

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

Thursday, June 24, 2020

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

I	9:00 A.M.	SDAB-D-20-080	To change the Use from a Personal Service Shop to Cannabis Retail Sales 9977 – 178 Street NW Project No.: 360698945-002
<hr/>			
II	9:00 A.M.	SDAB-D-20-081	To construct exterior alterations to a Single Detached House (Front Yard parking pad, 3.60 metres by 11.06 metres) 9917 – 162 Street NW Project No.: 356798208-002
<hr/>			
III	9:00 A.M.	SDAB-D-20-082	To construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear covered deck (7.01 metres by 2.44 metres), Basement development (NOT to be used as an additional Dwelling), and to demolish a Single Detached House and Accessory Building (detached Garage) 11159 – 73 Avenue NW Project No.: 351893048-001

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-20-080

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 360698945-002

Change the Use from a Personal Service Shop to Cannabis Retail Sales.

DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: May 12, 2020

DATE OF APPEAL: May 29, 2020

NOTIFICATION OF APPEAL PERIOD: May 19 2020 to June 9, 2020

RESPONDENT:

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9977 – 178 Street NW

LEGAL DESCRIPTION: Plan 9723089 Blk 1 Lot 1

ZONE: DC2.1036 Site Specific Development Control Provision

OVERLAY: Major Commercial Corridors Overlay

STATUTORY PLAN: Terra Losa Neighbourhood Area Structure Plan

General Matters

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

My name is Van Vuong, I am Director of Wang’s Holding Limited I am objected city file#360698945-002 since our existing tenant Houtstra Holding LTD located on 17547-100 ave selling smoke and pipes accessories since 2018 and they applied to the city to approve the condo plan#9122259 unit 2 to rezone

from DC2- 208 to newly proposed DC2 Provision (DC2 -287180262) so that they can apply city license to sell Cannabis retail sales, add to their existing business; but the city do not approve so we believe that if SDAB want to approve it should approve to us first!

<i>General Matters</i>

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, 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.

685(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

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

General Provisions from the DC2.1036 Site Specific Development Control Provision ("DC2"):

Under section DC2.1036.3.ce **Cannabis Retail Sales** is a **Listed Use** in the **DC2**.

Section DC2.1036.4.q states "Cannabis retail sales shall be developed in accordance with Section 70 of the Zoning Bylaw."

Section DC2.1036.1 states the **General Purpose** of **DC2** is:

To establish a Site Specific Development Control Provision to accommodate a range of vehicle oriented commercial and general business uses and a medium rise residential development. Site regulations will ensure compatibility with the surrounding land uses, adjacent roadways, and a high standard of appearance appropriate to the site's location on a major entrance route into the City.

General Provisions from the Edmonton Zoning Bylaw:

Under section 7.4(9), **Cannabis Retail Sales** means:

development used for the retail sale of Cannabis that is authorized by provincial or federal legislation. This Use may include retail sales of Cannabis accessories. This Use does not include Cannabis Production and Distribution.

Under section 6.1, **Cannabis** means:

a cannabis plant and anything referred to in subsection (a) of this definition but does not include anything referred to in subsection (b) of this definition:

- a. Cannabis includes:
 - i. any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (b) of this definition.
 - ii. any substance or mixture of substances that contains or has on it any part of such a plant;
 - iii. any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
- b. Notwithstanding subsection (a) of this definition, Cannabis does not include:
 - i. a non-viable seed of a cannabis plant;
 - ii. a mature stalk, without any leaf, flower, seed or branch, of such plant;
 - iii. fibre derived from a stalk referred in subsection (b)(ii) of this definition; and
 - iv. the root or any part of the root of such a plant.

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

<p><i>Section 70 – Cannabis Retail Sales</i></p>

- 1. Any Cannabis Retail Sales shall not be located less than 200 m from any other Cannabis Retail Sales. For the purposes of this subsection only:
 - a. the 200 m separation distance shall be measured from the closest point of the Cannabis Retail Sales Use to the closest point of any other approved Cannabis Retail Sales Use;
 - b. A Development Officer shall not grant a variance to reduce the separation distance by more than 20 m in compliance with Section 11; and

- c. **The issuance of a Development Permit which contains a variance to separation distance as described in 70(1)(b) shall be issued as a Class B Discretionary Development.**

2. Any Site containing Cannabis Retail Sales shall not be located less than:

- a. 200 m from any Site being used for a public library, at the time of the application for the Development Permit for the Cannabis Retail Sales; and
- b. 100 m from any Site being used for Community Recreation Services Use, a community recreation facility or as public lands at the time of application for the Development Permit for the Cannabis Retail Sales.

