

**SUBDIVISION  
AND  
DEVELOPMENT APPEAL BOARD  
AGENDA**

**Wednesday, 9:00 A.M.  
July 18, 2018**

**Hearing Room No. 3  
Churchill Building,  
10019 - 103 Avenue NW,  
Edmonton, AB**

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

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I	9:00 A.M.	SDAB-D-18-104	Erect a Fence @ 2.44 metres in Height in the interior Side Yard (north side property line) 9124 - 151 Street NW Project No.: 282740922-001
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II	10:30 A.M.	SDAB-D-18-103	Leave as built a Single Detached House. 2674 - Maple Way NW Project No.: 270028546-002
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III	1:30 P.M.	SDAB-D-18-100	Change the Use from General Retail Stores to Child Care Services (78 Children) 16720 - 76 Street NW Project No.: 224518430-025
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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-18-104

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY A COMMUNITY LEAGUE

APPELLANT:	Jasper Park Community League
APPLICATION NO.:	282740922-001
APPLICATION TO:	Erect a Fence @ 2.44 metres in Height in the interior Side Yard (north side property line)
DECISION OF THE DEVELOPMENT AUTHORITY:	Approved with Conditions
DECISION DATE:	May 30, 2018
DATE OF APPEAL:	June 20, 2018
NOTIFICATION PERIOD:	June 5, 2018 through June 26, 2018
RESPONDENT:	M. Hrehoruk
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	9124 - 151 Street NW
LEGAL DESCRIPTION:	Plan 2768HW Blk 5 Lot 8
ZONE:	RF1-Single Detached Residential Zone
OVERLAY:	Mature Neighbourhood Overlay
STATUTORY PLAN:	N/A

*Grounds for Appeal*

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

On behalf of the Jasper Park Community League we are appealing the development approval granted to construct a 2.44m fence on the property of 9124 - 151 St. In that it is out of character with the community of Jasper Park as well as out of character with the fencing construction in the city of Edmonton.

*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,

- (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 written decision is given under section 642, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,
  - or
  - (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use 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;
- (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 110.1, the **General Purpose** of the **(RF1) Single Detached Residential Zone** is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, and Garden Suites, as well as Semi-detached Housing and Duplex Housing under certain conditions.

Under section 110.2(5), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 7.2(8), **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 in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Under section 6.1, **Accessory** is “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, a **Fence** means “a structure constructed at ground level, used to prevent or restrict passage, provide visual screening, noise attenuation, Landscaping, or to mark a boundary.”

<b><i>Height</i></b>
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Under section 49.1, Fences, walls and gates:

- a. The regulations contained within Section 49.1 of this Bylaw apply to:
  - i. the Height of the material used in the construction of a Fence, wall, or gate, such as but not limited to boards, panels, masonry, ornamental iron, and chain link, plus any additional elements used for screening, such as, but not limited to, lattice.
- b. Notwithstanding subsection 49(1)(a), the regulations for Fences, walls, and gates contained within this Section do not apply to the Height of the posts or other supporting material used to anchor the Fence, wall, or gate.
- c. The Height of a Fence, wall, or gate shall be measured from the general ground level 0.5 m back from the property line of the Site on which the Fence, wall, or gate is to be constructed.
- d. on an Interior Site, the **Height** of a **Fence**, wall, or gate shall not exceed
  - i. 1.2 metres for the portion of the Fence, wall, or gate constructed in the Front Yard
  - ii. 1.85 metres in all other Yards.

...
- g. in the case where the **permitted Height** of a Fence, wall, or gate is 1.85 metres, the Development Officer may vary the Height of the Fence, wall, or gate to a maximum of 2.44 metres, in order to provide an additional screening to the public roadways or incompatible adjacent Users.

### **Development Officer’s Determination**


**Fence Height** – The fence north of the side property line shared with 9128 – 151 Street NW is 2.44 meters high, instead of 1.85 metres (Section 49.1(g)) [unedited]

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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.

