

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Wednesday, 9:00 A.M.
June 28, 2017**

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

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

I 9:00 A.M. SDAB-S-17-004

Create one(1) additional single detached residential lot

6404 - 159 Avenue NW
Project No.: 243697639-001

II 10:30 A.M. SDAB-D-17-115

Construct a Semi-detached House with rear attached Garages, front uncovered decks (1.2m X 2.24m), and roof terraces

10034 - 142 Street NW
Project No.: 221153356-004

III 1:00 P.M. SDAB-D-17-116

Install (1) Freestanding Minor Digital On-premises Off-premises Signs (6.1 m x 3 m Digital Panel & 6.1 m x 1.09 m Vet Emerg Channel Letters)

12831 - 97 Street NW
Project No.: 231903171-001

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-S-17-004

AN APPEAL FROM THE DECISION OF THE SUBDIVISION AUTHORITY

APPELLANT:

APPLICATION NO.: 243697639-001

APPLICATION TO: Create one (1) additional single detached residential lot

DECISION OF THE SUBDIVISION AUTHORITY: Refused

DECISION DATE: May 11, 2017

DATE OF APPEAL: May 31, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 6404 - 159 Avenue NW

LEGAL DESCRIPTION: Plan 9120706 Blk 7 Lot 33

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: Matt Berry Neighbourhood Structure Plan
Pilot Sound Area Structure Plan

Grounds for Appeal

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

While the Proposed Parcel does not meet the minimum Lot Depth it does meet the Lot area requirements as Per Section 110.4(1)b "the minimum Site area shall be 250.8 m". The Proposed Lot will be 370.sq meters

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Appeals

678(1) The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or
- (d) by a school board with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place of the reserve.

(2) An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board if the land that is the subject of the application is within the Green Area, as classified by the Minister responsible for the *Public Lands Act*, or is within the distance of a highway, a body of water or a sewage treatment or waste management facility set out in the subdivision and development regulations, or
- (b) in all other cases, with the subdivision and development appeal board.

(2.1) ...

(3) For the purpose of subsection (2), the date of receipt of the decision is deemed to be 5 days from the date the decision is mailed.

(4) A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and

- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

(5) If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice of appeal from the applicant on the date it receives the notice of appeal from the first board.

Hearing and decision

680(2) In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

Subdivision of Land

Approval of application

654(1) A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,

- (c) the proposed subdivision complies with this Part and the regulations under this Part, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
- and
- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

(3) A subdivision authority may approve or refuse an application for subdivision approval.

Conditions of subdivision approval

655(1) A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part and the statutory plans and land use bylaws and the regulations under this Part, and any applicable ALSA regional plan, affecting the land proposed to be subdivided are complied with;
- (b) a condition that the applicant enter into an agreement with the municipality to do any or all of the following:
 - (i) to construct or pay for the construction of a road required to give access to the subdivision;
 - (ii) to construct or pay for the construction of
 - (A) a pedestrian walkway system to serve the subdivision, or
 - (B) pedestrian walkways to connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,

or both;

- (iii) to install or pay for the installation of a public utility described in section 616(v)(i) to (ix) that is necessary to serve the subdivision, whether or not the public utility is, or will be, located on the land that is the subject of the subdivision approval;
- (iv) to construct or pay for the construction of
 - (A) off-street or other parking facilities, and
 - (B) loading and unloading facilities;
- (v) to pay an off-site levy or redevelopment levy imposed by bylaw;
- (vi) to give security to ensure that the terms of the agreement under this section are carried out.

(2) A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under subsection (1)(b) against the certificate of title for the parcel of land that is the subject of the subdivision.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the agreement has been complied with.

(4) Where a condition on a subdivision approval has, prior to the coming into force of this subsection, required the applicant to install a public utility or pay an amount for a public utility referred to in subsection (1)(b)(iii), that condition is deemed to have been validly imposed, whether or not the public utility was located on the land that was the subject of the subdivision approval.

Subdivision Refusal

Section 110.4(1) states:

Site regulations for Single Detached Housing:

- a. the minimum Site area shall be 250.8 m
- b. the minimum Site Width shall be 7.5 m; and
- c. the minimum Site depth shall be 30.0 m.

Subdivision Authority's Decision

The subdivision was refused by the Subdivision Authority for the following reasons:

The proposed subdivision does not comply with the minimum Development Regulations identified in Section 110.4(1) of the City of Edmonton Zoning Bylaw. The minimum site depth identified in the (RF1) Single Detached Residential Zone for permitted and discretionary

uses is 30.0 metres. The site depth of proposed Lot 34 is 23.69 metres and is therefore deficient by 6.31 metres or 21%.

This proposal will result in a site depth, and ultimately a lot size, that is uncharacteristically small when compared to properties on the adjacent block faces. For example, the site depths on the adjacent block faces range from approximately 30.36 to 44.25 metres. The proposed lot depth for Lot 34 is 23.69 metres, which is significantly smaller than those of other properties characteristic to the adjacent block faces.

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*.



Subdivision Authority

7th Floor, Edmonton Tower
10111 – 104 Avenue NW
Edmonton, Alberta T5J 0J5

May 11, 2017

File No. LDA17-0164

[REDACTED]

ATTENTION: [REDACTED]

RE: Tentative plan of subdivision to create one (1) additional single detached residential lot from Lot 33, Block 7, Plan 912 0706, located north of 159 Avenue NW and west of 64 Street NW; **MATT BERRY**

The Subdivision by Plan is **REFUSED** on May 11, 2017 for the following reason(s):

1. The proposed subdivision does not comply with the minimum Development Regulations identified in Section 110.4(1) of the City of Edmonton Zoning Bylaw. The minimum site depth identified in the (RF1) Single Detached Residential Zone for permitted and discretionary uses is 30.0 metres. The site depth of proposed Lot 34 is 23.69 metres and is therefore deficient by 6.31 metres or 21%.

This proposal will result in a site depth, and ultimately a lot size, that is uncharacteristically small when compared to properties on the adjacent block faces. For example, the site depths on the adjacent block faces range from approximately 30.36 to 44.25 metres. The proposed lot depth for Lot 34 is 23.69 metres, which is significantly smaller than those of other properties characteristic to the adjacent block faces.

Please be advised that an appeal may be lodged with the Subdivision and Development Appeal Board, 10019 – 103 Avenue NW, Edmonton Alberta, T5J 0G9, within 14 days from the date of the receipt of this decision. The date of receipt of the decision is deemed to be five (5) days from the date the decision is mailed.

If you have further questions, please contact Stephanie Mah at stephanie.mah@edmonton.ca or 780-442-5387.

