

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
February 22, 2017**

**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-17-035

Construct a Single Detached House with front veranda, fireplace and rear uncovered deck (3.05 metres by 5.18 metres)

10746 - 126 Street NW
Project No.: 233033334-001

II 9:00 A.M. SDAB-D-17-036

Construct a Single Detached House with front veranda, fireplace and rear uncovered deck (3.05 metres by 5.18 metres)

10744 - 126 Street NW
Project No.: 227016045-005

III 9:00 A.M. SDAB-D-17-037

Construct an Accessory Building (rear detached Garage, 7.01 metres by 5.79 metres)

10746 - 126 Street NW
Project No.: 233033334-003

IV 1:00 P.M. SDAB-D-17-038

Construct a 3 Dwelling Row House building with a rear detached Garage

6325 - 109 Street NW
Project No.: 230186965-003

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

ITEM I & II: 9:00 A.M.

FILE(S): SDAB-D-17-035
SDAB-D-17-036

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

APPELLANT:

APPLICATION NO.: 233033334-001 (SDAB-D-17-035)
227016045-005 (SDAB-D-17-036)

APPLICATION(S) TO: Construct a Single Detached House with front veranda, fireplace and rear uncovered deck (3.05 metres by 5.18 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 10, 2017

NOTIFICATION PERIOD: January 17, 2017 through January 31, 2017

DATE OF APPEAL(S): January 29, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTIES: 10746 - 126 Street NW (SDAB-D-17-035)
10744 - 126 Street NW (SDAB-D-17-036)

LEGAL DESCRIPTIONS: Plan 1623420 Blk 48 Lot 22 (SDAB-D-17-035)
Plan 1623420 Blk 48 Lot 21 (SDAB-D-17-036)

ZONE: DC1 (Direct Development Control) District for the Westmount Architectural Heritage Area

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

This is a heritage area and the two skinny homes being built look exactly the same. And block the sun for one of the north residents.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

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

...

- (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.

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

...

- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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

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

...

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

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

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

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 DC1 (Direct Development Control) District for the Westmount Architectural Heritage Area (“DC1 District”):

Under section 3(a), **Single Detached Housing** is a **listed Use**.

Section 1 states that the **General Purpose** of the DC1 District is:

To establish a Direct Control District for single detached residential development and associated uses, as found under the RF1 (Single Detached Residential) District, in the Westmount Architectural Heritage Area so as to continue the tradition of heritage and community as originally conceived in the subdivision and architecture of the Area. The District is based on the RF1 Regulations but with additional Development Criteria and accompanying voluntary Architectural Guidelines, as written and developed by residents of the Area, that are intended to preserve the Area’s unique historical streetscape and architectural features, reflecting the character, location and proportions of existing structures from the early 1900s in the Area, including:

Boulevards with mature trees; continuous sidewalks; rear lane access to on-site parking; verandahs; and other features as originally conceived in subdivision plans and architectural designs of the early 1900s.

Development Officer's Determination:

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1 - [(DC1 - West Ingle ARP (Section 12.4). [unedited].

General Provisions from the *Edmonton Zoning Bylaw 12800:*

Under section 7.2(9), **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.


General Provisions from the *Edmonton Land Use Bylaw 5996:*

Under section 10.1(7), **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 District, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 89 of this Bylaw.

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 style="text-align: right;">Project Number: 233033334-001 Application Date: OCT 19, 2016 Printed: January 10, 2017 at 12:07 PM Page: 1 of 4</p>		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
<p>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 Bylaw.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 10746 - 126 STREET NW Plan 1623420 Blk 48 Lot 22</p>		
<p>Scope of Application To construct a Single Detached House with front veranda, fireplace and rear uncovered deck (3.05m x 5.18m).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <p>Affected Floor Area (sq. ft.): 1819 Class of Permit: Class B Front Yard (m): 6.72 Rear Yard (m): 22.49 Side Yard, left (m): 1.22 Site Area (sq. m): 347.84 Site Width (m): 7.61</p> </td> <td style="width: 50%; border: none;"> <p>Building Height to Midpoint (m): 8.15 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.22 Site Depth (m): 45.68 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</p> </td> </tr> </table>		<p>Affected Floor Area (sq. ft.): 1819 Class of Permit: Class B Front Yard (m): 6.72 Rear Yard (m): 22.49 Side Yard, left (m): 1.22 Site Area (sq. m): 347.84 Site Width (m): 7.61</p>	<p>Building Height to Midpoint (m): 8.15 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.22 Site Depth (m): 45.68 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay</p>
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			
<p>Development Permit Decision Approved</p>			
<p>THIS IS NOT A PERMIT</p>			



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 Page: 2 of 4

Application for House Development and Building Permit

Subject to the Following Conditions

This Development Permit authorizes the development of a Single Detached House with front veranda, fireplace and rear uncovered deck (3.05m x 5.18m). The development shall be constructed in accordance with the stamped and approved drawings.

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).

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

The Height of the principal building shall not exceed 10.0 m (Reference Sections 6.1(49) and 52).

Any future basement development may require development and building permit approvals. A Secondary Suite shall require a new development permit application.

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.

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.

Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).

1 deciduous tree with a minimum Caliper of 50 mm, 1 coniferous tree with a minimum Height of 2.5 m and 4 shrubs shall be provided on the property. Deciduous shrubs shall have a minimum Height of 300 mm and coniferous shrubs shall have a minimum spread of 450 mm (Reference Section 55.2.1).

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).

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)).

For Single-detached Housing, Semi-detached Housing and Duplex Housing, a minimum Private Outdoor Amenity Area shall be designated on the Site plan. Neither the width nor length of the Private Outdoor Amenity Area shall be less than 4.0 m. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 47)

Any component of a stationary mechanical system that emits noise or is designed to emit noise outside of a building that is audible on any Abutting Site in a residential Zone shall be located in a Rear Yard (Reference Section 45.8).


Any alley, sidewalk, or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the applicant/owner.

There are existing boulevard trees adjacent to the site that must be protected during construction. If protection of boulevard trees are required, the owner/applicant must contact to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant. Please contact 311, City Operations, Parks and Roadways for more information.

ADVISEMENTS:

I.) Lot grades must comply with the Edmonton Drainage Bylaw 16200. Contact Drainage Planning and Engineering at 780.466.5576 or drainage@edmonton.ca for lot grading information.