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	Project Number: <b>282740922-001</b> Application Date: MAY 18, 2018 Printed: June 21, 2018 at 8:17 AM Page: 1 of 2		
<b>Minor Development Permit</b>			
This document is a record of a Development 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.			
<b>Applicant</b>	<b>Property Address(es) and Legal Description(s)</b> 9124 - 151 STREET NW Plan 2768HW Blk 5 Lot 8		
<b>Scope of Permit</b> To erect a Fence @ 2.44m in Height in the interior Side Yard (north side property line).			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;">                     # of Dwelling Units Add/Remove: 0                      Client File Reference Number:                      Minor Dev. Application Fee: Fence                      Secondary Suite Included?: N                 </td> <td style="width: 50%; border: none; vertical-align: top;">                     Class of Permit: Class B                      Lot Grading Needed?:                      New Sewer Service Required: Y                      Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Fence Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Fence Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: 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 Permit Decision</b> Approved <b>Subject to the Following Conditions</b> This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)  This Development Permit authorizes the erection of a Fence @ 2.44m in Height in the interior Side Yard (north side property line).  The development shall be constructed in accordance with the stamped and approved drawings.  ADVISEMENT:  Unless otherwise stated, all above references to "section numbers" refer to the authority under the Edmonton Zoning Bylaw 12800.  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.  A Building Permit is required for any construction or change in use of a building. Please contact the 311 Call Centre for further information.  <b>Variances</b> Fence Height - The fence north of the side property line shared with 9128 - 151 Street NW is 2.44m high, instead of 1.85m (Section 49.1.g)  <b>Rights of Appeal</b> This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.			





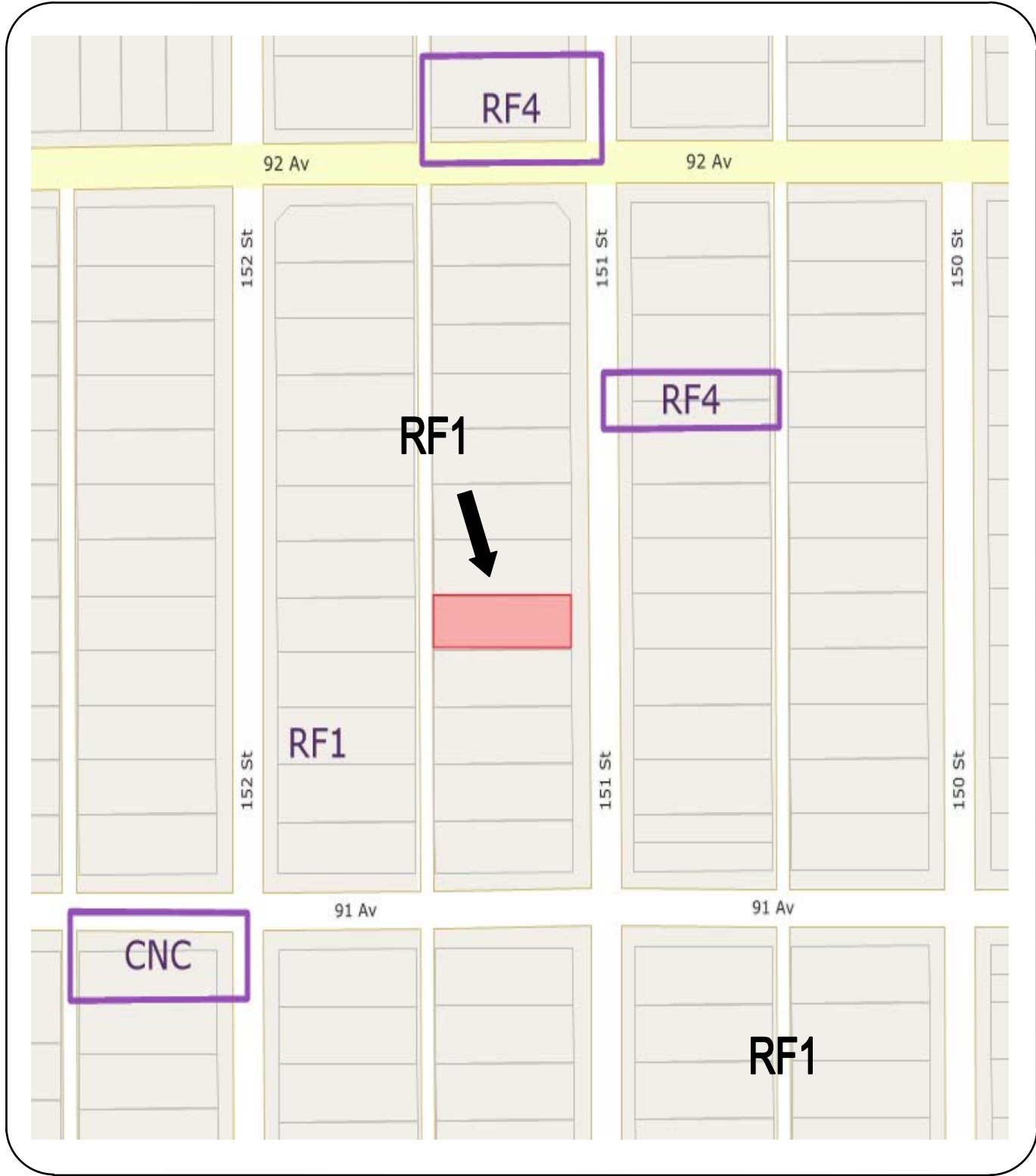
Project Number: **282740922-001**  
Application Date: MAY 18, 2018  
Printed: June 21, 2018 at 8:17 AM  
Page: 2 of 2