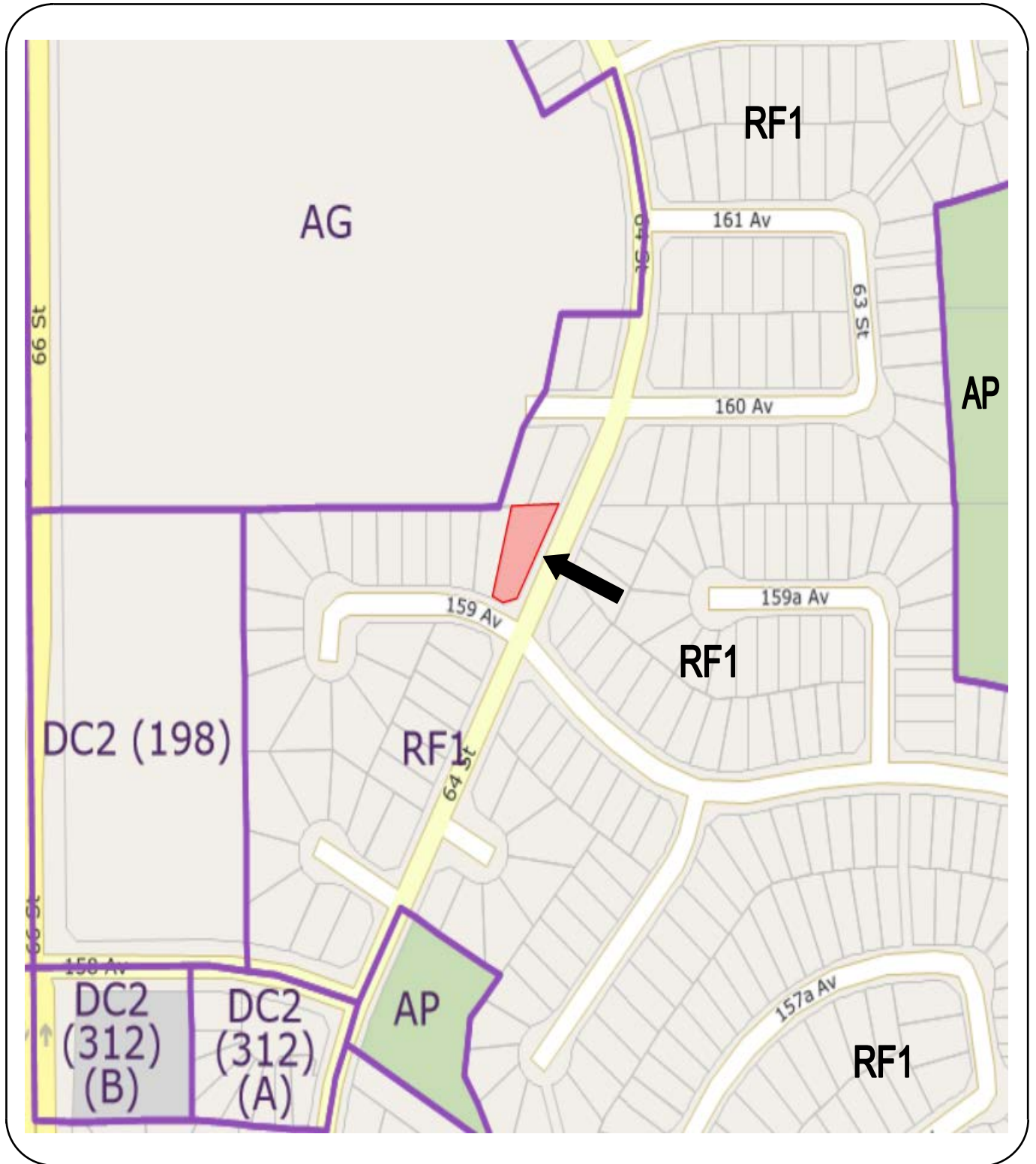
Regards,

A handwritten signature in blue ink, appearing to read "Blair McDowell".

Blair McDowell
Subdivision Authority

BM/sm/Posse #243697639-001

Enclosure(s)



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-S-17-004



ITEM II: 10:30 A.M.

FILE: SDAB-D-17-115

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 221153356-004

APPLICATION TO: Construct a Semi-detached House with rear attached Garages, front uncovered decks (1.2m X 2.24m), and roof terraces

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 19, 2017

DATE OF APPEAL: May 31, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 10034 - 142 Street NW

LEGAL DESCRIPTION: Plan 4590W Blk 141 Lots 1-2

ZONE: RF1 Single Detached Residential Zone

OVERLAY: MNO Mature Neighbourhood Overlay

STATUTORY PLAN: N/A

Grounds for Appeal

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

This Project, which was originally applied for the DEVELOPMENT PERMIT on or about September 2016, has gone through the long process of meetings and discussions with two representatives of the SUSTAINABLE DEVELOPMENT / DEVELOPMENT SERVICES, Ms. Kerry Bauer and Mr. Joselito Angeles, several drawing corrections, (dated: 29 SE 2016, 30 NO 2016, 09 FE 2017, 12 AR 2017), (attached), and supported by the attached correspondence between the Developer and the SUSTAINABLE DEVELOPMENT / DEVELOPMENT SERVICES, consisting of many wrong information, on the part of the SUSTAINABLE DEVELOPMENT / DEVELOPMENT SERVICES, subsequent drawing corrections on the part of Developer, justified Developer's requests for Variances, and culminating in the Development Application Refusal by 5 points, of which 3 are the subject and the

Reason for this Appeal, and 2 are erroneous, or simply falls, inconsistent with the lastly submitted and corrected drawings.

The following are the Points of Refusal and the Reasons for Appeal:

Required Front Setback shall be within 9.32 m to 10.33 m. (Ref. Sect. 814.3.1), etc.

Reasons for Appeal:

The Project in question is located in the RF1 zone, providing a 6.0 m Front Setback. The reason for refusal does not quote proper reference to quoted alleged set of Setbacks, while several other projects in the immediate vicinity of this lot, have been granted the Setback onto 142 Street, below the quoted 3.0 m distance. The attempt of obtaining the proper reference to the Mature Neighborhood Overlay, relating to this lot, failed for the reason of Internet alteration'. Also, in his letter of 04 May 2017, Mr. Angeles refers to the Section 814.3.1, that states, that the Front Setback shall be of the minimum of 3.0 m, etc. and quotes additional argument which is inconsistent with the decision of increasing the Front Setback to 9.32 m. The argument is not clear, confusing and without virtue. The Developer is asking the Board to return to the RF1 condition of Front Setback, of 6.0 m;

The Minimum Rear Setback shall be 40% (or 13.68 m) of Site depth. Proposed deficiency by 2.37 m, etc. (Ref. Sect. 814.3.5), etc.;

Reasons for Appeal:

In several discussions with Mr. Angeles, the Developer clearly explained his reasoning for his Application for the Variance to this strict condition, arguing that the proposed design of the Attached Garages, is the only, and the best solution for locating the proper car storage, in this case on the proposed Project, rather than creating a dangerous situation by providing the Detached Garages, and by creating a dysfunctional design situation, and possible fire danger, by the vicinity of so designed Detached Garages to the existing neighbor's Detached Garages, etc. This argument requires full analysis of the qualities of proposed design, and positive attitude of the Development Officer and the Appeals Board to the plan, as proposed.

Rear Attached Garages shall not be allowed, except on Corner Site, etc. (Ref Sect. 814.3.18), etc.

Reason for Appeal:

(THIS SITE IS NOT AN INTERIOR SITE LOT)

The reason for appeal to this condition should be studies and analyzed in conjunction with the argument discussed immediately above, (Ref. Sect. 814.3.5), however, in the reading of language of the Refusal, one cannot miss the statement, that the Site in question is understood by the Development Officer, as and INTERIOR SITE LOT, which it is not, and which is not true, since it is in fact a Corner Site, where the Dwellings face a flanking public roadway. There is of course an ambivalence of

interpretation of this argument, as the 'flanking public roadway' in this case is an alleyway, however fully used as a 'flanking public roadway', by this and several other development lots, located further along the way. In this case, the Developer is asking the Appeals Board to lean in the direction of the positive interpretation of this ambivalence, taking into consideration all arguments of the entire package of qualities and complexities of the proposed design and its intention, as proposed on the attached plans, and as the functional and design solution, serving the function of proper use of the proposed Attached Garages', etc. The Developer understands, that the interpretation of the letter of this bylaw may be a bit stretched, but from the functional intention of the same bylaw, and the existing conditions, it splendidly resolves the functional condition of locating, limiting the size, and providing the splendid design solution, of the functional condition for these Attached Garages. The Developer is hoping that the Appeals Board will become the Advocate of this unique and splendid design solution, in granting the variance to both of the above claims.

On the Interior Site, the minimum Rooftop Terrace Stepback shall be... etc. and On an Interior Site , the minimum Rooftop Terrace Stepback shall be... etc.

Reason for Appeal:

(THIS SITE IS NOT AN INTERIOR SITE)

This two points of alleged Reason for Refusal should be answered as one argument, as the question of the proper interpretation of the size of the Stepback has been endlessly discussed with both representatives of the SUSTAINABLE DEVELOPMENT / DEVELOPMENT SERVICES, Ms. Kerry Bauer and Mr. Joselito Angeles, not in the form of argument, application for variance of its dimensions, etc., but in the matter of interpretation of the language of the Bylaw. In consequence, and after several corrections, the resubmitted drawings: No. 5, 6, 7, 8 & 9, (all dated: 12 AR 2017), carried the corrected dimension of 2.0 m, (6'-6 3/4"), in both directions of the Stepback, without any argument.