3. For the purposes of subsection 2:

- a. separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures;
- b. the term “public library” is limited to the collection of literary, artistic, musical and similar reference materials and learning resources in the form of books, electronic files, computers, manuscripts, recordings and films for public use, and does not include private libraries, museums or art galleries.
- c. the term “community recreation facilities” means indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities, as per the Municipal Government Act; and
- d. the term "public lands" is limited to Sites zoned AP, and Sites zoned A.

4. Subsection 105(3) of the Gaming, Liquor and Cannabis *Regulation*, is expressly varied by the following:

- a. any Site containing a Cannabis Retail Sales shall not be located less than:

Public or private education

- i. 200 m from a Site being used for public or private education, at the time of the application for the Development Permit for the Cannabis Retail Sales;

Provincial health care facility

- ii. 100 m from a Site being used for a provincial health care facility at the time of the application for the Development Permit for the Cannabis Retail Sales; and

School reserve or municipal and school reserve

- iii. 100 m from a Site designated as school reserve or municipal and school reserve at the time of the application for the Development Permit for the Cannabis Retail Sales.

Measurement of Separation Distances

- b. For the purposes of this subsection, separation distances shall be measured from the closest point of the subject Site boundary to the closest point of another Site boundary, and shall not be measured from Zone boundaries or from the edges of structures.

Sites Greater than Two Hectares

- c. For Sites that are greater than 2.0 ha in size and zoned either CSC or DC2, that do not contain a public library at the time of application for the Development Permit for the Cannabis Retail Sales:
 - i. Subsection 70(2), and 70(4)(a) shall not apply; and
 - ii. the distances referred to in Subsection 105(3) of the *Gaming, Liquor and Cannabis Regulation* shall be expressly varied to 0 m.
 - d. For the purposes of subsection 70(4)(a)(i), the term "public or private education" means a school as defined in subsection (1)(y)(i) and (1)(y)(ii) of the *School Act (as amended from time to time)*.
5. Notwithstanding Section 11 of this Bylaw, a Development Officer shall not grant a variance to subsection 70(2), 70(3)(a) or 70(4).

Design Requirements

6. Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:
 - a. customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre

- parking lot, or mall access that allows visibility from the interior of the mall into the store;
- b. the exterior of all stores shall have ample transparency from the street;
 - c. Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and
 - d. Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.


Development Officers Determination


Separation Distance - The proposed Cannabis Retail Sales is 183m from the nearest approved Cannabis Retail Sales. (Ref.: Section 70.1)

