

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
December 1, 2016**

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

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

I 9:00 A.M. SDAB-D-16-307

To construct a Semi-detached House with front verandas, fireplaces, rear uncovered decks (2.74 metres by 6.10 metres each), rooftop terraces and to demolish an existing Single Detached House and rear detached Garage.

10502 - 85 Avenue NW
Project No.: 230789273-001

TO BE RAISED

II 11:00 A.M. SDAB-D-16-293

To install (1) Freestanding Off-premises Sign (3.0 metres by 6.1 metres facing north) (PATTISON).

13122 - 82 Street NW
Project No.: 227741333-001

III 2:00 P.M. SDAB-D-16-308

To construct an addition (up to 8 Storeys, 32.9 metres in Height) and exterior alterations to an existing Public Education Services Use building (alterations to existing landscaping and adding third level parkade with 128 parking stalls).

11010 - 142 Street NW / 11040 - 142 Street NW
Project No.: 225741795-001

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-307

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 230789273-001

APPLICATION TO: Construct a Semi-detached House with front verandas, fireplaces, rear uncovered decks (2.74 metres by 6.10 metres each), rooftop terraces and to demolish an existing Single Detached House and rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 14, 2016

DATE OF APPEAL: November 15, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10502 - 85 Avenue NW

LEGAL DESCRIPTION: Plan RN3 Blk 99 Lots 1-2

ZONE: (RF4) Semi-detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Strathcona Area Redevelopment Plan

Grounds for Appeal

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

We built the exact same building next door and was also approved with variances. Neighborhood has no objections.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

...

Hearing and Decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

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

- (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under Section 150.2(5), **Semi-detached Housing** is a **Permitted Use** in the (RF4) Semi-detached Residential Zone.

Under section 7.2(8), **Semi-detached Housing** means:

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

Under section 6.1(27), **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.

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 ensure that new low density development in Edmonton’s mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Mature Neighbourhood Overlay Development Regulations

Height

Section 814.3(13) states “the maximum Height shall not exceed 8.6 m, in accordance with Section 52.”

Under section 6.1(50), **Height** means “a vertical distance between two points.”

Development Officer’s Determination

1. Height - The maximum height is 10.1m instead of 8.6m (Section 814.3.13). [unedited].

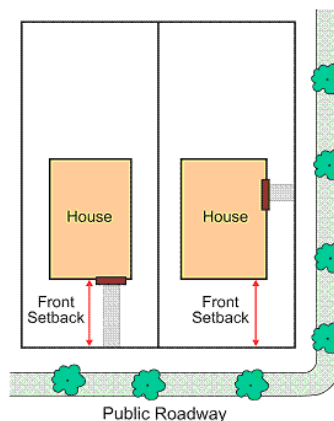
Front Setback

Section 814.3(1) states:

The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the blockface. Separation Space and Privacy Zone shall be reduced to accommodate the Front Setback requirement where a Principal Living Room Window faces directly onto a local public roadway, other than a Lane. [...].

Under section 6.1(40), **Front Setback** means:

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



Development Officer’s Determination

2. Reduced Front Setback - The minimum front setback is 3.0m instead of 5.1m (Section 814.3.1). [unedited].

Community Consultation

Section 814.3(24) states:

When a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Projection into Setbacks and Separation Spaces

Section 44 states the following:

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

1. a) verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, provided such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces of 1.2 m or greater. Where unenclosed steps extend into Side Setbacks which are not used for vehicular access, such steps shall not exceed a Height of 1.0 m above Grade.

Development Officer's Determination

3. Projection - The distance from the architectural feature (pillar) to the property line along 85 Avenue NW (front lot line) is 2.4m, instead of 4.5m (Section 44.1). [unedited].

(RF4) Semi-detached Residential Zone Regulations

Side Setbacks

Section 814.3(2) states “where the Site Width is less than 18.3 m, the Side Setback requirements of the underlying Residential Zone shall apply.”

Section 150.4(7)(c) states “on a Corner Site where the building faces the Front Lot Line or the Side Lot Line, the minimum Side Setback abutting the Side Lot Line flanking the public roadway shall be 20% of the Width of the Lot flanking the roadway, to a maximum of 4.5 m.”

Development Officer’s Determination

4. Reduced Side Setback - The distance from the proposed Semi-detached House to the property line along 105 Street NW (flanking side lot line) is 1.7m, which is 11% of the lot width, instead of 20% (Section 150.4.8.c). [unedited].

Site Coverage

Section 150.4(5) states the maximum Site Coverage shall be as follows:

	Principal Dwelling building /	Accessory building	Total Site Coverage
(d) Semi-detached Housing - Site area less than 600 square metres	32 percent	17 percent	45 percent

Under section 6.1(94), **Site Coverage** means:

the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 m above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

- a. steps, eaves, cornices, and similar projections;
- b. driveways, aisles and parking lots unless they are part of a Parking Garage which extends 1.0 m or more above Grade; or
- c. unenclosed inner and outer courts, terraces and patios where these are less than 1.0 m above Grade.