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<p>780-496-5570 or lot.grading@edmonton.ca for lot grading inspection inquiries.</p> <p>ii.) Any future deck development greater than 0.6m (2ft) in height will require development and building permit approvals</p> <p>iii.) Any future deck enclosure or cover requires a separate development and building permit approval.</p> <p>iv.) The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.</p> <p>v.) 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</p> <p>vi.) Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.</p> <p>vii.) 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.</p> <p>viii) The applicant is advised to research the Land Title for this property and to be aware of any restrictions in the Restrictive Covenant. This approval does not imply consent for any structure that does not meet the requirements of the Restrictive Covenant.</p> <p>ix) There is an existing boulevard tree adjacent to the access (as shown on the Enclosure) that must be protected during construction. The owner/applicant must contact Bonnie Fermanuik of Community Services (780-496-4960) prior to removal of the access. The costs for any required hoarding and/or root-cutting shall be borne by the owner/applicant.</p> <p>Variances Discretionary Development - The Site is designated Direct Control (Direct Control (DC1 - [(DC1 - West Ingle ARP (Section 12.4).</p> <p>Rights of Appeal This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p>																																														
<p>Issue Date: Jan 10, 2017 Development Authority: BAUER, KERRY Signature: _____</p> <p style="text-align: center;">Notice Period Begins: Jan 17, 2017 Ends: Jan 31, 2017</p>																																														
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Project Number: **233033334-001**
Application Date: OCT 19, 2016
Printed: January 10, 2017 at 12:07 PM
Page: 4 of 4

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fees (House)	\$265.00	\$265.00	03686835	Oct 19, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$3,879.27</u>	<u>\$3,879.27</u>		

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	Project Number: 227016045-005 Application Date: OCT 19, 2016 Printed: January 10, 2017 at 11:56 AM Page: 1 of 4		
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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).

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

The Height of the principal building shall not exceed 10.0 m (Reference Sections 6.1(49) and 52).

Any future basement development may require development and building permit approvals. A Secondary Suite shall require a new development permit application.

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.

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.

Landscaping shall be provided on a Site within 18 months of the occupancy of the Single Detached House. Trees and shrubs shall be maintained on a Site for a minimum of 42 months after the occupancy of the Single Detached House (Reference Section 55.2.1).

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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)).

For Single-detached Housing, Semi-detached Housing and Duplex Housing, a minimum Private Outdoor Amenity Area shall be designated on the Site plan. Neither the width nor length of the Private Outdoor Amenity Area shall be less than 4.0 m. The Private Outdoor Amenity Area may be located within any Yard, other than a Front Yard, and shall be permanently retained as open space, unencumbered by an Accessory Building or future additions. (Reference Section 47)

Any component of a stationary mechanical system that emits noise or is designed to emit noise outside of a building that is audible on any Abutting Site in a residential Zone shall be located in a Rear Yard (Reference Section 45.8).

Any alley, sidewalk, or boulevard damage occurring as a result of construction traffic must be restored to the satisfaction of Transportation Planning and Engineering, as per Section 15.5(f) of the Zoning Bylaw. All expenses incurred for repair are to be borne by the applicant/owner.

There are existing boulevard trees adjacent to the site that must be protected during construction. If protection of boulevard trees are required, the owner/applicant must contact to arrange for hoarding and/or root cutting. All costs shall be borne by the owner/applicant. Please contact 311, City Operations, Parks and Roadways for more information.

ADVISEMENTS:

1. All applicants must comply with the Edmonton Business Bylaw 16000. Contact Business Planning and Engineering at

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Project Number: **227016045-005**
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 Page: 3 of 4

Application for House Development and Building Permit

i.) Lot grades must comply with the Edmonton Drainage Bylaw 10200. Contact Drainage Planning and Engineering at 780-496-5576 or lot.grading@edmonton.ca for lot grading inspection inquiries.

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

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

iv.) The driveway access must maintain a minimum clearance of 1.5m from the service pedestal and all other surface utilities.

v.) 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

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

vii.) 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.

viii) The applicant is advised to research the Land Title for this property and to be aware of any restrictions in the Restrictive Covenant. This approval does not imply consent for any structure that does not meet the requirements of the Restrictive Covenant.

ix) There is an existing boulevard tree adjacent to the access (as shown on the Enclosure) that must be protected during construction. The owner/applicant must contact Bonnie Fermanuk of Community Services (780-496-4960) prior to removal of the access. The costs for any required hoarding and/or root-cutting shall be borne by the owner/applicant.

Variances

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1 - West Ingle ARP)) (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: Jan 10, 2017 **Development Authority:** BAUER, KERRY **Signature:** _____
Notice Period Begins: Jan 17, 2017 **Ends:** Jan 31, 2017

Building Permit Decision
 No decision has yet been made.

Fees	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fee (Service)	\$77.00	\$77.00	03686837	Oct 19, 2016
Electrical Safety Codes Fee	\$15.10	\$15.10	03686837	Oct 19, 2016
Electrical Fees (House)	\$265.00	\$265.00	03686837	Oct 19, 2016
Lot Grading Fee	\$135.00	\$135.00	03686837	Oct 19, 2016
DP Notification Fee	\$102.00	\$102.00	03816088	Dec 19, 2016
Building Permit Fee	\$1,610.00	\$1,610.00	03686837	Oct 19, 2016
Water Usage Fee	\$44.77	\$44.77	03686837	Oct 19, 2016

