px double black;">\$599.40</td> <td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">\$599.40</td> <td></td> <td></td> </tr> </tbody> </table>						Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$433.00	\$433.00	9698960640010010	Jun 22, 2020	Safety Codes Fee	\$0.40	\$0.40	9698960640010010	Jun 22, 2020	Building Permit Fee (Construction Value)	\$100.00	\$100.00	9698960640010010	Jun 22, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$599.40	\$599.40		
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ITEM III: 1:30 P.M.

FILE: SDAB-D-20-171

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 375010619-002

APPLICATION TO: Change the Use of a Restaurant to a Bar & Neighbourhood Pub

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: October 16, 2020

DATE OF APPEAL: November 12, 2020

NOTIFICATION PERIOD: October 22, 2020 through November 12, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10805 - 95 Street NW

LEGAL DESCRIPTION: Plan RN23 Blk 22 Lot 27

ZONE: (CNC) Neighbourhood Convenience Commercial Zone

OVERLAY: Main Streets Overlay

STATUTORY PLAN: Boyle Street McCauley Area Redevelopment Plan

Grounds for Appeal

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

We are writing as members of a community to register our appeal to the application by 789556 Alberta LTD/Allegro Italian Kitchen and Bar to change the use of a Restaurant to a Bar/Neighbourhood Pub at 10805 – 95 Street NW, T5H 2E2, Edmonton, Alberta.

We know that moral appeals do not carry much weight - however our community has a long history of trying to get ahead of decisions like this. We would like to express our concerns regarding granting this establishment a change of land use.

- 1) Enabling the premises to become a Bar/Neighbourhood Pub could be totally detrimental with the next step being access to a gaming license.
- 2) The land use change can be sold with the business.
- 3) The land use change is not necessary for Allegro Italian Kitchen to continue carrying out their business use.

There are numerous businesses in the immediate surrounding area with liquor licences. The properties with liquor licenses are as follows:

- Kafana Bistro & Catering 10803 95 St, Edmonton, AB T5H 2E2
- Abyssinia Ethiopian Restaurant & Bar 10810 95 St, Edmonton, AB T5H 2E3
- Zocalo 10826 95 St, Edmonton, AB T5H 2E3
- Italian Centre Shop Ltd. 10878 95 St, Edmonton, AB T5H 2E4

We have rallied hard for our neighbourhood. Most recently, over 90 citizens committed to the Little Italy neighbourhood banded together to raise \$1 million in investments in this community-led project to purchase the Piazza located adjacent to Allegro Italian Kitchen at 10821 95th Street NW, Edmonton, AB T5H 2E2, in order to have more control over the types of businesses that infiltrate our community.

The Piazza is in the heart of the neighbourhood and is situated across the street from the beautiful Giovanni Caboto Park. Historically, the mall has caused the community considerable pain and frustration because of gambling and drug trafficking that took place in a couple of the establishments. The Edmonton Police Service was often called to this site to address these problems. The owner of the mall did not live in Edmonton.

The community's vision for the mall is one that is family-friendly, provides opportunities for healthy social engagement, adds value to the local economy, and is no longer a place that causes social malaise.

Granting a change in land to Allegro Italian Kitchen to a Bar/Neighbourhood Pub would provide an opportunity to repeat this type of behaviour. Our neighbourhood deserves a break and a return of this kind of establishment would discount and discredit all the hard work of The Piazza.

We would urge the Board to consider the potential negative impact that granting land use change to a Bar/Neighbourhood Pub will have on a community working hard for revitalization.

Since revitalization started in 2008, until November 11, 2013, 26 houses have been built, 40 new businesses have joined the area and there have been over 30 facade improvement projects. City Council approved a revitalization strategy for McCauley in December 2010 that included an investment of \$10.5 million toward revitalizing the neighbourhood. Why approve another Bar that would risk diminishing this work?

In view of the above, we would urge the Subdivision Development Appeal Board to refuse this application.