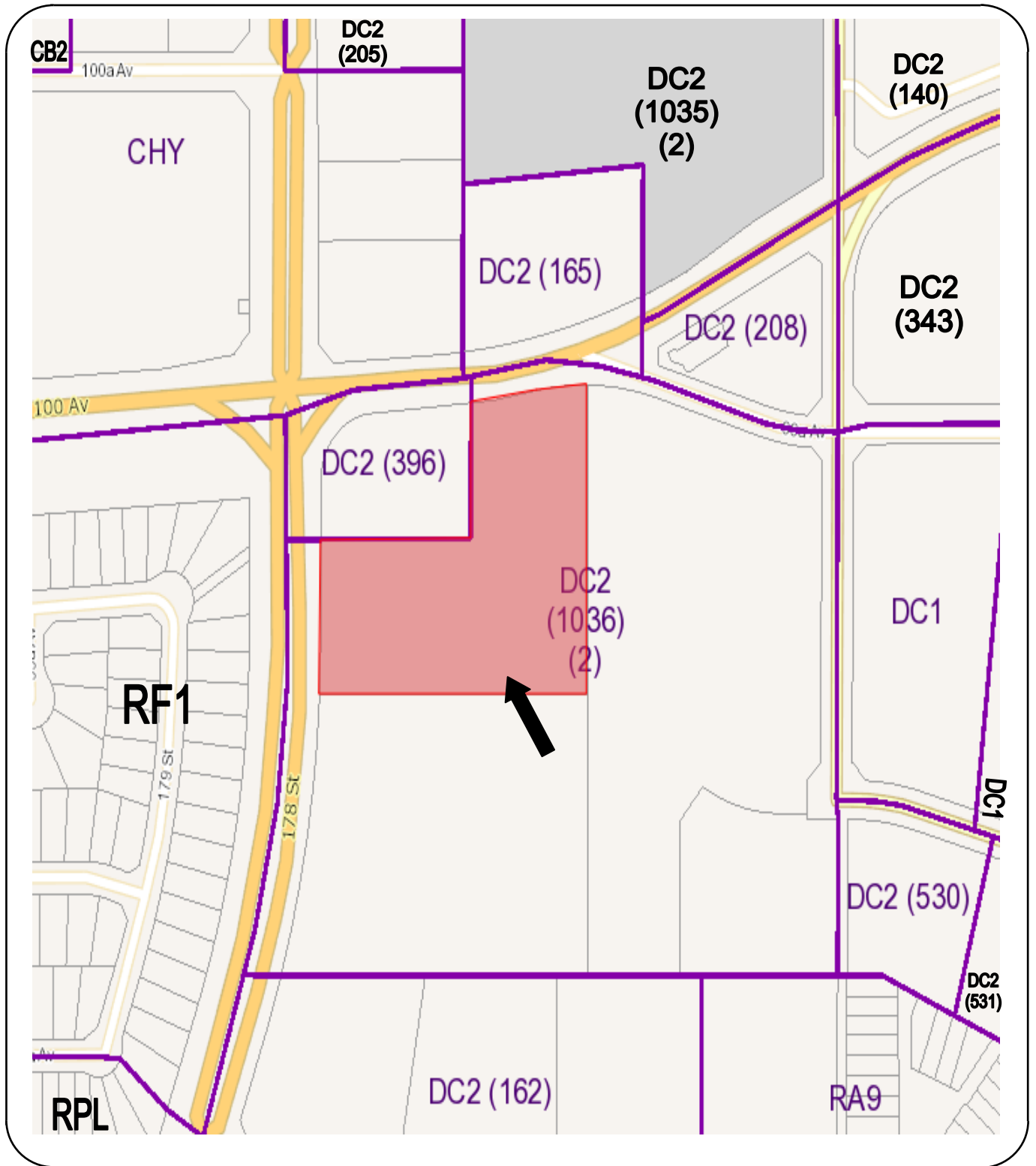
Notice to Applicant/Appellant

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.

	Project Number: 360698945-002 Application Date: APR 24, 2020 Printed: May 29, 2020 at 11:21 AM Page: 1 of 3		
Major Development Permit			
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.			
Applicant	Property Address(es) and Legal Description(s) 9977 - 178 STREET NW Plan 9723089 Blk 1 Lot 1 Specific Address(es) Suite: 3, 9977 - 178 STREET NW Entryway: 3, 9977 - 178 STREET NW Building: 19, 9977 - 178 STREET NW		
Scope of Permit To change the use from a Personal Service Shop to Cannabis Retail Sales.			
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class of Permit: Class B Gross Floor Area (sq.m.): New Sewer Service Required: N Site Area (sq. m.): </td> <td style="width: 50%; border: none;"> Contact Person: Lot Grading Needed?: N NumberOfMainFloorDwellings: Stat. Plan Overlay/Annex Area: (none) </td> </tr> </table>		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: Stat. Plan Overlay/Annex Area: (none)
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: Stat. Plan Overlay/Annex Area: (none)		
Development Permit Decision Approved Issue Date: May 12, 2020 Development Authority: WELCH, IMAI			
(Empty space for additional information or comments)			

	<p>Project Number: 360698945-002 Application Date: APR 24, 2020 Printed: May 29, 2020 at 11:21 AM Page: 2 of 3</p>
<h2>Major Development Permit</h2>	
Subject to the Following Conditions	
<p>1) This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)</p>	
<p>2) The Cannabis Retail Sales shall not commence operations until such time as the non-medical sale and distribution of Cannabis is authorised by federal and provincial law.</p>	
<p>3) The Cannabis Retail Sales shall include design elements that readily allow for natural surveillance to promote a safe urban environment, where applicable and to the satisfaction of the Development Officer, including the following requirements:</p>	
<ul style="list-style-type: none">- customer access to the store is limited to a storefront that is visible from the street other than a Lane, or a shopping centre parking lot, or mall access that allows visibility from the interior of the mall into the store;- the exterior of all stores shall have ample transparency from the street;- Any outdoor lighting shall be designed to ensure a well-lit environment for pedestrians and illumination of the property; and- Landscaping shall be low-growing shrubs or deciduous trees with a high canopy at maturity to maintain natural surveillance.	
<p>4) Exterior lighting shall be developed to provide a safe lit environment in accordance with Sections 51 and 58 and to the satisfaction of the Development Officer.</p>	
<p>5) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed at any adjoining properties, or interfere with the effectiveness of any traffic control devices. (Reference Section 51 of the Edmonton Zoning Bylaw 12800).</p>	
<p>NOTES:</p>	
<p>1) 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.</p>	
<p>2) The Development Permit shall not be valid unless and until the conditions of approval, save those of a continuing nature, have been fulfilled; and no notice of appeal from such approval has been served on the Subdivision and Development Appeal Board within the time period specified in subsection 21.1 (Ref. Section 17.1).</p>	
<p>3) Signs require separate Development Applications.</p>	
<p>4) The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the suitability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, in issuing this Development Permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.</p>	
<p>5) A Building Permit is required for any construction or change in use of a building. For a building permit, and prior to the Plans Examination review, you require construction drawings and the payment of fees. Please contact the 311 Call Centre for further information.</p>	
<p>6) This Development Permit is not a Business Licence. A separate application must be made for a Business Licence.</p>	
<p>Variances</p>	
<p>Separation Distance - The proposed Cannabis Retail Sales is 183m from the nearest approved Cannabis Retail Sales. (Ref.: Section 70.1)</p>	