## Minor Development Permit

**Issue Date:** May 30, 2018    **Development Authority:** YEUNG, KENNETH  
**Notice Period Begins:** Jun 05, 2018    **Ends:** Jun 26, 2018

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$176.00	\$176.00	05032992	May 18, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	<u>\$176.00</u>	<u>\$176.00</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-104



ITEM II: 10:30 A.M.

FILE: SDAB-D-18-103

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

APPELLANT:	J. Singh
ADDRESS OF APPELLANT:	2672 - Maple Way NW
APPLICATION NO.:	270028546-002
APPLICATION TO:	Leave as built a Single Detached House
DECISION OF THE DEVELOPMENT AUTHORITY:	Approved with Conditions
DECISION DATE:	May 24, 2018
DATE OF APPEAL:	June 21, 2018
NOTIFICATION PERIOD:	May 31, 2018 through June 21, 2018
RESPONDENT:	Landmark Legacy Homes Inc.
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	2674 - Maple Way NW
LEGAL DESCRIPTION:	Plan 1623032 Blk 17 Lot 18
ZONE:	RMD-Residential Mixed Dwelling Zone
OVERLAY:	N/A
STATUTORY PLAN(S):	The Maple Neighbourhood Structure Plan The Meadows Neighbourhood Structure Plan

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<i>Grounds for Appeal</i>
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The Appellant provided the following reasons for appealing the decision of the Development Authority:

I wish to appeal this permit because the builder had not informed us when we were building this property that they are closer to our property. This would have affected our decision to purchase our property for over 406 000. They have not been transparent and have given us any information as to how this will affect our fence and garage permit as well. As well as for maintenance we now have less room to preform any maintenance on our house and if we

damage our neighbours house due to this we will be responsible. I would like the builder to refund our money for our house for lying to us. [unedited]

*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,

- (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, within 21 days after the date on which the written decision is given under section 642, or
    - (A) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,

or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use 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;
- (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*:**

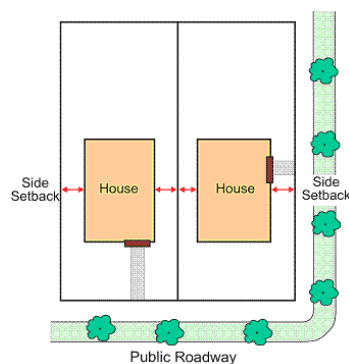
Under Section 155.1, the **General Purpose** of the **(RMD) Residential Mixed Dwelling Zone** is to provide for a range of dwelling types and densities including Single Detached, Semi-detached and Row Housing that provides the opportunity for more efficient utilization of land in developing neighbourhoods, while encouraging diversity in built form.

Under Section 155.2(7), **Single Detached Housing** is a **Permitted Use** in this zone.

Under Section 7.2(8), **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 in a Zone, a

building which contains Single Detached Housing may also contain a Secondary Suite. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Under Section 6.1, **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.”



Under Section 6.1, **Site Side Setback** means “the distance that a development or a specified portion of it, must be set back from the outmost Side Lot Line of the Site. A Site Side Setback is not a Side Yard, Amenity Space or Separation Space.”