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

- (a) in the case of an appeal made by a person referred to in section 685(1)
 - (i) with respect to an application for a development permit,
 - (A) within 21 days after the date on which the written decision is given under section 642, or
 - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
 - or
 - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
 - (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 310.3 **Bars and Neighbourhood Pubs, for less than 100 occupants and 120 m² of Public Space**, is a **Discretionary Use** in the **(CNC) Neighbourhood Convenience Commercial Zone**.

Under section 7.4(6), **Bars and Neighbourhood Pub** means:

Development where the primary purpose of the facility is the sale of alcoholic beverages to the public, for consumption within the premises or off the Site. This Use typically has a limited menu and minors are prohibited from patronizing the establishment during at least some portion of the hours of operation. Typical Uses include neighbourhood pubs, bars, and cocktail lounges. This Use does not include Cannabis Lounges.

Section 310.1 states that the **General Purpose** of the **(CNC) Neighbourhood Convenience Commercial Zone** is “to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.”

Section 819.1 states that the **General Purpose** of the **Main Streets Overlay** is:

to encourage and strengthen the pedestrian-oriented character of Edmonton’s main street commercial areas that are located in proximity to

residential and transit-oriented areas, by providing visual interest, transparent storefront displays, and amenities for pedestrians.

Discretionary Use

Development Officer’s Determination

You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw.


[unedited]

Previous Subdivision and Development Appeal Board Decision

Application Number	Description	Decision
SDAB-D-14-089	Construct three Dwellings of Apartment Housing on the 2nd floor of an existing Commercial building and to construct exterior alterations (enlarging existing 2nd floor landing, sealing off all South and North side windows, adding a roof access ladder)	April 25, 2014; The appeal be ALLOWED and the DEVELOPMENT GRANTED with conditions.

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: 375010619-002 Application Date: OCT 07, 2020 Printed: October 16, 2020 at 2:41 PM Page: 1 of 2										
<h2>Major 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	<table border="1"> <tr> <td colspan="2" data-bbox="820 453 1382 533"> Property Address(es) and Legal Description(s) 10805 - 95 STREET NW Plan RN23 Blk 22 Lot 27 </td> </tr> <tr> <td colspan="2" data-bbox="820 543 1382 573"> Specific Address(es) </td> </tr> <tr> <td data-bbox="820 579 878 604">Suite:</td> <td data-bbox="911 579 1382 604">10805 - 95 STREET NW</td> </tr> <tr> <td data-bbox="820 611 911 636">Entryway:</td> <td data-bbox="911 611 1382 636">10805 - 95 STREET NW</td> </tr> <tr> <td data-bbox="820 642 894 667">Building:</td> <td data-bbox="911 642 1382 667">10805 - 95 STREET NW</td> </tr> </table>	Property Address(es) and Legal Description(s) 10805 - 95 STREET NW Plan RN23 Blk 22 Lot 27		Specific Address(es)		Suite:	10805 - 95 STREET NW	Entryway:	10805 - 95 STREET NW	Building:	10805 - 95 STREET NW
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Scope of Permit To Change the Use of a Restaurant to a Bar & Neighborhood Pub											
Permit Details <table border="1" style="width: 100%;"> <tr> <td data-bbox="261 804 805 903"> Class of Permit: Class B Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.): </td> <td data-bbox="813 804 1382 903"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq. m.): New Sewer Service Required: Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)								
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Development Permit Decision Approved Issue Date: Oct 16, 2020 Development Authority: HARRISON, MARK Subject to the Following Conditions Zoning Conditions: Note: A Building Permit is Required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information. NOTE: This Development Permit is not a Business Licence. A separate application must be made for a Business Licence. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1) 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. NOTE: Signs require separate Development Applications. Variances You are receiving this notice because a Discretionary Use Development Permit has been issued, pursuant to Section 12.4 and 20.3 of the Edmonton Zoning Bylaw. 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: Oct 22, 2020 Ends: Nov 12, 2020											



Project Number: **375010619-002**
Application Date: OCT 07, 2020
Printed: October 16, 2020 at 2:41 PM
Page: 2 of 2