Development Officer's Determination

5. Site Coverage - The proposed Semi-detached House covers 36% of the site, instead of 32% In total all the buildings cover 51% of the site, instead of 45% (Section 150.4.5). [unedited].

Rooftop Terraces

Section 61.1 states:

On a Site Abutting a Site zoned to allow Single Detached Housing as a Permitted Use, or a Site zoned RF5 Row Housing Zone, Rooftop Terraces and Privacy Screening, excluding vegetative screening constructed on a Rooftop Terrace, shall be developed in accordance with the following Stepback regulations:

- b. On a Corner Site, a minimum Stepback shall be:
 - i. 1.0m from any building Façade facing a Front Lot Line or flanking Side Lot Line;
 - ii. 2.0 m from any building Façade facing a Rear Lot Line;
 - iii. ...
 - iv. 3.0 m from any building Façade facing an interior Side Lot Line, where the Site Width is 10.0 m or greater.

Under section 6.1(88), **Rooftop Terrace** means:


a raised surface on which people can stand, that is located on top of a roof or partially recessed within the roof structure of a building, does not project beyond any Façade of the Storey below, is surrounded by guardrails, parapet walls or similar feature, and is intended for use as an Amenity Area.

Development Officer's Determination

6. Rooftop Terrace - Stepbacks are not provided from the building facades facing the rear lot line, interior side lot line and flanking side lot line (Section 61.1.b). [unedited].

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 230789273-001 Application Date: SEP 16, 2016 Printed: November 14, 2016 at 11:29 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Minor Development Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 10502 - 85 AVENUE NW Plan RN3 Blk 99 Lots 1-2
	Specific Address(es) Entryway: 10502 - 85 AVENUE NW Entryway: 10504 - 85 AVENUE NW Building: 10502 - 85 AVENUE NW
Scope of Application To construct a Semi-Detached House with front verandas, fireplaces, rear uncovered decks (2.74m x 6.10m each), rooftop terraces and to demolish existing Single Detached House and rear detached Garage.	
Permit Details	
# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Class A Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area:
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused	
Reason for Refusal This Development Permit application for a Semi-detached House is refused for the following reasons:	
<ol style="list-style-type: none"> 1. Height - The maximum height is 10.1m instead of 8.6m (Section 814.3.13). 2. Reduced Front Setback - The minimum front setback is 3.0m instead of 5.1m (Section 814.3.1). 3. Projection - The distance from the architectural feature (pillar) to the property line along 85 Avenue NW (front lot line) is 2.4m, instead of 4.5m (Section 44.1). 4. Reduced Side Setback - The distance from the proposed Semi-detached House to the property line along 105 Street NW (flanking side lot line) is 1.7m, which is 11% of the lot width, instead of 20% (Section 150.4.8.c). 5. Site Coverage - The proposed Semi-detached House covers 36% of the site, instead of 32% In total all the buildings cover 51% of the site, instead of 45% (Section 150.4.5). 6. Rooftop Terrace - Stepbacks are not provided from the building facades facing the rear lot line, interior side lot line and flanking side lot line (Section 61.1.b). 	
Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.	
THIS IS NOT A PERMIT	



Project Number: 230789273-001
Application Date: SEP 16, 2016
Printed: November 14, 2016 at 11:29 AM
Page: 2 of 2