THIS IS NOT A PERMIT



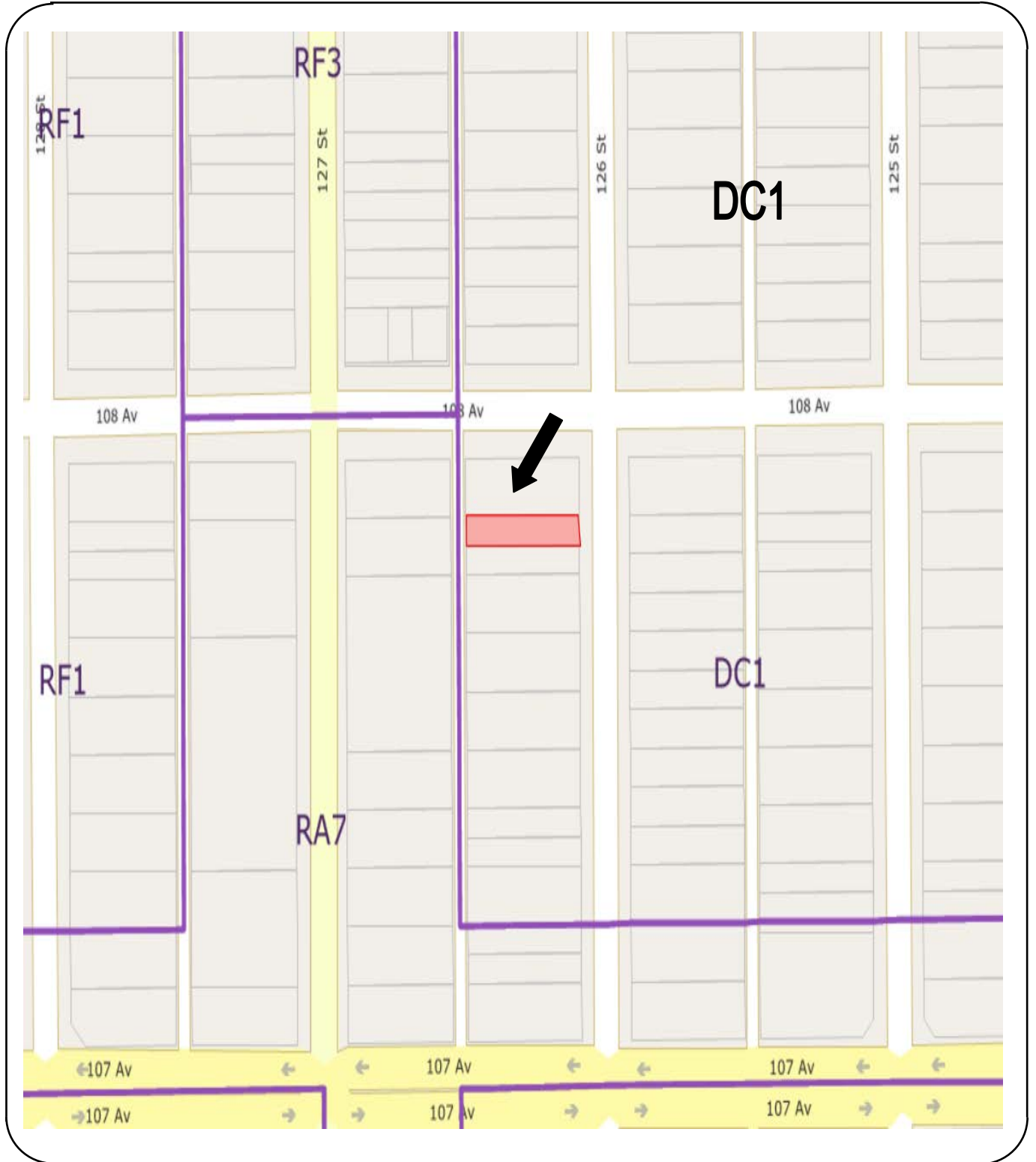
Project Number: **227016045-005**
Application Date: OCT 19, 2016
Printed: January 10, 2017 at 11:56 AM
Page: 4 of 4

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$64.40	\$64.40	03686837	Oct 19, 2016
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$2,313.27</u>	<u>\$2,313.27</u>		

THIS IS NOT A PERMIT

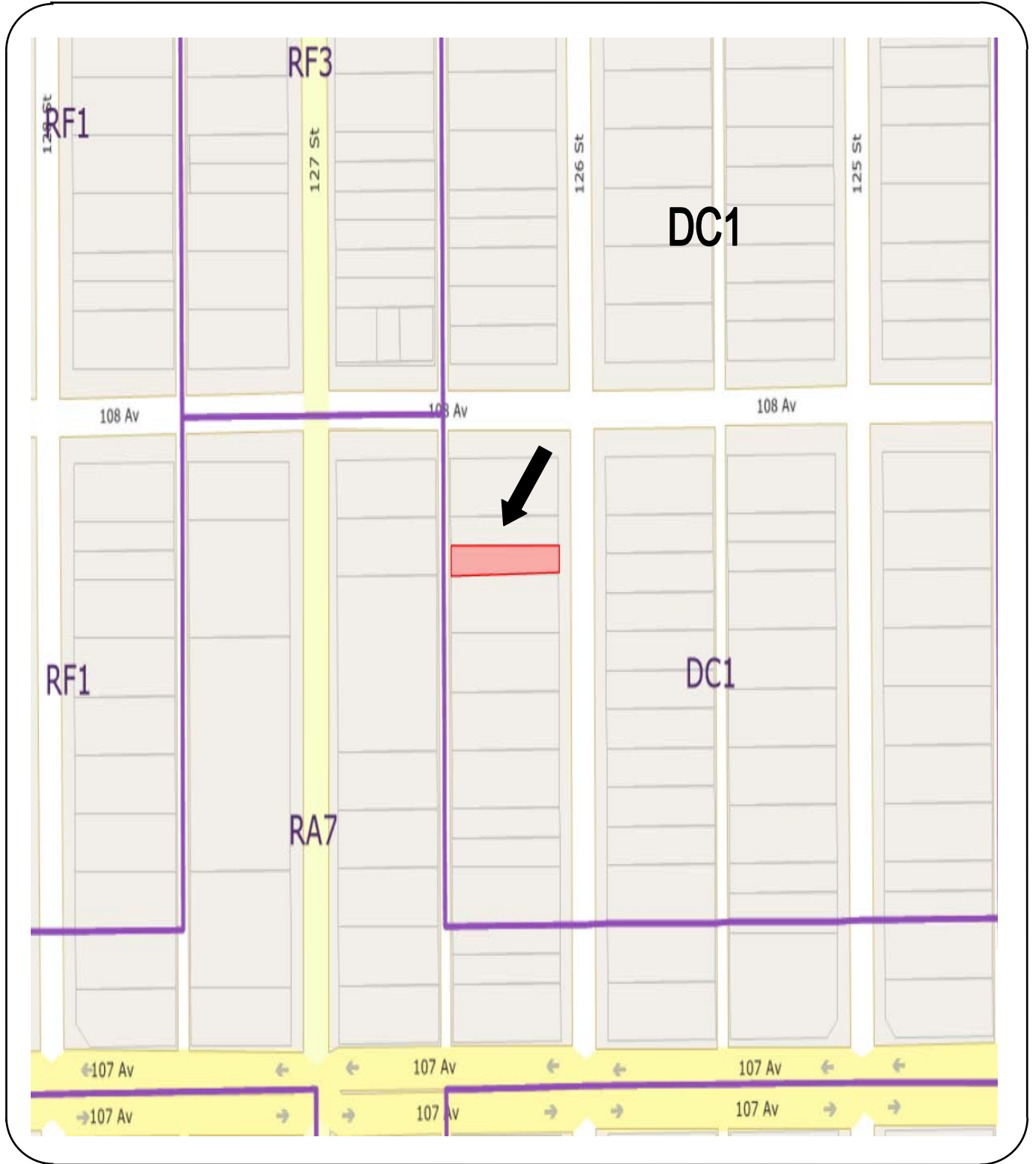


SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-035





SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-036



ITEM III: 9:00 A.M.

