

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
February 10, 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-16-049	Develop a Parking Area Accessory to an existing Apartment House 9922 - 104 Street NW Project No.: 148392678-003
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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-16-049

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 148392678-003

ADDRESS OF APPELLANT: 9922 - 104 Street NW

APPLICATION TO: Develop a Parking Area Accessory to an existing Apartment House

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 6, 2016

DATE OF APPEAL: January 15, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9922 - 104 Street NW

LEGAL DESCRIPTION: Plan NB Blk 4 Lot 82

ZONE: HDR High Density Residential Zone

OVERLAY: Special Area Downtown Overlay

STATUTORY PLAN: Capital City Downtown Plan

Grounds for Appeal

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

The Dunedin House is an older, existing apartment building located on 104 Street and 99 Avenue. On-site there are 67 surface parking stalls to serve 130 residential units as well as the customers of the Mac's convenience store located on the ground floor. Without sufficient accessory parking it is difficult to attract tenants to the building. The landowner wishes to develop the adjoining lot for surface parking, which is consistent with the existing conditions (surface parking) on the site, and are requesting that the SDAB grant the required variances.

We have revised the site plan for the parking lot to address the comments provided by transportation on January 6. The revised plans will be presented at the hearing. The proposed development would result in a net gain of only 14-15 parking stalls for the site. Without the requested variances developing the parking lot to City standards would create an economic hardship on the landowner and making the proposed development unfeasible. The appeal should be allowed and the variances granted, as the proposed development will not unduly interfere with the amenities of the neighbourhood or reduce the use, value or enjoyment of neighbouring lands. [unedited from Notice of Appeal]

<i>General Matters</i>

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

...

The decision of the Development Authority is dated January 6, 2016. The Notice of Appeal was filed on January 15, 2016.

General Provisions from the *Edmonton Zoning Bylaw*:

Section 910.8 states the following with respect to the **General Purpose** of the **HDR High Density Residential Zone**:

... to accommodate high density housing with minor local commercial uses in a predominantly residential environment and to support the concept of a livable urban village with a strong sense of identity and place, where community activities and amenities are focused on a neighbourhood main street.

Under section 910.8(2)(b), **Apartment Housing** is a **Permitted Use** in the HDR High Density Residential Zone.

Under section 7.2(1), **Apartment Housing** is defined as follows:

... development consisting of one or more Dwellings contained within a building in which the Dwellings are arranged in any horizontal or vertical configuration, which does not conform to the definition of any other Residential Use Class.

Section 910.1 states that the **General Purpose** of the **Special Area Downtown Overlay** is "To designate the Downtown area as a Special Area and to adopt the following land use regulations to achieve the objectives of the Capital City Downtown Plan."

<i>Minimum Setback</i>

Section 910.8(4)(e) states in part:

The following regulations shall apply to Permitted and Discretionary Uses.

...

e. Setbacks

i. the minimum Front Setback shall be 3.0 m, except that buildings fronting onto 99 Avenue and 104 Street (the "local main street") shall not require a Front Setback;

ii. ...

iii. the minimum Rear Setback shall be 3 m;

Development Officer's Determination

Minimum Front Setback is deficient by 2.10m. (Section 910.8.4.e.i)
Minimum Rear Setback is deficient by 2.10m. (Section 910.8.4.e.iii)
[unedited]

Surface Parking

Section 910.4(1)(e)(i) states that “No surface parking shall be allowed, other than accessory parking that is located at the rear of a building and is accessed from the abutting alley”.

Development Officer’s Determination

Surface Parking is not located at the rear of the building. (Section 910.4.1.e.i) [unedited]

Minimum Landscaped Setback

Section 910.4(1)(e)(ii) states that “A minimum 4m landscaped setback shall be provided from any property line abutting a Public Roadway, other than a lane, for any surface parking area”.

Development Officer’s Determination

Minimum Landscaped Setback is deficient by 3.10m. (Section 910.4.1.e.ii) [unedited]

Parking Spaces

Section 54.2(2)(e)(i) states:

Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, that are required in accordance with the minimum standards of this Bylaw shall be located in accordance with the following: ... parking spaces shall not be located within a Front Yard;

Development Officer’s Determination

2 Parking Spaces provided in the Front Yard. (Section 54.2.2.e.i) [unedited]

Landscaping

Section 55.8(3)(a) states that “All planting shall conform to the following: the proportion of deciduous to coniferous trees and shrubs shall be approximately 50:50”.

Development Officer’s Determination

Required Amount of Coniferous Trees is deficient by 7 Trees. (Section 55.8.3.a) [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: **148392678-003**
Application Date: SEP 24, 2015
Printed: February 2, 2016 at 3:49 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) 9922 - 104 STREET NW Plan NB Blk 4 Lot 82
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Scope of Application
To develop a Parking Area Accessory to an existing Apartment House.

Permit Details Class of Permit: Gross Floor Area (sq.m.): 0 New Sewer Service Required: N Site Area (sq. m.): 3514.28	Contact Person: Lot Grading Needed?: Y NumberOfMainFloorDwellings: 0 Stat. Plan Overlay/Annex Area: (none)
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I/We certify that the above noted details are correct.

