

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
January 3, 2018**

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

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING ROOM NO. 3**

---

I	9:00 A.M.	SDAB-D-18-001	Change the Use of the ground floor from General Retail Stores to two Dwellings of Apartment Housing (existing without permits)  12106 - 90 Street NW Project No.: 263413847-001
---	-----------	---------------	--

---

---

II	10:30 A.M.	SDAB-D-18-002	Construct a Semi-detached House with front verandas  12070 - 94 Street NW Project No.: 233805217-001
----	------------	---------------	--

---

---

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

ITEM I: 9:00 A.M.

FILE: SDAB-D-18-001

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 263413847-001

APPLICATION TO: Change the Use of the ground floor from General Retail Stores to two Dwellings of Apartment Housing (existing without permits)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: October 24, 2017

DATE OF APPEAL: November 20, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12106 - 90 Street NW

LEGAL DESCRIPTION: Plan 0525979 Blk 9 Lot 26

ZONE: (CNC) Neighbourhood Convenience Commercial Zone

OVERLAY: N/A

STATUTORY PLAN: Alberta Avenue / Eastwood Area Redevelopment Plan

---

***Grounds for Appeal***

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

Incorrect information on refusal notice

***General Matters***

**The Appellant requested his Appeal be heard anytime in January 2018.**

**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, [...]

...

**Permitted and discretionary uses**

...

**642(3)** A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the decision was made and containing any other information required by the regulations, must be given or sent to the applicant on the same day the decision is made.

...

**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(1), **Apartment Housing** is a **Discretionary Use** in the (CNC) Neighbourhood Convenience Commercial 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.

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.

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.

**Development Officer's Determination:**

**1) Section 11.3(1)(d) - There shall be no variance to the General Purpose of the appropriate Zone or Overlay. The subject property is zoned CNC (Neighbourhood Convenience Commercial Zone). The purpose of this 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.**

**The proposed development is to convert the entire building to an Apartment House, which does not meet the General Purpose of the CNC Zone. [unedited]**

***Additional Development Regulations for Discretionary Uses***

Section 310.5(1)(a) states "Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes."

**Development Officer's Determination:**

**2) Section 310.5(1)(a) - Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes. The existing development is a mixed use development consisting of two main floor (first storey) General Retail Stores with five Apartment House dwellings on the second floor.**

**Proposed: Conversion of the General Retail Stores on the main floor (first storey) to two dwellings, contrary to Section 310.5(1)(a).**


**The Development Officer has been made aware that the General Retail Stores on the main floor have been converted to two Apartment House dwellings without a valid development permit (Reference Development Compliance Job no - 045826630-008). [unedited]**

---

Notice to Applicant/Appellant

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

---

	Project Number: <b>263413847-001</b> Application Date: SEP 28, 2017 Printed: October 24, 2017 at 3:04 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> 12106 - 90 STREET NW Plan 0525979 Blk 9 Lot 26  <b>Specific Address(es)</b> Entryway: 12110 - 90 STREET NW Entryway: 12112 - 90 STREET NW Building: 12106 - 90 STREET NW Building: 12110 - 90 STREET NW	
<b>Scope of Application</b> To change the use of the ground floor from General Retail Stores to two Dwellings of Apartment Housing (existing w/o permits).		
<b>Permit Details</b>		
Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.):	Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: 2 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>Reason for Refusal</b> 1) Section 11.3(1)(d) - There shall be no variance to the General Purpose of the appropriate Zone or Overlay. The subject property is zoned CNC (Neighbourhood Convenience Commercial Zone). The purpose of this 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.  The proposed development is to convert the entire building to an Apartment House, which does not meet the General Purpose of the CNC Zone.  2) Section 310.5(1)(a) - Apartment Housing shall be permitted only in buildings where the first Storey is used for commercial purposes. The existing development is a mixed use development consisting of two main floor (first storey) General Retail Stores with five Apartment House dwellings on the second floor.  Proposed: Conversion of the General Retail Stores on the main floor (first storey) to two dwellings, contrary to Section 310.5(1)(a).  The Development Officer has been made aware that the General Retail Stores on the main floor have been converted to two		
<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: Oct 24, 2017	Development Authority: SHAH, NIKHIL	Signature: _____
<b>THIS IS NOT A PERMIT</b>		



Project Number: **263413847-001**  
Application Date: SEP 28, 2017  
Printed: October 24, 2017 at 3:04 PM  
Page: 2 of 2

