

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
July 16, 2015**

**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-15-153	Construct an Accessory Building (detached Garage, 8.23m x 11.27m) 8332 - 120 Street NW Project No.: 170995492-001
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II	10:45 A.M.	SDAB-D-15-154	Construct an Accessory Building (6m x 24.38m) existing without permits 6503 - 3 Street NW Project No.: 150074417-003
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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-15-153

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 170995492-001

APPLICATION TO: Construct an Accessory Building
(detached Garage, 8.23m x 11.27m)

DECISION OF THE
DEVELOPMENT AUTHORITY: Refused

DECISION DATE: June 4, 2015

DATE OF APPEAL: June 16, 2015

MUNICIPAL DESCRIPTION
OF SUBJECT PROPERTY: 8332 - 120 Street NW

LEGAL DESCRIPTION: Plan 4116HW Blk 12 Lot 12

ZONE: RF1 Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reason:

1. Section 50.3(2) - an Accessory building or structure shall not exceed 4.3 m nor one Storey in Height.

Proposed: 4.57 m.
Exceeds by: 0.27 m.

Note:

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

APPELLANT'S SUBMISSION

Reason for refusal is wrong. It says our proposal was for a garage 4.57 M (15 ft) high, but we applied for a garage 6.09 M (20 ft) high.

Our primary purpose for the garage remains our lack of storage, we have four children that are all involved in a variety of activities from competitive Alpine ski racing which requires 2 - 3 pairs of skis for each child, mountain and road biking, camping hiking etc. All this equipment along with yard maintenance and deck accessories require a place to be secure. Last week we had a new mountain bike stolen when someone spotted it from the alley came in our yard and cut our lock and gone.

We have lived in Windsor Park for 14 years and are very proud residence and community members, since that time we have continually worked hard at maintaining and improving our yard and home, this garage has been a long-term vision of ours. As well as building a garage we are planning to do a complete exterior renovation of our home to match the garage. We live in a tall two storey home (See illustration #1) that we would like to be a reflection of the garage. We have taken a few pictures of our neighbor's homes and garages that illustrate that very appearance and in a few instances similar size to what we're looking to construct. (See illustration #2)

One of the comments in our refusal was the fact that we had windows in the second story of the garage, besides the fact of appearance, we love natural light and trying to reduce our carbon footprint where we can is very important to our family, when we replaced the windows in our home 8 years ago we added 6 new windows throughout the home to distribute natural light. (See illustration #1) We had this garage specifically design with the future utilization of Mother Nature, next year we will be applying for a permit to install an array of solar panels on our house and garage.

We've attached a couple more photographs of a few garages in our neighborhood that compare in size to the one we are wanting to construct. (See illustration #3)

As well as a prepared letter that our immediate neighbors have signed after reviewing our garage drawings in support of our proposal. We would have had more signed support letters but were only given one week to submit our appeal and two of our neighbors are away on vacation and the home across the alley behind us has been vacant for over two years now.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

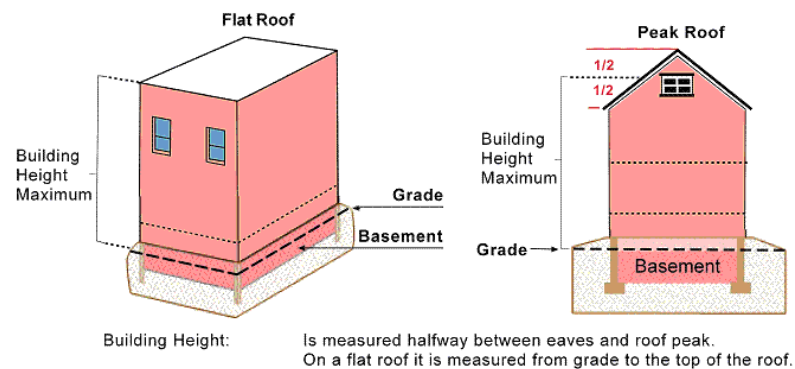
Single Detached Housing is a Permitted Use in the RF1 Single Detached Residential Zone, Section 110.2(4).