	<p>Project Number: 360698945-002 Application Date: APR 24, 2020 Printed: May 29, 2020 at 11:21 AM Page: 3 of 3</p>																				
<h2>Major Development Permit</h2>																					
<p>Rights of Appeal This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act. Notice Period Begins: May 19, 2020 Ends: Jun 09, 2020</p>																					
<p>Fees</p> <table border="1"><thead><tr><th></th><th>Fee Amount</th><th>Amount Paid</th><th>Receipt #</th><th>Date Paid</th></tr></thead><tbody><tr><td>Major Dev. Application Fee</td><td>\$5,600.00</td><td>\$5,600.00</td><td>06513581</td><td>May 04, 2020</td></tr><tr><td>Total GST Amount:</td><td>\$0.00</td><td></td><td></td><td></td></tr><tr><td>Totals for Permit:</td><td>\$5,600.00</td><td>\$5,600.00</td><td></td><td></td></tr></tbody></table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Major Dev. Application Fee	\$5,600.00	\$5,600.00	06513581	May 04, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$5,600.00	\$5,600.00		
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Totals for Permit:	\$5,600.00	\$5,600.00																			



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-080



ITEM II 9:00 A.M.

FILE: SDAB-D-20-081

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 356798208-002

APPLICATION TO: Construct exterior alterations to a Single Detached House (Front Yard parking pad, 3.60 metres by 11.06 metres)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 29, 2020

DATE OF APPEAL: June 1, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9917 – 162 Street NW

LEGAL DESCRIPTION: Plan 6144AH Blk 3B Lot 5

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

Grounds for Appeal

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

Hello, I am appealing for the approval of my application asap. We have 4 cars in the house. My lovely wife and my 2 dear daughters park inside our 3 car garage at the back. That leaves me to park on the street. Most home owners respectfully park their cars directly in front of their houses in my neighborhood. However some neighbors or their tenants keep taking my regular parking spot in front of my house. 2 of my neighbors (1 on my right and 1 across) have handicap parking in front of their houses. I am a heart patient and it really frustrates me to look for a parking spot every time I get home from work. I don't want to apply for another handicap parking because that will not look nice with 2 already there. Also, I have a legal basement suite and when I have a tenant with a car, it gets worse. So installing a legal parking pad in the front of my

house inside my own property will be an appropriate long term and preferable solution. There are 2 front garages and about 6 other front driveway already existing on my street. I have a good majority of neighbors supporting my application. Even the Edmonton Subdivision Planning Development Services don't see any issues with my application. A copy of their response is included in the supporting documents. This is a very very important need for me. Please consider my humble request to allow me have a legal parking pad.

<i>General Matters</i>

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 clauses (a.4) and (d), must comply with any land use bylaw in effect;
 - (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis licence and distances between those premises and other premises;
 - ...
 - (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*:

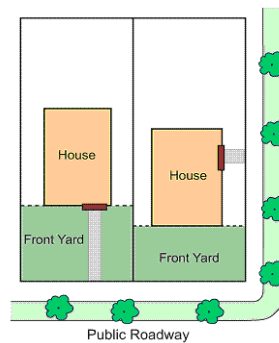
Under section 110.2(7), **Single Detached Housing** is a **Permitted Use** in the **(RF1) Single Detached Residential Zone**.