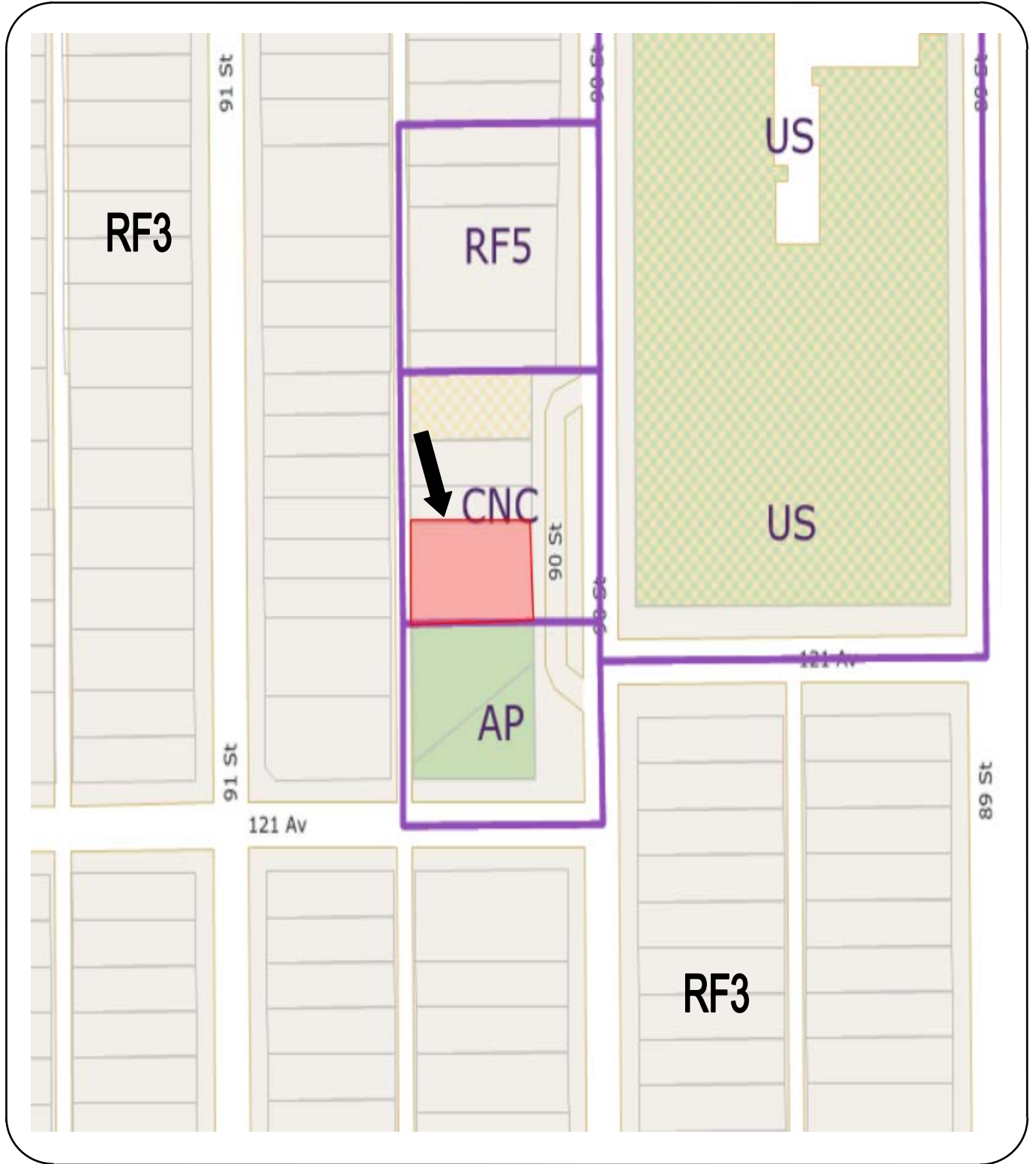
## Application for Major Development Permit

### Fees

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Major Dev. Application Fee	\$500.00	\$500.00	04489644	Sep 28, 2017
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$500.00	\$500.00		

**THIS IS NOT A PERMIT**





**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-001



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-002

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 233805217-001

APPLICATION TO: Construct a Semi-detached House with front verandas

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: November 20, 2017

DATE OF APPEAL: December 4, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12070 - 94 Street NW

LEGAL DESCRIPTION: Plan 2463AE Blk 5 Lot 8

ZONE: (RF3) Small Scale Infill Development Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Alberta Avenue / Eastwood Area Redevelopment Plan

***Grounds for Appeal***

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

No reasons provided to date.

***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 140.2(9), **Semi-detached Housing** is a **Permitted Use** in the (RF3) Small Scale Infill Development Zone.