However, the question should be raised, that as this never a contentious argument has been formally, but erroneously, presented by the SUSTAINABLE DEVELOPMENT / DEVELOPMENT SERVICES Department, of the City of Edmonton, as the grounds for Refusal of the Development Application Decision, are not the other arguments, (discussed above), to be considered as also erroneously assumed, (which they partly are).

This is in short the presentation of the Reasons for Appeal, by the LOMBARD DEVELOPMENT INC. the Developer of this Project, however we are ready to answer any additional question the Board Members may have, as to defend in much broader terms the arguments discussed above.

Board Officer’s Comments

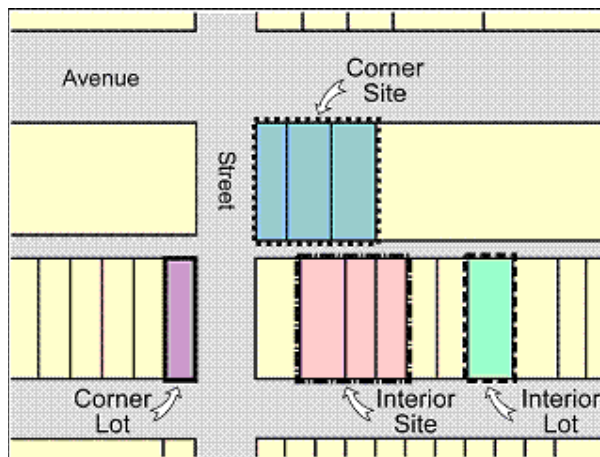
The Appellant’s reasons for appeal include various submissions with respect to whether the development is located on a Corner Site or an Interior Site. The following definitions of Corner Sites/Lots and Interior Sites/Lots are provided from the *Edmonton Zoning Bylaw*.

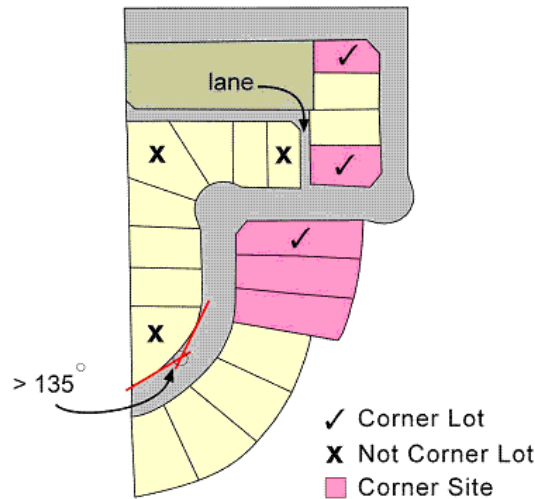
Section 6.1(20) states:

Corner Site means an area of land consisting of one or more adjacent Lots where at least one Lot is:

- d. located at the intersection of two public roadways, other than Lanes; or
- e. abuts a public roadway, other than a Lane, which changes direction at any point where it abuts the Site;

provided that in both cases the Site shall not be considered a Corner Site where the contained angle formed by the intersection or change of direction is an angle of more than 135 degrees. In the case of a curved corner, the angle shall be determined by the lines tangent to the property line abutting the public roadways, provided the roadway is not a Lane, at the point which is the extremity of that property line. In the case of a curved corner, the point which is the actual corner of the Site shall be that point on the property line abutting the public roadway, provided the roadway is not a Lane, which is nearest to the point of intersection of the tangent lines.



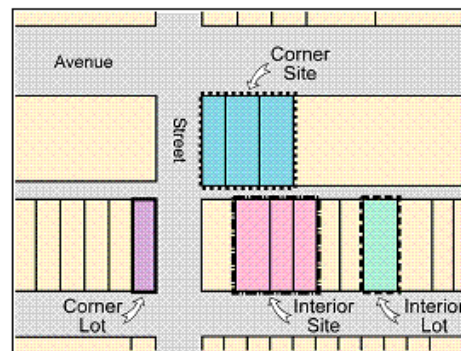


Section 6.1(19) states:

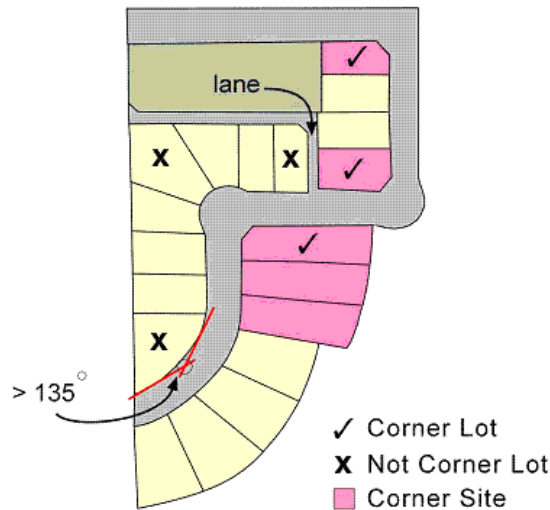
Corner Lot means:

- a. a Lot located at the intersection of two public roadways, other than Lanes; or
- b. a Lot located abutting a public roadway, other than a Lane, which changes direction at any point where it abuts the lot;

provided that in both cases the Lot shall not be considered a Corner Lot where the contained angle formed by the intersection or change of direction is an angle of more than 135 degrees. In the case of a curved corner, the angle shall be determined by the lines tangent to the property line abutting the public roadways, provided the roadway is not a Lane, at the point which is the extremity of that property line. In the case of a curved corner, the point which is the actual corner of the Lot shall be that point on the property line abutting the public roadway, provided the roadway is not a Lane, which is nearest to the point of intersection of the tangent lines.



Examples



Section 6.1(61) defines **Lane** as “an alley as defined in the Traffic Safety Act”.

The *Traffic Safety Act*, RSA 2000, c T-6, provides as follows:

1(1)(a) “alley” means a narrow highway intended chiefly to give access to the rear of buildings and parcels of land;

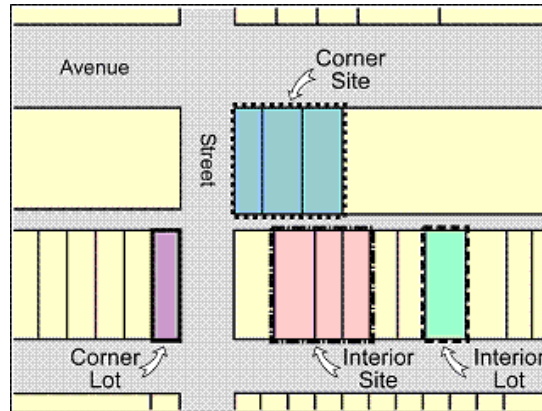
1(1)(p) “highway” means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes

- (i) a sidewalk, including a boulevard adjacent to the sidewalk,
- (ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and
- (iii) if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,

but does not include a place declared by regulation not to be a highway;

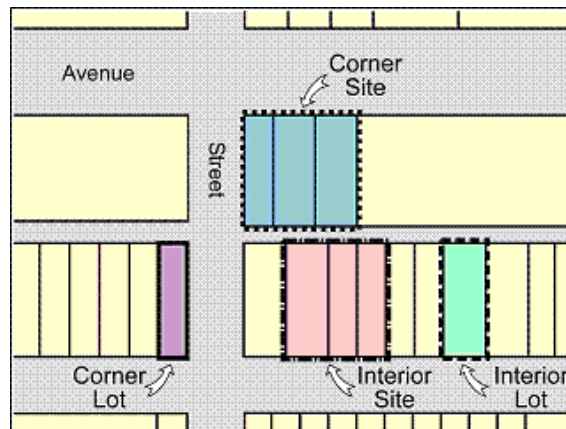
Section 6.1(58) of the *Edmonton Zoning Bylaw* states:

Interior Site means any Site other than a corner Site;



Section 6.1(57) states:

Interior Lot means any Lot other than a Corner Lot.



