

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

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

**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-16-309	Construct a Garage Suite and to demolish the existing Accessory Building (Garage on main floor and Dwelling on upper floor, 7.47 metres by 7.92 metres) 11119 - 65 Street NW Project No.: 189354056-001
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II	11:00 A.M.	SDAB-D-16-310	Construct and operate a Residential Sales Centre 8240 - 217 Street NW Project No.: 233140341-002
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III	2:00 P.M.	SDAB-D-16-311	Construct interior and exterior alterations to a Single Detached House (change roofline, add window, interior doors, second floor kitchen) 11511 - Fort Road NW Project No.: 221368646-003
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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-16-309

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 189354056-001

ADDRESS OF APPELLANT: 11119 - 65 Street NW

APPLICATION TO: Construct a Garage Suite and to demolish the existing Accessory Building (Garage on main floor and Dwelling on upper floor, 7.47 metres by 7.92 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 9, 2016

DATE OF APPEAL: November 9, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11119 - 65 STREET NW

LEGAL DESCRIPTION: Plan 600U Blk 23 Lot 6

ZONE: RF1-Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

The reasons for my appeal are fairly simple. I will try to be as brief as possible here and will happily elaborate as required throughout the process. In light of proposed changes to parking regulations, the fact that the project still falls within the total site coverage allowable by the city, and the adverse effect on livability lowering the suite by 40 centimetres would cause, these relatively minor and unnoticeable exceptions to the current restrictions would have no discernable effect on my neighbours or the community as a whole.

General Matters

Appeal Information:

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*:

Section 110.1 states that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

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.

Under section 110.3(3), a **Garage Suite** is a **Discretionary Use** in the **RF1 Single Detached Residential Zone**.

Under section 7.2(3), **Garage Suite** means:

an Accessory Dwelling located above a detached Garage (above Grade); or a single-storey Accessory Dwelling attached to the side or rear of, a detached Garage (at Grade). A Garage Suite is Accessory to a building in which the principal Use is Single Detached Housing. A Garage Suite has cooking facilities, food preparation, sleeping and sanitary facilities which are separate from those of the principal Dwelling located on the Site. A Garage Suite has an entrance separate from the vehicle entrance to the detached Garage, either from a common indoor landing or directly from the exterior of the structure. This Use Class does not include Garden Suites, Secondary Suites, Blatchford Lane Suites, or Blatchford Accessory Suites.

Height

Section 87.2(a) states the maximum Height shall be as follows: Garage containing a Garage Suite (above Grade):

- i. 6.5 metres or up to 1.5 metres greater than the Height of the principal Dwelling as constructed at the time of the Development Permit Application, whichever is the lesser, where the building containing the Garage Suite has a roof slope of 4/12 (18.4 degree) or greater.

Development Officer’s Determination:

Height - The proposed Garage Suite is 6.90 metres in Height instead of 6.5 metres (Section 87.2.a.i).

Site Coverage

Section 110.4(7) states the maximum Site Coverage shall be as follows:

	Principal Dwelling / building	Accessory building	Principal building with attached Garage	Total Site Coverage
a. Single Detached Housing - Site greater than 300 square metres	28 percent	12 percent	40 percent	40 percent

Under Section 6.1(96), **Site Coverage** means the total horizontal area of all buildings or structures on a Site which are located at or higher than 1.0 metres above Grade, including Accessory buildings or Structures, calculated by perpendicular projection onto a horizontal plane from one point located at an infinite distance above all buildings and structures on the Site. This definition shall not include:

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

Development Officer’s Determination

Site Coverage - The proposed Garage Suite has 14.7 percent Site Coverage instead of 12 percent (Section 110.4.7.a).

The Development Officer has provided the following information:

Site Area:	401.60 square metres
12 percent allowable Site Coverage:	48.19 square metres
28 percent allowable Site Coverage:	112.45 square metres
40 percent allowable Site Coverage:	160.64 square metres
Proposed Garage/Garage Suite:	59.10 square metres
Proposed Principal Building:	102.84 square metres
Total Site Coverage:	161.94 square metres

The maximum allowable Site Coverage for an Accessory Building is 48.19 square metres, proposed is 59.10 square metres, which exceeds the maximum allowable Site Coverage for an Accessory Building by 10.91 square metres.

The maximum allowable total Site Coverage is 160.64 square metres, proposed is 161.94 square metres, which exceeds the maximum allowable total Site Coverage by 1.3 square metres.

<i>Parking</i>

Section 54.2, Schedule 1(A)(2), states a Garage Suite requires 1 parking space per 2 Sleeping Units in addition to the parking requirements for primary Dwelling.

Tandem Parking is allowed for Secondary Suites, Garage Suites and Garden Suites.