FILE: SDAB-D-17-037

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

APPELLANT:

APPLICATION NO.: 233033334-003

APPLICATION TO: Construct an Accessory Building (rear detached Garage, 7.01 metres by 5.79 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with conditions

DECISION DATE: January 10, 2017

NOTIFICATION PERIOD: January 17, 2017 through January 31, 2017

DATE OF APPEAL: January 29, 2017

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10746 - 126 Street NW

LEGAL DESCRIPTION: Plan 1623420 Blk 48 Lot 22

ZONE: DC1 (Direct Development Control) District for the Westmount Architectural Heritage Area

OVERLAY: N/A

STATUTORY PLAN: West Ingle Area Redevelopment Plan

Grounds for Appeal

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

This is being built in a heritage area with apartments backing right behind the proposed building. Just concerned about the space for cars coming and going, the alleys are very narrow because the area is so old.

General Matters

Appeal Information:

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

Grounds for Appeal

685(1) If a development authority

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

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

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

Appeals

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

...

- (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.

Designation of direct control districts

641(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

...

- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

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

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

...

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

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

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

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 DC1 (Direct Development Control) District for the Westmount Architectural Heritage Area (“DC1 District”):

Under section 3(a), **Single Detached Housing** is a **listed Use**.

Section 1 states that the **General Purpose** of the DC1 District is:

To establish a Direct Control District for single detached residential development and associated uses, as found under the RF1 (Single Detached Residential) District, in the Westmount Architectural Heritage Area so as to continue the tradition of heritage and community as originally conceived in the subdivision and architecture of the Area. The District is based on the RF1 Regulations but with additional Development Criteria and accompanying voluntary Architectural Guidelines, as written and developed by residents of the Area, that are intended to preserve the Area’s unique historical streetscape and architectural features, reflecting the character, location and proportions of existing structures from the early 1900s in the Area, including: Boulevards with mature trees; continuous sidewalks; rear lane access to on-site parking; verandahs; and other features as originally conceived in subdivision plans and architectural designs of the early 1900s.

Development Officer’s Determination:

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1 - [(DC1 - West Ingle ARP (Section 12.4). [unedited].

General Provisions from the *Edmonton Zoning Bylaw 12800*:

Under section 6.1(2), **Accessory** means:

when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Under section 6.1(45), **Garage** means:

Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.

General Provisions from the *Edmonton Land Use Bylaw 5996*:

Under section 9.1(2), **Accessory** means:


when used to describe a use or building, a use or building naturally or normally incidental, subordinate, and exclusively devoted to the principal use or building, and located on the same lot or site.

Under section 9.1(25), **Garage** means:

an accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.

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: 233033334-003 Application Date: OCT 19, 2016 Printed: January 10, 2017 at 12:10 PM Page: 1 of 2</p>		
<h2>Application for Accessory Building Development and Building Permit</h2>			
<p>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 Bylaw.</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 10746 - 126 STREET NW Plan 1623420 Blk 48 Lot 22</p>		
<p>Scope of Application To construct an Accessory Building (rear detached Garage, 7.01m x 5.79m)</p>			
<p>Permit Details</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> Building Area (sq. ft.): 437 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%;"> Class of Permit: Class A Type of Accessory Building: Detached Garage (010) </td> </tr> </table>		Building Area (sq. ft.): 437 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Class of Permit: Class A Type of Accessory Building: Detached Garage (010)
Building Area (sq. ft.): 437 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Class of Permit: Class A Type of Accessory Building: Detached Garage (010)		
<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			
<p>Development Permit Decision Approved</p>			
<p>THIS IS NOT A PERMIT</p>			



Project Number: **233033334-003**
 Application Date: OCT 19, 2016
 Printed: January 10, 2017 at 12:10 PM
 Page: 2 of 2

Application for Accessory Building Development and Building Permit

Dev. Permit Conditions

This Development Permit authorizes the development of an Accessory Building (rear detached Garage, 7.01m x 5.79m). The development shall be constructed in accordance with the stamped and approved drawings.

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

An accessory building or structure shall not exceed 4.3m in Height. (Reference Section 6.1(49) and 50.3(2).)

An Accessory building or structure shall not be used as a Dwelling. (Reference Section 50.3(1))

Eave projections shall not exceed 0.46m into required yards or Separations spaces less than 1.2m. (Reference Section 44.1(b))

Every Driveway, off-street parking or loading space, and access provided shall be Hardsurfaced. The area required to be Hardsurfaced may be constructed on the basis of separated tire tracks, with natural soil, grass, or gravel between the tracks, but shall be constructed so that the tires of a parked or oncoming vehicle will normally remain upon the Hardsurface area (Reference Section 54.6(2)).

NOTES:

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

ii.) 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.

Variances

Discretionary Development - The Site is designated Direct Control (Direct Control (DC1 - [(DC1 West Ingle ARP (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: Jan 10, 2017 Development Authority: BAUER, KERRY