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 within 14 days,

(a) in the case of an appeal made by a person referred to in section 685(1), after

(i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

The decision of the Development Officer is dated May 19, 2017. The Notice of Appeal was filed on May 31, 2017.

Determining an Appeal

Hearing and decision

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

...

(a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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*:

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, Semi-detached Housing and Duplex Housing under certain conditions.

Under Section 110.3(10), **Semi-detached Housing** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Section 7.2(8) states:

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

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood 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.

Mature Neighbourhood Overlay Community Consultation

Section 814.3(24) of the Mature Neighbourhood Overlay provides as follows:

24. When a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League;

- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and
- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Front Setback

Section 814.3(1) states, in part: “The Front Setback shall be a minimum of 3.0 m and shall be consistent within 1.5 m of the Front Setback on Abutting Lots and with the general context of the blockface. Separation Space and Privacy Zone shall be reduced to accommodate the Front Setback requirement where a Principal Living Room Window faces directly onto a local public roadway, other than a Lane.”

Development Officer’s Determination

- Required Front Setback shall be within 9.32 m to 10.33 m. (Reference Section 814.3.1)
- Proposed: 6 m.
- Deficient by 3.32 m

Rear Setback

Section 814.3(5) states: “The minimum Rear Setback shall be 40% of Site depth. Row Housing not oriented to a public roadway is exempt from this Overlay requirement.”

Development Officer’s Determination

- The minimum Rear Setback shall be 40% (or 13.68 m) of Site depth. (Reference Section 814.3.5)
- Proposed: 33% or 11.31 m
- Deficient by 2.37 m.

Rear Attached Garage

Section 814.3(18) states: “Rear attached Garages shall not be allowed, except on Corner Sites where the Dwelling faces the flanking public roadway.”

Development Officer’s Determination

- Proposed attached garage is on an interior lot.
- Does not comply.

Rooftop Terrace Stepback

Section 61(1)(a) states:

61. Rooftop Terraces

1. On a Site Abutting a Site zoned to allow Single Detached Housing as a Permitted Use, or a Site zoned RF5 Row Housing Zone, Rooftop Terraces and Privacy Screening, excluding vegetative screening constructed on a Rooftop Terrace, shall be developed in accordance with the following Stepback regulations:

a. On an Interior Site, the minimum Stepback shall be:

- i. 1.0 m from any building Façade facing a Front Lot Line;
- ii. 2.0 m from any building Façade facing a Rear Lot Line;
- iii. 1.0 m from any building Façade facing a Side Lot Line, where the Site Width is less than 10.0 m; and
- iv. 2.0 m from any building Façade facing a Side Lot Line, where the Site Width is 10.0 m or greater.

Development Officer's Determination

On an Interior Site, the minimum Rooftop Terrace Stepback shall be 2.0 m from any building Facade facing a Rear Lot Line.

(Reference Section 61.1.a.ii)



- Proposed: 1.83 m
- Deficient by 0.17 m

On an Interior Site, the minimum Rooftop Terrace Stepback shall be 2.0 m from any building Facade facing a Side Lot Line, where the Site Width is 10.0 m or greater.

- Proposed: 1 m on EACH side.
- Deficient 1 m on EACH side.

Notice to Applicant/Appellant

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

	Project Number: 221153356-004 Application Date: OCT 05, 2016 Printed: June 21, 2017 at 9:09 AM Page: 1 of 2		
<h2 style="margin: 0;">Application for Minor Development Permit</h2>			
This document is a Development Permit Decision for the development application described below.			
Applicant 	Property Address(es) and Legal Description(s) 10034 - 142 STREET NW Plan 4590W Blk 141 Lots 1-2 Specific Address(es) Entryway: 10034 - 142 STREET NW Entryway: 10036 - 142 STREET NW Building: 10034 - 142 STREET NW		
Scope of Application To construct a Semi-Detached House with rear attached Garages, front uncovered decks (1.2m X 2.24m), and roof terraces			
Permit Details <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%; padding: 5px;"> # of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N </td> <td style="width: 50%; padding: 5px;"> Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
# of Dwelling Units Add/Remove: 2 Client File Reference Number: Minor Dev. Application Fee: Semi-Detached House Secondary Suite Included?: N	Class of Permit: Lot Grading Needed?: Y New Sewer Service Required: Y Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay		
I/We certify that the above noted details are correct. Applicant signature: _____			
Development Application Decision Refused Reason for Refusal Required Front Setback shall be within 9.32 m to 10.33 m. (Reference Section 814.3.1) - Proposed: 6 m. - Deficient by 3.32 m The minimum Rear Setback shall be 40% (or 13.68 m) of Site depth. (Reference Section 814.3.5) - Proposed: 33% or 11.31 m - Deficient by 2.37 m. Rear attached Garages shall not be allowed, except on Corner Sites where the Dwelling faces the flanking public roadway. (Reference Section 814.3.18) - Proposed attached garage is on an interior lot. - Does not comply. On an Interior Site, the minimum Rooftop Terrace Stepback shall be 2.0 m from any building Façade facing a Rear Lot Line. (Reference Section 61.1.a.ii) - Proposed: 1.83 m - Deficient by 0.17 m On an Interior Site, the minimum Rooftop Terrace Stepback shall be 2.0 m from any building Façade facing a Side Lot Line, where the Site Width is 10.0 m or greater. - Proposed: 1 m on EACH sides. - Deficient 1 m on EACH sides.			
THIS IS NOT A PERMIT			



Project Number: **221153356-004**
 Application Date: OCT 05, 2016
 Printed: June 21, 2017 at 9:09 AM
 Page: 2 of 2