Section 54.2, Schedule 1(A)(3), states Single Detached Housing requires 2 parking spaces per Dwelling, may be in tandem and may include 1 Garage space.

Development Officer's Determination

Parking - The proposed available parking on Site is three (3) stalls instead of the required two (2) stalls (Section 54.2 Schedule 1(2)).

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: 189354056-001 Application Date: MAR 31, 2016 Printed: November 10, 2016 at 8:24 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
This document is a record of a Development Permit and/or Building 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, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit			
Applicant <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	Property Address(es) and Legal Description(s) 11119 - 65 STREET NW Plan 600U Blk 23 Lot 6 Location(s) of Work Suite: 11119 - 65 STREET NW Entryway: 11119 - 65 STREET NW Building: 11119 - 65 STREET NW		
Scope of Application To construct a Garage Suite and to demolish the existing Accessory Building (Garage on main floor and Dwelling on upper floor, 7.47m x 7.92m).			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Affected Floor Area (sq. ft.): 637 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m): </td> <td style="width: 50%; border: none; vertical-align: top;"> Building Height to Midpoint (m): Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area: </td> </tr> </table>		Affected Floor Area (sq. ft.): 637 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m):	Building Height to Midpoint (m): Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area:
Affected Floor Area (sq. ft.): 637 Class of Permit: Front Yard (m): Rear Yard (m): Side Yard, left (m): Site Area (sq. m.): Site Width (m):	Building Height to Midpoint (m): Dwelling Type: Garage Suite Home Design Type: Secondary Suite Included?: N Side Yard, right (m): Site Depth (m): Stat. Plan Overlay/Annex Area:		
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. Height - The proposed Garage Suite is 6.90m in Height instead of 6.5m (Section 87.2.a.i). 2. Site Coverage - The proposed Garage Suite has 14.7% Site Coverage instead of 12% (Section 110.4.7.a). 3. Parking - The proposed available parking on Site is three (3) stalls instead of the required two (2) stalls (Section 54.2 Schedule 1(2)). <p>ADVISEMENTS:</p> <p>This Development refusal 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).</p> <p>Unless otherwise specified, all references to 'Section' are under the authority of the Edmonton Zoning Bylaw 12800.</p> <p>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.</p>			
<p>THIS IS NOT A PERMIT</p>			



Project Number: **189354056-001**
 Application Date: MAR 31, 2016
 Printed: November 10, 2016 at 8:24 AM
 Page: 2 of 2

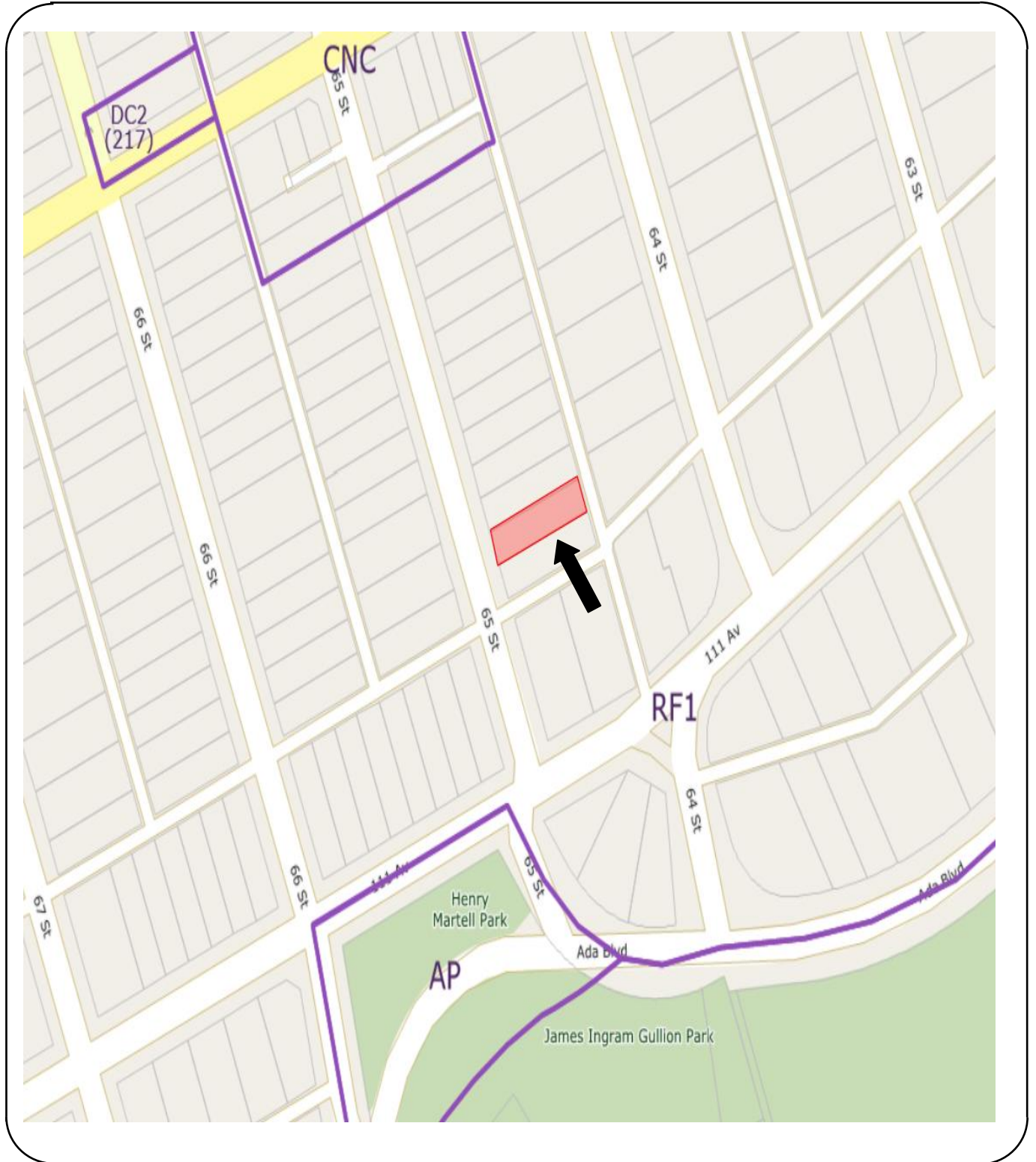
Application for House Development and Building Permit