Section 50.3(2) states an Accessory building or structure shall not exceed 4.3 m nor one Storey in Height.

The Development Officer determined the proposed detached Garage is 4.57 metres, which exceeds the maximum allowable Height by 0.27 metres.

Under Section 6.1(49), **Height** means, when used with reference to a building or structure, the vertical distance between the horizontal plane through grade and a horizontal plane through:

- a. the highest point of the roof in the case of a building with a flat roof or a roof having a slope of less than 20 degrees; and
- b. The average level between eaves and ridges in the case of a pitched, gambrel, mansard or hipped roof, or a roof having a slope of more than 20 degrees; provided that in such cases the ridge line of the roof shall not extend more than 1.5 m above the maximum permitted building Height of the Zone or in the case of a Garage Suite the maximum permitted building Height in accordance with Section 87 of this Bylaw.



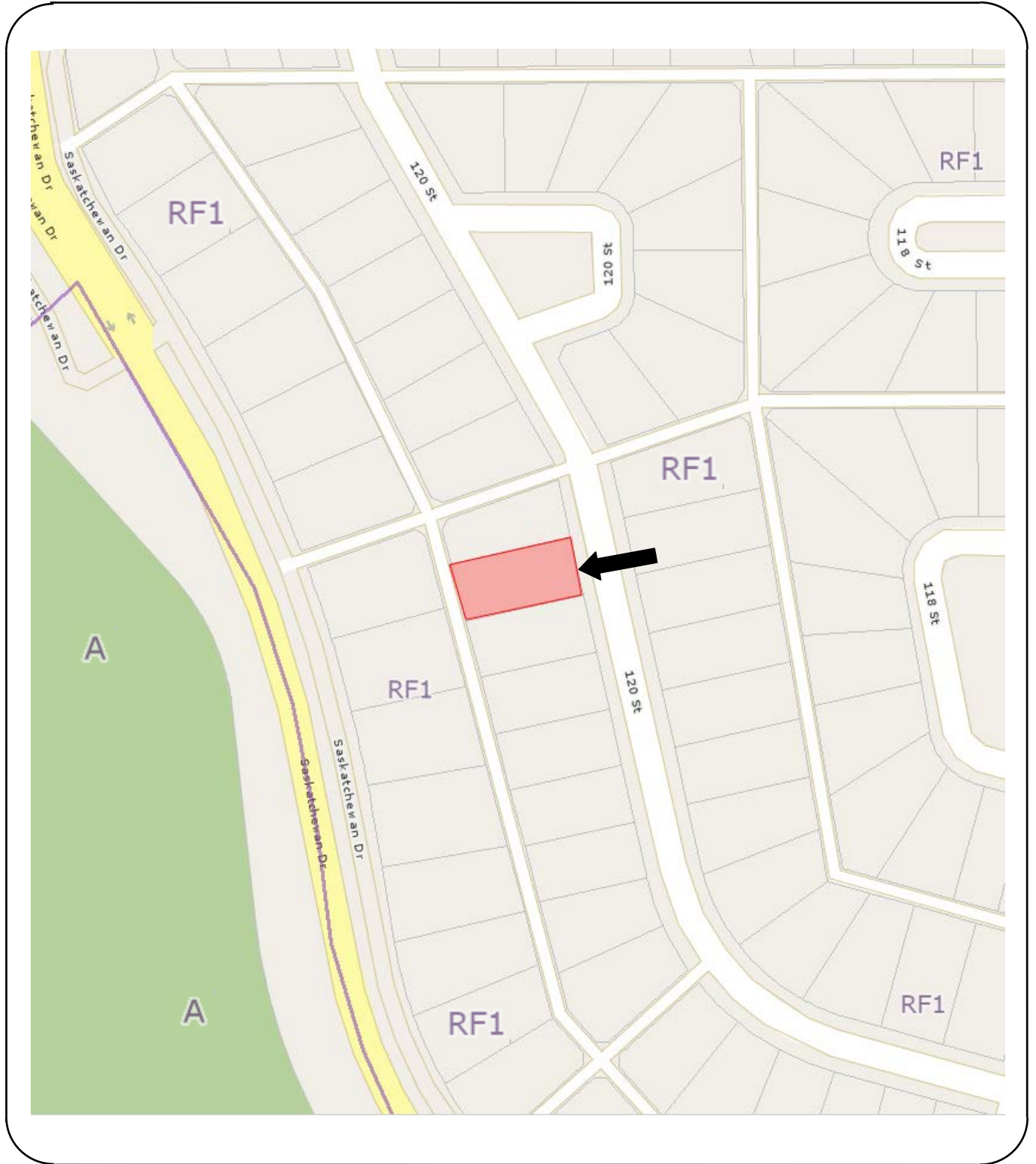
Under Section 6.1(2), **Accessory** means, when used to describe a Use or building, a Use or building naturally or normally incidental, subordinate, and devoted to the principal Use or building, and located on the same lot or Site.