Application for Minor Development Permit

Rights of Appeal

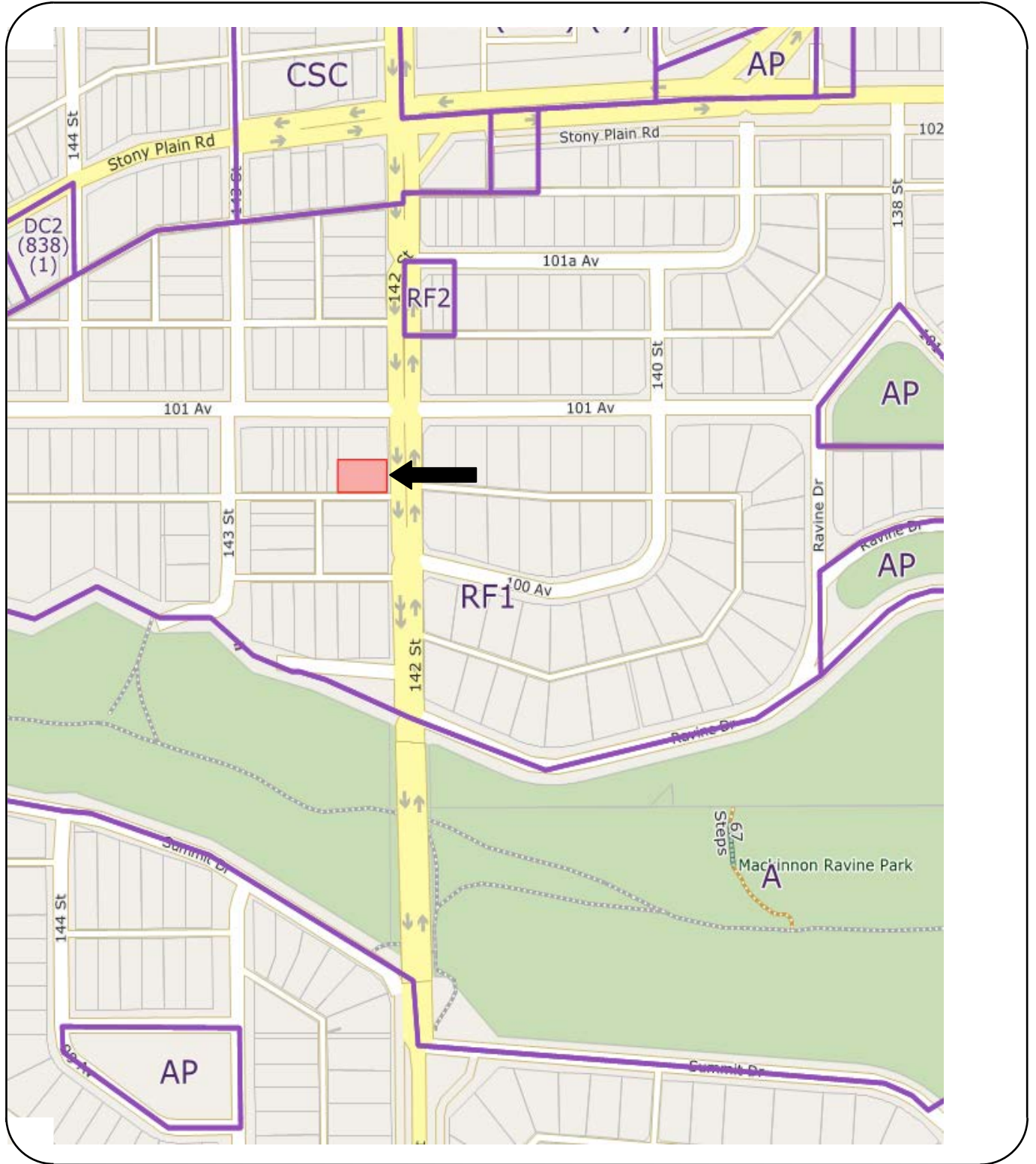
The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: May 19, 2017 **Development Authority:** ANGELES, JOSELITO **Signature:** _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$456.00	\$456.00	03660072	Oct 06, 2016
Sanitary Sewer Trunk Fund	\$1,566.00	\$1,566.00	03660072	Oct 06, 2016
DP Notification Fee	\$0.00	\$41.00	03822533	Dec 21, 2016
Lot Grading Fee	\$270.00	\$270.00	03822533	Dec 21, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,292.00	\$2,333.00		
(overpaid by \$41.00)				

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-115



ITEM III: 1:00 P.M.

FILE: SDAB-D-17-116

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT 1:

APPELLANT 2:

APPLICATION NO.: 231903171-001

APPLICATION TO: Install (1) Freestanding Minor Digital On-premises Off-premises Signs (6.1 m x 3 m Digital Panel & 6.1 m x 1.09 m Vet Emerg Channel Letters)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: May 18, 2017

APPELLANT 1 DATE OF APPEAL: May 31, 2017

APPELLANT 2 DATE OF APPEAL: June 5, 2017

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 12831 - 97 Street NW

LEGAL DESCRIPTION: Plan 158RS Blk 35 Lot 27

ZONE: CSC Shopping Centre Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

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

APPELLANT NO. 1

We wish to appeal the above refusal of our sign combo permit application. This letter is a brief summary of the reasons why our appeal should be granted. These reasons will likely be updated upon submission of our supporting documents prior to the appeal.

Summary

The proposed sign is located at 12831-97 street (CSC zoning), and is mounted on the existing pole and foundation that were present at the location from the previous sign tenant. This application is for a permit to install a single double-sided sign that itself forms both a freestanding on-premises sign (channel letters) and a freestanding off-premises digital sign. Specifically, the applicant is requesting that the appeal board allow our appeal and grant variance on the three points mentioned in the refusal, namely: a) the residential anti-projection requirement, b) the minimum setback requirement, and c) the maximum sign area requirement. Variance on these rules will avoid undue hardship, increase visual harmony, and accord better with the intention of the bylaws, without causing undue or material interference on the amenities of the neighborhood or surrounding properties. Please allow the Applicant's appeal.

Background*The Applicant*

The Applicant is a new startup company, and this is their very first sign opportunity, into which they have invested a large part of their life savings. The Applicant is owned by several entrepreneurial entities that have combined their efforts to enter the digital signage field. Failure to grant this permit will lead to abandonment of the project altogether due to excessive costs.

The Previous Sign on the Premises

The Applicant was fortunate to have the opportunity to take over the lease of the land in question, upon which previously existed a digital sign that was permitted as a double sided minor digital off-premises freestanding permitted sign operated by the previous tenant, unconnected to the Applicant. Unbeknownst to the Applicant and the landlord, the previous sign had been installed within the setback contrary to the site plan in the previous tenant's permit. The previous sign had nonetheless been operated for five years by the previous tenant a distance of 11m back from the main drag of 97 street, separated by a large parking lot, without any evidence of complaint from the city, complaint from nearby landowners, or safety issues with the sign placement. The lack of issues is understandable given that the sign was already set back much further from 97 street than numerous other signs along the east side of 97 street, including the nearest freestanding signs to the north and south of the sign, both of which encroach upon the right of way off 97 street itself. The previous sign was positioned tightly adjacent the side of the only building on the property, namely the building to the south of the sign. The previous sign faces were angled more than perpendicular to 97 street so that the sign faces faced into the road and away from the abutting residential zone to the east. The buildings to the north and south of the sign partially obscure the visibility of the sign from walking and

motorized traffic on 97 street, and hence the sign does not impact traffic on 97 street to a significant degree. Moving the sign to the east to satisfy the setback would bring the sign closer to the adjacent residential zone and would largely obscure the already partially-hidden billboard from view.

The previous tenant has elected to leave its pole behind, and the landlord has been kind enough to rent to the Applicant the use of the mounting pole. The cost savings afforded to the Applicant by this courtesy was a large reason why the Applicant elected to take on this project in the first place. The Applicant has paid in full and installed its billboard at this point, and only recently discovered that the setback was an issue - the Applicant was told by the previous tenant that the position of the pole was permitted and allowed by the city. Unfortunately, on this misinformation and due to inexperience the Applicant prematurely installed its sign.

Compatibility with CSC Zoning

The purpose of the CSC Zoning is to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes. CSC zoning is highly amenable to freestanding minor digital off-premises signs. Off-premises advertising provides value to consumers in a CSC zone, by informing them of goods and services that can be purchased off-site, but typically at nearby off-premises businesses. On-premises advertising in this case raises awareness of the emergency veterinary clinic (“Vet Emerg”) on the premises, providing value to consumers in this CSC zone by informing them of the location of the clinic on site.

Residential Anti-Projection Variance Request

The Applicant requests that the requirement that the sign not project onto surrounding residential premises be relaxed. There are several reasons why the Applicant’s sign will not materially interfere with or affect the use, enjoyment or value of the neighbouring residential zone to the east. Variance will also avoid undue hardship, increase visual harmony, and accord better with the intention of the bylaws.

Residential Acceptance of Previous Sign

A permit for a double-sided minor digital freestanding sign was in force for five years prior to Applicant’s application. The previous tenant’s sign was installed on the exact same mounting pole as currently supports the Applicant’s sign. Applicant is unaware of any complaints from residents during this five year period. The lack of complaint is understandable given that both the Applicant’s sign, and the previous tenants sign, actually face *away* from the residential zone, rather than perpendicular to the residential zone. Applicant suspects that the residential complaint may have arisen as a result of excessive brightness from the sign at night

that was caused by a former employee of the Applicant leaving the sign on at full brightness all day and night contrary to instructions. The employee has since been terminated, and Applicant assures the board that should the permit be issued, the sign will comply with all brightness restriction control requirements day and night.

Some projection is expected adjacent a busy arterial road

97 street is one of the busiest commercial and arterial roads in Edmonton, with daily traffic up to 50,000 cars per day. The traffic on the street creates loud noise and flashing lights day and night. The bright lights of motorists and numerous signs along the strip project day and night onto the surrounding residential zone. These homes are not located in a quiet residential neighborhood where silence and static lighting is to be expected. If there is any impact of the sign upon the neighboring residential homes, such impact is negligible at best.