Issue Date: Nov 09, 2016 **Development Authority:** LEE, CHRISTIAN **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Sanitary Sewer Trunk Fund	\$693.00	\$693.00	03165196	Mar 31, 2016
Electrical Safety Codes Fee	\$13.22	\$13.22	03165196	Mar 31, 2016
Building Permit Fee	\$1,043.00	\$1,043.00	03165196	Mar 31, 2016
Electrical Fee (Service)	\$77.00	\$77.00	03165196	Mar 31, 2016
Water Usage Fee	\$25.41	\$25.41	03165196	Mar 31, 2016
Lot Grading Fee	\$135.00	\$135.00	03165196	Mar 31, 2016
Safety Codes Fee	\$41.72	\$41.72	03165196	Mar 31, 2016
Electrical Fees (House)	\$218.00	\$218.00	03165196	Mar 31, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,246.35	\$2,246.35		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-309



ITEM II: 11:00 A.M.

FILE: SDAB-D-16-310

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

APPELLANT:

APPLICATION NO.: 233140341-002

ADDRESS OF APPELLANT: 8232 - 217 Street NW

APPLICATION TO: Construct and operate a Residential Sales Centre

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: November 10, 2016

DATE OF APPEAL: November 16, 2016

NOTIFICATION PERIOD: Nov 17, 2016 through Dec 1, 2016

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 8240 - 217 Street NW

LEGAL DESCRIPTION: Plan 1225087 Blk 2 Lot 2

ZONE: RSL-Residential Small Lot Zone

OVERLAY: N/A

STATUTORY PLAN: Lewis Farms Area Structure Plan

Rosenthal Neighbourhood Area Structure Plan

Grounds for Appeal

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

I would like to appeal the proposed use. This is a residential neighborhood and there should not be a fulltime sales center next door.

This business will cause excessive vehicle traffic and congested streets. The streets will be congested with vehicles due to vehicles parking along the sidewalks. We currently have this issue due to the construction of the condos on the adjacent street. The show homes also operate until 8 pm with some clients staying later due to conflicting appointments. These hours will cause excessive noise throughout the neighborhood. I have spoken with our neighbors and they agree with these concerns.

<i>General Matters</i>

Appeal Information:

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*:

Section 115.1 states the General Purpose of the **RSL Residential Small Lot Zone** is to provide for smaller lot Single Detached Housing with attached Garages in a suburban setting that provides the opportunity for the more efficient utilization of undeveloped suburban areas and includes the opportunity for Secondary Suites.

<i>Discretionary Use</i>

Section 115.3(8) states a **Residential Sales Centre** is **Discretionary Use** in the **RSL Residential Small Lot Zone**.

Under Section 7.3(9), a **Residential Sales Centre** means a permanent or temporary building or structure used for a limited period of time for the purpose of marketing residential land or buildings.

Development Officer's Determination:

Discretionary Use - A Residential Sales Centre is approved as a Discretionary Use (Section 12.4).