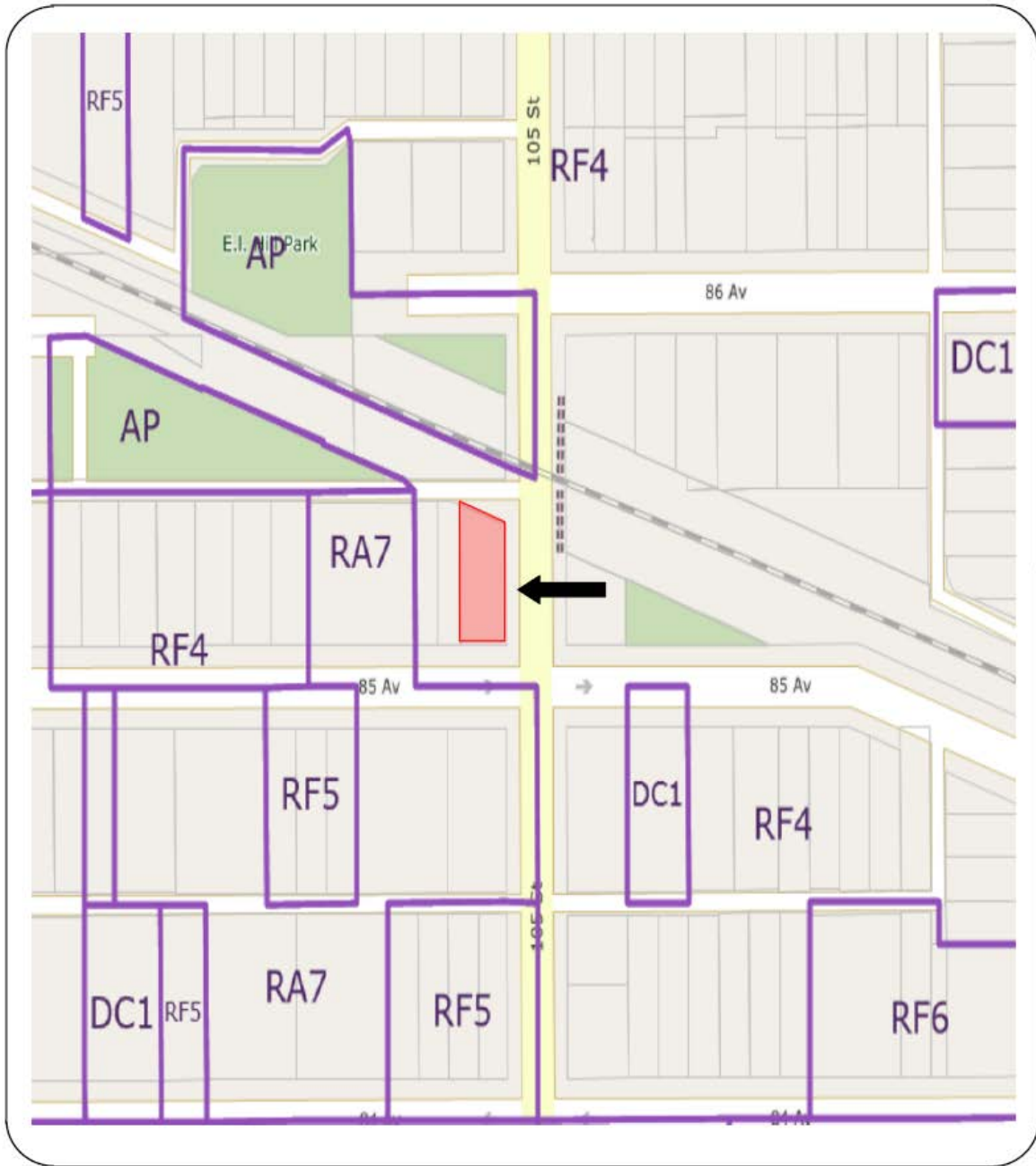
Application for Minor Development Permit

Issue Date: Nov 14, 2016 Development Authority: YEUNG, KENNETH Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$456.00	\$456.00	03608888	Sep 16, 2016
Lot Grading Fee	\$270.00	\$270.00	03608888	Sep 16, 2016
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03608888	Sep 16, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$2,292.00	<u>\$2,292.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-307



TO BE RAISED
ITEM II: 11:00 A.M.

FILE: SDAB-D-16-293

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 227741333-001

APPLICATION TO: Install (1) Freestanding Off-premises Sign
(3.0 metres by 6.1 metres facing North)
(PATTISON)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 11, 2016

DATE OF APPEAL: October 24, 2016

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 13122 - 82 Street NW

LEGAL DESCRIPTION: Plan 400RS Blk 24 Lot 21A

ZONE: (CSC) Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

I am a representative of Pattison Outdoor Advertising, the Applicant in the above noted matter.

Our Development Permit Application has been refused. On behalf of Pattison Outdoor Advertising, I hereby appeal the refusal on the following grounds:

1. The proposed development is a discretionary use in the CSC (Medium Industrial) Zone.

2. The proposed development complies with all applicable regulations spelled out in Section 320 (CSC) of The Edmonton Zoning Bylaw, and the applicable Sign Schedule: 59.E, with no variances required.

3. Such further and other reasons as may be presented at the hearing of this appeal.

We look forward to your advice regarding the scheduling of the requested hearing.

General Matters

Appeal Information:

The Subdivision and Development Appeal Board, at a hearing on November 17, 2016, made and passed the following motion with consent of all parties:

"That the hearing for SDAB-D-16-293 be TABLED to December 1, 2016 at the written request of the representative for the Appellant and in agreement from the Development Officer."

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

Grounds for Appeal

685(1) If a development authority

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

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

Appeals

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

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

...

Hearing and Decision

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

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

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

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

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 320.3(32), a **Freestanding Off-premises Sign** is a **Discretionary Use** in the (CSC) Shopping Centre Zone.

Under section 7.9(3), **Freestanding Off-premises Signs** means:

any Sign supported independent of a building, displaying Copy that directs attention to a business, activity, product, service or entertainment that cannot be considered as the principal products sold nor a principal business, activity, entertainment or service provided on the premises or Site where the Sign is displayed.

Section 320.1 states that the **General Purpose** of the (CSC) Shopping Centre Zone is:

...to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

(CSC) Shopping Centre Zone Development Regulations

Section 320.4(8) states “Signs shall comply with the regulations found in Schedule 59E.”