Under Section 6.1, **Zero Lot Line Development** means “a development on a Site where one Site Side Setback is reduced to 0 m and each Dwelling is developed on its own Lot.”

***Side Setback***

Section 155.4(4) states a Single Detached Housing, Semi-detached Housing and Row Housing may be developed as a **Zero Lot Line Development**.

Section 155.4(19) states **Site Side Setbacks** for Single Detached Housing, Semi-detached Housing, and Row Housing where vehicular access is not from the Lane, shall be reduced to 0 metres only on one side of a public roadway, other than a Lane, and shall not be allowed on collector roadways.

Under Section 155.4 (21), a **Zero Lot Line Development** shall only be permitted where:

- a. The other **Site Side Setback** is a minimum of 1.5 metres, except that:
  - i. the minimum Site Side Setback Abutting a public roadway other than a Lane shall be 20% of the width of the Lot abutting the flanking public roadway or 2.4 metres, whichever is greater;

- ii. where a Garage is attached to the principal building, and the vehicle doors of the Garage face a flanking public roadway other than a Lane, the distance between any portion of these vehicle doors and the flanking public roadway shall not be less than 4.5 metres;
  - iii. the minimum Side Setback Abutting a Lane shall be 1.2 metres; or
  - iv. the minimum Side Setback Abutting a Treed Landscaped Boulevard, where the principal building faces the flanking Side Lot Line, shall be 3.0 metres.
- b. all roof leaders from the Dwelling are connected to the individual storm sewer service for each Lot;
- c. no roof leader discharge shall be directed to the maintenance easement; and
- d. the owner of a Lot within a development proposed for the Zero Lot Line Development and the owner of the adjacent Lot shall register, on titles for all adjacent lots, a 1.5 metres private maintenance easement that provides for:
- i. a 0.30 metres eave encroachment easement with the requirement that the eaves must not be closer than 0.90 metres to the eaves of the building on an adjacent parcel;
  - ii. a 0.60 metres footing encroachment easement; and
  - iii. permission to access the easement area for maintenance of the properties.
- e. except for Sites proposed for a Zero Lot Line Development of Single Detached Housing, the owner of the Site proposed for the Zero Lot Line Development shall register on all titles within the Zero Lot Line Development Site as well as all titles on the adjacent Site a restrictive covenant and easement that:
- i. requires a drainage swale constructed to City of Edmonton Design and Construction Standards; and
  - ii. provides for the protection of drainage of the Site, including the right for water to flow across Lots and the requirement not to inhibit the flow of water across Lots.
- f. except for Sites proposed for a Zero Lot Line Development of Single Detached Housing, the owner of the Site proposed for the Zero Lot Line Development shall register a utility easement(s) on, where necessary, all Lots within the Zero Lot Line development and the Abutting Lots to ensure adequate access for utility maintenance.

**Development Officer's Determination**

Reduce Side Setback – the distance from the house to the side property line abutting 2672 Maple Way NW is 1.4 metres, instead of 1.5 metres (Section 155.4(21)(d))

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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.

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	Project Number: <b>270028546-002</b> Application Date: JAN 03, 2018 Printed: June 21, 2018 at 2:38 PM Page: 1 of 2		
<b>Minor Development Permit</b>			
This document is a record of a Development 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.			
<b>Applicant</b>  	<b>Property Address(es) and Legal Description(s)</b> 2674 - MAPLE WAY NW Plan 1623032 Blk 17 Lot 18		
<b>Scope of Permit</b> To leave as built a Single Detached House.			
<b>Permit Details</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">                     # of Dwelling Units Add/Remove: 0                      Client File Reference Number:                      Minor Dev. Application Fee: Leave as Built Single Detached House                      Secondary Suite Included?: N                 </td> <td style="width: 50%; border: none;">                     Class of Permit: Class B                      Lot Grading Needed?: N                      New Sewer Service Required: N                      Stat. Plan Overlay/Annex Area: (none)                 </td> </tr> </table>		# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)
# of Dwelling Units Add/Remove: 0 Client File Reference Number: Minor Dev. Application Fee: Leave as Built Single Detached House Secondary Suite Included?: N	Class of Permit: Class B Lot Grading Needed?: N New Sewer Service Required: N Stat. Plan Overlay/Annex Area: (none)		
I/We certify that the above noted details are correct. Applicant signature: _____			
<b>Development Permit Decision</b> Approved <b>Subject to the Following Conditions</b> NOTE: Subject to the right of appeal, the permit is NOT VALID until the required Notification Period expires (date noted below) in accordance with Sections 21.1 and 17.1.  This Development Permit authorizes to Leave as Built a Single Detached House only. It DOES NOT authorize any other interior or exterior alterations to this house.  The development shall be constructed in accordance with the stamped and approved drawings.  <b>ADVISEMENTS:</b>  An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the ERCB Directive 079, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.  Unless otherwise stated, all above references to section numbers refer to the authority under the Edmonton Zoning Bylaw 12800.			
<b>Variances</b> Reduce Side Setback - the distance from the house to the side property line abutting 2672 Maple Way NW is 1.4m, instead of 1.5m. (Section 155.4(21)(d))			
<b>Rights of Appeal</b> This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.			