Section 82 Residential Sales Centres

The following regulations shall apply to all Residential Sales Centres except those developments provided for in subsections 12.2.2.h and 12.2.1.o of this Bylaw:

1. Sites containing Residential Sales Centres shall be located and developed such that their impacts on local roadways and surrounding residential development are minimized. In deciding upon an application, the Development Officer shall take into consideration the scale of the Residential Sales Centre, its proximity to arterial or neighbourhood collector roadways, and to occupied residential development;
2. where Sites are located within 60.0 metres of existing development, the applicant shall demonstrate that sufficient parking is available on or adjacent to the Site so that parking congestion shall not develop on that portion of local streets serving existing development in the vicinity of the Residential Sales Centre. The Development Officer shall determine the adequacy of parking based on a requirement of 1 parking space per 20 square metres of Floor Area of the Residential Sales Centre;
3. the siting and development of Residential Sales Centre buildings shall comply with the regulations of the Land Use Zone applying to the Site except that:
 - a. the Development Officer may attach conditions requiring additional setbacks to minimize any adverse impacts on adjacent development;
 - b. in the case of a temporary structure, the Height of the building including any hoardings or false fronts shall not exceed one Storey or 4.0 metres; and
 - c. all curb crossings and access points shall be designed and located so as to minimize on-site and off-site traffic impacts and, in consultation with Transportation Services;
4. where a Site is located within a Residential Zone or is visible from residential development located within 60.0 metres of the Site, the colour and material of the exterior finish of the temporary structure and hoardings or false fronts, excluding advertising Copy, shall be compatible with those commonly found in Residential Zones;
5. any exterior lighting shall be developed in accordance with Section 51 of this Bylaw;
6. notwithstanding Section 55, Landscaping shall not be required for a Residential Sales Centre;

7. a Development Application for a Residential Sales Centre shall be accompanied by the following information in addition to the information required by subsection 13.3 of this Bylaw:
 - a. a context plan identifying the nature of the land uses and development within a 60.0 metres radius of the proposed Site;
 - b. a description of the exterior finish materials and colours for any temporary sales structure including any proposed hoardings or false fronts;
 - c. drawings showing the location, area, Height, construction material, colour and method of support for any proposed on-site identification and advertising Signs, including any advertising or supergraphics that shall be displayed on a hoarding or false front; and
 - d. drawings showing the area, Height, construction materials and method of support for any proposed off-site Directional Signs that shall exceed 1.0 square metres in area 1.5 metres in Height, and a description of the proposed location for the Signs; and
8. the Development Permit for a Residential Sales Centre shall be valid for such a period of time as specified by the Development Officer having regard for the amount of land or development being marketed, but in no case shall the time period exceed two years.

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: 233140341-002
Application Date: OCT 20, 2016
Printed: November 18, 2016 at 10:26 AM
Page: 1 of 2

Major Development Permit

This document is a record of a Development Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended.

Applicant

Property Address(es) and Legal Description(s)

8240 - 217 STREET NW
Plan 1225087 Blk 2 Lot 2

Scope of Permit

To construct and operate a Residential Sales Centre.

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.): 51.4
New Sewer Service Required: N/A
Site Area (sq. m.): 703.2

Contact Person:
Lot Grading Needed?: N
NumberOfMainFloorDwellings: 0
Stat. Plan Overlay/Annex Area: (none)

I/We certify that the above noted details are correct.

Applicant signature: _____

Development Permit Decision

Approved

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



Project Number: 233140341-002
 Application Date: OCT 20, 2016
 Printed: November 18, 2016 at 10:26 AM
 Page: 2 of 2

Major Development Permit

Subject to the Following Conditions

This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit authorizes the development of a building for the operation of a Residential Sales Centre pursuant to Section 82 of Zoning Bylaw 12800. It is the opinion of the Development Officer, that the Variance does not unduly interfere with the amenities of the neighbourhood; or materially interfere with or affect the use, enjoyment or value of neighbouring properties.

1. This approval is valid for a period of two years and the Development Permit expires on Nov. 11, 2018.
2. This proposed building is not a Dwelling unit. The building shall not be used as a Dwelling prior to the registration of individual lots and the expiration and/or cancellation of the Development Permit for the Residential Sales Centre.
3. Sufficient parking shall be made available on or adjacent to the site so that parking congestion will not develop on that portion of local streets serving existing development in the vicinity of the Residential Sales Centre. (Reference Section 54.2 Schedule 1 and Section 82).
4. All off-premise directional signage and on-premise advertising signage, including the display of advertising copy and supergraphics on hoardings or false fronts used to enclose temporary structures, shall be in accordance with Section 59 of this Bylaw.
5. All exterior lighting shall be developed in accordance with Section 51 and 58 of this Bylaw. (Reference Section 82).

NOTES:

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. (Reference Section 5.2)
2. Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

Variations

Discretionary Use - A Residential Sales Centre is approved as a Discretionary Use (Section 12.4).