Regulations for Discretionary Signs

Schedule 59E.3(2)(c) states:

all proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Off-premises Sign or may refuse a permit that adversely impacts the built environment.

Development Officer's Determination:

1) All proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Off-premises Sign or may refuse a permit that adversely impacts the built environment; (Reference Section 59E.3(2)(c))

Proposed: The proposed sign is located in a CSC zone adjacent to a mixed use commercial building with residential units on the second and third floors. The sign would be located approximately 5m from the balconies, and would adversely impact the built environment by significantly impacting the view from the residential premises on site. [unedited].

Sign Regulations

Section 59.2(6) states:

For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone.


Development Officer's Determination:

2) For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone. (Reference Section 59.2(6)).

Proposed: In the opinion of the Development Officer, the large scale, and lighting, of the proposed sign adversely impacts the built environment, and the amenities and character of the Zone by significantly impacting and limiting the view of the surrounding residential premises. [unedited].

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	Project Number: 227741333-001 Application Date: AUG 08, 2016 Printed: October 11, 2016 at 3:41 PM Page: 1 of 2
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 13122 - 82 STREET NW Plan 400RS Blk 24 Lot 21A
Scope of Application To install (1) Freestanding Off-premises Sign (3.0m x 6.1m facing North) (PATTISON).	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 10000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 0 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 1 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused	
THIS IS NOT A PERMIT	



Project Number: **227741333-001**
 Application Date: AUG 08, 2016
 Printed: October 11, 2016 at 3:41 PM
 Page: 2 of 2

Application for Sign Combo Permit

Reason for Refusal

1) All proposed Freestanding Off-premises Sign locations shall be reviewed in context with the surrounding development, such as (but not limited to): the architectural theme of the area; any historic designations; the requirements of any Statutory Plan; any streetscape improvements; and proximity to residential development. The Development Officer may require revisions to the application to mitigate the impact of a proposed Off-premises Sign or may refuse a permit that adversely impacts the built environment; (Reference Section 59E.3(2)(c))

Proposed: The proposed sign is located in a CSC zone adjacent to a mixed use commercial building with residential units on the second and third floors. The sign would be located approximately 5m from the balconies, and would adversely impact the built environment by significantly impacting the view from the residential premises on site.

2) For all Sign Applications, the Development Officer shall have regard for the scale and architectural character of the building and the land use characteristics of surrounding development. The Development Officer shall refuse any Sign Application that may adversely impact the amenities or character of the Zone. (Reference Section 59.2(6)).

Proposed: In the opinion of the Development Officer, the large scale, and lighting, of the proposed sign adversely impacts the built environment, and the amenities and character of the Zone by significantly impacting and limiting the view of the surrounding residential premises.

Rights of Appeal

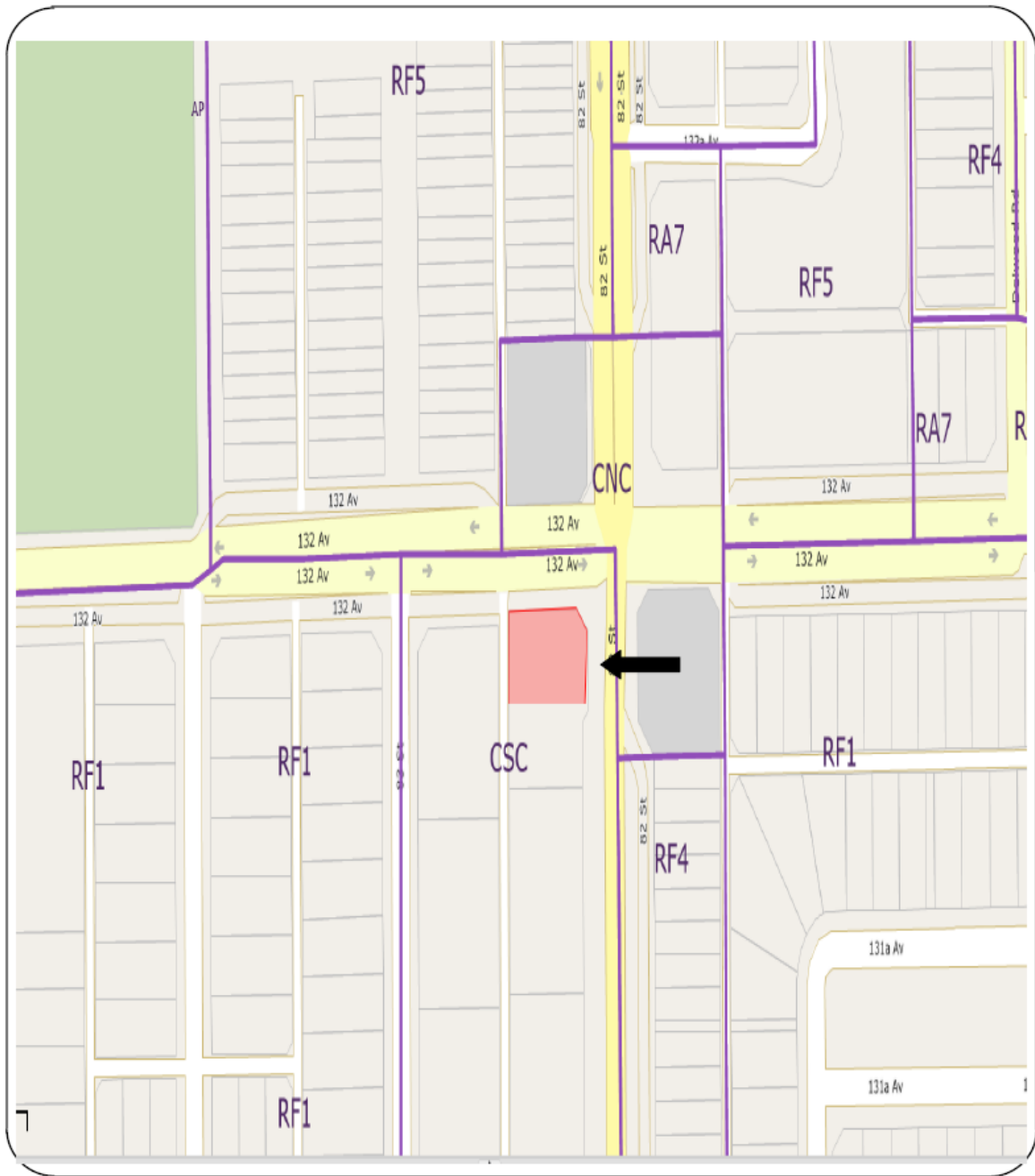
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 11, 2016 **Development Authority:** NOORMAN, BRENDA **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$5.96	\$5.96	03507224	Aug 08, 2016
Sign Development Application Fee	\$261.00	\$261.00	03507224	Aug 08, 2016
Sign Building Permit Fee	\$149.00	\$149.00	03507224	Aug 08, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$415.96	\$415.96		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-293