Signature: _____

Notice Period Begins: Jan 17, 2017

Ends: Jan 31, 2017

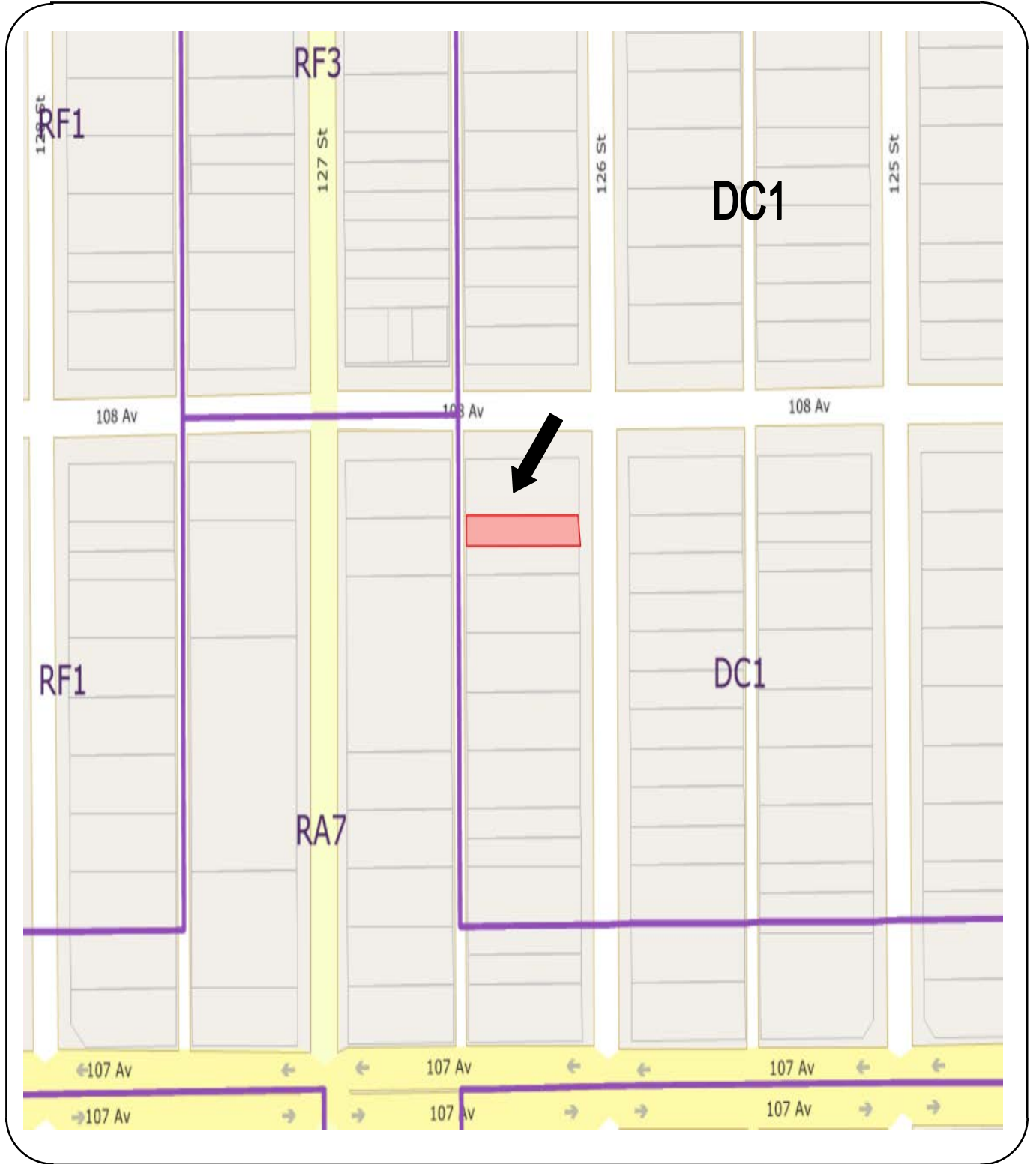
Building Permit Decision

No decision has yet been made.

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$4.50	\$4.50	03686836	Oct 19, 2016
Building Permit Fee	\$102.00	\$102.00	03686836	Oct 19, 2016
Dev. Application Fee	\$108.00	\$108.00	03686836	Oct 19, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$214.50	\$214.50		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-037



ITEM IV: 1:00 P.M.

FILE: SDAB-D-17-038

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT: .

APPLICATION NO.: 230186965-003

APPLICATION TO: Construct a 3 Dwelling Row House building with a rear detached Garage

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 26, 2017

DATE OF APPEAL: January 31, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6325 - 109 Street NW

LEGAL DESCRIPTION: Plan 2460HW Blk 19 Lot 16

ZONE: (RF5) Row Housing Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: 109 Street Corridor Area Redevelopment Plan

Grounds for Appeal

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

We would like to appeal the decision of the development officer for a variety of reasons that we have outlined below. The primary reason, however, that we feel this development should be approved is that we feel it perfectly suits the city’s mandate of increasing density through infill. While we are increasing the density of the lot we are also trying to deliver the final product at a reasonable price point of no more than \$400,000/unit including GST. Below we have tried to address each reason for refusal as provided by the development officer and provide our argument in favor of approval.

1. The maximum density for multi-unit project development shall be 42 Dwellings/ha. The proposed density is 51 Dwellings/ha.
 - a) **Current lot size allows for 0.05977ha*42 = 2.51 Units**

- b) Under an RF3 Zoning we would be allowed to construct a maximum of 4 dwellings without a restriction on Dwellings/ha.
 - c) The rezoning that was undertaken through the 109 Street Corridor ARP called for “denser urban forms” through the use of Medium Scale developments. RF5 is a zone specific to row housing yet makes it extremely difficult to create row housing unless a developer purchases the adjacent lots, which just is not reasonable. The ARP also is looking for architecturally appealing developments that face 109 Street and we feel we have achieved that with the attached 3D rendering. *Please do not look too much into the colors on the rendering as they were only inserted so we would build the model.*
2. The minimum required site width is 17.4 metres, the proposed site width is 15.09 metres.
 - a) Under RF3 zoning we would be allowed a minimum site width of 14.8 metres for row housing on a corner lot.
 - b) Once again the rezoning to RF5 is an attempt to allow for denser forms of Medium Scale residential development is counterproductive as it actually creates larger restrictions to the lots that are currently bordering 109 Street.
 3. A minimum 30 square metres of Private Outdoor Amenity Area per dwelling shall be provided
 - Only the southernmost Dwelling has a private Outdoor Amenity Area that meets the requirements of the RF5 Zone and Section 47.
 - The middle dwellings proposed Private Outdoor Amenity Area is not immediately adjacent to the dwelling and is less than 30 square metres.
 - Providing any private amenity space directly adjacent to an inner dwelling is extremely difficult and we feel we have actually provided a great compromise that provides a large amenity space with direct access from the rear door of the unit. We are willing to use a decorative 3’ fence or landscape elements to divide the amenity areas.
 - The northernmost Dwelling’s Private Outdoor Amenity Area is located within the front yard abutting 64 Avenue.
 - Once again RF3 zoning would address this. RF3 allows private outdoor amenity areas to be placed in the front yard as long as a) the front yard does not abut an arterial roadway; b) The amenity area is set back 1.0 metres from the front lot line; c) It is defined by a decorative fence or through landscaped elements We feel our landscape plan addresses all three of these stipulations.
 - Once again an RF3 zoning would be much more suitable as RF3 only requires 15 square metres of private outdoor amenity area per unit for row housing.
 4. Where detached rear parking garages are developed the building containing the garages shall not exceed 12 metres provided that the building containing the garages shall not exceed 12 metres provided

