

**SUBDIVISION**  
**AND**  
**DEVELOPMENT APPEAL BOARD**  
**AGENDA**

**Wednesday, 9:00 A.M.**  
**February 7, 2018**

**Hearing Room: River Valley Room**  
**City Hall, 1 Sir Winston**  
**Churchill Square NW,**  
**Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM: River Valley Room**

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I	9:00 A.M.	SDAB-D-18-019	Develop 3 additional Dwelling units in an existing Apartment House (18 Dwellings in total)  10757 - 83 Avenue NW Project No.: 266153417-001
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II	10:30 A.M.	SDAB-D-18-020	Change the Use from General Retail Stores to Child Care Services and to construct interior and exterior alterations (construct outdoor play space, amend Landscaping) (maximum 62 children)  5010 - 162 Avenue NW Project No.: 239164375-003
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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-18-019

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 266153417-001

APPLICATION TO: Develop 3 additional Dwelling units in an existing Apartment House (18 Dwellings in total)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 8, 2018

DATE OF APPEAL: January 12, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10757 - 83 Avenue NW

LEGAL DESCRIPTION: Plan RN4 Blk 132 Lots 19-20

ZONE: (RA7) Low Rise Apartment Zone

OVERLAY: Medium Scale Residential Infill Overlay

STATUTORY PLAN: Garneau Area Redevelopment Plan

***Grounds for Appeal***

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

The maximum Density shall be 125 Dwellings/ha. (Reference Section 210.4(2))  
Proposed Density: 222 Dwellings/ha  
Exceeds by: 97 Dwellings/ha

Douglas Manor is a Heritage Building. Nothing is getting changed exterior of this building to preserve the Heritage look. This Building is in existence for approximately 89 years with 15 units. This building is walking distance from University of Alberta and one block from White Ave.

There is a large three bedrooms unit located at the lower floor of this building. There is a less demand for three bedrooms in this area. There is lot more demand for affordable suits in this area. Especially for students and single earning people to be closer to their schooling, work, and entertainment. People love to live in this heritage building. We are trying to convert this three large bedrooms unit into bachelor suits. These three additional affordable dwellings are not adding any additional square footage to the premises. Being in the neighborhood, I further confirm that these three additional dwellings are not going to cause any sort of inconvenience to the adjacent properties and community. Adjacent Neighbors, businesses and Old Strathcona Business Association are supporting addition of these three new dwellings. Waste management and transportation department have no objection with adding these three additional dwellings.

A minimum Private Outdoor Amenity Area of 7.5 m<sup>2</sup> shall be provided for each Apartment Housing Dwelling. (Reference Section 823.4(3)(a))  
Required for 3 additional Dwellings: 22.5 m<sup>2</sup>  
Proposed: None  
Deficient by: 22.5 m<sup>2</sup>

The area known as the “common area or amenity area” on the east side of building Douglas Manor, is a particularly beautiful green space we offer to all residents. Picnic tables, barbecue, grass and flowers offer a place to socialize, be cool, and decompress after a long day. This area is approximately 150 m<sup>2</sup> and surrounded by shrubs and bushes isolating it from the traffic. These shrubs act like a privacy fence. We also have a bicycle stand as most of the tenants use this mode of transportation.

There are old maple trees and fir trees that we prune and keep viable. We believe this is our way of supporting the environment and keeping the lovely atmosphere of our Heritage Building. 3 additional dwelling will have access to private outdoor amenity area. They do not have direct access. Residents will have to take one set of staircase to access this green area.

Parking spaces required is 21 (Reference Section 54.2 Schedule 1(A))  
Proposed: 6  
Deficient by: 15

Currently we have 2 parking stalls rented out of 6 stalls. 4 Other stalls are empty. Other parking stalls in this building are used for visitor parking. During the day time parking lot is almost empty. In the late evening we will have 2 to 3 cars parked at any given time.

Most of the residents they walk and or they have bikes. We have couple of bike racks dedicated for bike parking. Lots of green thinking people are living in this building.

We have beautiful green space we offer to all residents of Douglas Manor. The reason people like living in this building because of Traditional/Heritage Look.

People living in this building are mostly students and single earning people who wants to be closer to their schooling, work, and entertainment. Majority of the residents living in this building do not have a car. They do not want to own a car.

As far as Transit system goes, there are 10 bus stops located within 2 to 3 blocks from this building. Closest bus stop is 2788 that is only 1 block away. There is a bus stopping at this stop every 4 to 5 minutes. LRT system is fairly close as well.

Transportation Department has no objection to the parking deficiency.

<b><i>General Matters</i></b>
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**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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the decision is made under section 642, [...]

**Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

- (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.

**Non-conforming use and non-conforming buildings**

**643(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.

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 210.2(1), **Apartment Housing** is a **Permitted Use** in the (RA7) Low Rise Apartment Zone.

Under section 7.2(1), **Apartment Housing** means:

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.