Brightness is reduced when viewing the sign at an angle

Because the sign is directed more than 90 degrees away from the residential zone, nearby residents cannot view the sign head on, if at all. The sign is at maximum brightness when viewed head on, and is less bright when viewed from other angles, such as the angles at which neighboring residents may be able to view the sign. Such acts to mitigate any sign light to which such residents may be exposed to.

Blocking effect of garages, trees, and back lane

The abutting residential zone to the east of the sign affords several natural and unnatural obstacles to shield residents from exposure to the sign. These include, the presence of rear, detached garages at the rear of every house within 60m, the presence of trees in the backyards of most such houses, and the separation of a back alley between the residential and CSC zone.

Similar sign placements can be found all over the city

There are numerous examples of permitted digital signs in similar configurations relative to abutting residential zones all over the city. One example includes the digital sign at the Terwillegar Recreation Center, which offers full motion video, a mere 47 meters from the backyards of nearby residential premises, with no landscaping to shield such signs. By contrast Applicant's sign is angled into the road, forming an acute angle relative to the road, such that the sign actually faces into the road and away from the residential zone. Thus, Applicant's sign is designed to minimize residential impact.

Variance will avoid undue hardship

As above, the digital sign faces are both angled away, and hence face away, from the residential zone. Applicant is not sure what else could be

done to eliminate all possibility of projection onto the residential zone. Applicant could put its signs parallel to the road, but such would destroy the commercial value of the signs as travellers on 97 street would not be able to view the signs while driving. Such would also require a brand new sign frame, with engineering, installation, and manufacturing costs. Failure to permit the sign in the present location will effectively create a holding zone at the present location, eliminating the only commercially valuable orientation possible for the sign.

Increase in visual harmony and accordance with intention of the bylaws

Applicant's proposed sign will achieve a greater degree of visual harmony than possible with strict compliance with the bylaw. CSC zoning, and 97 street in particular, are very amenable to the use of minor digital off premises signs, which add a modern feel and valuable information to consumers. As above, requiring the sign to be further angled into the road will obscure visibility of the sign. In addition, Applicant's sign is positioned as close as possible to the road, even going beyond the setback requirements, thus positioning the sign as far away as possible from the residential zone. Such positioning minimizes the impact of the sign on the local residents.

Summary - Residential impact

Permitting the proposed sign at its proposed location will not materially interfere with or affect the use, enjoyment or value of neighbouring residential homes to the east of the sign. A previous similar digital sign was accepted by local residents, such residents ought to expect some level of projection given that they live adjacent one of the busiest roads in Edmonton, the sign faces into the road and away from the residential zone meaning that brightness is reduced from the vantage point of residents, several natural and unnatural obstacles obscure the view of the sign from the resident's homes, and there are similar permitted sign placements all over the city. Permitting the sign will also avoid undue hardship to the Applicant, achieve a greater degree of visual harmony between the proposed Sign and the building and Site than would be possible through the provisions of the Sign Schedule, and is in accord with the intention of the bylaw. Consumers of the CSC zoned site will be best served by being provided an elegant double sided digital sign that is clearly visible to inform consumers of on and off-site commercial products and services available for sale through advertisements on the board. Applicant requests that the residential projection requirements be relaxed.

Setback Variance Request

The Applicant requests that the setback requirement of 6m be relaxed to permit the Applicant to install its sign at approximately 0.59m encroachment to the west over the west property line (see ss. 320.4(3) and Schedule 59E, s. 59E.3(2)(f), Edmonton Zoning Bylaw 12800). There are several reasons why the Applicant's request should be granted,

namely that the sign is within the effective setback from the main drag of 97 street, and that variance will avoid undue hardship, increase visual harmony, and accord better with the intention of the bylaws.

Effective Setback

97 street extends in two directions approximately 11 m to the east of the proposed sign. A right of way, namely a parking lot for local businesses, lies between 97 street and the proposed sign. Effectively the proposed sign is setback well more than 6m from 97 street, and poses no safety concern to drivers on 97 street. For reference, Applicant will provide traffic safety data obtained from the RCMP showing no increase in accidents on 97 street over the 5 year period of the previous sign. For people who park their cars in the parking lot in the right of way, the sign is high up out of view and not a distraction. For reasons unknown to the Applicant the right of way does not run onto the lot to the south, despite the fact that the parking lot runs continuously from the Applicant's lot and onto the lot to the south. This creates an illogical scenario where the Applicant's proposed sign would not offend setback if it were moved onto the lot to the south, closer to the 127th Avenue intersection, yet is not permitted to be installed at its current proposed location. The Applicant is unaware of the reason for the difference in lot sizes, and asks the city to consider the setback to effectively begin from the main drag of 97 street itself. Applicant has collaborated with Parks and Roads and taken measures requested by same such as pinning its curb stops directly below the sign to prevent passing vehicles from approaching the encroaching part of the sign.

Undue Hardship

Strict compliance with the setback requirements would cause undue hardship to the Applicant. Strict compliance would require the Applicant to remove the existing mounting pole installed and left by the previous tenant, uninstall the Applicant's sign, fill the resulting hole, pave the hole, dig a new hole, and install a new mounting pole, pile, and sign to the east. This work represents an unnecessary and burdensome cost of approximately \$60,000, which would cripple the Applicant, who is a small startup company. In addition, it is unclear whether the pole can be moved east at all, as there are numerous utilities running under the land near the building, and the pole if moved may interfere with the emergency loading dock of the building. Thus, strict compliance will likely create a holding zone - a zone where no sign can be installed at all. The extra work and expense of requiring strict compliance will cause unnecessary hardship, cost, and practical difficulties for the Applicant and landlord to the point where it would be uneconomical or impossible to install the sign. It would also be unfair to the Applicant to punish the Applicant for the previous sign tenant's decision to install the sign within the setback, and the city's inaction in failing to inspect and ensure that the previous install complied with the permit. A large part of the reason why the Applicant invested in this project was because of the presence of the existing pole and the savings, visibility and convenience of same.

Visual Harmony

Applicant's proposed sign will achieve a greater degree of visual harmony than possible with strict compliance with the bylaw. Strict compliance, namely moving the sign to the east, will obscure a large part of the lower section of the south-facing digital sign to viewers looking at same from 97 street. The proposed sign must be positioned adjacent the Vet Emerg building to the south, which already will obscure part of south-facing digital signs as is, and even more so if the sign is moved further east. The size of the obscured portion increases as viewers approach the sign from the south on 97 street. By contrast, the proposed location of the sign improves the visibility of the digital sign from 97 street, and thus provides more value to consumers passing by 10m away on 97 street. The previous tenant had a virtually identical sign installed for 5 five years at the same location, and there is no evidence that the sign of the previous tenant unduly interfered with the amenities of the neighborhood or affected the use of neighboring properties. Applicant is not aware of any complaints against the previous sign.

Accordance with bylaw intention

Thirdly, the intention of the sign schedule, CSC zoning, and the bylaw generally is best achieved at the proposed location. The proposed sign will at all times sit approximately 11m back from the main drag of 97 street, which is a sufficient distance to satisfy any concerns of the sign being too close to the roadway. Measures have and can be taken to block oncoming trucks in the right of way from travelling under the sign. The proposed sign location and 97 street are separated by a large right of way that forms a parking area used by clients of the on-site business and such will not be interfered with by the proposed sign. To be clear, the sign creates no more impact than the building itself, since the building and the west edge of the sign are roughly flush with one another and both reach almost to the west property line. There are also numerous examples in the area of signs safely installed and operated much closer to road for years, and well within the setback and encroaching on 97 street itself, including the three signs to the north and two signs to the south of the proposed sign, and some on the other side of 97 street as well. There are no safety concerns that the Applicant is aware of by placing the sign at the present location. Applicant also notes that the bylaw already permits a relatively smaller setback (3.0m) for on-premises signs, and thus if there is a safety issue with the particular setback at this location, Applicant questions why an on-premises sign would thus be permitted a smaller setback (Schedule 59E, s. 59E.2(3)(d), Edmonton Zoning Bylaw 12800). Moreover, strict compliance will actually move the sign closer to the abutting residential zone to the east, which will increase projection onto the residential zone, which the bylaw aims to avoid.