- that the building does not contain more than 2 separate garages. The 11 metres proposed rear detached garage contains 3 separate garages.
- a) This bylaw makes it near impossible to provide detached garages for any row house development that complies with the MNO. How does the city propose a developer provide proper parking for a row house development under this restriction as each unit should have the right to covered parking if space permits.
 - b) This part of the MNO is proposed to be removed in the new MNO currently under final review.
5. The minimum required Side Setback abutting the east property line is 7.5 metres. The proposed east setback is 1.35 metres.
- a) A side setback of 7.5 metres would make the 109 Street ARP rezoning to RF5 Row Housing completely useless as no lots directly along 109 Street would be able to satisfy this condition unless they purchased and consolidated the neighbouring lot which is unreasonable to ask of any developer.
 - b) We are proposing a side setback that would be consistent with a single detached development as the primary structure is essentially the same size as what could be built for a single or semi-detached dwelling.
 - c) We have also addressed the privacy issue for all windows on this side of the property. The final item that should be considered is that ONLY the middle unit has grade access along this property line, same as it would be for a single or semi-detached development.
6. No outdoor parking, garbage collection or outdoor amenity areas shall be developed within 3.0 metres of the east Side property line. There are outdoor parking stalls, garbage collection and outdoor amenity areas within 3.0 metres of the east side property line.
- a) Why is this restriction larger than it is for Single or Semi-detached projects? What extra effect do they have on the neighbouring property? If a single detached or semi-detached project is developed instead they will still be putting everything within 1.0 metres of the side property line, why should this be looked at with such a larger restriction?
 - b) This restriction is not imposed under RF3 Zoning Bylaw.
7. The minimum required Front Setback shall be consistent within 1.5 metres of the Front setback on the abutting lot. The Front setback of the abutting lot to the east is 10.7 metres and the minimum required front setback for the subject development is 9.2 metres. The proposed front setback is 7.7 metres.
- a) Once again RF3 zoning would address this: “On a Corner Site, in the (RF3) Small Scale Infill Development Zone, where Row Housing, Stacked Row Housing or Apartment Housing faces the flanking Side Lot Line, the following regulations shall apply:” (Regulation 814.3.1(b) states) “For Lots where the Front Setback of the Abutting Lot is greater than 9.0 metres and less than 11.0 metres, the Front Setback shall be consistent within 3.0 metres of the Front Setback of the Abutting Lot, to a maximum of 7.0 metres”.

- b) Community Consultation was done in pursuit of a variance to the front setback issue. No negative feedback was received in our attempts to contact everyone within the 60 metre radius.

In summary, a trend can be seen that RF3 zoning specifically designed for small scale infill development actually would be more conducive to realizing Medium Scale Development and increased density than the current zoning of RF5 specifically meant for row housing. When the city created the 109 Street ARP and rezoned the land flanking 109 Street their goal was to create “denser urban forms”, the restrictions that RF5 creates however counteract this theory. If the City wants to stay true to their mandate for increased density and more affordability within infill development, this project fits their criteria. The 109 Street ARP was created to encourage projects such as this that face 109 Street with appealing architectural details, we encourage that the Development Officer’s decision be reversed in order to satisfy the goals that the City has set forth.

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 160.2(3), **Row Housing**, on a Site 1.4 hectares or less, is a **Permitted Use** in the (RF5) Row Housing Zone.

Under section 7.2(6), **Row Housing** means:

development consisting of a building containing a row of three or more Dwellings joined in whole or in part at the side only with no Dwelling being placed over another in whole or in part. Individual Dwellings are separated from one another by a Party Wall. Each Dwelling has separate, individual, and direct access to Grade. This Use does not include Stacked Row Housing or Blatchford Townhousing.

Under section 6.1(99), **Site** means “an area of land consisting of one or more abutting Lots.”

Section 160.1 states that the **General Purpose** of the **(RF5) Row Housing Zone** is “to provide for relatively low to medium density housing, generally referred to as Row 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.

Row Housing Zone Development Regulations

Density

Section 160.4(1) states:

The maximum Density for Multi-unit Project Development shall be 42 Dwellings/ha; provided that this shall be increased by 1 Dwelling/ha for every 6 required resident parking spaces and associated manoeuvring aisles which are provided underground, up to a maximum density of 54 Dwellings/ha. For the purpose of this clause, underground parking shall be covered so as to provide useful Site area that would not otherwise be available. Any projection above the Grade of the surface covering such parking shall be less than 1.0 m; shall not be located in a Front Yard; and, shall be integrated with the design of buildings and landscaping so as to be unobtrusive.

Under section 6.1(24), **Density** means:

when used in reference to Residential and Residential-Related development, the number of Dwellings on a Site expressed as Dwellings per hectare.

Under section 6.1(30), **Dwelling** means:

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

Under section 6.1(66), **Multi-unit Project Developments**:

are developments of three or more Dwellings, Commercial or Industrial uses developed on a Site that includes common property, such as, but not limited to, communal parking areas, driveways, private roadways,

amenity areas, or maintenance areas that are shared. Typical Multi-unit Project Developments include rental projects and conventional Condominium developments, developed in accordance with the Condominium Property Act, RSA 2000, c. C-22.

Development Officer’s Determination:

The maximum Density for Multi-unit Project Development shall be 42 Dwellings/ha (Reference Section 160.4.1).

The proposed Density is 51 Dwellings / ha (3 Dwellings / 0.05977ha = 51 Dwellings / ha). [unedited].

Site Width

Section 160.4(2) states:

Site Area and Site Dimensions for individual Dwelling shall be in accordance with Table 160.4(2).

Table 160.4(2) Site Area and Site Dimensions			
	Minimum Site Area ¹	Minimum Site Width	Minimum Site Depth ¹
(a) Row Housing internal Dwelling	<u>150 m²</u>	<u>5.0 m</u>	<u>30.0 m</u>
(b) Row Housing end Dwelling	<u>186 m²</u>	<u>6.2 m</u>	<u>30.0 m</u>

Under section 6.1(102), **Site Width** means “the horizontal distance between the side boundaries of the Site measured at a distance from the Front Lot Line equal to the required Front Setback for the Zone.”

Development Officer’s Determination:

The minimum required Site Width is 17.4m (Reference Section 160.4.2.a and b).

The proposed Site Width is 15.09m. [unedited].

Private Outdoor Amenity Area

Section 160.4(9)(a) states:

Minimum Private Outdoor Amenity Areas shall be provided as follows:

- a. a minimum of 30 m² per Dwelling unit, at Grade, shall be provided.

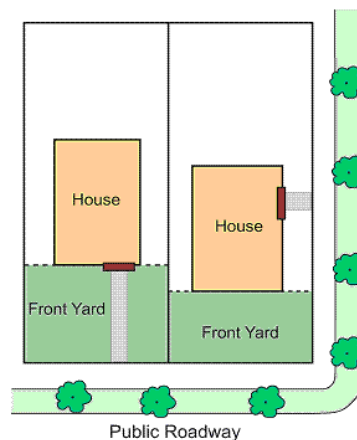
...