Section 210.1 states that the **General Purpose** of the (RA7) Low Rise Apartment Zone is “To provide a Zone for Low Rise Apartments.”

Section 823.1 states that the **General Purpose** of the **Medium Scale Residential Infill Overlay** is:

to accommodate the development of medium-scale infill housing in Edmonton’s mature residential neighbourhoods in a manner that ensures compatibility with adjacent properties while maintaining or enhancing a pedestrian-friendly streetscape.

<b><i>Density</i></b>
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Section 210.4(2) states “The maximum Density shall be 125 Dwellings/ha.”

Under section 6.1(25), **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(31), **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.

**Development Officer’s Determination**

**The maximum Density shall be 125 Dwellings/ha. (Reference Section 210.4(2))**

**Proposed Density: 222 Dwellings/ha**

**Exceeds by: 97 Dwellings/ha [unedited]**

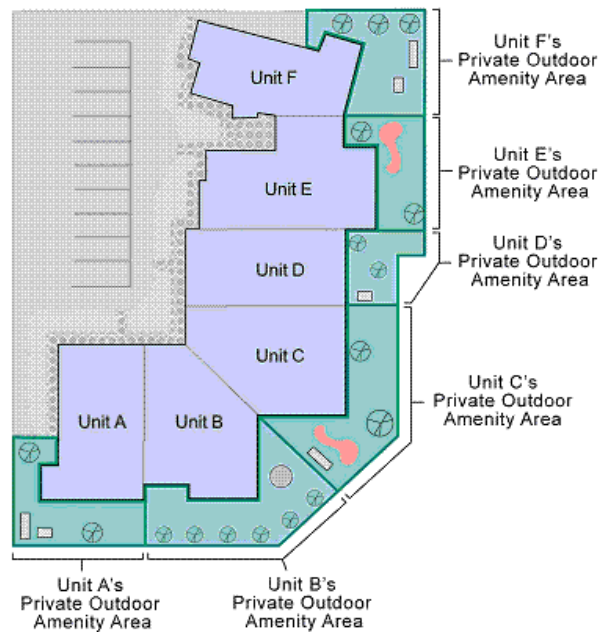
***Private Outdoor Amenity Area***

Section 823.4(3)(a) states

A minimum Private Outdoor Amenity Area of 7.5 m<sup>2</sup> shall be provided for each Apartment Housing Dwelling except that for ground Storey Dwellings a minimum of 15.0 m<sup>2</sup> of Private Outdoor Amenity Area shall be provided.

Under section 6.1(85), **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 Private Outdoor Amenity Area of 7.5 m<sup>2</sup> shall be provided for each Apartment Housing Dwelling. (Reference Section 823.4(3)(a))**

**Required for 3 additional Dwellings: 22.5 m<sup>2</sup>**

**Proposed: None**

**Deficient by: 22.5 m<sup>2</sup> [unedited]**



***Parking***

Section 54.2, Schedule 1(A)(1) provides the following with respect to Apartment Housing in **All Areas Outside of the Downtown Special Area, Main Street Corridors, and Transit Nodes:**

Dwelling Size	Minimum
Studio	1
1 Bedroom Dwelling	1
2 Bedroom Dwelling	1.5
3 or more Bedroom Dwelling	1.7

Visitor parking shall be provided at a minimum rate of 0 visitor parking spaces for the first 7 Dwellings, and 1 visitor parking space per 7 Dwellings thereafter. Visitor parking spaces shall be readily available to the primary building entrance for each multi-unit residential building on Site, and be clearly identified as visitor parking, to the satisfaction of the Development Officer.

Section 54.2, Schedule 1(B) provides parking requirements for **Areas Within the Downtown Special Area.**

Section 54.2, Schedule 1(C) provides the following with respect to **Transit Oriented Development:**

Where the following Uses are outside of the boundary of 54.2 Schedule 1(B) but are located within:

- 600 metres of an existing LRT station, or a future LRT station with the most recent version of a Council-approved Concept Plan;
- 600 metres of an existing Transit Centre, or a future Transit Centre with the most recent version of a Council-approved Concept Plan;
- 150 metres of a Transit Avenue; or
- the boundaries shown in the Main Streets Overlay Section 819.2,

the minimum and maximum parking requirements shown below shall apply, except Schedule 1(A) shall apply for Residential and Residential-Related Uses not listed here.

For the purpose of Schedule 1(C), measurements shall be made from the nearest point of the LRT station, Transit Centre, or Transit Avenue to the Site Boundary where the Use(s) are to be located. Where a LRT station

or Transit Centre exists in concept only, the radius shall be measured from the centre of the proposed location on the concept diagrams, or of the nearest roadway intersection at the discretion of the Development Officer.