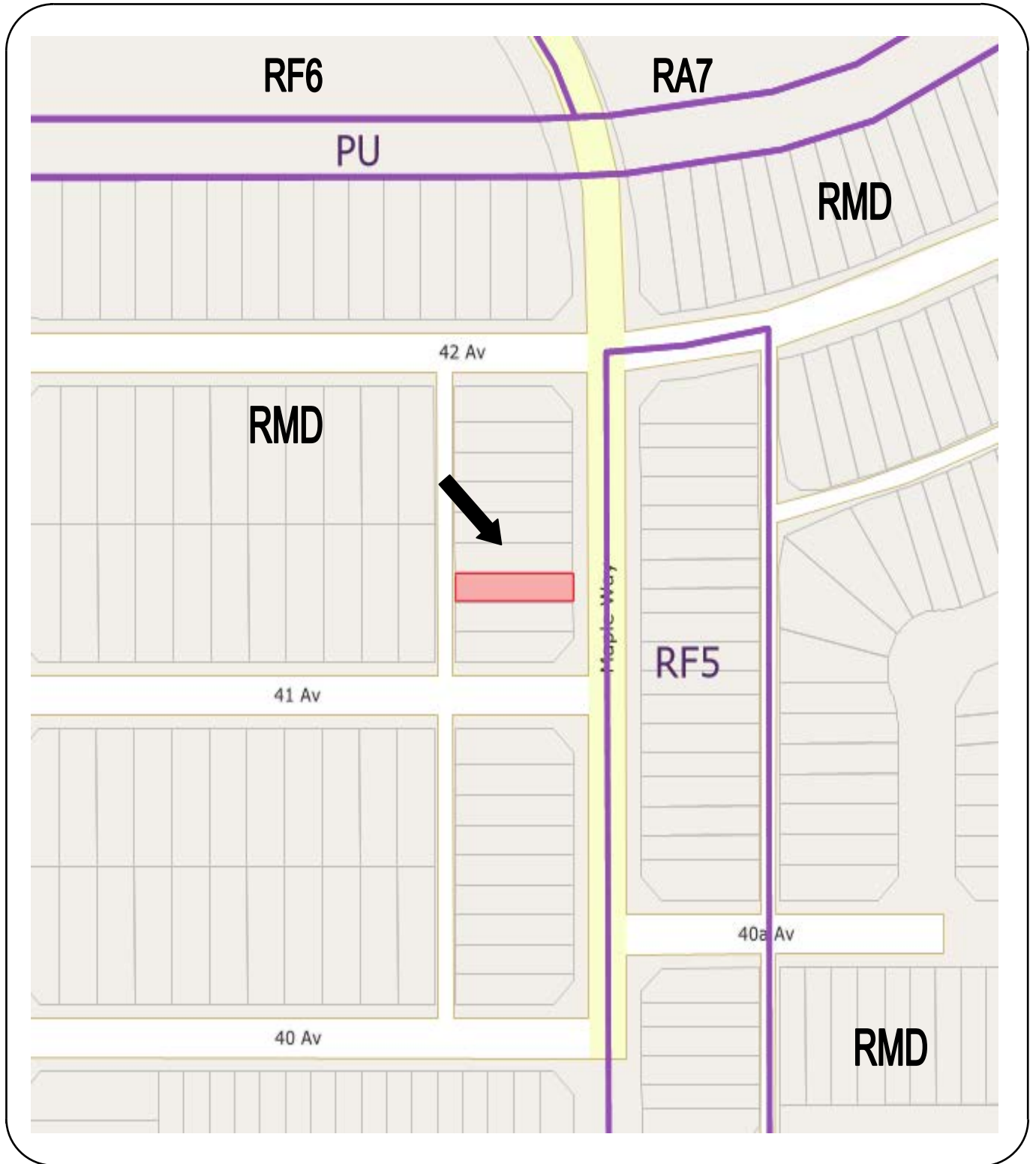
Project Number: **270028546-002**  
Application Date: JAN 03, 2018  
Printed: June 21, 2018 at 2:38 PM  
Page: 2 of 2