Section 47 provides the following with respect to Private Outdoor Amenity Area:

1. Where required in any Zone, a development shall provide Private Outdoor Amenity Area in accordance with the requirements of the Zone.
2. Private Outdoor Amenity Area shall be designed for the occupants of a specific Dwelling, and shall be provided immediately adjacent to, and with direct access from, the Dwelling it is to serve. It shall be landscaped and surfaced for convenient use for outdoor activities.
3. Private Outdoor Amenity Area shall be screened in a manner which prevents viewing into a part of it from any adjacent areas at a normal standing eye level. When such screening would impair a beneficial outward and open orientation of view, and there is no adverse effect on the privacy of the Private Outdoor Amenity Area, the extent of screening may be reduced.
4. Private Outdoor Amenity Area may be provided above Grade, and may be located within any Yard other than a Front Yard.
5. Neither the width nor the length of any Private Outdoor Amenity Area shall be less than 4.0 m, except that if it is provided above the first Storey the minimum dimensions shall be 3.0 m.
6. Private Outdoor Amenity Area may be located within a required Separation Space, but only if the Amenity Area is intended for the use of the Dwelling for which the Separation Space is provided.

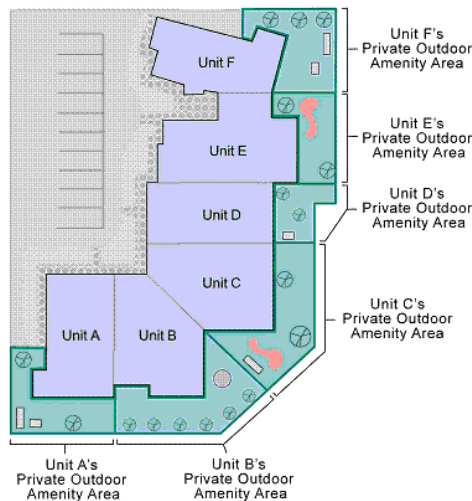
Under section 6.1(44), **Front Yard** means:

the portion of a Site abutting the Front Lot Line extending across the full width of the Site, situated between the Front Lot Line and the nearest wall of the principal building, not including projections.



Under section 6.1(83), **Private Outdoor Amenity Area** means:

required open space provided and designed for the active or passive recreation and enjoyment of the residents of a particular Dwelling and which is immediately adjacent to and directly accessible from the Dwelling it is to serve;



Development Officer’s Determination:

A minimum 30sq.m. of Private Outdoor Amenity Area per Dwelling shall be provided (Reference Section 160.4.9.a).

- Only the southernmost Dwelling has a Private Outdoor Amenity Area that meets the requirements of the RF5 Zone and of Section 47.
- The middle Dwelling’s proposed Private Outdoor Amenity Area is not immediately adjacent to the Dwelling, and is less than 30sq.m.
- The northernmost Dwelling’s Private Outdoor Amenity Area is located within the Front Yard abutting 64 Avenue. [unedited].

Garage Width

Section 814.3(21) states:

For Stacked Row Housing and Row Housing the maximum width of a rear detached Garage shall be 12.0 m. Rear detached Garages for Row Housing on Corner Sites oriented towards the flanking street shall have a maximum width of 14.0 m. Garages shall be separated by a minimum of 1.8 m.

Section 160.4(13)(b) states:

Where detached rear parking Garages are developed, the maximum width of the building containing the Garage(s) shall not exceed:

- b. 12 m, provided that the building does not contain more than two separate Garages, within the boundaries of the Mature Neighbourhood Overlay (MNO).

Under section 6.1(2), **Accessory** means, “when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.”

Development Officer’s Determination:

Where detached rear parking garages are developed the building containing the garages shall not exceed 12m provided that the building does not contain more than 2 separate garages (Reference Section 160.4.13.b).

The 11m wide proposed rear detached garage contains 3 separate garages. [unedited].

Side Setback

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 160.4(14) states:

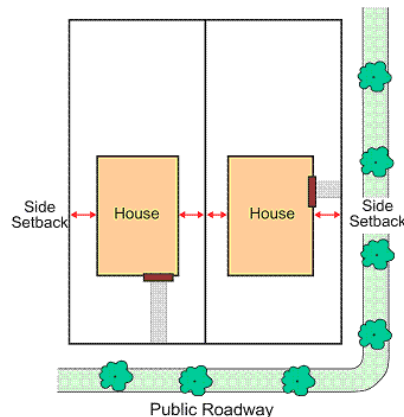
Notwithstanding the other regulations of this Zone, where a Multi-unit Project Development abuts a Site zoned to allow Single Detached Housing as a Permitted Use or the RF5 Row Housing Zone, the following regulations shall apply along the said property line:

- a. a minimum Setback of 7.5 m shall be required. The Development Officer may reduce this Setback to a minimum of 3.0 m only where the proposed façade is a flanking wall and an acceptable landscaped buffer is provided;
- b. no outdoor parking, garbage collection, outdoor amenity areas, or outdoor storage areas shall be developed within 3.0 m;

...

Under section 6.1(97), **Side Setback** means:

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



Development Officer’s Determination:

The minimum required Side Setback abutting the east property line is 7.5m (Reference Section 160.4.14.a).

The proposed east Side Setback is 1.35m.

No outdoor parking, garbage collection or outdoor amenity areas shall be developed within 3.0m of the east Side property line (Reference Section 160.4.14.b).

There are outdoor parking stalls, garbage collection and outdoor amenity areas within 3.0m of the east Side property line. [unedited].

Mature Neighbourhood Overlay Development Regulations

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. On a Corner Site, in the (RF3) Small Scale Infill Development Zone, where Row Housing, Stacked Row Housing or Apartment Housing faces the flanking Side Lot Line, the following regulations shall apply:

- a. For Lots where the Front Setback of the Abutting Lot is 9.0 m or less, the Front Setback shall be a maximum of 6.0 m.
- b. For Lots where the Front Setback of the Abutting Lot is greater than 9.0 m and less than 11.0 m, the Front Setback shall be consistent within 3.0 m of the Front Setback of the Abutting Lot, to a maximum of 7.0 m.
- c. For Lots where the Front Setback of the Abutting Lot is 11.0 m or greater, the Front Setback shall be within 4.0 m of the Front Setback of the Abutting Lot.

Development Officer's Determination:

The minimum required Front Setback shall be consistent within 1.5m of the Front Setback on the abutting Lot. The Front Setback of the abutting Lot to the east is 10.7m, and the minimum required Front Setback for the subject development is 9.2m. The proposed Front Setback is 7.7m. [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.
-

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: 230186965-003
Application Date: SEP 08, 2016
Printed: January 26, 2017 at 10:39 AM
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) 6325 - 109 STREET NW Plan 2460HW Blk 19 Lot 16
	Specific Address(es) Suite: 6325 - 109 STREET NW Entryway: 6325 - 109 STREET NW Building: 6325 - 109 STREET NW

Scope of Application

To construct a 3 Dwelling Row House building with a rear detached garage.