Rights of Appeal

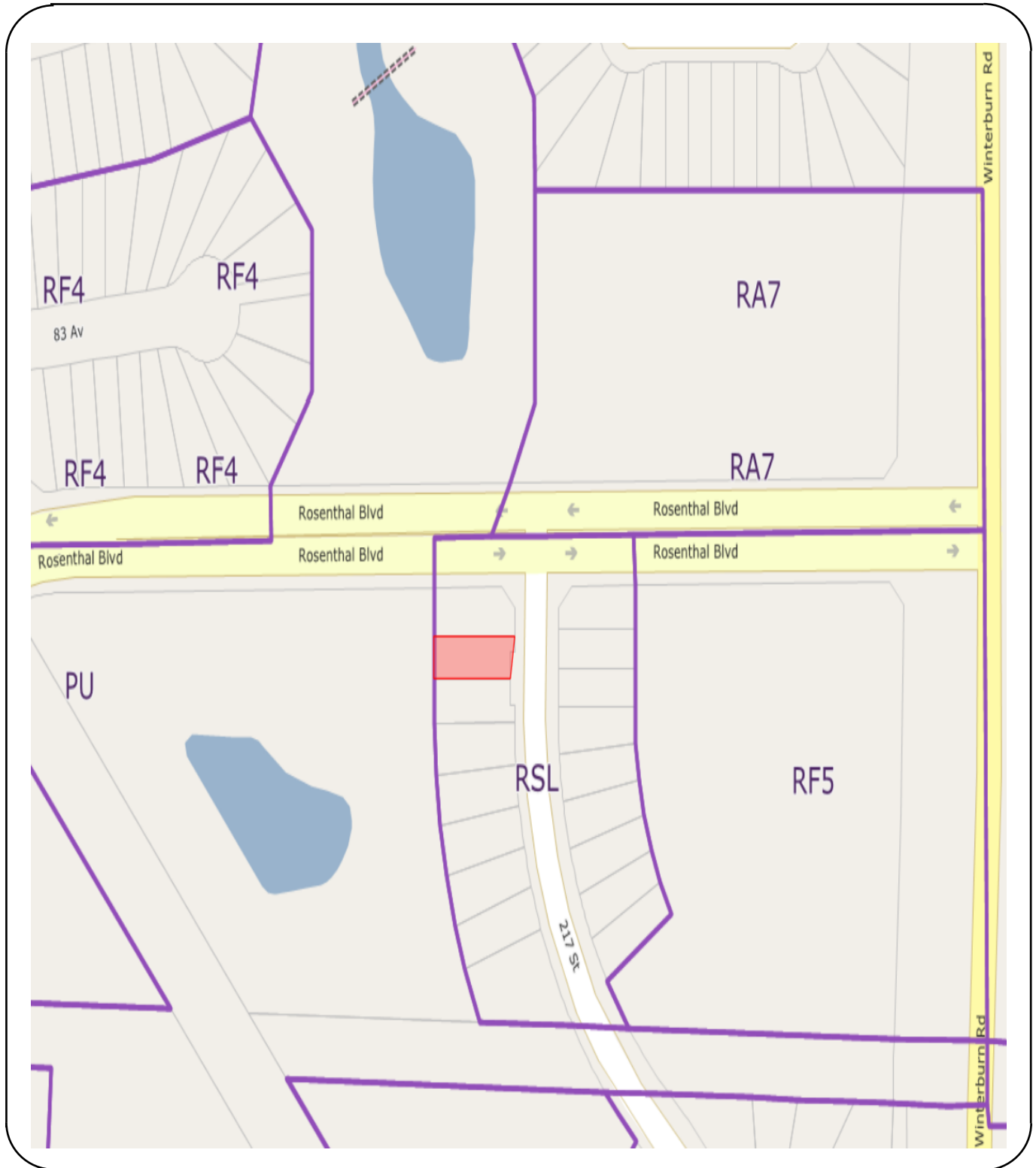
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Nov 10, 2016 **Development Authority:** FOLKMAN, JEREMY **Signature:** _____
Notice Period Begins: Nov 17, 2016 **Ends:** Dec 01, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$456.00	\$456.00	03689567	Oct 20, 2016
DP Notification Fee	\$102.00	\$102.00	03689567	Oct 20, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$558.00	\$558.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-310



ITEM III: 2:00 P.M.

FILE: SDAB-D-16-311

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

APPELLANT:

APPLICATION NO.: 221368646-003

APPLICATION TO: Construct interior and exterior alterations to a Single Detached House (change roofline, add window, interior doors, second floor kitchen)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Notices

DECISION DATE: October 21, 2016

DATE OF APPEAL: November 10, 2016

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11511 Fort Road NW

LEGAL DESCRIPTION: Plan RN50 Blk 101 Lot 3

ZONE: RF3 Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Parkdale Area Redevelopment Plan

Grounds for Appeal

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

The community league would like to appeal the Development Officer’s ruling as per the inconsistency between development description and suggested use provided in the notice and interpretation of various sections of the *Municipal Government Act* and City of Edmonton bylaws in relation to development of non-conforming properties, and impact to the community and neighbouring properties. [unedited]

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

685(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

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

...