### Minor Development Permit

**Issue Date:** May 24, 2018    **Development Authority:** LAI, ECHO  
**Notice Period Begins:** May 31, 2018    **Ends:** Jun 21, 2018

**Fees**

	<b>Fee Amount</b>	<b>Amount Paid</b>	<b>Receipt #</b>	<b>Date Paid</b>
Dev. Application Fee	\$164.00	\$164.00	04721671	Jan 03, 2018
Total GST Amount:	<u>\$0.00</u>			
Totals for Permit:	\$164.00	<u>\$164.00</u>		



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-103



N

ITEM III: 1:30 P.M.

FILE: SDAB-D-18-100

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:	1977253 AB LTD
APPLICATION NO.:	224518430-025
APPLICATION TO:	Change the Use from General Retail Stores to Child Care Services (78 Children)
DECISION OF THE DEVELOPMENT AUTHORITY:	Refused
DECISION DATE:	June 19, 2018
DATE OF APPEAL:	June 19, 2018
MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY:	16720 - 76 Street NW
LEGAL DESCRIPTION:	Plan 0423131 Blk 1 Lot 1
ZONE:	(CNC) Neighbourhood Convenience Commercial Zone
OVERLAY:	N/A
STATUTORY PLAN(S):	Edmonton North Area Structure Plan Schonsee Neighbourhood Structure Plan

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<b><i>Grounds for Appeal</i></b>
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The Appellant provided the following reasons for appealing the decision of the Development Authority:

The city of Edmonton has refused the project number solely on the fact that there is a rapid drive through use on the property. The proposed childcare use is separated from the rapid drive through bay by a minimum 15 foot queuing area along with steel concrete filled bollards. The bylaw indicates "No portion of the 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.

Adjacent-defined as next to or adjoining something else, which is not the case in this proposed development.

2.2. Section 310.4.9 - 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.

We proposed a noise wall between the proposed childcare play space and the neighboring residential fences. The play space and the neighboring yards are also separated by a vertical distance "birm" of 5 feet, keeping in mind the noise we are referring to is the noise of children playing.

3- 3. Section 54.2 Schedule 1(31) - Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and Section 80(2)(d) - 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.

Drop off zone requirements as per the zoning bylaw are: 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.

As per our discussions with the city we will install speed bumps to control speed through out the parking lot along with a marked crossing area from the 6 drop off stalls located to the south.

The main reason for refusal is the city of Edmonton's interpretation that the proposed childcare being adjacent to the "Rapid Drive through" use, which it is not. For that reason, I ask the SDAB grant this approval.  
[unedited]

***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 written decision is given 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."

*Discretionary Use*

**Development Officer's Determination**

**The proposed development, a Child Care Service is listed as a Discretionary Use in the CNC Zone. Discretionary Uses means those uses of land, buildings or structures for which Permits may be issued only at the discretion of the Development Officer. In the opinion of the Development Officer, the proposed development is not a suitable use in the context of the site, and refused for the following reasons:**  
[unedited]

***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:

- v. Rapid Drive-through Vehicle Services

**Development Officer's Determination**

**1. Section 80.2.a(v.) - 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.**

**Notwithstanding that the building for the proposed Child Care Service is not adjacent to the building bay of the Rapid Drive Through, the drive aisle for the queuing spaces is adjacent to the building bay of the Child Care Service. In the opinion of the Development Officer, this locational scenario to the Child Care Service would create even more of a safety concern than the building bay adjacent to the Rapid Drive through bay. [unedited]**

***(CNC) Neighbourhood Convenience Commercial Zone Development Regulations***

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**

**2. Section 310.4.9 - 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.**

**The location of the outdoor play area is immediately adjacent to rear yards of existing single detached houses. The applicant has not demonstrated that noise impacts to the abutting residential lots have been mitigated to the satisfaction of the Development Officer.**  
[unedited]

***Pick-up/drop-off spaces / Location requirements***

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.