ITEM III: 2:00 P.M.

FILE: SDAB-D-16-308

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 225741795-001

APPLICATION TO: Construct an addition (up to 8 Storeys, 32.9 metres in Height) and exterior alterations to an existing Public Education Services Use building (alterations to existing landscaping and adding third level parkade with 128 parking stalls)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 27, 2016

DATE OF APPEAL: November 8, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11010 - 142 Street NW / 11040 - 142 Street NW

LEGAL DESCRIPTION: Plan 1212MC Blk 22 Lots 1-2

ZONE: (US) Urban Services Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

The Development has been denied based on the following 2 points.

- 1) The proposed building exceeds the maximum allowable height in the Urban Service Zone (US) by 22.9m.

However, the proposed addition does not exceed the existing building height and only proposes to match the existing height, which was approved for development in 2008. Additionally, The Workun Garrick Partnership has prepared, and submitted as part of the Initial Development Permit Application, a Sun Shadow Impact

Study showing the existing conditions in comparison to the proposed conditions. The addition places one further property to the West in shadow during the morning but by midday, the impact of the existing ATA building and the proposed addition has little to no impact on the neighboring properties.

2) Due to the proposed addition, the site is parking deficient by 151 parking stalls.

Included as part of the development is an additional storey to the Parkade, increasing the on-site parking total to 440 spaces. This proposed variance is three spaces less than the existing parking variance for the ATA. As well, the ATA has engaged the adjacent Church of Jesus Christ of Latter-day Saints to renew the shared parking agreement between the two sites (an additional 106 stalls) which expired on April 30, 2016. The ATA has subsequently renewed the agreement prior to the Development Permit Application and is awaiting the hardcopy from the Church Head Office in Lethbridge. Additionally, a Parking Impact Assessment has been done and was provided as part of the Initial Development Permit Application, which supports that the peak parking demand can be accommodated based on the additional Parkade storey and the shared use agreement.

In addition to the above, the overall design and composition of the Proposed Addition mimics the existing Tower. The design intent is to complement the existing tower and complete the building. As well the ATA has had preliminary discussions regarding the expansion with the neighboring Community Group which have been well received and a Community Engagement/ Open House has been scheduled for November 28, 2016.

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

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- (a) in the case of an appeal made by a person referred to in section 685(1), after
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...

Hearing and Decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

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

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

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

and

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

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 510.2(5), **Public Education Services** is a **Permitted Use** in the (US) Urban Services Zone.

Under section 7.8(11), **Public Education Services** means:

development which is publicly supported or subsidized involving public assembly for educational, training or instruction purposes, and includes the administration offices required for the provision of such services on the same Site. This Use Class includes public and separate schools, community colleges, universities, and technical and vocational schools, and their administrative offices. This Use Class does not include Private Education Services and Commercial Schools.