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

The *Edmonton Zoning Bylaw 12800* provides as follows:

20. Notification of Issuance of Development Permits

20.1 Class B Development

- 1. Within seven days of the issuance of a Development Permit for Class B Development, the Development Officer shall dispatch a notice by ordinary mail to:
 - a. each assessed owner of the Site or a part of the Site of the development;

- b. each assessed owner of land, wholly or partly within a distance of 60.0 m of the boundary of the Site;
 - c. the President of each Community League operating within the notification boundaries described in clause (b), above; and
 - d. the President of each Business Revitalization Zone Association operating within the notification boundaries described in clause (b) above.
2. The notice shall describe the development and state the decision of the Development Officer, and the right of appeal therefrom.
 3. Within 10 days of the issuance of a Development Permit for Class B Development, the Development Officer shall cause to be published in a daily newspaper circulating within the City, a notice describing the development and stating his decision, and the right to appeal therefrom.

The decision of the Development Officer is dated October 21, 2016. Notice of the development was published in the Edmonton Journal on October 27, 2016. The Notice of Appeal was filed on November 10, 2016.

Determining an Appeal

The *Municipal Government Act* states the following:

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*:

Section 140.1 states that the **General Purpose** of the **RF3 Small Scale Infill Development Zone** is:

...to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Under section 140.2(9), **Single Detached Housing** is a **Permitted Use** in the RF3 Small Scale Infill Development Zone.

Section 7.2(9) states:

Single Detached Housing means development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

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.

Non-conforming Building

Section 643 of the *Municipal Government Act*, RSA 2000, c M-26, provides as follows:

Non-conforming use and non-conforming buildings

643(1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

Section 2.4 of the *Edmonton Zoning Bylaw* states:

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.

Development Officer's Determination:

Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed. This permit does not increase the non-conformity of the building front, side or rear setbacks, eave projections, the Site area, the Site depth, or Site Coverage. (Section 11.3.3, Section 814.3 and Section 140.4). [unedited]

Discretionary Powers of the Development Officer and Class B Development Permits

Board Officer Comments:

The Development Officer makes reference to sections 814.3 and 140.4, which are the general regulations governing developments in the Mature Neighbourhood Overlay and the RF3 Small Scale Infill Development Zone, respectively.

The Development Officer has also cited subsection 11.3(3). For reference purposes, the entirety of section 11.3 with respect to the variance powers of the Development Officer, as well as section 12.4 regarding the definition of Class B Development Permits, has been provided below:

11.3 Variance to Regulations

The Development Officer may approve, with or without conditions as a Class B Development, an application for development that does not comply with this Bylaw where:

1. the proposed development would not, in their opinion:
 - a. unduly interfere with the amenities of the neighbourhood; or
 - b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.


2. the proposed development would, in his opinion, conform with the use prescribed for that land or building in this Bylaw; and
3. the Development Officer may approve, with or without conditions as a Class B Development, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for that land in this Bylaw and the proposed development would not, in his opinion:
 - a. unduly interfere with the amenities of the neighbourhood; or
 - b. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

12.4 Class B Discretionary Development

This Class includes all developments for which applications are required and are for a Discretionary Use or require a variance to any of the regulations of this Bylaw. This Class of Permit also includes all applications on Sites designated Direct Control not noted in Section 12.3.

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*.

	<p>Project Number: 221368646-003 Application Date: JUL 05, 2016 Printed: November 10, 2016 at 10:25 AM Page: 1 of 3</p>		
<h2 style="margin: 0;">Major Development Permit</h2>			
<p>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.</p>			
<p>Applicant</p> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 10px;"></div>	<p>Property Address(es) and Legal Description(s) 11511 - FORT ROAD NW Plan RN50 Blk 101 Lot 3</p> <hr/> <p>Specific Address(es) Entryway: 11511 - FORT ROAD NW Building: 11511 - FORT ROAD NW</p>		
<p>Scope of Permit To construct interior and exterior alterations to a Single Detached House (change roofline, add window, interior doors, second floor kitchen).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 221.75 </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 1 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 221.75	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 1 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 221.75	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 1 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
<p>I/We certify that the above noted details are correct.</p> <p>Applicant signature: _____</p>			
<p>Development Permit Decision Approved</p>			
<p>The permit holder is advised to read the reverse for important information concerning this decision.</p>			



Project Number: **221368646-003**
 Application Date: JUL 05, 2016
 Printed: November 10, 2016 at 10:25 AM
 Page: 2 of 3

Major Development Permit

Subject to the Following Conditions

NOTE: This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)

This Development Permit authorizes the development of interior and exterior alterations to a Single Detached House (change roofline, add window, interior doors, second floor kitchen). The development shall be constructed in accordance with the stamped and approved drawings.