Under section 7.2(7), **Semi-detached Housing** means:

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

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.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

to regulate residential development in Edmonton's mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the impact of a proposed variance to the Overlay regulations.

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

to provide for Single Detached Housing and Semi-detached Housing while allowing small-scale conversion and infill redevelopment to

buildings containing up to four Dwellings under certain conditions, and including Secondary Suites and Garden Suites.

***(RF3) Small Scale Infill Development Zone Regulations***

**Site Area**

Section 140.4(3)(a) states “the minimum Site area shall be 442.2 m<sup>2</sup>.”

**Development Officer’s Determination**

**Site Area - The area of the site is 336.41m<sup>2</sup> instead of 442.20m<sup>2</sup> (Section 140.4.3.a).** [unedited]

**Site Width**

Section 140.4(3)(b) states “on a non-Corner Lot, the minimum Site Width shall be 13.4 m, except that if the Dwellings are arranged along the depth of the Site rather than the width, the minimum Site Width may be reduced to 10.0 m.”

**Development Officer’s Determination**

**Site Width - The width of the site is 8.8m instead of 10.0m (Section 140.4.3.b).** [unedited]

***Previous Subdivision and Development Appeal Board Decisions***

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-16-112	To construct a Semi-Detached House with a veranda	May 19, 2016; The appeal was filed outside the 14 days statutory time limit under Section 686(1)(a)(i) of the Municipal Government Act, and the Board therefore has no jurisdiction to hear the matter.
SDAB-D-11-165	Construct additions to a Single Detached House (front addition and second storey existing without permits) and to	October 14, 2011; that the appeal be ALLOWED and the DEVELOPMENT GRANTED subject to


	demolish rear addition and front overhang currently under construction on Lot 8, Block 5, Plan 2463AE was refused due to the building being non-conforming due to a deficiency in the minimum required Side Yards and a deficiency in the minimum Rear Yard, that being forty percent of the Site Depth.	the following condition:  1.The approval is for a Single Detached House and any changes to the Use will require a separate Development Permit Application.
--	--	--