Under section 6.1(71), **Parking Garage** means “an Accessory building or structure, or any portion of a principal building or structure, containing communal parking spaces used for vehicular parking or storage.”

Section 510.1 states that the **General Purpose** of the **(US) Urban Services Zone** is “to provide for publicly and privately owned facilities of an institutional or community service nature.”

Height

Section 510.4(4) states “the maximum building Height shall be 10.0 m.”

Section 510.4(5) states:

where, in the opinion of the Development Officer, it is unreasonable for a development to comply with clause (1), (2), (3) or (4) due to characteristics fundamental to the nature of the Use, the Development Officer may relax the conditions of clause (1), (2), (3) or (4), as required. In such cases, a Permitted Use shall become a Discretionary Use.

Under section 6.1(50), **Height** means “a vertical distance between two points.”

Development Officer’s Determination

1) Section 510.4(4): The maximum Building Height shall be 10.0m.

**Proposed Addition Height: 32.9m / 8 storeys
Exceed by 22.9m**

Furthermore, in the opinion of the Development Officer, the proposed height of the addition will negatively impact the adjacent residential development. In particular, sun shadow in the morning of the days will impact on west side neighbouring properties. [unedited].

Parking

Section 54.2, Schedule 1(A)(32) states “any development within the Community, Educational, Recreational and Cultural Service Use Class not listed separately requires a

minimum of 1 parking space per 3.5 seats or 1 parking space per 3.3 m² of Floor Area used by patrons.”

Section 54.1 states the following with respect to *Off-street Parking and Loading Regulations*:

1. Applicability and Exceptions
 - a. When any development takes place on any Site, off-street parking and loading facilities for each building type or Use, including Accessory Uses, shall be provided and maintained in accordance with the regulations and standards of this Bylaw.
 - b. Notwithstanding the above, the regulations contained within this Section shall not apply to buildings or Uses existing at the time of the adoption of this Bylaw, except that:
 - i. ...
 - ii. where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use; and
 - iii. ...
 - c. ...

Section 54.2(2) states the following with respect to *Location of Vehicular Parking Facilities*:

- a. ...
- b. For all other Uses, parking spaces may be provided on a Site located remotely, but no further than 120.0 m from the Site. Such distance shall be measured along the shortest public pedestrian route from the nearest point of the parking area to the nearest point of the Site where the building or Use is located. Where off-site parking is provided pursuant to this provision, the development shall be considered as Class B Development.
- c. Where required parking spaces are not on the same Site of the development or Use, these parking spaces shall be identified as parking spaces for that development or Use through the use of appropriate signage.

- d. Notwithstanding the definition of Accessory in this Bylaw, Accessory parking spaces for non-residential Uses may be located on another Site where:
 - i. the principal Use Class to which the parking is an Accessory Use is a Permitted or a Discretionary Use on the Site to be used for additional parking; or
 - ii. ...
- e. ...

Development Officer’s Determination

2) Section 54.1.1.b.ii: Where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use

Required: 591 spaces

Proposed: 440 spaces (including existing on-site 312 spaces + proposed third level parkade 128 spaces)

Deficient by: 151 spaces

NOTES: The ATA (Alberta Teachers' Association) had parking agreement with adjacent property 10980-142 Street (The Church of Jesus Christ of Latter-day Saints), but the parking agreement expired on April 30, 2016. There was no updated parking agreement document provided at this point. Development Officer did not consider the 106 shared stalls as provided parking stalls. [unedited].

Previous Subdivision and Development Appeal Board Decisions

<u>Application Number</u>	<u>Description</u>	<u>Decision</u>
<u>SDAB-D-11-075</u>	Install an On-premises Fascia Sign (Alberta Teachers Association)	April 29, 2011: that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 36.74 square metres in the maximum Area for any single Fascia On-premises Sign be permitted and the requirement that a Fascia

		<p>On-premises Sign not extend higher than 75 centimetres above the floor of the second Storey of a structure be waived, subject to conditions.</p>
<p><u>SDAB-D-08-238</u></p>	<p>Construct an addition to a Public Education Service building (vestibule and two storey office space addition, Alberta Teachers Association) on Lot 1</p>	<p>October 17, 2008:</p> <p>“that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the excess of 22.65 metres in maximum allowable Height and the deficiency of 136 on site vehicular parking stalls be permitted, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. a legally executed parking use agreement between the ATA and the Church of Jesus Christ of Latter-day Saints for 106 off site parking spaces is required and if that parking use agreement is terminated or modified at any time, a new agreement for off-site parking and/or an addition to the existing parkade will be required to replace the lost off-site parking stalls; 2. a solid sound attenuation wall shall be constructed on the west property line from the southwest corner of the property to the southwest corner of the existing parkade, prior to the commencement of any work on the site; 3. details of this sound attenuation wall (elevations, materials, color, height and exact location) shall be