1. The Height of the principal building shall not exceed 8.6 m (Reference Sections 6.1(49) and 52).
2. The proposed Basement development(s) shall NOT be used as an additional Dwelling. Proposed wet bar shall only be used by the household which uses the principal kitchen on the second floor. A Secondary Suite shall require a new development permit application.
3. A Secondary Suite is not authorized under this Development Permit. Therefore, cooking facilities shall not be developed in the basement unless a separate Development Permit has been approved to authorize a Secondary Suite (Reference Section 7.2(7)).
4. Apartment Housing is not authorized under this Development Permit.
5. This structure shall not be used as a Lodging House. A Congregate Living facility requires separate Development Permit approval. (Reference Section 7.3.6 and Section 76)
6. The area hard surfaced for a driveway, not including the area used for a walkway, shall comply with Section 54.6 of the Zoning Bylaw 12800.
7. Except for the hard surfacing of driveways and/or parking areas approved on the site plan for this application, the remainder of the site shall be landscaped in accordance with the regulations set out in Section 55 of the Zoning Bylaw 12800.
8. All Yards visible from a public roadway, other than a Lane, shall be seeded or sodded. Seeding or sodding may be substituted with alternate forms of ground cover, including hard decorative pavers, washed rock, shale or similar treatments, perennials, or artificial turf, provided that all areas of exposed earth are designed as either flower beds or cultivated gardens (Reference Section 55.2.1).
9. All access locations and curb crossings shall have the approval of the City Transportation prior to the start of construction. Vehicular access shall be from the rear lane only (Reference Section 53(1)).
10. PRIOR TO THE RELEASE OF DRAWINGS FOR BUILDING PERMIT REVIEW, the applicant or property owner shall pay a Notification Fee of \$102.00
11. WITHIN 14 DAYS OF THE END OF THE NOTIFICATION PERIOD with NO APPEAL and prior to any demolition or construction activity, the applicant must post on-site a development permit notification sign (Section 20.2)
12. This development permit shall be revoked if the conditions of this permit are not met.

ADVISEMENTS:

i.) 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. (Reference Section 6.1.27)

ii.) Household means:
 one or more persons related by blood, adoption, foster care, marriage relationship; or
 a maximum of three unrelated persons;

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



Project Number: **221368646-003**
 Application Date: JUL 05, 2016
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Major Development Permit

all living together as a single social and economic housekeeping group and using cooking facilities shared in common.

For the purposes of this definition, two people living together in an adult interdependence relationship shall be deemed to be in a marriage relationship and each of the relatives of the parties to an adult interdependence relationship shall be considered to be related to the partners and to the other relatives thereof. One domestic worker or one boarder may be deemed the equivalent of a blood relative. (Reference Section 6.1.51)

iii.) Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Planning and Engineering at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

iv.) Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals

v.) Any future deck enclosure or cover requires a separate development and building permit approval.

vi.) The driveway access must maintain a minimum clearance of 1.5m from all surface utilities.

vii.) Any hoarding or construction taking place on road right-of-way requires an OSCAM (On-Street Construction and Maintenance) permit. It should be noted that the hoarding must not damage boulevard trees. The owner or Prime Contractor must apply for an OSCAM online at: http://www.edmonton.ca/bylaws_licences/licences_permits/oscam-permit-request.aspx

viii.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.

ix.) 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.

Variations

1. Non-Conforming Building - This house no longer conforms to current zoning rules, which may have changed since it was originally constructed. This permit does not increase the non-conformity of the building front, side or rear setbacks, eave projections, the Site area, the Site depth, or Site Coverage. (Section 11.3.3, Section 814.3 and Section 140.4).