Permit Details

Class of Permit: Class B
Gross Floor Area (sq.m.): 167.49
New Sewer Service Required: Y
Site Area (sq. m.): 597.71

Contact Person:
Lot Grading Needed?: Y
NumberOfMainFloorDwellings: 3
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: **230186965-003**
 Application Date: SEP 08, 2016
 Printed: January 26, 2017 at 10:39 AM
 Page: 2 of 2

Application for Major Development Permit

Reason for Refusal

The maximum Density for Multi-unit Project Development shall be 42 Dwellings/ha (Reference Section 160.4.1).
 The proposed Density is 51 Dwellings / ha (3 Dwellings / 0.05977ha = 51 Dwellings / ha).

The minimum required Site Width is 17.4m (Reference Section 160.4.2.a and b).
 The proposed Site Width is 15.09m.

A minimum 30sq.m. of Private Outdoor Amenity Area per Dwelling shall be provided (Reference Section 160.4.9.a).
 - Only the southernmost Dwelling has a Private Outdoor Amenity Area that meets the requirements of the RF5 Zone and of Section 47.
 - The middle Dwelling's proposed Private Outdoor Amenity Area is not immediately adjacent to the Dwelling, and is less than 30sq.m.
 - The northernmost Dwelling's Private Outdoor Amenity Area is located within the Front Yard abutting 64 Avenue.

Where detached rear parking garages are developed the building containing the garages shall not exceed 12m provided that the building does not contain more than 2 separate garages (Reference Section 160.4.13.b).
 The 11m wide proposed rear detached garage contains 3 separate garages.

The minimum required Side Setback abutting the east property line is 7.5m (Reference Section 160.4.14.a).
 The proposed east Side Setback is 1.35m.

No outdoor parking, garbage collection or outdoor amenity areas shall be developed within 3.0m of the east Side property line (Reference Section 160.4.14.b).
 There are outdoor parking stalls, garbage collection and outdoor amenity areas within 3.0m of the east Side property line.

The minimum required Front Setback shall be consistent within 1.5m of the Front Setback on the abutting Lot. The Front Setback of the abutting Lot to the east is 10.7m, and the minimum required Front Setback for the subject development is 9.2m.
 The proposed Front Setback is 7.7m.

Rights of Appeal

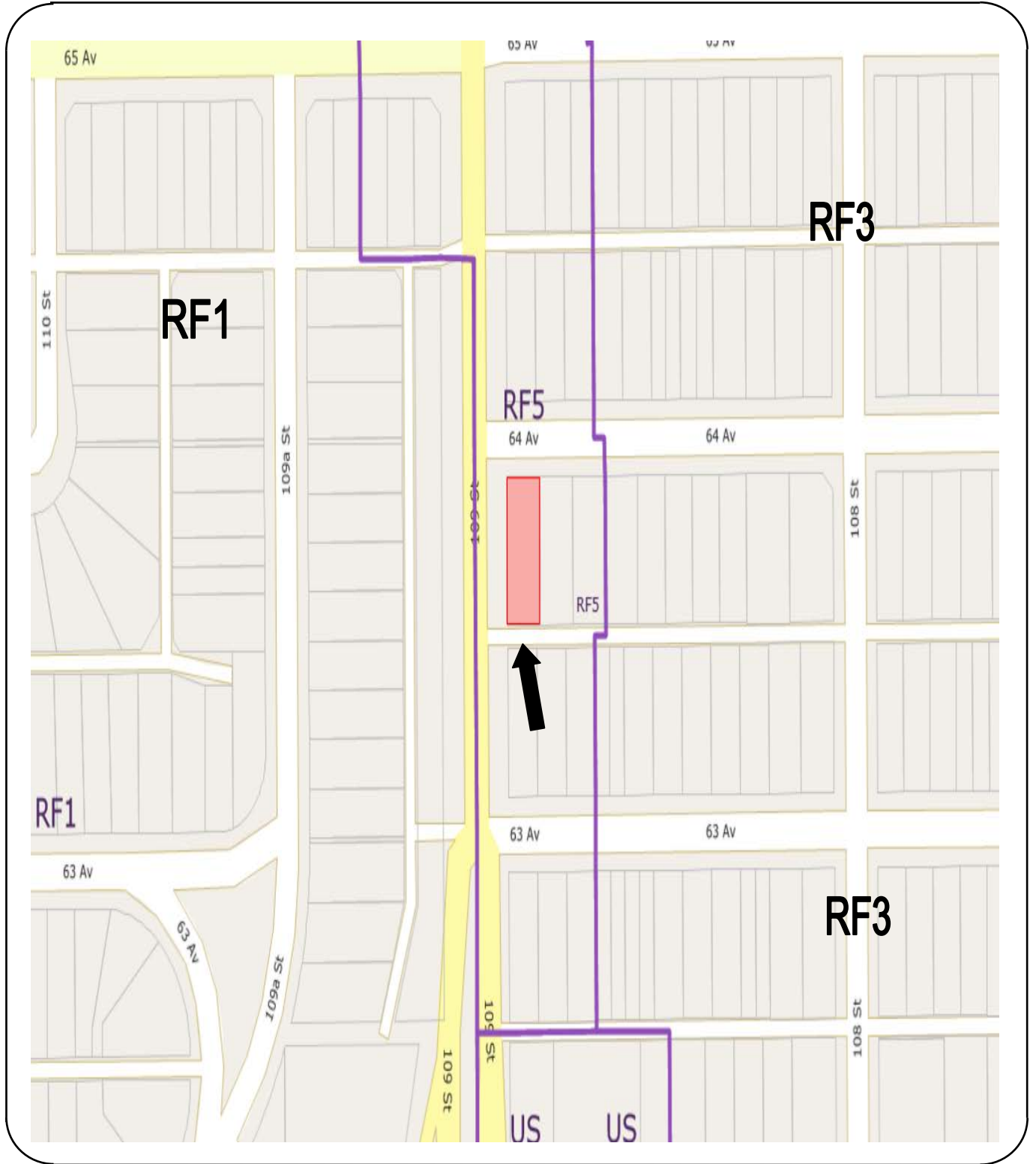
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jan 26, 2017 Development Authority: BACON, KIRK Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$893.00	\$893.00	03587550	Sep 08, 2016
Lot Grading Fee	\$385.00	\$385.00	03587550	Sep 08, 2016
Sanitary Sewer Trunk Fund 2012+	\$1,788.00	\$3,354.00	03587550	Sep 08, 2016
DP Notification Fee	\$102.00	\$102.00	03587550	Sep 08, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$3,168.00	\$4,734.00		
(overpaid by \$1,566.00)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17- 038