<p>-</p> <p>-</p>	<p style="text-align: center;">N o t i c e t o N o t i c e t o</p>	<p>submitted to the satisfaction of the Development Authority on or before November 15, 2008;</p> <p>4. the Applicant shall provide confirmation that the Sun Shadow Impact Study was prepared to professional standards by a qualified, registered Professional Engineer or Architect to the satisfaction of the Board on or before November 15, 2008;</p> <p>5. should the Building Code or other regulations require access from the north south lane on the west boundary of this property for fire or emergency vehicles, a gate is to be provided in the sound attenuation wall to be used only in emergencies and not for general access or egress;</p> <p>6. any modification to the existing accesses from 142 Street, requires the review and approval of the Transportation Department.”</p>
<p><u>SDAB-D-04-057</u></p>	<p>Construct an On-Premises Freestanding Sign (The Alberta Teacher's Association)</p> <p style="text-align: center;">i c a n</p>	<p>April 30, 2004:</p> <p>that the appeal be ALLOWED and the DEVELOPMENT GRANTED and the illumination and excess in the allowable height and area be granted pursuant to Section 59C.2(1)(c) of the Edmonton Zoning Bylaw.”</p>

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **225741795-001**
 Application Date: JUL 11, 2016
 Printed: October 27, 2016 at 12:15 PM
 Page: 1 of 2

Application for Major Development Permit

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

Applicant	Property Address(es) and Legal Description(s) 11010 - 142 STREET NW Plan 1212MC Blk 22 Lot 2 11010 - 142 STREET NW Plan 1212MC Blk 22 Lot 1 11040 - 142 STREET NW Plan 1212MC Blk 22 Lot 1
	Specific Address(es) Entryway: 11010 - 142 STREET NW Building: 11010 - 142 STREET NW


Scope of Application
 To construct an addition (up to 8 storeys, 32.9m in height) and exterior alterations to an existing Public Education Services Use building (alterations to existing landscaping and adding third level parkade with 128 parking stalls).

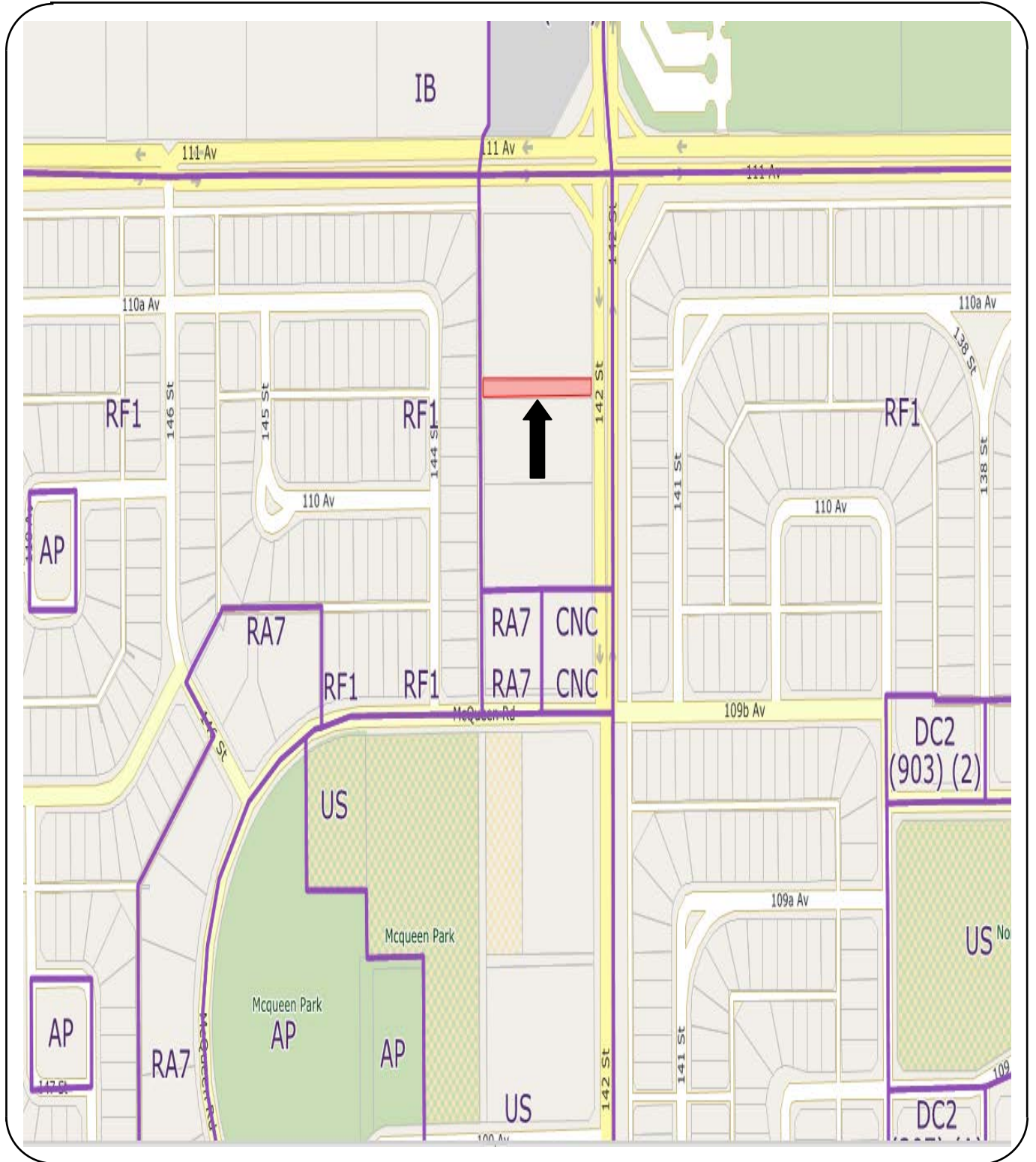
Permit Details	
Class of Permit: Gross Floor Area (sq.m.): 3665 New Sewer Service Required: Y Site Area (sq. m.): 10965	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay

I/We certify that the above noted details are correct.
 Applicant signature: _____

Development Application Decision
 Refused

THIS IS NOT A PERMIT

	Project Number: 225741795-001 Application Date: JUL 11, 2016 Printed: October 27, 2016 at 12:15 PM Page: 2 of 2																														
<h2 style="margin: 0;">Application for Major Development Permit</h2>																															
<p>Reason for Refusal</p> <p>1) Section 510.4(4): The maximum Building Height shall be 10.0m.</p> <p>Proposed Addition Height: 32.9m / 8 storeys Exceed by 22.9m</p> <p>Furthermore, in the opinion of the Development Officer, the proposed height of the addition will negatively impact the adjacent residential development. In particular, sun shadow in the morning of the days will impact on west side neighbouring properties.</p> <p>2) Section 54.1.1.b.ii: Where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use</p> <p>Required: 591 spaces Proposed: 440 spaces (including existing on-site 312 spaces + proposed third level parkade 128 spaces) Deficient by: 151 spaces</p> <p>NOTES: The ATA (Alberta Teachers' Association) had parking agreement with adjacent property 10980-142 Street (The Church of Jesus Christ of Latter-day Saints), but the parking agreement expired on April 30, 2016. There was no updated parking agreement document provided at this point. Development Officer did not consider the 106 shared stalls as provided parking stalls.</p> <p>Rights of Appeal</p> <p>The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p>																															
<p>Issue Date: Oct 27, 2016 Development Authority: LI, CINDY Signature: _____</p>																															
<p>Fees</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 15%;">Fee Amount</th> <th style="width: 15%;">Amount Paid</th> <th style="width: 10%;">Receipt #</th> <th style="width: 10%;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Dev. Application Fee for GFA</td> <td style="text-align: right;">\$2,880.00</td> <td style="text-align: right;">\$2,880.00</td> <td>03438243</td> <td>Jul 13, 2016</td> </tr> <tr> <td>Major Dev. Application Fee</td> <td style="text-align: right;">\$893.00</td> <td style="text-align: right;">\$893.00</td> <td>03438243</td> <td>Jul 13, 2016</td> </tr> <tr> <td>Sanitary Sewer Trunk Fund 2012+</td> <td style="text-align: right;">\$4,865.24</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$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;">\$8,638.24</td> <td style="text-align: right; border-top: 1px solid black;">\$3,773.00</td> <td></td> <td></td> </tr> </tbody> </table> <p>(\$4,865.24 outstanding)</p>			Fee Amount	Amount Paid	Receipt #	Date Paid	Dev. Application Fee for GFA	\$2,880.00	\$2,880.00	03438243	Jul 13, 2016	Major Dev. Application Fee	\$893.00	\$893.00	03438243	Jul 13, 2016	Sanitary Sewer Trunk Fund 2012+	\$4,865.24				Total GST Amount:	\$0.00				Totals for Permit:	\$8,638.24	\$3,773.00		
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SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-308



BUSINESS LAID OVER

SDAB-D-16-144	An appeal to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard <i>December 7, 2016</i>
SDAB-D-16-263	An appeal to erect a fence higher than 1.2 m in a Side Yard abutting a public roadway other than a lane. <i>December 7 or 8, 2016</i>
SDAB-D-16-293	An appeal to change the Use of a General retail Store to a Major Alcohol Sales. <i>January 11, 2017</i>
SDAB-D-16-294	An appeal by to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <i>January 18 or 19, 2017</i>
SDAB-D-16-295	An appeal by to comply with a Stop Order to CEASE the Non-Accessory Parking, REMOVE all meters, signage, and material related to parking and REFRAIN from allowing Non-Accessory Parking. This Order is to be complied with on or before September 28, 2016. <i>January 18 or 19, 2017</i>
SDAB-S-14-001	An appeal to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>January 25, 2017</i>
SDAB-D-16-144	An appeal to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>February 2017</i>