Section 54.2, Schedule 1(A)(31) states the following for 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.
  - 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.
  - 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.
  - 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.

b) employee parking shall be provided at the rate of:

- i) 1 parking space per 100.0 m<sup>2</sup> of Floor Area; or
- 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
- 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.

#### **Development Officer's Determination**

**3. Section 54.2 Schedule 1(31) - Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and Section 80(2)(d) - 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.**

**The proposed location of the passenger pick-up/drop-off spaces require children to cross the main access drive aisle of the site, and the queuing drive aisle for the Rapid Drive Through Vehicle Service facility, which creates a safety concern and is contrary to Section 54.2 Schedule 1(31) and 80(2)(d). [unedited]**

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


<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
SDAB-D-16-236	To construct 3 commercial use buildings (Building A: General Retail Use, Building B: Rapid Drive-through Vehicle Service Use, Building C: General Retail Stores on main floor and Professional Financial and Office Support Use on 2nd floor).	October 7, 2016; The appeal is ALLOWED and the decision of the Development Authority is REVOKED. The development is GRANTED as applied for the Development Authority, subject to CONDITIONS and the following VARIANCE: The minimum allowable number of Loading spaces of 3 per Section 54.4, Schedule 3 of the Edmonton Zoning Bylaw is varied to allow a deficiency of 1, thereby decreasing the minimum required to 2 Loading spaces. □

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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.

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	<h2 style="margin: 0;">Application for Major Development Permit</h2>	Project Number: <b>224518430-025</b> Application Date: MAY 31, 2018 Printed: June 19, 2018 at 11:42 AM Page: 1 of 2
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> 16720 - 76 STREET NW Plan 0423131 Blk 1 Lot 1	
	<b>Specific Address(es)</b> Building: 7630 - 167 AVENUE NW	
<b>Scope of Application</b> To change the Use from General Retail Stores to Child Care Services (78 Children).		
<b>Permit Details</b>		
Class of Permit: Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): 4277	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: **224518430-025**  
 Application Date: MAY 31, 2018  
 Printed: June 19, 2018 at 11:42 AM  
 Page: 2 of 2

## Application for Major Development Permit

**Reason for Refusal**

The proposed development, a Child Care Service is listed as a Discretionary Use in the CNC Zone. Discretionary Uses means those uses of land, buildings or structures for which Permits may be issued only at the discretion of the Development Officer. In the opinion of the Development Officer, the proposed development is not a suitable use in the context of the site, and refused for the following reasons:

1. Section 80.2.a(v.) - 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.

Notwithstanding that the building for the proposed Child Care Service is not adjacent to the building bay of the Rapid Drive Through, the drive aisle for the queuing spaces is adjacent to the building bay of the Child Care Service. In the opinion of the Development Officer, this locational scenario to the Child Care Service would create even more of a safety concern than the building bay adjacent to the Rapid Drive through bay.

2. Section 310.4.9 - 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.

The location of the outdoor play area is immediately adjacent to rear yards of existing single detached houses. The applicant has not demonstrated that noise impacts to the abutting residential lots have been mitigated to the satisfaction of the Development Officer.

3. Section 54.2 Schedule 1(31) - Passenger pick-up/drop-off spaces shall be located as close as possible to the main entrance used by the Child Care Service, and Section 80(2)(d) - 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.

The proposed location of the passenger pick-up/drop-off spaces require children to cross the main access drive aisle of the site, and the queuing drive aisle for the Rapid Drive Through Vehicle Service facility, which creates a safety concern and is contrary to Section 54.2 Schedule 1(31) and 80(2)(d).