Section 54.2, Schedule 1(C)(1) states the following with respect to Apartment Housing:

In Core and Mature neighbourhoods, as identified in Edmonton’s Municipal Development Plan, Bylaw 15100, excluding the Downtown Special Area:		
Minimum and Maximum Parking Spaces per Dwelling size		
Dwelling Size	Minimum	Maximum
Studio	0.5	1.0
1 Bedroom Dwelling	0.5	1.0
2 Bedroom Dwelling	0.75	1.5
3 or more Bedroom Dwelling	1.0	1.75

...

Visitor parking shall be provided at a minimum rate of 0 visitor parking spaces for the first 7 Dwellings, and 1 visitor parking space per 7 Dwellings thereafter. Visitor parking must be readily available to the primary building entrance for each multi-unit residential building on Site, and be clearly identified as visitor parking, to the satisfaction of the Development Officer.

Under section 6.1(116), **Transit Avenue** means:

a transportation corridor, served by one or more bus routes that provide service throughout the day, seven days a week, as shown in Appendix I to Section 54.2. The bus routes serving these areas operate with at least 15 minute frequency during weekday peak, weekday midday periods, Saturday midday periods, and Sunday midday periods and may connect major trip generators, LRT stations and Transit Centres. The land uses along these corridors are oriented toward the street.

**Development Officer’s Determination**

**Parking spaces required is 21 (Reference Section 54.2 Schedule 1(A))**  
**Proposed: 6**  
**Deficient by: 15 [unedited]**

<i>Community Consultation</i>
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Section 823.6 states the following with respect to Proposed Variances:

1. When the Development Officer determines that a Development Permit application for the construction of new Apartment Housing or new Stacked Row Housing does not comply with the regulations contained in this Overlay:

- a. the Development Officer shall send notice to the Recipient Parties specified in Table 823.6(2) to solicit comments directly related to the variance;
- b. the Development Officer shall not render a decision on the Development Permit application until 21 days after notice has been sent, unless the Development Officer receives feedback from the specified Affected Parties in accordance with Table 823.6(2); and
- c. the Development Officer shall consider any comments directly related to the proposed variance when determining whether to approve the Development Permit application in accordance with Section 11.2.

Table 823.6(2):

Tier Number	Recipient Parties:	Affected Parties:	Regulation proposed to be varied:
Tier 2	The municipal address and assessed owners of land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development and the President of each applicable Community League	The municipal address and assessed owners of land Abutting the Site and directly adjacent across a Lane from the Site of the proposed development	823.4(3) – Amenity Area

***Previous Subdivision and Development Appeal Board Decision***

Application Number	Description	Decision
SDAB-D-12-003	To develop two dwellings (existing without permits) within a 13 dwelling Apartment House.	January 20, 2012; that the appeal be <b>ALLOWED</b> and the <b>DEVELOPMENT GRANTED</b> and the excess of five additional Dwelling Units, the deficiency of 12 onsite parking spaces, the deficiency of 112.50 square metres in the minimum required Amenity Area, the deficiency of 3.25 metres in the minimum required Rear Setback and the deficiency of


		1.34 metres in the minimum required Side Setback be permitted.
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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*.

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	Project Number: <b>266153417-001</b> Application Date: NOV 01, 2017 Printed: January 8, 2018 at 3:27 PM Page: 1 of 2	
<h2 style="margin: 0;">Application for Major Development Permit</h2>		
This document is a Development Permit Decision for the development application described below.		
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 10757 - 83 AVENUE NW Plan RN4 Blk 132 Lots 19-20	
	<b>Specific Address(es)</b> Suite: 4, 10757 - 83 AVENUE NW Suite: 5, 10757 - 83 AVENUE NW Suite: 6, 10757 - 83 AVENUE NW Entryway: 10757 - 83 AVENUE NW Building: 10757 - 83 AVENUE NW	
<b>Scope of Application</b> To develop 3 additional Dwelling units in existing Apartment House (18 Dwellings in total).		
<b>Permit Details</b>		
Class of Permit: Gross Floor Area (sq.m): New Sewer Service Required: Y Site Area (sq. m):	Contact Person: Lot Grading Needed?: N/A NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: Medium Scale Residential Infill Overlay	
I/We certify that the above noted details are correct. Applicant signature: _____		
<b>Development Application Decision</b> Refused		
<b>Reason for Refusal</b> The maximum Density shall be 125 Dwellings/ha. (Reference Section 210.4(2)) Proposed Density: 222 Dwellings/ha Exceeds by: 97 Dwellings/ha		
A minimum Private Outdoor Amenity Area of 7.5 m2 shall be provided for each Apartment Housing Dwelling. (Reference Section 823.4(3)(a)) Required for 3 additional Dwellings: 22.5 m2 Proposed: None Deficient by: 22.5 m2		
Parking spaces required is 21 (Reference Section 54.2 Schedule 1(A)) Proposed: 6 Deficient by: 15		
<b>Rights of Appeal</b> 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 08, 2018	Development Authority: ANGELES, JOSELITO	Signature: _____
<b>THIS IS NOT A PERMIT</b>		