Summary – Setback

Permitting the proposed sign at its proposed location will thus avoid undue hardship to the Applicant, achieve a greater degree of visual harmony between the proposed Sign and the building and Site than would be possible through the provisions of the Sign Schedule, and is in accord with the intention of the bylaw. As an act of good faith Applicant has committed to purchasing the land on the right of way required to overcome encroachment. Consumers of the CSC zoned site will be best served by being provided an elegant double sided digital sign that is clearly visible to inform consumers of on and off-site commercial products and services available for sale through advertisements on the board. Applicant requests that the setback requirements be relaxed.

Maximum Sign Area

The Applicant also requests that the maximum sign area requirement of 20 m² (section 59E.3(5)(c), Edmonton Zoning Bylaw 12800) be relaxed. Applicant's sign effectively forms, on each side, a standard size minor digital sign, with the addition of a set of channel letters advertising the emergency veterinary clinic on the premises. Once again, Applicant requests variance, for at least the reasons that undue hardship will be avoided, and the increased area will actually increase visual harmony and accord better with the intention of the bylaws.

Undue Hardship

The proposed sign includes two key components that achieve their desired purposes at the stated sizes of same. The minor digital screens are made in large 1m x 1m modules, and cannot be easily reduced in size without rebuilding the frame to accommodate the change in size. Moreover, it is very uncommon to find in Edmonton a minor digital sign of an area smaller than 10' x 20', as such has been deemed by the industry, which is very competitive, as being the smallest commercially viable size. There are smaller signs but such attract far lower advertising revenues than bigger signs. Thus, reducing the digital sign component will substantially lower the value and revenue potential of the sign. Secondly, the channel letters must be large enough to effectively advertise the emergency veterinary clinic. Shrinking or removing the channel letters will likely nullify the effect of the channel letters altogether, thus affecting the veterinary clinic business of the landlord. Thus, adjusting the size of the digital or channel letter signs will cause undue hardship to the Applicant and landlord.

Increased Visual Harmony and accordance with bylaws

Variance will increase visual harmony in accord with the intention of the bylaws because variance will permit the combination of a standard size (10'x20') digital sign with channel letters directing traffic to the emergency veterinary clinic on the premises. Due to height restrictions,

setback issues, and obstruction from adjacent buildings, the channel letters must be mounted on top of the digital sign rather than on the front, below, or on the rear of the signs. The channel letters add a lot of value to the neighbourhood and to travellers on the road, as such provide clear direction to such travellers of the location of the emergency veterinary clinic on the premises. Such clinic effectively forms a hospital for pets, who may be seriously wounded or otherwise require immediate attention. It is in the best interests of everyone in the neighbourhood that the location of the clinic be clearly indicated. Thus, Applicant submits that the increase in sign area over the 20m² bylaw requirement caused by the combination of the channel letters with the digital signs, is minor and adds a lot of value to the neighbourhood. Applicant cannot see how such a minor variance would unduly interfere with the amenities of the neighbourhood, or have any negative material effect on the use, enjoyment or value of neighbouring properties from such a location. Moreover, the intention of the bylaws is better served by such a sign.

Applicant respectfully requests that variance be granted on the maximum sign area requirement.

Conclusion

Applicant requests that the city approve its proposed sign location by granting variance of the above-discussed requirements. Granting variance will avoid undue hardship, increase visual harmony, and accord better with the intention of the bylaws. Applicant wishes to emphasize that a double-sided minor digital off-premises freestanding sign was permitted for 5 years at the exact same location, without any evidence of interference or negative material affect from anyone, or any safety concerns or complaints. In addition, approval of the proposed sign location will improve the Albertan economy by providing a source of revenue for the landlord and Applicant, allowing both to employ Albertans and provide value to Albertans in the form of information about goods and services that can be purchased by on and off-site. Applicant respectfully requests variance.

APPELLANT NO. 2

- Sign has been in same location for about 5 years without any complaints or problems.
- Veterinary Clinic in despite need for the channel letter sign to make it easier for owners of sick pets to find their location. “Only Emergency Clinic on North Side”.

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

- (d) fails or refuses to issue a development permit to a person,
- (e) issues a development permit subject to conditions, or
- (f) 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 within 14 days,

- (b) in the case of an appeal made by a person referred to in section 685(1), after
 - (ii) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - ...

The decision of the Development Officer is dated May 18, 2017. The Notice of Appeal was filed by Appellant 1 on May 31, 2017 and by Appellant 2 on June 5, 2017.

Determining an Appeal

Hearing and decision

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

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the 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*:

Section 320.1 states that the **General Purpose** of the **CSC Shopping Centre Zone** is:

... to provide for larger shopping centre developments intended to serve a community or regional trade area. Residential, office, entertainment and cultural uses may also be included within such shopping complexes.

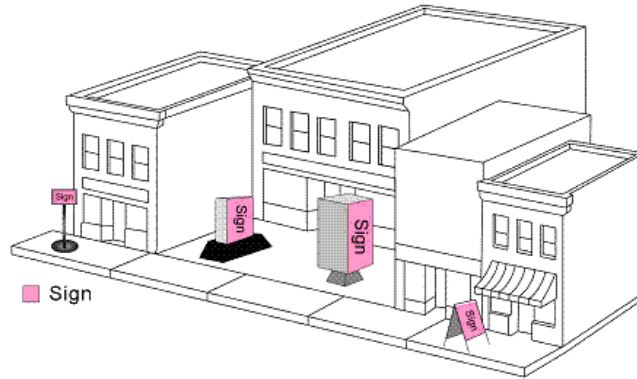
Under Section 320.3(37), **Minor Digital On-premises Off-premises Signs** are a **Discretionary Use** in the CSC Shopping Centre Zone.

Section 7.9(7) states:

Minor Digital On-premises Off-premises Signs means any Sign that is remotely changed on or off Site and has a Message Duration greater than or equal to 6 seconds. Minor Digital On-premises Off-premises Signs incorporate a technology or method allowing the Sign to change Copy without having to physically or mechanically replace the Sign face or its components. The Copy on such Sign may include Copy from Minor Digital On-premises Signs and Minor Digital Off-premises Signs.

Section 6.2(8) states:

Freestanding Signs means any On-premises or Off-premises Sign supported independently of a building. The Sign may take the form of single or multiple icons, product or corporate symbol, may involve a three dimensional or volumetric representation, may have single or multiple faces and may or may not be permanently fixed to the ground;



Sign Illumination

Section 59.2(3) states:

Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located or constructed such that Sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use, shall not face an abutting or adjacent Residential-Related Use, and shall not face the Extended Medical Treatment Services Use to the satisfaction of the Development Officer.

Development Officer's Determination

The proposed Freestanding Minor Digital On-premises Off-premises Sign does not directly face residential use class but sign illumination projecting onto adjacent residential use class interferes with the use, enjoyment or value of neighbouring residential use class contrary to section 59.2(3). [unedited]

Setbacks and Encroachment

Section 59.2(12) states:

All Freestanding Signs, Temporary Signs, Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule.

Section 59E.3(5)(i) states that "proposed Signs with an Area greater than 8.0 m² shall not be located within any Setback".

Section 320.4(3) states: “A minimum Setback of 6.0 m shall be required where a Site abuts a public roadway, other than a Lane, or the property line of a Site in a Residential Zone.”

Development Officer’s Determination

Required Setback: 6 m
Proposed Setback: 0 m
Deficient by : 6 m
Encroaches on ROW: 0.51 m

Maximum Area for Freestanding Signs

Section 59E.3(5)(c)(ii) states: “Minor Digital On-premises Off-premises Signs and Minor Digital Off-premises Signs shall be subject to the following regulations: ...the maximum Area shall be... 20 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 20 m²”.