**Rights of Appeal**

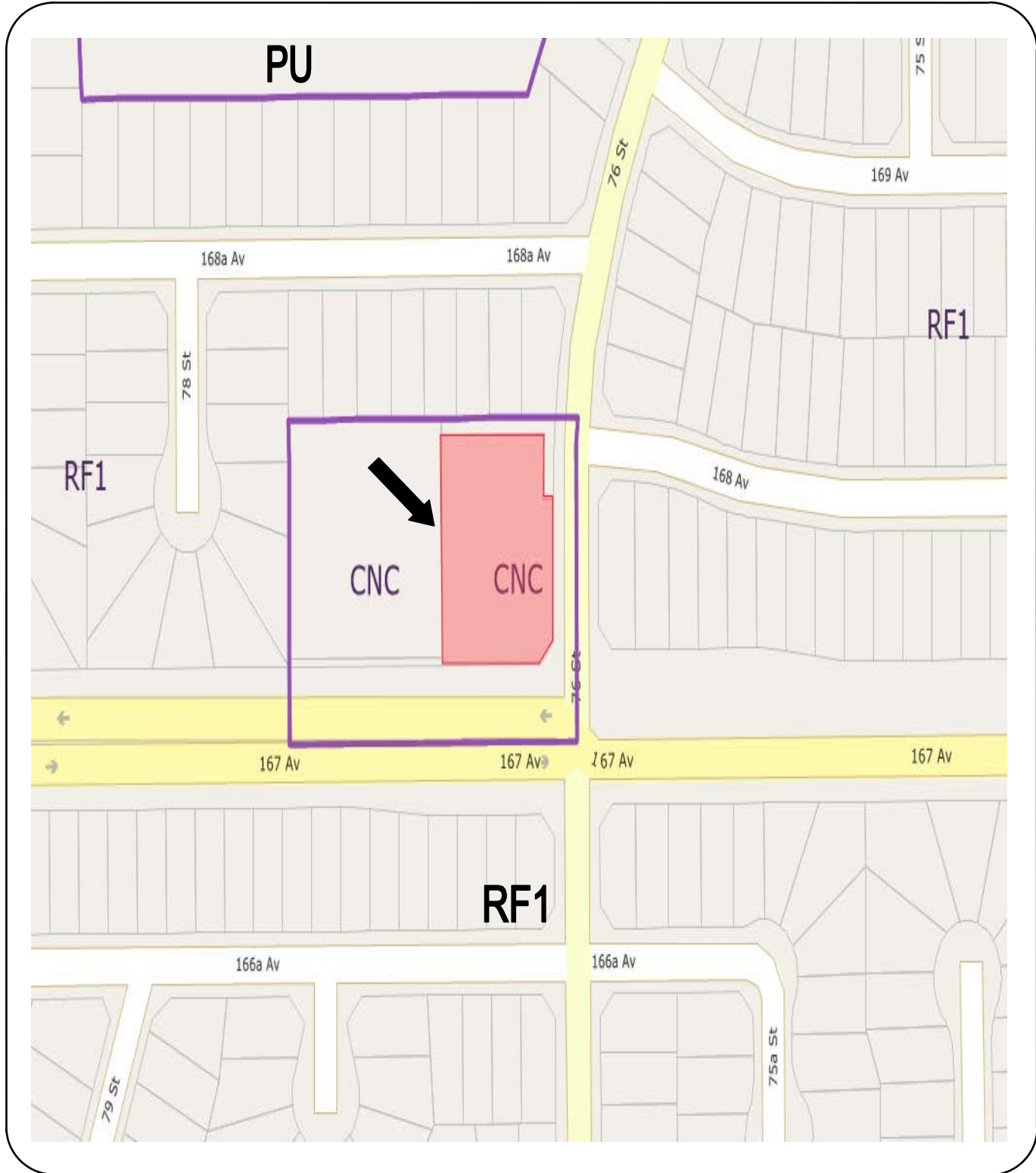
The Applicant has the right of appeal within 21 days after the date on which the decision is made, as outlined in Section 683 through 689 of the Municipal Government Act.

**Issue Date:** Jun 19, 2018     **Development Authority:** KIM, JENNIFER

**Fees**

	Fee Amount	Amount Paid	Receipt #	Date Paid
Major Dev. Application Fee	\$326.00	\$326.00	05064297	May 31, 2018
Total GST Amount:	\$0.00			
Totals for Permit:	\$326.00	\$326.00		

**THIS IS NOT A PERMIT**



**SURROUNDING LAND USE DISTRICTS**

Site Location ←

File: SDAB-D-18-100