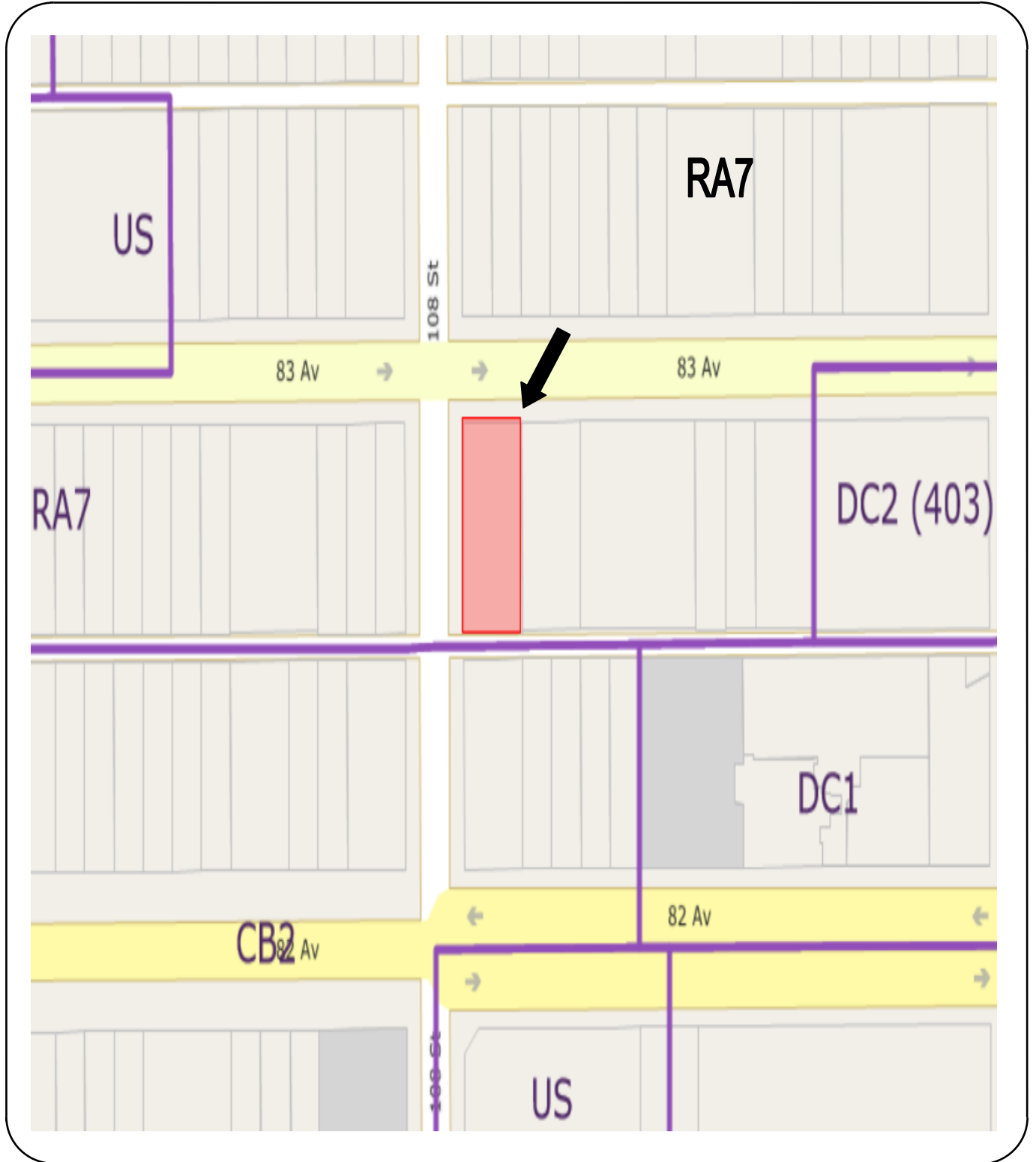
Project Number: **266153417-001**  
Application Date: NOV 01, 2017  
Printed: January 8, 2018 at 3:27 PM  
Page: 2 of 2

## Application for Major Development Permit

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$818.00	\$818.00	04601931	Nov 02, 2017
Sanitary Sewer Trunk Fund 2012+	\$3,354.00			
Total GST Amount:	\$0.00			
Totals for Permit:	\$4,172.00	\$818.00		
(\$3,354.00 outstanding)				

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-019



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-020

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 239164375-003

APPLICATION TO: Change the Use from General Retail Stores to Child Care Services and to construct interior and exterior alterations (construct outdoor play space, amend Landscaping) (maximum 62 children)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: January 12, 2018

DATE OF APPEAL: January 12, 2018

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 5010 - 162 Avenue NW

LEGAL DESCRIPTION: Plan 1523990 Unit 2, Condo Common Area (Plan 1523990)

ZONE: (CNC) Neighbourhood Convenience Commercial Zone

OVERLAY: N/A

STATUTORY PLAN(S): Hollick Kenyon Neighbourhood Structure Plan  
Pilot Sound Area Structure Plan

***Grounds for Appeal***

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

The development office has error-ed in his decision and interpretation of the zoning bylaw.