Development Officer’s Determination

Required Area: 20 m²
Proposed Area: 24.5 m² (Digital Sign Area: 18.6 m² & Channel Letters: 5.9 m²)
Exceeds by 4.5 m²

Advisement:
Transportation review of proposed sign is pending.

Notice to Applicant/Appellant

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

	Project Number: 231903171-001 Application Date: OCT 03, 2016 Printed: June 21, 2017 at 8:57 AM Page: 1 of 2
<h2 style="margin: 0;">Application for Sign Combo Permit</h2>	
<p>This document is a Development Permit Decision for the development application described below.</p>	
Applicant 	Property Address(es) and Legal Description(s) 12831 - 97 STREET NW Plan 158RS Blk 35 Lot 27
Scope of Application To install (1) Freestanding Minor Digital On-premises Off-premises Signs (6.1 m x 3 m Digital Panel & 6.1 m x 1.09 m Vet Emerg Channel Letters).	
Permit Details	
ASA Sticker No./Name of Engineer: Construction Value: 80000	Class of Permit: Expiry Date:
Fascia Off-premises Sign: 0 Fascia On-premises Sign: 0 Roof Off-premises Sign: 0 Roof On-premises Sign: 0 Minor Digital On-premises Sign: 0 Minor Digital Off-premises Sign: 2 Minor Digital On/Off-premises Sign: 0	Freestanding Off-premises Sign: 0 Freestanding On-premises Sign: 0 Projecting Off-premises Sign: 0 Projecting On-premises Sign: 0 Replacement Panel on Existing Sign: 0 Comprehensive Sign Design: 0 Major Digital Sign: 0
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused	
THIS IS NOT A PERMIT	



Project Number: **231903171-001**
 Application Date: OCT 03, 2016
 Printed: June 21, 2017 at 8:57 AM
 Page: 2 of 2

Application for Sign Combo Permit

Reason for Refusal

1) Major Digital Signs, Minor Digital On-premises Signs, Minor Digital Off-premises Signs, and Minor Digital On-premises Off-premises Signs shall be located or constructed such that Sign illumination shall not project onto any surrounding residential premises, shall not face an abutting or adjacent Residential Use, shall not face an abutting or adjacent Residential-Related Use, and shall not face the Extended Medical Treatment Services Use to the satisfaction of the Development Officer (Reference Section 59.2(3))

The proposed Freestanding Minor Digital On-premises Off-premises Sign does not directly face residential use class but sign illumination projecting onto adjacent residential use class interferes with the use, enjoyment or value of neighbouring residential use class contrary to section 59.2(3).

2) A minimum Setback of 6.0 m shall be required where a Site abuts a public roadway, other than a Lane, or the property line of a Site in a Residential Zone (Reference Section 320.4(3)). All Freestanding Signs, Minor Digital On-premises Off-premises Signs shall be located so that all portions of the Sign and its support structure are completely located within the property and no part of the Sign may project beyond the property lines unless otherwise specified in a Sign Schedule (Reference 59.2(12)). Proposed Minor Digital On-premises Off-premises Signs with an Area greater than 8.0 m² shall not be located within any setback (Reference Section 59E.3(5)(i))

Required Setback: 6 m
 Proposed Setback: 0 m
 Deficient by : 6 m
 Encroaches on ROW: 0.51 m

3) The maximum Area shall be 20 m² for proposed Signs that are Freestanding Signs. The maximum combined Area of Digital Sign Copy and any other type of Copy on the same Sign face shall not exceed 20 m² (Reference Section 59E.3(5)(c))

Required Area: 20 m²
 Proposed Area: 24.5 m² (Digital Sign Area: 18.6 m² & Channel Letters: 5.9 m²)
 Exceeds by 4.5 m²

Advisement:

Transportation review of proposed sign is pending.

Rights of Appeal

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

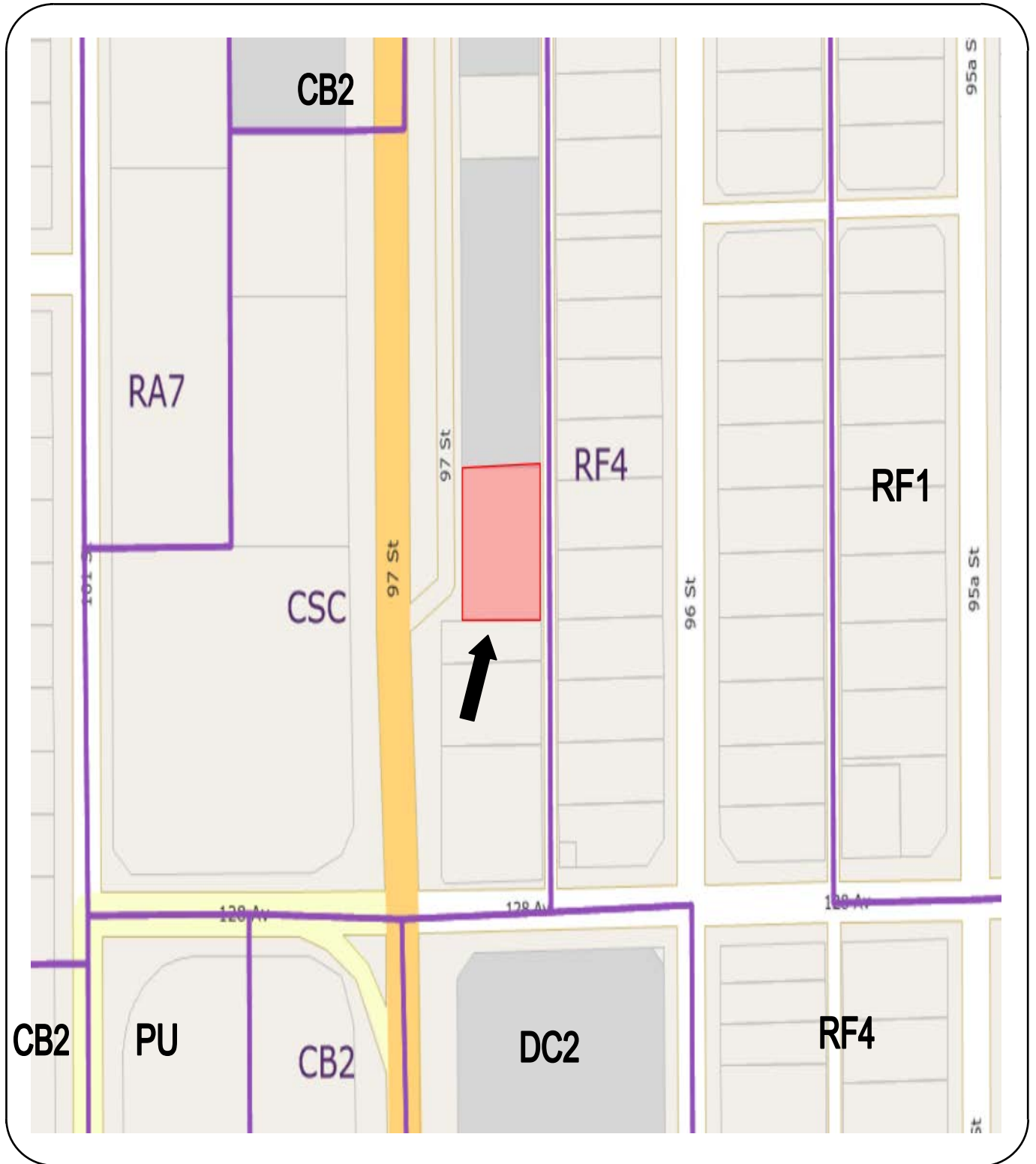
Issue Date: May 18, 2017 **Development Authority:** AHUJA, SACHIN

Signature: _____

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Safety Codes Fee	\$32.00	\$32.00	03663686	Oct 07, 2016
Sign Building Permit Fee	\$800.00	\$800.00	03663686	Oct 07, 2016
Sign Dev Appl Fee - Digital Signs	\$850.00	\$850.00	03663686	Oct 07, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$1,682.00	\$1,682.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-17-116