Under section 6.1, **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, **Driveway** means “an area that provides access for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Under section 6.1, **Front Yard** means:

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



Under section 6.1, **Garage** means “an Accessory building, or part of a principal building designed and used primarily for the storage of motor vehicles and includes a carport.”

Under section 6.1, **Parking Area** means “an area that is used for the parking of vehicles. A Parking Area is comprised of one or more parking spaces, and includes a parking pad, but does not include a Driveway.”

Under section 6.1, **Walkway** means “a path for pedestrian circulation that cannot be used for vehicular parking.”

Section 140.1 states that the **General Purpose of (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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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.

Driveway Access

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Development Officer’s Determination

1. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17).

Proposed: The vehicular access is located off of 162 Street (front). [unedited]

Location of Vehicular Parking Facilities

Section 54.2(2) states:

...

e. Except as otherwise provided for in this Bylaw, parking spaces, not including Driveways, shall be located in accordance with the following:

i. parking spaces shall not be located within a Front Yard in a Residential Zone;

ii. ...

...

Development Officer’s Determination

2. Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i)

Proposed: The parking pad creates parking spaces in the Front Yard in a Residential Zone.

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an

existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed 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 814.5(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 Sections 11.3 and 11.4.

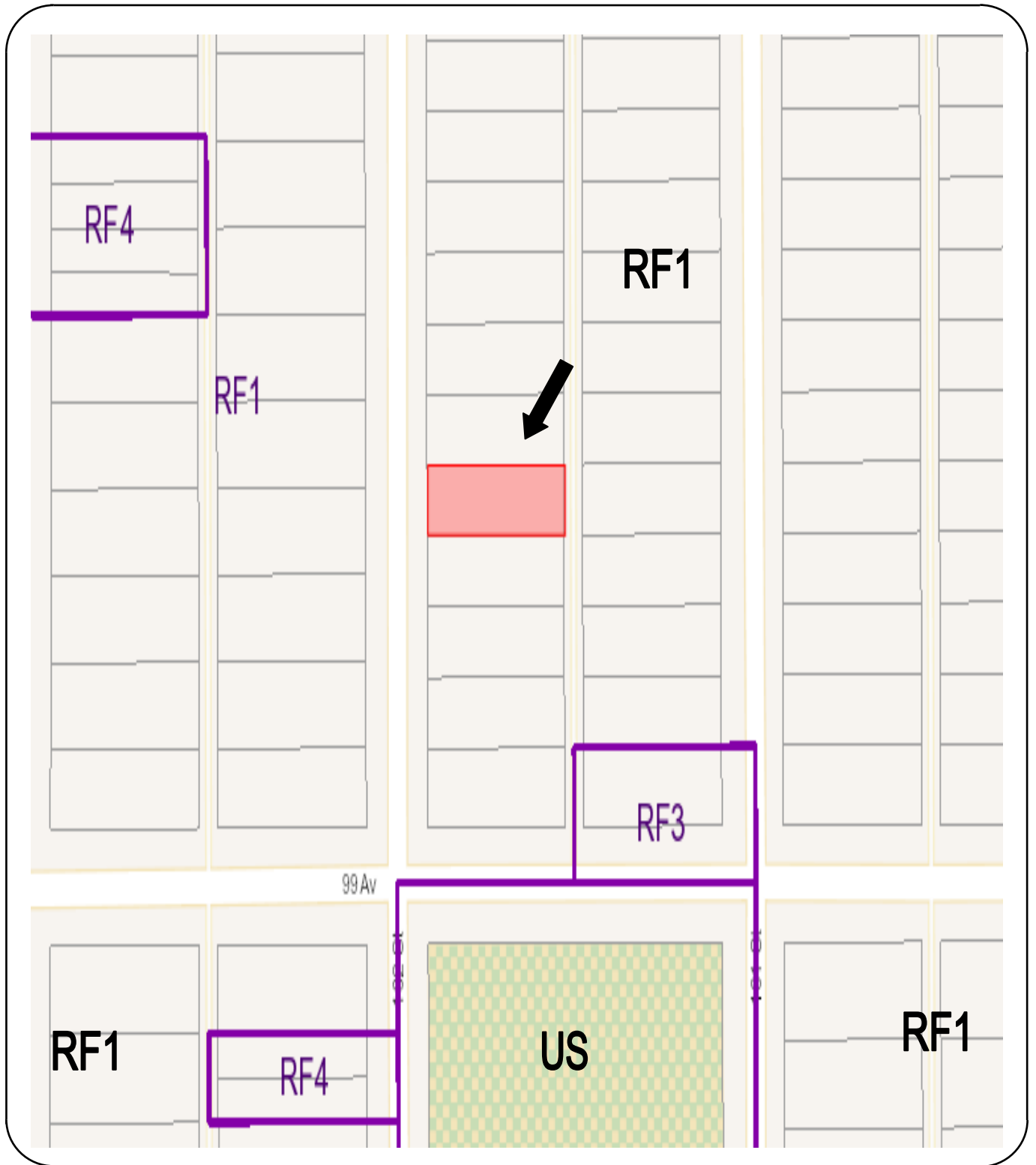
Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access

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.