1-the rapid drive through use does is not adjacent to the rapid drive through as it is located on the mail floor, while the proposed child care is on the second floor.



The main entrance is located on the north portion of the property furthest away from the drive aisle, along with a sidewalk allowing any drop offs to be walked safely on the sidewalk to the main entrance with no impact or interference with drive aisle. The Main floor of the child care building is surrounded by Steel barricades protecting both the main entrance and walk path

50m-the development officer has changed his calculation from application 239164375-001 which indicated the distance of 43.11 to now 38.9 not taking into account the vertical distance of the childcare or the walls in between the gas bar and the proposed child care

The development office is allocated 21 stalls to the car wash on site, without taking into account the 9 stalls located within the facility of the queing lane. Patrons which attend the car wash do not park outside and enter the facility but rather drive in. When removing the 21 stalls allocated to the car wash, the site is deficient 2 stalls. 5 drop off and pick up stalls are reserved during peak pick and drop off times. With loading and off loading reserved on 51 st, with an additional 10 stalls pick and drop can also be done off of 51 st. Pick up and drop off stalls are only utilized for short period of times on average less than 15mins

It is incorrectly to identify the play area as a service area, the Play area is not a service area. With fencing and given the actual separation between the play space and the residences to the west across 51 Street, the variance to the west Setback would not create a material adverse impact.

The proposed child care would service only the community Hollick Kenyon as per the CNC zoning.

For the above reasons we hope the board grants the appeal

***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,

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the decision is made under section 642, [...]

**Hearing and Decision**

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

...

- (a.1) must comply with the land use policies;
- (a.2) subject to section 638, must comply with any applicable statutory plans;
- (a.3) subject to clause (d), must comply with any land use bylaw in effect;

...

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

and

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

**General Provisions from the *Edmonton Zoning Bylaw*:**

Under section 310.3(4), **Child Care Services** is a **Discretionary Use** in the (CNC) Neighbourhood Convenience Commercial Zone.

Under section 7.8(2), **Child Care Services** means:

a development intended to provide care, educational activities and supervision for groups of seven or more children under 13 years of age during the day or evening, but does not generally include overnight accommodation. This Use typically includes daycare centres; out-of-school care centres; preschools; and dayhomes/group family care providing child care to seven or more children within the care provider's residence.

Section 310.1 states that the **General Purpose** of the (CNC) **Neighbourhood Convenience Commercial Zone** is:

to provide for convenience commercial and personal service uses, which are intended to serve the day-to-day needs of residents within residential neighbourhoods.

***Child Care Services Regulations***

**Location requirements**

Section 80.2(a)(v) states:

No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for the following Uses:

Rapid Drive-through Vehicle Services.

Section 80.2(c) states:

No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use.

Section 80.2(d) states:

Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer.

**Development Officer's Determination:**

**1. No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for Rapid Drive-through Vehicle Services. (Reference Section 80(2)(a)(v))**

**The Child Care Service is proposed directly abutting a Rapid Drive-through Vehicle Services Use, contrary to Section 80(2)(a)(v).**

**2. No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use. (Reference Section 80(2)(c))**

**The Child Care Service is proposed within 50m of the closest gas bar building, the Gas Bar is located on the same Site, contrary to Section 80(2)(c).**

**Proposed:38.9m**

**Deficient by: 11.1m**

**3. Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer. (Reference Section 80(2)(d))**

**In the opinion of the Development Officer, the location of the existing Rapid Drive-through Service with 9 service bays. and the queuing aisle directly adjacent to the Child Care Service, would compound and create a dangerous and negative impact on the Child Care Service, contrary to Section 80(2)(d).**

[unedited]

***Parking Requirements***

Section 54.1(1)(b)(ii) provides the following with respect to *Off-street Parking and Loading Regulations*:

1. Applicability and Exceptions
  - b. ...the regulations contained within this Section shall not apply to buildings or Uses existing at the time of the adoption of this Bylaw, except that:
    - ii. where any building or Use undergoes a change of Use, intensity of Use or capacity and the change results in an increase in the parking requirements, the off-street parking, including parking for the disabled and visitors, shall be increased to equal or exceed the off-street parking requirements resulting from application of the provisions of this Bylaw to the entire building, structure or Use as modified in use; [...].

Section 54.1(2)(h) states:

In the case of the multiple Use of a Site, the Development Officer shall calculate the vehicular parking, Bicycle Parking and total off-street loading requirement for each individual Use and the total shall be deemed to be the required vehicular parking, Bicycle Parking or off-street loading for the Site, unless the applicant can demonstrate that there is complementary use of the parking or loading facilities which would warrant a reduction in the requirements. Where such reduction is made, this shall be considered a variance and the Development Officer shall state the reduction and the reasons for it on the Development Permit.