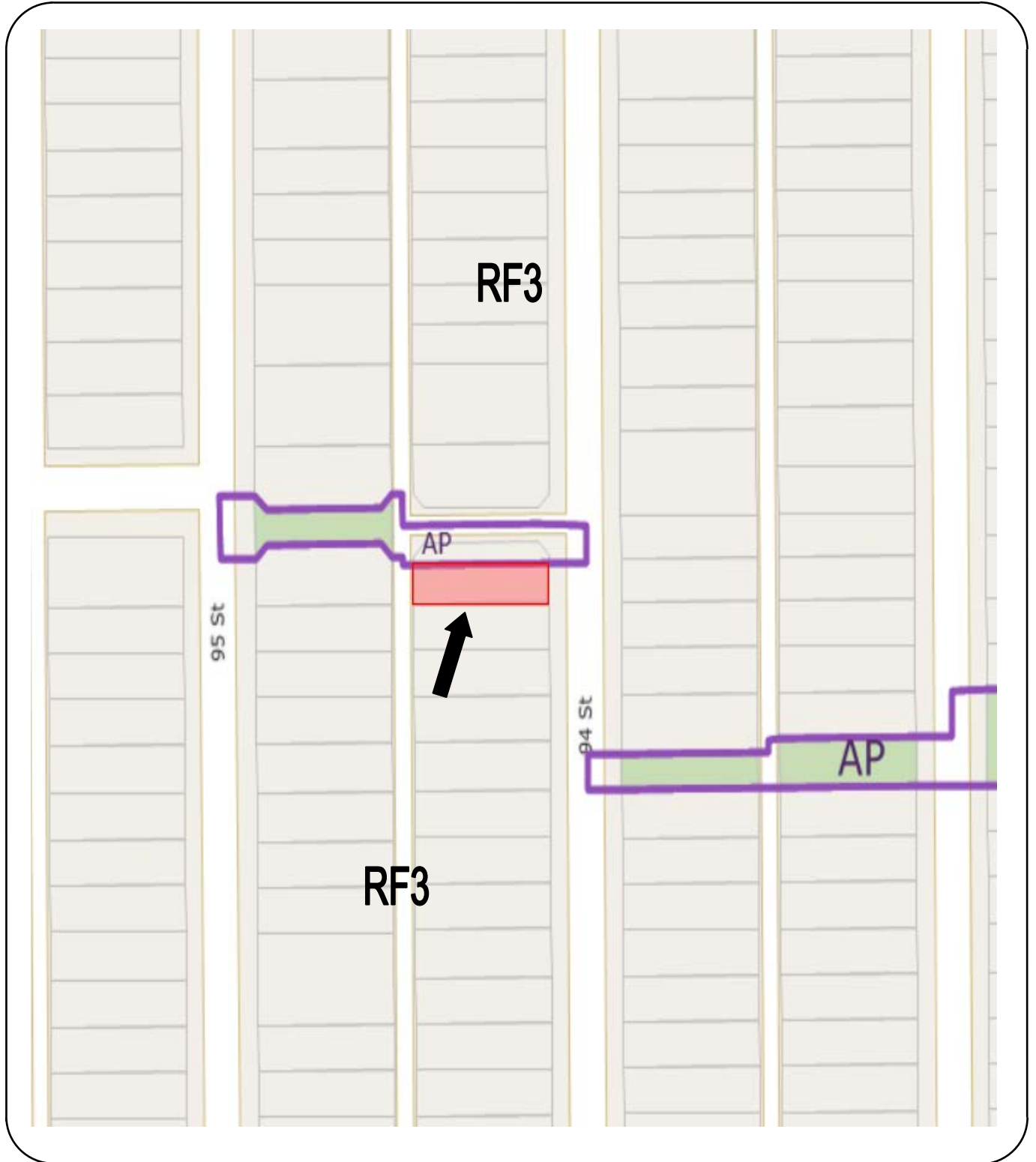
---

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>233805217-001</b> Application Date: OCT 27, 2016 Printed: November 20, 2017 at 2:26 PM Page: 1 of 1																																			
<h2 style="margin: 0;">Application for Minor 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> 12070 - 94 STREET NW Plan 2463AE Blk 5 Lot 8  <b>Specific Address(es)</b> Entryway: 12070 - 94 STREET NW Entryway: 12072 - 94 STREET NW Building: 12070 - 94 STREET NW																																			
<b>Scope of Application</b> To construct a Semi-Detached House with front verandas.																																				
<b>Permit Details</b>																																				
# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay																																			
I/We certify that the above noted details are correct.  Applicant signature: _____																																				
<b>Development Application Decision</b> Refused  <b>Reason for Refusal</b> Site Area - The area of the site is 336.41m <sup>2</sup> instead of 442.20m <sup>2</sup> (Section 140.4.3.a).  Site Width - The width of the site is 8.8m instead of 10.0m (Section 140.4.3.b).  <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: Nov 20, 2017    Development Authority: YEUNG, KENNETH    Signature: _____																																				
<b>Fees</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 10%; text-align: right;">Fee Amount</th> <th style="width: 10%; text-align: right;">Amount Paid</th> <th style="width: 10%; text-align: left;">Receipt #</th> <th style="width: 10%; text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Sanitary Sewer Trunk Fund</td> <td style="text-align: right;">\$1,566.00</td> <td style="text-align: right;">\$1,566.00</td> <td>03725981</td> <td>Nov 04, 2016</td> </tr> <tr> <td>Lot Grading Fee</td> <td style="text-align: right;">\$270.00</td> <td style="text-align: right;">\$270.00</td> <td>03725981</td> <td>Nov 04, 2016</td> </tr> <tr> <td>Dev. Application Fee</td> <td style="text-align: right;">\$456.00</td> <td style="text-align: right;">\$456.00</td> <td>03709047</td> <td>Oct 28, 2016</td> </tr> <tr> <td>DP Notification Fee</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total GST Amount:</td> <td style="text-align: right;">\$0.00</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Totals for Permit:</td> <td style="text-align: right; border-top: 1px solid black;">\$2,292.00</td> <td style="text-align: right; border-top: 1px solid black;">\$2,292.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03725981	Nov 04, 2016	Lot Grading Fee	\$270.00	\$270.00	03725981	Nov 04, 2016	Dev. Application Fee	\$456.00	\$456.00	03709047	Oct 28, 2016	DP Notification Fee	\$0.00				Total GST Amount:	\$0.00				Totals for Permit:	\$2,292.00	\$2,292.00		
	Fee Amount	Amount Paid	Receipt #	Date Paid																																
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03725981	Nov 04, 2016																																
Lot Grading Fee	\$270.00	\$270.00	03725981	Nov 04, 2016																																
Dev. Application Fee	\$456.00	\$456.00	03709047	Oct 28, 2016																																
DP Notification Fee	\$0.00																																			
Total GST Amount:	\$0.00																																			
Totals for Permit:	\$2,292.00	\$2,292.00																																		
<b>THIS IS NOT A PERMIT</b>																																				



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-002