	Project Number: 356798208-002 Application Date: MAR 26, 2020 Printed: May 29, 2020 at 9:40 AM Page: 1 of 1																				
<h2 style="margin: 0;">Application for Driveway Extension Permit</h2>																					
This document is a Development Permit Decision for the development application described below.																					
Applicant	Property Address(es) and Legal Description(s) 9917 - 162 STREET NW Plan 6144AH Blk 3B Lot 5 Location(s) of Work Suite: 9917 - 162 STREET NW Entryway: 9917 - 162 STREET NW Building: 9917 - 162 STREET NW																				
Scope of Application To construct exterior alterations to a Single Detached House (Front Yard parking pad, 3.60m x 11.06m).																					
Permit Details <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> <td style="width: 50%; border: none;"> Site Area (sq. m.): 546.36 </td> </tr> </table>		Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 546.36																		
Class Of Permit: Class B Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay	Site Area (sq. m.): 546.36																				
Development Application Decision Refused Issue Date: May 29, 2020 Development Authority: ZHOU, ROWLEY Reason for Refusal 1. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane (Section 814.3.17). Proposed: The vehicular access is located off of 162 Street (front). 2. Parking - Parking spaces shall not be located within a Front Yard in a Residential Zone. (Section 54.2.2.e.i) Proposed: The parking pad creates parking spaces in the Front Yard in a Residential Zone.																					
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.																					
Building Permit Decision Refused																					
Fees <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: right;">Fee Amount</th> <th style="text-align: right;">Amount Paid</th> <th style="text-align: left;">Receipt #</th> <th style="text-align: left;">Date Paid</th> </tr> </thead> <tbody> <tr> <td>Development Application Fee</td> <td style="text-align: right;">\$176.00</td> <td style="text-align: right;">\$176.00</td> <td>9402790724210010</td> <td>Mar 26, 2020</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;">\$176.00</td> <td style="text-align: right; border-top: 1px solid black;">\$176.00</td> <td></td> <td></td> </tr> </tbody> </table>			Fee Amount	Amount Paid	Receipt #	Date Paid	Development Application Fee	\$176.00	\$176.00	9402790724210010	Mar 26, 2020	Total GST Amount:	\$0.00				Totals for Permit:	\$176.00	\$176.00		
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<p>THIS IS NOT A PERMIT</p>																					



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-20-081



ITEM II 9:00 A.M.

FILE: SDAB-D-20-082

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 351893048-001

APPLICATION TO: Construct a Single Detached House with front attached Garage, Unenclosed Front Porch, rear covered deck (7.01 metres by 2.44 metres), Basement development (NOT to be used as an additional Dwelling), and to demolish a Single Detached House and Accessory Building (detached Garage)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 12, 2020

DATE OF APPEAL: June 1, 2020

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 11159 – 73 Avenue NW

LEGAL DESCRIPTION: Plan 1366HW Blk 9 Lot 3

ZONE: (RF1) Single Detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: McKernan/Belgravia Station Area Redevelopment Plan

Grounds for Appeal

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

See detailed reasons for appeal on file.

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 clauses (a.4) and (d), must comply with any land use bylaw in effect;
- (a.4) must comply with the applicable requirements of the regulations under the *Gaming, Liquor and Cannabis Act* respecting the location of premises described in a cannabis

licence and distances between those premises and other premises;

...

- (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 110.2(7), **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 one principal Dwelling which is separate from any other principal Dwelling or building. This Use includes Mobile Homes which conform to Section 78 of this Bylaw.”

Section 110.1 states that 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, Garden Suites, Semi-detached Housing and Duplex Housing.”