Section 54.2, Schedule 1(A)(32) states:

<b>Community, Educational, Recreational and Cultural Service Use Classes</b>	<b>Minimum Number of Parking Spaces or Garage Spaces Required</b>
Child Care Services	a) Passenger pick-up/drop-off spaces shall be provided at the rate of 2 pick-up/drop-off spaces for the first 10 children, plus 1 additional pick-up/drop-off space for every 10 additional children.

	<p>i) Passenger pick-up/drop-off spaces shall be designated with signs to reserve the parking spaces for Child Care Service pick-up/drop-off, to the satisfaction of the Development Officer.</p> <p>ii) Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and shall not be located further than 100 m from the main entrance used by the Child Care Service. The distance between the farthest parking space in the pickup/drop-off area and the main entrance of the Child Care Service shall be measured along the shortest publically accessible pedestrian route.</p> <p>iii) An on-street loading zone shall satisfy a portion of the passenger pick-up/drop-off parking space requirement without a variance if the Development Officer, after consultation with Transportation Operations, is satisfied with the proposal.</p> <p>b) employee parking shall be provided at the rate of:</p> <p>i) 1 parking space per 100.0 m<sup>2</sup> of Floor Area; or</p> <p>ii) 1 parking space per 360.0 m<sup>2</sup> of Floor Area where the Child Care Service is proposed within 400 m of an LRT Station, Transit Centre, Transit Avenue, or all Lots within the boundaries of the Oliver Area Redevelopment Plan, as adopted by Bylaw 11618, as amended, or all Lots within the boundaries of the Strathcona Area Redevelopment Plan, as adopted by Bylaw 11890, as amended; or</p> <p>iii) Where the Child Care Service is for a dayhome/group family care providing care to 7 or more children within the residence of the child care provider, 1 parking space for each non-resident employee, in addition to the parking required for the primary Dwelling. Where a Front Yard Driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this Driveway as the provision of a parking space that is in tandem.</p>
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**Development Officer's Determination:**

**4. On site parking shall comply with Section 54.2, Schedule 1 of the Zoning Bylaw.**

**Required: 58 spaces**

**Proposed: 32 spaces + 3 pick-up / drop-off on the street**

**Deficient by: 23 spaces**

**Note: Transportation Operations has indicated that a maximum of 3 pick-up / drop-off spaces within an on-street loading zone will be acceptable in accordance with Section 54.2 Schedule1(A)(32)(a)(iii).**

[unedited]

***Setback***

Section 310.4(5) states "A minimum Setback of 4.5 m shall be required where a Site abuts a public roadway, other than a Lane."

Section 310.4(6) states "A minimum Setback of 3.0 m shall be required where the Rear or Side Lot Line of the Site abuts the lot line of a Site in a Residential Zone."

Section 310.4(7) states:

No parking, loading, storage, trash collection, outdoor service or display area shall be permitted within a Setback. Loading, storage and trash collection areas shall be located to the rear or sides of the principal building and shall be screened from view from any adjacent Sites, public roadways or a LRT line in accordance with the provisions of Section 55.5 of this Bylaw. If the rear or sides of a Site are used for parking, an outdoor service display area or both, and abut a Residential Zone or a Lane serving a Residential Zone, such areas shall be screened in accordance with the provisions of subsection 55.4 of this Bylaw.

Under section 6.1(97), **Setback** means "the distance that a development or a specified portion of it, must be set back from a property line. A Setback is not a Yard, Amenity Space, or Separation Space."

**Development Officer's Determination:**

**5. No outdoor service area shall be permitted within a Setback. (Reference Section 310.4(7))**

**The proposed outdoor playspace (an outdoor service area) is located within two required setbacks, contrary to Section 310.4(7).**

[unedited]

<i>Landscaping</i>
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Section 310.4(9) states:

Where Uses, that may in the opinion of the Development Officer, create negative impacts such as noise, light or odours which may be noticeable on adjacent properties, and where the Site containing such Uses is directly adjacent to Sites used or zoned for residential activities, the Development Officer may, at the Development Officer's discretion, require that these potential impacts be minimized or negated. This may be achieved through a variety of measures including: Landscaping; berming or screening, which may exceed the requirements of Section 55 of this Bylaw; noise attenuation measures such as structural soundproofing; downward direction of all exterior lighting on to the proposed development; and any other measures as the Development Officer may deem appropriate.