Rights of Appeal

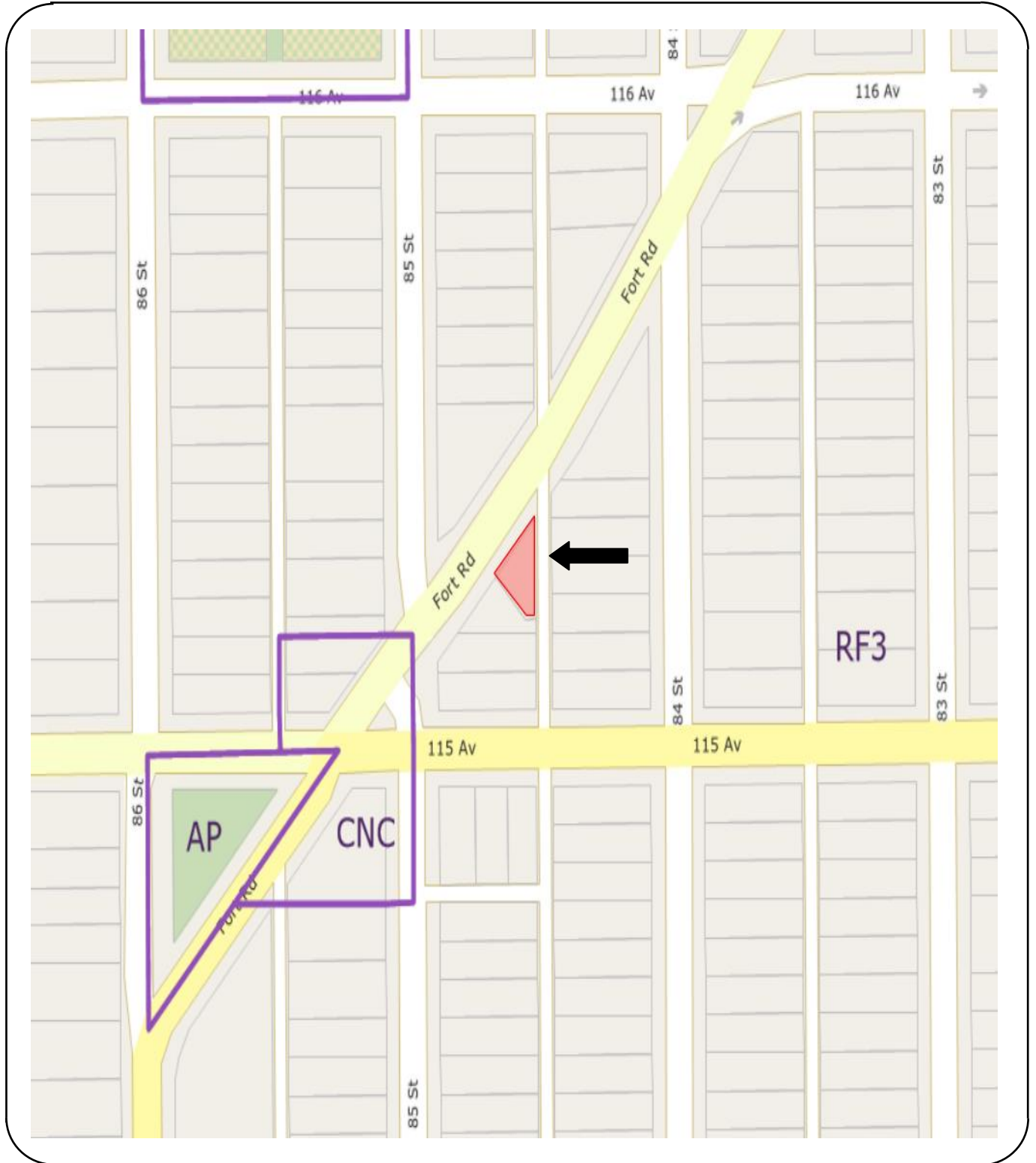
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Oct 21, 2016 **Development Authority:** ROBINSON, GEORGE **Signature:** _____
Notice Period Begins: Oct 27, 2016 **Ends:** Nov 10, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
DP Notification Fee	\$102.00	\$102.00	03718815	Nov 01, 2016
Major Dev. Application Fee	\$0.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$102.00	\$102.00		

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



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-311



BUSINESS LAID OVER

SDAB-D-16-144	An appeal by <u>Jeffrey Jirsch VS Anna Bashir</u> 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 by <u>Alexander Tilley</u> 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-16-264	An appeal by <u>413140 Alberta Ltd.</u> to construct exterior alterations to an approved Accessory Building (rear detached Garage 7.3 metres by 6.1 metres) <i>December 7 or 8, 2016</i>
SDAB-D-16-293	An appeal by <u>Vishal Aggarwal</u> 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 <u>Wigalo Holdings Ltd.</u> 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 <u>Wigalo Holdings Ltd.</u> 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 by <u>Stantec Consulting Ltd.</u> 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 by <u>Kiewit Energy Canada Corp</u> 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>

APPEAL HEARINGS TO BE SCHEDULED

228839673-001	An appeal by <u>C. Jorritsma</u> to park a Recreational Vehicle in the Front Yard of a Single Detached House. <i>December 7 or 8, 2016</i>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah & Terence Nikolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <i>December 7 or 8, 2016</i>
231692613-001	An appeal by <u>Loan Star Jewellery & Loans; and Inglewood Business Association VS Cash Canada</u> to change the use of a Restaurant to a Pawn Store, a Secondhand Store and a Professional, Financial and Office Support Service, and to construct interior alterations. (Cash Canada) <i>January 4 or 5, 2017</i>