Section 814.1 states the purpose of this 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.

Section 110.1 states the purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

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.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-15-153



ITEM II: 10:45 A.M.

FILE: SDAB-D-15-154

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 150074417-003

APPLICATION TO: Construct an Accessory Building (6m x 24.38m) existing without permits

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 29, 2015

DATE OF APPEAL: June 18, 2015

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6503 - 3 Street NW

LEGAL DESCRIPTION: Plan 138KS Lot 2

ZONE: DC1 (Maple Ridge) Direct Development Control Provision, Bylaw 15767

OVERLAY: N/A

STATUTORY PLAN: Maple Ridge Industrial Area Structure Plan

DEVELOPMENT OFFICER'S DECISION

REFUSED - The proposed development is refused for the following reasons:

In the opinion of the Development Officer, the proposed development is determined to be a General Industrial Use building.

1) The proposed General Industrial Use does not qualify as an allowable use under the DC1 Zone, Maple Ridge Industrial for the reason that it is not serviced to City of Edmonton standards for roads and sewers and does not have a service connection for portable water contrary to Section DC1 (3)(q) of the Maple Ridge Industrial.

2) The Temporary Storage yard was approved with conditions under Development Permit 117777648-002, dated February 21, 2013. One of the conditions states that no structures or buildings related to this use shall be erected, nor shall the existing state of the land be materially altered. The proposed development is contrary to this condition.

3) Temporary Storage means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds (Zoning Bylaw 12800 Section 7.5(5)).

In the opinion of the Development Officer, the proposed General Industrial Use building is a Principal Use in addition to the Temporary Storage. Photographs from Development Compliance show the proposed development containing tires and mechanical parts that are used for repair work for the trucks in the Temporary Storage yard.

APPELLANT'S SUBMISSION

Don't agree with the opinion of the Development Officer's issue in statement of his decision. Further details will be submitted at a later time. This is a temporary storage building and not a repair shop as per the decision.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD OFFICER'S COMMENTS

Section 686(1)(a)(i) of the *Municipal Government Act* states 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....after the date on which the person is notified of the order or decision or the issuance of the development permit.

The decision of refusal by the Development Officer is dated May 29, 2015 Fourteen days from the decision date is June 12, 2015 and the Notice of Appeal was filed on June 18, 2015.

Sustainable Development has submitted to the SDAB a Canada Post Registered Mail Delivery, dated June 18, 2015 that confirms the notice of refusal was delivered on June 16, 2015. **A copy of the Canada Post Registered Mail Delivery is on file.**

Section 641(4) of the *Municipal Government Act*, Chapter M-26, states despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority following 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 687(3) of the *Municipal Government Act* states in determining an appeal, the subdivision and development appeal board

....