**Development Officer's Determination:**

**6. Where Uses create negative impacts such as noise, light or odours which may be noticeable on adjacent properties, and where the Site containing such Uses is directly adjacent to Sites used or zoned for residential activities. (Reference Section 310.4.9)**

**Play Space is within a required Setback, facing residential, in the Development Officers Opinion this will cause substantial noise impacts, contrary to Section 310.4.9**

**Advisements:**

**A. The proposed outdoor playspace includes required Landscaping as per Development Permit #187003360-001. Any development on the site must comply with the approved Landscaping Plan.**

**B. The trees and shrubs on the North of the Site are likely to conflict with the proposed sidewalk though canopy encroachments and root systems damaging the sidewalk.**

**C. The Outdoor Play Space is proposed within a Utility Road Right-of-Way. Obtaining a Development Permit does not relieve the Land Owner from responsibility for complying with the conditions of any caveat, covenant, easement, or other instrument affecting a building or land.**

[unedited]




***Previous Subdivision and Development Appeal Board Decision***

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-17-044	To change the Use from General Retail Stores to Child Care Services and to construct interior and exterior alterations (110 children).	March 16, 2017; The appeal is <b>DENIED</b> and the decision of the Development Authority is <b>CONFIRMED</b> . The Development is <b>REFUSED</b> .

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: <b>239164375-003</b> Application Date: OCT 23, 2017 Printed: January 12, 2018 at 8:51 AM Page: 1 of 3
<h2 style="margin: 0;">Application for Major Development Permit</h2>	
This document is a Development Permit Decision for the development application described below.	
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 5010 - 162 AVENUE NW Plan 1523990 Unit 2 5004C - 162 AVENUE NW Condo Common Area (Plan 1523990)
	<b>Specific Address(es)</b> Suite: 201, 5008 - 162 AVENUE NW Entryway: 5008 - 162 AVENUE NW Building: 5006 - 162 AVENUE NW
<b>Scope of Application</b> To change the Use from General Retail Stores to Child Care Services and to construct interior and exterior alterations (construct outdoor playspace, amend Landscaping) (Max. 62 children).	
<b>Permit Details</b>	
Class of Permit: Class B Gross Floor Area (sq.m.): 238 New Sewer Service Required: N Site Area (sq. m.): 3192.69	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none)
I/We certify that the above noted details are correct.  Applicant signature: _____	
<b>Development Application Decision</b> Refused	
<b>THIS IS NOT A PERMIT</b>	



Project Number: **239164375-003**  
 Application Date: OCT 23, 2017  
 Printed: January 12, 2018 at 8:51 AM  
 Page: 2 of 3

## Application for Major Development Permit

**Reason for Refusal**

1. No portion of a Child Care Services Use, including the building bay and on-Site outdoor play space, where provided, shall be located adjacent to a building bay with an approved development permit for Rapid Drive-through Vehicle Services. (Reference Section 80(2)(a)(v))

The Child Care Service is proposed directly abutting a Rapid Drive-through Vehicle Services Use, contrary to Section 80(2)(a)(v).

2. No portion of a Child Care Services Use, including the building, building bay and on-Site outdoor play space, where provided, shall be located within 50 m of a Major Service Station, a Minor Service Station or a Gas Bar. This distance shall be measured from the closest pump island, fill pipes, vent pipes, or service station or gas bar building, to the Child Care Services Use. (Reference Section 80(2)(c))

The Child Care Service is proposed within 50m of the closest gas bar building, the Gas Bar is located on the same Site, contrary to Section 80(2)(c).

Proposed: 38.9m  
 Deficient by: 11.1m

3. Where Site conditions exist which may negatively impact the Child Care Services Use, including but not limited to trash collection areas, large parking lots, loading docks, rail lines, or arterial public roadways, the applicant shall design the building, entrances, playspaces, landscaping, and Fencing, or similar, to mitigate these conditions to the satisfaction of the Development Officer. (Reference Section 80(2)(d))

In the opinion of the Development Officer, the location of the existing Rapid Drive-through Service with 9 service bays, and the queuing aisle directly adjacent to the Child Care Service, would compound and create a dangerous and negative impact on the Child Care Service, contrary to Section 80(2)(d).

4. On site parking shall comply with Section 54.2, Schedule 1 of the Zoning Bylaw.

Required: 58 spaces  
 Proposed: 32 spaces + 3 pick-up / drop-off on the street  
 Deficient by: 23 spaces

Note: Transportation Operations has indicated that a maximum of 3 pick-up / drop-off spaces within an on-street loading zone will be acceptable in accordance with Section 54.2 Schedule 1(A)(32)(a)(iii).

5. No outdoor service area shall be permitted within a Setback. (Reference Section 310.4(7))

The proposed outdoor playspace (an outdoor service area) is located within two required setbacks, contrary to Section 310.4(7).

6. Where Uses create negative impacts such as noise, light or odours which may be noticeable on adjacent properties, and where the Site containing such Uses is directly adjacent to Sites used or zoned for residential activities. (Reference Section 310.4.9)

Play Space is within a required Setback, facing residential, in the Development Officers Opinion this will cause substantial noise impacts, contrary to Section 310.4.9

**Advisements:**

A. The proposed outdoor playspace includes required Landscaping as per Development Permit #187003360-001. Any development on the site must comply with the approved Landscaping Plan.