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

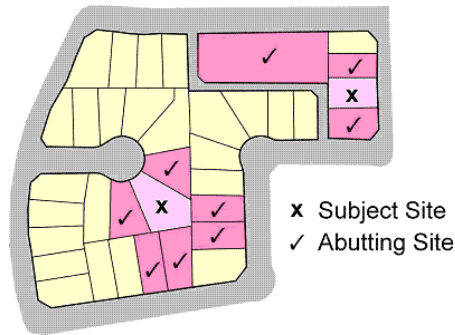
to regulate residential development in Edmonton’s mature residential neighbourhoods, while responding to the context of surrounding development, maintaining the pedestrian-oriented design of the streetscape, and to provide an opportunity for consultation by gathering input from affected parties on the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

Driveway

Section 814.3(17) states “Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue.”

Under section 6.1 **Abut** or **abutting** means:

immediately contiguous to or physically touching, and when used with respect to a lot or Site, means that the lot or Site physically touches upon another lot, Site, or piece of land, and shares a property line or boundary line with it;



Under section 6.1 **Lane** means “an alley as defined in the Traffic Safety Act.”

Under section 6.1 **Driveway** means “an area that provides for vehicles from a public or private roadway to a Garage or Parking Area and does not include a Walkway.”

Development Officer’s Determination

1. Vehicular Access - Where the Site Abuts a Lane, vehicular access shall be from the Lane and no existing vehicular access from a public roadway other than a Lane shall be permitted to continue (Section 814.3.17).

Proposed: The driveway is located off of 73 Avenue (front) instead of the alley.
[unedited]

Attached Garages

Section 814.3(18) states Attached Garages shall be developed in accordance with the following:

- a. a Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface;
- b. a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface;
- c. building mass shall be articulated through features such as recessions or off-sets, architectural treatments, and Landscaping...

Development Officer's Determination

2. Front Attached Garage - A Garage may protrude beyond the front or flanking wall of the principal building a distance that is characteristic of existing Garages on the blockface and a Garage may have a maximum width that is characteristic of the width of existing attached Garages on the blockface (Section 814.3.18).

Proposed: There are no other front attached garages on the blockface.

Projection into Setbacks

Section 44.1(a) states:

The following features may project into a required Setback or Separation Space as provided for below:

verandas, porches, eaves, shade projections, unenclosed steps, chimneys, belt courses, sills, together with any other architectural features which are of a similar character, provided such projections do not exceed 0.6 m in the case of Setbacks or Separation Spaces of 1.2 m or greater. Where unenclosed steps extend into Side Setbacks, such steps shall not exceed a Height of 1.0 m.

Development Officer's Determination

3. Rear Projection - A veranda may project into a required Setback provided it does not exceed 0.6m in the case of Setbacks or Separation Spaces of 1.2m or greater (Section 44.1). Required: 15.7m (16.3m - 0.6m)

Proposed: 14.0m Deficient by: 1.7m

Community Consultation

Section 814.5(1) states the following with respect to Proposed Variances:

When the Development Officer receives a Development Permit Application for a new principal building, or a new Garden Suite that does

not comply with any regulation contained within this Overlay, or receives a Development Permit for alterations to an existing structure that require a variance to Section 814.3(1), 814.3(3), 814.3(5) and 814.3(9) of this Overlay:


- a. the Development Officer shall send notice, to the recipient parties specified in Table 814.5(2), to outline any requested variances to the Overlay and solicit comments directly related to the proposed 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 814.5(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 Sections 11.3 and 11.4.

Section 814.5(2) states:

Tier #	Recipient Parties	Affected Parties	Regulation of this Overlay to be Varied
Tier 1	The municipal address and assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	The assessed owners of the land wholly or partially located within a distance of <u>60.0 m</u> of the Site of the proposed development and the President of each Community League	814.3(17) – Driveway Access 814.3(18) – Attached Garage

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.