- (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.

The Development Officer determined the proposed development is a General Industrial Use, which does not qualify as an allowable Use in the DC1 (Maple Ridge Industrial) Direct Development Control Provision, Bylaw 15767.

General Industrial Uses is a listed Use only where serviced to City of Edmonton standards for roads and sewers and which shall have a service connection for potable water, is a listed Use in the DC1 Direct Development Control Provision, Bylaw 15767, Section 3.q.

Under Section 7.5(2), **General Industrial Uses** means development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;
- d. the storage or transshipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- f. the training of personnel in general industrial operations.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

The Development Officer determined the Temporary Storage Yard was approved with conditions under Development Permit 11777648-002, dated February 21, 2013. One of the conditions states that “no structures or buildings related to this Use shall be erected, nor shall the existing state of the land be materially altered.” The proposed development is contrary to this condition.

Under Section 7.5(5), **Temporary Storage** means development used exclusively for temporary outdoor storage of goods and materials where such storage of goods and materials does not involve the erection of permanent structures or the material alteration of the existing state of the land. Typical Uses include pipe yards, or vehicle or heavy equipment storage compounds.

In the opinion of the Development Officer, the proposed General Industrial Use building is a Principal Use in addition to the Temporary Storage. Photographs from Development Compliance show the proposed development containing tires and mechanical parts that are used for repair work for the trucks in the Temporary Storage yard.

Section 7 provides the following with regard to Use Class Definitions:

7.1 General

1. Use Class Categories, as set out in subsections 7.2 through 7.9 inclusive, group Use Classes with common functional or physical impact characteristics. A Use Class groups individual land Uses with common functional or physical impact characteristics.
2. The Use Classes of this Section are used to define the range of Uses which are permitted or discretionary within the various Zones of this Bylaw.
3. The following guidelines shall be applied in interpreting the Use Class definitions:
 - a. the typical Uses, which may be listed in the definitions, are not intended to be exclusive or restrictive. Reference should be made to the definition of the Use Class in determining whether or not a use is included within a particular Use Class;
 - b. where a specific use does not conform to the wording of any Use Class definition or generally conforms to the wording of two or more Use Class definitions, the Development Officer may, in his discretion, deem that the use conforms to and is included in that Use Class which he considers to be the most appropriate in character and purpose. In such a case, the use shall be considered a Discretionary Use, whether or not the Use Class is listed as Permitted or Discretionary within the applicable Zone; and

- c. the Use Class headings such as Residential or Commercial do not mean that the Use Classes listed under these headings are permitted only in Residential or Commercial Zones of this Bylaw. Reference must be made to the lists of Permitted and Discretionary Use Classes within each Zone.

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(108), **Use** means the purpose or activity for which a piece of land or its buildings are designed, arranged, developed or intended, or for which it is occupied or maintained.