B. The trees and shrubs on the North of the Site are likely to conflict with the proposed sidewalk though canopy encroachments and root systems damaging the sidewalk.

C. The Outdoor Play Space is proposed within a Utility Road Right-of-Way. Obtaining a Development Permit does not relieve the Land Owner from responsibility for complying with the conditions of any caveat, covenant, easement, or other instrument

**THIS IS NOT A PERMIT**



Project Number: 239164375-003  
Application Date: OCT 23, 2017  
Printed: January 12, 2018 at 8:51 AM  
Page: 3 of 3

## Application for Major Development Permit

affecting a building or land.

### Rights of Appeal

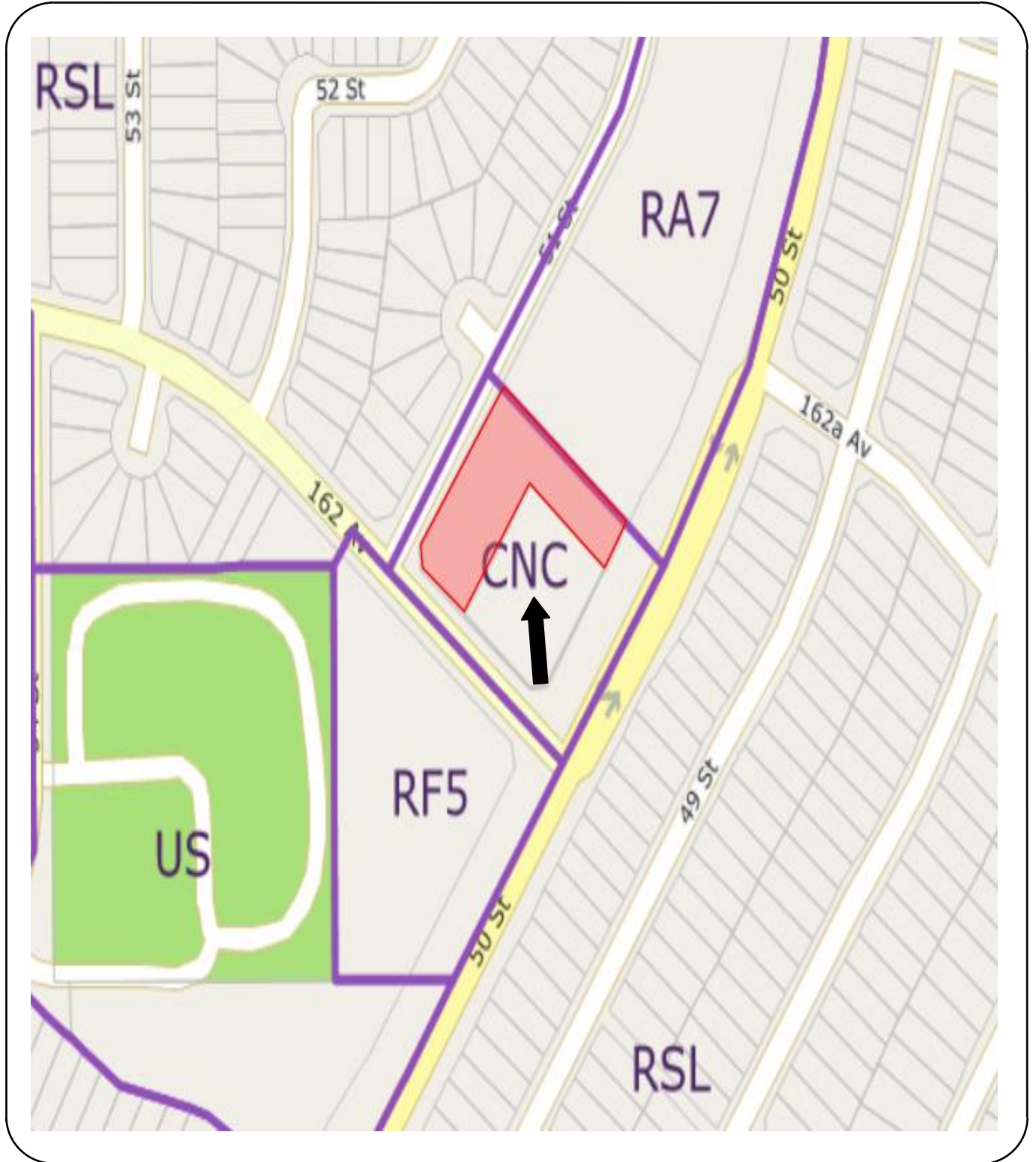
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Jan 12, 2018      Development Authority: ADAMS, PAUL      Signature: \_\_\_\_\_

### Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$319.00	\$319.00	04547271	Oct 23, 2017
Total GST Amount:	<u>\$0.00</u>	<u>          </u>		
Totals for Permit:	\$319.00	\$319.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-020