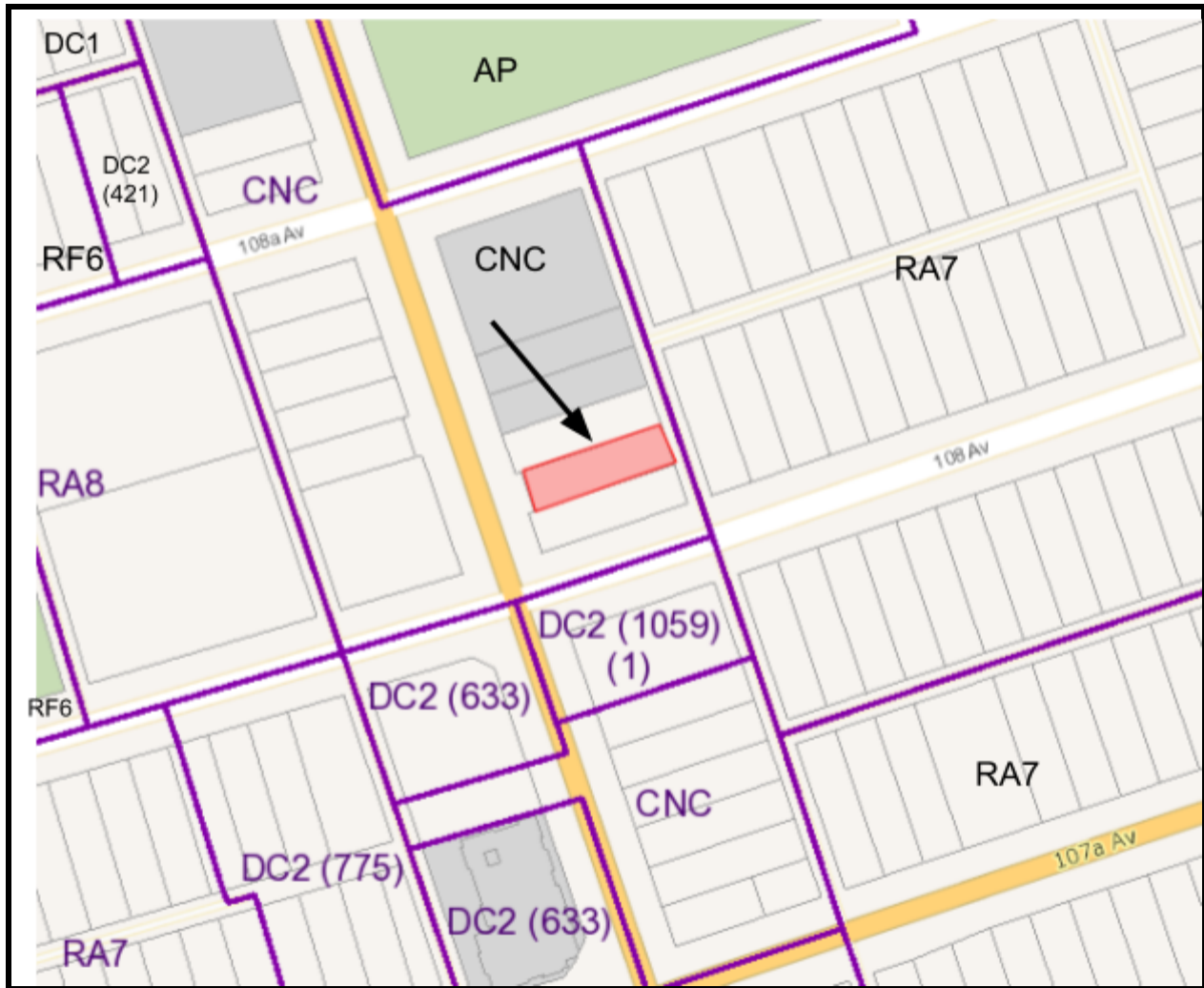
Major Development Permit

Notice Period Begins: Oct 20, 2020

Ends: Nov 10, 2020

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$528.00	\$528.00	01155607741J001	Oct 13, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	\$528.00	\$528.00		



SURROUNDING LAND USE DISTRICTS

Site Location ← File: SDAB-D-20-171 ▲
N