	<h2 style="margin: 0;">Application for Minor Development Permit</h2>			Project Number: 351893048-001 Application Date: JAN 10, 2020 Printed: May 12, 2020 at 2:10 PM Page: 1 of 2							
This document is a Development Permit Decision for the development application described below.											
Applicant	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="4" data-bbox="781 453 1369 548"> Property Address(es) and Legal Description(s) 11159 - 73 AVENUE NW Plan 1366HW Blk 9 Lot 3 </td> </tr> <tr> <td colspan="4" data-bbox="781 548 1369 657"> Specific Address(es) Entryway: 11159 - 73 AVENUE NW Building: 11159 - 73 AVENUE NW </td> </tr> </table>			Property Address(es) and Legal Description(s) 11159 - 73 AVENUE NW Plan 1366HW Blk 9 Lot 3				Specific Address(es) Entryway: 11159 - 73 AVENUE NW Building: 11159 - 73 AVENUE NW			
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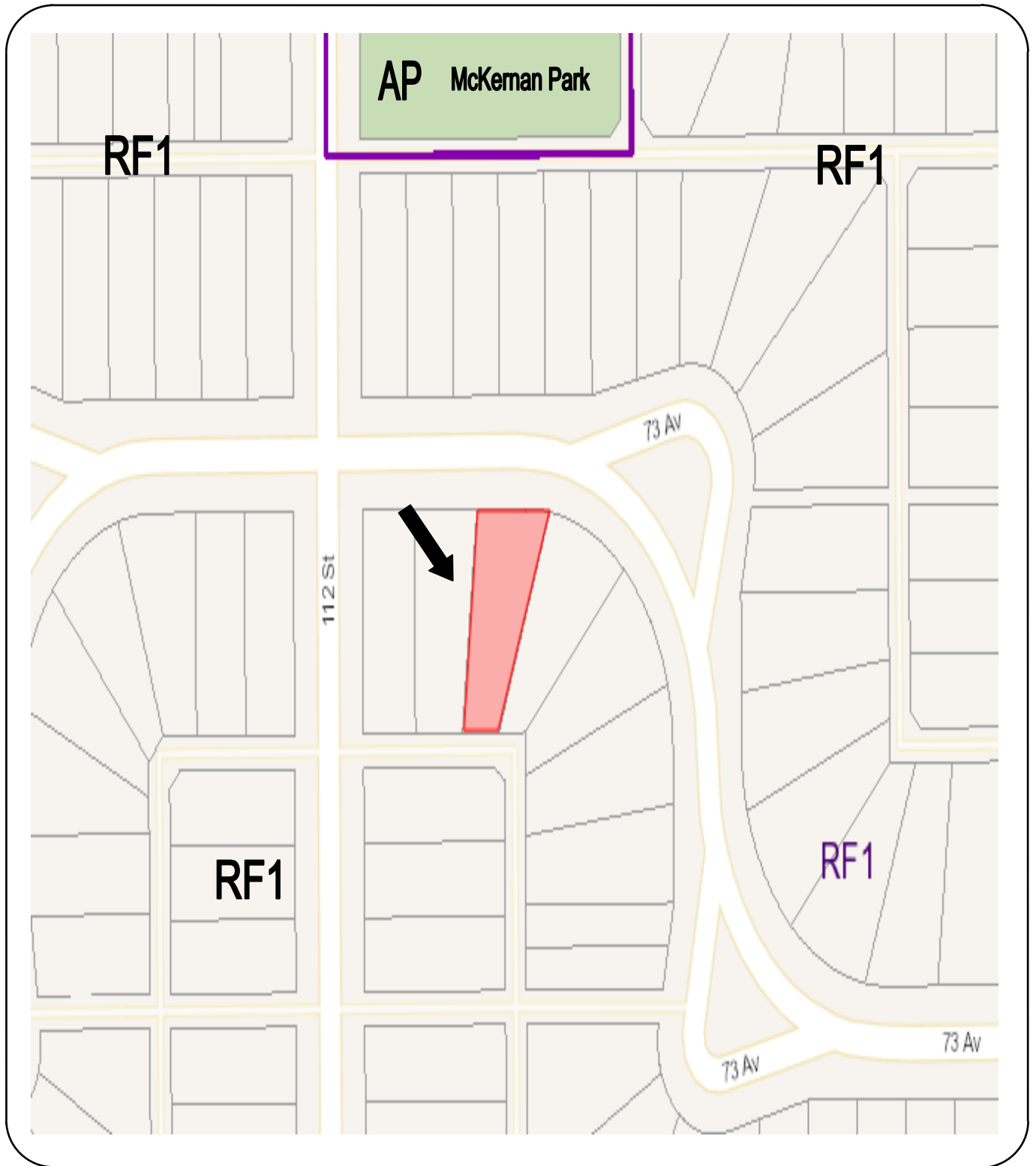
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Application Date: JAN 10, 2020
Printed: May 12, 2020 at 2:10 PM
Page: 2 of 2

Application for Minor Development Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Development Permit Inspection Fee	\$211.00	\$211.00	06372194	Jan 10, 2020
Dev. Application Fee	\$502.00	\$502.00	06372194	Jan 10, 2020
Lot Grading Fee	\$148.00	\$148.00	06372194	Jan 10, 2020
Total GST Amount:	\$0.00			
Totals for Permit:	<u>\$861.00</u>	<u>\$861.00</u>		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location



File: SDAB-D-20-082



N