Applicant signature: _____

Development Application Decision
Refused

Reason for Refusal

- Minimum Front Setback is deficient by 2.10m. (Section 910.8.4.e.i)
- Minimum Rear Setback is deficient by 2.10m. (Section 910.8.4.e.iii)
- Surface Parking is not located at the rear of the building. (Section 910.4.1.e.i)
- Minimum Landscaped Setback is deficient by 3.10m. (Section 910.4.1.e.ii)
- 2 Parking Spaces provided in the Front Yard. (Section 54.2.2.e.i)
- Required Amount of Coniferous Trees is deficient by 7 Trees. (Section 55.8.3.a)

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: Jan 06, 2016 **Development Authority:** HARRISON, MARK **Signature:** _____

THIS IS NOT A PERMIT



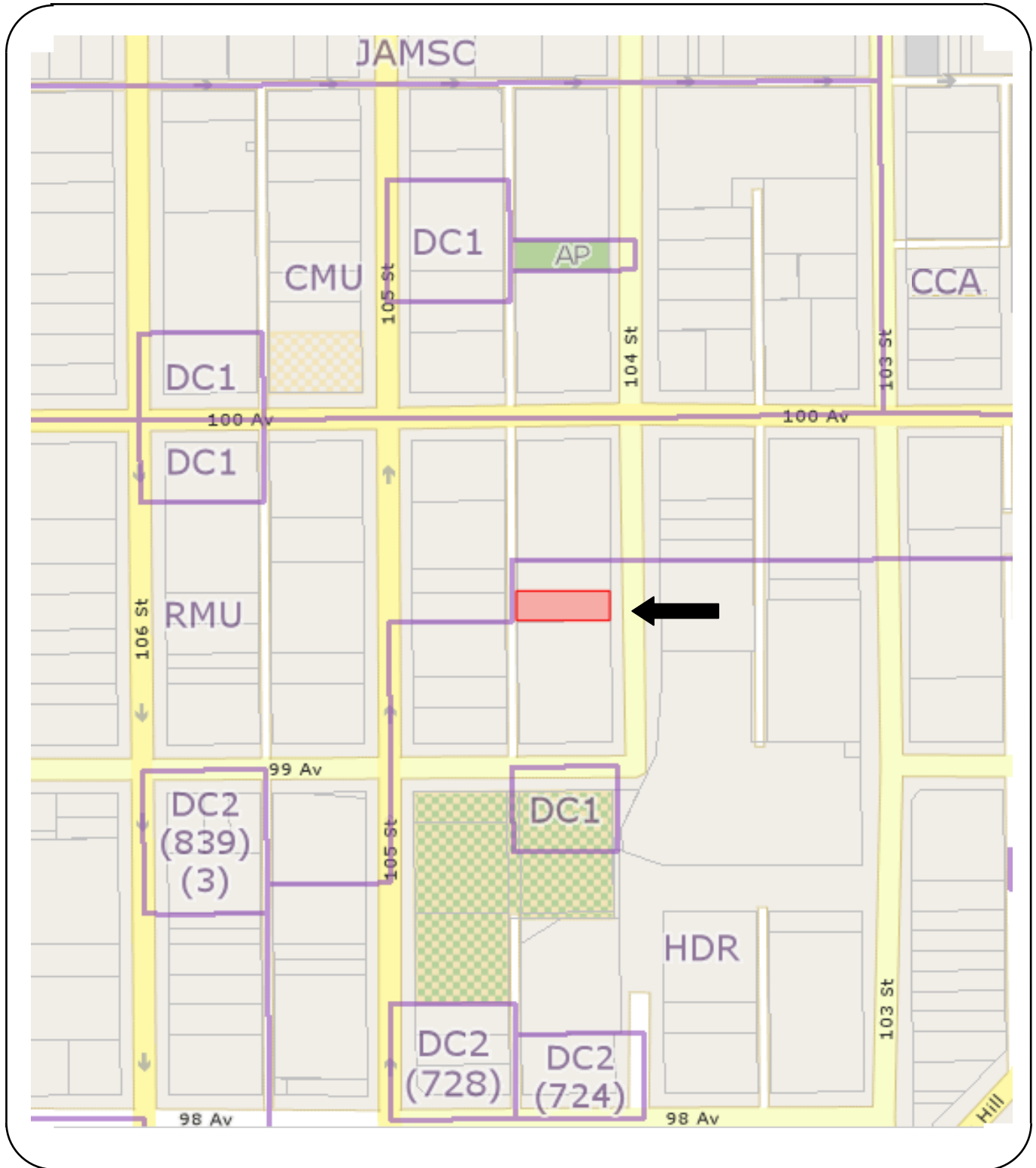
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Page: 2 of 2

Application for Major Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Lot Grading Fee	\$220.00			
Major Dev. Application Fee	\$333.00	\$333.00	02771553	Sep 24, 2015
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$553.00	\$333.00		
(\$220.00 outstanding)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-049



BUSINESS LAID OVER

SDAB-D-15-238	An appeal by <u>Ogilvie LLP</u> to comply with an Order to acquire valid development permits by September 25, 2015 or cease the Use and demolish and remove all materials by September 25, 2015; and to comply with all conditions of development permit No. 149045660-001. <i>February 17 or 18, 2016</i>
SDAB-D-16-022	An appeal by <u>Dentons Canada</u> to operate a Minor Alcohol Sales Use and to construct interior alterations. <i>February 19, 2016</i>
SDAB-D-15-285	An appeal by <u>Sakaw Daycare</u> to convert an existing Single Detached House into a Child Care Services Use Building (60 Children, 2- 12-18 months, 6 – 19 months-3 yrs, 32 – 3-4.5 yrs, 20 – above 4.5 yrs) and to construct interior and exterior alterations <i>March 2 or 3, 2016</i>
SDAB-D-15-247	An appeal by <u>Kennedy Agrios LLP VS. Eton-West Construction (Alta) Inc.</u> change the use of "Building E" from Professional, Financial and Office Support Services to General Retail Stores and to construct interior and exterior alterations (increase building size and change dimensions, revision to parking layout and Drive-thru). <i>March 9 or 10, 2016</i>
SDAB-D-15-501	An appeal by <u>Darren Crocker / Brownlee LLP</u> to demolish an existing building. <i>March 30 or 31, 2016</i>

APPEAL HEARINGS TO BE SCHEDULED

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