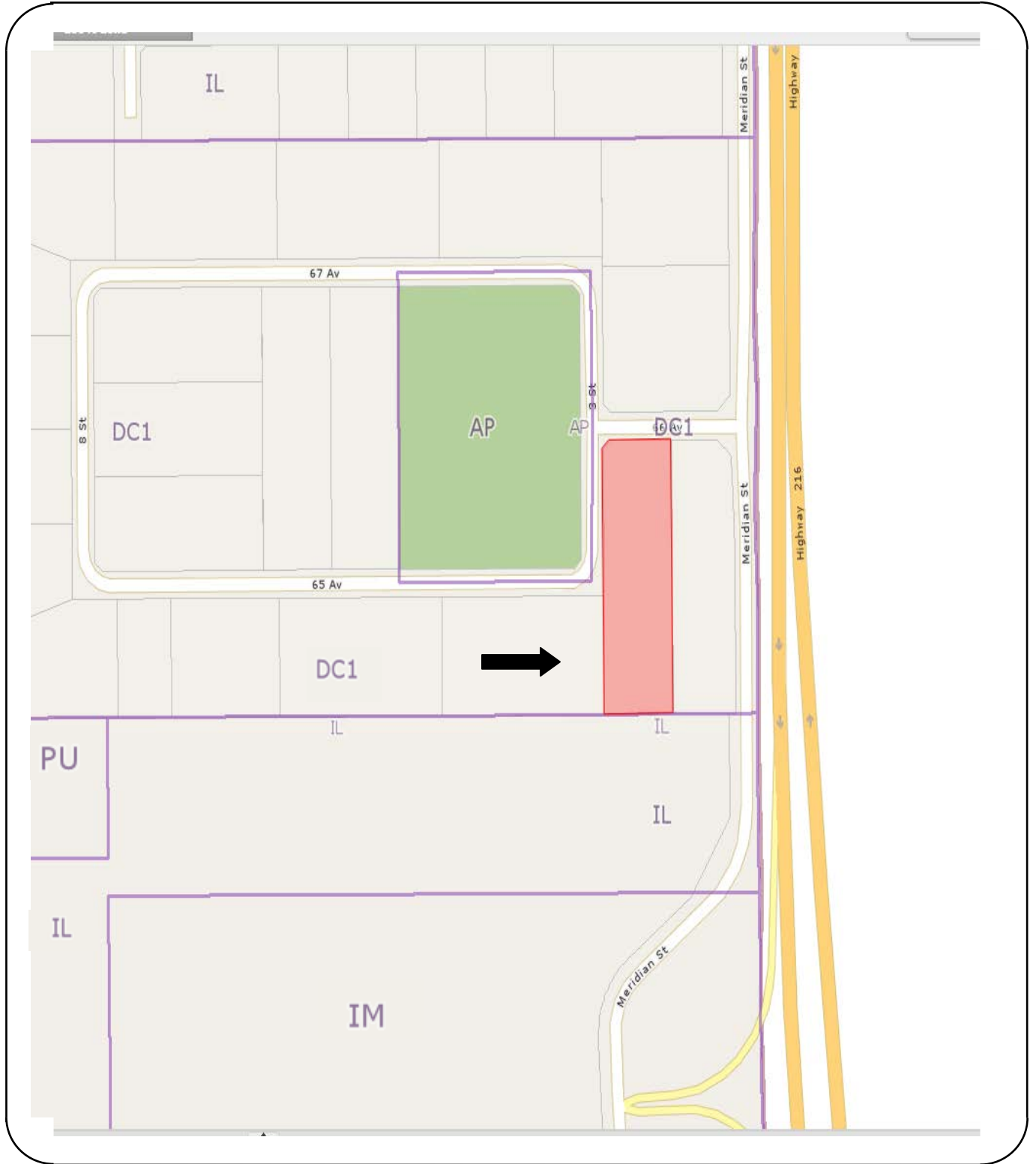
DC1 (Maple Ridge Industrial) Direct Development Control Provision, Bylaw 15767, Section 1 states the intent of this (DC1) Direct Control Provision is:

- To recognize existing residential and limited non-residential uses as permitted uses, but to prohibit any increase in the number of residential dwellings/lots.
- To permit improvements or additions to existing residential uses.
- To allow industrial uses with full City of Edmonton Standard services that are compatible with adjacent residential uses.

This DC1 allows transition to future industrial development with full City of Edmonton services for roads, sanitary sewer, drainage and potable water. The DC1 implements the policies of the Maple Ridge Industrial Area Structure Plan (Section 4.8).

NOTICE TO APPLICANT/APPELLANT

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SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-15-154



BUSINESS LAID OVER

SDAB-D-15-136	An appeal to construct and operate a Residential Sales Centre <i>July 30, 2015</i>
SDAB-D-15-138	An appeal to develop a Secondary Suite in an existing Single Detached House <i>August 5 or 6, 2015</i>

APPEAL HEARINGS TO BE SCHEDULED

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